

**Testimony of Dr. James A. Zeidler on the Proposed Renewal of the Bilateral MOU with Ecuador for Implementation of the Convention on Cultural Property Implementation Act**

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**Background:**

I am a senior archaeologist with some 50 years of archaeological research and teaching experience in Ecuador and I have been a member of the Society for American Archaeology (SAA) since 1972. I began my field research in Ecuador in the Fall of 1974 as a graduate student from the University of Illinois at Urbana-Champaign where I worked with my Advisor Prof. Donald Lathrap and fellow graduate students Jorge G. Marcos and Deborah M. Pearsall in our year-long excavation of the large Valdivia site of Real Alto. I returned to Ecuador in the Summer of 1976 to continue archaeological survey work near Real Alto followed by ethnoarchaeological research in the Ecuadorian Amazon during the Summer of 1977.

From 1980 through 1986, I served as a founding professor (with Dr. Jorge Marcos) of the newly created Center for Archaeological and Anthropological Studies at the Escuela Superior Politécnica del Litoral (ESPOL) in Guayaquil and helped establish an archaeological training curriculum for a five-year *Licenciatura* program that included a mandatory thesis. During this time, I initiated archaeological investigations in the Jama River Valley of northern Manabí Province through the establishment of annual ESPOL field schools in 1981, 1982, and 1983 at the archaeological site and mound center of San Isidro. Here I was able to document a long cultural sequence of archaeological occupation spanning from the late Early Formative Period (ca. 2000 BCE) to the Spanish conquest at 1531 CE. Follow-up field research was then conducted elsewhere in the valley in the Summers of 1987 and 1988 as a means of corroborating and correlating the stratigraphic sequence of cultural occupations and intermittent layers of volcanic ash found at San Isidro in preparation for a valley-wide systematic archaeological survey planned for three field seasons in 1989, 1990, and 1991.

The results of that research, sponsored by a National Science Foundation grant awarded to me and my co-investigator Dr. Deborah Pearsall (University of Missouri), resulted in the discovery of some 242 archaeological sites. Dr. Pearsall and I, along with our colleague, zooarchaeologist Dr. Peter Stahl (University of Victoria), have been publishing the results of our research ever

since then and I have been back to Ecuador repeatedly in the years since to give academic presentations, university seminars, and museum lectures on this research, and I am currently working on a book-length manuscript summarizing our Jama Valley research. In doing so, I have collaborated closely with the Ecuadorian Instituto Nacional de Patrimonio Cultural (INPC) and I currently serve as a *pro bono* member of their scientific committee as well as the editorial committee of their new flagship archaeological journal, Revista STRATA (although these committee memberships may change with the new appointments of the current government of President Daniel Noboa). I should also mention that because of the longevity of my experience and my commitment to Ecuadorian archaeology, I am a member in good standing of the Colegio de Arqueólogas y Arqueólogos del Ecuador (CAAE), the country's premier professional association of archaeologists.

It is important to note that San Isidro and the Jama Valley in general have been primary targets for illicit excavations, site looting, and trafficking in antiquities going back to a boom period beginning in 1972 which continues today, but in greatly attenuated form due to enlightened governmental oversight and greater degree of police intervention. I have been tangentially involved in the documentation of this looting activity and its destructive aftermath through a published article (Zeidler 1982) and a paper presented at the 80<sup>th</sup> Annual Meeting of the Society for American Archaeology (Zeidler 2015), both focusing on my personal experience as a professional archaeologist working in coastal Manabí province.

On behalf of myself and the SAA, I strongly approve of the proposed renewal of the Memorandum of Understanding with Ecuador for the protection of its archaeological heritage. My testimony will focus on the four determinations outlined in the Cultural Property Implementation Act.

### **1. Is Ecuador's cultural patrimony is still in jeopardy from pillaging of its archaeological or ethnological materials?**

Yes. While the large-scale looting and pillaging of archaeological sites seen in the 1970s and 1980s has lessened in recent years due to increased law enforcement and heritage education programs, looting and antiquities trafficking remain an issue and still funnel archaeological objects to the national and international art markets. This process of illicit trafficking in antiquities follows the typical patterns of "cultural racketeering" (see the Antiquities Coalition website [The Antiquities Coalition | Pioneers Against Cultural Racketeering](#)) found throughout the world. This involves a hierarchy of players at national and international levels ranging from rural *campesinos* who inadvertently discover archaeological artifacts on their property in routine homesteading and farming activities to local groups of experienced looters or *huaqueros*, who make themselves available for local, regional, and/or national antiquities collectors and entrepreneurs who, in turn use established contacts within Ecuador and internationally to "market" intact archaeological objects for sale within larger networks of antiquities trafficking. Two recent case studies can be mentioned here as they have both caught the attention of the Ecuadorian archaeological community as well as the Risk Management and Juridical Assessment personnel of the Instituto Nacional de Patrimonio Cultural (INPC).

CASE STUDY 1: The first of these examples is rather small-scale in nature but speaks to a broader problem in the trafficking of Ecuadorian archaeological artifacts. There was a recent attempt within the last month or so to sell a Valdivia Phase 8 (ca. 1800-1450 BCE) carved greenstone figurine or statue on the U.S. TV show *Pawn Stars*. It depicts a stylized anthropomorphic image executed with broad line incisions and is part of a larger Valdivia Phase 8 lithic style found in northern Manabí province, coastal Ecuador, not far from the equatorial line as a component of the Terminal Valdivia Piquigua Phase occupation of this zone (Zeidler 2008). Apart from the larger anthropomorphic and zoomorphic statues, the style is also known for its finely incised stone plaques exhibiting a wide variety of geometric motifs some of which are thought to represent astronomical symbolism perhaps functioning as “cosmograms.” These materials have only come to light in the last 20 years or so, almost exclusively through illicit looting of archaeological sites, and very few have been documented in controlled stratigraphic excavations (see Delgado and Vasquez 2013). Their notoriety in the international art market has largely been due to the efforts of antiquities collectors in Quito, and the looting and trafficking of these objects by organized local or regional *huaquero* groups continues today. As a result, they are now more commonly found in the international art market for Valdivia Culture sale items than before and typically complement the well-known Valdivia “venus” ceramic figurine tradition spanning from Early-to-Late Valdivia times. In the *Pawn Stars* case, the show’s star, Rick Harrison, rightfully declined purchase of the stone statue as he recognized it as an illegally acquired archaeological artifact of foreign origin and lawfully belonged to its country of origin. It remains unknown, however, how the would-be seller acquired this object in the first place.

CASE STUDY 2: The second case study raised here is somewhat different in that it involves a recent auction of a U.S. museum object originally removed from Ecuador in the early 1900s by Marshall Saville on behalf of the Museum of the American Indian and the Heye Foundation in New York, and prior to any official state-sanctioned permitting system for archaeological research. It is a large carved stone seat or throne depicting zoomorphic images of a jaguar and a bird pertaining to the Ecuadorian Manteño culture. It was originally part of a much larger collection of such seats (up to 40, I believe), the rest of which were transferred to the Smithsonian Institution in Washington, D.C., after the demise of the Heye Foundation. This particular seat, however, was “traded” to a commercial art gallery owner in 1964 in exchange for some gold objects obtained illegally elsewhere in the Americas, after which it was sold to a private collector. It was recently put up for auction by the Zemanek-Münster auction house in New York City. In recent years, the Ecuadorian government has sought to repatriate *all* of the Manteño stone seats currently curated by the Smithsonian Institution, so one can imagine their surprise when they learned of this impending auction of another stone seat that was removed in the 1960s from the original lot collected by Marshall Saville. It is my understanding that the previous INPC staff (of the Lasso government) from the Risk Management and the Juridical Assessment offices were following this auction closely to determine whether legal intervention and repatriation through diplomatic channels would be feasible and in accordance with international law. For further details, please click [here](#).

These disparate case studies, different as they are, nonetheless demonstrate that Ecuador’s cultural patrimony is still in jeopardy from pillaging of its archaeological materials, materials that rightfully belong to the Ecuadorian people. Unfortunately, they represent the “tip of the iceberg” in terms of the true volume of cultural properties that are trafficked on an annual basis.

## 2. Has Ecuador has taken measures to protect its cultural patrimony?

Yes. The legal requirement for the Ecuadorian government to take measure to protect its cultural patrimony is set forth in the **Organic Law of Culture**, Chapter 9.-On the special regime of archaeological and paleontological cultural heritage. Article 85.- Of the special regime for the protection of archaeological and paleontological objects and sites. The special regime for the protection of archaeological and paleontological objects and sites is established, which will follow the following regulation: (a) archaeological and paleontological objects are the exclusive property of the State, whether they are in public possession or private possession. They are inalienable, non-seizable and cannot be acquired by adhesion of ownership. The right of property will be exercised by the State through and through the governing body of Culture and Heritage.<sup>1</sup>

This national law for the protection of cultural property is monitored and enforced by a hierarchy of governmental offices of the current administration of President Daniel Noboa (as of November 30, 2023) and includes the following individuals:

- *Minister of Culture and Patrimony:* **Romina Muñoz Procel**
- *INPC Executive Director-in-Charge:* **Iovana Jaramillo Valdivieso**
- *INPC Director of Technical Control, Conservation, and Safeguarding of Cultural Patrimony:* **Gabriela López Moreno**
- *INPC Director of Archaeological, Paleontological, and Subaquatic Areas:* **Francisco Sánchez Flores**
- *INPC Director of Risk Management for Cultural Property:* **Luis Armendáriz Benavides**
- *INPC Director of Juridical Assessment:* **Eduardo Andrade Jaramillo.**

While these staff members of the INPC have only recently been selected, vetted, and assigned to their respective offices and duties, they are all seasoned professionals in terms of their knowledge of cultural property law and management. At this point, there is no reason to believe that the new regime would *not* continue the policies and procedures set forth by their INPC predecessors over the last five years with respect to the U.S.-Ecuador MOU.

The most recent and comprehensive summary of the various activities of the INPC in defense of Ecuador's cultural patrimony can be found on their website in the section titled Submission of Accountability (Rendición de Cuentas) for the year 2023, which can be accessed at the following URL: [Rendición de Cuentas 2023 – Instituto Nacional de Patrimonio Cultural \(Tello 2024\)](#).

This 80-page document amply illustrates all of the cultural programs and activities undertaken by the INPC in the 2023 calendar year having to do with public education campaigns, rural museum development and construction, as well as law enforcement actions to protect cultural properties. For example, under Juridical Actions (Gestiones Jurídicas, see p.68), mention is made of the following three law enforcement activities and the number of cases in each one:

- 17 INTERPOL alerts on the trafficking of cultural properties.
- 25 administrative proceedings to sanction cultural property crimes.

- 52 formal denouncements sanctioning against the destruction, removal, disappearance, or embezzlement of objects of cultural patrimony.

The INPC has invested not only in rural site museums but also in the development of two flagship Research Centers (Centros de Investigación, see p. 76) co-located with the major archaeological site complexes of *Ingapirca*, an Inca site in the Andean highlands, and *Cerro Jaboncillo*, a large Manteño settlement in coastal Manabí province. To this we can add the construction and outfitting of a new archaeological storage facility in the capital city of Quito (La Reserva Arqueológica Resfa Parducci), named after a pioneering female archaeologist from Guayaquil. Other smaller cultural initiatives are underwritten by a competitive government funding program, open to the public, called Lines of Promotion or Development (Líneas de Fomento, see pp.38-46) in which a wide variety of cultural activities are supported on an annual basis ranging from public education campaigns to small-scale archaeological investigations to rural museum development, as well as festivals highlighting intangible cultural knowledge. And finally, regarding international cooperation, beyond the bilateral agreement with the U.S. Department of State for import restrictions of Ecuadorian cultural property, the INPC also maintains close cooperative ties with the U.S. Ambassador's Fund for Heritage Preservation (Fondo del Embajador Norteamericano, see pp.48-50) and numerous other international institutions such as UNESCO, ICCROM, and ICOM among others (see pp.52-60). In short, a quick perusal of this document reveals a very active and robust program designed not only to *protect* Ecuador's cultural patrimony, but also *investigate* it, *disseminate* it, and most of all, *celebrate* it at national and international levels.

Finally, it is also important to note that the protection of Ecuador's cultural patrimony is currently a governmental function at the *ministerial level*, with the formation of their Technical Committee Against the Illicit Trafficking of Cultural Property (Cómite Técnico de Lucha Contra el Tráfico Ilícito de Bienes Culturales). This panel involves the joint participation of the Ministry of Culture and Patrimony, the Ministry of Interior, the Ministry of Exterior Relations, the INPC, the General Treasury of the State, and the Solicitor General of the State. I believe this action strongly reflects Ecuador's commitment to combat the illicit pillaging and trafficking of their antiquities and other cultural properties.

### **3. Is the application of the import restrictions in the current MOU effective?**

Yes. The Ecuadorian government, through its Department of Risk Management for Cultural Property in the Instituto Nacional de Patrimonio Cultural (INPC), has provided DoS with an up-to-date list of archaeological and colonial period styles of artifacts and art objects for purposes of assisting with import restrictions on these materials and maintains close ties with the DoS with respect to the illicit trafficking of Ecuadorian cultural property. There is also a network of Ecuadorian and U.S.-based scholars that are willing to evaluate photographs of trafficked archaeological objects to assess their country of origin, their authenticity, and likely cultural affiliation. I have served in this capacity in past years for the U.S. Customs and Border Protection agency and most recently for the University of Pennsylvania's Cultural Heritage Center. I have also collaborated with Dr. Allison Davis, Cultural Property Analyst with the Cultural Heritage, Center in the Bureau of educational and Cultural Affairs, of the U.S. Department of State in the review of Ecuador's previous documentation of at-risk cultural properties, with special focus on pre-Columbian archeological materials. I believe the new

Ecuadorian government of President Daniel Noboa and his Minister of Culture, Romina Muñoz Procel, will be keen on ensuring the effectiveness of the current MOU and will greatly appreciate its renewal for the coming five years.

#### **4. Does the MOU facilitate the interchange of cultural property between Ecuador and the world for scientific, cultural, and educational purposes?**

Yes. The network of national museums now functioning throughout Ecuador incorporates over 175 museums of varying size and content with six types of museums represented: archaeology, anthropology/ethnology/history, art, natural history, science and technology, and applied arts and design (Ministerio de Cultura y Patrimonio 2019). The largest of these routinely engage in the interchange and/or loan of cultural property to museums throughout the world for purposes of specialized thematic exhibits, and their archaeological repositories are open and available for qualified scholars to conduct research for scientific, cultural, and/or educational purposes, as well as collaborate with in-house scientists from the Instituto Nacional de Patrimonio Cultural (INPC) on a variety of materials science projects. This is especially true of the National Museum (Museo Nacional or MUNA) in Quito and the Archaeological and Contemporary Art Museum (MAAC) in Guayaquil, the two museums with which I am most familiar. A recent example of my own use of the MAAC collections for research purposes (Zeidler and Beltrán 2022) can be found in the Dumbarton Oaks volume entitled *Waves of Influence: Pacific Maritime Networks Connecting Mexico, Central America, and Northwestern South America*, where my co-author and I were able to document cultural connections between the Jama-Coaque peoples of northern Manabí with peoples of the Tesoro/Comala/Armería Phases in the coastal Colima area, West Mexico. I am also currently collaborating with an INPC materials scientist, Dr. Martha Romero, in the analysis of pigments found on Jama-Coaque ceramic spindle whorls from my excavations in the Jama Valley.

It should also be noted that the Instituto Nacional de Patrimonio Cultural (INPC) invites and accommodates archaeological researchers from around the world, providing research authorizations, professional advice, access to relevant archival data and electronic resources, regional and local liaison contacts, and many other services to international scholars. The foreign countries represented in these research endeavors include the United States, Canada, Great Britain, Germany, France, Spain, Italy, Russia, and Japan, as well as their neighboring South American countries of Colombia, Peru, and Brazil.

#### **Notes:**

<sup>1</sup> SPANISH LANGUAGE VERSION: **La Ley Orgánica de Cultura**, Capítulo 9.-Del régimen especial del patrimonio cultural arqueológico y paleontológico. Artículo 85.- Del régimen especial de protección de los objetos y sitios arqueológicos y paleontológicos. Se establece el régimen especial de protección de los objetos y sitios arqueológicos y paleontológicos que seguirá la siguiente regulación: (a) los objetos arqueológicos y paleontológicos son de propiedad exclusiva del Estado, ya sea que se encuentren en posesión pública o en tenencia privada. Son inalienables, inembargables y no se los puede adquirir por prescripción adquisitiva de dominio. El derecho de propiedad lo ejercerá el Estado a través del ente rector de la Cultura y el Patrimonio.

## **Sources:**

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