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**Argumentative aspects of
Declaration on the Importance
and Value of Universal Museums
(2002)**

**Aspectos argumentativos da
declaração sobre a importância
e o valor dos museus universais
(2002)**

Agnieszka Plata

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DOSSIÊ TEMÁTICO: ART LAW AND CULTURAL HERITAGE
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Argumentative aspects of Declaration on the Importance and Value of Universal Museums (2002)*

Aspectos argumentativos da declaração sobre a importância e o valor dos museus universais (2002)

Agnieszka Plata**

Abstract

The aim of this paper is to analyze *Declaration on the Importance and Value of Universal Museums* as an element of an argumentative discourse on restitution of cultural objects. Declaration raises issues that are inalienable from the subject of the return of cultural goods removed from their place of origin prior to establishing legal norms on protection of cultural heritage. Restitution arguments such as arguments from cultural affiliation, passage of time and social utility remain a part of argumentation used by *universal museums*. The author believes that from the reasoning which supports the argument from cultural affiliation one may crystallize an argument from cultural affiliation to all humankind. The text of Declaration shows that in the course of the statement defending the retention of cultural objects, the meaning of cultural affiliation gets complicated to the point where signatories of Declaration, supporting the idea of *universalism*, emphasize the bond between museum community and the object. Specific character of cultural objects causes confrontation of a variety of rationales. Perceiving restitution of cultural objects as a *hard case* invites a possibility that there is often more than one justified solution.

Keywords: Restitution. Cultural heritage. Cultural nationalism. Universal museum. Restitution arguments. Hard case.

Resumo

O objetivo deste artigo é analisar a Declaração sobre a Importância e o Valor dos Museus Universais como elemento de um discurso argumentativo sobre a restituição de objetos culturais. A Declaração levanta questões que são inalienáveis do tema da devolução de bens culturais retirados de seu lugar de origem antes de estabelecer as normas legais sobre a proteção do patrimônio cultural. Argumentos de restituição, tais como argumentos de afiliação cultural, passagem do tempo e utilidade social, continuam a fazer parte da argumentação usada por museus universais. O autor acredita que a partir do raciocínio que sustenta o argumento da filiação cultural, pode-se cristalizar um argumento da filiação cultural a toda a humanidade. O texto da

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Declaração mostra que, no decorrer da declaração em defesa da retenção dos objetos culturais, o significado da filiação cultural se complica a ponto de os signatários da Declaração, apoiando a ideia de universalismo, enfatizarem o vínculo entre a comunidade museológica e o objeto. O caráter específico dos objetos culturais causa o confronto de uma variedade de fundamentos. Perceber a restituição de objetos culturais como um caso difícil abre a possibilidade de que muitas vezes haja mais de uma solução justificada.

Palavras-chave: restituição; herança cultural; nacionalismo cultural; museu universal; argumentos de restituição; hard case

1 The context

In 1986 J.H. Merryman diagnosed two ways of thinking about cultural property, stating that theories of cultural nationalism and cultural internationalism constitute fundamental questions in cultural property debates¹. Sixteen years later an idea of a *universal museum* was used in an international document titled *Declaration on the Importance and Value of Universal Museums* (hereinafter referred to as the ‘Declaration’), signed on 10 December 2002 by eighteen major museums and institutions of Europe and America². Since then the concept of a museum representing cultural heritage of all humankind has developed to ultimately manifest the very idea of cultural internationalism, while having been continuously challenged by claims for the return of cultural objects³ and a criticism of the concept of *universal museums*

¹ MERRYMAN, John Henry. Two ways of thinking about cultural property. *The American Journal of International Law*, v. 80, n. 4, p. 831–853, 1986.

² Full text of Declaration was reprinted in the publication edited by L.V. Prott. See: PROTT, Lyndel V. (ed.). *Witnesses to history*. Paris: UNESCO, 2009. p. 116–117.

³ In this paper terms ‘restitution’ and ‘return’ will be used interchangeably. However, the distinction proposed i.a. by L.V. Prott and P.J. O’Keefe should be mentioned, as it suggests the use of the term ‘return’ to be suitable where parties wish to avoid possible implications of original illegality of the acquisition of the object. According to J. Blake *in a strict sense, ‘restitution’ is used where cultural property removed from a State’s territory without its consent or in contravention of its export laws and to use ‘return’ where cultural property has been removed before such laws had been enacted*; PROTT, Lyndel V.; O’KEEFE, Patrick J. *Law and the cultural heritage*. London-Edinburgh: Butterworths, 1989. v. 3. p. 834–836; BLAKE, Janet. *International Cultural Heritage Law*. Oxford: Oxford University Press, 2015. p. 50; KOWALSKI, Wojciech. Types of claims for recovery of lost cultural property. *Museum*, v. 57, n. 4,

itself⁴. Analyzing the nature of arguments raised in the debate over restitution from institutions collecting objects from all over the world, enables one to observe a pattern of statements commonly used in response to the claims. A substantial part of them repeats the sense of the arguments used in Declaration.

2 Return of Cultural Objects as a *Hard Case*

According to legal definitions present in international law, cultural goods may carry importance of a complex nature, including but not limited to: archaeological, prehistorical, historical, literary, artistic or scientific⁵. This specific character of cultural objects, expressed not only in their economic value, often influences the debate, which results in pushing it beyond the question of legal regulations and objective study, and introducing issues of moral, political and scientific nature⁶. Moreover, certain categories of cultural objects left their countries of origin prior to establishing legal norms on the protection of cultural goods. It is worth emphasizing that this applies to the group of cultural goods that Jos van Beurden calls *colonial cultural objects*, understood as *object[s] of cultural importance that [were] acquired without just compensation or [were] involuntarily lost during the European colonial era*⁷. However, in times before the emergence of international or national law on this subject, cultural objects were lost or moved due to numerous circumstances such as war plunder and pillage, border change or wide-reaching archeological research conducted from the beginning of the eighteenth century by scholars from states such as Great Britain, France, Germany, Russia and others⁸. As stated by M. Cornu and M.-A.

p. 85–102, 2005.

⁴ ABUNGU, George. The declaration: a contested issue. In: PROTT, Lyndel V. (ed.). *Witnesses to history*. Paris: UNESCO, 2009. p. 121–122; STAMATOUDI, Irini. *Cultural property law and restitution: a commentary to International Conventions and European Union Law*. Cheltenham-Northampton (MA): Edward Elgar, 2011. p. 23–28.

⁵ UNIDROIT. *Convention on stolen or illegally exported cultural objects*. 1995. Available at: <https://www.unidroit.org/instruments/cultural-property/1995-convention> Available in: 29 Aug. 2020.

⁶ ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–Warsaw: Wolters Kluwer–Gdańsk University Press, 2016. p. 105–130.

⁷ VAN BEURDEN, Jos. *Treasures in Trusted Hands*. Leiden: Sidestone Press, 2017. p. 39.

⁸ ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–War-

Renold, [w]here earlier dispossessions are concerned, the question arises in different terms. If the test used were whether the dispossession was unlawful, any principle of restitution could easily be defeated. In most situations, either it was not unlawful under the law applicable at the time, or any wrongfulness has been purged by time. Besides the fact that it may not always be possible to ascertain and evaluate the circumstances in which a dispossession occurred, it sometimes took place with the consent of the states or communities concerned⁹.

Lack of legal regulations applicable to the movement of cultural objects before certain period and variety of values captured in these treasures force one to evaluate restitution debates from the point of view of a *hard case*, with more than one possible solution¹⁰. According to K. Zeidler [w]e are dealing with a *hard case* when the case does not generate one standard solution, but, on the contrary, when there may be many correct findings. The solution of a *hard case* does not proceed clearly from the legal rules applied, and most frequently in such a situation it is necessary to appeal to norms other than legal ones and to assessments and evaluations. Complex nature of arguments raised in restitution cases proves that the grounds for applying any solution would require turning to reasons other than law. Thus, actors in a restitution debate need to acknowledge that in the course of exchanging arguments for and against restitution of a cultural object, it is possible to reach more than one solution, which could be justified by the criteria of equity and rationality¹¹.

3 Argumentative Aspects of Restitution Disputes

Perceiving restitution disputes as *hard cases* leads one to seek various frameworks for a discourse enabling the achievement of proper assessment, evaluation or understanding. Current developments in resolving cultural heritage debates present numerous means of dispute

saw: Wolters Kluwer–Gdańsk University Press, 2016. p. 30–38.

⁹ CORNU, Marie; RENOLD, Marc-André. New developments in the restitution of cultural property: alternative means of dispute resolution. *International Journal of Cultural Property*, v. 17, n. 1, p. 1–31, 2010.

¹⁰ ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–Warsaw: Wolters Kluwer–Gdańsk University Press, 2016. p. 19; See further: DWORKIN, Ronald. *A matter of principle*. Oxford: Oxford University Press, 2001.

¹¹ STELMACH, Jerzy. *Kodeks Argumentacyjny dla Prawników*. Kraków: Kantor Wydawniczy Zakamycze, 2003. p. 21.

settlement, including adjudication by domestic courts, international judicial recourse, international judicial settlement mechanisms, alternative dispute resolution and cultural diplomacy¹².

Nonretroactivity of law is noticed as one of several disadvantages of seeking judicial recourse in cultural heritage disputes. As it has been mentioned above, it leaves out a substantial amount of cases, also these statute barred because of time limitations¹³. As I. Stamatoudi rightly states [t]his, however, does not mean that the claim is not sound on ethical, scientific, historical, humanitarian or other grounds. These grounds, however, are not grounds that are judiciable by courts, which have to follow the rigid legal approach¹⁴. Therefore, it must be taken into account that whatever the platform of resolving cultural heritage disputes, this special nature of the object in question invites arguments other than derived from legal norms. Dealing with claims for the return of cultural objects removed prior to creation of certain legislation, enables the use of a wide variety of arguments.

Analyzing Declaration from the point of view of its argumentative aspects requires introducing the problem of arguments relating to restitution. An argument is a statement, the aim of which is to ensure the recognition of a thesis or to strengthen a thesis itself; to put it differently, its purpose is to convince the receiver of the accuracy or inaccuracy of certain statements, and to create an effect of the recognition of correctness of given valuations¹⁵. The concept of restitution arguments as arguments that are raised by parties in restitution discourse constitutes one of the perspectives on cultural heritage case studies, performed by researchers exploring this field¹⁶.

¹² CHECHI, Alessandro. *The settlement of international cultural heritage disputes*. Oxford: Oxford University Press, 2014. p. 134–185; STAMATOUDI, Irini. *Cultural property law and restitution: a commentary to International Conventions and European Union Law*. Cheltenham-Northampton (MA): Edward Elgar, 2011. p. 189–209.

¹³ STAMATOUDI, Irini. *Cultural property law and restitution: a commentary to International Conventions and European Union Law*. Cheltenham-Northampton (MA): Edward Elgar, 2011. p. 189–209.

¹⁴ STAMATOUDI, Irini. *Cultural property law and restitution: a commentary to International Conventions and European Union Law*. Cheltenham-Northampton (MA): Edward Elgar, 2011. p. 189–209. p. 191.

¹⁵ ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–Warsaw: Wolters Kluwer–Gdańsk University Press, 2016. p. 136.

¹⁶ ZEIDLER, Kamil and Author, 2019; ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–Warsaw: Wolters Kluwer–Gdańsk University Press, 2016; PROT, Lyndel V.; O'KEEFE, Patrick J. *Law and the cultural heritage*. London-Edinburgh: Butterworths, 1989.

L.V. Prott and P.J. O’Keefe propose typology of restitution arguments, dividing them into *the arguments for restitution or return* and *the arguments for retention*, and organizing them with more detail into these two groups¹⁷. A.F. Vrdoljak, on the other hand, in her work delineates three rationales for restitution, emphasizing such reasons as: sacred property (the principle of territoriality and the connection between people, land and cultural goods), righting international wrongs (making an attempt to make amends for discriminatory and genocidal practices), and self-determination and reconciliation¹⁸. K. Zeidler offers a complex perspective by dividing restitution arguments into positive (supporting a restitution claim) and negative (offering defense against it)¹⁹. However, deciding whether an argument is of positive or negative nature depends on the statement it justifies, made by one of the parties of a restitution dispute²⁰. The catalogue of restitution arguments organized by K. Zeidler supports the abovementioned concepts, while allowing a harmonized assessment of statements, ex-

pressed in documents regarding return of cultural objects or exchanged between the parties during a dispute.

v. 3. p. 838-850; VRDOLJAK, Ana Filipa. *International law, museums and the return of cultural objects*. Cambridge: Cambridge University Press, 2008. p. 2.

¹⁷ L.V. Prott and P.J. O’Keefe in the category of arguments for restitution or retention include (1) wrongful taking of property, (2) need for cultural identity, (3) appreciation in its own environment (4) need for national identity, (6) dangers to the cultural heritage from trafficking, (7) dynamics of collecting, whereas in the category of arguments for retention the authors include: (1) ownership, (2) access, (3) conservation, (4) place in cultural history, (5) the need to maintain Western collections. See: PROTT, Lyndel V.; O’KEEFE, Patrick J. *Law and the cultural heritage*. London-Edinburgh: Butterworths, 1989. v. 3. p. 838-850.

¹⁸ VRDOLJAK, Ana Filipa. *International law, museums and the return of cultural objects*. Cambridge: Cambridge University Press, 2008. p. 2.

¹⁹ ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–Warsaw: Wolters Kluwer–Gdańsk University Press, 2016. p. 19.

²⁰ K. Zeidler presents twenty-three categories of restitution arguments, organizing a wide range of rationales exchanged in restitution disputes. The arguments enumerated by K. Zeidler are: (1) the argument from justice, (2) the argument from ownership, (3) the argument from acquisition in good faith, (4) the argument from place of production, (5) the argument from place of allocation, (6) the argument from right of loot, (7) the argument from illegal export, (8) the argument from national affiliation, (9) the argument from cultural affiliation, (10) the argument from historical affiliation, (11) the argument from territorial affiliation, (12) the argument from personal affiliation, (13) the argument from social utility, (14) the argument from most secure location, (15) the argument from historical eventuation, (16) the argument from passage of time, (17) the argument from prescription, (18) the argument from time limitation, (19) the argument from discovery, (20) the argument from investments undertaken, (21) the argument from possession, (22) the argument from obligation, (23) the argument from reciprocity; ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–Warsaw: Wolters Kluwer–Gdańsk University Press, 2016. p. 141–202.

4 Universal Museums and the Argument from Cultural Affiliation

According to the ideas captured within Declaration, a particular mission of *universal museums* makes the retention of cultural objects acquired long ago vital for the interest of all peoples²¹. Universalism of museums is often supported as something maintained for the benefit of international scholarship, international curiosity and international culture²². According to J. Cuno *universal museum* is to be understood synonymously to *encyclopedic museum*, meaning *a museum that aspired to building, presenting, and studying a collection of objects representative of the world's many cultures*²³. Moreover, the idea of *universal museums* remains linked to concepts behind the theory of cultural internationalism: *the idea that everyone has an interest in the preservation and enjoyment of cultural property wherever it is situated, from whatever cultural or geographic source it derives*²⁴. The issue raised in response to these concepts is that all the museums that seem to fall into this category are situated in Western States²⁵. What is more, as L.V. Prott and P.J. O'Keefe pointedly state, *if universal museums are essential, then there should be one on at least each continent, not all concentrated in the same socio-cultural area*²⁶. This issue seems to be one of central arguments mentioned during the critique that followed the publication of Declaration.

Dualism of perceiving cultural heritage either as belonging to all mankind or as a part of national cultural patrimony reveals a new perspective on restitution arguments from cultural affiliation. To begin with, this category of arguments refers to the nation or other social group as a community, which has a separate and distinct culture of its own²⁷. In that meaning this argument has

several aspects. In one sense it is of great importance for the developing States to take pride in their indigenous heritage, which was often denigrated and removed from the place of its origin during colonial times²⁸. Thus, it is argued that it is fair to maintain artistic heritage both as a cultural and as an economic resource for nations undergoing drastic social and economic change²⁹. In fact, removing objects of great cultural significance is emotionally described as *creating cultural void that cannot be filled*³⁰. With this in mind, it is worth noticing that cultural treasures are an inspiration for local craftsmanship and as such can influence local craftsmen and artists more effectively if available locally³¹. In that sense argument from cultural affiliation remains also linked to the argument from justice as they are both indicating ethical aspects of restitution.

In this course of argumentation, one may observe issues connected with borders, as it may be problematic to adjudge the cultural affiliation of a given object³². According to K. Zeidler often *two or more social groups see the same cultural property as their heritage, thereby negating other communities' ties to it*³³. In the case of Declaration, the emphasized concept of universalism implies that no specific culture is solely entitled to objects of cultural value.

What makes a curious argumentative aspect of Declaration is the mentioning of cultural affiliation as follows:

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.

By suggesting that cultural objects might *by extension* become part of the heritage of the communities housing them, authors of Declaration imply that cultural affiliation of cultural goods is fluid or – at least – it can be influenced by the passage of time or the amount

²¹ PROTT, Lyndel V. (ed.). *Witnesses to history*. Paris: UNESCO, 2009. p. 116.

²² PROTT, Lyndel V.; O'KEEFE, Patrick J. *Law and the cultural heritage*. London-Edinburgh: Butterworths, 1989. v. 3. p. 845; O'NEILL, Mark. Enlightenment museums: universal or merely global. *Museum and Society*, v. 2, n.3, p. 190-202, 2004.

²³ CUNO, James. View from the Universal Museum. In: MERRYMAN, John Henry (ed.). *Imperialism, art and restitution*. New York: Cambridge University Press, 2006. p. 15–36. p. 15.

²⁴ MERRYMAN, John Henry. Introduction. In: MERRYMAN, John Henry (ed.). *Imperialism, art and restitution*. New York: Cambridge University Press, 2006. p. 1–14. p. 12.

²⁵ PROTT, Lyndel V.; O'KEEFE, Patrick J. *Law and the cultural heritage*. London-Edinburgh: Butterworths, 1989. v. 3. p. 846.

²⁶ PROTT, Lyndel V.; O'KEEFE, Patrick J. *Law and the cultural heritage*. London-Edinburgh: Butterworths, 1989. v. 3.

²⁷ ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–War-

saw: Wolters Kluwer–Gdańsk University Press, 2016. p. 167.

²⁸ PROTT, Lyndel V.; O'KEEFE, Patrick J. *Law and the cultural heritage*. London-Edinburgh: Butterworths, 1989. v. 3. p. 840.

²⁹ PROTT, Lyndel V.; O'KEEFE, Patrick J. *Law and the cultural heritage*. London-Edinburgh: Butterworths, 1989. v. 3. p. 840.

³⁰ SILVA, Pilippu Hewa Don Hemasir. Sri Lanka. *Museum*, v. 31, n. 1, p. 22-25, 1979. p. 22.

³¹ PROTT, Lyndel V.; O'KEEFE, Patrick J. *Law and the cultural heritage*. London-Edinburgh: Butterworths, 1989. v. 3. p. 840.

³² ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–Warsaw: Wolters Kluwer–Gdańsk University Press, 2016. p. 167.

³³ ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–Warsaw: Wolters Kluwer–Gdańsk University Press, 2016. p. 169.

of measures undertaken to protect a cultural object in question. More precisely, this passage of Declaration expresses the thesis that museums create a space so significant that an original cultural bond between a community and an object can be altered or put into a completely different perspective.

Declaration raises the issue of cultural affiliation while advocating for the ideas of universalism and internationalism, which emphasize commonness of cultural heritage. On the other hand, in the abovementioned quotation, it turns to the argument of cultural link between an object and specific community in the shape that is actually used more frequently as a reason for the return of cultural treasures.

It seems that even though cultural internationalism and the argument from cultural affiliation often contradict each other in the course of restitution disputes, their nature is similar. In a way, *the argument from the cultural affiliation to all humankind* – as it might be called – draws from the reasoning behind the category of arguments describing that special bond only between certain groups and objects. Analyzing the text of Declaration shows that these concepts may become so intertwined that they are sometimes used simultaneously to support one statement.

5 Museum Collections and the Passage of Time

When it comes to restitution claims, the passage of time influences not only legal legitimacy of the case but also numerous background factors in the dispute. In the words of G. Edson, *social change has had an impact on moral attitudes and caused a change in ethical behavior. Multi-cultural acceptance has manifested itself as a part of the new ethical orientation of museums. Concern for right action, right representation, and equal and fair treatment for all has altered the thinking, planning, programming, and orientation of many museums*³⁴. Change of perspective is certainly visible in the sensitivity of museum exhibitions and debates on making representation, but also in actions possibly leading to change in dealing with restitution claims³⁵.

³⁴ EDSON, Gary. *Museum ethics*. London: Routledge, 1997. p. 44

³⁵ FOIWELL, Kiri Cragin. *Arts Council England appoints IAL to develop new guidance on restitution and repatriation*. Available at: <https://ial.uk.com/arts-council-england-appoints-ial-to-develop-new-guidance-on-restitution-and-repatriation/> Accessed in: 12 Aug. 2020.

However, arguments from the passage of time still hold their place in communication on the subject of returning cultural treasures, which is directly expressed in Declaration:

The objects and monumental works that were installed decades and even centuries ago in museums throughout Europe and America were acquired under conditions that are not comparable with current one.

Or as following:

We should, however, recognize that objects acquired in earlier times must be viewed in the light of different sensitivities and values, reflective of that earlier era.

The passage of time is significant when it comes to time limitations of a restitution claim³⁶. Nevertheless, arguments raised in Declaration in relation to the *decades and even centuries* are not used in that context. The passage of time, as understood here, is connected to a certain set of factual circumstances related to the change of perspective on acquiring cultural objects, from the moment of the event which caused their loss, up to the situation where a restitution claim is raised.

During a restitution dispute, the arguments from the passage of time, emphasizing the circumstances in which the objects were acquired³⁷, are often contrasted with the arguments from justice, calling for compensation for gross historical injustices, regardless of the time that has passed. Cultural diplomacy and alternative means of dispute resolution deliver a platform for confronting these rationales on case-by-case basis. Developing discipline of museum ethics also provides reflections on the test of time and shifts of emphasis due to social change and the evolving role of museums that follows³⁸.

ance-on-restitution-and-repatriation/ Accessed in: 12 Aug. 2020.

³⁶ KOWALSKI, Wojciech. Problematyka prawna obrotu dobrami kultury. In: RYNEK Sztuki. *Aspekty Prawne*. Warszawa: Wolters Kluwer, 2011, p. 30.

³⁷ That is, i.a. prior to existence of legal regulations regarding cultural heritage, in the course of politics of the colonial era or during the zenith of archeological or scientific curiosity.

³⁸ BESTERMAN, Tristram. Museum ethics. In: MACDONALD, Sharon (ed.). *A companion to museum studies*. Oxford: Blackwell Publishing, 2006. p. 431–441. p. 431.

6 Popularizing cultural objects by their public display from the perspective of social utility

According to K. Zeidler, the argument from social utility is summed up in the assertion that the right of an owner can be limited, and they may even be deprived of it, when cultural property does not just represent a value for them, but for a broader recipient, for whom the possibility of using that property must be guaranteed³⁹. In the fragment of Declaration quoted below the signatories emphasize the role of museums in the process of familiarizing the public with collected artefacts:

The universal admiration for ancient civilizations would not be so deeply established today were it not for the influence exercised by the artefacts of these cultures, widely available to an international public in major museums.

Although one may criticize the concept of a fundamental connection between the display in *universal museums* and actual admiration for the cultural goods⁴⁰, without a doubt enabling public access to the artefacts provides a unique opportunity for aesthetic admiration, entertainment or scientific research. For this reason, museums create a special relationship with the public and have a potential of becoming places of great social utility.

Moreover, the text of Declaration raises the argument of presenting objects displaced from their original source in a valuable context, indicating its significance to the public. As informative as it is, it might be argued that such a mixed display provides the visitors only with aesthetic experience supported by sterile information, separated from all the background factors influencing the perception of the objects⁴¹.

Finally, social utility of museums is emphasized in Declaration by the example of drawing artistic inspiration from the collections easily accessible for ages in public museums. This *argumentum ad exemplum* implies that the course of the history of art depends on what has been available for the public to appreciate, namely

the sculpture of classical Greece. This illustration indeed puts museum mission in a perspective where it shapes artistic sensitivities throughout the ages. There is no way to verify whether retention of cultural objects at their places of origin would have drastically changed the process of establishing creative trends. Nevertheless, what one may consider is how this issue should be assessed next to the subjects of national identities, historical injustices or current economic interests.

7 Afterthoughts on Historical Eventuation

It needs to be stressed that the issue of restitution of cultural objects remains a topical one. It evokes strong emotions and induces disputes exceeding legal argumentation. Certainly, cultural objects carry unique values, appreciated from various perspectives, ranging from purely aesthetic to patriotic and existential. In the words of J. Greenfield, *there are cynical and material aspects, but the issue also has something to do with the charisma of objects and their language*⁴².

A perspective on *universal museums* is dynamic and relies upon assessing numerous opposing arguments. However, disputants seem to agree on at least one fact: these institutions are a historical phenomenon, impossible to recreate nowadays⁴³. Irrespective of the motives or circumstances in which the objects were acquired, their removal, acquisition and display became facts of cultural history⁴⁴. The restitution argument from historical eventuation stresses the fact that historic events and processes are always accompanied by transformations of property, including the movement of cultural objects⁴⁵. This thesis not necessarily indicates the supposed fairness of *status quo*. Instead, it might establish a starting point for a discussion about measures that might be undertaken in the future, including more sensitive narrative about the past and other forms of cooperation.

³⁹ ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–Warsaw: Wolters Kluwer–Gdańsk University Press, 2016. p. 176.

⁴⁰ SINGH, Kavita. Universal museums: the view from below. In: PROTT, Lyndel V. (ed.). *Witnesses to history*. Paris: UNESCO, 2009. p. 123–129.

⁴¹ STAMATOUDI, Irini. *Cultural property law and restitution: a commentary to International Conventions and European Union Law*. Cheltenham-Northampton (MA): Edward Elgar, 2011. p. 189–209.

⁴² GREENFIELD, Jeanette. *Return of cultural treasures*. Cambridge: Cambridge University Press, 2009.

⁴³ SINGH, Kavita. Universal museums: the view from below. In: PROTT, Lyndel V. (ed.). *Witnesses to history*. Paris: UNESCO, 2009. p. 123–129. p. 126.

⁴⁴ PROTT, Lyndel V.; O'KEEFE, Patrick J. *Law and the cultural heritage*. London-Edinburgh: Butterworths, 1989. v. 3. p. 848-849.

⁴⁵ ZEIDLER, Kamil. *Restitution of cultural property*. Gdańsk–Warsaw: Wolters Kluwer–Gdańsk University Press, 2016. p. 176.

Argumentative aspects of Declaration raise issues that are inalienable from the subject of the restitution of cultural objects removed from their place of origin prior to establishing legal norms on protection of cultural heritage. Declaration is constructed from numerous arguments opposing the return of this category of cultural goods and nearly twenty years later these theses remain present in the dispute. However, it is vital to acknowledge that universalism, which proposes a genuine humanistic approach to cultural heritage, art and civilization, and supports broad public enjoyment of museum collections, also has its darker side, that can be rightfully scrutinized on various levels. Most importantly, perceiving the issue of return of cultural treasures as a *hard case* invites a possibility that there is often more than one justified solution.

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