

**‘To Snatch Something From Death’:
Value, Justice, and Humankind’s Common Cultural Heritage**

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I The Value of Humankind's Cultural Heritage

I.1 Introduction

When Notre-Dame Cathedral was engulfed by fire on April 15, 2019, the world (it seemed) watched in horror. On Twitter, Facebook, in newspapers and on TV cables ranging as far afield from Paris as South Africa, China and Chile, people expressed their sorrow at the partial destruction of the church, particularly the collapse of the spire, and anguish at what very nearly happened - the complete destruction of a jewel of Gothic architecture whose value somehow transcends time and space.

The fire that almost destroyed Notre-Dame was an accident. As we know all too well, however, the damage sustained by cultural and natural landmarks is more often than not anthropogenic. Most obviously, it arises as a part or outcome of military conflicts. To give some examples from a long and deplorable litany, in the autumn of 1925, following days of intense aerial bombing, French military forces entered into Damascus to crush an incipient revolt against France's mandate. Not content to slaughter civilians, they reduced parts of the city to rubble, at a loss of countless historic buildings, mosques, and bazaars. In March 2001, the Taliban destroyed the monumental, 6th century, statues of Buddha in the Bamiyan Valley in Afghanistan, on the grounds that they were idols and thus condemned by the Taliban's interpretation of Islam. When President Trump threatened to bomb Iran's cultural sites in the closing days of 2019, in defiance of the laws of war, he elicited outrage, not just on behalf of Iranians but on behalf of the world at large: the ancient city of Persepolis, for example, is widely regarded as one the world's most significant archeological sites. As I am writing this, the conflict between Ukraine and Russia is raging, and there is evidence that Russian troops are targeting Ukrainian cultural sites. On March 3 2022, UNESCO issued a statement unequivocally condemning the Russian regime - first and foremost for its attempt to erase traces of a distinctive Ukrainian identity but also for risking the destruction of World Heritage sites in L'viv and Kyiv.

The destruction does not stop there: entire libraries, museums and archival repositories have been burned, bombed and dispersed to religious and political ends. Landscapes - be they 'natural', rural, or urban - are destroyed by landmines and troops movements. In many of those cases too it is hard not to think that the loss suffered by the communities and peoples against which those actions were committed is, in some important sense to be elucidated in those essays, our loss too.

Our destructiveness is not confined to war. We relentlessly exploit the earth. We farm the land, destroy forests, throw the detritus of our industrial and domestic activities into its rivers and oceans, erode coastlines, damage buildings, and kill entire species.

From the melting of the Greenland ice sheet to the depletion of the Amazonian forest, from the cascading effects of climate change to our seeming inability to do much about it, we may well have reached a tipping point such that, whatever we do now will not reverse the impact of our activities on our planet. Not only does this threaten the quality of human life in its most basic dimensions; it threatens our successors' enjoyment of what we have so far taken for granted.

In 1959, faced with this predicament, the governments of Egypt and Sudan asked the UNESCO for help. As a result of the construction of the Aswan High Dam, a number of monuments in the Valley of Nubia, some of them 3000 years old, were at risk of destruction from the rising waters of Lake Nasser. In March 1960, UNESCO and its member states launched an international campaign to salvage the monuments. To preserve humankind's common heritage, the then- French culture minister and intellectual André Malraux said in an often-quoted speech, is to 'snatch something from death'.¹

The campaign was a remarkable technological achievement. It lasted twenty years and heralded the beginning of the World Heritage movement. In 1972, UNESCO's General Assembly adopted the Convention Concerning the Protection of World Cultural and Natural Heritage. Yet, admirable as the campaign was in those respects, in others it proved deeply controversial. In fact, so is the institution of the World Heritage. Claims of universalism, it was then and is still argued now, all too often mask Western-centric value judgements and power-relations which are a legacy of colonial expansion and its concomitant acts of cultural appropriation. In a depressingly apt illustration of universalists' egregious moral and epistemic failings, Malraux himself was convicted by the French authorities in 1923 for having stolen bas-reliefs from the Cambodian temple of Bantea-Srei. In his defense, he argued (blatantly falsely, as Cambodia was subject to France's territorial jurisdiction at the time) that the temple and its riches were *terra nullius*, for all and any to plunder for the sake of collectors and museums world-wide.²

I take those criticisms seriously. Nevertheless, my aim in these essays is to offer a philosophical account of the view that some goods are universally valuable and part of humankind's common heritage, and that we have stringent moral duties in respect of that heritage. I hope to show that we can embrace that view without committing ourselves to the egregiously wrongful acts and beliefs which have been committed and held in its name: I use Malraux's 1960 speech as my main title to indict, not to vindicate, the Malraux of 1923.

In this first essay, I argue that there are cultural goods which are universally valuable and are part of humankind's common cultural heritage. In the second essay, I

¹ Malraux's speech is available at <https://en.unesco.org/courier/may-1960/andre-malraux-action-man-who-snatches-something-death>.

² J. Greenfield, *The Return of Cultural Treasures* (Cambridge: Cambridge University Press, 2007), pp. 393-396.

argue that the protection of our heritage not only is a moral imperative: more strongly put, it is a duty of justice.

I begin, in s.I.2, with a brief summary of the main criticisms which have been levelled at the UNESCO. In s.I.3, I elucidate what it means to say that something has heritage value. In s.I.4, I argue that there are some landmarks, monuments, and tangible objects which we have inherited from our predecessors and which have universal value. These heritage goods form part of our common heritage. As we shall see throughout, to say that something is valuable is to imply that we have a range of practical reasons in relation to it; typically, those reasons are not construed as moral reasons, let alone moral duties. To prepare the grounds for my argument, in the second essay, that we are under duties of justice in respect of humankind's common heritage, I end this essay, in s.I.5, with a discussion of important differences between reasons, moral reasons, and duties.

Before I begin, one final and important point. There is much work to do on the political and moral philosophy of cultural heritage. I am painfully aware of the fact that I have painted my philosophical defense of our common heritage in broader brushstrokes than some readers might wish for. Moreover, I have little to say about the best way to institutionalize the principles of justice I defend here. It is entirely possible that, in the light of the difficulties which beset UNESCO, which after all is the most sustained attempt to protect humankind's heritage, we should, at best, dismantle it, at worst abandon any hope we may have once entertained for a just world in that respect too. Indeed, at the time of writing this, the fact that UNESCO has still not suspended Russia from its institutions (unlike, e.g., FIFA, which expelled it from the 2022 Football World Cup) is cause for despair. Still, in case not all hope is lost, it pays to begin to investigate its philosophical foundations.

I.2 A doomed and flawed ideal?

The notion of humankind's heritage immediately brings to one's mind the United Nations Educational, Scientific and Cultural Organization (UNESCO) and its World Heritage List, on which it inscribes, every year, natural landmarks, sites, and buildings which the World Heritage Committee deems to have 'outstanding universal value'. The work of the Committee is framed by the 1972 World Heritage Convention and its operational principles.³

There are currently (as of June 2022) 1154 sites on the List. Of the 1154 sites,

³ In addition to the 1972 Convention, the UNESCO has adopted conventions pertaining to the trafficking of cultural property, as well as to the protection of cultural property during armed conflicts, of underwater heritage, and of the diversity of cultural expression. For an extensive discussion of this legal framework, see C. Forrest, *International Law and the Protection of Cultural Heritage* (London: Routledge, 2010). At various points in those essays, I will refer to descriptions of sites which have been placed on various World Heritage Lists. Those descriptions can be found at <https://whc.unesco.org/en/list/> (accessed on 7/26/22.)

slightly over 47% are located in Europe and North America, while only 8.49% are located in Africa. The overwhelming majority of the sites are cultural (897), although 39 sites are listed as mixed cultural-natural. All but 39 sites are located on the territory of one state. Transboundary sites include the Architectural Works of Le Corbusier (across 7 countries, spanning Europe, Latin America and Asia); the W-Arly-Pendjari Complex in Benin, Burkina Faso and Niger; the Stećci Medieval Tombstone Graveyards in Bosnia and Herzegovina, Croatia, Montenegro and Serbia; and the Silk Road in China, Kazakhstan and Kyrgyzstan.

The List is a visual, cultural, and educational feat. It is also deeply controversial. As many scholars of heritage argue, it relies on and gives expression to a particular conception of heritage - what Laurajane Smith calls the Authorized Heritage Discourse - which, far from being universal, is now widely thought to be deeply Eurocentric, elitist, statist and 'Pollyanish'.⁴

It is deemed Eurocentric in four ways. First, sites located in Europe and sites located outside Europe but of demonstrably colonial and thus European origin or inspiration dominate the list. Second, the preponderance of cultural sites and, within that list, of monumental sites, speaks of a distinctly Europeanisation of value. Non-European conceptions of value such as the view articulated by some Aboriginal communities that lived-in landscapes have value, or the view - at the heart of much Chinese cultural history - that monuments matter less than landscapes, paintings and words - are correspondingly marginalized. In a related vein, claims that a particular geographical area is valuable for its wilderness often ride roughshod over the historical fact that it was cultivated and/or used by Non-White, Native populations, long before first contacts with European White settlers.⁵ Third, the sharp distinction between the cultural and the natural on which the Authorized Heritage Discourse has long relied harks back to familiar Western dichotomous hierarchies between the mind and the body. Fourth, the obligation to preserve humankind's heritage is couched in (again) a distinctly European conception of authenticity as 'preserving as we found it'.

The charge of elitism comes in two guises. On the one hand, the cultural sites it has privileged over time tend to symbolize the culture of rulers and propertied groups as opposed to that of the ruled. Relatedly, the List's cultural sites tend to be the product

⁴ L. Smith, *Uses of Heritage* (London: Routledge, 2006). The points made in the remainder of this section are a staple of heritage studies. See, for example, C. Brumann, "Creating Universal Value: The UNESCO World Heritage Convention in Its Fifth Decade", in A. M. Labrador and N. A. Silberman (ed.), *The Oxford Handbook of Public Heritage - Theory and Practice*: Oxford University Press, 2018); I. Hodder, "Cultural Heritage Rights: From Ownership and Descent to Justice and Well-Being", *Anthropological Quarterly* 83 (2010): 861-82; D. Lowenthal, *The Heritage Crusade and the Spoils of History* (Cambridge: Cambridge University Press, 1998); A. Gonzalez-Ruibal, "Vernacular Cosmopolitanism: An Archeological Critique of Universalistic Reason", in L. Meskell (ed.), *Cosmopolitan Archeologies* (Durham, N.C.: Duke University Press, 2009).

⁵ See, e.g., P. Cafaro, "Valuing Wild Nature", in S. M. Gardiner and A. Thomson (ed.), *The Oxford Handbook of Environmental Ethics* (Oxford: Oxford University Press, 2017).

of a literate and written culture, which is routinely deemed superior to vernacular and oral modes of communication and transmission.⁶ On the other hand, the process by which a site gets onto the list is dominated by experts - archaeologists, historians, conservationists, scientists, and civil servants - who are often at best inattentive to, at worst ignorant of, the meaning which the site has for local populations.

The charge of statism flows from those criticisms. Unsurprisingly, the sites which have made it on to the List have more often than not been nominated not so much for their supposed universal value but, rather, for their importance to the host state's national culture, at the expense of minorities within the nation such as Aborigines in Australia and New Zealand and Native Americans in the United States. Furthermore, states use what they regard as *their* heritage as bargaining chips in the never-ending game of international realpolitik, with sometimes devastating consequences for the sites which they ought to protect and the human beings whose livelihood often depends on those sites.

Moreover, states are tasked with preserving those sites: if a state fails to live up to its commitments, there is very little that UNESCO can do other than place a site on the danger list, send teams of inspectors (with the state party's consent), withhold funding or take the radical step of delisting a site. And, when it does act, it does so with staggering, rage-inducing partiality. Thus, in marked contrast with its Russia-targeted condemnatory rhetoric about the destruction of Ukraine's universally valuable heritage, UNESCO has consistently desisted from explicitly condemning Saudi Arabia and its allies, which have been fighting an attritional war against the Houthi movement in Yemen since 2014, for the destruction of that country's similarly valuable heritage. This is not particularly surprising: one need not be a conspiracy theorist to note that the US, the UK, and France are backing the Saudi-led coalition in its fight against ISIS in Yemen. In fact, not only has UNESCO failed to rebuke Saudi Arabia and its allies: since 2015, it has listed a number of their landmarks onto the World Heritage List.⁷

Finally, the Authorized Heritage Discourse is Pollyanish. Heritage is almost

⁶ On this latter point, see, esp. S. Labadi, *UNESCO, Cultural Heritage, and Outstanding Universal Value* (Lanham, MD: Rowman & Littlefield, 2013). Labadi's book is a fascinating study of several dozens nominations files, and thus of states' interpretation of the Convention.

⁷ See L. Meskell and B. Isakhan, "UNESCO, World Heritage and the Gridlock over Yemen", *Third World Quarterly* 41 (2020): 1776-91. See also L. Khalidi, "The Destruction of Yemen and Its Cultural Heritage", *International Journal of Middle East Studies* 49 (2017): 735-38.

To date, only three sites have been fully delisted: the Arabian Oryx Sanctuary in Oman was delisted in 2007 due to the decision by the Omani authorities to reduce the area of the site by 90%; the cultural landscape of Germany's Dresden Elbe Valley was delisted in 2009 as a result of the decision by the German authorities to build a 4-lane motorway through the site; the Maritime Mercantile City of Liverpool was delisted in 2021 as a result of extensive property developments about which the World Heritage had long expressed concerns. For a recent articulation of the charge of statism, see L. Meskell, *A Future in Ruins - UNESCO, World Heritage, and the Dream of Peace* (Oxford: Oxford University Press, 2018).

always construed as something to be proud of. The overwhelming majority of the landmarks on the World Heritage List are described as outstandingly beautiful, or as the illustration of human creativity. When a landmark is listed for its negative valence, for example when it is a commemorative site of atrocities, the description always contains positive elements. Thus, Robben Island, where the South Apartheid regime imprisoned its opponents and where Nelson Mandela spent 27 years in captivity, is described by the World Heritage as a witness to ‘the triumph of democracy and freedom over oppression and racism’. The description of Auschwitz-Birkenau stresses the fact that the complex ‘is also a monument to the strength of the human spirit which in appalling conditions of adversity resisted the efforts of the German Nazi regime to suppress freedom and free thought and to wipe out whole races.’ The description of the Island of Gorée, which served as Africa’s largest slave-trading center from the 15th to the 19th centuries, states that the Island now serves as ‘a space for exchange and dialogue between cultures through the confrontation of ideals of reconciliation and forgiveness.’⁸

The World Heritage Committee and those who advise it have attempted to respond to some of those criticisms. The 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expression aims to correct for the Eurocentric and elitist biases of the 1972 Convention. Sites of quotidian yet vitally important practices are making their appearance on the list. For example, the Ancient Ferrous Metallurgic Sites of Burkina Faso, which attest to early iron production in Africa, were listed in July 2019. Furthermore, scholars and practitioners of heritage are increasingly calling for states and UNESCO to pay greater attention to negative or ‘dissonant’ heritage. In that vein, UNESCO launched a project on the Slave Route Project in 1994, with the aim to foster research on and promote the remembrance of what is now widely regarded as a crime against humanity.

Those attempts have not been met with uncritical acclaim. Too little, too late, it is sometimes said: it is still the case (the criticism goes) that the official discourse values as universal that which, on the List, is in fact particularistic, and at the same time fails to value as universal, for prejudiced reasons, much of what is not on the List.⁹

My aim is not to provide a verdictive assessment of the UNESCO’s successes and failures.¹⁰ Rather, I seek to provide a philosophical account of the universal value of some of our heritage goods which does not fall foul of those criticisms - or, at least, which is less vulnerable to them than their institutional expression, in the form of the Authorized Heritage Discourse, has been. With that in mind, I do not seek to defend the List as it stands. It may well be that our common heritage in fact has far fewer

⁸ The description is available at <https://whc.unesco.org/en/list/26/>. For a discussion of Robben Island and Auschwitz along those lines, see, e.g., E. H. Matthes, “Who Owns up to the Past? Heritage and Historical Injustice”, *Journal of the American Philosophical Association* 4 (2018): 87-104.

⁹ Smith, *Uses of Heritage*, esp. ch. 3; Labadi, *UNESCO, Cultural Heritage, and Outstanding Universal Value*, pp. 144-145.

¹⁰ For an unsparing indictment, to which I am wholly sympathetic, see Meskell, *A Future in Ruins*.

elements than is often supposed. Conversely, it may also be that it ought to have cultural goods which have not so far been regarded as candidates for inclusion.

In what follows, I restrict my inquiry to the tangible bases of our cultural heritage, to the exclusion of both purely environmental goods and cultural practices. On the first count, I do not consider what heritage value if any we should confer on and which duties if any we have in respect of Lake Baikal, as the oldest and deepest lake in the world; but I do consider which heritage value if any we should confer on and which duties we have in respect of (e.g.) the Ancient Tea Plantations of Jingmai Mountain in China. On the second count, I do not consider which duties if any we have in respect of (e.g.) the practice of music playing; but I do consider whether there is a duty to help preserve outstanding exemplars of musical instruments, recordings or scores.

I do not deny that environmental goods and cultural practices are part of our heritage. But they raise distinct issues which I lack the space to tackle here properly - hence my focus on tangible cultural heritage. However, I construe that heritage relatively broadly, so as to include literary works, artworks, artefacts, buildings, and archives; those parts of our natural environment, or landscapes, which are the product of, and sustain (or have sustained) cultural practices; and human fossils.

1.3 The value of heritage

Something is part of our heritage only if (roughly put) it has come to us from our past and we are somehow connected to it. On constructivist accounts of heritage, something counts as part of our heritage only if, in addition, we recognize it as such. On realist accounts, heritage is what we have inherited from our predecessors, irrespective of whether we recognize this to be the case. In neither case does heritage need to be valuable, or to be valued by those whose heritage it is. On constructivist accounts, we can accept something as part of our past and yet deny that it is valuable; on realist accounts, our value judgements in respect of that heritage are irrelevant to its having been handed down to us by our predecessors.

Realist accounts are more plausible. They render intelligible claims that a community is failing to see as its heritage that which in fact is part of it. They make sense of the thought that some goods are part of our heritage even if we have not discovered them yet (a point that is particularly relevant in respect of underground and underwater sites.) They also accommodate the intuitively plausible claim that a decision to recognize or reject something as part of our heritage is subject to independent moral evaluation. Constructive accounts struggle on those three fronts.¹¹

An account of the value of humankind's heritage must show why its constitutive elements, or heritage goods, are valuable *as* heritage goods, as distinct from cultural goods *simpliciter*. It must also articulate what it is about those goods which licenses us

¹¹ For a good overview of difficulties inherent in defining cultural heritage, see R. Harrison, *Heritage: Critical Approaches* (London: Routledge, 2013).

to say that they are part of that heritage, as distinct from, or in addition to, being part of a local or national heritage.

In these essays, I rely on the following account of value. Something is *valuable* in so far as it has certain properties which ground reasons to experience and engage in a range of fitting pro- attitudes in relation to it. To value it just is to experience and engage in those pro-attitudes. Something is valuable, then, in so far as there are good reasons to value it. By parity of reasoning, something is *disvaluable* in so far as it has certain properties which ground good reasons to experience and engage in a range of fitting anti- attitudes towards it – in other words, to disvalue it.¹²

What gives value to a heritage good (henceforth, *H*) depends on its properties and on whether those properties give us reasons to value it. *H*'s temporal properties, such as location in time and duration, are necessary conditions for *H* to be valued *qua* heritage good. However, they are not enough on their own to confer value on it. The fact that a piece of parchment is 250 years old does not in itself make it valuable. But if it exemplifies a technique for creating parchment which was first developed 250 years ago and if it is the only known exemplar of its kind, the combination of all those properties does make it valuable as a piece of heritage.¹³

As this example shows, we need an account of which properties combine with temporal properties so as to confer *heritage value* on a particular good. *H*'s value typically supervenes on one or several of those properties such as (non-exhaustively): beauty, excellence, integrity, uniqueness, originality, authenticity, genuineness, contributing to something else that is itself of value, and semiotic value. Some of those properties, such as beauty and integrity, are internal to *H* - in which case we shall say that *H* has intrinsic value; others, such as uniqueness, contributing, or symbolizing, are external to it - in which case *H* has extrinsic value. Interestingly, an object's properties can but need not be essential to that object's value. Thus, while a beautiful building would not be valuable

¹² This account, also known as the fittingness account of value, has generated a huge literature. For an early canonical statement, see F. Brentano, *The Origin of Our Knowledge of Right and Wrong* (London: Routledge & Kegan Paul, 1969), esp. p.11, 15. See also A. C. Ewing, *The Definition of Good* (London: Routledge and Kegan Paul, 1948), esp. p. 152; R. Chisholm, "Defining Intrinsic Value", *Analysis* 41 (1981): 99-100; T. M. Scanlon, *What We Owe to Each Other* (Cambridge, MA: Harvard University Press, 1998), ch. 3; M. J. Zimmerman, *The Nature of Intrinsic Value* (Lanham, MD: Rowman & Littlefield, 2001), esp. ch. 4. On the affective dimension of valuing, see S. Scheffler, "Valuing", in S. Freeman and R. Kumar (ed.), *Reasons and Recognition: Essays on the Philosophy of T.M. Scanlon*: Oxford University Press, 2012). As Scheffler and others note, I can without contradiction recognise that an object is valuable, for example by dint of the place it occupies in the history of Western art, yet have no admiration for it, no desire to go and see it *in situ*, etc. See also J. Raz, *Value, Respect, and Attachment* (Cambridge: Cambridge University Press, 2001) and E. Anderson, *Value in Ethics and Economics* (Cambridge, MA: Harvard University Press, 1993).

¹³ On old age as a value-conferring property, see S. P. James, "Why Old Things Matter", *Journal of Moral Philosophy* 12 (2015): 313-29. On the value, or not, of surviving the passage of time, see A. Savile, *The Test of Time - an Essay in Philosophical Aesthetics* (Oxford: Clarendon Press, 1982).

qua beautiful building were it not for the fact that it is beautiful, its beauty in part supervenes on contingent properties such as colour, architectural design, and so on.

Cultural goods can have disvalue. Recall that something is disvaluable in so far as (some of) its properties give us reasons to experience and engage in fitting anti-attitudes towards it. In the context at hand, *H* can have *disvalue* by dint of the opposite of the value-conferring properties we have examined so far: ugliness, in opposition to beauty; lack of physical integrity, in opposition to physical deterioration; being a copy, in opposition to being an original; bringing about a bad state of affairs, blocking the emergence of a good state of affairs, or failing to prevent the occurrence of a bad one - in opposition to bringing about a good state of affairs and blocking the emergence of a bad state of affairs.

Value and disvalue can interact in complex and interesting ways. Consider a place of atrocities - say the Slave Trade Route. It symbolizes and was part of the causal nexus for one of the worst moral mistakes human beings have ever made and can make - the abject and willful failure to value others as ends in themselves. It represents and contributed to something of egregious disvalue. At the same time, and *precisely* for that reason, there is a sense in which it has heritage value - as a reminder of the worst of what human beings are capable, morally speaking. Similarly, a site which is now a ruin and thus no longer has the property of architectural integrity might nevertheless be beautiful, and thus have aesthetic value, *precisely* for that reason. It might also acquire symbolic value, again because it is a ruin. The Genbaku Dome at Hiroshima, which is the only structure to have survived the 1945 blast and which has been on the World Heritage List since 1996, illustrates the point well.¹⁴

I.4 Pluralism, humanity and heritage

I.4.1 The universal value of humankind's heritage

At the outset of s.I.3, I said that an account of the value of humankind's heritage must explain, first, what confers heritage value on its constitutive elements; and, second, what it is about it that makes it *humankind's* heritage.

Intuitively, it is a necessary condition for a heritage good to belong to humankind's heritage that it should be universally valuable. Yet, individuals deem things to be valuable from standpoints which often are very particular to them, such as familial, cultural, social and economic background. What makes Notre-Dame valuable to me are the facts that I was baptized and raised in the Roman Catholic Church, that I am a Parisian by birth and kinship, and that I am French. Those facts, in turn, partly emerge from and continue to be shaped by a range of social practices: the fact that Notre-Dame

¹⁴ For interesting discussions of the aesthetics of ruins, see, e.g., C. Desilvey, *Curating Decay - Heritage Beyond Saving* (Minneapolis: University of Minnesota Press, 2017) and J. Bicknell, J. Judkins, and C. Korsmeyer (ed.), *Philosophical Perspectives on Ruins, Monuments and Memorials* (London: Routledge, 2019).

has been regarded by generations of French people a part of France's cultural heritage provides me with yet another reason to value it as a *heritage* good. None of those reasons in respect of Notre-Dame apply to, for example, a Buddhist. Conversely, what makes the Bamiyan statues valuable to her does not apply to me. The value judgements which heritage goods typically elicit are so complex, diverse and seemingly particular to valuers, as to defy calls for universality.

We might think at first that cultural cosmopolitanism offers us a route between universality and particularism. On the most influential accounts to date, the cultural cosmopolitan denies that, in Jeremy Waldron's words, 'the social world divides up neatly into different cultures - one to every community' and that 'what everyone needs is just one of these entities - a single, coherent culture-to give shape and meaning to his life.'¹⁵ More positively, as Samuel Scheffler puts it, cultural cosmopolitanism 'emphasises the fluidity of individual identity, people's remarkable capacity to forge new identities using material from diverse cultural sources, and to flourish while so doing.'¹⁶ The cultural cosmopolitan need not deny that individuals have a wide range of reasons for valuing heritage goods. What she denies is that those reasons are necessarily shaped by valuers' culture of birth and upbringing.

Someone who takes herself to have reasons to value Notre-Dame Cathedral, the rice fields of China and Japanese ink painting even though she is not French, Chinese or Japanese, has lived in neither of those countries and does not intend to do so, is a cultural cosmopolitan. Yet the fact that she takes herself to have reasons to value cultural goods which are not particular to the culture in which she was born and grew up does not tell us why she has reasons to value those goods *as part and parcel of* humankind's common cultural heritage.

What we need, then, is an account of universal value. A standard move, in axiology and heritage studies, consists in drawing a distinction between two different conceptions of universality. On the one hand, to say that a heritage good has universal value is to say that we all have reasons to value it from different socially constructed, practice-dependent standpoints. On the other hand, it is to say that we all have reasons to value it merely by dint of our humanity. As Erich Hatala Matthes puts it, the first conception is pluralist, while the latter is monistic.¹⁷

The pluralist view relies on too thin a conception of universality for our purposes here. For all that it requires, for a good to be universally valuable, is that all of us should have reasons to value it from our particularistic standpoints: some of us may have reasons

¹⁵ J. Waldron, "Minorities Cultures and the Cosmopolitan Alternative", *University of Michigan Journal of Law Reform* 25 (1991): 751-93, pp. 781-782.

¹⁶ S. Scheffler, "Conceptions of Cosmopolitanism", *Utilitas* 11 (1999): 255-76, p. 257.

¹⁷ E. H. Matthes, "Impersonal Value, Universal Value, and the Scope of Cultural Heritage", *Ethics* 125 (2015): 999-1027, pp. 1016-1017. For an articulation of the distinction in heritage studies, see Harrison, *Heritage*, p. 116. For an interesting application of this line of argument to the World Heritage's practices, see Labadi, *UNESCO, Cultural Heritage, and Outstanding Universal Value*.

to value a landmark for the place – good or bad – which it occupies in the history of our country, while others, who are not our compatriots, may have reasons to value it for the fact that it is one of its kind, or a landmark of outstanding beauty whose aesthetics somehow ‘resonates’ with us. So long as we can reach an overlapping consensus, as it were, that this landmark is valuable, we can say that it is valuable universally. However, even if the pluralist view offers a plausible conception of universal value, it does not account for our value judgements about humankind’s common heritage *qua* such heritage. For humankind’s *common* heritage is not just the set of those heritage goods which we all have reasons separately to value: it is *our* heritage, rather than *mine, and yours*; it is something which we *together*, and not merely *each of us*, have reasons to value. In order for it to count as ours, thus, it seems that we must have additional reasons to value it – above and beyond our particularistic reasons. What, though, are those reasons?

In separate works, Anthony Appiah, Sheyla Benhabib and Michael Walzer argue that we all have an impersonal reason, irrespective of our particularistic standpoints, to value one another as autonomous and creative beings. To value fellow human beings as autonomous and creative beings is to recognize as valuable (within limits) the practice-dependent paths which they have shaped for themselves. Those value judgements are the more robust and grounded for the fact that we are willing and able to engage in a form of intercultural dialogue, thanks to which we may come to understand why our fellow human beings value the particular things that they do. I may not at first see why a given building is seen as valuable by members of another culture. But through a process of dialogical and reciprocal justification, I may come in time to understand better both that value judgement and those who make it, even if my own aesthetic sensibilities, my upbringing and the history of my country are such that I will never myself deem that building valuable for those particularistic reasons.¹⁸

On the pluralist conception, then, a good is universally valuable in a way that justifies its inclusion in humankind’s common cultural heritage if all of us have reasons to value it from our particularistic standpoints *and* in so far as that very fact itself is a reason to value it, impersonally, as the culturally and socially mediated instantiation of our fellow human beings’ different such standpoints. It is in that sense that we together, and not just each independently of each other, have reasons to value it. From now on, this is what I shall have in mind when I speak of the pluralist conception of universality.

Compare the pluralist conception with the monistic or mere-humanity view of universality as it is standardly framed. On the mere-humanity view, a good is universally

¹⁸ K. A. Appiah, *Cosmopolitanism* (London: Allen Lane, 2006); S. Benhabib, *Another Cosmopolitanism - Tanner Lectures on Human Values* (Oxford: Oxford University Press, 2006); M. Walzer, *Nation and Universe - Tanner Lecture on Human Values* (The Tanner Lectures on Human Values, 1989) (available at <https://tannerlectures.utah.edu/resources/documents/a-to-z/w/walzer90.pdf>). The point on intercultural dialogue draws on Elizabeth Anderson’s pragmatic account of justifications for evaluative judgements. See Anderson, *Value in Ethics and Economics*, ch.5. Thanks to Margaret Moore for pressing me on this.

valuable just if all human beings have a reason to value it merely by dint of the fact that they are human beings. So stated, note, the view does not differ from the claim that there is an impersonal reason to value what our fellow human beings have reason to value from their own particularistic standpoints, for that impersonal reason is one which we all have, merely by dint of the fact that we are human beings. If it is to be distinguished from the pluralist view, the mere-humanity view must be recast as follows: a good is universally valuable just if all human beings have a non-mediated reason to value it merely by dint of being human.

On its own, however, this claim does not tell us what universal goods are universally valuable such that belong to *our* heritage. Proponents of the mere-humanity view typically restrict their account of humankind's cultural heritage to prehistoric sites, objects and skeletons, which tell us something about the evolution of the planet or about our common predecessors' life and thus our shared past, long before humans 'branched out' into a multitude of cultures. As David Lowenthal observes, being the first or the most ancient in existence is deemed to confer value on an object, practice or site precisely because it is close 'to the dawn of time, to the earliest beginnings', and because contemplating it brings *us* closer to those earliest beginnings. On this view, the Maros-Pangkep Caves in Indonesia, which are on the World Heritage's Tentative List and whose extraordinarily vivid renditions of our predecessors' lives in the Paleolithic era are the oldest paintings on record, are in; anything that does not exhibit the same properties is out.¹⁹

The rationale for the small list is that there are things about who we are and what we do as human beings - aspects of our humanity - which have universal value. It provides building blocks for a longer list, along the following lines.

First, heritage goods whose value supervenes on the fact that they symbolize, represent, and/or contributed to major events and practices in *global* human history writ large are apt candidates for inclusion. By global history, I mean events which have affected more or less all of us as well as events in which most of our predecessors, via our political communities, have jointly participated. We thus ought to include sites of mass, cross- and trans- continental population displacements, such as the slave trade route and trade routes such as the Silk Road, pilgrim routes, and transatlantic migration routes from Europe to the Americas. We also ought to include landmarks and sites whose value supervenes on the fact that they represent, symbolize, and instantiate cross- and trans- continental cultures. The major sites of all religions are part of humankind's heritage, as are the cultural landscapes whose significance reaches beyond their borders, such as (*inter alia*) the wine growing areas of Europe, the rice terraces of China, the

¹⁹ Lowenthal, *The Heritage Crusade*, p. 176. On the small list, see Matthes, "Impersonal Value, Universal Value, and the Scope of Cultural Heritage", p. 1015; H. Cleere, "The Concept of 'Outstanding Universal Value' in the World Heritage Convention", *Conservation and Management of Archaeological Sites* 1 (1996): 227-33; A. Omland, "The Ethics of the World Heritage Concept", in *The Ethics of Archaeology: Philosophical Perspectives on Archaeological Practice*. Cambridge University Press, 2006).

coffee plantations of Columbia, the tea-plantations of the Jingmail Mountain in China and the Darjeeling region in India.²⁰ Likewise with cultural artefacts of global significance, such as (non-exhaustively) the tangible bases of Indian classical music, the collective works of Shakespeare, the Bible, the Koran, the works of Confucius and Homer, and the *Mahā bhaṛata*. We also ought to include sites and landmarks of global political significance, such as the major battlefields of both World Wars, as well as objects and documentary sources - or archives - which attest to historical events of that kind, along the lines of the UNESCO's Memory of the World Project.

Second, landmarks and sites which attest to what we have shown ourselves capable of doing, as human beings, to and for another, as human beings, also belong to our common heritage. It is a serious objection to the aforementioned austere view of the limits of humankind's heritage that it does not make space for the claim that heritage goods whose value supervenes on the fact that they symbolize, signal, represent, and were contributory to crimes *against humanity* have universal value. Yet, if one accepts that there are such crimes, one can accept that those goods have such value. Paradigmatic examples of crimes against humanity are acts of genocide, as well as enslavement, torture, and rape in so far as they are part of a systematic policy. In the language of the Preamble to the Universal Declaration of Human Rights, they are 'barbarous acts which have outraged the conscience of [humankind].' At worst, their perpetrators regard their victims' humanity *as a reason to* kill, murder, destroy, enslave. At the fractionally less bad, they manifest utter disregard for their victims' humanity, as exemplified in the wanton discounting of the lives of millions of soldiers on the battlefields of both WWI and WWII, the systematic targeting of civilian populations culminating in the nuclear obliteration of Hiroshima and Nagasaki in 1945, the labour camps of Stalin's empire, the Killing Fields of Cambodia, and Apartheid in South Africa.

Judgements of those crimes as crimes against humanity are issued at the bar of one's humanity; the sites where such crimes took place have universal value and ought to be regarded as part of humankind's heritage, as well as part of their victims' specific heritage. One can easily see why Auschwitz-Birkenau, the Atomic Bomb Dome in Hiroshima's Peace Memorial and Robben Island were added to the World Heritage List, and why work has begun to list sites of the Rwandan Genocide and the Central Slave Route. One can also see why Senegal was successful in its bid to inscribe the Island of Gorée on the List.

Third, if heritage goods whose value supervenes on the fact that they symbolize, represent or have contributed to the worst of what human beings can do to one another are parts of humankind's common heritage, so are heritage goods whose value supervenes on the fact that they symbolize, represent or have contributed to the best

²⁰ For a similar point, on the universal value of migratory routes and of some cultural landscapes - though he focuses on Europe's wine-making region-, see P. Fowler, *Landscapes for the World* (Bollington: Windgather, 2004), pp. 202-203.

that they can do *for* one another. To the extent that sites of atrocities are also sites which witnessed exceptional courage, resilience and generosity, they can aptly be valued as part of humankind's heritage on this ground too, so long as one does not occlude the main reason why they are part of that heritage in the first instance. By that token, sites, objects, and artefacts, where or thanks to which lives have been purposefully saved are part of that heritage. Think for example of the buildings where antibiotics were first invented, or of the earliest known example of sanitation systems, at Moenjodaro in the Indus Valley.

Fourth, humankind's common heritage includes goods whose value in part supervenes on the fact that they are the products of, represent, or symbolize, humankind's achievements *tout court*, be they artistic (writ large), technological, industrial, sporting, or agricultural. Although those goods are shaped by the distinct social and cultural practices to which they owe their existence, we have reasons to value them impersonally, irrespective of those social and cultural practices.

Fifth, there are goods whose value in part supervenes on the fact that they are the products of, contribute to, represent, or symbolize, humankind's failures and achievements in relation to other species - at least in so far as those failures and achievements rest on a particular conception of what it is to be human, be it in contrast to or common with those species. The indiscriminate, multi-millennia slaughter of animals, for example, has its root in humans' objectification of the latter, and, more fundamentally, in their construal of their superior moral status, as human beings, compared to that of non-humans. Conversely, the growing acknowledgement, on our part, that we have stringent obligations to non-humans flows from a deeper acknowledgement of what unites us to, rather than separates us from, non-humans.²¹

One final point. The claim that some heritage goods are universally valuable on the mere-humanity view is compatible with the thought that different individuals and groups have participated in those events and practices in different ways. This in turn is likely to shape their attitudes towards the tangible bases and remnants of global history in different ways. Put in general terms, the mere-humanity and the pluralist views can and often will converge on the same heritage goods.

In summary, there is considerably more to our common cultural heritage than sites which tell us something about our prehistoric shared origin. It is, in fact, an extraordinarily rich heritage, which we all have reasons to value.

I.4.2 The problem of proliferation

My account of the value of humankind's heritage seems vulnerable to the charge that it includes too many of such goods.²² Consider sites of suffering. Granted, the critic might

²¹ Thanks to K. Lippert-Rasmussen for the point.

²² See, e.g., E. H. Matthes, "History, Value, and Irreplaceability", *Ethics* 124 (2013): 35-64, p. 39; Lowenthal, *The Heritage Crusade*, ch. 1.

concede, the Hiroshima Dome's universal value in part supervenes on its being and representing the first place on which the atomic bomb was dropped, thereby ushering the age of the potential wholesale annihilation by human beings of all human civilization. For all those reasons, it is conceivably part of humankind's heritage and valuable as such (as well as from the particularistic standpoints of American and Japanese citizens.) But surely we should not include in our common heritage *all* the battlefields of WWI, all the battlefields of WWII, all the sites where civilians were deliberately killed, all the sites where they are discriminated against. The objection is not unique to sites and landmarks of suffering; it also arises with sites of outstanding beauty or sites of human excellence. In the critic's eye, the accumulation of examples which I have given throughout proves the anti-universalist point.

In response, some readers might simply deny that proliferation is a problem. On the contrary, they might say: there simply *are* many heritage goods of universal value. Rather than despair at our inability to give them the care and attention they warrant, we should regard their sheer number as an opportunity to engage with the richness of our cultural world.²³

Perhaps. At the same time, as saw in s.I.3, heritage goods are valuable by dint of more than one property. Other things equal, the greater the number of properties on which the value of *H* supervenes, the greater the value of *H*. An intact Gutenberg Bible is all the more valuable for being intact *and* for being one of a small set. With that in mind, I am inclined to accept the World Heritage's requirement that candidates for inclusion should have more than one value-making property - or, in its language, meet more than one criterion.²⁴ For example, criterion (vi) stipulates that a heritage good must be 'directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance.' However, 'the Committee considers that this criterion should preferably be used in conjunction with other criteria.' Of the other nine criteria, those which refer to human-made sites or landmarks (including cultural landscapes) are complex, containing at least two, sometimes three, properties. For example, criterion (iii) stipulates that a heritage good must 'bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared'; according to criterion (iv), it must 'be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history'. Uniqueness and outstandingness are not enough: the good must have testimonial and/or representational value.' Requiring that a heritage good be valuable by dint of at least two properties goes some way towards meeting the proliferation objection. Only 'some way', though: we still need to ascertain how to weigh those properties up against each other.

²³ Thanks to C. Korsmeyer for the suggestion.

²⁴ For the World Heritage's policy on inclusion, see its 'The Criteria for Inclusion', available at <https://whc.unesco.org/en/criteria/> (accessed on 7/26/22.)

Suppose that H_1 is both older and more beautiful than H_2 , while H_2 has greater historical significance than H_1 and is the only one of its kind. Should they both be included? If not, why not?²⁵

I do not (I confess) have well developed answers to those enormously complex questions. In any event, I suspect that worries about proliferation do not so much target the aptness of our value judgements about common heritage as the possibly excessive moral demands which those judgements entail and the difficult decisions which we might have to make when deciding which parts of our heritage to protect and which to let go of, all things considered. I shall address the first worry in the next essay (though I will unfortunately have to set aside the second worry, which is about trade-offs.) To prepare the grounds for my arguments therein, in the next section, I sketch out some of the things which the properties of our common heritage give us reasons to do, and highlight some important differences between reasons, moral reasons, and moral duties.

I.5 From reasons to duties

I.5.1 Heritage and practical reasons

Something is valuable in so far as it has certain properties which ground reasons to experience and engage in a range of fitting pro- attitudes in relation to it. Some of those attitudes are affective (awe at the beauty of a landmark, sadness at the loss of that heritage, etc.), while others consists in doing, or not, certain things to and with heritage. In the remainder of these essays, essentially for lack of space, I focus on four practical reasons in respect of our common heritage: reasons not to destroy it; reasons to preserve it; reasons to grant access to it; and reasons to acquire and impart knowledge about it.

Not destroying

We have reasons not to destroy humankind's heritage. Our reasons not to destroy are *pro tanto* reasons (as, indeed, are any practical reasons), which may sometimes be outweighed. In fact, we sometimes have reasons *to* destroy or damage heritage goods which belong to our common heritage, whether deliberately or unintentionally (albeit foreseeably). Suppose that a mass shooter makes its way into the British Museum. Security guards can only shoot him, thereby saving lives, through the Rosetta Stone, thereby irretrievably destroying it. It seems - though I shall not defend this claim here - that they have reasons to do so.

We may also have reasons to destroy what C.M. Lim calls 'tainted' commemorative goods, such as statues of Confederacy soldiers or of Cecil Rhodes.²⁶

²⁵ Thanks to A.K. Appiah for pressing me on this.

²⁶ C. M. Lim, "Vandalizing Tainted Commemorations", *Philosophy & Public Affairs* 48 (2020): 185-216. By the same token, and to anticipate, we may have reasons to preserve tainted heritage. (See D. Matravers, "The Reconstruction of Damaged or Destroyed Heritage", in J. Bicknell, J. Judkins, and C. Korsmeyer (ed.), *Philosophical Perspectives on Ruins, Monuments and Memorials* (London: Routledge, 2019).

These are different from the goods which, I argued in s.I.3, we have reasons to value precisely because they represent or are the locus of grievous wrongs. The goods I had in mind then, such as Hiroshima's Atomic Dome, were not erected in celebration of grievously wrong acts. The claim that there are reasons not to destroy those goods is compatible with the claim that there are reasons to destroy goods which are 'tainted' in Lim's sense.

Finally, in some cases, the value of a work of art sometimes lies *precisely* in the fact that it will cease to exist. Take, for example, Banksy's painting, *The Girl with Balloon*, which partially self-destroyed via a shredder built into its frame, a mere moment after it was purchased at auction. To the extent that the painting is valuable in part by dint of its in-built shredder, we have a reason to destroy it.²⁷

Preserving

We have reasons to preserve humankind's heritage. Preservation takes the form of protecting heritage goods from damage, for example by storing them under appropriate conditions (to do with, e.g., temperature, humidity, etc.), as well as repairing or restoring them.

This seemingly simple claim belies a number of difficulties. Restoring cultural goods such as paintings, sculptures, or buildings often involves using different materials. So does reconstructing. On a purist view of restoration and reconstruction, anything which involves using numerically different materials is the creation of a new, different object, so that we can no longer say that the restored or reconstructed object is the same as the original object. Given that authenticity - construed as retaining original properties - is a necessary condition for aesthetic appreciation, restoration and reconstruction cannot be a way of preserving the object's value.

The dispute between purists and their opponents, which is rooted in metaphysical debates regarding diachronic numerical identity, is a long-standing one.²⁸ I do not wish to adjudicate it. Let me simply make two points. First, the purist's argument does not apply to heritage goods whose value supervenes on the aesthetic qualities of what they represent, on their epistemic value, or on their contributory value to historical events.

²⁷ M. Busby. "Woman Who Bought Shredded Banksy Artwork Will Go through with Purchase", *The Guardian* (11/10/2018).

²⁸ For a well-known contemporary defence of the purist position, see M. Sagoff, "On Restoring and Reproducing Art", *The Journal of Philosophy* 75 (1978): 453-69. For a classic defence, though one which (mistakenly) claims that restoration is necessarily deceitful, see J. Ruskin, "The Lamp of Memory", in E. T. Cook and A. Wedderburn (ed.), *The Seven Lamps of Architecture - the Works of John Ruskin, Vol. 8*: Cambridge University Press, 2010), pp. 242-245. For critical discussions, see, e.g., P. Lamarque, "Reflections on the Ethics and Aesthetics of Restoration and Conservation", *British Journal of Aesthetics* 56 (2016): 281-99; R. Wicks, "Architectural Restoration: Resurrection or Replications?", *The British Journal of Aesthetics* 34 (1994): 163-69; S. J. Wilshire, "What Justifies Restoration?", *The Philosophical Quarterly* 38 (1988): 56-67; C. Korsmeyer, *Things - in Touch with the Past* (Oxford: Oxford University Press, 2019), esp. chs. 2 and 4.

The purist need not deny this, but it is worth drawing out the limits of her arguments. Consider for example badly damaged archives relating to the Slave Trade, or Gavriló Princip's gun. Even if one grants the purist the claim that physical continuity is a necessary condition of diachronic identity, such that active conservation or restoration would issue in a different archival object and a different gun, one would be hard pressed to affirm that restoration empties those (new) objects of their value.

Second, even if restoration creates a new object whose aesthetic value is not reducible to that of the original object, it does not follow that we have reasons not to restore damaged heritage goods. For a start, not restoring will inevitably, over time, lead to the loss, if not of those objects, at least of some of their aesthetic value. It is odd to suppose that any kind of restoration, at the cost (let us grant) of some aesthetic value, is always and necessarily worse than the wholesale loss of those goods and the concomitant loss of all its aesthetic value. Furthermore, while a beautiful good would not be valuable *qua* beautiful good but for the fact that it is beautiful, its essential internal property of beauty supervenes on contingent internal properties such as color, architectural design, and so on. Restoration thus need not always lead to the loss of that good's aesthetic value. The point is compatible with the fact that we may have reasons not to restore a damaged heritage good on the grounds that (as we saw in s. I.3), its aesthetic or symbolic value supervenes on the fact that it is a ruin. Thus, the city of Hiroshima decided not to rebuild the Genbaku Dome, as a way to remember the victims of the atomic blast and to remind humankind of the sheer scale of its destructive powers. (Over time, of course, maintaining the Dome in its 1945 state of ruin does require a good deal of preservation work.)

So far, I have assumed that enough is left of the original building or object that it makes sense to speak of restoration. But suppose it has been completely destroyed. Does valuing it as part of our common heritage provide us with reasons to rebuild it *de novo*? The issue arose in 2001 with the Bamiyan statues: following their near-obliteration by the Taliban, a number of scholars and, crucially, Afghani politicians, villagers and policy-makers called for their reconstruction. At the time of writing this, the UNESCO's focus is on stabilizing what is left of the statues' niches and on making the site safe.²⁹ Even if, *ex hypothesi*, that which conferred on the object universal value at the bar of our shared humanity no longer exists, that which conferred it such value at the bar of pluralism may still do. On the pluralist conception, you recall, a heritage good is universally valuable if we all have reasons to value it each from our own particularistic standpoint and at the same time also to value it impersonally as the culturally and socially mediated instantiation of our fellow human beings' different such standpoints.

²⁹ For an interesting philosophical discussion of this case, and an argument against reconstruction, see J. Janowski, "Bringing Back Bamiyan's Buddhas", *Journal of Applied Philosophy* 28 (2011): 44-64. For a detailed critique, see W. Bülow and J. L. Thomas, "On the Ethics of Reconstructing Destroyed Cultural Heritage Monuments", *Journal of the American Philosophical Association* 6 (2020): 483-501.

Suppose that Afghanis and Buddhists believe either that it is apt to speak of reconstructing *the* statues (such that we can still speak meaningfully of the Bamiyan statues) or that constructing new statues *in situ* is an apt way of honouring their heritage. We, who are neither Afghanis nor Buddhists, may well have reasons, from our own particularistic standpoints, to value the newly built statues as well as impersonal reasons to value Afghanis and Buddhists' value judgements in respect of the desirability of reconstruction. On whichever construal of the statues is endorsed - whether they are construed as *the* Bamiyan statues or as their successors - we can still say that they have universal value, which opens the justificatory door for a reason to reconstruct.

Granting access

Valuing humankind's common cultural heritage gives us reasons to grant access to it. Some of our heritage's landmarks and buildings are universally valuable by dint of their outstanding beauty. While one can look at photos or read descriptions of those landmarks and buildings, nothing replaces contemplating them *in situ*. Other heritage goods are universally valuable by dint of what they tell us about our shared past. We can best learn the lessons they teach us by visiting or consulting them. It would be odd to say, for example, that the Taj Mahal is valuable as part of humankind's common heritage yet at the same time deny that there are reasons to enable people to admire it *in situ*. It would be similarly odd to say that archives relative to the slave trade are valuable, yet deny that there are reasons to open those archives up.³⁰

Reasons to grant access, thus, include reasons to allow freedom of movement across borders, to open up archives, and (where relevant) to display heritage goods. Displaying, in turn, may involve displaying *in situ* or (in the case of moveable heritage goods) allowing other countries to do so. Uncontroversially, there are reasons to organize and sponsor touring exhibitions. Much more controversially, we have distributive reasons in relation to that heritage. First, we have reasons to distributive resources to those who lack them, so as to enable them to access heritage goods (for example, by subsidizing entry into heritage sites.) Second, we also have reasons to redistribute some of our common heritage's constitutive parts. It is often noted that some museums have millions of artefacts and artworks locked in their vaults, which are unlikely ever to see the light of day. Suppose some of those artefacts have outstanding value. Then it seems that there are reasons for those museums to divest themselves of such goods and transfer them to countries which will be able and willing to display them.

Here too, reasons to grant access may be overridden by reasons to preserve. Consider the Prehistoric Sites and Decorated Caves of the Vézère Valley in France. They were discovered in 1940, date from the Paleolithic era, cover roughly 1200 km², span

³⁰ For a thoughtful discussion of the importance of being 'in the presence of the real thing', see Korsmeyer, *Things*. I shall return to this point in s. II.2.

about 350,000 years, and contain, amongst other things, the Lascaux caves, whose mural paintings offer extraordinarily detailed and vivid paintings of hunting scenes and animal fauna. They were closed to the public in the 1960s, as exposure to air, visitors' exhalations and natural light threatened to destroy them: they are a textbook example of the tension between the value-conferring properties of age and integrity. Valuing the Caves provides reasons to restrict access to all save for a handful of researchers and conversation specialists.

Informing

Finally, we have reasons to act in particular ways in respect of the acquisition, exchange, and construction of knowledge about our common heritage. More specifically, we have reasons to ensure that, when appropriate, knowledge about our common heritage is appropriately framed and transmitted. The World Heritage's summary description of the Maritime Mercantile City of Liverpool, which was placed on the World Heritage List in 2004 and delisted in 2021, is a good example of what *not* to do. It holds that the value of the site supervenes on the following extrinsic properties: the fact that the city was at the heart of global trade in the 18th and 19th centuries; the fact that its merchants and seamen developed modern dock technology; the fact that the port of Liverpool played a major role in the 'mass movement of people, e.g., slaves and emigrants from Northern Europe to America.' The slave trade - one of the most abhorrent *longue durée* - crimes in the history of humankind - is mentioned in the same descriptive breath as mass voluntary migration and the development of dock technologies: there is little sense that the slave trade was instrumental to the latter and that there are salient differences (to put it mildly) between shipping slaves and allowing people to migrate to a new life.

I.5.2 Reasons, moral reasons, and duties

Our practical reasons in respect of our common heritage are normative reasons: they are reasons in favour or against doing something. Moral reasons are a subset of normative reasons. A moral reason in favour or against *x* is a consideration that counts in favour or against *x* such that my act or my failure to act is amenable to moral evaluation. Some moral reasons are grounded in duties, such that my act or failure to act are aptly characterized as wrong.

The question, then, is whether our practical reasons in respect of humankind's heritage are moral reasons and, if so, whether they are grounded in duties. Matthes thinks not. As he puts it, 'simply being human may be sufficient to ground reasons for valuing the history of our species or natural wonders, without giving us compelling reason to do so - we may have other interests and circumstances that render these things unimportant to us, despite our having reason to value them.'³¹

³¹ Matthes, "Impersonal Value, Universal Value, and the Scope of Cultural Heritage", p. 1017.

I am not persuaded. When faced with the competing claims of our heritage and of our other interests or circumstances, we may well have good reasons to prioritize the latter, but this is entirely compatible with the view that our heritage-related practical reasons are also moral reasons.

That being said, the mere fact that a heritage good belongs to humankind's heritage does not *in itself* give us moral reasons to preserve it, grant access to it, etc., let alone puts us under a duty to do so. In that respect, I agree with Matthes' conclusion, albeit not his argument for it. Suppose that the British, US and French governments decided to erase all mentions of the slave trade from those of their monuments and places which were central to it. Intuitively, I suspect that many of us would think that this would be bad, indeed wrong, not merely for their respective citizens, but for all of us. But simply appealing to the claim that those goods belong to humankind's common cultural heritage will not get us very far. Pending further argument to the contrary, it is open to each of those governments to say that while the fact that those goods are part of our common heritage provides them with a range of practical reasons, those reasons fall short of moral reasons, and *a fortiori* duties. In the next essay, I try to provide such an argument.

I.6 Conclusion

In this first essay, I have tried to defend the view that some goods are universally valuable and form part of humankind's heritage. In doing so, I appealed to two different conceptions of universality: the pluralist conception, whereby we all have reasons to value those goods from our particularistic standpoints in combination with the fact that we all have non-particularistic reasons to value those goods for the fact that others also value them; and the mere humanity conception, to the effect that we have reasons merely at the bar of our humanity to value some of those goods. The fact that humankind's common heritage is valuable, I further noted, provides us with *pro tanto* reasons not to destroy it, to preserve it, to grant access to it, and to provide the right kind of information about it. As we shall now see, those reasons are not mere practical reasons: they are moral duties - indeed, duties of justice.

II Justice and Humankind's Common Heritage

II.1 Introduction

In the first essay, I have tried to provide an account of the universal value of humankind's heritage. I now argue that we are under duties *of justice*, to one another (our contemporaries but also our predecessors and successors) as members of humankind, not to destroy it, to preserve it, to grant access to it, and to supply appropriate information about it.

The claim that we are under a duty not to destroy our common cultural heritage might seem obviously true. Indeed, the wanton destruction of cultural goods is a war crime under article 8 of the Rome Statute of the International Criminal Court - a provision which is rooted in the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. This led to the prosecution, in 2016, of Ahmed Al Faqi Al Mahdi by the International Criminal Court under indictment for the deliberate destruction of several religious buildings in Timbuktu, at the height of the conflict in Mali. Al Mahdi pled guilty and received a nine-year sentence. Although the Rome Statute does not draw a distinction between World Heritage sites and sites which are not afforded that status, the Court stated that the fact that all but one of the sites were protected World Heritage sites added to the gravity of Mahdi's crime. In an earlier case, the International Criminal Tribunal for the former Yugoslavia condemned Admiral Jokic, Yugoslavia's last head of its Navy and commander of its forces at the siege of Dubrovnik, to a seven-year jail sentence, for (*inter alia*) the destruction of Dubrovnik's Old Town. In the eyes of the Tribunal, Jokic's crime was worse for the fact that the Old Town was a World Heritage site.¹

Obvious as the point may be, the duty not to destroy needs defending; so do the other aforementioned duties. I mount my case to that effect in ss. II.2 and II.3. In s. II.4, I draw out some implications for states' putative right to govern over the territories

¹ Interestingly, Emmerich de Vattel himself, who is best known for his statist account of war, offers a stark condemnation of the wartime destruction of cultural property that is of value to humankind as a whole. See E. De Vattel, *Le Droit Des Gens - Principes De La Loi Naturelle Appliquee À La Conduite Et Aux Affaires Des Nations Et Des Souverains* (Washington, DC: Carnegie Institute, 1916), Book III, ch. IX, §168. For discussion, see J. H. Merryman, "Cultural Property Internationalism", *International Journal of Cultural Property* 12 (2005): 11-39. On the place of heritage in the history of Western just war theory, see D. Brunstetter, "A tale of Two Cities", *Global Intellectual History* 4 (2019): 369-88. The judgement of the ICC in the Mahdi case can be found at <https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/12-01/15-171> (see in particular para 80 of the judgement for the claim that the protected status of the sites adds to the gravity of the crime.) The ICTY's judgement in the Jokic case is available at https://www.icty.org/x/cases/miodrag_jokic/tjug/en/jok-sj040318e.pdf (see especially paras 48-53.)

on which our common heritage is located, lived in, passed on, and transformed. In s. II.5, I respond to the objection that my account opens the door to cultural appropriation. In s. II.6, I offer concluding remarks and outline avenues for further research.

Two *caveat*. First, I focus on those four duties, as these seem to be to be the most important. There are others - which lack of space prevents me from addressing here.² Second, the duties I defend here are *pro tanto* duties. All things considered, it may well be that faced with conflicts between the demands of justice with respect to our common heritage and the imperative of saving lives, we are under a moral duty to do the latter. Indeed, it may also be that faced with conflicts between the demands of justice with respect to humankind's heritage and the demands of justice with respect to heritage that is only of particular value to a community, we ought to give priority to the latter. For lack of space, I do not address those difficult questions. This is one of the limitations of those essays. At the same time, in order to ascertain what are the right trade offs, we need to know what our *pro tanto* duties in respect of humankind's common heritage are.

II.2 Justice, Humankind and Common Cultural Heritage

To say that we owe it to one another to act in certain ways in relation to our (by which I mean, ours as humankind's) common heritage as a matter of justice is tantamount to saying that we have rights against one another, wherever we reside, in relation to that heritage.³ At first sight, this might seem a straightforwardly moral-cosmopolitan claim. According to moral cosmopolitanism, national-cum-political borders are irrelevant to individuals' rights: if X has a right to *p* at the bar of justice, then so does Y, whether or not Y and X belong to the same political community; moreover, X has no greater duty at the bar of justice to respect and promote his compatriot Z's right to *p* than to respect Y's same right. Illustratively, the mere fact that *Y* is from Kenya while *Z* is from Germany does not license *X*, who is also from Germany, to save *Z*'s life rather than *Y*'s.

However, in just the same way as cultural cosmopolitanism does not properly account for the value of humankind's heritage *qua* such heritage, moral cosmopolitanism does not properly account for the requirement to protect humankind's common cultural heritage *qua* such heritage. It is coherent on the one hand to affirm that the notion of such heritage is illusory, and on the other hand to maintain that we are under as stringent duties of justice to distant strangers in relation to *their* heritage as we are in relation to ours. The question of the scope of justice, to which moral

² For example, we might think that taking selfies at Auschwitz is a dereliction of duties. Thanks to E. H. Matthes for the point and for drawing my attention to relevant literature, e.g., C. Bareither, "Difficult Heritage and Digital Media: 'Selfie Culture' and Emotional Practices at the Memorial to the Murdered Jews of Europe", *International journal of heritage studies* 27 (2021): 57-72.

³ I assume, without arguing for it, that justice is rights-based.

cosmopolitans respond by denying the moral relevance of borders, is orthogonal to that of its content and grounds, about which cosmopolitans *qua* cosmopolitans have little to say.

In order to show that we have duties of justice to fellow human beings - conversely, that they have rights against us - in relation to our common cultural heritage, I rely on the following account of justice.

A just world is one in which all individuals, wherever they reside, are treated with equal concern and respect, and in which (where possible) they securely enjoy, as a matter of rights, equal opportunities for a flourishing life - a life worthy of human beings. In the language of the capabilities approach developed independently of each other and collaboratively by Amartya Sen and Martha Nussbaum, a just world is one in which individuals, as a matter of rights, enjoy the following capabilities, which are constitutive of human flourishing: being able to live for as long as one's life is worth living; bodily health; bodily integrity; being able to use one's senses, imagination and thoughts; being able to form attachments to other people and to things, and to experience and express a range of negative and positive emotions; being able to frame and revise a conception of the good life; being able to form a range of meaningful social interactions with others without fear of being discriminated against or humiliated; being able to show concern and to interact with the non-human world; being able to engage in recreational activities, laugh and play; being able to have control over one's political and material environment. Furthermore, a just world is one in which individuals are in a position to exercise their capabilities without violating other people's claims to being treated with equal concern and respect.⁴

Moreover, duties of justice are enforceable. Failures to comply with the demands of justice warrant retortive action, ranging (depending on the seriousness of the wrongdoing, and the necessity, likely effectiveness and proportionality of the response) from war to public rebuke: duties of justice are not just any kind of moral reasons: they are particularly stringent kinds of duties. As a matter of justice, individuals whose rights have been violated have remedial rights that steps be taken to repair, as far as is feasible, the injustice to which they have been subjected.

Finally, there are limits to the sacrifices that we are under a duty to incur for the

⁴ Due to space constraints, this is a very rough account. In particular, there are differences between Sen's and Nussbaum's approaches which I cannot rehearse here. See, e.g., M. C. Nussbaum, *Creating Capabilities - the Human Development Approach* (Cambridge, Mass.: Harvard University Press, 2011), esp. pp. 33-34 for the list; A. Sen, *Development as Freedom* (New York: Oxford University Press, 1999); A. K. Sen, "Elements of a Theory of Human Rights", *Philosophy & Public Affairs* 32 (2004): 315-56. For the view that cultural heritage is central to human flourishing, which in turn imposes on us a range of obligations in respect of it, see also S. Harding, "Value, Obligation, and Cultural Heritage", *Arizona State Law Review* 31 (1999): 291-354. For a sceptical take on the relationship between capabilities-based human rights and the ethics of heritage, particularly universal heritage, see L. Meskell, "Human Rights and Heritage Ethics", *Anthropological Quarterly* 83 (2010): 839-59.

sake of ensuring that everyone enjoys their central capabilities. In the language rendered familiar by Samuel Scheffler, we have a personal prerogative (at least up to a point) to confer greater weight on our projects and attachments than on other persons' central interests - and in particular, not to sacrifice our own prospects for a flourishing life for the sake of others' similar prospects.⁵

As a matter of justice, thus, all human beings have rights against one another to the freedoms and resources which are necessary to and/or constitutive of their having those capabilities, compatible with their treating others with equal concern and respect. This includes freedoms and resources as pertain to cultural goods. Those goods provide the context within which we enjoy those capabilities and thus lead a flourishing life; but they also are its constitutive elements. To that extent, we owe it to one another not to impede one another's access to and enjoyment of those goods, and more strongly still, to provide one another with the means to do so.

Now, clearly, we cannot, as a matter of justice, preserve for and provide to one another all and any of the cultural goods which, at any given time, form the background for and/or are the constitutive elements of our flourishing. The stream which runs at the bottom of my garden, a particular symphony by a 18th century composer, a set of archives relating to my home town, may all be important to me here and now. But while this may well provide you with moral reasons not to needlessly destroy them, it is implausible to say that you - via the relevant institutions - are *under duties of justice* to me to ensure that I always have access to them: not only might other people have competing and stronger claims to other such goods; ensuring that I always have such access, failing which you would wrong me, seems overly demanding.

The question, then, is what wrong - what *injustice* - is done to anyone of us, *qua* human beings, by the destruction, or the unwarranted failure to preserve, to grant us access to, and to properly inform us about, those goods which have universal value and which form part of our common heritage.

Those destructive acts and failures occasion at least four kinds of injustice to our contemporaries. (I examine duties to future generations and to the dead in II.3 below.) First, they would suffer an aesthetic and creative injustice. One of the central capabilities is the ability to use our senses and imagination. We enjoy it when we are able to (*inter alia*) admire goods of great beauty, which often takes our imagination in directions which we might not have anticipated. As we saw in s.I.4.1, some cultural goods have universal value by dint of their outstanding beauty: they can be admired by all of us, more strongly still can inspire awe and wonder in all of us, precisely because they are outstandingly beautiful. To deprive fellow human beings of the opportunity to enjoy this central capability in this way, without warrant, is unjust.⁶

⁵ S. Scheffler, *The Rejection of Consequentialism - a Philosophical Investigation of the Considerations Underlying Rival Moral Conceptions*, Revised ed. (Oxford: Clarendon Press, 2003).

⁶ On the ability to feel awe as a component of human flourishing, see, e.g., K. Kristjánsson, "Awe: An

While the point holds of universally valuable cultural goods in general, it is particularly apt in respect of those goods as *heritage* goods. Consider a recording of traditional Chinese music played on a 9,000 year old flute thought to be the oldest playable instrument in existence. Had I been living in China 9,000 years ago, I might have been awed by that music. But my sense of awe here today flows not merely from the hauntingly beautiful music itself, but also from the fact that someone was playing *on that very instrument* back in the neolithic era. Or consider the very scratchy 1904 recording of Alessandro Moreschi singing Gounod's *Ave Maria*. It has heritage value which a 2022 recording does not have: Moreschi was the last known *castrato* and his recordings, of which the 1904 is the best known, are the only audible remnants of this particular kind of voice. I have no doubt that a remastered version would sound better. Yet it feels in the 1904 version, without the adornments of modern technology, that he sings to us, directly, across the century that separates him from us. It is *that which*, in the true sense of the word, is awesome about it.⁷

Second, destroying, failing to preserve, and hiding information about some of those universally valuable heritage goods, as well as their sequestration is an epistemic injustice.⁸ Many of the heritage goods which together constitute humankind's heritage, as I have described them in the first essay, have universal value - on both the pluralist and the mere- humanity conception thereof - by dint of what they tell us about our shared past. Our ability to use our senses and imagination, and to frame and revise a conception of the good life, depends in part in our having some knowledge about what makes us human, how we have evolved, how our distinctive social and cultural practices are shaped as much by what our predecessors have borrowed from other cultures as by what they have discarded, how our supposedly natural environment has in fact been molded by long-standing population movements and settlements, what feats of creativity and ingenuity our fellow human beings have accomplished, but also what unspeakable crimes they have committed.

Third, and relatedly, the destruction of and failure to preserve some of those landmarks and objects, as well as the failure to impart accurate information about it, can give rise to an 'agential injustice'. Many of our decisions impose harms or risks thereof on our fellow human beings, particular such decisions as we make, or as made on our behalf and our behest, as political and economic agents. To make or authorize

Aristotelian Analysis of a Non-Aristotelian Virtuous Emotion", *Philosophia* 45 (2017): 125-42.

⁷ For a scientific note detailing the discovery of the flute, see L. e. a. Zhang, "Oldest Playable Instrument Found at Jiahu Neolithic Site in China", *Nature* 401 (1999): 366-68. The instrument can be heard on the website Open Culture at <https://www.openculture.com/2017/01/hear-a-9000-year-old-flute-the-worlds-oldest-playable-instrument-get-played-again.html>. Moreschi's recording can be heard at <https://archive.org/details/AlessandroMoreschi>.

⁸ The epistemic injustice under study here differs from the injustice done to agents whose testimonies about the wrongful harms which they incur are not heard or taken seriously, as a result of prejudicial stereotyping. I return to this point in s. II.5 below.

those decisions in ignorance of the relevant facts when one could have informed oneself of those facts is morally wrong - I take it, uncontroversially so. Crucially, to expose moral agents to the risk of imposing a wrongful harm on third parties is to inflict on them a moral injury, and one which is severe enough, I believe, as to cause them an injustice. This applies to the person who is oblivious to the wrongful harms, or wrongful risks thereof, which she imposes on others. To the extent that we - as well as those who act on our behalf and for our sake - need to know about the most significant phases of our global shared history in order to avoid enjoying our capabilities wrongfully, and to the extent that the preservation of those objects, landmarks and sites help us gain that knowledge, we are victims of a form of injustice if they are allowed to be destroyed or to decay.

Fourth, by unwarrantedly failing in the aforementioned ways to treat a culture's or a social and political community's heritage as part of humankind's common heritage, we in effect deny that culture or community, and thus their members, their rightful place in the narrative of our shared human history. This in fact is one of distinctive wrongs done by colonizers to those whom they subjugated.⁹

One may perhaps wonder whether we need (a) those goods *themselves*, (b) *all* of those goods. After all, on the first count, we can digitize archives, rebuild destroyed monuments, and build or even print (in 3-D) replicas thereof. A sceptic might hold that even if we need to be in the presence of original beautiful things in order fully to get a sense of their aesthetic value, we do not need to be in the presence of historically significant heritage goods in order for us to grasp their significance. Walking around the 3-D replica of the Arch of Palmyra, which the Institute for Digital Archaeology commissioned and exhibited around the world after the Arch was destroyed by ISIS in 2015, seems enough. Exploring the digital replica of the Tomb of Tutankhamun which was installed near the entrance of the Valley of the Kings also seems enough.¹⁰

In one sense, the sceptic is correct. We need not have visited Auschwitz in order to learn most of what we need to know about the Holocaust; we need not see a human fossil in order to understand the basics of evolution; we need not hold a Gutenberg Bible in one's hands in order to know the basics of the history of printing. Nevertheless, there are precautionary reasons for not destroying those goods, indeed for preserving them: technology might one day fail us, and we may not have extracted from some objects all the knowledge that there is to extract from them. Moreover, while we can look at photos

⁹ Thanks to A. Kolers for the point.

¹⁰ A. Stilz, "Reply to My Critics", *Journal of Social Philosophy* 52 (2021): 40-49. For discussions of the case of Palmyra, see, e.g., Z. Kamash, "'Postcard to Palmyra': Bringing the Public into Debates over Post-Conflict Reconstruction in the Middle East", *World Archaeology* 49 (2017): 608-22; R. Khunti, "The Problem with Printing Palmyra: Exploring the Ethics of Using 3d Printing Technology to Reconstruct Heritage", *Studies in Digital Heritage* 2 (2018): 1-12. The replica of the Tomb of Tutankhamun was produced by the foundation Factum Arte (<https://www.factum-arte.com/>). Thanks to A.K. Appiah for the suggestion.

or read descriptions of those landmarks and buildings, nothing replaces contemplating them *in situ*. Even if replicas and digital versions would tell us everything we need to know, we would still incur a loss - the loss of that which enables us not only to learn about our shared past but, more elusively, to *understand* it better and thus somehow to connect with it and with our those of our fellow human beings who inhabited it. Replicas and digital versions cannot do that for us: they do not give us this direct historical link to our predecessors. Indeed, I wager that if we had a choice between visiting (e.g.) the Tomb of Tutankhamun itself, or touring the exact replica which was installed a few years ago near the entrance to the Valley of the Kings, most of us would opt for the former.¹¹

Consider next, on the second count, the suggestion that even if we need opportunities to see and access originals rather than replicas, we do not need opportunities to see and access all of the constitutive parts of humankind's heritage.¹² It surely cannot be the case - the sceptic presses - that burning a Gutenberg Bible, bulldozing archaeological sites containing 9,000 year-old musical instruments, and letting one cathedral go to ruins does an injustice to everyone in the world, here and now. After all, millions of us throughout the world have never heard of Gutenberg and have no idea what a castrato is; and for all we know, countless artefacts and landmarks of outstanding beauty or universal significance have been destroyed over the centuries by our predecessors, without us being any the wiser: it is hard to believe that we here today, qua human beings, would lead a less than flourishing life if, for example, the Conquistadors had destroyed the historic Inca site of Machu Pichu - widely regarded as one of the greatest architectural and land-use achievements of all time. Moreover, many of us have plenty of other beautiful and historically significant cathedrals to admire; and we still have access to old Chinese musical instruments such as the guqin. So what injustice, really, would be done to us, to our fellow human beings, so long as there's an adequate range of those goods left?

In reply: the first limb of the objection rests on an experiential account of wrongdoing, such that something wrongs us only if we experience it or its impact, or at any rate are likely to do so. I reject it on the grounds that its premise is problematic. It implies, for example, that the pure voyeur, who obsessively observes another person without her being ever aware of it and without his actions having any impact on her life,

¹¹ On the importance of being 'in the presence of the real thing', see Korsmeyer, *Things*; P. Lamarque, *Work and Object - Explorations in the Metaphysics of Art* (Oxford: Oxford University Press, 2010), p. 59. Thanks to M. McCabe for helping me firm up the connection between connecting with goods and connecting with the people who made them. Note that my point here is compatible with the claim that, in the light of the damage sustained by some landmarks as a result of exposure to air, light and carbon dioxide, our *pro tanto* duties to grant access to them are outweighed by our duties to preserve them for posterity: replicas may well be the best compromise we can hope for between those competing demands.

¹² It was put to me by a participant at the Oxford Centre for the Study of Social Justice seminar in February 2020. Thanks too to G. Sreenivasan, A. Stilz and L. Wenar for pressing me hard on this.

does not wrong her. It seems however that the voyeur's target does have a grievance - even if she never finds out. If so, the fact that someone is not aware of the existence of parts of humankind's heritage does not impugn the claim that destroying, failing to preserve, indeed denying her access to it (albeit unbeknownst to her) is to do her an injustice.

Second, the claim that the existence of many goods of a particular kind licenses the destruction of, or failure to preserve, one such good is not persuasive. Suppose for the sake of argument that the 9,000 year-old Chinese flute belongs to our common heritage, as does a 2,5000 year-old guqin. It may be of course that allowing the former to fall into disrepair to the point of being unplayable is less of an injustice to humankind for the fact that we still have the latter. But it would be an injustice all the same. For even if it is true of some individuals here and now that they can and will flourish even if they lack the opportunity to (e.g.) listen to a 9,000 year old Chinese flute, it cannot be known, for every person in the world what constitutes *an adequate range of universally valuable goods for them*. Here too, under conditions of uncertainty, we are under *pro tanto* precautionary duties to one another not to subject one another to the risk of being wrongfully denied access to, learning from, enjoyment of, any of our heritage's constitutive parts. If some course of action is, or is likely to be, damaging to our common heritage such as to undermine human flourishing, and if we do not have full knowledge of the causal connection between that course of action and such damage or of the probability that the damage will occur, then we must either desist or postpone proceeding until such time as we have better information. The fact that the risk of wrongful damage to our heritage and thus to human flourishing might not materialize does not impugn the claim that we are under a *pro tanto* duty of justice not to impose it.¹³

II.3 Looking ahead to the future, looking back to the past

So far, I have focused on our heritage-related duties to our contemporaries. I now argue that we have such duties to our successors and to our predecessors.

II.3.1 Duties to our successors

Heritage studies and heritage discourse, whether authorized or not, are replete with claims to the effect that we are under duties to our successors to preserve our, and indeed their, common heritage. Indeed, to the best of our knowledge, our successors too will have central capabilities similar to ours; they too will need cultural goods in order to enjoy those capabilities. While we do not know what cultural and social practices they will engage in and nurture, and therefore which cultural goods they will need access to, we do know that their central capabilities will include the capability to exercise their

¹³ Thanks to C. Kianpour for suggesting I appeal to precautionary duties.

senses, imagination and thought; that they too will need to know what makes them human and to understand their shared past as part of the long, unbroken chain of humankind; that they too will need to know both the best and the worst of what human beings are capable. The fact that we are certain about that while uncertain about what exactly they will have reasons to value supports a precautionary duty to preserve as much of our common heritage as we can. It is in that sense that we, here and now, should construe our role in relation to it as that of a steward, rather than an owner.

II.3.2 Duties to our predecessors

Duties in respect of humankind's cultural heritage are almost always construed as duties to future generations. Yet, they hold, *mutatis mutandis*, to the dead. Here are two arguments to that effect.

The first argument rests on the mere-humanity conception of universal value. As I averred in s. I.4.1, our judgement of certain crimes as crimes against humanity is issued at the bar of our mere humanity. The sites where such crimes took place have universal value and belong to humankind's heritage, as well as to victims' specific heritage. We do not only have moral reasons so to value them: we are under duties to the victims of those crimes to do so. Elsewhere, I mount a defense of post-war commemorative duties which appeals to what valuing fellow human beings, whoever and wherever they are, implies. It implies, in this context, not forgetting those who are victims of the horrors of war and, more broadly, crimes against humanity. Failing publicly to remember those victims is tantamount to a failure to acknowledge the seriousness of the wrongdoings to which they were subject and denotes a fundamental lack of basic respect.¹⁴ Were we, the world at large, to (e.g.) accede to or to fail to condemn and forestall the destruction of the sites of their suffering, we would wrong them.

Consider, second, the pluralist conception of universal value. While we do not know whether our successors will have reasons to value those goods, as we do, from their particularistic standpoints, we know that some of our predecessors did: think of the sheer effort and expense of building the pyramids, the cathedrals, the palaces and temples of pre-Colombian America; think of the commitment involved in engaging with intangible heritage goods such as music, drama, dance, and thus with the tangible bases and components of those practices, and with hybrid heritage goods such as culturally embedded farming and agricultural practices. To value fellow human beings as creative and autonomous beings is in part to recognize as valuable what materially underpins, and emerges from, their social and cultural practices. Duties to the dead, in general, are grounded in the importance of respecting and promoting those of their (morally justified) plans, projects and attachments which were central to their lives, and about which they formed (or, at least, may be presumed to have formed) posthumous

¹⁴ C. Fabre, *Cosmopolitan Peace* (Oxford: Oxford University Press, 2016), p. 296.

preferences. Those two points together provide support for duties to the dead - in particular a duty not to destroy what they did and replace it with copies.¹⁵

That said, those duties are subject to three qualifications. First, we cannot assume that every stonemason in medieval Europe and pre-Colombian Latin American, every tea grower in India and China, every forger in the metallurgy sites of Burkina Faso, has since time immemorial valued those landmarks as central to their lives. On my account, we have no duties *here and now* to individuals who were indifferent to those goods. This is compatible with the view that, while those individuals were alive those goods were central to their flourishing regardless, which imposed relevant duties on their contemporaries.

Second, other things equal, whether our predecessors intended to leave and preserve those heritage goods for us makes a difference to the stringency of our duties to them. Granted, the fact that in some cases and to the best of our knowledge they were building for the long term is not in itself an indication that they were doing it for us: building temples to gods whose existence is assumed to be temporally unbounded is not the same as building them with the intention that one's successors should inherit them, preserve and restore them if necessary and thereby benefit from the protection of the gods. Nevertheless, we sometimes know that they acted for our sake - indeed, as the World Heritage movement (*inter alia*) shows.

Third, we might have to choose between preserving a heritage good of outstanding universal value which was of considerable value to our dead predecessors on the one hand, and preserving a heritage good of outstanding universal value which was not of great value to them but which is to us and, we plausibly surmise, will be so to our successors. I am inclined to think that other things equal (and to the extent that we can make such judgements), we are at least permitted, and might perhaps be obliged, to give priority to those who will experience the loss over those who will not.

The claim that we are under duties to the dead in respect of humankind's common heritage raises the following difficulty.¹⁶ Suppose that a landmark which is unquestionably part of that heritage was built 300 years ago over another, more ancient landmark, dated from 800 years ago, which is also part of that heritage. In order to access the latter, we would have to destroy the former. To say that we owe it to our

¹⁵ J. Thompson, "Obligations of Justice and the Interests of the Dead", *the International Journal of Applied Philosophy* 30 (2016): 289-300; Z. Stemplowska, "Duties to the Dead", in D. Sobel, P. Vallentyne, and S. Wall (ed.), *Oxford Studies in Political Philosophy* (Oxford: Oxford University Press, 2020). See also James, "Why Old Things Matter", pp. 317-318, in the specific context of old objects. John Ruskin argues in 'The Lamp of Memory' that the built-heritage belongs to the dead, and that consequently 'we have no right whatever to touch it.' (Ruskin, "The Lamp of Memory", p. 245.) Even if the premise (of ownership) were true, which is doubtful, it would not follow that restoration is morally wrong. (see s. I.5.1.) Note that our duties to the dead are *pro tanto* duties: like any duty, they may be overridden by weightier considerations.

¹⁶ Thanks to S. Fine for raising it.

predecessors to respect and preserve that which they not only had reasons to value but indeed did value, and *a fortiori* so when these goods are part of our common heritage, will not help us decide what to do in this particular case if (let us assume) we have every reason to believe that our predecessors 300 years ago equally valued that which they built compared to our predecessors 800 years ago. A good example is the Old City of Acre in Israel, which was inscribed on the List in 2001: much of the old Crusaders' town is underground. It is possible to visit it - but one can easily see the force of the point if one imagines that one would have to destroy the more recent buildings which sit on top of it, such as the 18th century Mosque, in order to access it.

Note that the difficulty is specific neither to goods which are parts of humankind's common heritage nor to duties to the dead: a similar problem arises if I have to choose between a heirloom which I inherited from my paternal grandfather and a heirloom which I inherited from my mother; and the problem also arises if I have to choose between two universally valuable goods which are each valued by different cultural groups from their particularistic standpoint. In order to adjudicate those conflicts, then, we will need to advert to (*inter alia*) the number and range of value-conferring properties of those goods, the costs attendant on preserving or accessing one rather than the other, and the degree to which current cohorts, on whom those costs will fall, also have particularistic reasons to value those goods. These judgements are too complex to be fully explored here. It seems to me, however, that those things being equal, there ought to be a presumption (rooted in the doctrine of acts and omissions) against destroying part of our common heritage even for the sake of accessing another of its constitutive elements - even if the latter will remain invisible to us as a result.

One final point on our duties to the dead. Unlike (reparative) duties to the descendants of dead victims of injustice, they are not superseded by changing circumstances the further back one goes in time. Duties to the dead are grounded in duties more generally to treat fellow human beings with concern and respect and thus to respect and promote, posthumously, projects which were central to their lives and about whom we have reasons to suppose they had posthumous preferences; they can also be grounded in duties to commemorate the victims of atrocities. Location in time is, *in itself*, irrelevant to the stringency of those duties. This makes for a demanding view, for it implies that we do owe it as a matter of justice to the stonemasons who built Notre-Dame, and *a fortiori* to those who build the Mayans and Egyptian pyramids, to preserve those buildings; that we do owe it, as a matter of justice, to those who toiled tirelessly on the Ancient Tea Plantations of Jingmai Mountain in China millennia ago to preserve this agricultural landscape - both by dint of the fact that landmarks have global historical significance and were the sites of (we may readily suppose) enormous suffering. Put even more sharply, they really have *rights* against us that we do so.¹⁷

¹⁷ A classic defence of the supersession thesis is J. Waldron, "Superseding Historic Injustice", *Ethics* 103 (1992): 4-28.

My rejection of supersession might invite two objections. First, the further back one goes in time, the less we know about our predecessors' posthumous preferences. In reply: pending information to the contrary, we have little reason to suppose that a stone mason who worked on one of Egypt's pyramids 4 millennia ago cared less about its lifespan than workers who are currently working on its maintenance.

Second, it might also be objected that the more such predecessors there are, the more demanding our duties - so overly demanding as to extinguish them. In reply: the claim that the sheer number of rights-holders renders the task of fulfilling our duties overly demanding does not impugn the view that the passage of time itself is irrelevant to the stringency of those duties. Suppose (extravagantly) that all of our hundred of millions of dead predecessors had no preference whatsoever in respect of the persistence of our shared heritage, but that hundreds of millions of our contemporaries had strong preferences that it should be preserved. If the claim of overdemandingness applies to the dead, it also applies to the living - irrespective of time. In any event, the claim does not apply to our duties and rights in respect of the cultural goods which belong to our common heritage, since they are relatively few such goods (relative, that is, to the number of cultural goods which are not universally valuable).

II.4 Territory, self-determination, and the protection of humankind's heritage

I have argued that we, all of us, members of humankind, have (diachronic) duties of justice to one another in respect of our common cultural heritage. However, those heritage goods are located on the territories of states which make laws regarding the books which can be read, the archives which can be accessed, the objects which can be exported abroad, and the buildings which will be repaired. Indeed, without prejudice to the possibility that the World Heritage's List might in some respects be over-inclusive, all of its 1154 sites bar one (the Old City of Jerusalem) are attributed to state parties to the 1972 Convention - fueling the charge (which we encountered in s. I.2) that the Authorized Heritage Discourse is overly statist. With that inescapable fact in mind, we must investigate the implications of my argument for citizenries' rights over and in respect of the territory on which some parts of that heritage are located (for short, the right to self-determination.)

When tackling this question, we must distinguish between two issues: (a) the issue of *discretion*, to wit, which rights of self-determination, if any, citizens have in respect of humankind's common heritage; (b) the issue of *legitimacy*, to wit, whether citizens' right to govern over a particular territory is conditional upon their fulfilling their obligations of justice in relation to that heritage. As we shall see, my account of our heritage-related duties is compatible with two rather different views of the normative status of the territorial state as the institutional vehicle for collective self-determination, and thus of citizens' jointly-held right of self-determination over a given territory.

II.4.1 The right to self-determination

On one view of the right of self-determination, the state is instrumentally valuable, and the right to self-determination is thus justified, as a means to allocate the task of fulfilling and enforcing general duties of justice. The rationale for imposing on country A's citizens a duty to provide their compatriots with the resources they need to enjoy their central capabilities does not lie in the special relationship that unites them *qua* compatriots. Rather, it lies in the fact that they are better placed, by dint of their subjection to the same territorially-bounded institutions, to help one another than to help country B's citizens. So construed, special duties to one's compatriots are derivative of general duties of justice, and citizens' right to self-determination serves to fulfil those duties.¹⁸

On another set of views, the justification for the territorial state and for citizens' right to self-determination over a given territory does not lie in this being the best way to discharge general duties of justice to the world at large. Consider for example Anna Stilz's recent and sophisticated defense thereof.¹⁹ All individuals, wherever they are in the world, are under a natural duty of justice to protect one another's autonomy, understood as the capacity to frame, revise and pursue a conception of the good life with which one identifies. More specifically, they are under duties to one another to respect one another's right to occupy a geographical space where they can form such a conception of the good life, as well as rights to subsistence, security and the freedoms necessary for autonomy, and to self-determination. The territorial modern state is the institution which best ensures that those who live within its borders enjoy those rights. Or consider the view that territorial rights are held by a group, a people, or a nation which enjoys a particular relationship to a particular territory, and that the state is justified in so far as it enables them to exercise those rights. On some variants of that view, that relationship takes the form of long-term settlement; on other variants, attachment to that territory has constituted and structured the group's communal identity over time; on other variants still, the group not only has long been settled on that territory but more importantly has engaged in self-reflection about the centrality of that territory to its identity. On those accounts, the fulfillment of duties to outsiders forms no part of the *justification* for the right to self-determination, though it may be a condition for having and exercising it.²⁰

On instrumental accounts of the right to self-determination, it makes sense to

¹⁸ For a seminal defence of that view, see R. E. Goodin, "What Is So Special About Our Fellow Countrymen?", *ibid.* 98 (1988): 663-86.

¹⁹ A. Stilz, *Territorial Sovereignty - a Philosophical Exploration* (Oxford: Oxford University Press, 2019).

²⁰ A. Kolers, *Land, Conflict, and Justice - a Political Theory of Territory* (Cambridge: Cambridge University Press, 2009); T. Meisels, *Territorial Rights* (Dordrecht: Springer, 2005); D. Miller, "Territorial Rights: Concept and Justification", *Political Studies* 60 (2012): 252-68; M. Moore, *A Political Theory of Territory* (Oxford: Oxford University Press, 2015)

impose on a citizenry duties in relation to the heritage goods which are located on or are part of its territory. That duty is derivative of a general duty, held by all to all, to preserve our common heritage, and is compatible with a duty to help other states meet *their* derivative duties to all of us. It finds expression in articles 4 and 5 of the 1972 World Heritage Convention. On non-instrumental accounts, which do not deny that the right to self-determination is constrained by consideration of outsiders' important interests, one can without inconsistency impose on citizens the set of heritage-related duties which I defended above.²¹

II.4.2 Discretion

Citizens do not enjoy an untrammelled right to self-determination over humankind's common cultural heritage. For if they did, they would not be under duties of justice not to destroy, or to preserve and grant access to it (in the latter case, by allowing freedom of movement across borders, opening up archives, and displaying - when appropriate - heritage goods.) Yet not only are citizens, via their states, under the aforementioned duties; they are also under duties, again via their state, to regulate private actors' decisions in relation to those goods by enacting relevant laws and directives. Suppose for the sake of argument that it is not unjust that private actors - collectors, museums, private corporations, etc. - should enjoy some rights over those goods, such as rights to transfer them, or rights to control access to them. At the bar of justice, however, those rights are highly restricted. If the destruction, neglect, sequestration and misrepresentation of universally valuable heritage goods is an injustice to humankind, it is so whoever is causally and morally responsible for it - be they public or private actors. This implies that states ought to institutionalize private actors' duties in respect of those goods.²²

²¹ Proponents of non-instrumental accounts do not address the implications of their views for humankind's common heritage (although they accept that the state does not have exclusive jurisdiction over the natural resources which happen to be located on or under its territory.) I extract those implications, in Stilz's case, in C. Fabre, "Territorial Sovereignty and Humankind's Common Heritage", *Journal of Social Philosophy* 52 (2021): 17-23.

²² Two points. First, I do not intend that claim to apply to the case of artists destroying their own works of art. For an interesting discussion, see J. Young, "Destroying Works of Art", *Journal Of Aesthetics And Art Criticism* 47 (1989): 367-73. Young thinks that Bach would have acted wrongly had he burned the one and only score of *St Matthew's Passion*. I am tentatively inclined to agree, though cannot develop the thought further without a full blown philosophical account of intellectual property rights.

Second, my argument relies on the assumption that individuals themselves are under duties of justice, whether or not those duties are enforced in the law. This is not a uncontroversial position. (See, e.g., G. A. Cohen, *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008)). Yet, I do think that a private collector who would elect to 'play darts with a Rembrandt' would commit an injustice even if the law allowed him to do so. I borrow that phrase from Joseph Sax's wonderful book on the interplay and conflict between private and public rights of ownership over cultural goods. (J. L. Sax, *Playing Darts with a Rembrandt - Public and Private Rights in Cultural Treasures* (Ann Harbor: The

If those points are correct, it seems that there is no space, on my account of our heritage-related duties, for citizens' right to make decisions about those elements of our common heritage which are located on or under the territory over which they exercise collective self-determination. Yet, in so far as there is some value to self-determination, so to constrain it seems particularly problematic.

On closer inspection, however, both accounts offer some scope for fulfilling some of those duties in a number of ways, without falling foul of justice. Indeed, on the pluralist conception of universal value, which relies on acknowledging that some heritage goods are of central value to particular cultures, there are strong reasons for the world at large to respect the local, particularistic views of those cultures. To the extent that those views are expressed via the state, my defense of duties in respect of our common heritage not only is compatible with, but in fact, requires, granting the state the right, on behalf of those individuals, to make the relevant decisions. Let me give two examples, the first involving a decision not to restore, the second a decision to do so. I noted in s.I.3 that the City of Hiroshima had taken the decision after World War II to preserve the Genbaku Dome as a ruin, in memory of the victims and as a way to bear witness, for all of our sake, to the destructive power of atomic weapons. Suppose, conversely, that they had decided to rebuild the Dome, in deference to their own conception of authenticity, and to commemorate both the victims and the blast itself in different ways. They would not (it seems to me) have committed an injustice in so doing. Likewise, and conversely, suppose that the French authorities had decided *not* to rebuild Notre-Dame's spire to its 19th century design but, instead, had embraced Norman Foster's proposal for a steel-and-glass spire, in deference to centuries-old practices of using contemporaneous materials and building techniques. Again, I doubt that they would have committed an injustice.²³

Furthermore, institutionalizing our heritage-related duties can take many different forms: it can involve criminalizing the willful destruction of heritage; banning and/or refusing to confer validity on (e.g.) the unconditional sale of heritage goods to foreign buyers over whom it will not be possible to exercise oversight; refusing to acknowledge as valid wills stipulating that the testator should be buried with those goods; providing incentives, in the form of tax breaks or grants, for the preservation and

University of Michigan Press, 1999).

²³ J. Hilburg. "Foster + Partners Pitches New Notre-Dame Spire as Competition Heats Up", *The Architect's Digest* (22/04/2019). In her response to the Lectures, A. Stilz raised the following example: suppose that Russian democrats manage to overthrow President Putin's administration and to transform Russia into a functioning liberal democracy. They decide to raze the Kremlin – that symbol of their country's autocratic past – and to build in its place a new building, whose aesthetic, they think, will embody their aspirations for openness and freedom. On Stilz's view, they would commit no wrong. My intuition is that they would. The difference between this case and the hypothetical destruction of the Genbaku Dome is that the latter remains (in the example as I construe it) commemorative and is of a piece with Japanese conceptions of authenticity. Not so in the Kremlin example. I am aware I am on shaky grounds here, though, and hope to revisit those cases in future work.

display of those goods; making it compulsory for private owners to display those goods, via a system of museum loans; ensuring that heritage goods are displayed, catalogue and archived with appropriate information - and so on. It seems plausible that a state of affairs in which it is lawful willfully to destroy heritage goods whose universal value supervenes at least in part on their continuing survival would be unjust: not much scope, if any, for discretion there. (Given the extensive scope, world-wide, of legal private ownership rights over artworks, artefacts and fossils, including the legal right to destroy those goods, much of the world is rife with heritage injustice.) By contrast, justice does not require providing tax incentives for, rather than imposing fines on, private collectors who would otherwise sequester heritage goods; nor does it mandate the criminalization of certain kinds of speech in relation to heritage rather than public subsidies for relevant educational programmes.

The general point is this: justice imposes stringent duties yet there is latitude for interpreting what it demands of us. By analogy, an education policy which forbids the teaching of evolution is unjust (in so far as it deprives children of absolutely basic knowledge about the world in general and themselves as human beings, and is thus capability-impairing); one which gives some priority to the teaching of history over foreign languages or *vice versa* is not. Likewise, while failing to make any kind of welfare provision for the elderly and condemning many of them to abject poverty is unjust, there is a range of acceptable options (acceptable, that is, at the bar of justice) for such provision. The same considerations apply, *mutatis mutandis*, to our common heritage.

II.4.3 Legitimacy

Let me now turn to the question of legitimacy. On the most stringent account of the relationship between justice and legitimacy, citizens have the right to collective self-determination over a given territory, such that their and their officials' decisions over that territory are legitimate *only if* they fulfil all their duties of full justice - understood as ensuring that all individuals in the world enjoy all of their central capabilities. The most stringent account seems implausible. Consider the Taj Mahal, widely regarded as an outstanding exemplar of Muslim architecture. It seems implausible to suppose that Indian citizens would lack the right to collective self-determination over the territory of India were they to fail via the relevant institutions to maintain it (assuming for the sake of argument that maintaining the Taj Mahal for generations to come is a demand of justice) - or, indeed, that the citizens of the countries of the Central Slave and Ivory Trade Route would also lack that very same right if they decided, negligently, not to preserve any of the Route's landmarks.

On a less stringent view, citizens have a right to make decisions in relation to humankind's common heritage - put differently, their collective decisions in respect of that heritage are legitimate - only if they do not, in so doing, fail to fulfil their duties, on behalf of humankind, in respect of that heritage. While their dereliction of duty does

not undermine their right to collective self-determination in all of its dimensions, it undermines it in its common-heritage-related respect. This view seems more plausible. It also denies that citizens have the right to do wrong in those respects. For even if there is such a thing as a right to do wrong in general, and even if political communities can have such a right (by no means foregone conclusions), there cannot be such a thing as a right to violate one's duties of justice - put differently, to violate other people's rights. Someone has a right to ϕ if her interest in ϕ is important enough to place third parties under a duty to her not to hinder him in respect of ϕ , and in some cases, to support him in relation to ϕ . It is hard to see how one's interest *in violating other parties' rights* could ever be important enough to hold third parties, including his victims themselves, under those duties. To claim otherwise is to claim, in effect, that his victims have no meaningful recourse against him. Yet, on such a view, failures to comply with the (rights-based) demands of justice would not warrant retortive action, and rights would be worthless.²⁴

The interesting question, then, is what may legitimately be done in response to citizenries' acts of heritage injustice. At one extreme, some might be tempted to argue that the defense of humankind's common heritage warrants military action; at another extreme, others might hold that it only warrants diplomatic remonstrations. Between those extremes lies a range of measures, such as (*inter alia*): economic sanctions, threats to withhold material assistance unless the wrongdoer-state and its citizenry comply with their heritage-related duties, offers of assistance conditional upon compliance, and expulsions from international organizations. Which retortive measures are morally justified depends on the seriousness of the dereliction of duty, and on whether the proposed measures would be proportionate and effective. Full exploration of this complex issue, and of the difficulties inherent in institutionalizing the enforcement of heritage-related duties without further entrenching inequalities between powerful and less powerful states, must await another occasion.²⁵

II.5 Cultural appropriation

In s. I.2, I rehearsed the main criticisms of the Authorized Heritage Discourse: that it is Eurocentric, elitist, statist, and Pollyanish. Contrastingly, I have attempted to provide an account of the universal value of humankind's heritage and of the moral demands it

²⁴ I take Stilz to endorse, by implication, the view that a state that acts wrongly in respect of our common heritage nevertheless has the right to do so. (Stilz, *Territorial Sovereignty*, p. 237 and 240-241. Against Stilz's defence, see C. H. Wellman, "Do Legitimate States Have a Right to Do Wrong?", *Ethics & International Affairs* 35 (2021): 515-25.

²⁵ On the protection of heritage in war, see H. Frowe and D. Matravers, *Stones and Lives: The Ethics of Protecting Heritage in War* (Oxford: Oxford University Press, forthcoming). To illustrate the challenge of enforcing heritage-related duties impartially, recall that at the time of writing this, Russia is still a member of UNESCO, despite mounting evidence that its forces are deliberately targeting Ukraine's cultural heritage. The challenge is not specific to those duties, of course.

makes on us which does not rely on European conceptions of value, and does not give primacy to cultural goods prized by the elites. Furthermore, my account sets stringent limits on states' rights in respect of those parts of our heritage which happen to be located on/are part of their territory; and it affirms the importance of negative heritage. Nevertheless, there remains a serious concern, namely that my account is not sufficiently sensitive to the risks of cultural appropriation.

Cultural appropriation, roughly, is a process or act by which some agents regard as theirs cultural goods (widely construed as cultural physical objects and practices) which belong to some other agents. It takes different forms, such as *inter alia*: the actual physical seizure and refusal to relinquish tangible objects, the replication or borrowing, without due acknowledgement, of cultural content, styles or themes; and the imposition of one's aesthetic, anthropological and/or historical interpretations of the value and meaning of cultural goods, in particular when those interpretations come with little or no acknowledgement of their origins and embeddedness. Cultural 'appropriators' include artists, museums, scholars, governments, and private corporations. Archeologists, museum curators, heritage institutions and scholars of heritage studies have begun scrutinizing and calling those acts and processes into question: philosophers less so.²⁶

Cultural appropriation is usually framed in morally laden terms, such that to appropriate a good which belongs to another culture is by definition wrongful. This is a mistake: whether something belongs to a particular culture does not in itself settle the question of which rights, if any, that culture has over this object.²⁷ A full exploration of the wrongfulness of cultural appropriation - if and when it is wrongful - is beyond the scope of my inquiry. My focus is on the charge that to say that we, as members of humankind, have rights in respect of certain heritage goods is to ride roughshod over the claims of particular cultures whose goods these are. Thus, I do not address conflicts as may arise between, for example, a culturally dominant majority and culturally endangered minorities within a single political community, or between artists from such minorities who claim primary rights over a particular style precisely on grounds of cultural membership and artists who wish to borrow and modify that style.²⁸

In the context of these essays, the charge of wrongful cultural appropriation does not seem apt when deployed against very ancient artefacts and artwork such as found in

²⁶ Useful works with interesting case studies include Greenfield, *The Return of Cultural Treasures*; C. Renfrew, *Loot, Legitimacy and Ownership* (London: Duckworth, 2000); J. O. Young (ed.), *The Ethics of Cultural Appropriation* (Oxford: Wiley-Blackwell, 2009).

²⁷ J. L. Thomas, "When Does Something 'Belong' to a Culture?", *The British Journal of Aesthetics* 61 (2021): 275-90.

²⁸ For a book-length treatment of those conflicts, whose central thesis is that cultural appropriation is not always morally wrong, see J. O. Young, *Cultural Appropriation and the Arts* (Oxford: Wiley-Blackwell, 2010). For criticism, E. H. Matthes, "Cultural Appropriation and Oppression", *Philosophical Studies* 176 (2019): 1003-13.

prehistoric caves of the Paleolithic era. In all other cases, the charge is levelled at claims of universal value, as well as at claims that humankind as a whole has entitlements in respect of that heritage. The 'value variant' of the charge goes like this. Heritage goods which have universal value also have particularistic value. The risk, however, is that the particular will be erased by the universal - or, more damningly so, by the *putatively* universal. Here are two examples. Consider a heritage good whose universal value supervenes on the fact that it represents, or was the site and instrument of, a genocide - the paradigmatic example of a crime against humanity. Genocide however is, by definition, an attack on a particular ethnic group. To say without further ado that the site has universal value by dint of those representational, locational or contributory properties, and thus to deem it a fitting locus of rights and duties whose content is partly determined by this value judgement, risks occluding the fact that this genocide was primarily an attack on a that group.

Consider now a heritage good whose universal value lies in the fact that it is valuable, pluralistically, to many different groups and individuals, who also have reasons to value the fact that it is valuable in this way. By focusing as it does on *tangible* heritage, my account occludes the cultural and quotidian practices in which those tangible goods are embedded and which they both reflect and instantiate. It is all very well to say that the Bamiyan statues have universal value by dint of being particularistically valuable to most people; the fact is, however, that it occupies a place in the past of Afghans and Buddhists which they simply do not have, and which nothing can replace, in the past and lived-in geography of, say, Parisians; and exactly the same can be said, conversely, of Notre-Dame Cathedral.

There is a deeper concern there, namely that, partly as a result of existing power structures - which are the product of centuries of colonial violence - the particularistic value of those goods for the powerless and dispossessed will be erased by the particularistic values of the privileged under the guise of universalism. 'This is ours too', the powerful will say, 'and we understand it as well as you do; what we say about it is as important, as authoritative, as what you have to say. So if we think that all human beings in the world should (e.g.) have access to it, while you don't, well, tough: we'll just have to battle it out somehow.' Except, of course, that this is a battle which the powerful will likely win.

The charge of wrongful cultural appropriation is also deployed against claims of justice. When we claim as ours - all of us, without distinction - that which 'belongs' primarily, or at least significantly, to a subset of us, we risk allowing the powerful to appropriate that heritage and denying the powerless a voice in the construction and transmission of that heritage. In so doing, we subject the powerless to an epistemic injustice. Moreover, there is a risk that when heritage goods are destroyed or allowed to go to ruins, the wrong putatively done to humankind as a whole eclipses that which is done to those who are more directly harmed by such a loss. Finally, one might worry that my account is unable to accommodate the plausible intuition that physically

removing heritage goods from the territory where they were found, or refusing to return them therein, is (at least in some cases) deeply wrong.²⁹

As those remarks suggest, the charge of cultural appropriation sometimes relies on the assumption that cultural goods in general and heritage goods in particular are a culture's patrimony, over which that culture has a form of property entitlements. It also presupposes that it makes sense to speak of distinct, individuated cultures. On the first count, I am doubtful that a culture, *qua* culture, can own such goods.³⁰ On the second count, I am less doubtful that it is possible, at least in broad terms, to speak of distinct cultures whilst at the same time recognizing their mutual permeability. With both points in mind, the charge of cultural appropriation as deployed against the formation of value judgements about heritage can be answered by careful consideration of the history and location of that heritage's constitutive parts. Moreover, as we saw in s.II.4.2, in so far as it is deployed against the institutional operation of those value judgements in heritage institutions, it can be answered by ensuring, as far as possible, that different voices are properly heard, thereby reducing the risk of committing an epistemic injustice. This, in turn, requires of us - not merely epistemically but morally speaking - that we interpret our duties in respect of that heritage somewhat differently than we might have done otherwise.

To illustrate, until fairly recently, international institutions such as UNESCO had a tendency to construe being authentic as that which is real and therefore must be preserved as it is. The 1964 Venice Charter for the Conservation and Restoration of Monuments and Sites is one of the best known articulations of this view, in which the property of authenticity goes hand in hand with the property of integrity. Thirty years after its adoption, the 1994 Nara Declaration on Authenticity proclaimed that the official heritage discourse embodied in the Venice Charter fossilized the past and occluded the fact that conceptions of authenticity differ widely from one culture to the next. For example, the fact that in Japan some historic buildings are regularly repainted and rebuilt with modern materials does not (on an alternative and no less plausible understanding of authenticity) make them less real, less genuine, by this culture's own lights, than if they were left alone - on the contrary. In determining what we owe to one another in respect of the protection of those of Japan's historic buildings which are part

²⁹ For the worry about epistemic injustice, see A. Pantazatos, "The Ethics of Trusteeship and the Biography of Objects", *Royal Institute of Philosophy Supplement* 79 (2016): 179-97; "Epistemic Injustice and Cultural Heritage", in J. M. Kidd, J. Medina, and G. Pohlhaus (ed.), *The Routledge Handbook of Epistemic Injustice* (London: Routledge, 2017). Pantazatos' concern is with epistemic injustice and heritage in general, and not specifically with ascriptions of universal value to heritage goods, but it is highly relevant to it. For the worry about who the real victims are, see L. Meskell, *A Future in Ruins - UNESCO, World Heritage, and the Dream of Peace* (Oxford: Oxford University Press, 2019), ch.8. For a general discussion of return, see Greenfield, *The Return of Cultural Treasures*, ch. 13.

³⁰ See also K. A. Appiah, "Whose Culture Is It?", in J. Cuno (ed.), *Whose Culture? The Promise of Museums and the Debate over Antiquities* (Princeton, NJ: Princeton University Press, 2009).

of our common heritage, it behooves us to defer to what the Japanese tell us. Our failure to do so is a failure to fulfil our duties in respect of our common heritage *qua* common heritage.³¹

Let me now turn to the worry that to say that we, all of us, are wronged by, e.g. the willful destruction and neglect of heritage goods misidentifies the real victims. We should take that worry seriously. However, my account is compatible with the claim that some victims are wronged more grievously than others. By analogy, to kill a child is a grievous wrong to that child, yet it is also a wrong, albeit a lesser one, to her parents, in so far as it destroys without warrant one of their most valuable, treasured relationships. The important thing is never to lose sight of who the primary victims are: however great my loss at the destruction of the Bamiyan statues, it pales into close to insignificance compared to the loss suffered by Buddhists all over the world. However devastating it would be to all of us were Venice to sink into the Adriatic, this is very little compared to what it would do to Venetians.

Those various replies enable us to tackle another serious concern which one may have about my account, to wit, that it cannot explain why it is unjust to seize cultural goods from, e.g., Native Americans, to loot artworks from war zones, or to refuse to return items taken in the course of colonial expeditions. It is easy to see why the concern arises. If a heritage good has universal value, its location does not matter. What matters is that it be displayed in encyclopedic museums, whose aim it is to keep them for the sake of posterity.³²

Assuming that it is appropriate for those objects to be kept and displayed in an *encyclopedic* museum, the argument cuts both ways: there is no reason why those goods should stay in the encyclopedic museum where they currently are, rather than in any other encyclopedic museum. If the Egyptian or Greek authorities were to establish one such museum, and so long as they could vouch for the upkeep and preservation of the Stone and Marbles, it is hard to see what objections the British Museum (and, for that matter, Parliament, which would have to enact legislation to that end) could raise against return. In fact, as I suggested in s.I.5.1, in the light of the vastly unequal distribution of artworks across museums, there is a case for *redistributing* those goods from richer to poorer countries.³³

³¹ Smith, *Uses of Heritage*, p. 54. On shifting understandings of authenticity within UNESCO, see, e.g., Labadi, *UNESCO, Cultural Heritage, and Outstanding Universal Value*, pp. 117ff.

³² See N. MacGregor, "To Shape the Citizens of 'That Great City, the World'", in *Whose Culture? The Promise of Museums and the Debate over Antiquities*; J. Cuno, *Who Owns Antiquity? Museums and the Battle over Our Ancient Heritage* (Princeton, NJ: Princeton University Press, 2008). For contrasting positions, see, e.g., Greenfield, *The Return of Cultural Treasures*, esp. ch. 2 on the Elgin Marbles; D. Hicks, *The Brutish Museums: The Benin Bronzes, Colonial Violence and Cultural Restitution* (London: Pluto Press, 2020), on the Benin Bronzes.

³³ I also moot this possibility in C. Fabre, "Looted Artworks: A Portrait of Justice", in D. Edmonds (ed.), *Philosophers Take on the World* (Oxford: Oxford University Press, 2016). For a longer argument, see E. H. Matthes, "Repatriation and the Radical Redistribution of Art", *Ergo* 4 (2017): 931-53.

In any event, it is not clear that heritage goods of universal value should be removed to or kept in an encyclopedic museum - *a fortiori* in the encyclopedic museums in which they currently are. In fact, justice sometimes mandates otherwise. For a start, as I noted in s.I.3, some heritage goods are universally valuable by dint of the fact that they are part of an outstandingly beautiful and/or historically significant whole, such that we can only fully appreciate them, or properly understand, *in situ*. Not only ought they not to be taken from the latter without warrant: when they have been unwarrantedly taken away, there is a particularly strong case for their return.

Furthermore, as we saw in s.I.4.1, claims of universality are compatible with claims that some heritage goods are especially significant to particular individuals and groups, by dint of their cultural identity and/or geographical location. This point on its own supports a *pro tanto* duty not to physically appropriate those goods. Moreover, as we also saw in s. II.2, as a matter of justice, individuals whose rights have been violated have robust rights that steps be taken to remedy, as far as is feasible, the injustice to which they have been subjected, and out of recognition of the fact that they suffered an injustice in the first instance. Those two points together support a *pro tanto* right to have those goods returned. They are particularly salient in respect of heritage that was looted in the course of wars or so-called ‘punitive expeditions’ of colonial expansion. To the extent that lethally violent appropriation is a betrayal of the universal ideals on which the notion of global heritage rests, so is the unwarranted refusal to return them.³⁴

In summary, advocating the wholesale appropriation and blocking the return of any and all universally valuable heritage goods is no more a serious proposition than advocating an unqualified ban on taking and an unqualified obligation to return. Considerations of preservation may sometimes support appropriation and constrain return: at the bar of justice, there is a strong case for removing elements of humankind’s heritage before they are destroyed. Conversely, considerations of historical significance and of aesthetic and epistemic value both constrain appropriation and support return. True, museums outside the richest countries in the world may not have the wherewithal to preserve and display those goods. The answer, though, does not lie in a refusal to return: rather, it lies in a proper redistribution of the requisite financial resources from (essentially) the Global North to the Global South.

II.6 Conclusion

In this essay, I built upon the conception of the universal value of some heritage goods deployed in the first essay and developed an account of justice in respect humankind’s common cultural heritage. At the bar of justice, I argued, we are under duties to one another, to our predecessors and to our successors not to destroy, but also to preserve,

³⁴ For a particularly trenchant articulation of this point, see Hicks, *The British Museums*, chs. 16 and 18.

to grant access to, and to provide accurate information about that. As I sought to show, the claim that we are under such duties is compatible with some degree of territorial self-determination; it is also sensitive to the charge of undue cultural appropriation.

Every single one of the many claims I have made here needs developing. Furthermore, there are at least three lines of inquiry which I have briefly mentioned without being able to develop them.

First, I have focused on the tangible bases of our cultural heritage. It would pay to investigate whether natural landmarks and intangible cultural goods are part of humankind's common heritage *tout court* and, if so, whether my account applies to those goods too.

Second, my account of our duties in respect of humankind's common heritage remains seriously incomplete. While I have explored duties not to destroy, and to preserve that heritage, as well as to grant access to it and to impart knowledge about it, I have not said much at any length, if at all, about other duties we may have. In particular, a full treatment of the value of a common heritage needs to account for our affective reactions to that heritage, such as awe at its beauty, or sadness at its possible disappearance. A full treatment of our moral obligations in respect of that heritage would therefore need to ascertain whether they can be such a thing as a moral obligation, in general and in this particular case, to *feel* awe and sadness, failing which we are guilty of wrongdoing to our fellow human beings. The claim that there is such an obligation is far from straightforward.

Finally, I have not addressed trade-offs between on the one hand the protection of humankind's heritage and on the other hand, the protection of heritage which, though of considerable value to a particular people or community is not part of humankind's, or the provision of other goods which is also mandated by justice. I do think, or at any rate I hope, that it is merely a limitation (albeit an important one), and not an indictment, of those essays - in just the same way as an account of our obligations in respect of healthcare, or of the justice system, or of education, does not lose merit simply for not adjudicating the conflicts that inevitably arise between them. Nevertheless, a fuller, certainly longer, normative study of our duties in respect of our common heritage would need to say something about those trade-offs. On an often-cited view, powerfully articulated by Federico Veronese, UNESCO's Director General at the launch of the Nubia campaign, 'True, when the welfare of suffering human beings is at stake, then, if need be, images of granite and porphyry must be sacrificed unhesitatingly. But no one forced to make such a choice could contemplate without anguish the necessity for making it.'³⁵ Admirable though the commitment to give priority to lives over stones may be, UNESCO has not always been seen to live by it. To be sure, sometimes, saving our heritage goes hand in hand with protecting lives and

³⁵ F. Veronese's speech can be accessed at <https://en.unesco.org/courier/june-1960/egypt-gift-nile> (accessed on 7/26/22.)

livelihoods. In war, for example, diverting troops and planes away from densely populated areas may well save heritage sites. Protecting lived-in landscapes of outstanding natural beauty helps secure the livelihood of their inhabitants. Heritage preservation campaigns have sometimes provided impetus for improving basic facilities such as access to clean water and sanitation.³⁶ These are relatively easy cases, though. The much harder cases are those in which a choice has to be made between our duties of justice in relation to our common heritage and our non-heritage duties not to destroy, indeed to protect the lives and livelihoods of our fellow human beings. I do not yet have a solution to this dilemma. Indeed, I am not sure that there is one.

There is much more work to be done, in other words. Be that as it may, I hope to have made some progress towards convincing you, if you were initially a sceptic, that the fate of the Bamiyan statues, Notre-Dame Cathedral, the Central Slave Route, the few remaining copies of the Gutenberg Bible, India's tea plantations and China's ancient musical instruments is a matter of justice - for all of us.

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³⁶ For a recent discussion of the ways in which authorities in India have grappled with this issue, see L. Meskell, "Toilets First, Temples Second: Adopting Heritage in Neoliberal India", *International Journal of Heritage Studies* 27 (2021): 151-69. As Meskell notes, India's record in that regard is far from blemish-free.

crucial stage of the writing process.

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