

# Who Owns Ancient Art and Architecture?

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## Abstract

The ownership of ancient art and architecture encompasses both public and private spheres and plays a pivotal role in shaping the cultural identity of nations, both past and present. This essay posits that the complex notion of ownership is non-binary, highly nuanced, and that cultural repatriation should be considered on a case-by-case basis. This paper will explore the concept of the universal museum, dissecting its positive qualities and its less flattering aspects, followed by a glimpse into the illicit worldwide antiquities trade and how museums perpetuate the markets' existence. Finally, the Elgin Marbles case study is exemplified to identify issues from perspectives of both public and private ownership.

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## Aspects of Public Ownership

The concept of a universal museum, in which famous museums worldwide host collections belonging to cultures outside of their own, is not a new idea. The European Enlightenment period saw a rise in museums thematically described as "cabinets of curiosities," which were loaded with appropriated goods from across the globe and used to gain social standing amongst the elite, forming the origins of the modern-day museum.<sup>1</sup> This concept has arisen to prominence once again in modern society due to the 2002 "Declaration on the Importance and Value of Universal Museums" document<sup>2</sup> wherein eighteen museums formally stated their conviction to discourage illegal trafficking of art and artifacts, while also demanding that their collections remain intact in their current locations because they need to be protected and accessible, both to visitors and researchers alike. In theory this feels like a valid argument for the value of these universal museums to humanity. However, in practice, there are holes in this logic. Of the eighteen museums signed to this agreement, only one is in the West, with over half residing in English-speaking countries. Furthermore, this terminology of "universality" is being coined primarily by those who dominate the museum director hierarchy. This statistic speaks to recycling historical values and politics<sup>3</sup> in an increasingly globalized world. These institutions' current agendas include a performative effort toward decolonization with a lack of focus toward truly acting on their intentions. An increase in colonial perspectives within these institutional walls would provide a more well-rounded and nuanced view to our collective histories and should be considered a valuable asset to museum collections rather than a hindrance or insurmountable task. Museums are often viewed as foundational pillars to preserving and representing a nation's culture, and to avoid opportunities for a change in the dialogue surrounding what is important enough to display feels like a shame.

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<sup>1</sup> Lynn Maranda, "Is it Possible to Tie Down a Universal Museum Definition?" in *Defining the Museum: Challenges and Compromises of the 21st Century* (2023): para 2, <https://journals.openedition.org/iss/2672>.

<sup>2</sup> "Declaration on the Importance and Value of Universal Museums," US Archive, 2002.

<sup>3</sup> "The Case Against the Universal Museum," Artsy, accessed November 12, 2023, <https://www.artsy.net/article/artsy-editorial-the-case-against-the-universal-museum>.

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It is difficult to argue that the universal museum is not rife with inherently colonial views that make the cultural repatriation of objects nearly impossible to attain in many instances. Scholars such as Tiffany Jenkins perpetuate the notion that museums are under no obligation to return stolen objects, regardless of how they were acquired.<sup>4</sup> In some skewed way, her argument does hold merit – defining changing borders can be difficult, especially with items lacking provenance, and repatriating items to the right people when there are only the ancestor's victims around to reclaim them can seem to have questionable legality at times.<sup>5</sup> However, to assume museums – massive purveyors of antiquities – are under no obligation to repatriate items to their homelands is a vastly polarizing claim that does not provide room for discussion or evolution of our collective societal values in any way. Moreover, it is inaccurate to assume that these universal museums are more qualified to preside over another nation's archaeological record and material culture (there are examples of their ineffectiveness posed below in the case study section) when many nations have a proven track record of keeping their artifacts and immovable architecture preserved (the Egyptian pyramids, for example). Perhaps a radical idea, universal museums with access to more funding could allocate donations to smaller museums abroad to help maintain their collections. Undoubtedly, this is not a feasible financial option for many museums, suggesting that they are more invested in holding onto these items for personal gain rather than aiding in restitution and equalizing the players in the museum world.

Another argument that the universal museum tends to gravitate toward is the notion of accessibility to all. While it can be agreed upon that the meticulously maintained digital aspects of these exhibitions are accessible to nearly all worldwide, it does not make sense that one should have to travel to Egypt to see the pyramids and then to London to see the tombs and mummies that should also be in Egypt. This, in turn, effectively provides unbalanced economic stimulation to certain nations through the influx of tourism. In contrast, others struggle to maintain their limited collections, taking away from those who would benefit most from tourism.

### **Aspects of Private Ownership**

As if it were not a confusing enough case to try and parse out the public sector of art ownership, there is additionally the entire underground subculture of the art trading world, of both the legal trade and the illicit underground black-market trade. There are perplexing legality issues at play here – such as is the case with "sleeper" antiquities that are appraised and sold in one place as an antique or replica (often London) and then arise later in another place (often New York) with a substantially higher price tag because they have since been verified as legitimate antiquities from far earlier periods.<sup>6</sup> Although somewhat rare, items such as these muddy the waters regarding the legitimacy of the antique and antiquity trade. Private collectors can get their hands

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<sup>4</sup> Tiffany Jenkins, "From Objects of Enlightenment to Objects of Apology: Why You Can't Make Amends for the Past by Plundering the Present," in *Dethroning Historical Reputations: Universities, Museums, and the Commemoration of Benefactors*, ed. Jill Pellew and Lawrence Goldman (London: University of London Press, 2018).

<sup>5</sup> Karin Edvardsson Björnberg, "Historic Injustices and the Moral Case for Cultural Repatriation," *Ethical Theory and Moral Practice* 18, no. 3 (2015): 462.

<sup>6</sup> James Marrone and Silvia Beltrametti, "'Sleeper' Antiquities: Misattributions in Sales of Ancient Art," *International Journal of Cultural Property* (2020): 4.

on items that have been potentially looted, stolen, or should be in a museum. This threatens the stakeholder's (such as auction houses or export licenses) validity as a legal trade and questions whether they are performing their due diligence as stated within the numerous laws passed regarding the sale of art and antiquities. With such a vast market containing potential loopholes, it becomes nearly impossible to relocate lost items, which can potentially cause irreparable damage to the worldwide archaeological record.<sup>7</sup>

Alternatively, the illegal antiquity trade is essentially an unstoppable entity further perpetuated by the selfish interests of those involved for financial gain, and occasionally a growing mistrust in museums unwilling to work towards repatriation claims. There are currently over two thousand missing artifacts from the British Museum alone, of which the majority were assumed to have been filtered out by a staff member earlier this year.<sup>8</sup> At its core, museums focusing on decolonial practices have a greater chance of fostering community pride and reducing destruction and looting of sites through public engagement and initiatives involving members of those respective nations.<sup>9</sup>

## On the Elgin Marbles

One of the most significant collections of contention held within the British Museum, the Elgin Marbles, provides a remarkable case study highlighting art ownership's public and private aspects. The issue lies between a nation that unethically<sup>10</sup> obtained the marble sculptures from the Parthenon during the 19th century and refused to return them to their land of origin, despite multiple restitution claims on behalf of the Greek government and citizenry. During this battle for ownership, they have constructed a mostly empty museum at the Acropolis which is awaiting to be completed with the remainder of its missing statues. This case speaks to all the arguments made in this essay – that the universal museum has ulterior underlying motivations in keeping these collections captive within their countries, such as benefiting both culturally and economically. The origins of this acquisition, from Lord Elgin's unlawful attainment of the statues, during which he broke many of them,<sup>11</sup> as well as Lord Duveen's patronage that led to the construction of a gallery to house them (though he is attributed to being the one who had them scraped clean and defaced)<sup>12</sup> speaks to a long line of general disregard for the historical value of these pieces, but instead to the status they would bring those elite members who beheld them.

There are numerous considerations when looking at who owns art and architecture. It is never cut and dry – each side has contentions that must be examined and ruled in favour of or

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<sup>7</sup> Batty, David. "Artefacts Stolen from British Museum 'May be Untraceable' Due to Poor Records." *The Guardian*, 2023. Accessed November 12, 2023. <https://www.theguardian.com/culture/2023/aug/25/artefacts-stolen-from-british-museum-may-be-untraceable-due-to-poor-records>

<sup>8</sup> "Artefacts Stolen from British Museum 'May be Untraceable' Due to Poor Records," *The Guardian*, 2023.

<sup>9</sup> Jack Green, "Museums as Intermediaries in Repatriation," *Journal of Eastern Mediterranean Archaeology & Heritage Studies* 5, no. 1 (2017): 13.

<sup>10</sup> David Rudenstine, "Did Elgin Cheat at Marbles?" *The Nation* (2020): 32.

<sup>11</sup> Rudenstine, "Did Elgin Cheat at Marbles," 32.

<sup>12</sup> Elizabeth Kehoe, "Working Hard at Giving it Away: Lord Duveen, the British Museum and the Elgin Marbles," *Institute of Historical Research* (2004): 515-516.

against. The idea of a strict polarity within such a complex and nuanced industry that spans globally over centuries is not appealing. This paper has attempted to make the case that the universal museum should be re-evaluated on behalf of changing sociocultural attitudes towards cultural repatriation. It is also argued that the current regulation for the sale of antiquities is profoundly flawed and more bureaucratic without attaining results, wherein public engagement and community collaboration should instead be prioritized in these settings. Finally, the case of the Elgin Marbles provides further evidence for the misuse of colonial power within the universal museum setting. To move forward as a society, it is within these universal museums' best interests to work with the public and restitution claims to the best of their ability to avoid furthering their quickly souring legitimacy. Museums are potent institutions for enacting change; in choosing to remain stagnant, they harm not only the cultures they have robbed but also themselves in the process.



Parthenon sculptures of Ancient Greece, fragments which are collectively known as the Elgin Marbles at the British Museum. Photo by Dominic's pics, CC-BY 2.0.

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