IS THE ABSENCE OF A FORMAL DEMAND FOR RESTITUTION A GROUND FOR NON-RESTITUTION?

“The restitution of those cultural objects which our museums and collections, directly or indirectly, possess thanks to the colonial system and are now being demanded, must also not be postponed with cheap arguments and tricks.”

Gert v. Paczinsky and Herbert Ganslmayr, Nofretete will nach Hause. (1)


In a recent report on the Benin exhibition in Berlin, Benin - 600 Years of Royal Arts in Nigeria, an official of the Ethnology Museum Berlin, presumably, the Director of the African Section of the Museum, is reported to have stated that there has been no formal request for restitution from the Benin/Nigerian authorities and therefore the question of restitution did not arise as far as the Ethnology Museum of Berlin was concerned. (2) A reporter who was at the opening of the exhibition has stated that the Nigerian Minister of Culture, Prince Adetokunbo Kayode announced plans of his government to recover the stolen bronzes in “a very diplomatic and civilised way”; but that his government was not primarily concerned with restitution but interested first of all in international scientific co-operation to elaborate an inventory of all the pieces which had been once in the palace in Benin. (3)

Irrespective of what exactly the Nigerian Minister of Culture said at the opening of the Benin exhibition, we have heard this argument before from Austrians, Germans and others with respect to stolen cultural objects in their museums that there has been no formal/official demand and so the question does not arise for them. We would like to comment briefly on what may appear, at
first sight, to be a reasonable position from the point of view of a holder of stolen or found property. Certainly it is a useful tactic if an owner does not bother to reclaim lost/stolen property for the holder to remain passive.

As is well-known, the Benin bronzes came to Europe and America as a result of British imperialist military action against Benin in 1897 when the British soldiers in their usual manner, ransacked the royal palace, carried away thousands of cultural objects, burnt Benin City, terrorized the areas around the city, sent Oba Ovonramwen into exile and executed his close associates. There was no formal voluntary act of handing over the art objects to the British. (4)

Since the sack of Benin, there have been frequent demands by the Edo people and the Nigerian Government for the return of the stolen objects but to no avail. Nigeria has had to buy a few of the Benin bronzes from the British Museum at high prices. (5)

Prof. Ekpo Eyo, a former Director of the National Commission on Monuments and Museums and a leading authority on Nigerian art wrote that when a National Museum was being established in Benin City attempts were made to secure a few of the bronzes from foreign countries. UNESCO passed a resolution urging those who were holding these bronzes to return a few to Benin. Copies of the resolution were given to all diplomatic and consular missions in Lagos. Not a single object was returned. As a result, the new museum was opened without the original bronzes and instead photos of those objects were displayed. (6)

Since 1972 the United Nations General Assembly has in several resolutions requested Member States to return cultural objects which were taken away during the colonial days. The Assembly has the item of restitution of cultural objects to the countries of origin as a permanent agenda item. In its resolution entitled “Return or restitution of cultural property to its country of origin” of 4 December 2006, (A/RES/61/52,) the General Assembly reiterated the importance of restitution to these countries and called upon all bodies of the United Nations and UNESCO as well as Member States “to continue to address the issue of return or restitution of cultural property to the countries of origin and to provide appropriate support accordingly”. All these resolutions have not moved most of the western countries that hold illegal or stolen cultural objects. (7) The western countries do not seem to have much respect for the decisions and resolutions of the United Nations when its decisions do not coincide with their wishes but are heard often urging other States to abide by the decisions of the international organization. Apparently many intellectuals in these countries also follow the line taken by their governments. What then is the use of the famous academic freedom? It is seldom used to defend African interests.
The current Benin exhibition, *Benin: Kings and Rituals - Court Arts from Nigeria*, is a cooperative effort between the Ethnology Museum, Vienna, Musée du Quai Branly, Paris, The Ethnology Museum, Berlin, the Art Institute of Chicago and the Nigerian Commission for Museums and Monuments, Nigeria. The exhibition has a catalogue which is valid for the exhibition in Vienna, Paris, Berlin and Chicago. The present Oba of Benin, Omo N’Oba Erediawa states in an introductory note that the objects displayed were of “religious and archival value to my people” and ends with the declaration: “As you put this past on show today, it is our prayer that the people and the government of Austria will show humaneness and magnanimity and return to us some of these objects which found their way to your country”. (8) In the same catalogue, there is a preface signed by directors of the museums involved, (excluding Nigerian involvement) stating clearly that they have no intention of returning any of the stolen Benin bronzes and urging the Nigerians to forget the past and look ahead to the future. (9) As has often been said, the request for restitution is not about the past but about the continuous present. Although the initial perpetration of the wrongful act lies in the past, the present and continuous refusal to return the stolen object is clearly in the present and constitutes a continuing violation of the human rights of the lawful owners.

At the opening of the exhibition in Vienna on May 9 2007, the brother of the Oba, Prince Prof. G.I. Akenzua made a statement which in a clear and unmistakable language demanded the return of some of the Benin bronzes.

At an International Symposium held on 10 May in Vienna in connection with the opening of the exhibition, the issue of restitution came up with regard to a paper read by Prof. C. Feest, Director of the Ethnology Museum, Vienna. The professor repeated the usual feeble grounds for non-restitution and was told clearly that his arguments were not sustainable. The proceedings of the opening of the exhibition as well as the International Symposium have not yet been officially published but there was sufficient coverage of the events and discussions in the Austrian press. (10) Some NGO’s have discussed the issue of restitution and made their views known to the Austrian and German authorities and the museums. (11) The internet contains ample discussions on the general issue of restitution and the particular case of the Benin bronzes.

Assuming that the Director of the African Section, Ethnology Museum, Berlin and his collaborators are not aware of all the above, including the information in the catalogue of the current Benin exhibition which their Director-General also signed (incidentally, it appears the text of the preface was prepared in Berlin), is this sufficient ground for refusing restitution or for not taking any steps towards restitution?

Is the statement by the Oba in the exhibition catalogue not formal enough? Are the resolutions of the United Nations General Assembly and UNESCO not formal enough? Is the statement made by the Oba’s brother, Prince G.I.
Akenzua during his lecture entitled, *The Loss of Benin Artworks and their Original Function* at the International Symposium on 10 May 2007 not formal enough?

The recent UNESCO International Conference, The Return of Cultural Property to its Countries of Origin, 17 - 18 March, 2008 urged museums to initiate dialogues on the return of important cultural property to the country and community of origin.

Should States and institutions holding such stolen cultural property not voluntarily take action to return them? What then is the use of the repeated declarations on willingness to co-operate internationally when one is not even willing to consider restoring admittedly stolen items? In what will such States co-operate? What then is the point in talking about heritage of mankind? Does mankind consist of only those in the Euro-American world?

The refusal to return stolen cultural property clearly violates the right to culture and right of access to culture as provided for in the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966) and the International Covenant on Civic and Political Rights (1966) in so far as the deprivation of a whole people or community of its cultural objects renders it impossible for the individuals in that community to exercise rights guaranteed under the international instruments. Indeed some acts of refusal to return cultural objects, such as crosses or other religious symbols must be considered as violations of religious freedom. The religious and ritual objects of the Edo are necessary if they are to follow their tradition and religion. It is remarkable that some States that pride themselves of their religion as part of their culture and even require immigrants to adopt these values do not seem worried by the thought that they are preventing others from following and cultivating their traditional and religious values.

The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970) considers in its preamble that “cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting” and states that “as cultural institutions, museums, libraries and archives should ensure that their collections are built up in accordance with universally recognized moral principles”. To this end, the Convention provides in its article 15 that

*Nothing in this Convention shall prevent States Parties thereto from concluding special agreements among themselves or from continuing to implement agreements already concluded regarding the restitution of cultural property*
removed, whatever the reason, from its territory of origin, before the entry into force of this Convention for the States concerned.

The ICOM (International Council of Museums) Code of Ethics for Museums, 2006, which sets minimum standards for museums and their staff, provides as follows, regarding return of cultural property:

6.2 Return of Cultural Property
Museums should be prepared to initiate dialogues for the return of cultural property to a country or people of origin. This should be undertaken in an impartial manner, based on scientific, professional and humanitarian principles as well as applicable local, national and international legislation, in preference to action at a governmental or political level.

6.3 Restitution of Cultural Property
When a country or people of origin seeks the restitution of an object or specimen that can be demonstrated to have been exported or otherwise transferred in violation of the principles of international and national conventions, and shown to be part of that country’s or people’s cultural or natural heritage, the museum concerned should, if legally free to do so, take prompt and responsible steps to co-operate in its return.

The cultural artefacts of the African countries, as well as all the symbols of power which the colonialist took away at the time of conquest and during the colonial days should all have been returned at the time of Independence. To retain still part of these objects amounts to preventing the people concerned from exercising to the fullest extent, the right of self-determination. The right of self-determination does not only consist in the right to choose your own flag, parliament, army and constitution and other institution; it extends also to the right to choose your own cultural institutions and to determine your own cultural and economic development. Instruments and symbols of a culture which have been confiscated by the colonial power must be returned in order for self-determination to be complete.

In view of the above, it is our considered opinion that the lack of a formal/official request is no ground for the holding State and its institutions for not initiating a process of restitution or for refusing to return stolen cultural property. There is a positive duty on States and their museums holding stolen or illegally exported cultural items to start discussing their return, whether there is a formal/official request or not. The contrary argument would mean that violations of human rights can continue so long as the victim has not formally or officially complained. What about if the complaints are not heard or received or if the violator pretends not to hear or be really deaf, as some institutions and their management in Europe appear to be with African demands? Often the State which has lost cultural property may not even know where to find it. It is only
the holder who has the full information about the present circumstances of the object. This is precisely the case of the Benin bronzes. Since they were stolen by the British in 1897 and partly sold to the Germans, Austrians and others, the Nigerians have not had the chance of seeing most of these objects. The members of the Benin Royal Family and the Nigerian Commission for Monuments and Museums saw many of these objects for the first time, since they were stolen, during the current exhibition. There are still many of these objects that are hidden in the depots of museums such as the Ethnology Museum, Berlin, the Ethnology Museum, Vienna, the British Museum and many others. Hence the interest of the Nigerian Minister of Culture to have established a comprehensive list of all the items that were in the palace of the Oba in 1897 before the British invasion.

The museums - Louvre, Quai Branly, British Museum, the Metropolitan Museum of Art - that argue or insist that they hold cultural property on behalf of mankind or serve the world, the so called “universal museums” must admit that if they take their pretence seriously, then they would also have a moral obligation to discuss with the countries from which the objects in their museums were derived. Or are they acting as trustees for mankind without any obligations towards the beneficiaries, not even a duty to discuss the objects they display and the status of those objects?

The statement or the view that due to the lack of formal request from Nigeria, there is no consideration of the question of restitution is somewhat hypocritical. Have the Germans given any indication to the Nigerians that a formal request will be given reasonable consideration? Egypt which has been claiming the restitution of Nefertiti since 1933 has not got anywhere nearer to receiving its stolen cultural object even though it has sent several formal requests to the Germans. (12) Ethiopia has not had any favourable response from the British to its request for the restitution of the various religious and cultural objects stolen at Magdala in 1868 by British soldiers. Would a formal request by the Nigerians through a judicial process not be considered as an unfriendly act by the Germans? This may be eventually a step to be considered.

The Nigerians have shown their goodwill in lending objects for the exhibition. Have they not expressed to the Directors of the museums involved in the exhibition their desire to have at least some of these objects back as the Nigerian parliament has in the past requested? (13) What really prevents the Ethnology Museum of Berlin which holds 600 of the Benin bronzes to return a few to Nigeria as an indication of a determination to commence new and better relations with Nigeria and the other African countries?

Peter Junge gives the impression that the Nigerians are even happy that these objects are in Europe. (14) **He is reported to have said that the staff at the Ethnology Museum were positively surprised by what the Nigerian Minister**
of Culture and Tourism, Prince Toukumbo Kayode said at the opening of
the Benin exhibition; namely that Benin art should be regarded as part of
world art and that Benin art should be seen not only in Benin City, Nigeria
but that it should be seen as a world-wide exhibition. To be positively
surprised implies that one could have been negatively surprised or even
that one was expecting a negative statement. Why should a German
museum director be surprised when a Nigerian Minister states that Benin
art is part of world culture? Is Benin art not obviously part of the art of the
world? The difference, I submit, lies in the different understanding of
“World art” as the Nigerian minister and most Africans use the phrase and
what the Germans mean by “Weltkunst”. The ethnologists are trying to
avoid the criticisms they have received from the use of the word
“primitive”, and the attacks against Ethnology for its role in the colonial
period and for spreading prejudice against non-Europeans. Some
Ethnology Museums are even calling themselves Museums of World
Cultures (15) but they do not include Europe and Egypt in their world
cultures! Such museums do not include modern African art in their
collections since modern art generally contradicts the ethnologists’ view of
Africa. Africa thus appears to have only traditional art and no
contemporary art! For some, it appears that African art ends with the
Benin bronzes. It almost seems as if after inspiring Western artists to new
conceptions and modes, African art ceased to evolve and indeed regressed!
Our continent is the only one which is constantly being denied the capacity
to progress, even in art. Many western books and general works on art still
treat African art as if it were an art from the early history of mankind.

Africans insist that Benin art, like all art found in African societies, is part
of the total arts that exist in this world, each of them valid and valuable,
none of them being civilised and the others being primitive. When Germans
and other Europeans and Americans speak of world art, they are not
referring to the totality of arts that exist in this world; they are referring to
the arts of those countries which used to be called “primitive” and were
considered to fall in the province of ethnologists. They do not include
European art in the phrase “world art”. So what kind of world art is this
which does not include European art? Are the Europeans and their art not
part of this world? One can see this at the Berlin museum scene where
European art is in the Museum Island whilst African art is to be found in
the Ethnology Museum. Moreover, Egyptian art is not in the Ethnology
Museum but in the Museum Island. Why do they separate the art and
culture of one African country from those of the others?

This is based on a very old European prejudice, going back to the philosophers
of Enlightenment Hegel, Kant, Hume, etc. who, instead of enlightening
Europeans about Africa, poisoned their minds about Africa. For them Africa,
from which they excluded Egypt because they respected Egyptian culture, did not have any culture, history or religion. They simply equated Africa with primitivism. This perverted conception of Africa, left by famous European philosophers clearly hinders many Europeans from looking at Africa and indeed treating Africans as equal partners in the world. The intellectual history of Europe needs very much to be cleaned of such ideas that are not based on knowledge but on prejudices and fantasies of writers who never visited Africa or knew any Africans but felt authorised to make damaging statements with permanent effects. But how can the Europeans and Americans justify to-day this foolish idea that Egypt is not part of Africa? Do they know better than Gamel Abdel Nasser, Anwar Sadat and Hoseni Mubarak who put their country in the OAU and the African Union?

The British Museum, Louvre and the Metropolitan Museum of Arts all maintain Egypt apart from other African countries. Sometimes they add Sudanese art to Egyptian art. What kind of logic excises two large African countries from the rest of the Continent and indeed the winner of the 2008 African Cup of Nations, Egypt? Hegel declared that Egypt must be detached from Africa and attached to Europe. (16) It seems many Europeans have followed this injunction from the master of the Enlightenment.

The statement attributed to the Ethnology Museum, Berlin does not tell correctly the history of the demand for the restitution of the Benin bronzes in the past or in the present. It reflects also the observed game of making statements in German for home consumption and a more carefully worded one in English for the international public. That kind of game should now stop since the whole world has, in a sense, became a global village. Moreover, there are now enough interested Africans who read most of the European languages.

Peter Junge says he was positively surprised that the Nigerian minister said that the art of Benin is to be considered as part of world art and that it was important that Benin art should be seen not only in Benin City, in Nigeria but also in the whole world. Is the museum director here deliberately cultivating and sustaining a misunderstanding or misapprehension which has a long tradition in European art history?

As has often been said, if the Europeans and the Americans do not want to return stolen African artworks, this is a matter for them and their conscience. They should not, however expect us to suspend our common sense and provide us with explanations that are baseless or only tell us partial histories.

Sooner or later, the European governments and their people would recognize the damaging role of some museums in this matter. Politicians who are more interested in having access to the enormous natural resources of Nigeria and the other African countries will become irritated by the persistent debate on stolen
African cultural objects and will seek a solution. They will decide that the holding of stolen African cultural objects is clearly not important for the survival of Europe. Africa and Europe must seek to clear some of the obstacles in their way to a better understanding. Stolen African objects in European museums can be easily dispensed with and European culture will not suffer any irreparable damage. Moreover, none of us is asking for the total and whole repatriation of all African art objects from Europe and America. The connections and bonds between the peoples of these continents are too important to be made to suffer by such disputes. None of us has any interest in a total withdrawal of all stolen African cultural objects even if this were possible. We are requesting that the European countries and their museums recognize that African art objects belong to Africa; that some of them should be returned so that our peoples have the chance of knowing what our countries have produced in our history and culture. Is this asking for too much? Should it be accepted as normal, moral and legally sustainable that, for example, the Ethnology Museum, Berlin has 600 Benin bronzes and the British Museum has 700 whereas Benin itself has only a few? How would the Germans or the British feel if most of the masterpieces of their culture were kept in Nigeria or Ghana and museums there argued that it was in the interest of mankind that they be kept in Africa? Surely, most people would agree that we have now an unhealthy and immoral situation, where the best masterpieces of African art and culture are to be found outside Africa, in London (British Museum), in Paris, (Louvre and Musée du Quai Branly), in Berlin, (the National Gallery and the Ethnology Museum), in Zurich (Rietberg Museum) and in Brussels, (Tervuren). Would Europeans accept to have their best masterpieces in Lagos, Accra, Dakar, Bamako, Doula, Lome and Kinshasa? We should recall that there is not one single piece of a European masterpiece in Africa.

So far as I can tell, none of the European museum directors nor European intellectuals have suggested that in a global village where people are talking about, “universal culture”, “world culture”, “heritage of mankind” etc. that some Picassos, Rembrandts, Goyas, Matisse could be sent to Africa so that many Africans also get the chance to see and appreciate the variety of artworks that mankind has produced. It seems to be the opinion of many that Europeans need to have access to African cultural objects but that Africans have no such need. Is this fair?

Given the above background, much of the talk about the heritage of mankind appears to be a ploy by western museums to hold on to stolen African cultural objects and avoid any action of recovery or restitution. One can, in view of the above also understand that museums such as the Ethnology Museum, Berlin, the British Museum, London, Louvre, Paris and Musée du Quai Branly, Paris, will present excuses that they have not received any formal/official request to return some of the stolen goods. When these items were stolen and brought to Europe,
nobody bothered about formalities of provenience or ownership. The great museums were pleased to receive the loot. When there is no goodwill, there are thousand and one arguments based on formalities which would seem to justify unwillingness to act. Any lawyer can supply them.

“The history of museums shows that these institutions have facilitated, justified and benefited from colonialism and related policies of discrimination, assimilation and genocide. They have also often served to inform and engage broader societal concerns. The present-day ‘commitment to righten historic wrongs’ by former metropolitan powers and their museums must include restitution claims of indigenous and other colonised peoples. Museums must be actively involved in reversing and ameliorating the ongoing effects of these policies and practices”.


Kwame Opoku, 12 April, 2008.
Another report stated that the Nigerian Minister declared that the art of Benin is an important element of the identity and symbols of the traditional society and hence the 600 objects exhibited are by no means dead antiquities for the inhabitants of Benin today hence a right to claim the return of the objects displayed Kunst, Kanonen und Zwerge (http://www.3sat.de/3sat.php?http://www.3sat.de/kulturzeit/tips/119165/index.html). One other journalist reported the Nigerian Minister Kayode stated that there was no thinking of requesting the return of the artworks and that his government was more interested in scientific co-operation. “Sich erinnern" heisst in Messing-giessen" (http://www.scienzz.de/magazin/art9614.html) Josef Tutsch

(4) Darshana Soni “The British and the Benin Bronzes” (http://www.arm.arc.co.uk/britishBenin.html).


(7) See resolution 61/52. Return or restitution of cultural property to the countries of origin, in which the Assembly refers to its previous resolutions.


(9) B. Plankensteiner, op.cit. p.11.


(14) Höfische Kunst aus Nigeria und der Spanische Bürgerkrieg http://www.inforadio.de/static/

(15) See, Mannheim Museum Weltkulturen D5; Frankfurt: http://www.mdw.frankfurt.de/home

(16) The reader may find interesting insights in Olufemi Taiwo, Exorcising Hegel's Ghost: Africa's challenge to Philosophy which is an excellent study on Hegel’s continuing and persistent influence on the Euro-American intellectual tradition in its approach to Africa.


“Africa proper, as far as History goes back, has remained — for all purposes of connection with the rest of the World — shut up; it is the Gold-land compressed within itself — the land of childhood, which lying beyond the day of self-conscious history, is enveloped in the dark mantle of Night. Its isolated character originates, not merely in its tropical nature, but essentially in its geographical condition.” p.91

“The northern part of Africa, which may be specially called that of the coast-territory (for Egypt has been frequently driven back on itself, by the Mediterranean) lies on the Mediterranean and the Atlantic; a magnificent territory, on which Carthage once lay — the site of the modern Morocco, Algiers, Tunis, and Tripoli. This part was to be — must be attached to Europe.” p.92


“I am apt to suspect the Negroes to be naturally inferior to the whites. There scarcely ever was a civilized nation of that complexion, nor even any individual, eminent either in action or speculation. No ingenious manufactures amongst them, no arts, no sciences. On the other hand, the most rude and barbarous of the whites, such as the ancient Germans, the present Tartars, have still
something eminent about them, in their valour, form of government, or some other particular. Such a uniform and constant difference could not happen, in so many countries and ages, if nature had not made an original distinction between these breeds of men”. p.360


*The Negroes of Africa have by nature no feeling that rises above the trifling. Mr. Hume challenges anyone to cite a single example in which a Negro has shown talents, and asserts that among the hundreds of thousands of blacks who are transported elsewhere from their countries, although many of them have even been set free, still not a single one was every found who presented anything great in art or science or any other praiseworthy quality, even though among the whites some continually rise aloft from the lowest rabble, and through superior gifts earn respect in the world. So fundamental is the difference between these two races of man, and it appears to be as great in regard to mental capacities as in colour.”* p.111

“…but in short, this fellow was quite black from head to foot, a clear proof that what he said was stupid.” p.113


“In the hot countries the human being matures in all aspects earlier, but does not, however, reach the perfection of those in the temperate zones. Humanity is at its greatest perfection in the race of the whites. The yellow Indians do have a meagre talent. The Negroes are far below them and at the lowest point are a part of the American peoples”.
