RESTITUTING ART: AN ETHICAL ANALYSIS OF THE PARTHENON MARBLES DEBATE

Lauren Stephens
University of Liverpool

Attempting to make clear different theories of cultural ownership, cultural property scholars have divided dominant views into two categories: cultural nationalism and cultural internationalism. Although not discussed in the relevant literature, I claim it is useful to understand these two categories as comprised of the ethical views of deontology and consequentialism. I claim cultural internationalists believe they have good independent reasons against returning problematic cultural heritage like the Parthenon marbles. However, I will demonstrate their arguments are based on consequentialist ethics, and there are just as many consequentialist reasons to return the marbles as there are for them to remain in the British Museum, undermining cultural internationalist arguments against their return.

1 Introduction

The debate surrounding the Parthenon marbles in the British Museum best illustrates the ethical positions behind cultural nationalism and cultural internationalism.[1] Although not discussed in the relevant literature, I claim it is useful to understand these two views as comprised of the ethical views of deontology – the view that moral actions align with our duties – and consequentialism – the view that moral actions maximize beneficial outcomes. As a brief overview, the Parthenon has stood on the Acropolis of Athens in Greece for two and a half millennia. Four centuries of Ottoman occupation combined with transformations of the Parthenon into churches, mosques, and an ammunitions store caused notable damage to the ancient marble structure. From 1801 to 1812, Thomas Bruce, the 7th Earl of Elgin, removed parts of the Parthenon's frieze, metopes, and pedimentary sculpture to be shipped to Britain (Banteka 2016, 1237; Rudenstine 2021, 378). Substantial damage occurred during this removal, causing further irreversible structural damage to the Parthenon. When later debating their purchase in 1816, Parliament primarily questioned whether Elgin had actually obtained written permission from the Ottomans to take the marbles from the Acropolis, and whether their subsequent purchase by Britain would condone looting art. Those in Parliament who were for or against the purchase of the marbles echo the arguments made today in contemporary debates. An important question concerning the ethics behind the Parthenon marbles' acquisition asks whether the Ottomans had a right to sell another culture's art. Is it ethical for conquering nations to sell the cultural heritage of a conquered people? Further, is it ethical to purchase cultural heritage from the occupier of an occupied nation?

These questions were debated and later dismissed by Parliament (Rudenstine 2021, 410). After Parliament approved the purchase of

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the marbles in 1816 and sent them to the British Museum, the marbles continued to suffer damage. During 1937-38, conservators at the British Museum scoured sections of the marbles with wire brushes and corrosive bleaching chemicals, scraping away ancient traces of paint and artistic details from their surface (Rudenstine 2021, 451). More recently, a United Nations Educational, Scientific, and Cultural Organization (UNESCO) committee met in early 2021 and expressed concerns about the display conditions where the marbles are kept (Solomon 2021). In August 2021, heavy rainfall in London led to water leaking into galleries in the British Museum, highlighting again the growing concern over the safety of the British collection of the Parthenon marbles.

In 2021, UNESCO officially recommended the Parthenon marbles be returned to Greece. A UK government spokesperson rejected this, saying: "We disagree with the Committee's decision… Our position is clear — the Parthenon sculptures were acquired legally in accordance with the law at the time" (Chow 2021). While UNESCO recommends their return, the UK remains firm on their disagreement. This lack of official consensus further complicates the persisting ethical problem of the Parthenon marbles in the British Museum. In October 2022, the British House of Lords debated the 1983 National Heritage Act concerning whether certain major UK cultural institutions should be able to return objects with questionable histories (Bailey 2022). If this act were amended, it would provide unique legal opportunities to return some objects to their cultural origins since there is currently no law enforcing such action for museums. However, the Parthenon marbles cannot be returned until the British Museum Act of 1963 is amended (Harris 2021).

Addressing this legal impasse within cultural heritage literature, cultural property scholars have divided the debate into two categories: cultural nationalism and cultural internationalism (Goldsleger 2005, 109; Kiwara-Wilson 2013, 396; Banteka 2016, 1252; Losson 2021, 387). I argue it is important to understand these claims are supported by either

consequentialist or deontological ethics since there seems to be a stalemate between these nationalist and internationalist claims in cultural heritage literature, as evidenced by the British Museum and UNESCO's different judgements about the present location of the Parthenon marbles. As such, an analysis in the terms of moral philosophy may assist in both understanding and adjudicating between the positions.

2 The Ethics of Cultural Restitution

When seeking to justify responses to moral dilemmas, artworld interpretations of museum ethics typically use a combination of consequentialist and deontological theories (Edson 2005, 51). Deontological theories propose that even if bad outcomes occur, a cultural institution's actions remain ethical if the institution intended to act in accordance with duties. In contrast to this view, consequentialists believe moral action for cultural institutions is dictated by pursuing the best possible outcomes of an action. When considering the ethical frameworks of deontology and consequentialism alongside the concepts of cultural nationalism and cultural internationalism, it must be noted the former are established and recognized ethical systems, while the latter are theories within the context of museums. It has not yet been considered in extant literature that these views are underwritten by consequentialist and deontological ethical theories, but I argue it is important we consider them in this light to provide the supporting ethical ground for cultural nationalism or cultural internationalism.

While 'nationalism' typically means the promotion of a particular nation, in a cultural heritage context it has a slightly different meaning. Cultural nationalism in this case claims the value of cultural heritage can only be fully realized in its original cultural context (Banteka 2016, 1253). Cultural nationalism places importance on originating contexts, claiming cultures who produced a certain object instill within it emotional qualities binding it to the originating culture, leading to a great loss when removed. For cultural nationalism, the proper context for cultural heritage is within the culture of its origin, with importance placed on nation-oriented principles of nationalism, legality, and morality (Kiwara-Wilson 2013, 397).

This description best supports the claim that cultural nationalism has parallel moral views to a deontological, duty-based ethic, especially through focusing on specific principles when deciding on moral action. Cultural nationalist views consider nationalism, legality, and morality as moral obligations that should be followed, regardless of whether a majority benefits from this view or not. This view's focus is on advancing the interests of a particular group of people rather than benefiting a wider group. The return of objects to their original context then becomes an ethical act righting the wrongs of past unethical action against a particular cultural group (Goldsleger 2005, 109).

Cultural nationalism could call for all cultural heritage to be returned to its original context, even if there were no wrongs with regard to rights of ownership. Taken to its extreme, cultural nationalism might serve as a foundation for *museum scepticism*. Museum sceptics believe not only that an object's original nation best serves our understanding of it but also that an object's being situated within cultural institutions destroys its contextually dependent purpose (Carrier 2006, 52). Museum scepticism, therefore, claims art needs its original context in order to be best understood, and so, cannot thrive within any museum context. Although museum scepticism is an extreme position with similar aims as cultural nationalism—namely, the return of cultural objects to their originating cultural contexts—there is little literature suggesting the return of all cultural objects is a solution for specific dilemmas within the art world, even when advocating for conceivably cultural nationalist approaches. Those in the literature who use cultural nationalist claims usually support it within contexts of looted cultural heritage.

In contrast to cultural nationalism, cultural internationalism is the idea there is universal interest in the preservation and display of cultural property no matter where it is situated (Kiwara-Wilson 2013, 397). The claim I wish to tease out is that defending a cultural internationalist view is really defending a consequentialist ethic. What is missing from cultural internationalism, by its favouring of concepts like universal

interest (i.e., the maximization of it through utilitarian calculation), is cultural nationalism's emphasis on universal principles and laws. Those in the artworld who uphold the importance of cultural internationalism describe themselves as belonging to the idea of the universal museum. In 2002, a 'Declaration on the Importance and Value of Universal Museums' was signed by eighteen directors of leading museums within Europe and the United States (Thompson 2003, 251). The aim of the Declaration was to justify the presence of objects with questionable provenance within leading museums, stating: "The universal admiration for ancient civilizations would not be so deeply established today were it not for the influence exercised by the artefacts of these cultures, widely available to an international public in major museums," (Karp et al. 2006, 248). This Declaration outlines the strongest argument for the international museum: the display of cultural heritage, even if questionably looted, serves the people of all nations by maximizing the appreciation of past people. It is crucial to note the emphasis on maximizing a particular good despite a perceived wrong. Emphasis on maximizing the good indicates an underlying consequentialist ethic, signifying the ends of maximizing cultural appreciation justifies the means of looting cultural heritage.

The Declaration asks, does the good resulting from the display of cultural heritage outweigh the bad of its dubious origins? This is akin to the question asked in ethical discourse whether the ends justify the means. Deontological ethics would not support an argument which treats a looted culture as a means to the end of the enjoyment of cultural heritage, while a consequentialist ethic could conceivably support this. For deontology, the looted culture should be seen as an end in itself, and there is no moral duty or justification for looting cultural heritage. Further, if a deontological maxim stating it is ethical for museums to purchase looted heritage were created, the universalization of this maxim would be self-defeating, undermining the ethical legitimacy of the artworld. If cultural institutions claim to "serve society and its

development" (Edson 2005, 3) yet condone the looting of heritage by purchasing and displaying such looted objects, this would defeat the goal of the service and development of society since looting a society's objects is antithetical to its development. Conversely, a consequentialist framework could claim there is moral justification for purchasing and looting cultural heritage: the good produced from its display, like the maximization of aesthetic pleasure or knowledge of other cultures, outweighs the bad of its questionable origins. The Declaration ends by emphasizing universal museums are in service of "not just the citizens of one nation but the people of every nation … To narrow the focus of museums whose collections are diverse and multifaceted would therefore be a disservice to all visitors" (Karp et al. 2006, 248). Which is the greater disservice to visitors, restituting looted art or allowing visitors to believe looted art is acceptable for museum collections?

Adopting restitution policies for looted cultural heritage does not mean all cultural heritage in all museums should be returned (Goldsleger 2005, 116; Losson 2021, 381). Not all cultural heritage has been looted; for those that have, each instance of looting and its return will be unique and unlikely to set precedents for other cases. Different considerations will be applied to each case. Nazi-looted art, for example, will be treated differently than cultural heritage acquired through colonialism. This will not lead to the complete emptying of museums, but rather the removal and return of select items in collections determined as looted cultural heritage.

Although the 2002 Declaration was signed by many directors of large international institutions, it was not signed by the British Museum director at the time. Despite this, and according to several statements made by Neil MacGregor, director from 2002 to 2015, the British Museum can be considered a universal museum (Kiwara-Wilson 2013, 398). Further, MacGregor claimed the Parthenon marbles "have played a vital role in the Museum's purpose to be an encyclopedia of knowl-

edge and a material record of human history" (quoted in Rudenstine 2021, 381). What typically underscores internationalist predilections is an emphasis on terms like 'encyclopedia' and 'human history'. On their official website, the British Museum states they are "working in partnership for the benefit of the widest possible audience… for this interconnected world collection" (British Museum 2023). The phrases "benefit of the widest possible audience" and "interconnected world collection" are notably cultural internationalist descriptions. Commentators further underscore this stance by saying the British Museum's position on restitution debates is not about ownership but about displaying "everyone's culture" in one place for "maximum public benefit" (Challis 2006, 39). International and universal museums believe safeguarding and promoting universal values benefits audiences, which justifies imposing limitations on cultural property restitution rights (Thompson 2003, 258).

Cuno (2014) especially praises the British Museum as the "archetypal encyclopedic museum" and defends cultural institutions against restitution claims. While Cuno's views are culturally internationalist, I claim the arguments he uses also reflect consequentialist ethics. He explains the promise of encyclopedic museums as encouraging cultural exchange, curiosity about the world, and a cosmopolitan worldview (Cuno 2014, 120). What matters most for Cuno is not how artworks were obtained by museums, but the alleged total good they can produce. Losson (2021) responds to Cuno's cultural internationalist claims against calls for restitution, calling them at best ironic since most universal museums were created and continue to reinforce nationalistic ideas of the superiority of their host nation. The Louvre reinforces the superiority of France, and the British Museum reinforces the superiority of Britain (Losson 2021, 387). The encyclopedic, internationalist museum protests against nationalistic views when restitution claims are made but remains at its core nationalistic.

3 Ethical Debate

There are codes of professional ethics by which most UK museums abide. At the national level is the Museum Association (MA) code of ethics, and at the international level is the International Council of Museums (ICOM) code of ethics. If a cultural institution follows a code of ethics, it stands to reason it believes duties and principles should be upheld. If a cultural institution claims to be in the service of communities, then it stands to reason it believes in the widest benefit for all when deciding to act. As mentioned earlier, cultural institutions usually incorporate both deontology and consequentialism when deciding on ethical action (Edson 2005, 51). Operating with both consequential and deontological ethics typically does not cause conflict by itself, but these ethics are in conflict when assessing artworks with problematic histories like the Parthenon marbles. Cultural internationalists aim for the best outcomes for the largest number of people. To operate a cultural institution under this theory of the greater good does not, at face value, seem ethically problematic. Where there is no evidence of questionable provenance, a consequentialist ethic works well for universal museums if, in fact, they are in service of the people of every nation.

However, if cultural internationalist consequentialism is aimed at producing the best outcome for the largest number of people, how could the present state of the Parthenon marbles be the best outcome for the most people? After all, even if Elgin did legally purchase the marbles from the Ottoman Empire, is it ethical to obtain cultural heritage from occupying powers? It cannot be in the best interests of the citizens of every nation to defend artworks' provenance as obtained from an occupying power. It is a weak argument that a greater good occurred overall when weighing the loss of the Parthenon marbles for Greek culture – a loss still felt today – against the overall aesthetic experience of their display in the British Museum. I argue if cultural internationalism uses a consequentialist ethic to defend its views on the problem of the Par-

thenon marbles, then a consequentialist ethic can just as easily be used to call for their return.

The principle of utility is key here: a consequentialist ethic would claim the greatest amount of good would see the reunification of the Parthenon marbles in the Acropolis Museum in Athens. Since Melina Mercouri's campaign in the 1980s as Cultural Minister of Greece, the British Museum has argued Greece lacked the necessary resources to display the marbles. However, this argument was challenged by the construction of the new Acropolis Museum in 2009. Today, the Acropolis Museum not only showcases the sections of the marbles it owns, but also highlights missing sections still held by the British Museum. The gallery, which has outer glass walls facing the Parthenon, serves as a touching reminder of the obvious omissions in the display. Since 2009, the argument that Greece lacks what the British Museum can provide no longer stands. Additionally, the return of the marbles would see the British Museum gain greater ethical standing within the artworld, while the Acropolis Museum would gain a more comprehensive collection of what is considered the most important marble sculptures in the world. Scholarship of the marbles would improve, and political relations between Greece and the UK could improve as well.

If an ethical calculus were performed, all these goods combined would outweigh the return of the Parthenon marbles from the British Museum collection. If the ethical goal is the maximization of good consequences of an action, I claim consequentialist ethical reasons could call for the marbles to both remain or leave the British Museum. Cultural nationalism argues for their return based on principles of restoring looted cultural heritage, while cultural internationalism presents mixed perspectives, supporting and opposing their return for the greater good. It is unclear which perspective within cultural internationalism is correct, as both could argue for either action. In contrast, cultural nationalism unequivocally advocates for the Parthenon marbles' return.

4 Conclusion

In October 2022, the British Parliament debated amending the 1983 National Heritage Act, eventually deciding against providing a legal route for the return of objects with problematic provenance in major UK cultural institutions (Bailey 2022). Claims made on either side of this debate correspond to cultural nationalist or cultural internationalist arguments. As seen through the relevant literature, there is an interesting relationship between these two views for the case of the Parthenon marbles. What I have tried to show is cultural nationalist views are rooted in deontology, and cultural internationalist views are rooted in consequentialism. It is crucial to recognize restitution cases can differ due to context, and how consequences are assessed may always be open to some degree of interpretation. The outcome of consequentialist ethics does not recommend the return of all objects in all cases, but what I have shown in the Parthenon marbles case specifically is that consequentialism would recommend both remaining and their return. I argue, once cultural internationalist views are analyzed through consequentialist ethics, there are no more good reasons to keep them than there are for them to be returned. By cultural internationalists' own standards, their arguments do not work: when the good and the bad are weighed for the case of the Parthenon marbles, the scales tip more towards their return.

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