SHIPWRECK LEGISLATION IN SOUTH AFRICA

Shipwrecks are often associated with treasure. It is important to debunk the myth that shipwrecks contain commercially valuable material. Most shipwrecks do not. One is quite unlikely to become rich exploiting shipwrecks. There are many sad tales of people investing money in shipwreck schemes and losing their shirts. This is also not a modern phenomenon. There were for example many failed schemes in the nineteenth century to recover the mythical treasure from the wreck of the *Grosvenor*. More recently was the conviction in the United States of America of Tommy Thompson and the gold of the SS *Central America*.

All shipwrecks are covered by some form of legislation, even modern ones. In South Africa, the National Heritage Resources Act (NHRA), 1999 (Act No. 25 of 1999) covers any wreck older than 60 years. This act regards shipwrecks of this age as archaeological sites. This means that you have to get a permit from the South African Heritage Resources Agency (SAHRA, https://www.sahra.org.za/) to remove or disturb anything from the shipwreck. As an archaeological site, it is implicit that items recovered cannot be sold.

To work on a shipwreck you need a permit from SAHRA, The permit holder also need a letter of co-operation from a SAHRA-approved repository, like a museum. This does not mean that any museum can be a repository. Only a museum, like Iziko, that has an official collections policy, proper conservation facilities and decent storage, can fulfil this role. The conservation of items recovered from the sea is both a necessary and expensive process. If you do not treat the items, they will most likely disintegrate over time. In archaeology, we have a saying: excavation without conservation is vandalism. Recovering objects from the sea is also a long-term commitment, hence the involvement of museums as custodians of heritage.

The situation was quite different several years ago under the old heritage legislation or the old National Monuments Act, 1969 (Act No. 28 of 1969). The protection for shipwrecks started in 1979 with amendments to the National Monuments Act. Several amendments later, it ended up with a system whereby a permit applicant had to get a letter of co-operation from a museum. Another part of this system was that 50% of items recovered were supposed to go to the museum and the permit holder could keep 50% to do with as he or she pleased, which inevitably meant selling off artefacts. The 50% system was a dismal failure as museums seldom received 50%. When they did receive anything, it was always the worst part of the recovered material. To add to the frustration, the museum now had the responsibility of looking after and conserving a collection that was often not well researched and out of context. The shipwreck collection at the Iziko Museums is testimony to this since, of the 144 permits issued since 1982 under the old legislation, the museum had letters of cooperation for 42 shipwrecks with only 3 000 artefacts dating from the sixteenth to nineteenth centuries. To place this in perspective let's look at a shipwreck excavated archaeologically elsewhere – the *HMS Pandora* (1791) wrecked on the Great Barrier Reef. This project by the Queensland Museum recovered more than 7 500 artefacts. The *HMS Pandora* lies at a depth of 30m, making it a difficult wreck to work on for obvious reasons.

The other important fact to note is that when collections are divided, it becomes very difficult for any future research. This was recently illustrated by a well-known local treasure hunter's collection that was dispersed after his death. No one knows who bought it from the estate. Even if this collection was retained in public hands, it would have been of limited value as most of the artefacts were excavated unscientifically with minimum research before and after

the excavation. Remember that any archaeological site and therefore shipwreck is like a crime scene: the less it has been disturbed, the more information can be extracted. Every shipwreck is also unique with its own particular circumstances of wrecking deposition and survival rate of artefacts. Once removed, it cannot be replaced. It is thus a non-renewable resource. The division of artefacts system does not work. This is why the new legislation does not allow such a division of artefacts.

Shipwrecks, however, are not just protected locally by legislative means, but also internationally in the form of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) Convention on the Protection of Underwater Cultural Heritage that was promulgated in 2001. This convention clearly states that the sale of artefacts and archaeology do not go hand in hand. It also sets out the minimum standards for archaeological work in its annexure. So, it not only condemns treasure hunting, but also irresponsible archaeology. South Africa ratified this convention in June 2015, which means that we have to abide by the regulations contained therein.

So, what do you do if you find a pile of gold? You notify the authorities like SAHRA or a local museum. If you take it with you or remove the items without a permit, you are breaking the law. By doing that, you are no better than a poacher. In fact, you will be poaching everyone's heritage for your own benefit. It is actually not unusual for divers to declare piles of gold, as was the case recently in Caesarea, Israel. Divers reported a find of almost 2 000 gold coins dating back to the eleventh century to the Israel Antiquities Authority. This find is now safe, not just for Israel's history and heritage, but also internationally as the maritime world is the one true global heritage that we all share