

Legal–Institutional Gridlock in the UK & the Parthenon Marbles

By Eno Ma | Research Advisor: Professor Robert Austin
(Director of European Affairs & Hellenic Studies, Munk School of Global Affairs)



Literature Review and Theoretical Framework

Terminological Breakdown

Restitution: legally framed, presumes an unlawful act occurred.

Repatriation: return to cultural context, guided by integrity and territoriality.

Return: neutral, moral rather than legal justification.

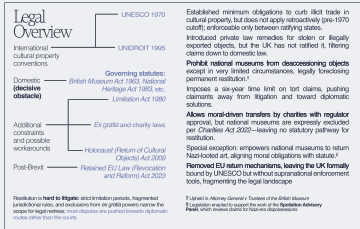
Dominant Theories on Cultural Property

Cultural nationalism: heritage belongs within its nation of origin; tied to identity and historical justice.

Cultural internationalism: heritage belongs to humankind; often invoked to legitimise retention.

“Universal museum” concept frames collections as “world heritage,” naturalising custodianship.

These frameworks show how law and morality diverge, leading to a stalemate between what is legally enforceable and what is ethically or politically compelling.



Established minimum obligations to curb illicit trade in cultural property, but does not apply retroactively (pre-1970 cutoff); enforceable only between ratifying states. Introduced private law remedies for stolen or illegally exported objects, but the UK has not ratified it. Filtering claims down to domestic law.

Prohibit national museums from deaccessioning objects except in very limited circumstances, legally foreclosing permanent restitution.¹

Imposes a six-year time limit on tort claims, pushing claimants away from litigation and toward diplomatic solutions.

Allows moral-driven transfers by charities with regulator approval, but national museums are expressly excluded per Charities Act 2022—leaving no statutory pathway for restitution.

Special exception: empowers national museums to return Nazi-looted art, aligning moral obligations with statute.²

Removed EU return mechanisms, leaving the UK formally bound by UNESCO but without supranational enforcement tools, fragmenting the legal landscape.

Restitution has gained momentum worldwide, yet the UK remains an outlier. Legal provisions (e.g. the *British Museum Act 1963*) prohibit national museums from deaccessioning contested objects.

Research Questions

- (1) How do UK laws constrain restitution pathways?
- (2) What role do institutions and rhetoric play in maintaining the status quo?

This research explores the interplay of law, politics, and institutions, using a literature review, doctrinal legal reviews, analysis of international instruments, and ethnographic observations from museum fieldwork.

British Museum Ethnography

Looking at exhibit architecture, labels and pamphlets, guidebooks, signage, digital content, FAQs, and gift shop materials to answer:

“What rhetorical ploys does the British Museum use to legitimate retention?”

Reunification as futile

Historical fragmentation means that reunifying is unsustainable

Complementarity

London and Athens exhibits are mutually reinforcing

Conservation record

1930s cleaning scandal reframed as transparency

Temple of knowledge

Architecture and pedagogy validate custodianship

Parthenon Marbles

(Queen's Gallery, Room 16)

The Parthenon Marbles, removed by Lord Elgin via a contested Ottoman firman and sold to Parliament in 1816, have remained at the centre of a **two-century dispute**. Today, 53% of the British public favour their return (YouGov poll, 2024).

- Legal avenues remain foreclosed: international treaties such as UNESCO 1970 are not retroactive, and English courts have held that ethical claims alone cannot override statute.
- Greece treats the dispute as an intergovernmental matter; by contrast, the UK government maintains that the Marbles lay within the autonomy of the British Museum.

Synthesis and Conclusion

Deferral paradox: the state deflects responsibility by invoking institutional autonomy, while the British Museum cites statutory limits that only legislation (Parliament) can bypass.

Pathways to restitution: long-term loan agreements avoiding title issues; revising *Charities Act 2022* §15 and §16 to empower museum trustees to return objects on moral grounds; targeted legislation mirroring the *Holocaust Act 2009*; and building *opinio juris* under customary international law (CIL) in favour of restitution.

Cultural “bridging”

Anc. Greece & Rome section showcases neighbouring cultures

Restitution as disruptive

Restitution interrupts museum practice and partnerships

Contextuality

Sculptures flow in a world collector (cultural int'l.)

