

The Role of Museums in Safeguarding Cultural Heritage Rights: Balancing Access and Repatriation

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ABSTRACT

Museums play a central role in the conservation of cultural history and in making available to the population artifacts that represent the rich cultural heritage of people. The past several decades, however, have seen the emergence of ownership questions, questions of ethical stewardship, and questions of repatriation, which place the institution of the museum as a relay station in the cultural space in bilateral situations, each with its own complexities. The present paper will analyze these issues: how museums can protect cultural heritage rights and how they can strike a balance between the necessity of opening collections to the people and the ethical and legal obligation to give the objects back to the community of their origin. It discusses various aspects of the interactions between the international conventions, national legislations, and codes of ethics to govern the restitution of cultural items and the significance of provenance research, openness, and community involvement. This interdisciplinary work critiques landmark case studies including the Benin Bronzes and the Elgin Marbles, alongside contemporary debates in the equally fraught and comparatively less-trodden areas of digital repatriation and collaborative exhibition practices. The results indicate that museums must implement policies of diversity, ethics, and innovation, upholding the rights of origin societies, without compromising their mandate as custodians of cultural heritage worldwide.

Keywords: Museums, Cultural Heritage, Repatriation, Access, Cultural Rights, Ethics, Artifact Restitution, Provenance, Community Engagement.

INTRODUCTION

Museums are known to be regarded as the custodians of cultural artifacts, which provide the society with a place to experience history, art as well as human innovativeness¹. Museums also contribute to the importance of preserving the tangible material heritage and thus preserve the collective memory of societies and communities over the years². Museums have however not only had the responsibility of preserving the cultural heritage, but also in matters concerning the cultural heritage rights such as ownership, right of access, and repatriation. Disputes about restitution of artifacts to their nations or peoples of provenance have increased dramatically in recent years and museums must juggle the competing needs of access by the masses, and cultural rights.

Museums as Custodians of Cultural Heritage

Museums act as storage facilities of history of human beings and preserve the cultural, religious, and artistic artifacts. These schools offer ground of learning, research, and inter cultural exchange and as such, it places

¹ J. Blake, Museums and Safeguarding Intangible Cultural Heritage–Facilitating Participation and Strengthening Their Function in Society, 13 Int'l J. of Intangible Heritage 18 (2018).

² J. G. Byrne, Factors Determining the Repatriation of Cultural Heritage from Museums; The Place of Cultural Rights in British Museums Practice (Doctoral Dissertation, Univ. of London 2015).

societies in a position to learn about and appreciate how they share similar heritage³. By keeping detailed records, preserving delicate pieces and exhibiting collections to encourage visitors, museums will help to ensure that cultural inheritance is accessible to the present and future generations⁴.



Figure 1: Museums as Custodians of Cultural Heritage

Balancing Access and Repatriation

Whereas the aim of museums is to render accessible the heritage, there is the tension in cases where there has been an acquisition of cultural objects based on situations that are today considered as the unethical or unjust acquisition. The debate about repatriation focuses on the rights of the source communities to repossess their artifacts that are of great importance historically, religiously or culturally. Museums continue to struggle with the need to correct past mistakes and to support restitution on the one hand and retain their educational missions to the public on the other. This balancing act involves legal, ethical and curatorial calculations and therefore necessitates the museums to be a dynamic intersection between the cultural preservation, human rights, and international relationships.

REVIEW OF LITREATURE

The section briefly examines some of the most important studies addressing cultural heritage repatriation, including their legal, ethical, and technological attempts to respond to claims of restitution on the one hand, and collaborate with source communities on the other hand.

Douglas and Hayes (2019) studied the place of digital technologies in aiding in this process⁵. They provided an example of how the communication between the museums and the source communities became easier because of increasing access to digital images of cultural artifacts and sharing them across cultures, which was associated with the greater transparency and cultural sensitivity. Their research showed that digital access had the potential to supplement the physical repatriation by ensuring communities are able to reconnect with their past in the face of logistical or legal difficulties.

Frigo (2023) addresses the issue of restitution of cultural property and decolonization of museums, as well as the intersection between the duty of the law, values, and identity⁶. The researchers pointed out that museums had a long track record of inconsistencies in carrying out their duties as mandated in the area of restitutions and that there was a need to blend legal obligations and the need to engage source communities ethically.

³ T. Macek, The Restitution of Cultural Heritage: A Mediating Role of Systems Approach, in Law, Humanities, and Tourism: Interdisciplinary Approaches to the Restitution of Cultural Heritage 203 (Tadeja Jere Jakulin & Milka Sinkovic eds., 2025).

⁴ R. Olsen, Museum Morals: Re-Evaluating the Collection, Exhibition, and Repatriation of Indigenous Cultural Belongings in the Modern Age (2024).

⁵ S. Douglas & M. Hayes, Giving Diligence Its Due: Accessing Digital Images in Indigenous Repatriation Efforts, 2 Heritage 1260 (2019).

⁶ M. Frigo, Restitution of Cultural Property and Decolonization of Museums: Issues of Consistency Between Fulfilment of Legal Obligations, Ethical Principles and Identity Links, in Cultural Heritage, Sustainable Development and Human Rights 175 (Routledge 2023).

According to Frigo, in order to achieve a cultural justice and practices of egalitarian relationships in museum operations, decolonization practices were a prerequisite.

Odugie and Onochie (2025) studied the regulatory systems and issues of the repatriation of Benin artifacts through postcolonial African prism⁷. They discovered that the legal arguments cannot be used to claim that repatriation issues can be solved exclusively through the legal framework because it is widely accepted that historic, political, and institutional influences tend to determine the results. In their study, they showed that consideration of ethical aspects in the process of restitution, international collaboration, and community participation are relevant in a well-coordinated and fair restitution procedure.

Jessiman (2014) focused on the development of the process of solving cultural heritage repatriation disputes between museums and indigenous people⁸. The paper has discussed past and recent cases, focusing on ethic, legal, and social intricacies of restitution claims. According to Jessiman, the key to resolving them was usually open communications, negotiation, and recognition of cultural and spiritual affiliation of aboriginal communities to the artifacts. This study emphasized the potential of museums as mediators between the needs and desires of every viewer and the right and demands of source communities.

Lenzerini, (2016) discussed the overall issue of cultural identity, human rights, and the repatriation of cultural heritage belonging to indigenous populations⁹. The paper contested that cultural heritage was part and parcel of identity and collective rights of indigenous people and repatriation was not only a legal issue rather a human rights issue. Launched by the case of Elzerini, which claims the application of international legal and ethical frameworks with regard to their assistance in restitution, the rising responses to indigenous claims reflected a broader understanding of indigenous rights along the lines of global heritage governance.

Legal And Ethical Frameworks

The purpose of museums in the preservation of cultural property is bound by curatorial, educational needs and legal requirements as well as ethical duties of the museum. The same issues that surround the ownership of artifacts, their restitution, and access are given the correct path by the legal frameworks as well as the ethical standards that are applied in museums. These mechanisms in combination serve to make sure that museums are responsible despite the preservation and exhibit of cultural heritage.

International Conventions

International treaties act as the major legal tools in dealing with the protection, retention and restitution of cultural property. The most important are the UNESCO (1970) Convention and the United Nations Convention on the Illegal Import, Export and Transfer of Ownership of Cultural Property (UNIDROIT 1995).



Figure 2: International Conventions on Cultural Heritage

⁷ G. O. Idugie & A. U. Onochie, Regulatory Frameworks and Challenges in the Repatriation of Benin Artefacts: A Postcolonial African Perspective on Cultural Heritage Preservation, 9 Afr. J. L. & Hum. Rts. 1 (2025).

⁸ S. R. Jessiman, Understanding and Resolving Cultural Heritage Repatriation Disputes Between Indigenous Peoples and Museums (Doctoral Dissertation, Univ. of British Columbia 2014).

⁹ F. Lenzerini, Cultural Identity, Human Rights, and Repatriation of Cultural Heritage of Indigenous Peoples, 23 Brown J. World Aff. 127 (2016).

The 1970 UNESCO Convention forms a system of prevention of the illicit export, importation, and change of ownership of cultural property. It requires the signatories to other nations to enforce the protection of cultural heritage, such as the illicit acquisition of entities and their repatriation to their original countries. In the case of museums, this convention places a stress on due diligence of provenance research prior to acquisition of the artifacts, that they are not unlawfully removed out of the original context.¹⁰

The UNIDROIT Convention fills in the gaps of the UNESCO framework as it involves the legal recourse to exercise the recovery and restitution of stolen or illicitly taken cultural objects. In contrast to the instrument of UNESCO, UNIDROIT deals directly with civil law procedures, and provides legal means to compensate, to restore or deliver cultural objects. Museums must thus be familiar with laws both internationally i.e. issues of cultural heritage, and national i.e. cultural organizations about which there may be a dispute.

Such conventions define the roles museums play, but also create the precept that cultural heritage belongs to the collective memory of mankind, and cannot be disrespected. Signatories are urged to collaborate at an international level, and as a result of these simplified forms of restitution have been formed, including the repatriation of the Benin Bronzes and the ongoing discussions of the Elgin marbles.

Ethical Guidelines

Although ethical codes do not have the force of law, they help impossible cases that lack legal certainty or have not yet been recognized by legal conventions. The good practice of the International Council of Museums (ICOM) Code of Ethics has been taken as the prime focus of an ethical museum practice. Transparency, accountability, and respect of the cultural property are further issues of concern addressed by the ICOM guidelines that point to the moral responsibility of museums to correspond with the communities where cultural artifacts belong.

The key concepts of ethical principle are:

- Provenance Research: Researching the history of each artifact, its provenance, the situation of its possession, and its chain of custody, in order to demonstrate its legitimate ownership.
- Community engagement: Enabling transparent communication with the communities associated with artifacts, their sense of cultural and spiritual connection to them, and collaborating on decision-making on exhibition, interpretation, and restitution.
- Acknowledgment of Historical Injustices: confronting and addressing of colonial or coerced practices that led to collections, recognition of past injustices displays and publications, and restitution practices.
- Collaboration and Restitution: cooperating and consulting with communities in co-curation of exhibitions and the repatriation of cultural items were deemed proper, even in the absence of legal means¹¹.

With a proper convergence of law and ethics, museums can negotiate complicated situations where the interests of cultural rights crash into access and educational duties. Such ethics as ethics in museum shall carry with it the ability to transform museums into trusting, collaborating, and justice-seeking institutions and not just blind containers of artifacts.

¹⁰ E. Smith, R. Ristiawan & T. Sudarmadi, Protection and Repatriation of Cultural Heritage–Country Report: Indonesia, 8 Santander Art & Culture L. Rev. 383 (2022).

¹¹ I. Stamatoudi & K. Roussos, A Sustainable Model of Cultural Heritage Management for Museums and Cultural Heritage Institutions, ACM J. on Computing & Cultural Heritage (2024).

Table 1: Summary of Legal and Ethical Frameworks for Museums

Framework Type	Instrument / Guideline	Purpose / Key Focus	Implications for Museums
Legal Convention	1970 UNESCO Convention	Prevent illicit import/export; facilitate restitution	Conduct due diligence; respect international legal norms
Legal Convention	UNIDROIT Convention (1995)	Recovery and restitution of stolen/exported objects	Awareness of civil law processes; enable restitution/legal claims
Ethical Guideline	ICOM Code of Ethics	Transparency, accountability, respect for cultural property	Conduct provenance research, engage communities, acknowledge historical injustices
Ethical Practice	Community Collaboration	Co-curation, cultural interpretation	Joint exhibitions, restitution negotiations, inclusive display of artifacts

Challenges In Balancing Access And Repatriation

Museums are in complex situations when trying to be publicly attractive to cultural heritage and on the other hand, where they have to repatriate the artifacts to its originating community as being dictated by the ethical and legal obligation. These grievances have their historical, logistical, and social aspects, and each of them must be considered and managed with appropriate strategies.

Historical Acquisition and Colonial Legacy

A large share of museum holdings, especially in Europe and North America were collected during the era of colonial expansion. Artifacts were looted, or even stolen, under the circumstances of unequal power, force, or just straight theft, which has now become an ethical insult and illegal according to modern ethics and international conventions. This colonial history makes it more difficult to assert ownership as many objects were taken without due agreement of the communities of origin. The museums that attempt to address such delicate periods in human history need to take into account the misdeeds of the past without using that as an excuse to keep specific collections to learn on them or research with them. These issues include the difficulty of reconciling the past with present day ethical responsibilities and usually in the glare and controversy of the media.



Figure 3: Colonial-Era Artifact Acquisition and Repatriation Issues

Practical and Logistical Issues

Repatriation cannot simply be equated to a legal or ethical issue, but it comes with huge practical and logistical complexities. Moving sensitive items across national boundaries is a delicate activity, which also requires

special transportation, climatic wrapping and insurances, so as to maintain the items. Also, the transfer of ownership of items is frequently legally difficult, sometimes when the provenance is unclear or disputed¹². The process is aggravated by financial constraints, which are high in relation to cost of research, restoration and safe transport of the works. Significant international agreements and cooperation with governments, cultural organizations and specialists are frequently required to counter such difficulties, which makes repatriation a highly resource-consuming, well-coordinated exercise.

Public Interest vs. Community Rights

Museums have a two-fold task of retaining and imparting heritage to the masses and to provide other types of cultural enlightenment. Such a social agenda, however, may come into a clash with the rights of peoples, who want to have antiques, that linked by historical, spiritual, or cultural associations with them, returned. Museums have to balance conserving the heritage universality and honoring the demands of source communities. This balancing can only be achieved through continuous negotiation, collaborative policies, and the use of flexible solutions including long-term loans and shared custody agreements as well as digitalised exhibitions that can fulfil the requirements of public interest and cultural rights. When such tensions are not effectively handled, they have the potential of destroying trust, causing reputational loss, and feeding on historical-set grievances.

Case Studies

The review of actual cases of artifacts repatriation helps understand the issues and methods museums use to work between the rights of the people to get access to their cultural heritage and the rights of museums to display and preserve those cultural properties. The cases of the Benin Bronzes and of the Elgin Marbles depict the international problems associated with legal, ethical, and diplomatic concerns and processes of restitution.

The Return of the Benin Bronzes

Between 1897 and 1935, the Benin Bronzes English: were acquired by the British through looting during a Royal Navy invasion of the Kingdom of Benin (modern-day Nigeria). These artifacts were scattered throughout European museums, and into collections and auction houses, over the course of a century¹³. The Benin Bronzes have since become synonymous with the cultural dispossession that was brought about by colonialism and with the tensions pertaining to repatriation.

Recent opportunities have shown that it is drifting towards joint restitution. In Europe, vested agreements have been concluded by various European institutions like the Humboldt Forum, Germany and the University of Aberdeen Museum, Scotland, to repatriate Benin objects to Nigeria. In many cases, these agreements provide mechanisms to temporarily lend and exhibit, collaborate and create educational programming, to ensure the cultural relics continue to be accessed and learned by both domestic and international audiences. The case demonstrates how sensitive negotiations, diplomacy, and recognition of past wrongs in the light of moral understanding are instrumental in implementing culturally just outcomes.

The Elgin Marbles Debate

The Elgin Marbles, marble sculptures of the Parthenon in Athens, were removed by lord Elgin in early nineteenth century and taken to Britain. Located in the British Museum, they have been repatriation objects encountered by Greece since long. The controversy highlights the dilemmas of museums in regards to the balancing between legal ownership and moral concerns, as well as in international relations.

Although the British Museum justifies the presence of Marbles with the legal acquisition that took place during the reign of the Ottoman Empire, and the cultural and educational potential of having the sculptures in the city, Greece refers to moral considerations, such as the incompatibility of the pieces with their original architectural

¹² V. Tünsmeier, Repatriation of Sacred Indigenous Cultural Heritage and the Law: Lessons from... (2020).

¹³ O. Victor & E. U. Nelson, African Art Heritage: Repatriation Strategies, Its Challenges, Impact on Cultural Preservation and Best Practices, 14 *Abraka Human. Rev.* 1 (2024).

and geographic settings. This case illustrates the dilemma between access of products by entire world and the rights of a source country to repatriate that cultural material. The controversy surrounding the Elgin Marbles has to this day influenced the global debate on restitution policy and on ethics in museums.

Comparative Summary of Case Studies

The table 2 below presents a comparative overview of two major artifact repatriation cases, summarizing their origin, acquisition history, ethical concerns, and current status. This helps to understand how museums navigate the complexities of heritage preservation while addressing claims from source communities¹⁴.

Table 2: Comparative Overview of Prominent Artifact Repatriation Cases

Case Study	Origin Country	Museum/Location	Year of Acquisition	Key Issues	Repatriation Status
Benin Bronzes	Nigeria	Various European Museums	1897	Colonial looting, ethical restitution	Partial returns and ongoing agreements
Elgin Marbles	Greece	British Museum	Early 1800s	Legal ownership, cultural significance	Repatriation disputed, ongoing debate

These case studies highlight the delicate balance museums must maintain between global access to cultural heritage and the ethical imperative to respect source communities' rights. They demonstrate the importance of legal frameworks, ethical guidelines, and collaborative practices in guiding repatriation decisions.

Strategies For Museums

There is need to realize that museums need a comprehensive approach in order to balance the two roles of preserving cultural heritage and respecting the rights of source communities. These methods take into account moral, legal and common-sense factors and at the same time allow cultural items to remain accessible to everyone.

Provenance Research

Provenance research refers to a very thorough study on the history, origin and possession of artifacts. Museums are required to study the archival documents, acquisition records, and historical settings in order to figure out whether objects were acquired lawfully and ethically. Thorough provenance studies enhance the legitimacy of a rightful claim to possession beyond proving ownership and are also used as a way to identify artifacts owed to restitution. By identifying cases of colonial appropriation or looting, or unethical trade, museums can anticipate future claims to objects and establish trust with actual communities. Researching provenance also becomes the method of training the visitors of the museum, in the sense of presenting them clear information regarding each artifact, as to how it came to the museum.

Collaborative Exhibitions

Consultation with source communities during planning and curation of the exhibition provides an assurance that artifacts are presented using a culturally ethical and unique approach. Co-curation is the opportunity to include local stories, practices, and use museums as a space to share a conversation¹⁵. This strategy will bring about mutual respect, enhanced community interaction and also recognizes the cultural story behind the artifacts other than the aesthetic and cultural value that have been placed on them. Jointed exhibitions can as well give source communities an opportunity to bear their heritage to the rest of the world, an avenue that opens up chances of communication and mutual interaction.

¹⁴ Y. Zhang, Reconstruction and Repatriation of Looted Cultural Heritage Property: Ownership Mechanism (2025).

¹⁵ Y. Zhou, Museum Digital Repatriation and Case Studies: Exploring Guidelines for the Future Practice and Digital Bridge to Cultural Continuity (Master's Thesis, Georgetown Univ. 2024)

Digital Access

Digital technologies have provided the best solution to continuing access to all and cater to the concerns of repatriation. Online collections, 3D scans and 3D exhibits allow artifacts to be accessible around the world without the artifacts being removed in person. Digital repatriation can supplement physical repatriation, and can be advantageous to both, enabling museums to fulfill their educational mandates and be responsible to their moral duties. Besides, digital archives offer new possibilities of research, documentation, and preservation, and less stress is put on the use of fragile materials.

Transparent Policies

Emerging of coherent and publicly available guidelines in acquisition, restitution, and exhibition is vital in the operation of accountability and trust. The museums have transparent policies on the procedures they followed in handling the claims of repatriation, such as the procedures undertaken in research of provenance, negotiation process to the source community, and the sustainability of the ethical decisions. Museums are signaling their adherence to cultural rights, ethical management of heritage and global partnership by making these policies known. Transparency is one aspect that enables the community to get the logic behind retention, loan or delivery of artifacts, thereby,,,,, reducing controversy and increase intelligent association with the collections.

The above measures can enable museums to maneuver the way through the muddy waters of cultural heritage stewardship, making sure that artifacts are conserved, and made accessible, as well as, dealt with in an ethical manner. They introduce a fairer implementation of cultural heritage, where both sides of the case, the interest of people and the rights of communities and the country in which a particular heritage was created have to be taken into account.

CONCLUSION

Museums hold one of the most pivotal positions between cultural conservation, education and safeguarding human and social rights. They have responsibility of ensuring that artifacts are made available to the world without discriminating the cultural and historical rights of the sources. Practicing such a balancing need to be assisted by the international legal frameworks, which include UNESCO and UNIDROIT Conventions and ethical directions of the ICOM. Good stewardship can include provenance research, working with source communities in curation, open and clear restitution policies and digital technology to enable access internationally. The methods mentioned will help museums deal with historical maltreatment, inspire trust, and promote learning prospects without infringing cultural rights. After all, museum needn't be only stores of things but strong mediators between the world audience and those cultures into which the artifacts are contextualized. Transparency, ethical sense of responsibility and inclusiveness holds the key for museums to fulfill their dual missions that include being custodians of the cultural heritage and proponents of cultural justice so that the rights of a community are not undermined in preference to public participation.

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