

The Elgin Marbles

Keep, Lend or Return? An analysis

Sir Noel Malcolm



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Acknowledgements

I am very grateful to Policy Exchange, and Lord Godson, for inviting me to undertake this work. I was given complete freedom to pursue whatever arguments I chose to pursue; the views I set out here are my personal ones, and of course do not represent those of any institution with which I am associated. I am grateful also to Dr James Vitali for assistance, and to Mr Charles Wide for his very helpful advice on legal matters.

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Published by
Policy Exchange, 1 Old Queen Street, Westminster, London SW1H 9JA

www.policyexchange.org.uk

ISBN: 978-1-910812

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Introduction

This work is concerned with the arguments for and against keeping the Elgin Marbles in London. The topics discussed here are, therefore, the ones that seem most relevant to those arguments; many other aspects of the story of the Marbles, beginning with their original creation and artistic meaning, are therefore left aside.

The term ‘Elgin Marbles’ has, in practice, a slightly variable meaning. Most obviously, it includes:

- a. the statues and carved reliefs which were originally part of the Parthenon, and were collected by Elgin’s workmen – in some cases, gathered from rubble, and in others, physically detached from the building – and brought to London. That is the core meaning of the term; those are the items at the heart of the controversy.

Some other items in the British Museum can also be covered by the term. They include:

- b. architectural details, with non-figural carvings or no carvings, from the Parthenon. The Museum holds, for example, a capital of a column of the Parthenon, transported by Elgin to England and now displayed in a side-room off the Duveen Gallery.

The Museum holds other items acquired by Elgin directly or indirectly from other ancient buildings on the Acropolis:

- c. some of these are figural carvings or sculptures – most notably, a caryatid (a larger than life sculpture of a woman, designed to act as a load-bearing pillar) from the porch of the Erechtheion;
- d. and others are not – for example, a pillar from the Erechtheion.

These non-Parthenon items belong to the overall category of ‘Elgin Marbles’; some advocates of the return of the Marbles to Athens limit their demands to the items from the Parthenon, but their general arguments will mostly apply to these items too.

In addition, there are

- e. a number of other, mostly minor, carved items from the Parthenon which, in the century after the British Museum’s acquisition of the Elgin Marbles, were added – by donation or acquisition – to the Museum’s collection. Although these do not form part of the Elgin Marbles, it is very likely that any demands for the return of the Marbles to Athens would also include them.

Finally, however, there are

- f. other items, acquired by the British Museum as part of the Elgin

collection, which nowadays are not usually included within the meaning of the term ‘Elgin Marbles’ – antiquities of various kinds, not only sculptures, not derived from the Parthenon or the Acropolis, and not all of them Greek. (They include, for example, a huge Egyptian sculpture of a scarab beetle, made of granite.) Items of that kind can be disregarded here.

For several decades now, campaigners on one side of this argument have argued that the phrase ‘the Elgin Marbles’ should be abandoned, as it is prejudicial and/or offensive. It will be used throughout this work, not out of any desire to provoke or offend, but for two simple reasons. The first is that it is the traditional name, and therefore the one with which the general public is most familiar. When Elgin brought the sculptures to England they were quickly given that name, as it followed some well-known precedents, such as the Arundel Marbles of the seventeenth century and the Townley Marbles of the eighteenth. This was just a common way of referring to such collections, not a sinister act of self-aggrandisement by Elgin – however gratified he may have been by it. And the second reason is just to avoid ambiguity. Those who reject the term ‘Elgin Marbles’ usually insist on ‘Parthenon Sculptures’ instead; but then it may become quite unclear, in some contexts, whether one is referring to the sculptures from the Parthenon now in the British Museum or the ones now in the Acropolis Museum in Athens – or the totality of the surviving sculptures, wherever they are.

Chapter 1: Elgin: the charges

Although some details continue to be added to it, the basic story of Elgin's actions has been known for a long time: much of the evidence was published by A. H. Smith in 1916, and in 1967 William St Clair added further details in his classic book *Lord Elgin and the Marbles*.¹ So the story can be summarised very briefly here.

When Thomas Bruce, seventh Earl of Elgin (1766-1841) went to Istanbul as British Ambassador to the Ottoman Sultan in 1799, he already had a interest in classical art and antiquities. Having recently married a rich heiress, he also had sufficient funds to employ a small team of artists, led by the Neapolitan painter Giovanni Battista Lusieri, whom he sent to Athens to record details of ancient Greek architecture and sculpture. Between the late summer of 1800 and the spring of 1801, they made measurements and drawings, and took some plaster moulds; but their work was impeded by the *dizdar*, the military commander of the Acropolis (which functioned as an Ottoman fort). At first he demanded large payments for access. Then he denied them entry altogether, saying that the *voyvoda* (civil governor of Athens) and the *kadı* (judge) had told him that such people should not be admitted unless on the authority of an order from the government in Istanbul. Elgin's chaplain and adviser, Dr Philip Hunt, drew up a list of the key permissions to be requested from the government, as follows:

- To enter freely within the walls of the Citadel [sc. Acropolis], and to draw and model with plaster the Ancient Temples there.
- to erect scaffolding, and to dig where they may wish to discover the ancient foundations.
- liberty to take away any sculptures or inscriptions which do not interfere with the works or walls of the Citadel.²

These points were all granted, in a document which was generally described as a *ferman* (or *firman*); technically, a *ferman* was a Sultanian decree, but the term seems to have been used a little more generally for written orders issuing from the Ottoman government. The original document does not survive, but we do have the contemporaneous Italian translation, which describes it as 'a letter from His Excellency the *kaymakam paşa* [the second most senior minister in the Ottoman government, who deputised for the Grand Vizier when the latter was away from Istanbul], sent to the judge and *voyvoda* of Athens'. On the third point in particular, this document said that Elgin's men should not be prevented from 'carrying away some pieces of stone with old inscriptions, and figures' – a rendering of Hunt's

1. A. H. Smith, 'Lord Elgin and His Collection', *The Journal of Hellenic Studies*, 36 (1916), pp. 163-372; W. St Clair, *Lord Elgin and the Marbles* (London, 1967). Revised 2nd and 3rd editions of St Clair's book were published in 1983 and 1998.

2. Smith, 'Lord Elgin and His Collection', p. 190.

phrase ‘any sculptures or inscriptions’.³

Hunt brought this document to Athens in July 1801, and the *voyvoda* agreed that Elgin’s workmen would have ‘full liberty to model, dig, or carry away whatever does not interfere with the works [sc. the defensive works of the Citadel]’.⁴ On 31 July the workmen removed one of the metopes (carved panels in deep relief) from the corner of the Parthenon. Over the next two years, and more sporadically thereafter, many other items were removed from the building itself: metopes, sections of the frieze (continuous carved slabs in shallow relief), and fully sculpted figures from the two pediments. Other items were obtained by excavating in the rubble around the Parthenon, or extracting carved stones which, previously detached from the Parthenon, had been incorporated in other buildings. (The rubble was to a large extent the consequence of a massive explosion in 1687, which will be described below.) Gradually the items were shipped to England; one cargo was temporarily lost when the brig carrying it ran aground off the island of Kythera, but then recovered. Elgin left Istanbul when his ambassadorship ended in 1803; most of his workmen left Athens, but he retained there his chief agent, the artist Lusieri, who continued to make some acquisitions, and to arrange shipments. That last task was complicated by political factors, including a period when Britain and the Ottoman Empire were at war. The final consignment sent from Athens reached England in 1812.

Placed on display in London, the carved and sculpted items from the Acropolis, especially from the Parthenon, attracted great interest, both from artists and from the public more generally. But Elgin was heavily in debt, thanks largely to the huge sums he had spent on obtaining them: these were calculated at more than £62,000. His initial offer to sell the Marbles to the British state, for display in the British Museum, was rejected, but in 1815 he tried again, proposing that the House of Commons should set up a Select Committee to consider the matter. This finally happened in 1816; and the Committee, having considered a wide range of evidence, recommended that the state should give the British Museum a grant of £35,000 for the purchase of the Marbles. The figure was disappointing to Elgin, whose full calculation of his costs, including interest, now came to £74,240. But, given the scale of his debts, he was in no position to refuse. The purchase was finalised by an Act of Parliament in July 1816. In its preamble, it noted that ‘the said Earl hath agreed to sell the same for the Sum of Thirty five thousand Pounds, on Condition that the whole of the said Collection should be kept together in the British Museum, and open to inspection, and called by the Name of The Elgin Marbles’; and in the text it declared: ‘be it hereby further enacted, That the said Collection shall be preserved and kept together in the said British Museum whole and entire, and distinguished by the Name or Appellation of “The Elgin Collection.”’⁵

3. For a full reproductions, transcriptions and translations of the document, see D. Williams, ‘Lord Elgin’s *firman*’, *Journal of the History of Collections*, 21 (2009), pp. 49–76, at pp. 50–6, and W. St Clair, *Who Saved the Parthenon? A New History of the Acropolis before, during and after the Greek Revolution* (Cambridge, 2022), pp. 662–9 (here p. 667: ‘portar via qualche pezzi di pietra con vecchie iscrizioni, e figure’).

4. Smith, ‘Lord Elgin and His Collection’, p. 196.

5. <https://statutes.org.uk/site/the-statutes/nineteenth-century/1816-56-george-3-c-99-the-elgin-marbles-act/>. This statute remained in force until it was superseded by the British Museum Act, 1963.

In relation to Elgin's actions, various objections and criticisms have been raised over the years, and invoked more recently in support of the idea that the Marbles should be returned to Athens. Where each of these objections is concerned, one may need to ask whether, if the objection is valid, the consequence necessarily follows that the Marbles should be returned. But the first step, obviously, must be to consider whether the objection is justified. Let us look at them in turn here, beginning with the most important.

Legal issues

Were Elgin's actions illegal?

Words such as 'steal', 'loot', 'theft' and 'plunder' appear quite often when demands for the return of the Marbles to Athens are expressed. On 5 January 2023, for example, the Athens newspaper *Kathimerini* reported the following statement issued by the Greek Ministry of Culture: 'We repeat, once again, our country's firm position that it does not recognise the British Museum's jurisdiction, possession and ownership of the Sculptures, as they are the product of theft.'⁶

'Stealing' and 'theft' are legal concepts, to be understood in relation to the surrounding legal regime as it pertains to property, whether private or public. It is necessary, therefore, to consider both the nature of Elgin's actions, and their relation to legal authority – and, indeed, whether such authority existed at all. Criticisms of Elgin in these matters have tended to fall into three different categories. They are treated in turn here.

(1) Ottoman legal authorisation: not available in principle?

Clearly a legal regime existed in the Ottoman-ruled Greek territories, and was accepted by people at the time. This can hardly be doubted where private property is concerned; people expected theft to be punished, and contracts of sale to be enforced. Questions have been raised, however, about public property. It is sometimes argued that the Ottoman government was merely an occupying power, and that as such it lacked the legal right to dispose of Greek public property. According to this way of seeing things, anyone who acquired such public property, even with Ottoman authorisation, was actually stealing it from the occupied Greeks, unless the acquisition was authorised by them.

This argument suffers from some fundamental problems. The notion of an occupier, as invoked in modern cases of such a situation, presupposes the existence of an occupied state, whose legitimate rulers or representatives can be viewed as the *de jure* holders of certain rights, even if they are incapable of exercising them *de facto*. But there was, and had been, no such Greek state in this instance. Before the Ottomans, the territory of Attica, in which Athens was situated, had been ruled since 1204 by a succession of 'Frankish' (Western European) lords, who had taken power there: Burgundians, Catalans and Florentines. Before them, it had been a component part of the Byzantine Empire for nearly 900 years.

6. Reported in <https://www.artnews.com/art-news/news/greece-rejects-parthenon-marbles-loan-plan-statement-1234652854/>, 6 January 2023.

And the Frankish rule had ended in 1458, so by now this territory had been a component part of the Ottoman Empire for just under three and a half centuries.

Another way of addressing the same problem would be to ask who among the Greeks, in 1801, should have been regarded as the person or persons properly entitled to exercise the powers of the non-existent Greek state; the question is unanswerable. Not only is it unanswerable for historians today, but it would have made very little sense to people at the time. (The Greek community in Athens did have some individual civic leaders, but their position could not be described as a national one; their limited powers, relating for example to the collection of taxes for the Ottomans, extended only to Athens itself, a small town of at most 1,200 dwellings. They will be discussed further below.)

The term ‘public property’ is used here, as the Parthenon had that character at the time; it was part of an Ottoman military site, under state control. It might perhaps be argued that, from the Greek point of view, the ownership of the Parthenon rested with the Greek Orthodox Church, because it had previously been used by that body as a church building. The argument seems quite unreal, given that, by 1801, the Orthodox Church had exercised no power over the building for nearly 600 years. (After the ‘Frankish’ conquest, it became a Catholic church; after the Ottoman conquest, it became a mosque; after the explosion of 1687, a small mosque was built inside the ruins.) But even in the extremely unlikely eventuality of such an argument being accepted by legal experts, it would not demonstrate that Elgin’s actions were illegal. Rather the opposite, in fact, since – as we shall see – the Archbishop of Athens gave Elgin’s men his enthusiastic support.

Overall, the conclusion is inescapable that by all applicable legal standards at the time, including those in the field, which was then relatively undeveloped, of international law, the Ottoman Sultan was the legal ruler, and decisions made by his ministers and representatives had legal validity.

(2) Ottoman legal authorisation: available, but not obtained by Elgin?

Even when that is granted, the objection can still be made, or at least has been made, that Elgin lacked the proper Ottoman legal authorisation for his actions. The strongest version of this argument rests on the claim, advanced by David Rudenstine, that the *ferman* may never have existed, and that the surviving Italian version may have been a forgery. This is simply not credible. To create the complex trail of references to the *ferman* which can be found running through a range of letters and other statements produced by various people, the most fantastic powers of organised deception would have been required. William St Clair, who first brought to light the contemporaneous Italian translation of the document, has dismissed Rudenstine’s claim as follows: ‘the Italian version of the firman is documented in detail in the historical record and its authenticity as an official Ottoman document, its provenance, and its pedigree are

all secure. That it is genuine is further confirmed by the fact that it is written on paper from a mill in the Veneto known to have been used by the Ottoman Porte.⁷ To which Professor Edhem Eldem, an expert on the Ottoman documentation of the period, adds that if one translates the existing version of the *ferman* back into Ottoman Turkish, one arrives at a document which, in formal and stylistic terms, is ‘very convincing’.⁸ It is of course unfortunate that the original Turkish letter does not survive; most probably it was retained by the *voyvoda* in Athens. Possibly some extra nuances of phrasing could be gathered from that text, if it were extant. But we can be confident that the Italian translation was done to the highest professional standards of the day, as it was carried out by a man who had served the British Embassy as a dragoman (interpreter) for more than half a century.⁹

(3) Ottoman legal authorisation: available, obtained, but then wrongfully exceeded?

While accepting the authenticity of the *ferman* as we have it, however, some critics have argued that Elgin’s actions were still illegal, because they exceeded the powers granted by that document. The dispute here focuses on the phrase quoted above, ‘carrying away some pieces of stone with old inscriptions, and figures’ (which occurs twice in the document, the second time without the adjective ‘old’); the key claim is that these words referred only to detached pieces of stone that were on the ground or were excavated from the surrounding area, and did not authorise removing pieces of stone from the building itself.

This is one of the most debated issues in the whole story of the Elgin Marbles. But unfortunately, many of the participants in the debate have run together two issues which need to be conceptually distinguished. The first concerns the purpose or intentions of Hunt and Elgin when they formed their list of desiderata for the *ferman*, and applied for it. The second concerns the actual meaning of the *ferman* as a legal document. It is not uncommon to find writers referring to the ‘the intention of the *ferman*’, in ways that make it hard or impossible to distinguish between those two things – to put it crudely, what Elgin may have wanted, and what he actually got. But they are two distinct things, and only confusion can result from trying to treat them as one.

All the evidence suggests that, where the ‘carrying away’ of ‘some pieces of stone’ was concerned, Hunt and Elgin began by thinking primarily, perhaps exclusively, of pieces that were already detached from the building. And having drawn up the original list of points to be requested, Hunt seems to have continued for some time to think of the actual *ferman* in the light of that list. It is noteworthy, for example, that when he summarised the initial agreement of the *voyvoda*, he used the words (quoted above) ‘carry away whatever does not interfere with the works’ – a qualification present in his original list of points, but not contained in the wording of the *ferman* itself. Initially, perhaps, his understanding of the implications of the *ferman* was rather constrained by this approach. But within a few days

7. D. Rudenstine, ‘A Tale of Three Documents: Lord Elgin and the Missing Historic 1801 Ottoman Document’, *Cardozo Law Review*, 22:5-6 (July 2001), pp. 1853-84, at p. 1865; W. St Clair, ‘Imperial Appropriations of the Parthenon’, in J. H. Merryman, ed., *Imperialism, Art and Restitution* (Cambridge, 2006), pp. 65-97, at p. 78. Rudenstine’s further argument that, because the Select Committee accepted the available version of the *ferman* even though it did not bear the actual signature of an Ottoman official, they were therefore guilty of an act of misrepresentation which has the effect of invalidating the British Museum’s ownership of the Marbles, is extremely forced; the Committee members had no reasonable grounds for doubting the validity of that version.

8. E. Eldem, ‘From Blissful Indifference to Anguished Concern: Ottoman Perceptions of Antiquities, 1799-1869’, in Z. Bahrani, Z. Çelik and E. Eldem, eds., *Scramble for the Past: A Story of Archaeology in the Ottoman Empire, 1753-1914* (Istanbul, 2011), pp. 281-330, at p. 285.

9. Williams, ‘Lord Elgin’s *firman*’, pp. 64-5.

– certainly by 31 July, when the first metope was taken down from the Parthenon – he had realised, or perhaps been persuaded by Lusieri (who no doubt read the Italian version carefully, and may well have understood it better than he did), that a broader interpretation was possible. The Select Committee’s exchange with him on this point went as follows:

‘Do you imagine that the firmaun gave a direct permission to remove figures and pieces of sculpture from the walls of temples...?’

‘That was the interpretation which the Vaivode of Athens was induced to allow it to bear.’

‘In consequence of what was the Vaivode induced to give it this interpretation?’

‘With respect to the first metope, it was to gratify what he conceived to be the favourable wishes of the Turkish Government towards Lord Elgin, and which induced him rather to extend than contract the precise permissions of the fermaun.’¹⁰

That last clause has been seized on by many writers on this issue as the key to understanding the whole process: they have assumed that, beneath a veneer of euphemistic language, Hunt was admitting that the terms of the *ferman* had been stretched to make them bear a meaning which they did not properly bear. In other words, the document was exploited improperly. But Hunt was self-evidently not a reliable guide to the actual meaning of the document issued by the Ottoman government; while he referred to the ‘precise permissions’ contained therein, it is apparent to anyone who studies the text that, on this key point, the permission is far from precise.

At the risk of stating the obvious: the meaning of a legal document is to be sought, first and foremost, in the words of the document itself. The *ferman* gave permission for the carrying away of some stones which were carved or inscribed. It did not say how many or how few; it did not specify how the stones were to be obtained – whether from the ground, or from under the ground, or from the walls of the building. Commenting on this episode, William St Clair has remarked that ‘Governments have only themselves to blame if they draft ambiguous instructions which are then misinterpreted by their officials.’¹¹ As a general statement that is clearly true; but to call the *voyvoda*’s interpretation a misinterpretation is in a way to repeat the standard error, as it implies that the wording of the document had in fact a correct interpretation (restricted to the original intentions of Hunt and Elgin), which this official then failed to apply. Such a prejudicial approach is avoided by Dyfri Williams in his detailed study of the *ferman*: on this point, he correctly describes the wording of the document as ‘open-ended’, adding that ‘It was ... on the basis of this very open-endedness that the Voivode gave permission for removals from the buildings.’ And he concludes: ‘This outcome may have exceeded everyone’s expectations ... but it did not, strictly speaking, exceed the terms of the *firman*.’¹² That is not only the best judgement available; it is

10. *Report from the Select Committee of the House of Commons on the Earl of Elgin’s Collection of Sculptured Marbles* (London, 1816), p. 146.

11. W. St Clair, *Lord Elgin and the Marbles*, 3rd edn. (Oxford, 1998), p. 90.

12. Williams, ‘Lord Elgin’s *firman*’, p. 68.

the only one that proceeds on a proper legal basis.

On the same basis, it is apparent that the removal – whether from the buildings, or from the surrounding debris – of architectural items, such as a pillar or a fragment of a cornice, was not authorised by the wording of the *ferman*, which referred only to stones that were inscribed or carved with figures. Should Elgin therefore be convicted of illegality on, so to speak, a lesser charge?

What complicates the issue is that the Ottoman authorities subsequently ratified, more than once, the removals of stones from the Acropolis which were carried out by Elgin's men. In late 1802 the *voyvoda* and the *dizdar* were pleased to receive copies of letters from the Ottoman government, commending the degree of cooperation they had given in these matters. When the general permission given by the *ferman* was rescinded in 1804, as a result of political pressure by the French – rivals of the British in relation to antiquities as well as politics – there was no attempt by the Ottoman authorities to take back any of the stones, whether carved or architectural, that had already been removed and were now lying in storage or at the port. As St Clair puts it, 'The decision to put a stop to further removals threw no doubt on the legality of the removals made previously.'¹³ In 1810 and 1811 further orders were issued by the Ottoman government, authorising the transportation to England of all the remaining items acquired by Elgin's agents. It is reasonable to think that these orders implied, as St Clair puts it, 'condonation' of all the actions previously committed while those items were being obtained.¹⁴

In his classic study of the legal issues involved, the Stanford law professor John Merryman gives those subsequent acts of ratification particular weight, declaring that they, together with the passage of time, 'support the proposition that the British own the Marbles'. He concludes: 'If Greece were to sue the Trustees of the British Museum for their return, the remedy would be denied unless a quite different version of the facts were found.' Or, in the words of St Clair: 'modern experts in international law who have studied the case have usually agreed that Elgin's actions were probably technically lawful in the circumstances of the time, that his claim to personal ownership and right to sell were valid in law, and that any action by Greece, as successor government, to try to recover the marbles in an international court would probably fail.'¹⁵

Moral issues

Beyond questions of strict legality, a number of criticisms of Elgin have been made which relate more to questions of morality. Since these may have some influence on attitudes today towards the issue of returning the Marbles to Athens, they are worth addressing briefly here.

13. St Clair, *Lord Elgin and the Marbles*, 3rd edn., pp. 135-6.

14. Ibid., p. 156 (1810 *ferman*, 'condonation'); Williams, 'Lord Elgin's *firman*', p. 71 (1810 *ferman*); Eldem, 'From Blissful Indifference', p. 293 (1811 order to *voyvoda*).

15. J. H. Merryman, 'Thinking about the Elgin Marbles', *Michigan Law Review*, 83:8 (Aug. 1985), pp. 1880-1923, at p. 1902; St Clair, *Lord Elgin and the Marbles*, 3rd edn., p. 157,

Were Elgin's motives selfish?

In his evidence to the Select Committee, Elgin emphasised that his prime motive from the start had been educational: his original idea, before he travelled from England, had been a wish to give 'Artists' and 'Students' reliable examples, in the form of plaster casts, of details of ancient Greek architecture at its best.¹⁶ The fact that, at the outset, he recruited draughtsmen and experts in taking mouldings – and used them for those purposes not only for most of the first year, but thereafter when his men were also removing original items – strongly confirms that claim. In a letter to Lusieri in July 1801 he did also mention his desire to acquire some items, including marble columns, for the new house he was building in Scotland. Christopher Hitchens, arguing in favour of the return of the Marbles to Athens, quotes several paragraphs from that letter and comments: 'No mention, you will notice, is made of the cause of fine arts and civilisation.' Later, drawing up his charge sheet, he declares accordingly that 'Lord Elgin misled the House of Commons about his motives.'¹⁷ However, the damning evidence of the letter, as presented by Hitchens, was manufactured by Hitchens himself; in order to bring about the 'no mention' of the cause of fine arts, he had simply omitted an entire paragraph, in which Elgin emphasised the importance of providing models for artists and designers ('A chair, a footstool, designs or shapes for porcelain, ornaments for cornices, nothing is indifferent, and whether it be in painting or a model, exact representations of such things would be much to be desired...'). The criticism is unjustified.

Were Elgin and his agents guilty of coercive bribery?

William St Clair's classic book of 1967 presented much of the detailed evidence on which a reasonable defence of Elgin's actions can be founded. In the last part of his life, however, St Clair became a vociferous critic of both Elgin – where some aspects of his conduct were concerned – and the British Museum. In 1999 he presented some details of the large payments made by Elgin's agents to the *voyvoda* and the *dizdar*. Summarising this evidence in 2006, he wrote: 'The Military Governor received payments in the first year alone equivalent to thirty-five times his annual salary ... No administrative or judicial system can be expected to withstand such a weight of political influence and money. This is imperialism in action, destroying not only monuments but the local administrative and legal infrastructure.'¹⁸

This characterisation of what happened in 1801 is very misleading, for two reasons. First, payments to officials, not just for special permissions or privileges but often for the actual performance of their duties, were the norm in the Ottoman Empire at this time, not the exception. As a consequence, official salaries often represented only a small part of the person's overall income. Secondly, and more importantly, the picture painted here by St Clair, of a beleaguered functionary trying to defend the 'legal infrastructure' but succumbing helplessly to financial pressure, is completely at odds with the evidence, which shows the *dizdar* to have

16. *Report from the Select Committee*, pp. 31-2. The importance of such classical models, if only in the form of drawings and diagrams, was widely recognised, especially since the publication of the three magnificent volumes of Stuart and Revett's *The Antiquities of Athens* (1762, 1789, 1794).

17. C. Hitchens, with R. Browning and G. Binns, *The Elgin Marbles: Should They be Returned to Greece?* (London, 1987), pp. 43, 57.

18. W. St Clair, 'The Elgin Marbles: Questions of Stewardship and Accountability', *International Journal of Cultural Property*, 8:2 (1999), pp. 391-521, at pp. 402-3, 458-9; St Clair, 'Imperial Appropriations of the Parthenon', p. 79 (quotation).

been a thoroughly rapacious individual. In the months before the *ferman* was issued, he permitted Elgin's three artists to enter the Acropolis for a fee of 5 guineas per day. This was regarded as extortionate (each daily payment came, incidentally, to more than one third of his official annual salary), but he had the upper hand. Similar fees charged to other visiting Englishmen in the period 1805-9 ranged from £6 for several days to 6 guineas for two hours.¹⁹ Bribery certainly took place; but if coercion also took place, it was not the *dizdar* who was being coerced. Even after the *ferman* had been obtained, there were no doubt many ways in which the *dizdar* could have continued to be obstructive, had he chosen to be so. Large payments were needed to ensure his continuing cooperation.

Was Elgin acting against the clear wishes of the Greek community in Athens?

This question may not relate so directly to morality in a narrow sense. But it touches on a matter of principle which is sometimes raised by those who object to his actions, especially if they invoke some concept of trans-historical cultural property.

The attitude of the local Greeks was a topic that was brought up more than once during the hearings of the Select Committee. Elgin's secretary, William Hamilton, was asked about the removal of carvings and sculptures from the Parthenon: 'Did it appear to create any sensation either among the principal persons or the inhabitants of Athens?' He replied: 'No unpleasant sensation whatever; they seemed rather to feel it as a means of bringing foreigners into the country, and of having money spent among them.' Hunt gave a similar response, declaring that 'I found the common inhabitants of Athens always very ready to act as labourers in removing the sculptures.'²⁰

Another person questioned by the Committee, however, gave a different impression of what the general attitude had been some years previously. John Morritt MP, who had spent three months in Athens in 1795 or 1796, described his own attempts to obtain some 'Marbles' from the Acropolis, and was asked: 'Do you think the Greeks were anxious that those Marbles should not be removed from Athens?' His answer was: 'They were decidedly and strongly desirous that they should not be removed.'²¹ It is not possible to specify more closely the Greeks he was referring to, or the grounds for their objections. A generation later, after the Revolution, a few well-educated Greeks – members of a small minority in Greek society at that time – did express the view that ancient Greek monuments were part of their cultural patrimony. There is also the famous story told by Yannis Makriyannis, a war hero who, having later taught himself to read and write, composed his *Memoirs* in the 1840s. There he said that during the Revolution he had found two Greek soldiers preparing to sell ancient statues to the 'Franks', and had told them: 'Don't stoop to letting them out of your fatherland; these are what we fought for.'²² That story may have been formulated under the influence of later currents of thought; but if it is authentic, it does also testify to the existence among ordinary Greeks

19. Smith, 'Lord Elgin and his Collection', pp. 179-80; St Clair, *Who Saved the Parthenon?*, p. 80(n.) (1805-9).

20. *Report from the Select Committee*, pp. 57, 131.

21. *Ibid.*, p. 144.

22. Hitchens, *The Elgin Marbles*, pp. 65-7; E. Yalouri, *The Acropolis: Global Fame, Local Claim* (Oxford, 2001), p. 101 (quotation); St Clair, *Who Saved the Parthenon?*, p. 450.

– those two soldiers – of an attitude differing from that of Makriyannis himself. Indeed, it would be very hard to find evidence that typical Greek soldiers believed that they were fighting for the preservation of classical statuary.

There are several recorded cases, from the period before the Revolution, of ordinary Greeks objecting to attempts to remove ancient marbles from their localities, but in these cases the reasons were very different from the one offered by Makriyannis. They believed that these objects had talismanic powers, to protect from disease, promote the fertility of crops, and so on. In 1801 Edward Daniel Clarke, who was also acquiring statues to take back to England, had difficulty in obtaining what he thought was a marble statue of Ceres (in fact, a caryatid from the first century BC) from the villagers at Eleusis, who kept it in a dungheap. As he explained: ‘They attribute to its presence the fertility of their land; and it was for this reason that they heaped around it the manure intended for their fields. They believed that the loss of it would be followed by no less than the failure of their annual harvests.’²³ One of Elgin’s first acquisitions, a carved relief preserved in the Orthodox Church at Cape Sigeum in the Troades, had previously been offered to an English collector by the local Ottoman official; but on that occasion, when men came to carry it away, ‘they met with a violent opposition from the Inhabitants, who immediately began to beat off the heads of four of the figures out of the five [on the relief], and defacing the inscription, alleging that ... upon a former occasion they had sold a fragment, and soon after their village was infested with a dreadful plague.’²⁴

While there is no way of surveying the general opinions of the Greeks in Athens about the actions of Elgin’s men there, we do have clear evidence of the attitudes taken by some of the community leaders. The key figures were the four ‘Archons’, who were chosen each year by the leading families of the town, and supervised the collection of taxes. The most prominent of these was Spyridion Chomatianos, who bore the title ‘Archon Logothetes’; he also served as the British Consular Agent. In 1801 Hunt described him as ‘the Principal Greek here, who lives in the best of style’. He seems to have expressed some doubts at first about removing sculptures from the Parthenon; but, as Dyfri Williams writes, ‘This initial reluctance of Logotheti was clearly neither serious nor long lasting. Indeed, on 6 August, he sent a message of congratulation to Lord Elgin and a protestation of his zeal for the work, at the same time offering as a gift four other reliefs or objects with relief sculpture.’ Of course this man was inclined by his consular office to favour British interests; but if the other Archons held different views, those views have left no trace whatsoever in the records.²⁵

The one other significant figure who was a community leader for the Greeks was the Archbishop of Athens. Far from trying to prevent the loss

23. See Y. Hamilakis, ‘Indigenous Archaeologies in Ottoman Greece’, in Z. Bahrani, Z. Çelik and E. Eldem, eds., *Scramble for the Past: A Story of Archaeology in the Ottoman Empire, 1753-1914* (Istanbul, 2011), pp. 49-69, at pp. 51-2.

24. Smith, ‘Lord Elgin and his Collection’, p. 182.

25. Williams, ‘Lord Elgin’s *firman*’, pp. 60, 67.

of Greek antiquities, he gave, apparently without being asked for it, a large marble throne to Elgin's father-in-law, who shipped it to Scotland (it is now in the British Museum, and has been dated to the second century AD). To quote Williams again, 'Further evidence of the elite Greek reaction to the British presence is provided by the Archbishop whom Hunt describes as "uncommonly attentive", presenting him with "an ancient Greek Sundial with the maker's name, that was in his Metropolitan Church".' The Archbishop also allowed Elgin's men to search church buildings for any ancient carved or inscribed stones built into the walls, and to remove them. After his stay in Athens in July 1801, Hunt wrote to Elgin: 'During the whole of my residence at Athens ... there was not an individual, either among the Officers of the Porte [Ottoman government], or the Greeks of the City, who did not seem to vie with each other in gratifying your wishes, particularly the Voivode, the Archbishop, and our Agent Logotheti.'²⁶

26. Ibid., p. 67; Smith, 'Lord Elgin and his Collection', p. 200 (Hunt quotation); St Clair, *Who Saved the Parthenon?*, p. 49 (church buildings).

Chapter 2: Elgin: the defence

The issues discussed above are the main ones, where Elgin's conduct is concerned, that have been raised in support of the argument for the return of the Marbles to Athens. For defenders of Elgin's actions, beyond proving the contrary on each of those points, there has been one principal issue on which the positive case for Elgin has been made: that of the 'saving' of the Marbles.

Did Elgin save the Marbles, or some of them, from damage, destruction or dispersal?

The Parthenon from which Elgin's men removed the Marbles was in a much more ruined state than the partly reconstructed version we see today. There had been a long history of damage to the original building. When it was converted into a church, perhaps in the fifth or early sixth century, windows had been punched through on the sides near the east end, destroying parts of the frieze; at some point, then or later, the middle of the eastern pediment was removed, with the central sculptures thrown down; and in the twelfth century the central section of the eastern frieze was also taken down. (It was built into the wall of a nearby building, from which Elgin's men would eventually remove it.) During the pre-Ottoman period, the metopes on the east, north and west sides were systematically defaced, with heads smashed and figures hacked away; it is generally agreed that this was done by Orthodox Christians, for religious reasons.²⁷

The worst damage, however, occurred in 1687, when Venetian forces were besieging the Acropolis. The Ottoman commander had stored his gunpowder supply in the centre of the Parthenon, and when this was hit by a Venetian cannonball it caused a colossal explosion, completely destroying the roof and shattering the building. The two ends of the Parthenon remained standing, with some parts of the colonnade on the sides near them, but towards the middle section the columns on each side were blown away, and large sections of the frieze and metopes were detached, with many parts of them shattering as they fell. Further damage was caused by the victorious Venetian general, who tried to remove the huge central figures from the western pediment; the rope and tackle failed, sending them crashing to the ground. (From there, Elgin's men would recover some of the larger fragments).²⁸

After the restoration of Ottoman rule, the heaps of broken marble which now lay on the Acropolis were used for building materials – either as rough blocks or rubble, or as the raw material for burning down into

27. A. Kaldellis, *The Christian Parthenon: Classicism and Pilgrimage in Byzantine Athens* (Cambridge, 2009), pp. 27-8, 40-2; M. Beard, *The Parthenon* (London, 2010), pp. 55-6.

28. St Clair, *Lord Elgin and the Marbles*, 3rd edn., p. 61.

lime. Lead, used by the original builders to join the drums of the columns, was also extracted, and some remaining parts of columns were broken up for that purpose.²⁹ According to the accounts of eighteenth-century travellers, sculpted stones were broken up and/or burnt for lime quite indiscriminately; there are also some suggestions that Muslims made a point of defacing human images. Richard Chandler, who visited in the mid-1760s, recorded: 'Numerous carved stones have disappeared; and many, lying in the ruinous heaps, moved our indignation at the barbarism daily exercised in defacing them.' John Galt, who was there in 1809, noted that the Muslim Albanians who worked in the fields around Athens often came across pieces of antique sculpture which they then destroyed, 'believing them to be works of the devil, framed in order to tempt mankind to return again to idolatry'.³⁰ This attitude may have made the carved stones especially liable to be burnt. Elgin told the Select Committee the story of the small house on the Acropolis which he had bought from a 'Turk' in order to demolish it in search of fragments of sculptures. 'I excavated down to the rock, and that without finding any thing, when the Turk ... came to me, and laughingly told me, that they were made into the mortar with which he built his house.'³¹

But it was not only Muslims who broke up remnants of the Parthenon sculptures. Louis-François-Sébastien Fauvel, a French antiquary and artist (and agent for the diplomat Choiseul-Gouffier, whose ambitions as a collector resembled Elgin's), spent much time in Athens in the 1780s, and later recalled that close to the Parthenon there had been 'quantities of superb carvings in relief piled up on top of one another; and those that were the most visible were mutilated on a daily basis by the Greek workmen who were preparing pieces of marble there for building private houses, or for making Muslim gravestones'.³² (This matches Chandler's comments quite closely.)

More generally, there is little sign, in the decades before the arrival of Elgin's men, of the local Greeks cherishing classical remains as part of their historic heritage: during the 1760s a small Ionic temple on the outskirts of Athens, which had been converted into a church, was completely dismantled by order of the Archbishop and Orthodox authorities of the town, in order to sell its stones as building materials.³³

Major damage occurred, over time, to the sculptures on the Parthenon itself. Some fell off; some were removed; and some were damaged in situ. (Giving evidence to the Select Committee, Hamilton referred to 'the wantonness of the Turks, who amused themselves with firing upon the objects'.)³⁴ St Clair has summarised some of the evidence:

In 1749 the traveller Dalton drew twelve figures in the west pediment of the Parthenon. By the time Lusieri arrived in 1800 there were only four. Five slabs of the frieze drawn by Stuart between 1750 and 1755 had completely disappeared. The two figures in the left corner of the west pediment still had their heads when they were drawn by Pars in 1765. By the time Lusieri arrived both heads had gone. One slab of the frieze of which a mould had been

29. *Ibid.*, p. 62.

30. R. Chandler, *Travels in Greece* (London, 1776), p. 50; St Clair, *Who Saved the Parthenon?*, p. 49.

31. *Report from the Select Committee*, p. 42.

32. Bibliothèque nationale de France, Paris, MS fr. 22,877, Papiers, correspondance et notes de Fauvel, vol. 8, fo. 49v ('quantités de superbes bas-reliefs entassés les uns sur les autres et ceux qui étaient le[s] plus visibles étaient journellement mutilés par les ouvriers grecs qui y travaillaient des marbres pour les maisons des particuliers, ou pour faire ... les sépultures des turcs').

33. St Clair, *Who Saved the Parthenon?*, pp. 47-8.

34. *Report from the Select Committee*, p. 57.

taken by the Frenchman Fauvel as recently as 1790 had been utterly destroyed. The metopes tell a similar story of constant, rapidly increasing, erosion.³⁵

Over time, parts of metopes, or entire panels, fell off the building. In 1765 Chandler was happy to obtain 'a beautiful trunk, which had fallen from the metopes, and lay neglected in the garden of a Turk'; in 1788 Fauvel bought a metope which had come down in a storm and had broken into three pieces.³⁶

Chandler and Fauvel typified the new kind of Western traveller with antiquarian interests (and money), eager to obtain specimens of ancient sculpture. And this phenomenon led to further damage, as heads and other details were broken off in order to be sold to them. While the development of a market in these items probably made the sculpted pieces, over time, less likely to be used simply for making lime, it also led to the dispersal of many small pieces from the Parthenon. As St Clair notes, 'unfortunately the pieces that were thus saved from the Turks were, all too often, lost to the world. On their return the souvenir hunters frequently lost interest in the acquisitions, or their heirs dispersed or jettisoned the collections. All means of tracing them quickly disappeared.'³⁷ The whereabouts of the three items obtained by Chandler (the 'trunk' from a metope, and 'two fine fragments of the frieze, which we found inserted over door-ways in the town'), for example, are now unknown.³⁸

That this state of affairs was the most important reason why Elgin removed sculpted stones from the building itself was emphasised by him in his evidence to the Select Committee: 'every traveller coming, added to the general defacement of the statuary in his reach ... And the Turks have been continually defacing the heads ... It was upon these suggestions, and with these feelings, that I proceeded to remove as much of the sculpture as I conveniently could; it was no part of my original plan to bring away any thing but my models.'³⁹ The 'suggestions' no doubt came from Hunt and Lusieri, who initiated the process of removal at the end of July 1801. A few weeks later Hunt wrote to one of his correspondents: 'It grieved me to the heart to see the destruction made daily by the Janizaries of the fortress. They break up the finest bas-reliefs and sculptures in search of the morsels of lead that unite them to the buildings after which they are broken with wanton barbarity.' And in a letter to Elgin, written shortly after the removal of the first metope, Lusieri similarly complained about the ongoing destruction wrought by members of the garrison, concluding: 'I am sure that in half a century there will not remain one stone on another. It would be well, my Lord, to ask for all that is left, or else to do all that is possible to prevent their going on in this fashion.'⁴⁰

So: was Elgin justified in thinking that he was saving the sculptures, or at least some of them, from further damage, dispersal or destruction? The evidence clearly shows that the answer is 'yes'. There was a downside: the process of removing the carvings caused some local damage to the building,

35. St Clair, *Lord Elgin and the Marbles*, 3rd edn., p. 96.

36. Chandler, *Travels in Greece*, p. 51; St Clair, *Lord Elgin and the Marbles*, 3rd edn., p. 64.

37. St Clair, *Lord Elgin and the Marbles*, 3rd edn., pp. 62-3.

38. Chandler, *Travels in Greece*, p. 51.

39. *Report from the Select Committee*, p. 41.

40. St Clair, *Lord Elgin and the Marbles*, 3rd edn., p. 95 (Hunt); Smith, 'Lord Elgin and his Collection', p. 198 (Lusieri).

especially to the cornice above the frieze. And where the transportation of them was concerned, there was, as in most decision-taking, a balance of risks to be considered. To transport such items to England involved taking them by ship; once Elgin acquired a brig for the purpose, but on other occasions he used Royal Navy vessels. The chances of an ocean-going sailing ship of this kind sinking on the high seas were very low indeed; the main risk in the Mediterranean involved being run aground or driven onto rocks by a storm, and that is indeed what happened to the brig at the entrance to the harbour of Kythera. It was carrying twelve pieces of the frieze. But such a loss, so close to land, was not in deep water, so with the help of skilled divers all twelve pieces (which had been wrapped in waxed linen and packed in stout wooden boxes) were eventually recovered.⁴¹

In 1815 Ennio Quirino Visconti, an expert on classical sculpture who had been in charge of the Capitoline Museum in Rome before becoming Director of the Louvre, came to London to inspect the Elgin Marbles. In his report on them, he made the following comment: ‘We have only to regret that the noble idea which induced Lord Elgin to rescue them from the daily ravages of a barbarous nation was not entertained a century and half earlier by some rich and powerful amateur.’ As recently as 1998, William St Clair was happy to endorse this fundamental justification of Elgin’s actions: ‘In Elgin’s mind, he was taking advantage of a unique moment of good fortune to perform an act of rescue; and, historically in the circumstances of Ottoman Athens, he was probably right.’⁴²

Was there an alternative? Lusieri’s comment ‘It would be well, my Lord, to ask for all that is left, or else to do all that is possible to prevent their going on in this fashion’, gestured vaguely at the idea of Elgin using his diplomatic power to put a stop to all depredations of the Parthenon sculptures. Very surprisingly, this idea was taken up by William St Clair in his final, posthumously published account, where he wrote: ‘If Elgin had really wanted to save the monuments, he could have used his influence to ensure that they remained safe where they were.’⁴³ But the idea itself is completely unrealistic. It would require Elgin to have obtained an order that would remain in place not just for the duration of his own rather brief ambassadorship but in perpetuity thereafter – and, what is more, it would require that order to be actively and constantly enforced on the ground. No one familiar with the political and administrative situation in the Ottoman Empire during this period could take such a proposition seriously. It could certainly not have been taken seriously by Lord Elgin himself. The question of an alternative method of saving the sculptures was briefly raised during his Select Committee hearing. To the question ‘Then your Lordship did not do any thing to rescue them, in any other way than to bring away such as you found?’, he replied: ‘No; it was impossible for me to do more than that; the Turkish government attached no importance to them in the world.’⁴⁴

41. Smith, ‘Lord Elgin and his Collection’, pp. 231, 241–51. The depth was roughly 10 fathoms.

42. St Clair, *Lord Elgin and the Marbles*, 3rd edn., p. 223; St Clair, ‘The Elgin Marbles’, p. 400.

43. St Clair, *Who Saved the Parthenon?*, p. 423.

44. *Report from the Select Committee*, p. 41.

Chapter 3: After Elgin

Athens

Greece was recognised as independent state in 1832, and in April of the following year the last units of the Ottoman army left the Acropolis. It is easy to say that if only Elgin had known, in 1801, that the departure of the Ottomans was just 32 years away, he could have forborne from rescuing the Marbles in the way that he did. But of course he did not know that; and besides, it is not as if those intervening decades were free of risks to the Parthenon building. During the initial revolt in 1821, Greek forces used artillery and mortars to shell the Acropolis; ‘for a time, 30 mortar bombs were lobbed into the Acropolis every day, including one timed to coincide with Muslim evening prayers.’ In 1826-7, when the tables were turned and it was the Greeks who were the defenders, the Ottoman besieging force bombarded the Acropolis for just under a year; in the month of August 1826, for example, the Ottoman artillery fired 2,120 cannon balls and 356 bomb and howitzer shells. According to St Clair, at one point the leaders of the Greek defending force apparently threatened that, if they did not receive support from the rest of Greece and from Europe, they would blow up the Parthenon in a symbolic act of self-immolation.⁴⁵ In the event, the Erechtheion was largely demolished by the bombardment, but the Parthenon, although ‘battered’ and scarred in many places, suffered no major structural harm; whether some of the sculpted stones removed by Elgin would have been damaged had they still been in place is hard to say, but it must be regarded as very likely.⁴⁶

In August 1834 a ceremony took place on the Acropolis to celebrate the first act of restoration there, the reconstruction of a column of the Parthenon. The new Bavarian king, Otto, sat on a throne and listened to his artistic adviser, the neoclassical architect Leo von Klenze, declaiming (in German) about the importance of going back to the ancient Greek past. ‘All the remains of barbarity will be removed, here as in all Greece, and the remains of the glorious past will be brought in new light, as the solid foundation of a glorious present and future.’⁴⁷ The desire to associate the new Greek state with the Athenian republic of the fifth century BC was both a romantic impulse and a canny political move, since international sympathy for Greek independence was influenced by ‘Philhellene’ feelings among the classically educated ruling classes of Western Europe. Over time, this strategy did succeed in forming a new national doctrine among the Greeks – though later in the nineteenth century Greek intellectuals tried hard to combine that with a pride in the Byzantine and Orthodox

45. St Clair, *Who Saved the Parthenon?*, pp. 259, 283, 297.

46. Eldem, ‘From Blissful Indifference’, p. 304 (Erechtheion; ‘battered’ (quoting Thomas Gordon)).

47. Yalouri, *The Acropolis*, pp. 35-6; Beard, *The Parthenon*, pp. 99-100 (quotation).

tradition, which obviously stood in a much closer relation to the modern Greeks.

In 1835 the Acropolis was placed under the administration of a newly formed Greek Archaeological Service, and over the following century various ancient monuments were reconstructed. (An over-ambitious attempt to rebuild the Parthenon eventually caused more damage, as the iron clamps inserted in the stones corroded and swelled, and began to split them.) While the reconstruction proceeded, ‘all the remains of barbarity’ were indeed removed – not only the mosque and minaret, not only the landmark late mediaeval ‘Frankish Tower’, but even most of the remains of the Christian apse inside the Parthenon.⁴⁸ This was a programme of radical historical cleansing, designed to eliminate much of the evidence of the actual history of the city of Athens. Eventually it did have its intended effect, turning the Acropolis into a kind of symbol of Greek identity. In a way that may seem strange, but will be familiar to social anthropologists, the more completely the elements that connected with the actual life and culture of the Greeks around the Acropolis were stripped away, the stronger its power of symbolism became.⁴⁹

One might think that after the departure of the Ottomans the remaining sculptures, many of which were recovered during the long process of clearing the surface of the Acropolis down to the bare rock, were at last entirely safe from damage or dispersal. Yet while the monuments were protected overall, some losses continued. The Bavarian soldiers who took over from the Ottoman garrison in 1833 broke off various sculpted pieces from the Parthenon. The artist William Linton, visiting Athens in the 1850s, complained about travellers detaching small details such as fingers and toes. In 1878 a French visitor was able to buy from one of the Greek workmen on the Acropolis a marble piece depicting a woman’s hand holding a branch. And the Greek government, which had banned all exports of antiquities as early as 1834, sometimes gave fragments of sculptures from the Parthenon to visiting dignitaries; two were given to Americans, in 1858 and 1890, and both are now lost.⁵⁰

Further damage, more serious insofar as it was systematic, was caused by atmospheric erosion. Some accounts of these matters concentrate exclusively on the period after the Second World War, when the combination of power stations, light industry, internal combustion engines and domestic heating caused serious air pollution, which in turn generated the phenomenon known as acid rain. Yet long before that, the sculptures still in place on the Parthenon were suffering from erosion. The west frieze was largely left intact by Elgin’s workmen, but they did take moulds of it; comparison between those and the next set of moulds, taken in the early 1870s, shows significant damage to the surfaces, as well as the loss of some distinct features, such as heads, which may have been caused by the bombardments of 1821 and 1826-7.⁵¹

48. Beard, *The Parthenon*, pp. 101-2; St Clair, *Who Saved the Parthenon?*, pp. 442-3, 447.

49. The best study of this phenomenon, as it later developed, is indeed by a social anthropologist: Yalouri, *The Acropolis*.

50. St Clair, *Who Saved the Parthenon?*, pp. 452, 465-7.

51. See St Clair, ‘The Elgin Marbles’, p. 431, and the photographic comparison in Beard, *The Parthenon*, pp. 174-5.

It is certainly true that acid rain did even more harm. In some sections of the west frieze ‘the running water caused a chasm of damage down the slabs’, as well as further surface erosion.⁵² Gradually, starting in the late 1970s, the Greek authorities succumbed to the inevitable and accepted the need to remove the sculptures from the Parthenon building. The remaining figures from the west pediment were taken down in 1977, to be replaced there by replicas, and over the following decades the same treatment was given to the other sculpted elements. The caryatids were also removed from the Erechtheion porch, to be replaced by copies in synthetic stone; comparison between the five original caryatids in Athens and the one in London shows that the latter is in much better condition. The remains of the frieze were removed in 1993. An official report written in 1994 described the effects of the atmospheric pollution as follows: ‘delicate mouldings unrecognisable under coats of black soot, layers of marble flaking off or bursting, smooth surfaces crumbling like sugar at the touch of a hand’.⁵³

A major stimulus towards the final removal of the sculptures from the building was the plan to create a new Acropolis Museum, situated close to the base of the Acropolis itself. Designed by the French-Swiss architect Bernard Tschumi, this opened in 2009. It displays not only the Parthenon sculptures (both the ones recently removed and the detached ones which had been previously discovered and displayed in a smaller Acropolis Museum from the 1870s onwards), but also many other items from the other buildings, and older pieces recovered by archaeologists. The design is impressive, with a good use of light and with an alignment designed to give a direct view upwards towards the Parthenon from inside the building. And the arrangement of the sculptures from the Parthenon is aimed both to make a point and to open a possibility: spaces have been given for missing pieces, including those held by the British Museum. They are filled with plaster casts of those pieces, for the time being.

London

Philhellenism was a strong current of opinion among educated Britons in the early nineteenth century. One might therefore have expected the creation of an independent Greek state to have prompted speedy calls for the return of the Marbles to Athens, especially since there had been British critics of Elgin’s actions – most famously, Byron – who complained about the ‘defacing’ of the Parthenon. Yet no movement for the return of the Marbles emerged at that time.

Recently, advocates of return have been keen to cite the contribution made to the debate in Parliament in June 1816 (on the Bill to authorise the purchase of the Marbles from Elgin) by Hugh Hammersley MP, who proposed an amendment to the effect that the government should buy the Marbles and keep them in trust with a view to returning them to Greece. But what he actually specified in the amendment was that Elgin’s collection should be kept ‘for that government from which it has been improperly taken’, and that the Ottoman government should immediately

52. St Clair, ‘The Elgin Marbles’, p. 432.

53. R. Economakis, ed., *Acropolis Restoration: The CCAM Interventions* (Athens, 1995), p. 9.

be informed ‘that Great Britain holds these marbles only in trust till they are demanded by the present, or any future, possessors of the city of Athens.’⁵⁴ This was an acknowledgement of Ottoman ownership; the modern concept of national cultural heritage was not at all the driving force of the argument.

Over the next 165-odd years, the idea that the British Museum’s possession of the Marbles was permanent became a settled opinion in the UK, challenged only very occasionally by dissenting voices. The consensus wavered briefly in governmental circles in early 1941, when a senior Foreign Office official recommended agreeing ‘in principle’ to the return of the Marbles to Athens. But this was prompted only by the exceptional conditions of the time, when Britain and Greece were the only two European states fighting the Axis powers; it followed a parliamentary question, tabled by Thelma Cazalet MP in January 1941, suggesting that the Marbles ‘be returned to Greece at the end of hostilities as some recognition of the Greeks’ magnificent stand for civilisation’.⁵⁵ No policy of return was decided, and the whole idea was quietly dropped at the end of the war.

The issue was revived in the early 1980s, partly because of the efforts of the charismatic Greek Minister of Culture, Melina Mercouri, and partly thanks to the creation of a British Committee for the Reunification of the Parthenon Marbles, which continues to this day. Much more recently, an organisation called ‘The Parthenon Project’, funded by an Anglophile Greek industrialist, has also joined the debate, calling for some kind of mutual arrangement between the British Museum and the Acropolis Museum. This idea will be discussed further below.

Meanwhile, with some interruptions in wartime, the Elgin Marbles have been on display at the British Museum, and regarded as one of its central features, ever since the ‘Temporary Elgin Room’ opened in 1817. A specially constructed permanent gallery for them was opened in 1835. They were displayed there together with a large number of plaster casts of other pieces from the Parthenon, the originals being in Athens and elsewhere. But, according to a later British Museum guidebook, ‘Although this arrangement was very useful to scholars, the mixture of originals and plaster casts was aesthetically unattractive and also tended to confuse the ordinary visitor.’⁵⁶ Other items, such as models and photographs, contributed to a feeling of congestion. So when, in 1929, the rich art dealer Joseph Duveen offered to pay for the creation of a new gallery for the Marbles, the Museum gratefully accepted. The Duveen Gallery was ready for opening in 1939, but it was badly damaged by bombing during the war, and reconstruction work was then delayed by various factors. It opened finally in 1962, displaying the arrangement of the Marbles which visitors still encounter there today.

54. See Hansard, 16 June 1816, reprinted in Hitchens, *The Elgin Marbles*, p. 133. Hammersley did refer earlier in his speech to the possibility of Greece becoming an ‘independent nation’, but only in the context of a scheme by Catherine the Great to make her grandson, Grand Duke Konstantin Pavlovich, ruler of Constantinople and thus also of Ottoman Greece. (So the meaning of ‘independent’ here is not clear: perhaps it just meant independent of the Ottomans.) Hammersley’s proposal was described by the great parliamentary orator John Wilson Croker as ‘far-cical’: ‘Nay, we were to hold them in trust for the future invader ... Our museum, then, was to be the repository of these monuments for Russia.’

55. Hitchens, *The Elgin Marbles*, pp. 75-7.

56. B. Cook, *The Elgin Marbles* (London, 1983), p. 69.

For most of this time, the Marbles were well looked after in London. They were of course exposed to London air, which was polluted; to counteract this, they were regularly washed, and although the washing techniques of that period would not meet present-day standards, they did prevent any accumulation of acidic soot.⁵⁷ But, most importantly, the Marbles were indoors; as we have seen, slabs of the frieze which remained on the walls of the Parthenon were being eroded all the time.

In 1937-8, however, many of the Elgin Marbles were subjected to an intrusive cleaning programme, designed to remove an orange-brown patina from their surfaces. The moving force behind this programme was Joseph Duveen, who held the traditional and widespread belief that Greek statues had to be white; and he seems to have acted without consulting the Museum authorities. (When they found out, they put a stop to it.) This episode was not kept secret – it was quite widely reported at the time, and when John Merryman published his article on the Elgin Marbles in 1985 he was able to cite articles about it from the British and German media of the late 1930s.⁵⁸ But when William St Clair issued the third edition of his classic study in 1998, he devoted an entire new chapter to this topic, in a way that gave the impression that this was a startling discovery; the publicity for this edition made it the key selling point of the book. Extraordinarily, St Clair offered the following opinion in the final sentence of the entire work: ‘Now that the British Museum’s stewardship of the Elgin Marbles turns out to have been a cynical sham for more than half a century, the British claim to a trusteeship has been forfeited.’⁵⁹

To cast aside nearly two centuries of preservation and curatorship on the basis of this one episode, declaring that the case for keeping the Marbles in the Museum is henceforth no longer valid, even though there is no reason for thinking that such an episode could possibly happen now, is strangely disproportionate. In fact, of course, the British Museum has, since 1816, claimed ownership, not ‘trusteeship’; and to argue that this one episode of negligence could actually have the effect of eliminating legal ownership would be even stranger. When St Clair published a much longer account of the matter in an academic journal, subsequent articles by specialists in Greek sculpture demonstrated that many of his claims were inaccurate or exaggerated. The patina – most probably the result of long-term processes, and not involving, as St Clair imagined, elements of original polychrome painting – was roughly 150 microns thick (one micron is one thousandth of a millimetre). The methods used to remove it may also have taken off a microscopic layer of the marble underneath, but here too St Clair’s claims were exaggerated. In one case, for example, he described as scratch marks on the marble what were in fact fine striations in the print, or the negative, of a photograph.⁶⁰

If the Marbles had remained in Athens, it is clear that the damage to the surfaces of those still on the building would have been much more serious than this. Nor was Duveen’s desire to get rid of patina peculiar to him; it was shared by others, including people working in Greece. Mary Beard notes that as late as the 1950s, the sculptures of the Theseum in

57. St Clair, ‘The Elgin Marbles’, pp. 411-14.

58. Merryman, ‘Thinking about the Elgin Marbles’, p. 1917(n.).

59. St Clair, *Lord Elgin and the Marbles*, 3rd edn., p. 336.

60. St Clair’s claims in ‘The Elgin Marbles’ are analysed in J. Boardman, ‘The Elgin Marbles: Matters of Fact and Opinion’, *International Journal of Cultural Property*, 9:2 (2000), pp. 233-62, and I. Jenkins, ‘The Elgin Marbles: Questions of Accuracy and Reliability’, *International Journal of Cultural Property*, 10:1 (2001), pp. 55-69.

Athens were given similar treatment by an American team; John Boardman describes the work as done ‘by Greek masons supervised by American archaeologists at the behest and under the eyes of the Greek authorities’, noting that ‘they were stripped to a far greater extent than the London marbles’. And Boardman’s inspection of the sculptures displayed in the old Acropolis Museum led him to conclude that they too had undergone a similar process to the one instigated by Duveen: they ‘look just like those in London, presumably after some form of cleaning’.⁶¹ To present the cleaning of 1937-8 as a sort of trump card, requiring the transfer of the Marbles to Athens 85 years later, is a rhetorical strategy, not a serious argument.

61. Beard, *The Parthenon*, p. 169; Boardman, ‘The Elgin Marbles’, pp. 243, 248; cf. also p. 252.

Chapter 4: Cultural heritage and return

In normal English, the terms ‘restitution’ and ‘return’ are, for some purposes, virtually interchangeable. But when talking about the sending back of cultural objects, it is useful to make a distinction. ‘Restitution’ has long been a technical legal term, so it makes sense to use it for those cases where objects are sent back because a valid legal claim has been made. ‘Return’ can be used as a much more general word, covering those cases where the reasons for the transfer are not strictly legal ones.

There is a large literature on this general subject, incorporating international declarations and agreements of various kinds. Much of the discussion, especially since the latter part of the twentieth century, has related to the ongoing trade in stolen artworks, and especially in archaeological items excavated clandestinely and exported illegally. Those issues need not concern us here; as we have seen, Elgin’s actions were neither clandestine nor illegal, and the exportation of the Marbles was specifically authorised. It is also important to note that the modern international agreements on this topic are not retroactive where any legally binding provisions are concerned.

There are some categories of object which, although not subject to strict legal claims, have been given special treatment in recent decades when return has been requested. The most important are human remains, and religious or ceremonial objects of special significance to the continuing practice of religion in the society from which they came. These categories too can be set aside here.

War and cultural heritage

In modern European history, the moment when the return of cultural items became a major public issue was at the end of the Napoleonic Wars. Acting under orders from Napoleon, French forces had seized many outstanding paintings and sculptures and taken them back to France. Where several of the conquered Italian states were concerned, clauses agreeing to this were written into the treaties of surrender which the rulers were obliged to sign. In 1815 the victorious powers undertook a large programme of return. Of the 500 or so items taken from Italy, roughly half were sent back there.⁶²

The general rationale was that valuable items of property had been stolen, or taken under duress, from the sovereign rulers who were their owners, and should therefore be returned to them. But after the next pan-

62. On Napoleon’s policy and the returns to Italy see C. Saltzman, *Napoleon’s Plunder and the Theft of Veronese’s Feast* (London, 2021).

European war, something more like a sense of national cultural heritage was applied by some international agreements. The main concern here was not war booty but historic heritage previously acquired from territories which were now independent: the Treaty of Saint Germain (1919), for example, required Austria to hand over to other states – mainly some of the new successor states of the Austro-Hungarian Empire, but also Italy and Belgium – major art works and documents taken from them over a long period by the Habsburgs.⁶³ But these were ad hoc arrangements, with more than a touch of victor's justice; they did not invoke, or create, any new legal principles of a general kind.

Where international law was concerned, the first significant developments took place in relation to warfare. A case heard by the British Court of Vice-Admiralty in Nova Scotia in 1813 concerned a cargo of paintings seized from an American vessel during the 1812 war. The judge ordered the release of the artworks, declaring: 'The arts and sciences are admitted amongst all civilized nations, as forming an exception to the severe rights of warfare, and as entitled to favour and protection. They are considered not as the *peculium* [private property] of this or that nation, but as the property of mankind at large, and as belonging to the common interests of the whole species.' That statement was not in fact a summary of a standard view; it seems to have drawn on a pamphlet published by a French intellectual and art lover in 1796, criticising Napoleon's plundering of Italy.⁶⁴ But, however gradually, this point of view, placing cultural objects in a special category because of their universal interest and significance, would become more widely accepted.

In 1863 a code of conduct for the Union forces in the American Civil War was issued; it had been drafted by Francis Lieber, a professor at Columbia College. Two of its articles gave a special status to the property of charitable and educational institutions; the second included 'classical works of art' in its list of objects that 'must be secured against all avoidable injury'. These provisions of the Lieber Code influenced later European and international legal instruments; for example, the 1899 Hague Convention on the Laws and Customs of War on Land gave protection to charitable and educational institutions, and added: 'All seizure of, and destruction, or intentional damage done to such institutions, to historical monuments, works of art or science, is prohibited.'⁶⁵

After the devastation of the Second World War, a further Hague Convention was signed in 1954 on the specific subject of 'the Protection of Cultural Property in the Event of Armed Conflict'. In its preamble, it set out the basic rationale for international concerted action in this field, thereby returning to the fundamental point made by the British judge in Nova Scotia in 1813:

Being convinced that damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world;

63. See L. V. Prott and P. J. O'Keefe, *Law and the Cultural Heritage*, iii, *Movement* (London, 1989), pp. 804-5; cf. also p. 829 on the Treaty of Riga (1921), which required Russia to restore artworks and objects of historical importance to Poland.

64. J. H. Merryman, 'Cultural Property Internationalism', *International Journal of Cultural Property*, 12 (2005), pp. 11-39, at p. 16 (*The Marquis of Somerueles* case).

65. https://avalon.law.yale.edu/19th_century/hague02.asp#art56.

Considering that the preservation of the cultural heritage is of great importance for all peoples of the world and that it is important that this heritage should receive international protection...⁶⁶

And in 1999 the Second Protocol to this convention gave an extra level of 'enhanced protection' to 'cultural heritage of the greatest importance for humanity'.⁶⁷

UNESCO

The United Nations Educational, Scientific and Cultural Organisation (UNESCO) convened the committee which drafted that 1954 convention, and continued to be active in the field of international policy on 'cultural property' thereafter. In 1970 it drew up a Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. This was mostly concerned with the smuggling of artworks and archaeological items. It offered a broad definition of national cultural heritage, including things made in the country, things made by nationals of the country, and things located in the country (so long as they got there by legal means). Given the nature of its special concerns, this Convention focused on the national, rather than the international, nature of cultural heritage, encouraging states to impose restrictions on the exportation of such objects. And in one of its provisions, it offered the services of UNESCO to mediate between any two countries that were in dispute over such an issue.⁶⁸

Eight years later, UNESCO set up a permanent committee, the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation. One of its main purposes was to act as a mediator, promoting bilateral agreements between states over disputed objects. But its remit went beyond the terms of the 1970 Convention, extending to the time before that convention came into force. Article 3(ii) of its statutes said:

*A request for the restitution or return by a Member State or Associate Member of UNESCO may be made concerning any cultural property which has a fundamental significance from the point of view of the spiritual values and cultural heritage of the people of a Member State or Associate Member of UNESCO and which has been lost as a result of colonial or foreign occupation or as a result of illicit appropriation.*⁶⁹

66. <https://www.unesco.org/en/legal-affairs/convention-protection-cultural-property-event-armed-conflict-regulations-execution-convention>.

67. <https://www.unesco.org/en/legal-affairs/second-protocol-hague-convention-1954-protection-cultural-property-event-armed-conflict?hub=66535>.

68. <https://en.unesco.org/about-us/legal-affairs/convention-means-prohibiting-and-preventing-illicit-import-export-and>, arts. 4 (definition), 17(v) (mediation); Prott and O'Keefe, *Law and the Cultural Heritage*, pp. 812-13.

69. <https://unesdoc.unesco.org/ark:/48223/pf0000145960?posInSet=1&queryId=8ee3b6b6-20ec-40cb-8635-ad5205987547>.

The specific reference to colonialism showed how sensitivities were changing. The main focus of discussions of these issues was shifting towards countries, now independent, which had previously lost objects to their colonial rulers. Also in 1978, the Senegalese Director-General of UNESCO, Amadou-Mahtar M'Bow, issued a public appeal for the voluntary return of cultural objects, especially to former colonies in the global South. These items were essential, he said, to the self-knowledge, identity and present-day culture of the people from whom they had been

taken. Yet at the same time he added the following statement on behalf of those people:

They know, of course, that art is for the world and are aware of the fact that this art, which tells the story of the past and shows what they really are, does not speak to them alone. They are happy that men and women elsewhere can study and admire the work of their ancestors. They also realise that certain works of art have for too long played to intimate a part in the history of the country to which they were taken for the symbols linking them with that country to be denied, and for the roots they have put down to be severed.⁷⁰

So in this way his argument made reasonable concessions both to the universalist view of cultural objects and to the interests of the second-party country which might have taken a significant object to its heart and made it part, in some way, of its own culture. His request for the return of objects was therefore far from absolute; he was asking for some of the best items to be sent back, and also, by implication, for representative objects where such objects were now absent from the country whence they had come. But in any case, making requests and exhortations was all he could do; his pronouncements had no legal effect, and neither did the Intergovernmental Committee have any powers to issue legally binding judgments.

In 1982 UNESCO organised a ‘World Conference on Cultural Policies’ (known as ‘Mondiacult’) in Mexico City. Melina Mercouri made a passionate plea for the return of the Elgin Marbles, and received a sympathetic hearing. In its list of final recommendations, the conference included one on this topic, which began with the observation, ‘Considering that the removal of the so-called Elgin marbles from their place in the Parthenon has disfigured a unique monument which is a symbol of eternal significance for the Greek people and for the whole world’, and recommended ‘that Member States view the return of the Parthenon marbles as an instance of the application of the principle that elements abstracted from national monuments should be returned to those monuments’.⁷¹ This displayed an excess of sentiment over knowledge or understanding, since no responsible expert could have condoned putting the sculptures back on the Parthenon in the period when the smog and acid rain in Athens were at their most destructive.

Nevertheless, buoyed up by this recommendation (which, again, had no legal force), the Greek government made a formal request to the UK for the return of the Marbles in October 1983, and in the following year it turned to the Intergovernmental Committee which UNESCO had set up four years earlier, asking it to mediate between Greece and the United Kingdom on the issue.⁷² The United Kingdom said that it was not willing to return the Marbles, and there the matter rested.

70. <https://unesdoc.unesco.org/ark:/48223/pf0000034683>.

71. <https://unesdoc.unesco.org/ark:/48223/pf0000052505>, p. 96, recommendation 55.

72. J. Greenfield, *The Return of Cultural Treasures* (Cambridge, 1989), pp. 83, 87.

National and international heritage

In the same month that the Greek Ambassador delivered his letter, October 1983, the Parliamentary Assembly of the Council of Europe held a debate on cultural property which yielded a resolution in favour of the general principle of return. But the return in question was ‘the return of certain cultural property to countries outside the European area’ – i.e., typically, from former European colonial powers to their former colonies. Before reaching that conclusion, it made the following points:

6. Noting that the displacement of cultural property, whether from its place of origin or through its return, or for preservation, must be viewed as a historical act;
7. Noting also the cultural value of art collections containing pieces from other countries in permitting broader access by scholars and the general public to the diversity of cultural traditions;
8. Stressing the unity of the European cultural heritage within a historical context of the frequent movement of individual art objects;
9. Believing that claims for the return of cultural property within the European cultural area must be considered differently from claims for the return of property outside this area,
10. Calls on the governments of member states to recognise that the European cultural heritage belongs to all Europeans, and to ensure that the diversity of this heritage remains easily accessible in each country.⁷³

Here three significant points were emphasised which actually ran counter to the return of the Marbles: the idea that the displacement of cultural property must be viewed as ‘a historical fact’, the notion that people benefit from museums containing ‘pieces from other countries’, and the idea that the concept of cultural heritage cannot always be kept within the confines of a narrow national culture. That last point was both simple and fundamental: the classic art of ancient Greece lies at the foundations of Western European art, just as ancient Greek culture influenced the whole development of Western civilisation.

If any general lesson emerges from these twentieth-century debates, it is that where major works of art are concerned, national cultural significance is more or less inseparable from international cultural significance. In many cases, where the work remains in its original place of creation, there will be no sense of conflict or tension between those two things: in the

73. <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16219&lang=en>.

eyes of reasonable people, the Parthenon simply is part of Greek culture, European culture, Western culture and – if one can speak of such a thing – world culture. Indeed, the same can be said of the essential nature of any major work, wherever it is located: the Elgin Marbles are part of Greek culture, European culture, and so on. (For two centuries they have also been part of British culture.) The sense of tension arises only when demands are made to change that location, on the basis that the national culture exerts an absolute or overriding claim.

The point of view characterised above by the phrase ‘in the eyes of reasonable people’ is not shared by all Greeks. In 1992, when the Greek government proposed sending some items from the fifth century BC, including sculptures from buildings on the Acropolis, to be exhibited in America, there was fierce resistance to the idea. The General Secretary of the Archaeological Society of Athens was strongly opposed, saying that Greek masterpieces should not be ‘displayed in a foreign land, participating in this way unwittingly in festivities which have nothing to do with the ideas they represent or inspire’. And Vassilis Lambrinoudakis, Professor of Classical Archaeology at the University of Athens, declared: ‘the relics of our past which are within our present day boundaries are part of our national heritage, for which we are responsible and which we must safeguard like the apples of our eyes. No exportation, no concession to any other people is allowed.’ A few years earlier, an article in the newsletter of the Archaeological Society of Athens had argued that archaeology had a fundamentally different meaning for Greeks on the one hand and foreigners on the other: for the former, it was ‘a research and study of their ancestors’ history, which means self-knowledge’, whereas for the latter it was just a career.⁷⁴

For people who share this perspective, it may indeed feel intolerable that major works of ancient Greek art are held in other countries by people who do not stand in a ‘national’ relation to them. But such feelings are not a proper foundation on which to base any responsible policy of return.

74. Yalouri, *The Acropolis*, pp. 79-81.

Chapter 5: Return: arguments for and against

A variety of arguments have been put forward to support, or oppose, the transfer of the Elgin Marbles to Greece. Let us now consider them, in the light of the information presented above.

Arguments for return

‘Returning the Marbles would restore the integrity of an original artwork’

This would seem to be one of the stronger arguments in favour of return. It is easy to agree that restoring a dismembered artwork provides a real benefit. In the rare cases where, say, the separated parts of a triptych can be reassembled, the result is an aesthetic gain. But we should note that there are many examples of hugely important Italian Renaissance artworks, such as complex altarpieces, that are now scattered between different churches and museums. Masaccio’s Pisa polyptych is to be found in Pisa, Vienna, Naples and London, Mantegna’s San Zeno altarpiece in Verona, Tours and Paris, and Signorelli’s Bichi polyptych in Paris, Berlin, Dublin, Glasgow, Toledo (Ohio) and Williamstown (Massachusetts). In each of these cases, and in very many others, this state of affairs is just accepted as a fact of history.⁷⁵

However, as we have seen, the original artwork, where the Elgin Marbles are concerned, was the Parthenon, which cannot be reassembled now; all that we have is a heavily damaged remnant of the original artwork. And no one is seriously proposing putting the Marbles back on the walls of the building (where those walls still stand – some of the surviving sculptures would not have a wall to return to, after the 1687 explosion). Instead, the idea is to transfer the Marbles from one museum to another museum. Certainly, they would be alongside other original sculptures; but this would still be very different from reassembling the original work of art, from which these two groups of sculptures have been removed and many other sculptures have been entirely lost.

There is a larger point here, which may be obvious but is seldom mentioned. All the surviving sculptures have been turned into museum pieces, and in a certain sense this has changed their nature. The point was eloquently made by one of Elgin’s strongest critics, Edward Daniel Clarke, when he complained about the removal of a marble horse’s head from the pediment:

75. For these and many other examples see S. Abdul Hak et al., *An Illustrated Inventory of Famous Dismembered Works of Art: European Painting, with a Section on Dismembered Tombs in France* (Paris, 1974).

The head of this animal had been so judiciously placed by Phidias [the Greek sculptor] that, to a spectator below, it seemed to be rising from an abyss ... All the perspective of the sculpture (if such an expression is admissible) and certainly all the harmony and fitness of its proportions, all the effects of attitude and force of composition, depended on the work being viewed precisely at the distance in which Phidias designed that it should be seen. Its removal, therefore, from its situation, amounted to nothing less than its destruction – take it down, and all the aim of the sculptor is immediately frustrated.⁷⁶

That final sentence is extravagant and hyperbolic; but the essential point is valid. By taking down the sculptures and placing them at eye level in close proximity to the viewer inside a museum building, both Elgin and his Greek successors have made a fundamental change to the nature of the aesthetic experience. This is another reason why restoring the integrity of the original artwork, in the fullest sense, is an impossibility.

Some writers, discussing the idea of putting the Elgin Marbles together with the Parthenon sculptures in the Acropolis Museum, have described the desirability of this in terms of its being an ‘object-centred’ approach – or even in terms of fulfilling a duty towards the object or objects. But while the gist of such phrases is comprehensible, the concept of a duty towards an object makes proper sense only when it is spelt out in full as a duty to some people, present and/or future, in relation to the object. In this case, the duty – though that is a strong way of putting it – concerns the benefit which people will get from seeing these objects together in the same location. This will give those people a better experience: in some places, for example, they will be able to follow more continuously the action depicted in the frieze, which portrays a long procession culminating in a ceremony. The benefit will be both visual and educational.

Much of that benefit, however, could be supplied by good-quality copies of the Marbles. Indeed, it already is being supplied, as the Acropolis Museum has plaster casts (not full replicas in surface texture or colour, but otherwise highly accurate) of the Elgin Marbles, and does display them. This is certainly not to say that replicas and originals are essentially interchangeable; we all know that there is a fundamental difference between them, and that there are good reasons why the copy can never be an adequate substitute for the original. The point is made here only in relation to the particular visual and educational benefit which the museum-goers receive.

And which museum-goers matter here? In the ‘return’ scenario, only the ones who go to Athens. But if we are to consider benefits to future people in relation to the Marbles, we should also think about the much larger number of museum-goers who see them in London (and, incidentally, do so for free; the entrance charge to the Acropolis Museum in the tourist season is 15 Euros), and about the severe disbenefit of taking away that experience.

76. Quoted in Hitchens, *The Elgin Marbles*, p. 64.

‘The Marbles could be better appreciated in Athens, thanks to the Greek sunlight and the proximity to the Parthenon’

Both of these points – which may be treated here as follow-ups to the point just discussed above – have been put forward by advocates of return. The Acropolis Museum does make excellent use of natural light, though in some conditions and at some times of day the display is dependent on electric lighting. It is true that the lighting in the Duveen Gallery can be as dull as the rainy English sky above. But is this really a major consideration where the fundamental decision on the location of the Marbles is concerned? With modern technology it would not be difficult to install a lighting system which could replicate to a reasonable degree the quality of Athenian sunlight, were this thought to be essential. (It is also the case that the Duveen Gallery would benefit generally from some physical updating.) Major museums around the world have, however, managed to display their holdings quite satisfactorily without trying to replicate Egyptian sunlight for ancient Egyptian exhibits, Italian sunlight for Florentine paintings, and so on.

As for proximity to the Parthenon: it is true that the design of the Acropolis Museum ensures a direct view upwards to the Acropolis, with the Parthenon clearly visible at a distance of a few hundred yards. Visitors who look up to enjoy that view will of course be aware, as a matter of factual knowledge, that the sculptures and carvings came from positions on the walls of that building, even if the precise locations for most of them are not identifiable at such a distance. But the factual knowledge would be the same, whether these people were a few hundred yards away from the Parthenon or a few miles away; indeed, visitors to the British Museum possess that knowledge too. It might be unfair to describe this aspect of the arrangement in Athens as just a feelgood selling-point; it is genuinely good that, after their visit to the Acropolis Museum, tourists can then walk up to the Acropolis itself. But again it would be very strange to offer this as a decisive reason why the Marbles should be removed from London. There is no general rule that major ancient artworks need to be displayed within sighting distance, or walking distance, of their ancient location. If there were any such rule, many museums which perform hugely important educational roles, such as the Egyptian Museum in Cairo, would have to be largely emptied of their collections.

‘The Marbles must be returned to Greece because they are essential to the identity of the Greek people’

The Parthenon has certainly acquired a symbolic status for modern Greeks; it is an ‘iconic’ building, rather in the manner of the Colosseum or the Arc de Triomphe. It remains in place (or at least the remnants of it do), on the skyline of Athens, fulfilling that role. But does that mean that pieces taken from it more than 200 years ago, or gathered then from where they had fallen after an explosion more than 330 years ago, must also play the same role? If these sculptures were all still parts of the Parthenon today, and if pollution and atmospheric erosion were not a problem, it is entirely

understandable that Greeks would think it a kind of sacrilege to remove them from the building. As we have seen, however, the actual history of the Marbles has led to a very different situation.

When subjected to scrutiny, the origins and nature of a people's sense of national identity often turn out to be complex matters, with both acknowledged and unacknowledged ideological components. As was mentioned above, from the 1830s onwards the newly independent Greek state put a heavy emphasis on the idea that it was a revival of, and an expression of continuity with, the spirit of ancient Greek civilisation. This reflected the genuine Philhellenism of the new Bavarian king and his advisers, and it appealed to the Philhellenism of many classically educated people in Western Europe. It took quite a long time to penetrate the minds of the general Greek population, whose knowledge of the ancient past was slight, not least because very few of them had been educated to the level where they could read ancient Greek texts. Their sense of identity, throughout the period of Ottoman rule, had come much more from their membership of the Greek Orthodox Church (the Church which, as it happens, had at an early stage caused deliberate and serious damage to the sculptures on the Parthenon). Later in the nineteenth century, some Greek intellectuals became convinced that the attempt to construct modern Greek identity solely on ancient foundations was artificial, and risked detaching the Greeks from much of their actual history. So the attempt was made to incorporate the Byzantine and Orthodox heritage into the story, describing, for example, the Hagia Sophia (the great Byzantine church built in Constantinople) as the 'half-brother of the Parthenon'.⁷⁷

Those thinkers' concerns reflected some basic cultural conditions which continue to this day. The American scholar Michael Herzfeld has discussed these issues in some classic studies, where he has described concepts of modern Greek identity as existing between two extreme poles. As Eleana Yalouri's summary of his argument puts it:

at one end stands 'Hellenism' (*Ελληνισμός*), which he calls the 'outside' view of Greek culture. This is linked to the idealization of ancient Greeks by Western Europeans, and it constitutes an imported view ... At the other end stands 'Romiosini' (*Ρωμιосίνη*), which he calls the 'inside' view of Greek culture. This is associated with the history of Greeks as part of the Byzantine and the Ottoman Empires, and is the view modern Greeks feel more at home with. Thus, according to Herzfeld, every Greek is 'torn between two opposing stereotypes'.⁷⁸

To point out that an ideological element was 'imported' is not to imply that it must therefore be dismissed as inauthentic. If it did become a component of a feeling of national identity, and that feeling now exists, that is a human reality, for better or worse. A similar consideration may apply to the point made by the Council of Europe in 1983, when it declared: 'It is as difficult to see any realistic connection between the people who built the Pyramids and the modern Egyptians as it is between those who built Stonehenge and the citizens of the United Kingdom. The same applies for

77. Yalouri, *The Acropolis*, pp. 139-41.

78. *Ibid.*, pp. 9-11, summarising M. Herzfeld, *Ours Once More: Folklore, Ideology and the Making of Modern Greece* (Austin, Texas, 1982), and *Anthropology through the Looking-Glass* (Cambridge, 1987). If the Greek sense of identity has changed since Herzfeld wrote, it is because it has become more aligned with a modern European identity, not with an ancient Greek one.

the civilisation of the Incas and Ancient Greece.’⁷⁹ However valid these historical observations may be, they cannot make certain identity-claims simply dissolve away.

Yet sensible historical analysis and critical self reflection can and should have some effects in moderating extreme attitudes. In relation to the actions of Lord Elgin, for example, it is important to understand that the mentality which made him value ancient Greek sculpture so highly that he went to all the trouble of acquiring the Marbles was the same mentality which led many Western Europeans to favour the creation of an independent Greek state – and, indeed, the mentality then adopted by that state in its official ideology. On that last element, as the historian George Toliaş has put it: ‘we must note that it was through the intense interest of foreigners in Greek antiquities that the Greeks recognized the political and symbolic potential of the ancient monuments as an internationally acknowledged national legacy.’⁸⁰ (The idea, mentioned above, that concepts of national and international cultural heritage are closely interrelated is thus particularly relevant here.) The point is not that this consideration alone should make Greeks withdraw all their objections to Elgin’s actions, but rather that if some of those objections are based on a sense of identity, they may be modified by careful reflection on the nature and destiny of that identity itself.

Some people do engage in such thoughtful reflections; but they tend not to be the ones who set the tone of Greek public debate. This can generate hyperbolic claims, which are then taken up by commentators. It is strange to find, for example, this statement by a Canadian author in an otherwise thoughtful and level-headed book on the return of cultural artefacts: ‘In Greece, the Parthenon has long symbolised the freedom of the people and a resistance to tyranny in all its forms ... The fact that essential pieces of that monument remain in another country causes offence to the great symbol, as though their absence denotes that the Liberation remains incomplete, as if the Greeks can only truly perfect this symbol of national freedom once the sculptures are returned.’⁸¹ This is to take an exaggerated, uncritical claim and repeat it no less uncritically. No sane Greeks seriously think that they remain unfree because some fragments of the Parthenon frieze and some metopes and pediment sculptures are located in London.

At its most extreme, the rhetoric of Greek identity, in relation to the Marbles, endows them with a kind of totemic nature. Here is a simple thought experiment, designed to illustrate the totemistic attitude. Imagine that the Elgin Marbles were all sent to Greece on a permanent basis, but that for some reason it was decided that they could never be displayed, and must be kept under lock and key in the vaults of the Bank of Greece. Would some Greeks be essentially content with the knowledge that these sculptures were now resting on Greek soil, even though no one would see them? The answer is very likely ‘yes’. Whether such people would form

79. Cited in Greenfield, *The Return of Cultural Treasures*, p. 83.

80. G. Toliaş, “An Inconsiderate Love of the Arts”: The Spoils of Greek Antiquities, 1780-1820, in Z. Bahrani, Z. Çelik and E. Eldem, eds., *Scramble for the Past: A Story of Archaeology in the Ottoman Empire, 1753-1914* (Istanbul, 2011), pp. 71-93, at p. 87.

81. A. Herman, *Restitution: The Return of Cultural Artefacts* (London, 2021), p. 25.

only a small, extreme minority is hard to say; the point to be made here is simply that this sort of extreme view cannot be given any role to play in responsible decision-making about the long-term location of the Marbles.

Rather, it is surely sufficient to say that Greeks do view the Parthenon as a kind of symbol of national identity; that objects which came from the Parthenon can be associated with that feeling in a derivative way; and that the return of the Marbles to Athens would therefore make Greeks happy, with the reasons for happiness containing an element that goes beyond just the artistic value and historical interest of the sculptures themselves. Making Greek people happy is, other things being equal, a good in itself; but it is not clear why it should be a compelling reason for action in this case. Large numbers of British people would be made unhappy, the unhappiness being of a more straightforward kind, by the loss of the Marbles, and the same applies to many of the roughly six million visitors (most of them international) who come to the British Museum every year.

Nor is it such an unusual experience for a people to find that not all the objects which it endows with national symbolic significance are located within its own national borders. Greeks can hardly fail to understand this, given that the Parthenon's 'half-brother', the Hagia Sophia, is situated in the heart of Istanbul. No historical figure carries more symbolic significance for Albanians than Skanderbeg, the fifteenth-century leader who fought tirelessly against the Ottomans; he is their Joan of Arc, Napoleon and General de Gaulle rolled into one. Of the very few objects associated with him that survive, the most important is his magnificent helmet, ornamented in gold and dramatically surmounted by a bronze goat's head; it has appeared in all kinds of national iconography, including the design of banknotes. It rests in a museum in Vienna, and although Albanians would be very happy if it were returned to their country, there is no suggestion that their identity is harmed or wounded by its absence.

The Mona Lisa is surely the most famous and 'iconic' artwork ever produced by an Italian. It remains in Paris. The fact that it was probably taken to France by Leonardo himself should, in principle, make no difference to any Italians who might want to claim it for their country on 'identity' grounds. It certainly has been the focus of strong Italian national feelings in the past. An Italian worker at the Louvre stole it in 1911 and took it to Italy in 1913; arrested and tried, he was treated by many in the Italian media as a national hero. But Italians do not generally argue that their sense of identity requires it to be moved to Italy. For the English, works of national symbolic significance include the Bayeux Tapestry, made almost certainly by Anglo-Saxon embroiderers, but located in France since at least the fifteenth century. There is also the Holbein portrait of Henry VIII, perhaps the most 'iconic' representation of an English king; the only surviving painted version by Holbein is now in Madrid.⁸²

Even where the most symbolically important cultural objects are

82. One apparent exception to these examples is the rough block of sandstone known as the Stone of Scone, which was returned to Scotland in 1996. That did make some Scots happy; but it was the act of a United Kingdom government moving an object from one part of the country to another – and on the basis that the Stone would always go back to Westminster Abbey for coronations, as it also had symbolic significance for the country as a whole. So it is a very different kind of case.

concerned, many people can reasonably accept that the vicissitudes of history have been what they have been. The prophet Muhammad died in 632. The number of surviving Korans, or Koran fragments, that can be confidently dated to before 700 is very small, and almost all of them are located in non-Muslim countries – in places such as St Petersburg, Paris, the Vatican City, Birmingham and Tübingen. Reasonable Muslims fully accept this state of affairs, even though their feelings about the early history of their faith may, one fancies, be somewhat stronger than those of ordinary present-day Greeks about the culture of Periclean Athens.

‘Even if Elgin’s actions were not technically illegal, a historic wrong was committed, and that historic wrong should be righted’

The various reasons for claiming that Elgin’s actions were morally wrong have been analysed above, and found to be unconvincing. To consider this claim here may therefore seem superfluous. Beneath the surface of much present-day commentary on the Marbles, however, one often senses the presence of some large, though indeterminate, assumptions about ‘historic injustice’ and the need for corrective action. A more general point is worth making on this issue.

It is natural to think that correcting injustice must always be a good thing. But the question arises, prompted by the phrase ‘historic injustice’: how far back should we go? Within any normal legal system there are, in some areas, statutes of limitation and rights of prescription; the standard justifications for these are practical ones, to do with fading memories, disappearing documentation, deceased witnesses, the implications of a prolonged failure to lodge a claim, and so on. All of those points are valid; but there is a different, and deeper, point to be made about apparent wrongs which are ‘historic’.

Any reasonable person, opening a newspaper today and reading that the child or grandchild of someone whose property was seized by a totalitarian regime is still struggling to recover ownership of a valuable painting, may feel his or her blood boiling with indignation: a great wrong was done by means of an abuse of power, and the fact that it happened many decades ago does not temper its wrongness, given that members of the victim’s immediate or proximate family are still involved. Yet the same reasonable person, on visiting the Louvre, may look at a painting – such as the superb and colossal *Wedding Feast at Cana* by Veronese – which was in effect stolen from Italy by Napoleon and never returned, without feeling any sharp pang of human indignation at all. Is this just a case of hypocrisy and double standards? No. The difference expresses a basic intuition which is both deep and valid.

Many grave moral wrongs have been committed in the historic past (not just alleged wrongs, as in Elgin’s case), such as aggressive wars of conquest and the maltreatment of entire groups or populations. The basic intuition which most people share is, it should be emphasised, *not* a belief that the actions were somehow less wrong if they were done a long time ago; nor need it involve exculpating the actions on the grounds that they

were less wrong by the standards of the day. No, we can agree that the actions were as morally wrong then as they would be now; but what has changed is the power of those wrong actions to generate rights and duties – rights to be compensated, and duties to compensate. Rights and duties may well have existed to begin with, but (to put the same point another way) they then ‘faded’ over time.⁸³ I call this a basic intuition because, for example, no reasonable person demands compensatory or corrective action today for the invasive wars which criss-crossed Europe before the twentieth century. If we really had to seek ways of correcting the injustice of the Norman Conquest, or the Dissolution of the Monasteries, or a hundred other wrongs of that kind, our moral universe would become unnavigable.

Obviously there is no simple formula that can tell us what length of time is required for these issues to acquire ‘historic’ status. Active human justice, where the most important wrongs are concerned, must surely cover an entire lifetime where the victim is concerned, and the chain of direct human connections may lengthen that period to some extent. But if proud citizens of Venice can now stand in the Louvre and look with equanimity on what was generally thought to be the greatest artwork in the city when taken from it in 1797 (or indeed consider with the same equanimity the full-size replica of it which now occupies its former place in San Giorgio Maggiore), it should be possible to take a similar view of the sculptures which Elgin’s men began to remove just four years later.

‘Opinion polls show that the British people support the return of the Marbles’

In November 2021 Yougov conducted an opinion poll in which the following question was asked:

The Parthenon Marbles are a collection of Ancient Greek sculptures that were removed from the Acropolis in Athens from 1801–12 (when Greece was ruled by the Ottoman Empire) and have been on display in the British Museum since 1817. The Greek government has requested their permanent return, but the British Museum has refused. Where do you believe the Parthenon Marbles belong?

While 22% said ‘don’t know’, 59% answered ‘Greece’ and 18% said ‘Britain’.⁸⁴ There were no preliminary or supplementary questions, aimed at discovering, for example, whether the respondents had ever heard of the Marbles before. The findings of opinion polls are notoriously susceptible to the influence of nuances of phrasing, which may supply subliminal prompts. ‘Refused’ here sounds cold and peremptory; ‘but the British Museum has argued that it is better to keep them on display in a place where six million people a year can see them for free’ might have yielded a different result, by means of a prompt in the other direction. And the actual question, ‘Where do you believe the Parthenon Marbles belong?’, was rather curiously phrased. Some people in Arizona, if asked ‘Where do you think London Bridge belongs?’, might reasonably give

83. I take this term from the classic article by Jeremy Waldron, ‘Redressing Historic Injustice’, *The University of Toronto Law Journal*, 52:1 (2002), pp. 135–60 (see esp. p. 160: ‘Entitlements that fade with time, counterfactuals that are impossible to verify, injustices that are overtaken by circumstances...’).

84. <https://yougov.co.uk/topics/travel/survey-results/daily/2021/11/23/9b053/2>.

the answer ‘London’; but some of those same people, if asked whether it should therefore be removed from Arizona, might well say ‘no’.

Without the evidence of responses to much more detailed questioning, it is hard to know on what grounds many of the respondents answered ‘Greece’. The simplest basis for this view is probably the assumption, from everyday moral conduct, that if A has taken something from B, A should be made to give it back. To see how a historic situation such as that of the Marbles differs from that scenario, much more careful reflection is required. A significant amount of knowledge, of the kind set out in the foregoing pages, is also needed in order to make a properly valid judgement. The point of a representative democracy is that it entrusts legislators with the task of informing themselves in depth about the issues – both matters of fact and matters of principle – which are involved in major policy decisions. (The only exceptions, in modern UK practice, involve plebiscitary votes on fundamental constitutional issues, where the powers of the legislators themselves may be affected.) Important policy decisions cannot be shuffled off by the legislators onto snap opinion polls.

‘Sending the Marbles to Athens would improve relations between the British and Greek governments’

If such a major change is to be made, affecting what are probably the most famous works displayed in one of the world’s greatest museums, it should surely be made on the essential merits of the case, not on extraneous political considerations such as this. Attempts to instrumentalise the Marbles in this way, or else to use this sort of consideration as a pretext for transferring them, have been made quite often. The idea of promising the return of the Marbles in 1941 has already been mentioned; whether this would have made any difference to the Greek resistance to the Axis powers, which was sufficiently well motivated already, is a moot point. In 1986 Michael Foot MP, the former leader of the Labour Party, proposed returning the Marbles as a way of celebrating the impending bicentenary (1988) of Byron’s birth.⁸⁵ In 2002 supporters of return argued that it would be a nice gesture towards Greece to make the move in time for the Olympic Games in Athens in 2004.⁸⁶ The website of the ‘Parthenon Project’ declares today that ‘Britain can forge a new relationship with Greece through the reunification of the sculptures’, and that ‘This follows on from the Strategic Bilateral Framework signed by the UK and Greece in November 2021 to strengthen cooperation across the breadth of the UK-Greece relationship.’⁸⁷ Yet, as every experienced diplomat and politician knows, the goodwill generated by any such symbolic gesture lasts only until the next real cause for disagreement arises. Genuine, long-lasting good relations are based on more fundamental factors than this. Genuine, responsible decision-making about the Elgin Marbles should be based on different factors entirely.

85. Hitchens, *The Elgin Marbles*, p. 105.

86. See *The Guardian*, 13 November 2002, ‘Museum sinks hopes of marbles deal’: <https://www.theguardian.com/uk/2002/nov/13/education.highereducation>.

87. <https://parthenonproject.co.uk/#why-now>.

Arguments against return

The lines of argument discussed above have all been ones in favour of returning the Marbles to Greece. As we have seen, none of them is compelling. Where a major, disruptive change is proposed to a state of affairs which has been widely accepted in this country for two centuries, involving one of the country's most important institutions, the onus is clearly on the advocates for change to make a compelling case. So in practical terms it should be sufficient, for the purpose of justifying the retention of the Marbles, to note that such a compelling case has not been made. However, there are some other lines of argument, so to speak on the positive side of the ledger, in favour of retention. They can be briefly discussed here.

'The Elgin Marbles have also become part of the British cultural heritage'

This point was mentioned in passing above, but it bears repetition here. The British Museum has been one of the central institutions of British culture during the last two centuries, and the Marbles have been one of its core holdings – perhaps the most highly prized by its many visitors. For better or worse, it is a plain fact that they have entered into the culture of this country. The standard riposte to this point is that a mere 200 years is of no significance in the roughly 2,500-years-long history of the sculptures. But that is to ignore the important fact that 200 years constitutes the great majority of the period during which, in post-classical times, the sculptures have been seriously valued as works of art.

In her study of the Parthenon, Mary Beard writes that 'after 200 years the Elgin Marbles have a history that roots them in the British Museum as well as in Athens; and that history cannot simply be unwritten by a well-meaning gesture of "restitution" or "reunification".' She also quotes the statement made by the then Minister for the Arts, Alan Howarth MP, to the parliamentary Select Committee which considered the matter in 2000:

I understand the emotional importance ... to the Greek people of this case. I would also say with respect that we too in this country are heirs to the classical tradition. I would say that the diffusion of the classical culture of ideas, values and of physical relics and monuments over two millennia, has contributed in profoundly important ways to the history that has led to the emergence of the world that we have. It seems to me unthinkable that we should wish to reverse that process.⁸⁸

'The British Museum is a universal or encyclopaedic museum, and there is a special value in having such museums, rather than only national ones'

88. Beard, *The Parthenon*, pp. 199-200.

Museums in the modern sense do not have a very long history. Their forerunners, in the sixteenth and seventeenth centuries, were mostly small collections of curiosities; the development of the large public museum took place thereafter, and was connected with Enlightenment ideas about the ‘encyclopaedic’ organisation of universal knowledge, particularly the knowledge of humanity. There was also an Enlightenment ethos which required that universal knowledge be distributed universally, not just nationally. Hans Sloane, whose collection formed the basis of the British Museum, stipulated in his will that it was ‘for the Use of learned & studious men, as well natives, as foreigners, in their researches into the several parts of knowledge, yet being a national establishment ... it may be reasonable, that the advantages accruing from it should be rendered as general as possible.’⁸⁹

In 2002 the directors of eighteen major museums in Europe and the United States issued a ‘Declaration on the Importance and Value of Universal Museums’. The text made some important points: ‘The universal admiration for ancient civilizations would not be so deeply established today were it not for the influence exercised by the artifacts of these cultures, widely available to an international public in major museums’; and again, ‘museums serve not just the citizens of one nation but the people of every nation. Museums are agents in the development of culture, whose mission is to foster knowledge by a continuous process of reinterpretation. Each object contributes to that process.’⁹⁰ The Director of the British Museum, Neil MacGregor, was not one of the eighteen signatories; but a few weeks before this Declaration was issued, he had responded to the latest Greek request for the return of the Marbles by saying that they belonged to a ‘select group of key objects which are indispensable to the museum’s core function to tell the story of human civilisation’.⁹¹

Hostile critics denounced the Declaration, and its arguments, as just a device hastily assembled to ward off demands for repatriation; but the arguments were well-grounded ones, and had been implicit in the museums’ practice and policies for a long time. Not all the key arguments in defence of ‘universal museums’ were stated in that document, however. Two decades earlier, in 1983, the House of Lords had debated a Bill which would have endowed the Trustees of the British Museum with the power – which they then lacked, and still lack – to give objects such as the Elgin Marbles back to their countries of origin. The Chairman of the Trustees, Lord Trend (the former Cabinet Secretary, Burke Trend), said that the Trustees opposed the Bill:

they oppose it because they regard it as potentially damaging, perhaps irreparably damaging, to their main function of maintaining and enhancing a great universal museum ... I emphasise the word ‘universal’ because, although I think that there is no dispute about the excellence and the international reputation of the various individual collections in the museum – the Egyptian antiquities, the Classical antiquities, the mediaeval and modern collections, and so forth – ... nevertheless the museum is more than the sum of those

89. Cited in T. Jenkins, *Keeping the Marbles: How the Treasures of the Past Ended up in Museums ... And why they should Stay there* (Oxford, 2016), p. 55.

90. The text is printed in Merryman, ed., *Imperialism, Art and Restitution*, pp. 34-6; here p. 35.

91. <https://www.theguardian.com/uk/2002/nov/13/education.highereducation>.

*individual collections. It aims to present an integrated picture of the stages in the development of various civilisations of the world and their indebtedness one to another, and it has the kind of physical integrity which comes from that kind of concept of human history.*⁹²

That last point, on the importance of supplying visitors with a conspectus of cultures and civilisations which enables them to make comparisons, connections and contrasts, was rather lacking from the 2002 Declaration; yet it is surely the most important aspect of major museums of this kind. It is with this aspect in mind that, over recent decades, the terminology has shifted from ‘universal’ museums to ‘encyclopaedic’ museums; some have felt that the former term might imply trying to make everything fit universal categories, whereas the latter term allows for distinct identities as the starting-point for comparative study.⁹³ As Neil MacGregor puts it, the British Museum

*has surrendered its eighteenth-century definition of universality, it has developed a new identity as a collection of the cultures of the world, ancient and modern. The Museum remains a unique repository of the achievements of human endeavour, and there is no culture, past or present, that is not represented within its walls. It is truly the memory of mankind.*⁹⁴

In practice, however, as Trend’s remarks show, the users of these terms have been talking about essentially the same function and value.

To be able to walk from a gallery of ancient Greek art to one of ancient Assyrian or Egyptian civilisation, or from Indian art to Chinese to Japanese, opens up, in the form of direct experience, possibilities which might otherwise be the preserve of scholars, or of a cultural elite of dedicated visitors to multiple museums in multiple countries. This is an extraordinary benefit. As Kwame Anthony Appiah has said: ‘You have a good sense of the range of what human beings have done. That is what you get in the great encyclopedic museum. You get to think about the relationship between the material objects and symbolic life over the whole range.’ Or, in the words of Grayson Perry, whatever you are looking for, ‘You will find it in the encyclopedic museum, because it is so vast. It is the purpose of that museum to enable you to have that broad range of experiences and possibilities: in there everything is possible, for you and for others.’⁹⁵

Such museums may also have something to teach us a deeper level. As Nicholas Penny, a former Director of the National Gallery, has written, ‘these institutions are far better designed than truly national collections could be to perform the vital civilizing job of ... encouraging us to love things without having to pretend that they were made for us, to take an interest in other people’s ancestors [sc. rather than just our own].’⁹⁶ Essentially the same point has been made with real feeling by James Cuno, a former Director of the Art Institute of Chicago:

As cosmopolitan institutions, presenting representative examples of the world’s artistic legacy, they promote tolerance and understanding of difference; encourage

92. Hansard, vol. 444, cols. 405-6, 27 October 1983: [https://hansard.parliament.uk/Lords/1983-10-27/debates/c778abed-fd0b-44ad-a446-2aa69fcf7ec7/BritishMuseumAct1963\(Amendment\)BillHl](https://hansard.parliament.uk/Lords/1983-10-27/debates/c778abed-fd0b-44ad-a446-2aa69fcf7ec7/BritishMuseumAct1963(Amendment)BillHl).

93. See D. Grau, ‘The Encyclopedic Museum: A Catchphrase, a Concept, a History’, in D. Grau, ed., *Under Discussion: The Encyclopedic Museum* (Los Angeles, 2021), pp. 1-15, esp. pp. 4-5.

94. Cited in Jenkins, *Keeping their Marbles*, p. 226.

95. D. Grau, ed., *Under Discussion: The Encyclopedic Museum* (Los Angeles, 2021), pp. 47, 190.

96. Cited in Greenfield, *The Return of Cultural Treasures*, pp. 296-7.

identification with others, a shared sense of history, and the recognition that a common future is at stake; and stand as evidence against the political proposition that cultures can be essentialized and ‘national’, fixed manifestations that pit one state-based identity – one people – against another.⁹⁷

‘Sending the Marbles to Greece would set a harmful precedent’

Whenever this argument is presented, advocates of return say that significant cases have occurred in the past of cultural objects being returned to their country of origin without causing a flood of new requests. The most commonly cited examples are the return of an important collection of manuscripts to Iceland from Denmark in 1971, and that of the Obelisk of Axum to Ethiopia from Italy in 2005. The former was a rare case of a fully consensual repatriation of legally acquired objects; this took place between two countries whose cultures were closely interrelated, sharing a common inheritance derived not least from the early texts that were preserved in those manuscripts. The obelisk, however, was in a very different category, having been taken by Mussolini’s forces in 1937. Of other objects handed over in well-publicised returns in recent decades, by governments or individual institutions, some were reasonably suspected to have been stolen, and many had been acquired by colonial powers from people subjected to them.⁹⁸

The return of the Elgin Marbles to Greece would have a much greater impact than any of these. Britain did not take the Marbles from Greece as a colonial power; it did not seize them as war booty; indeed, as we have seen, they were acquired legally, and it is clear that by being so acquired they were saved from significant further damage or even, in part, destruction. To return major artworks with this kind of back-story would be to open the gates of repatriation significantly wider than they have been set before. The Marbles are perhaps the most important group of objects in the British Museum. And it is a simple fact that they constitute the most famous disputed case of this kind in the world; they feature prominently, often primarily, in every standard discussion about the return of cultural objects. If any single conceivable act of repatriation can set a major precedent to which all future claimants will automatically appeal, it is this one.

On the other side of the floodgates, pressure has been building up. A few representative examples must suffice here. In 1982 the Greek government put in a request for the return of the Venus de Milo from France. Egypt claims the Rosetta Stone from the British Museum, the bust of Nefertiti from the Egyptian Museum in Berlin, and other items from Paris and Boston. Both Pakistan and India have asked Britain for the return of the Koh-i-noor diamond; India has also submitted lists of objects and artworks for return by Britain; Sri Lanka has sent similar lists to Britain, France, Holland, Austria, Belgium, Germany and the United States. Ethiopia continues to request the return from Britain of items taken from Magdala (Maqdala) in 1868. Turkey has requested from the British Museum the return of the Samsat Stele (a historic carved stone slab from the first century BC), and

97. J. Cuno, *Museums Matter: In Praise of the Encyclopedic Museum* (Chicago, 2011), p. 84.

98. See for example the listing in Greenfield, *The Return of Cultural Treasures*, pp. 260-7.

of sculptures from the Mausoleum at Halicarnassus.⁹⁹ A campaign for the return of the Benin bronzes to Nigeria has been under way for some time, with partial, but apparently accelerating, success.

As that last example reminds us, the debate about returning objects from former colonial powers to territories which they had conquered or colonised is constantly growing in intensity. It received a new impetus in 2017, when Emmanuel Macron gave a speech in Ouagadougou, the capital of Burkina Faso, declaring his desire to arrange within the next five years 'temporary or permanent restitutions of the African heritage to Africa'; French museums were then ordered to draw up inventories of items for possible return.¹⁰⁰ Pressure to 'decolonise' European collections has increased, is increasing and will increase. In practical and psychological terms, it will hardly matter that Elgin was not exercising any colonial power at all when he acquired the Marbles. The old assumptions about the validity and permanence of museum collections are under pressure; as a result, non-colonial objects of all kinds may become more vulnerable to claims for repatriation. In these circumstances, the return of the Marbles could only be taken as strengthening those claims, and greatly increasing the vulnerability.

One rather large straw in the wind should, finally, be mentioned. In 2019 President Xi Jinping of China, on a visit to Athens, was asked by the President of Greece for his help in the 'battle' for the return of the Marbles. Xi replied that he 'totally agreed' that they were held illegally in Britain, and added: 'Not only will you have my support ... we should work together. Because we have a lot of our own relics abroad, and we are trying as much as we can to bring these back home as soon as possible.'¹⁰¹

99. Greenfield, *The Return of Cultural Treasures*, pp. 126 (Venus), 150-5 (Pakistan, India, Sri Lanka); Herman, *Restitution*, pp. 54-5 (Magdala); Jenkins, *Keeping their Marbles*, pp. 204-5 (Turkey).

100. See F. Sarr and B. Savoy, *Restituer le patrimoine africain* (Paris, 2018), p. 11 ('des restitutions temporaires ou définitives du patrimoine africain en Afrique').

101. Herman, *Restitution*, pp. 52-3.

Chapter 6: The present situation

Official positions

The official position of the Greek government on this issue has not changed; it is that the Elgin Marbles rightfully belong to Greece. (As we have seen, in January 2023 the Ministry of Culture in Athens described them as acquired by ‘theft’.) However, for a long time now Greece has chosen not to make a formal legal claim, hoping to achieve the desired result by persuasion – of the British government and the British public – instead. In 2000 the Greek Minister of Culture, Theodoros Pangalos, made a conciliatory statement: ‘There is no legal claim against anyone in this case and no adjudication is required ... Who owns the sculptures is unimportant, irrelevant and immaterial. What matters is where they are and where they should be. On this point I believe that we have a very strong case, which is the continuity and the integrity of the unique monument known as the Parthenon.’¹⁰² It must be noted that calling the question of ownership unimportant and irrelevant did not mean abandoning the view that Greece is the rightful owner and the British Museum the illegal possessor; it simply meant that, while it was pursuing a different tactic to secure the return of the Marbles, the Greek government was prepared to put this issue to one side.

In 2013 Greece again turned to the UNESCO-sponsored Intergovernmental Committee, asking it to mediate. But this attempt had no more success than the previous one.

The official position of the British government also remains unchanging. When, in a parliamentary question in 2012, the Minister for Culture, Communications and Creative Industries, Ed Vaizey MP, was asked whether the government had discussed the future of the Marbles with the British Museum, he replied: ‘I have had no such discussions. Issues relating to the ownership and management of the Parthenon sculptures are matters for the trustees of the British Museum.’¹⁰³ The Museum is indeed an institution at ‘arm’s length’ from the government, receiving funding but not being subject to executive direction. When UNESCO approached Britain with the Greek request in 2013, it received (eventually) two formal letters of reply. One was from the Trustees of the Museum, which said:

102.<http://www.parthenon.newmentor.net/greece.htm>.

103.Parliamentary questions, 19 October 2012: <https://publications.parliament.uk/pa/cm201213/cmhansrd/cm121019/text/121019w0006.htm#1210227000146>.

*The British Museum ... is not a government body, and the collections do not belong to the British Government. The Trustees of the British Museum hold them not only for the British people, but for the benefit of the world public, present and future. The Trustees have a legal and moral responsibility to preserve and maintain all the collections in their care, to treat them as inalienable and to make them accessible to world audiences.*¹⁰⁴

The other was from Ed Vaizey and the Europe Minister, David Lidington MP, on behalf of the government. It said:

*We have seen nothing to suggest that Greece's purpose in seeking mediation on this issue is anything other than to achieve the permanent transfer of the Parthenon sculptures now in the British Museum to Greece and on terms that would deny the British Museum's right of ownership, either in law or as a practical reality. Given our equally clear position, this leads us to conclude that mediation would not carry this debate substantially forward.*¹⁰⁵

Although rather curtly phrased, this statement did make a significant point which is relevant to ongoing debates on the issue. It is easy for one side in such a dispute to call on the other to make 'compromises', or to be 'constructive', in order to 'solve the problem'. But in a dispute of this kind, the very opinion that there is a problem is the view of one side only. If, when your neighbour asks you to give him a valuable antique from your home, you decline to do so, and if he then says that a problematic situation has arisen and calls on you, or a mediator, to come up with a constructive solution, you may be forgiven for thinking that the whole rhetoric of his approach is prejudicial.

The legal position of the British Museum

The Museum is governed by its Trustees, and their powers and duties are set out in the British Museum Act of 1963. Their primary duty is to preserve and conserve the items in the collection. Section 3(1) states that 'it shall be the duty of the Trustees of the British Museum to keep the objects comprised in the collections of the Museum within the authorised repositories of the Museum, except in so far as they may consider it expedient to remove them temporarily for any purpose connected with the administration of the Museum and the care of its collections.' The 'authorised repositories' are the Museum site itself and a number of other buildings in the United Kingdom. (They are specified in a schedule to the Act; the Secretary of State has the power to add other locations to that list by statutory instrument.) And as the Museum is not just a place of conservation, but also an educational facility for the public, the Trustees are also obliged (section 3(3)) 'to secure, so far as appears to them to be practicable, that the objects comprised in the collections of the Museum ... are, when required for inspection by members of the public, made available in one or other of the authorised repositories.'

Since the primary duty is to preserve the collection, the powers of the Trustees to get rid of objects are strictly limited. Section 5 permits them to do this to items which are duplicates (examples might be coins), post-1850 printed works of which the Museum now has photographs or microfilms,

104. Cited in J. Woodhouse and S. Pepin, *The Parthenon Sculptures*, House of Commons Library briefing paper 02075 (2017), pp. 3-4.

105. *Ibid.*, p. 4.

items which are ‘unfit to be retained in the collections of the Museum and can be disposed of without detriment to the interests of students’ (where, it should be noted, ‘students’ has its more general, old-fashioned sense of any people engaged in the serious study of the items), and objects which are ‘useless for the purposes of the Museum by reason of damage, physical deterioration, or infestation by destructive organisms’.

None of these categories could possibly include the Elgin Marbles. So, as every successive generation of Trustees has accepted, the Museum does not have the power to give them away. For the Marbles to be given up by the Museum, a new Act of Parliament would be required – either an Act which gave the Trustees such an extension of their powers and left them to decide whether or not to use it (as was proposed in the 1983 Bill), or an Act which directly decreed the move to Athens. Since the latter would involve something akin to the expropriation of the Museum’s property, legislative scruples would probably favour the former.

The one major exception to the requirement to keep objects in the authorised repositories of the Museum concerns the power of the Trustees to lend objects to other museums or exhibitions. As this is an exception to the primary rule, it is hedged about with qualifications. They are set out in Section 4 of the Act:

The Trustees of the British Museum may lend for public exhibition (whether in the United Kingdom or elsewhere) any object comprised in the collections of the Museum:

Provided that in deciding whether or not to lend any such object, and in determining the time for which, and the conditions subject to which, any such object is to be lent, the Trustees shall have regard to the interests of students and other persons visiting the Museum, to the physical condition and degree of rarity of the object in question, and to any risks to which it is likely to be exposed.¹⁰⁶

‘Lend’ means passing the object to another institution on the understanding that the ownership of the object remains entirely with the British Museum, and that the object will be returned as agreed. ‘Determining the time for which’ means just that: the time for the return of an object must be determined, which excludes an undetermined, open-ended, potentially permanent arrangement. The phrase ‘have regard to’ allows for the exercise of some discretion on the part of the Trustees, but only within the statutory criteria. The more likely ‘students’ and other visitors are to want to see the object in the Museum, the more delicate the physical condition and the greater the rarity of the object, or the larger the risks to which it might be exposed, the more reluctant the Trustees should be to lend it. And if an object is to be lent, the more demand there is to see it in the British Museum, the shorter the period of the loan should be.

¹⁰⁶For this and subsequent quotations see <https://www.legislation.gov.uk/ukpga/1963/24/contents>.

Loans: policy and practice

Over the years, the Trustees have developed their own more specific policy on loans, which is set out in a formal document. Insofar as its detailed contents can be changed by decision of the Trustees, it is not a binding document for them in anything more than a provisional sense. In any case it does not give them extra powers, but merely expresses some principles and criteria for the exercise of the powers allotted to them by the British Museum Act of 1963. As it correctly says, ‘No loan can be made that overrides the intentions of the Act.’¹⁰⁷

Let us just note in passing that one of its provisions states: ‘The Trustees of the British Museum will not make loans in circumstances that would be damaging to the Museum’s standing and reputation.’ The intense public controversy that would arise from any long-term loan of the Elgin Marbles to Athens may not be the sort of thing that the Trustees had in mind when they drafted this clause, but it is surely something they are duty-bound to consider. While some people would applaud the action, many would think that it was seriously damaging to the standing and reputation of the Museum, not least in its position vis-à-vis other major museums of the world and its relations with them.

Another provision of the policy says: ‘The Trustees of the British Museum will lend only in circumstances when the perceived risk to the object is considered reasonable and when the borrower guarantees that the object will be returned to the Museum at the end of the loan period.’ To have such a ‘guarantee’ from the borrower is obviously of fundamental importance. But while it is necessary, it may not always be sufficient, as other factors might intrude, weakening or removing its value. If there is a real risk of non-return – whether because the relevant authorities do not actually intend to fulfil their promise, or because, even though their intention is genuine, the return can be thwarted by others – the loan should not be made, as such a risk represents an existential threat to the Museum’s possession of the object.

It is possible to imagine a scenario in which the Greek government guarantees the return of the Marbles from Athens after a one-year loan period, but the process of removal from the Acropolis Museum is then blocked by mass protests, leading the Greek authorities to say that their promise has fallen victim to *force majeure*. Another possible scenario would involve legal action, taken by individuals or organisations in Greece. Such action might delay interminably the return of the Marbles to London, or might well lead to a ruling by a Greek judge that they should not be returned at all. That last risk is a significant one. As the former Supreme Court judge Lord Sumption has warned in a recent discussion of the proposal to lend the Marbles to Greece: ‘Once they leave, their fate will depend on the law of the place where they are located.’¹⁰⁸ And, given the well entrenched views on the Marbles in Greek culture and society, the possibility of a judge forbidding their return to London would need to be taken very seriously, whatever the stated position of the Greek government and the Acropolis Museum might be.

107. For this and subsequent quotations see https://www.britishmuseum.org/sites/default/files/2019-11/British-Museum-Loans-Policy-approved-07-11-19_0.pdf.

108. *The Spectator*, 25 February 2023, p. 9.

It is true that the loans policy document does specify that ‘the Trustees will normally expect the borrower to provide assurance of immunity from judicial seizure or comparable assurance from a government body or representative of appropriate authority.’ But the situation in Greece vis-à-vis the Marbles is a special one, where public opinion, easily stimulated by nationalist appeals in the media, might be mobilised to overwhelm or neutralise – whether physically, as suggested above, or by political action – whatever assurances the government had previously given. And it is not clear what kind of immunity from judicial seizure could be provided here by a government which is ultimately required to respect the independence of the judiciary, unless it were to resort to special legislation.

Interestingly, this loans policy document also sets out a rule to be followed by the Trustees when requesting loans from other institutions for exhibitions at the British Museum. It says:

In requesting loans the Trustees of the British Museum will observe the same principles as those which they apply to outgoing loans and acquisitions. In particular the Trustees will not accept the loan for display or exhibition of any object where they have good cause to believe that:

- the current holder is not legitimately entitled to retain the object...

Although it is not clear how far the principle of reciprocity expressed in the first sentence here should be taken to extend, a similar consideration must also make the Trustees extremely reluctant to lend objects to an institution whose directors (and, above them, political rulers) are apparently committed to the view that the British Museum is not the legitimate owner of those objects. In 2006, when the British Museum lent more than 270 objects to the Capital Museum in Beijing, not one of the objects was Chinese. The director of that museum was quoted as saying, in relation to some Chinese items: ‘If we exhibited these items it would imply that we recognised their ownership.’¹⁰⁹ That made it sound as if the reluctance came from the Chinese side; but it must surely have been fully reciprocated.

Finally, it is worth noting that within the last decade there has been a slight shift in the Museum’s policy where the lending of the Elgin Marbles is concerned. In 2002 the then Director, Neil MacGregor, ruled this out categorically, when he said that since the Marbles belonged to a ‘select group of key objects which are indispensable to the museum’s core function to tell the story of human civilisation’, they ‘cannot be lent to any museum, in Greece or elsewhere’.¹¹⁰ In 2014, however, one statue (of the river-god Ilissos, from the west pediment) was lent for several months to the Hermitage Museum in St Petersburg. This was the first – and hitherto the only – loan of one of the Marbles to any institution, whether abroad or in the UK. On this precedent, other individual items could be lent in future, or perhaps even a small group of items.

109. J. Cuno, *Who Owns Antiquity? Museums and the Battle over Our Ancient Heritage* (Princeton, New Jersey, 2008), p. 102.

110. <https://www.theguardian.com/uk/2002/nov/13/education.highereducation>.

It was pointed out above that the wording of the 1963 Act shows that indefinite ‘loans’ are not permitted. Within the last two decades, news reports have stated that the British Museum has made two long-term arrangements. One of these concerns the Lewis chessmen, the famous twelfth-century figures carved from walrus ivory which were originally found on the island of Lewis in 1831. It was reported in 2015 that a small number of these would be sent to the newly established Museum of the Western Isles (Museum nan Eilean) on the island, on a so-called ‘permanent loan’.¹¹¹ The precise terms of the arrangement were not given. But a likely model for them was provided in 2003, when the British Museum agreed to lend a ceremonial mask which had been confiscated from the people of northern Vancouver Island in 1921. By 2003 many of the other items confiscated at the same time had been returned from other institutions, in Canada and the United States, to the U’mista Cultural Centre on the nearby Cormorant Island. The British Museum agreed in principle to make a series of three-year loans (that period being, apparently, the maximum set by its policy at the time), with a new loan being requested and granted when each three-year period expired. The mask was finally sent to the Cultural Centre in 2005; twelve years later it was recalled to the British Museum for an exhibition, but it was then returned to the Cultural Centre.¹¹²

Such an arrangement surely does not satisfy the requirements of the British Museum’s loans policy document, which, as quoted above, says that ‘The Trustees of the British Museum will lend only ... when the borrower guarantees that the object will be returned to the Museum at the end of the loan period.’ Indeed, it may be doubted whether it satisfies the terms of the 1963 Act, which sets out a clear primary duty to keep items in the British Museum and its authorised repositories (which means in practice buildings owned or rented by the Museum in the UK), a duty to which lending items for exhibition elsewhere forms a temporary, because time-limited, exception. Even if a particular instance of one loan being succeeded by a follow-up loan is reconcilable with the Act, an arrangement which envisages from the outset that there will be a potentially indefinite succession of such renewals would seem to be contrary to the basic idea of a loan as it is presented in Section 4 of the Act.

But it is important to stress that whether or not the terms of the 1963 Act have been complied with on some previous occasions does not set a legal precedent. It may be that issues were not raised in relation to those earlier arrangements because of circumstances particular to them, including the relative importance of the objects concerned. The nature of each situation depends on its own facts, to which the unchanged terms of the statute must be strictly applied.

Current proposals

For many years, organisations such as the British Committee for the Reunification of the Parthenon Marbles have campaigned for the full return of the Marbles to Athens. Their position remains the same.¹¹³ Reasons for

111. <https://www.scotsman.com/regions/inverness-highlands-and-islands/lewis-chessmen-pieces-returned-ug-1495679>.

112. Herman, *Restitution*, pp. 37-42.

113. <https://www.parthenonuk.com/the-case-for-the-return>.

rejecting this have been given above.

The recently established campaign group ‘The Parthenon Project’ has the same goal, and revives the proposal made in the 1983 Bill: the British Museum Act should be amended to give the Trustees the power to hand over the Marbles to Greece. By way of quasi-compensation, and in order to offer a ‘constructive’ proposition for the achievement of a ‘deal’, the group also proposes that the emptied Duveen Gallery should then be filled by a sequence of loan exhibitions from Greek museums: ‘a new exhibition would be staged every few months ... The first could be of Mycenaean artefacts, the next from Classical Greece, then an exhibition on Philip II and Alexander the Great, another on the Hellenistic world, the next of Greek culture in the east and so on.’¹¹⁴

One is entitled to ask whether, since the Elgin Marbles will be perpetually absent, it will really be possible to keep up such a succession of new exhibitions in perpetuity; certainly the phrase ‘every few months’ makes one think that the drafters of this proposal are not experienced museum curators. There is also the question of whether the attitude of hostility in Greece towards allowing important Greek antiquities to leave the country, which was discussed above, has entirely disappeared. Above all, one must doubt whether the large international public which currently flocks to see the world-famous Marbles, in the knowledge that they are more or less the historic centrepiece of the entire British Museum collection, would regard these temporary exhibitions as an adequate substitute. But in any case the idea of these exhibitions is just a supplementary proposition; the main idea is to return the Marbles, so the fundamental objections outlined above apply equally to this proposal.

Since the summer of 2022, a steady stream of hints, comments and briefings has flowed from George Osborne, the Chairman of the Trustees of the British Museum, about a possible new deal which will solve this whole ‘problem’. What appears to be the best informed account of this plan was given by Charles Moore in the *Daily Telegraph* on 10 January 2023:

*The Osborne proposal is a loan. To avoid the accusation that nothing lent to Greece would return, he proposes what amounts to mutual hostage-taking. In return for housing a sizeable fraction of the Elgin Marbles for, say, five years, the Athens museum would lend the British Museum some of its finest objects for the same period. The hope is to establish a model of mutual lending which would get round the need to talk about ownership at all.*¹¹⁵

This followed a report on Bloomberg.com, on 3 January 2023, which said: ‘An agreement would see a proportion of the marbles sent to Athens on rotation over several years, according to people familiar with the matter, who declined to be identified because a deal hasn’t been sealed.’¹¹⁶ Yet it was in response to that news report that the Greek Ministry of Culture issued its hostile statement on 5 January, ‘We repeat, once again, our

114. <https://parthenonproject.co.uk>.

115. *Daily Telegraph*, 10 January 2023.

116. <https://www.bloomberg.com/news/articles/2023-01-03/parthenon-marbles-may-return-to-greece-in-exchange-deal-with-uk?leadSource=verify%20wall>.

country's firm position that it does not recognize the British Museum's jurisdiction, possession and ownership of the Sculptures, as they are the product of theft'; and the point of that statement, clearly, was to reject any possibility of a loan arrangement, since the Greek side could receive the sculptures as a loan only if it formally recognised the British Museum's ownership of them.¹¹⁷

During the following month, a further report in the *Telegraph* described the situation as follows:

Mr Osborne has confirmed that the museum is working with Greece to devise a deal that could see the contested pieces shared between London and Athens without imposing 'impossible' demands on either side in the long-running dispute. His comments come after Greek sources told The Daily Telegraph that a 'hybrid' arrangement would be necessary to avoid breaching UK law – which prevents the British Museum handing over artefacts – while also respecting Greece's total rejection of a 'loan deal'.¹¹⁸

There would seem to be a fundamental problem with this scheme. The only basis on which any of the Elgin Marbles could go to Greece is a loan. The Greek authorities have repeatedly made clear that they will not agree to a loan (an objection which is, to them, substantial and not just semantic). That would appear to close the matter.

Even it were to be argued that the arrangement is in substance a loan, while one party is adamant that it is not, there are many things that are unclear here, including the timescale of the transfer and return of any particular objects (five years hugely exceeds the normal period for an exhibition, and goes significantly beyond the three-year maximum mentioned above), and, very importantly, the size of the 'sizeable' proportion of the Marbles concerned. It must also be doubted whether responsible curators could possibly accept the idea of a regular 'rotation' of significant numbers of the Marbles between London and Athens, when each process of taking down, packing, transporting, unpacking and setting up an item carries at every stage its own risk of damage to the item itself.

But the most unclear thing of all is the concept of a so-called hybrid arrangement, as suggested by the second report. Note that the purpose of that arrangement, according to those 'Greek sources', is 'to avoid breaching UK law – which prevents the British Museum handing over artefacts'. What the law totally prohibits is the Museum handing over such artefacts indefinitely. If the purpose or effect of the hybrid arrangement were somehow to achieve an indefinite transfer, it would clearly be the duty of the Trustees to reject it, no matter how cleverly it had been devised to try to get round the law.

If, on the other hand, we follow Lord Moore's characterisation of George Osborne's plan, then the idea that it can be put into a 'hybrid' form in order to meet the Greek requirements can only be described as immensely puzzling: the arrangement will involve 'lending' the objects for a substantial period to the Acropolis Museum, without that arrangement being a loan. Squaring the circle is a problem which, by a pleasing

117. <https://www.artnews.com/art-news/news/greece-rejects-parthenon-marbles-loan-plan-statement-1234652854>.

118. *Daily Telegraph*, 17 February 2023.

coincidence, was first tackled (allegedly) by the philosopher Anaxagoras, who lived in Athens in the fifth century BC and may have witnessed the building of the Parthenon. It took roughly 2,300 years for mathematicians to prove that that problem was insoluble. In this case, the proof may come much more quickly.

As for the idea of ‘mutual hostage-taking’: while the phrase itself would doubtless not be employed, Lord Moore’s formulation surely does express the essential nature of that aspect of the plan. The idea that if Greece asserts a claim of right over items from the British Museum which are temporarily in its possession, the British Museum should respond by withholding items from the Acropolis Museum which are in its possession (to which it has no claim of right beyond the one conferred by a hostage-taking agreement), may strike some people as troubling; and in any case it does prompt the question of what antiquities Greece could possibly send to London that would be regarded as equal in aesthetic and historic value to the Marbles.

If making provision for this scenario is a necessary part of the plan, that must imply that without it, Greece would not be trusted to send the objects back. But if such trust really is lacking, how can responsible Trustees agree to send the objects at all?

Conclusion

Is the whole issue of the Elgin Marbles an insoluble problem? Yes and no. Yes, because none of the 'solutions' discussed above is justifiable. No, because the 'problem' is not in fact a problem; or, to put it more precisely, it will seem a problem only to those who adopt a set of arguments and claims, promoted by the Greek side and its no doubt altruistic supporters, which do not amount to a justified case. Not all of those arguments are worthless; some weight has been given to some of them above. But what is not justified is the idea that, overall, they can outweigh the reasons for leaving the Elgin Marbles where history placed them long ago – in the British Museum in London.

This does not mean that a small number of the sculptures cannot be sent, exceptionally, for temporary exhibition at some other institution, either in the UK or in another country. What the present situation does mean, unfortunately, is that the one country whose desire to exhibit them raises a truly insoluble problem is Greece, precisely because of the claims it makes.

Recommendations

1. There should be no change to the British Museum Act of 1963. The provisions offer a proportionate framework for the governance of British Museum and the protection of its collection.
2. The government should state its explicit support for the Trustees in maintaining the British Museum's collection, and in particular, retaining the Elgin Marbles in an institution where they will be seen by the greatest number of people, for free.
3. The British Museum should not make any loan or other transfer of any of the Elgin Marbles to Greece, unless the following four conditions are met:
 - a. The Greek government must formally and publicly acknowledge the British Museum's ownership of the marbles, via the submission to UNESCO of a formal recognition of the British Museum's ownership.
 - b. The loan should be for a fixed time period, comparable with the typical length of other loans of famous items from the collection which are highly sought after by visitors to the British Museum.
 - c. The Trustees should be certain that there is no risk of the Marbles being detained in Greece by popular or judicial action.
 - d. The Trustees should publish any legal advice the British Museum receives on whether such a loan would be compatible with the British Museum Act and their duties as Trustees.
4. The British Museum's loan policy document should be updated. In particular, section two should be amended to state that no item will be loaned to an exhibition, museum or other institution which a) does not formally recognise that the British Museum is the legitimate owner of that item, or b) is located in a country whose government does not formally recognise that the British Museum is the legitimate owner of that item.

Executive Summary

The Elgin Marbles were obtained by Lord Elgin in Athens in the early 19th century. They are owned by the British Museum, which has exhibited them for more than 200 years; and they are widely regarded as the most important items in its entire collection.

Over the last 40 years, the Greek government has been calling for their return to Athens. Reportedly, the Museum is now negotiating a deal involving some kind of long-term partial loan. So there are three options: keep, lend, or return. In this authoritative study, the eminent historian Sir Noel Malcolm analyses all the issues involved. He finds that:

- the claim that Elgin's removal of the sculptures was illegal is false;
- the claim that his actions were invalidated by coercive bribery is false;
- the claim that he acted against the clear wishes of the Greek community is certainly unproven and probably false;
- the claim that his actions saved the Marbles from an ongoing process of serious damage, dispersal and destruction is certainly true.

Where current arguments in favour of the return of the Marbles are concerned, he finds that:

- the claim that this would reassemble the original artwork is false;
- the claim that Greek identity is essentially harmed by their absence from Greece is greatly exaggerated.

Where current arguments in favour of keeping the Marbles are concerned, he finds that:

- over more than 200 years they have become part of Britain's cultural heritage;
- their removal would harm the status of the British Museum as a universal or encyclopaedic museum of world cultures;
- their removal would be treated as a precedent for many future returns of objects.

Where the idea of a long-term loan to Athens is concerned, he finds that:

- the British Museum must not lend items to a country or institution which does not recognise the Museum's valid ownership of those items;
- whatever promises Athens makes, or whatever items it offers in temporary exchange, the risks that the Marbles will not be returned to London are too great.

He concludes: 'the one country whose desire to exhibit them raises a truly insoluble problem is Greece, precisely because of the claims it makes.'

He recommends that:

- the government should affirm its support for retaining the Marbles, and should make no change to the current law, which does not permit the Museum to give them away;
- the Museum should revise its loans policy, explicitly excluding loans to countries which do not recognise the Museum's ownership of the objects concerned.



£10.00
ISBN: 978-1-910812-

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