

The role of the museums (international versus the national) on the increasing scale of the trade of cultural objects. Different agendas and frames of confronting existing policies and data on this trade

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Abstract

The aim of this paper is to present current challenges that international and national museums are facing with the increasing amount of regulation on protecting cultural heritage and the obtained data on the legal and illegal trade of cultural objects. For the purposes of this research we will be focusing not only on antiquities but on cultural objects in general. Firstly the trade of artefacts will be defined. Then the different scope of the international versus national museums will be given. Moreover it will be examined the great amount of the international and national law on the protection of cultural heritage. The main research question is what is the response of the museums to the expanding tense of regulating against the illegal trade of artefacts. Our hypothesis is that since 1970 museums mainly the international ones tend to be more careful to their policies towards acquisitions. Therefore it is more than obvious that international law on protecting cultural heritage affect museums' attitude. Of course the greatest challenge that museums have to face with is the big data on the legal and illegal trade of artefacts. Are they able to cope with this increasing scale especially of the illegal one? Is the existing legislation the most effective tool to prevent such a phenomenon? How can current international museums respond to the challenges of increasing size of the illegal trade and the possibility of acquiring a tainted object? These are some of the questions that will be explored which open 'windows' for further research and concern.

Keywords

Cultural heritage, Museums, Illicit trade, Acquisition policies, Big Data

1. Introduction

Cultural heritage refers to all works of art that play an integral part of a society due to its historical and intellectual value [3]. The term of cultural property is used on the Hague Convention of 1954 on the Protection of Cultural Property in the event of armed conflict and in the UNESCO Convention of 1970 on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Then it is turned to cultural heritage in the UNESCO Convention of 1972 which is followed by the term of cultural objects in the UNIDROIT Convention of 1995 on the International Return of Stolen or Illegally Exported Cultural Goods. All the different terminologies refer to all cultural objects from the past and more modern concepts of art. They all try to signify the great importance of cultural heritage to the national identity. 'Culture is expressed in material or immaterial objects – antiquities constitute one of these expressions of culture. We are who we are by referring to what we are not. We define ourselves by reference to our past. Cultural property or heritage, the most important element in a nation's identity, is defined in artifacts. Cultural objects, monuments, antiquities indicate the most live proof of the existing of a nation throughout the centuries. A nation defines itself through its culture' [2].

When we talk about the trade of cultural objects it 'includes the circulation of luxury cultural objects in the market' [2]. This trade can be distinguished in legal and illegal. Illegal trade of

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cultural objects is defined as the trade that violates the existing law including International, EU and national law on the protection of cultural heritage.

2. International versus national museums

Museums are one of the major actors in the protection of cultural heritage. Museums' attitude in general has changed since 1970 with the enactment of the UNESCO Convention of 1970. 'The UNESCO Convention of 1970 could be conceptualized as an event that created a window of opportunity for the creation of a European political frame on this problem' [2], as well as playing a major role in awakening museums and the trade in as a whole in adopting Codes of Ethics.

At this point we need to specify that museums are distinguished as international and national ones. International museums are found mainly at market countries whereas the national museums are part of the source named countries. Market or countries of import of artefacts are those that are in favor of free trade of cultural objects such as the UK, Switzerland, Germany and other. Source countries are those that are rich in cultural heritage and are countries of exportation.

International museums such as the British Museum, the Metropolitan Museum base their mentality on cultural internationalism or modernization or universalism. Contrary to these national museums represent cultural nationalism or communitarianism or traditionalism. Cultural internationalism supports that artefacts could be admired and exhibited even if they are separated from their birthplace. Whereas the theory of cultural nationalism states that cultural objects could only be understood at their homeplace. It is more than obvious that international and national museums face in different ways current challenges of big data in legislation and the increasing legal and illegal trade of artefacts. But what is the response of the museums to this trend?

3. International and national law on the protection of cultural heritage (codified and non-codified such as Code of Ethics etc.)

Since the end of the 2nd World War a great number of International Conventions of protecting cultural heritage have been ratified beginning with the Hague Convention of 1954 on the Protection of Cultural Property in the event of armed conflict. Then the UNESCO Convention of 1970 came into force followed by the UNIDROIT Convention of 1995. The Convention of Nicosia of 2017 has been the first International Convention that brings criminal jurisdiction into practice. These are the main Conventions amongst an increasing number of International Conventions. Apart from the increasing number of the codified international law there is a growing number of uncoded laws such as Codes of Ethics for example ICOM Code of Ethics, British Code of Ethics.

EU law on the protection of cultural heritage is limited to the Regulation of 1992 on the export of cultural goods and the Directive of 1993 on the return of cultural objects unlawfully removed from the territory of an EU country. EU leaves its member state to protect in its own way their cultural heritage.

National law precedes the enactment of international law. UNESCO provides a database of National law of all its member states. Are the museums (international and national) ready to cope with the enormous enactment of International and National law? This is a question to be addressed.

4. The scale of the legal and illegal trade of cultural objects

The aim of this section is to present the scale of the legal and illegal trade of cultural objects how it correlates to the existent International and National law as well as to the International / National museums. The immense scale of International and National law tries to regulate the legal as well as the illegal trade of cultural objects. But is it effective?

'The correlation between arts, financial markets and economies is demonstrated by the scale of the circulation of art as a commodity (its commercialization). This scale is illustrated by figures in

the trade of reproducible and performing arts rather than in unique artefacts. The question that should be addressed is whether art has the same characteristics as other commodities' [2].

Art markets are arguably among the most internationalized goods markets: Van Gough's paintings can be admired in New York, a large collection of Egyptian art is found in Berlin, Nirvana's CDs are sold throughout the world, and American movies and books have global coverage" [5]. Hence the art market is a globalized one and can be examined through international economics. It can be analyzed either by cultural nationalism or cultural internationalism. Art trade constitutes one important part of cultural economics that has been neglected.

Art trade is distinguished in live performing arts like plays, operas, unique art such as antiquities, etc. and reproducible art such as films. Unique art is correlated with national heritage. Cultural goods are characterized by uniqueness which confers monopoly to those who possess them. 'Uniqueness means that, even if a cultural object is copied, it could never be the same as the genuine one. In economic terms this means that there are no close substitutes for these goods. They can provoke hysteresis effects' [2].

"Government intervenes in the art market by imposing regulations in order to prevent negative externalities of monopoly and to capture the advantages of monopoly. The intervention of Government in the trade of unique artefacts is similar to that in public goods of great necessity, such as water [4]. The actors may choose according to their interests to act either inside the official or the unofficial trade.

The trade system in art differs from source to market countries according to domestic legislation, which happens to be stricter in the first than the second ones where the cultural objects can be circulated more freely.

Art has an economic aspect as Peacock and Rizzo (1994) note: 'the arts need an economic base to flourish'. The statistics about the profits from art trade that are provided by representatives of this trade like auction houses, museums, collectors, associations of dealers of cultural goods and the 'scale of illicit trade in unique artefacts that are published by Interpol illustrate the above statement' [2]. Demand and supply determine how the art trade functions. "Culture is in danger today, it is threatened by the rule of money and commerce and by a mercenary spirit that takes many forms" [1]. "Politicians that sign international agreements consigning cultural goods to the common fate of interchangeable commodities subject to the same laws that apply to corn, bananas, or citrus fruit, are contributing to the abasement of culture and minds" [1].

But which are the main international actors that determine the supply and demand in art trade? These are mainly state and private museums, Government, galleries, art dealers, auction houses. They all interact with each other trying to achieve the greatest economic profits. International museums play a great role in this trade and how it is formed.

Coming to our boundaries, the European market for cultural goods is the most fragmented one. That is why it is difficult to compete with the international one. It is composed by the national markets in countries such as Greece, Italy that are interested in the protection of their cultural heritage in contrast with market nations like the United Kingdom, Switzerland etc. that act in a more liberalized way. The Single European Market with the establishment of the free circulation of goods has put at risk cultural heritage and that is why there have been into force the Regulation 3911/92 and Directive 93/7 of the EU for the protection of cultural patrimony. The prices of artefacts are formed by the taste, preference, its value and how scarce it is. Of course, an artefact is valued economically in its birthplace.

'All the different kinds of arts constitute an important part of economics and they are related to other economic activities (Rodgers in [2]). Arts contribute to economic growth as they can create more jobs and attract capital in various ways. Hence art trade constitutes a commercial activity with many inputs and outputs, and auction houses, museums, and galleries can be seen as firms' [2]. The British art market is the largest one followed by the US, France and Germany [2]. The statistics on the legal EU art trade are given by the European Fine Art Foundation (TEFAF) which is 'the world's preeminent organization for fine art, antiques and design' where they are presented the number of the legally exported/imported cultural objects which include all works of art,

collectors' pieces and antiques estimating their economic value. The Antiquities Dealers Association provides more details in the licit trade of antiquities.

What about the scale of the illegal trade? In which ways is it estimated? Interpol (International Criminal Police Organization) is the main actor to collect every year statistics about stolen artifacts by its member states. Are these statistics accurate and complete? It all depends on whether all member states give back reports to Interpol. One question that may be raised is whether these official statistics on illegal trade include everything. It is obvious that they do not due to the form of this criminality that many times it gets the facet of legality through money laundering.

5. Current challenges

But what is the role of museums, either international or national, to the increasing scale of this trade (legal and illegal)? Are they ready to face these challenges? Are they technologically well equipped to deal with the challenge of the rapid growth of internet sales in art trade? And how can they cope with this increasing phenomenon and check their due diligence before coming to their position? Crucial questions that need to be answered and examined.

Declaration on Generative AI

The author has not employed any Generative AI tools.

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