

Cultural Property, Restitution and Value

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Demands for restitution of ‘cultural property’ have become increasingly insistent in recent decades. The campaign of the Greek government for the return of the Elgin (or Parthenon) Marbles is well known, but there are many other examples. The Ethiopians demand the return of the Askum Obelisk, which was taken to Italy by Mussolini’s troops.¹ Turkey fought a court battle with the New York Metropolitan Museum of Art for the return of the Lydian treasures which were pilfered from Turkish territory in the

1960s.² Indians complain about religious statues and other things of value taken from temples during the British occupation of their country.³ Australian Aborigines, Native Americans and Canadians are demanding the return of bones and other cultural relics held by museums in Britain and the United States.⁴

Restitution is the restoration to its rightful owner of something that was unjustly taken. Some people oppose restitution claims for cultural artefacts and relics by denying that those who make the demands are the rightful owners. Others argue that the property rights of the claimants have been superseded by the passage of time or other circumstances. Some opponents suggest that restitution claims, even if legitimate, will often be overridden by other considerations. Leading museums of Europe and America have recently issued a statement which declares that the ‘diverse and multifaceted’ collections of museums serve the people of all nations and should not be compromised for the sake of the interests of one group of people.⁵

This survey suggests that there are four kinds of issues that come up in debates about return of cultural artefacts. The first set focus on the notion of cultural property itself: what it means to claim something as ‘cultural property’, how this claim might be justified, what rights are being invoked and who is entitled to invoke them. The second set of issues concern the validity of claims for restitution – which (if any) can be justified by an appeal to cultural property rights. Issues of the third kind are raised by the defenders of museums who argue that there values which can override restitution claims even when they are well supported by an appeal to rights of cultural property. The fourth concern the relation of these values to debates about the return of artefacts and relics to their place of origin. Do they provide convincing grounds for keeping these things in museums or can they be used to bolster the case of those who think they should be returned?

I will argue that there is a plausible conception of cultural property which can be used to justify some restitution claims. But many demands for restitution cannot be so justified (including, I believe, the Greek claim to the Parthenon Marbles). A case for restitution can be more or less strong, and other values can sometimes prevail over cultural property rights. By invoking these values museum directors cannot justify retaining all of the artefacts and relics now in their collections. However, I will argue that

they are wrong to suppose that by acceding to some demands they are embarking on a course which will make it impossible for museums to serve the purposes for which they were created.

Cultural Property

Cultural property is the property of a collectivity. In international disputes about cultural property it is almost always states which claim right of possession over artefacts, monuments, and relics. The basis for their claims is that these things are found in, or were taken from, their territory. Cultural property, so conceived, is a resource that states have a right to control. From a moral point of view this conception of cultural property is unsatisfactory. It gives the claims of states unjustified precedence over the claims of other collectivities. If a state forces an indigenous community to surrender artefacts to a national museum then surely this counts as a case of unjust dispossession. It favours collectivities that are territorial over those that are not. Why shouldn't a non-territorial organisation, like a religious group, be able to claim cultural property? Most important, the idea that that cultural property is a national resource fails to consider how claims to cultural artefacts might differ from claims to things whose value is merely economic.

The following characterisation of cultural property seems to accord with most people's understanding of what it is.

Something is the cultural property of a collectivity if and only if a) it was legitimately acquired by the collective or its members – that is, not taken without consent or justification from others - or possession of it has been made legitimate by changes in circumstances; b) the item plays an important role in the religious, cultural or political life of people of the collectivity by functioning as a symbol of collective ideals, a source of identity for its members, as a ceremonial object, a focus of historical meaning, an expression of their achievements, or as a link with founders or ancestors.

To the extent that individuals value their membership in the collectivity, they will be predisposed to value its cultural property. They will want to protect it, preserve it and pass it on to their descendants or successors. They may think that they have an obligation to do these things. The value to individuals of being able to exercise collective control

over those monuments, artefacts or relics that satisfy the criteria constitutes the justification for cultural property rights.⁶ The exercise of these rights typically takes the form of restrictions on the activities of individuals and other collectivities. Many states impose restrictions on the selling of cultural artefacts – laws which limit both the activities of foreigners and of citizens. Most states or communities put some restrictions on what owners can do with artefacts or monuments that are regarded as cultural heritage. Some states have laws which allow compulsory acquisition of items of cultural significance.⁷ What restrictions are justified will depend on the item in question – whether, for example, it is unique and irreplaceable – and the circumstances. But if something is its cultural property then a collectivity is justified in taking steps to secure and protect it.

This account of cultural property puts limits on what a collectivity can claim and it allows that rights of cultural property may justify more restrictions in some cases than in others. It presupposes that claims will be made by collectivities that are capable of acting as agents – organised groups like states, tribes, or churches. But presumably a state or some other agent can protect the cultural property rights of a group whose members are not organised in a way that enables them to make a claim. For example, a state might undertake to protect something of value to people of an ethnic community within its borders.

Cultural Property and Restitution

If something is unjustly taken from its owners, then those wronged can demand reparation. But it does not follow that the wrongdoer is obliged to restore the property to them – particularly if time has passed and conditions have changed. Suppose that a state uses its position of domination over the affairs of another nation to quarry and remove from its territory a precious vein of marble. The nation, now independent, lacks resources it would have had for economic development if the dispossession had not occurred. An injustice has been done and the perpetrator owes some form of reparation. But this does not mean that it has to give back the marble that it took. What it owes, presumably, is compensation for the economic loss that the victim suffered. Artefacts can also be economic assets and it seems reasonable to think that those who unjustly removed them

from the territory of a nation or a tribe ought to pay compensation. A moral case for *restitution* – for restoration of the objects taken – thus depends on more than a plausible claim to possession on the basis of territory. There must be reason to believe that these artefacts were, and continue to be, important to the collective life of those from whom they were unjustly taken.

In some cases the demand for restitution is not difficult to justify. Take, for example, the crowns, manuscripts and chalices pillaged from Ethiopia by the British in the 19th century. These were clearly regarded by the Ethiopians as having great religious and national significance. The emperor at the time had done his best to protect them from harm by securing them in his strongest fortress. As soon as they were able, the Ethiopians asked for their return (and in fact the British did return a few minor treasures). It seems reasonable to conclude that these artefacts were (and are) Ethiopia's cultural property and that they were unjustly removed. Is there any legitimate way of resisting such a claim?

Sometimes opponents of restitution argue that some removals were not unjust by the standards of the time, and suggest that present possessors have no need to make restitution just because standards have changed.⁸ The Ethiopian treasures were captured as the result of a military siege and pillaging was once regarded as a legitimate practice in war. But if we now believe that it is wrong to pillage cultural property during war (especially if the justice of the war is doubtful) then we must also believe that it *was* wrong for the British to take away Ethiopian cultural property. If our national predecessors did wrong then we cannot escape the requirement of restitution.

A more convincing reason for rejecting at least some restitution claims is the conviction, commonsense to many people, that the right to restitution is superseded in the course of time. The right will have ceased to exist if the collectivity from whom the artefact was taken no longer exists. But even if the group survives, its claim to lost cultural property may weaken over time. Waldron suggests that a person's claim to a lost property diminishes as it ceases to be central to her existence and life plans. She is forced to adjust to life without it, and once that adjustment is made, she no longer has a need that requires its return. This does not mean that she is owed nothing for the injustice she is suffered. Those who have wronged her owe her at least an apology – perhaps also compensation. But they are no longer required to return to her the possession she lost.⁹

However, Waldron admits that that entitlement of groups to cultural property does not wear out so quickly. Speaking about the land claims of indigenous communities he says: ‘Religions and cultural traditions we know are very resilient, and the claim that the lost lands form the center of a present way of life – and remain sacred objects despite their loss – may be as credible a hundred years on as it was at the time of dispossession.’¹⁰ But if collectivities can retain their entitlement to their sacred soil, then it seems reasonable to think that they also retain their right to cultural property of other kinds. And if the resilience of religious and cultural traditions allows a claim to be valid for a hundred years, then why not longer? Why shouldn’t it continue to be valid for five hundred, or even a thousand, years if the collectivity manages to survive that long and to retain its traditions?

Though Waldron doesn’t further discuss the matter, there are at least two reasons for assuming that the right to restitution of cultural property is persistent. First of all, because it is *cultural* property and not merely property required for material existence or for projects that members of the group happen to pursue at a particular time. Cultural property is often bound up with the very identity of collectivities, their traditions, and practices, and so long as their members retain relevant parts of this tradition, the lost artefact or relic will continue to be important to their collective life. And second, because cultural property does not belong merely to the members of a particular generation. It is a possession of the collectivity as an intergenerational association. Its members pass it down from one generation to another, and its meaning is bound up with their desire to perpetuate their traditions and practices. In this respect, a piece of cultural property is like a family heirloom. When a property has the status of an heirloom we assume that it can be subject to a legitimate demand for restitution several generations after dispossession has occurred. Since many collectivities, for example, nation-states and religious organisations, retain their identity far longer than families it seems reasonable to assume that their right of restitution is also more enduring.

A collectivity’s right to restitution does not last forever. Groups change their practices. New lands become sacred; new victories or achievements are celebrated; different objects take on meaning. There is no way of determining a time span after which an artefact or relic can no longer be deemed important to a group’s practices. Each

case has to be decided on its merits and a resolution will sometimes be difficult. However, most current restitution claims concern cultural property that was taken away less than 200 years ago or not much earlier. In most of these cases, it would be difficult to argue that the claim has been superseded by the effects of time.

The definition of cultural property does not exclude the possibility that another collectivity can in the course of time adopt an artefact as their cultural property. A religious statue, stolen from a collectivity over a century ago, might have been incorporated into the rituals and practices of the present possessors. Or a Christian church may have been converted by conquerors into a mosque. When adoption occurs it is often reasonable to favour the claims of present possessors. But not always. The artefact in question may play only a marginal role in the traditions or ceremonies of present possessors while remaining central to the culture of its original owners; or perhaps possessors only very recently incorporated the object into their practices, or use it only to symbolise a victory over those from whom it was taken.

The fact remains that possessors often have no plausible basis for claiming rights based on adoption. There is no reason to think that the British or Italians have gained rights of cultural property over the artefacts taken from Ethiopia or any reason to think that the Ethiopians have lost their rights. If so, none of the considerations so far mentioned provides a reason for rejecting their restitution claims. However, an appeal to rights of cultural property cannot be used to support all restitution claims. The following is an example of a claim that cannot be so justified.

In the early years of the 18th century a scholar travelled around Iceland – then a Danish colony - buying from farmers and villagers fragments of 13th century manuscripts containing the history and sagas of the Norse people. He transported this collection to Copenhagen and bequeathed it to the University. In the course of the next century, as Iceland struggled for its independence, its people came to regard the manuscripts as their cultural property and demanded them back. The Danes finally agreed and handed over some of the manuscripts – an act that Greenfield refers to as a prime example of a ‘successful restitution of cultural treasures from one country to another’.¹¹

Despite her description, the return does not count as restitution, strictly speaking. Indeed the Danes never regarded it as such. The definition of cultural property that I have

presented favours their point of view. The problem with regarding Iceland's demand as a legitimate restitution claim is not that the manuscripts were acquired by voluntary transfers rather than force. If the manuscripts had been Iceland's cultural property then these transfers would have been illicit – the villagers who sold the manuscripts would have been doing something illegitimate. Nor is it a problem that Iceland was not an independent political society at the time that the manuscripts were taken away. An unorganised collectivity can be the owner of cultural property, and it is reasonable to suppose that the state of Iceland, when it came into existence, inherited the rights of the Icelandic community. The problem is that the manuscripts were not the cultural property of this community at the time when they were sold and taken away. It was only much later that they acquired symbolic importance. A claim to cultural property cannot be made retrospectively. This does not mean that we have to accept the Danish point of view - that the return of the manuscripts was a supererogatory act of generosity. Denmark was a harsh colonial master and it is reasonable to think that it owed Icelanders reparation. Giving them something that they valued highly could be thought of as an appropriate way to make recompense. But this is a different issue.

Greece's claim for the restitution of the Parthenon Marbles seems to suffer from the same defect. There is no convincing evidence that the Greeks, at the time when Lord Elgin's employees were doing their work, regarded the Marbles, or the Parthenon itself, as their cultural property. Hitchens points out that members of the Greek liberation movement had in the past protested about the removal of antiquities, and that some Greeks did mourn the disappearance of the Marbles.¹² But witnesses reported that there was no public outcry or protest during the period when the work of removal was done, and that many Greeks welcomed the presence of the foreigners and opportunities for employment.¹³ Hobsbawm says that the glories of ancient Greece were irrelevant to the Greeks who were fighting for their independence from Turkish rule. 'They fought as Christians against Muslim unbelievers.'¹⁴ The evidence thus suggests that their adoption of the Parthenon and the Marbles as important national symbols was a later development. It does not follow that Lord Elgin did no wrong to the Greeks. He can be blamed for not consulting them, for dealing only with those whom they regarded as their oppressors. He can, perhaps, be blamed for extracting a valuable resource from their territory. Some

form of recompense may be owed to the Greeks for these injustices, but the British are not obliged to make restitution for the theft of cultural property.

My account of cultural property puts an obstacle in the way of restitution claims that many people think are valid. There are two strategies that supporters of these claims might use to circumvent it. Neither of them is promising.

The first argument goes as follows. 'Oppressed peoples are unable to engage in collective acts of self-reflection that would lead them to recognise something as their cultural property. Lack of self-determination is what stood in the way of Greeks or Icelanders satisfying the conditions for cultural property ownership. If they had not been oppressed they would have satisfied these conditions, as later developments indicate. To refuse to recognise their right to restitution is to add insult to injuring by punishing people for being victims of repression.' The problem with this argument is that it depends heavily on contrary to fact statements for which there neither is nor can be evidence. What a group of people would have done in the absence of a history of oppression is impossible to determine. Reasoning that depends on speculation seems too weak to support a case for restitution.

The second, more common, argument depends on the idea that artefacts can belong to a collectivity even when their members are not yet aware of this fact. Some people believe both that their nation existed long before its people developed a national consciousness, and that some artefacts belong to the nation simply because they express eternal national qualities or aspirations. One problem arising from the second belief is how to establish that an artefact counts as an expression of a particular national essence. Why should we regard the Norse manuscripts as essentially belonging to the Icelandic nation or the Parthenon Marbles to the Greeks? But the first belief raises the more serious problem. The idea of a nation as a primeval community with an essence that remains the same through time is a myth.¹⁵ Nations are created in the course of political struggles, or as the result of deliberate political policies. Even members are likely to be in disagreement about the properties that distinguish their nation from others or in their reasons for valuing their national identity. Given that this is so, nothing about their nation or its history seems to give them the right to regard an artefact or a relic as having always been theirs.

Restitution and Values For Humanity

Appeals to rights of cultural property support some restitution claims but not others. However many of those who think that museums ought to resist demands for restitution are claiming that there are values at stake that can justify refusing demands for restitution even when they are legitimate. They are not pitting the claims of one collectivity against another. They are not claiming that the acquisitions of museum have become over time the cultural property of the museum or the people of their country – that, for example, the Marbles are by now truly British. They are insisting that museums are the protectors of values that transcend rights of cultural property, including the right to restitution.

The values mentioned in the Declaration of the museum directors are education and the advancement of knowledge, and to this we can presumably add aesthetic worth. These values are assumed to be of significance to all of humankind and I will call them ‘values for humanity’ (or in short, ‘human values’). Aesthetic worth is a notoriously contested concept and not every society believes in the value of scholarship or values the kind of education that the museum directors have in mind. But I will assume that these values can be given an adequate defence – that differences in aesthetic taste do not prevent considerable agreement about what is of aesthetic worth and that education and advancement of knowledge are things that people ought to value.

The argument advanced by those who think that museums are within their rights to resist restitution claims is that some artefacts are of such great value to humanity that it is justified to restrict or override rights of cultural property in order to promote or protect this value. The argument, if valid, is likely to have implications beyond the issue of restitution. If the right to regain control of cultural property is subordinate to the objective of protecting values for humanity, then an appeal to these values could also justify imposing restrictions on how collectivities can use their cultural property. Given the realities of world politics it is generally not feasible, and probably not desirable, to try to impose restrictions on the use a collectivity makes of those things it regards as theirs. But international agreements which require protection of ‘world heritage’ could be regarded as a step in the right direction.

The meaning and implications of an appeal to human values are far from clear. Does it apply to all artefacts, monuments and human relics or only some? Do human values always trump cultural property rights, or only in some cases? Does an appeal to these values merely justify restrictions on cultural property rights or does it entail, at least in some cases, that the artefacts are not properly regarded as cultural property at all? Some people seem to hold the latter position. Warren believes that in some cases artefacts are not anyone's property and no one can be properly said to own them.¹⁶ Possessors are merely trustees, and their right to act in this position presumably depends entirely on their ability to care for the things entrusted to them. The idea that some things should be regarded as the 'property of humankind' suggests that protection and enhancement of their values should be the primary, or perhaps the only, consideration in determining how an object should be treated or where it should be located.¹⁷

Let us concentrate on what is basic to all these positions – that the duty to protect and enhance universal values justifies (at least sometimes) limiting or curtailing rights of cultural property, including right to restitution. Some proponents think that defending this position is merely a matter of pointing out that human values and the obligations associated with them should always trump self interest. If the contest is between the interests of humanity and the interests of the people of one collectivity, then, morally speaking, the former is going to win out almost every time. The collectivity will have a case only when its interests are extremely strong and the human values embodied in the artefact are slight.

But this is not the right way of understanding the issue. Cultural property rights are not an expression of narrow self-interests. They are based on widely shared values, indeed values that have just as much right to be regarded as universal: the ability of individuals to develop or maintain a social identity, to engage with others in a collective pursuit of the good, to maintain valued traditions and ways of life. The contest is not between universal values and self-interest, but between universal values of different kinds. In many respects, the relation between cultural property rights and human values is similar to that between property rights of individuals and objectives of a political society. Theories of justice allow that a government is entitled to limit property rights for the sake of fulfilling requirements of justice and other important objectives. But if a government

were to deny these entitlements whenever it believes that doing so would serve the good of all (the greatest happiness, for example), it could be accused of violating rights that underwrite the freedom and self-realisation of individuals.

If an artefact does indeed play an important role in the traditions and practices of a collectivity or in the way that individuals identify themselves as members then it is difficult to deny to them the full exercise of their entitlements. This is true even if the use that the collective makes of an artefact destroys its human values or makes it impossible for them to be appreciated. Suppose that in our tribe we have a tradition that requires us to spend each decade constructing a beautiful temple which we then destroy as a ceremonial offering to the gods. Though outsiders might regard this destruction as regrettable or even wrong they cannot deny us the right to do it. Nor one can we deny the right of members of an orthodox Jewish synagogue to refuse to open up their temple so that scholars or tourists can study and admire their ancient Ark of the Covenant. Similarly, it would be wrong to force an Aboriginal group to reveal its secret knowledge or to put on display objects that it uses in its secret ceremonies, however interesting these things are to scholarship. If an artefact is central to a collectivity's identity then its right to restitution does not depend on whether returning the object is the best way of protecting human values.

This insistence on the strength of cultural property rights is likely to be contested, particularly in those cases where a collectivity is bent on destroying artefacts. Many people were outraged by the Taliban's destruction of ancient Buddhist statues in Bamiyan. They believed that the Taliban had no right to commit such acts. Similarly, many people condemn the destruction of religious artworks and artefacts that occurred in many countries during the Reformation. But if destruction was wrong, then surely the rights of collectivities over cultural property cannot be so absolute.

The actions of the Taliban provide no counterexample to a defence of cultural property rights. The Buddhist statues did not belong to its traditions or practices, and thus were not its cultural property. The fact that these artefacts were located on Afghan soil did not give it the moral right to destroy. It is much more difficult to deny to Protestants the right to destroy those things in their own churches which they had come to believe were evil or a hindrance to worship. We might now call their acts vandalism, but

this is consistent with thinking they were acting within their rights. Their position, in other words, has much in common with that of the tribe which destroys its own handiwork.

Should we draw a distinction between cultural items that were produced by members of a collectivity and those which fall into its possession because it inhabits land or uses buildings that once belonged to another collectivity? A collectivity, it might be said, has a clear and unconditional title to objects it has produced, but not over monuments and artworks produced by other collectivities: in particular, not over products of ancient civilisations – those things for which the label ‘property of humankind’ seems most apt. What was wrong with the Taliban’s actions, according to this way of thinking, is that they destroyed relics of an older culture, and in so far as the Protestants destroyed artefacts they had inherited from other collectivities, they were acting illegitimately. But this proposal won’t do. The products of an ancient culture or another collectivity can be incorporated into the practices of a group. They can become central to its identity. An ancient Roman temple might now be used as a Christian church. A statue from the ancient world may have come to symbolise the aspirations of a nation. And when artefacts have been adopted by a collectivity and have become central to its identity or practices, it is difficult to suppose that its rights are diminished because it did not produce them. It is likely, however, that many artefacts and relics from earlier people will not have been incorporated into the practices of any existing collective, and for this reason no group will be able to make a plausible cultural property claim to them. An appeal to human values is more likely to prevail simply because this is so.

When cultural property is central to a collectivity’s practices, its rights are not trumped by appeals on behalf of human values. But not all cultural property is central to a collectivity’s practices. If artefacts have only a marginal importance to the collectivity and their human value is considerable, then its rights become more difficult to defend. A museum has a better case for retaining them, even in the face of legitimate restitution claims, or at least insisting that their return be made conditional on its owners providing a safe environment and access to scholars. Fortunately, in most cases there is no serious conflict between cultural property rights and human values. Most collectivities do not intend to destroy their cultural property or withhold it from the scrutiny of scholars or

tourists. But since this is so, museums have to make a case for saying that these values are best served by keeping artefacts in museums which might be far away from their place of origin.

Values and Location

In those cases where values for humanity are the main, or the only consideration, in determining how artefacts should be treated, museums can generally make a good case for holding and retaining their treasures. Museums are good environments for advancing scholarship, educating the public and preserving aesthetic values.¹⁸ However, it has sometimes been argued that these values can be better served by returning artefacts to their place of origin. Hitchens argues that this is so in the case of the Parthenon Marbles.

Either all the marbles could be assembled in one museum in London, or they could be marshalled in a museum in Athens next to the Parthenon. But to keep them in two places, one of them quite sundered from the Parthenon and its context, seems bizarre and irrational as well as inartistic.¹⁹

Since the Parthenon and its context is in Athens it follows that the Marbles should be located there.

Aesthetic values can sometimes be well served by returning an object to its place of origin. If a carving was made to fit into a frieze then its removal not only diminishes the value of the site but also of the object taken and the aesthetic value of both would be enhanced by returning it to its place (where that is possible). Scholarly values can sometimes be advanced by leaving an artefact in its context. This is obviously true of objects found in tombs, and a good reason for forcing museums to give back items pillaged from archaeological sites is that the requirement might discourage grave robbing.²⁰ Viewing an artefact in its place of origin may provide a richer educational experience than seeing it in a museum. The Goldmans argue that monuments can have a great educational value because of their effect on those who visit them.²¹ Actually being in a place where a historical event occurred, walking through a cathedral that people have worshipped in for centuries, or seeing artefacts in the place for which they were intended can bring it about that what a visitor learns is more deeply felt, more personally relevant

and more memorable. This is perhaps one of the values that Hitchens thinks will be served by returning the Marbles to Athens.

However, the case for return can be more or less strong, and often an appeal to human values will favour the position of the museum directors. Sometimes location seems to make no difference at all to the value of an object. This is likely to be true of many objects that museums collect – figurines, vases, jewellery, manuscripts, etc. Sometimes restoration is impossible. The Marbles cannot be put back on the Parthenon, and it is not obvious how displaying them in a museum *near* the Parthenon enhances their aesthetic worth. Sometimes reasons for return may be more than balanced by reasons for leaving artefacts in museums. If carvings and reliefs were to be returned to the Buddhist temples in Chinese Turkistan from which they were taken this would enhance their aesthetic worth but it would make them much less accessible to scholars and tourists.²² People can get a rich educational experience out seeing an artefact in or near the site for which it was created, but they can also learn a lot by being able to compare it with artefacts from other times and cultures – an opportunity that museums are good at providing. Which experience is better is probably very much a matter of individual predilections. It is not obvious, for example, that seeing the Marbles in Athens is better from an educational point of view than seeing them in the British Museum

This discussion indicates that there is no general principle which determines where artefacts should be located if values for humanity are to be well served. Each case has to be considered on its merits. Sometimes a survey of the relevant considerations will lead to the conclusion that a return is justified, but in many other cases (including, I think, the case of the Parthenon Marbles) there will be no compelling argument for return. Museums are not always the best custodians of objects of values to humanity. But it is likely in most cases that they are. Neither appeals to these values nor claims based on cultural property rights seem to be serious threats to the existence of museums or to the bulk of their collections. Museum officials can recognise the right of Aborigines to get back the bones of their ancestors and the right of Ethiopians to repossess their cultural property without supposing that they are thereby committed to give in to every demand for restitution. They can acknowledge that it would be better for aesthetic, scholarly or

educational reasons to return some statues and monuments to the places from which they came without committing themselves to wholesale repatriation.

¹ The history of this demand and also of demands for restitution of Ethiopian cultural treasures taken by the British in the 19th century is detailed in Richard Pankhurst (1999) Ethiopia, the Askum Obelisk, and the return of Africa's cultural heritage, *African Affairs*, 98, 391.

² L.M. Kaye and C.T. Main (1995) The saga of the Lydian Hoard: from Usak to New York and back again in K.W. Tubb (ed.) *Antiquities Trade Or Betrayed: Legal, Ethical and Conservation Issues* (London, Archetype).

³ Nayanjot Lahiri (2000) Archaeology and identity in colonial India, *Antiquity*, 74, 285.

⁴ E. Barkan (2000) *The Guilt of Nations* (New York, London, W.W. Norton), Chapter 8.

⁵ *Declaration on the Importance and Value of Universal Museums* can be found at many web sites, including <http://www.clevelandart.org/whatsnew/news.asp?131>. For another defence of museums see D. Wilson (1985) Return and restitution: a museum perspective in I. McBryde (ed.) *Who Owns the Past* (Melbourne, Oxford University Press).

⁶ I am assuming that property rights can be justified by the value to individuals of being able to control the means for undertaking projects, pursuing objectives, or protecting their lives and the things they value. This justification does not require that their rights be absolute or unaffected by other aspects of their social relations.

⁷ For an account of the laws of nations in respect to archaeological heritage see the survey in H. Cleere (ed.) (1984) *Approaches to Archaeological Heritage: A Comparative Study* (Cambridge, Cambridge University Press).

⁸ This defence is suggested by the *Declaration* (op.cit): 'We should, however, recognise that objects acquired in earlier times must be viewed in the light of different sensitivities and values, reflective of that earlier era.'

⁹ Jeremy Waldron (1992) Superseding historical injustice, *Ethics* 103, 1, p. 18-9.

¹⁰ Waldron, op. cit., p. 19.

¹¹ J. Greenfield (1996) *The Return of Cultural Treasures*, 2nd edition (Cambridge, Cambridge University Press), p. 12.

¹² C. Hitchens (1987) *The Elgin Marbles: Should They Be Returned to Greece?* (London, Chatto & Windus), p. 67.

¹³ Greenfield, op. cit., p. 64.

¹⁴ E. J. Hobsbawm (1992) *Nations and Nationalism Since 1780: Programme, Myth, Reality* (Cambridge, Cambridge University Press), p. 77.

¹⁵ See, for example, Hobsbawm, op. cit., Introduction and Chapter 4, and Benedict Anderson (1983) *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London, Verso), Chapters 1-3.

¹⁶ K. J. Warren (1989) A philosophical perspective on the ethics and resolution of cultural property issues in P.M. Messenger (ed.) *The Ethics of Collecting Cultural Property* (Albuquerque, University of New Mexico Press).

¹⁷ See Jaime Litvak King (1989), Cultural property and national sovereignty in P.M. Messenger, op. cit.

¹⁸ Some critics point out that museums have not always provided safe havens for cultural treasures. I am assuming that they are at least capable of doing so.

¹⁹ Hitchens, op. cit., p. 37.

²⁰ Kaye and Main, op. cit.

²¹ M.P. and N.H. Golding (1979) Why Preserve Landmarks? a preliminary inquiry in K.E. Goodpaster and K.M. Sayre (eds.) *Ethics and Problems of the 21st Century* (Notre Dame and London: University of Notre Dame Press).

²² For an account of the British, French, Russian, American and Japanese expeditions which resulted in these treasures being taken away and deposited in museums across the world see P. Hopkirk (1980) *Foreign Devils on the Silk Road: The Search for the Lost Cities and Treasures of Chinese Central Asia* (London, John Murray).