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Case Study: Issues With Provenance

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One of the most important functions of a museum is to house collections that have aesthetic, documentary, or scientific value to the understanding of humanity and its heritage. Each museum creates its own policies for the collections of items that help to further its mission of serving and educating the public on subjects related to those items. Although museums historically obtained their collections through fieldwork and expeditions, more items presently are being acquired through gifts and endowments from individuals or organizations.¹ To accommodate this, broader experts within professional organizations such as the American Alliance of Museums (AAM) have been working for the last few decades to create legal and ethical standards for collecting to ensure that the items in question have been obtained properly and can be continued to be taken care of in the future.

The primary way to establish whether a piece has been obtained through proper channels is to research its provenance. Provenance refers to the history of an artwork or object's creation and possession, including its origin, past ownership, sales timelines, and previous locations.² The process of establishing provenance requires a great amount of research. Curators read books, study archival documents, collaborate with museum curators and art dealers from other institutions, and research collection items or items-to-be on the internet to narrow down their history.³ Even general details like the object's function, form, and cultural and historical context offer clues on where to search next. Unfortunately, this process can be extremely difficult to navigate. Records of ownership have been lost to conflict or natural disaster, and certain archival information can be difficult to access or remains undiscovered. The creation of forgeries and the existence of the underground art market adds more complex layers to the process.

When an item's provenance is in question, museums have to determine what to do next. Many museums over the years have focused on returning certain stolen pieces, particularly Jewish artwork and religious items that were stolen by Nazis in World War II or items that were illegally sold at auctions. However, one area of provenance that has caused significant controversy is when objects in museums' collections were taken from other countries centuries

¹ Alexander, Edward P., et al. *Museums in Motion - An Introduction To The History and Functions of Museums*. 3rd ed., Rowman & Littlefield, 2017.

² "Research on Museum Collection Provenance." The J. Paul Getty Museum, Getty, www.getty.edu/museum/provenance/index.html. Accessed 7 Nov. 2023.

³ "Research on Museum Collection Provenance," The J. Paul Getty Museum, 2013.

ago before legal and ethical standards were established. More and more states are asking for the return of these items to their home nations and/or cultures to take residency in local museums and cultural institutions. However, there is a contentious debate over whether the items should be returned or not based on how and when they were obtained, the damage their loss would be to the current holding museum's collections, and the state of the country they are being returned to.

The clearest example of the culmination of this debate is the British Museum. Their policy on governance is to “hold a collection representative of world cultures and to ensure that the collection is housed in safety, conserved, curated, researched, and exhibited.”⁴ In terms of creating an encyclopedic collection, they have achieved that goal. However, a healthy portion of their collection was acquired during the age of empire where those with the means plundered other countries and cultures for their antiquities and heritage items. These include objects like the Parthenon marbles (also known as the Elgin marbles) from ancient Greece, the Benin bronzes from the West African Kingdom of Benin, and the Ethiopian tabots.⁵ While these countries have been asking for their items back for a long time, they have pushed more urgently in the last couple of decades.

The British Museum has always cited two main arguments when confronted with the possibility of returning items. One of these is a legal argument, using the British Museum Act of 1963. This statute bans the institution and its board of trustees from returning any object in the collection unless it is a duplicate, physically damaged, or “unfit” to be kept in the collection and no longer of public interest.⁶ The second argument is regarding the care of these items. Many museums with artifacts acquired through less than legal means during periods of colonization have denied requests to return the items because of concerns over whether they would be taken care of properly in their home countries. In 2002, over a dozen museums, including the Louvre

⁴ Seymour, Tom. “‘More than 1,500’ Artefacts Were Stolen from British Museum, Internal Investigation Reportedly Reveals.” *Museums & Heritage*, The Art Newspaper, 22 Aug. 2023, www.theartnewspaper.com/2023/08/22/reports-claim-close-to-2000-artefacts-were-stolen-from-british-museum-according-to-internal-investigation.

⁵ Anthony, Andrew. “‘Nobody Was Expecting It’: British Museum Warned Reputation Seriously Damaged and Treasures Will Take Decades to Recover.” *The Observer*, Guardian News and Media Limited, 26 Aug. 2023, www.theguardian.com/culture/2023/aug/26/british-museum-reputation-damaged-treasures-loss.

⁶ Tremayne-Pengelly, Alexandra. “The UK Has a 60-Year Old Law Prohibiting Repatriation of Art. Is That about to Change?” *Arts*, Observer, 10 Feb. 2023, <https://observer.com/2023/02/the-uk-has-a-60-year-old-law-prohibiting-repatriation-of-art-is-that-about-to-change/#:~:text=Under%20the%20act%2C%20the%20British,to%20the%20museum's%20deaccessioning%20policy>.

and the Met, signed a “Declaration on the Importance and Value of Universal Museums” in response to Greece’s incessant request for the return of the Parthenon marbles from London. They argued that “[over] time, objects so acquired — whether by purchase, gift or partage — have become part of the museums that have cared for them, and by extension part of the heritage of the nations which house them. To narrow the focus of museums whose collections are diverse and multifaceted would therefore be a disservice to all visitors.”⁷ Although the institution did not sign the declaration, the British Museum has stuck to this principle in their responses back to other countries.

But had the British Museum been taking good care of their collections? In August of this year, a report from an internal investigation concluded that the British Museum had lost around 2,000 ancient and historical artifacts, a consequence of widespread theft most likely propagated by senior curator, Peter Higgs.⁸ From a period between as early as 2016 and 2023, he removed items from the collection and put them up for sale on eBay. He was able to get away with this for so long due to a lack of complete cataloging; he was only caught because his latest batch of items up for sale had been properly cataloged and was traceable in the inventory. He even said in an interview from a few years ago that the archives were “a mess down there.”⁹

Although it is the most striking example, the British Museum is not the only museum dealing with this problem. However, others have at least started to combat the issue in several ways. The Metropolitan Museum of Art in New York discovered in March 2023 that they had over one thousand objects in their collection tied to criminal activity in the antiquities trade.¹⁰ The Met had previously returned a 2,000-year-old Ancient Egyptian coffin in 2019 after an investigation confirmed it had been looted and the dealer who sold the item to the museum had a “poorly forged” export license.¹¹ In response to this latest find, the Met announced the creation

⁷ Wilson, Lydia. “The British Museum Is in Trouble on Two Fronts on Stolen Heritage.” *Argument*, *New Lines Magazine*, 29 Aug. 2023, <https://newlinesmag.com/argument/the-british-museum-is-in-trouble-on-two-fronts-on-stolen-heritage/>.

⁸ Seymour, Tom. “‘More than 1,500’ Artefacts Were Stolen from British Museum, Internal Investigation Reportedly Reveals.” *Museums & Heritage*, *The Art Newspaper*, 22 Aug. 2023, www.theartnewspaper.com/2023/08/22/reports-claim-close-to-2000-artefacts-were-stolen-from-british-museum-according-to-internal-investigation.

⁹ Seymour, “‘More than 1,500’ Artefacts,” 2023.

¹⁰ Porterfield, Carlie. “More than 1,000 Objects in the Met’s Collection Linked to Alleged Traffickers and Looters, Investigation Finds.” *The Art Newspaper*, *The Art Newspaper*, 22 Mar. 2023, www.theartnewspaper.com/2023/03/21/metropolitan-museum-1000-objects-provenance-problems.

¹¹ Porterfield, “More than 1,000 Objects in the Met’s Collection Linked to Alleged Traffickers and Looters,” 2023.

of a team of researchers to research artifacts with ownership record gaps.¹² Other museums took a more direct approach. The Cleveland Museum of Art and Cornell University returned items to large private collectors like Jonathan P. Rosen once investigations into work stolen from him had already been completed.¹³ The Denver Art Museum returned four artworks to Cambodia in 2021 after proactively reaching out to Cambodian officials themselves after the indictment of art dealer Douglas Latchford, who had sold them at least one of the pieces.¹⁴

Ultimately, what examining these other museums shows is that the British Museum has options on how to handle their provenance issues going forward. My recommendation would be that as a priority, the museum should invest time and money into essentially “resetting” the museum’s current collections. A full inventory must be conducted, and everything must be properly cataloged. After that, more researchers should be hired to conduct thorough provenance research. The priorities in the research process should be items that other countries are requesting the return of. After this, the Museum should strongly consider returning these items and working with the British government to remove the restrictions of the British Museum Act of 1963. Because only one percent of the British Museum’s holdings are on display at any given time, they can afford to return these objects in contention to their countries or cultures of origin. If taking that action would significantly deplete the museum’s overall collection or the government will not cooperate with changing the law, the museum should instead create short- or long-term loan agreements for the artifacts with these other countries. This is a practice that they are already involved in to help other institutions flesh out their collections for temporary exhibitions or long-term permanent ones. Although other museums have successfully navigated or begun to navigate the provenance issues in their collections, many larger institutions have not taken the first necessary steps. The British Museum has the potential to set an example for these other museums because of their reputation, and they should finally take action.

¹² Villa, Angelica. “Metropolitan Museum of Art to Appoint Researchers Who Will Review Objects with Provenance Issues.” Art News, Penske Media Corporation, 10 May 2023, www.artnews.com/art-news/news/metropolitan-museum-of-art-researchers-objects-provenance-issues-1234667419/.

¹³ Porterfield, Carlie. “More than 1,000 Objects in the Met’s Collection Linked to Alleged Traffickers and Looters, Investigation Finds.” The Art Newspaper, The Art Newspaper, 22 Mar. 2023, www.theartnewspaper.com/2023/03/21/metropolitan-museum-1000-objects-provenance-problems.

¹⁴ “Denver Art Museum Returns Four Artworks To The People of Cambodia.” Press, Denver Art Museum, 30 Nov. 2021, www.denverartmuseum.org/en/press/release/museum-returns-art-cambodia.

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