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The Enduring Repercussions of Colonization on Modern Artifact Repatriation in West Africa

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Abstract

The colonial era led to the extensive removal of cultural artifacts from Africa, with many of these objects now residing in Western museums. Over the last century, there has been an increasing global recognition of the importance of repatriating these artworks to their countries of origin. Repatriation is particularly crucial for African countries, where a majority of the population is under twenty, and oral traditions passed down by elders are vital for preserving knowledge of cultural heritage. This paper explores the impact of colonization on repatriation debates, highlighting the role of Operation Legacy and the creation of artificial borders during colonization that have further complicated the process. The colonial borders established during colonization have led to multiple ownership and boundary disputes that further hinder repatriation efforts. Operation Legacy was a covert British operation initiated during decolonization in Africa, which resulted in the removal, destruction, and hiding of thousands of official African records, documents, and artifacts in former British colonies. This destruction of African history was used as a form of narrative control for the British to rewrite the history of colonization in their favor. While exceptions for looted artifacts have been made in response to laws that restrict repatriation in countries like Britain and France, looted African artifacts could not be included due to time period limitations. Through examining the legal struggles, preservation concerns, and ownership issues regarding the return of the Benin Bronzes, this study will provide insight into the multifaceted nature of returning art looted during colonization.

Introduction

In a modest, softly lit hall in the heart of Abuja, rows of news reporters, museum workers, and cultural leaders face a long table where government representatives sit, waiting to address the eager crowd. It is December 2022, and a long-awaited moment has arrived as German Foreign Minister Annalena Baerbock begins to speak, “Today, we are here to return the Benin Bronzes to where they belong, to the people of Nigeria… We are here to right a wrong.”[1] Just behind her stands a table covered in a white tablecloth, displaying the twenty bronze heads, plaques, and ivory carvings being repatriated by Germany to Nigeria in this monumental ceremony.[2] The return of these Benin Bronzes is part of a broader movement that seeks to address the historical injustices of colonialism and cultural looting through repatriation and restitution. This paper will explore those while addressing the complicated legal, preservation, and ownership issues presented during artifact repatriation discussions, and consider possible solutions

In discussions about art and cultural heritage, it is crucial to distinguish between restitution and repatriation. Though these terms are often used interchangeably, they represent two different forms of recompensation. Legally, restitution involves both the return of something that has been taken and providing compensation for any resulting negative consequences.[3] In the context of cultural heritage and property, restitution refers to the process of returning cultural objects to individuals or communities, typically involving privately held works being returned.[4] On the other hand, within cultural heritage discussions, repatriation specifically refers to the return of cultural objects to a nation or state at the request of its government.[5] Typically, these cultural objects were acquired through various unethical means such as colonization, looting, or illegal trade. While the distinction is important, both restitution and repatriation can benefit the return of looted African art.

Artifact repatriation is a vital element in the process of correcting power imbalances and addressing the unequal distribution of cultural wealth. Because of this, repatriation becomes a form of cultural justice, empowering communities to take control of their heritage and actively participate in its interpretation, preservation, and sharing.[6] Not only this, but it also promotes intercultural dialogue, understanding, and collaborations between governments and communities. By returning cultural objects to their places of origin, communities are able to display them within the appropriate cultural context, which allows for true cultural exchange.[7] While the benefits of artifact repatriation are clear, the process is complex and multifaceted due to various legal, ethical, and logistical challenges that include questions of provenance, ownership, and the creation of proper infrastructure to preserve and display repatriated objects.[8] The source for these complexities can be traced back to the lingering effects of colonization and

decolonization on Africa that brought forth campaigns like Operation Legacy and the creation of artificial borders.[9]

The Benin Bronzes

Among the most widely sought-after artifacts to be returned to Africa are the Benin Bronzes, looted from the city and royal palace of Benin during the British Punitive Expedition of 1897.[10] The old Kingdom of Benin extended over what is now the Edo state in modern-day Nigeria and consisted of the Edo-speaking people.[11] In the late fourteenth century, the current Oba commissioned the Bronze Casters Guild to make casts documenting significant events in their history in Benin. This tradition carried on for at least the following four centuries.[12] These casts became known as the Benin Bronzes and include depictions of hunting, animals, the army, battles, heads, relations with people, court life, and the Oba. While Benin Bronzes were only cast from materials such as brass, copper, and bronze, other Benin art objects have been made from other mediums such as ivory, wood, and coral.[13]

In the fifteenth century, the Kingdom of Benin began to emerge as a powerful empire that had expanded its territory by conquering neighboring groups. The Oba was regarded as a sacred figure and remained integral to Benin's cultural and political identity, with his palace located at the geographical center of the Edo-speaking world.[14] Benin's artistic traditions largely revolved around the Oba, and each Oba was remembered for their artistic contributions made during their reign. Due to the events of 1897, many of these artistic and sacred objects, such as the Benin Bronzes, reside in museums and private collections in Europe and the United States.[15] In January of that year, a British officer attempted to visit the Oba during a sacred period of ritual offerings. After being warned by chiefs that a visit during this time would be dire, the officer and his party continued onward, only to be subsequently ambushed and killed by city warriors.[16] In retaliation, the British launched the Benin Punitive Expedition, which consisted of burning most of the palace and city, exiling the kings, and looting thousands of artistic and sacred objects.[17] Despite this incident, some historians claim that the expedition would've taken place regardless due to a struggle of power between Benin and Britain over trade and taxation conditions set by the British.[18]

In October 2021, Jesus College, a constituent college of the University of Cambridge, became the first institution in the world to return a Benin Bronze to Nigeria's National Commission for Museums and Monuments.[19] The Okukor was gifted to Jesus College by a member of the British force, George William Neville, who had a son who attended the university. [20] During the return ceremony, Professor Abba Isa Tijani, DirectorGeneral of the National Commission for Museums and Monuments of Nigeria, encouraged other institutions to follow suit by stating,

> We want to enable Nigerians to see what belongs to them - objects of their history, of cultural and religious importance, that have been away for so long. We

would like other museums and institutions across the world to take this opportunity and follow suit.[21]

The Benin Bronze returned was taken during the Punitive Expedition of 1897 and is a statue of a cockerel, or rooster, known as the Okukor. In the Benin Kingdom, the queen mother bears the title 'Eson, Ogooro Madgba, the cock that crows at the heart of the Harem' which references her role in organizing and controlling the royal palace by comparing her to a strong, aggressive character. The Okukor was made to be used as a decoration for the ancestral altar of the queen mother to honor her title, in both hers and the Oba's palaces. Typically roosters were seen as a male symbol in Benin, but the queen mother occupies a unique position among the women, including many powers and privileges that men usually have.[22]

Figure 1. Bronze Okukor statue, similar to the Cockerel returned by Jesus College. From Nigeria, the Court of Benin. Rooster. 18th century. Artist unknown. Bronze, H. 20 in. × W. 7 3/4 in. × D. 15 in. (50.8 × 19.7 × 38.1 cm). Created for the queen mother's ancestral altars in the kingdom of Benin.
https://www.metmuseum.org/art/collection/search/316525

At least two dozen bronze rooster statues have been traced back to the Benin Kingdom, dating to sometime from the sixteenth and seventeenth centuries. The Okukor in Figure one features a rooster sitting upon a pedestal adorned with an interlocking rope-like pattern around the sides. Other Okukor pieces feature bases with motifs depicting ram heads, crosses, and elephant trunks that end in hands holding leaves, and those altars are believed to belong to the queen mother.[23] This Okukor stands upon two feet with a criss-cross pattern that travels up the legs before settling right below the plump stomach. Across the body, small feather carvings can be found etched into the bird to create a more realistic appearance. The wings, beak, comb, and wattles are all also carved with the same fine detail that establishes this statue's identity as a rooster, but what's truly remarkable is the accuracy within the anatomy. Below the sickle

feathers, there's a cut-off and change of direction between the sets of feathers to represent the saddle feathers below. As for the wings, there's another clear distinction between where the flight coverts and primary and secondary feathers meet to show the two different sets of wings.

Beyond depictions of birds, other forms of brass artistry adorn ancestral altars, such as the Oba's. These altars often include brass heads that represent the Oba's great metaphysical and spiritual power.[24] While the earliest surviving brass heads date back to the early fifteenth and mid-sixteenth centuries, Oba Oguola is accredited with introducing them to the Benin kingdom in the late fourteenth century.[25] These heads are used to reflect the authority, wisdom, success, and happiness within each Oba's destiny, and royal ceremonies were performed each year to strengthen the king's head.[26] Most of these early heads are thought to depict fallen enemies to validate Benin's military success during the early period of territorial expansion, but some may belong to past rulers of Benin.[27] Heads placed upon the altar of the first dynasty, or Ogiso kings, were likely made of terracotta and may have been an influence on the later development of brass heads.[28] Despite this, according to most oral traditions, credit is given to artists who came from the Yoruba city of Ife and created the first brass heads.[29] Other ancestral heads depict the queen mother, while yet others are believed to belong to chiefs who had been killed by the Oba.[30] These memorial heads were made from wood and displayed on the altars of the chief's junior members, they are distinguishable from other wooden heads by the vulturine fishing eagle feather adorning one side of the headdress.

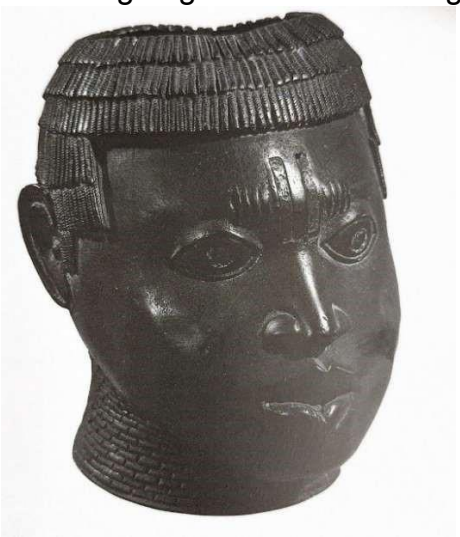

Figure 2. Fifteenth Century Royal Head. Crafted in Benin, Nigeria. A royal head from an ancestral altar, believed to be from the fifteenth century. Brass and iron. Height 81/4 (21 cm). University of Pennsylvania Museum, Philadelphia. Picture from "The Royal Arts of Africa: The Majesty of Form" by Suzanne Preston Blier. Page 45.

The royal head in Figure two is from an ancestral altar, most likely from the fifteenth century. The brass used in the Benin Kingdom castings, including those found on ancestral altars like above, symbolizes both permanence and protection.[31] Its distinctive shine and red surface were believed to ward off evil in the Benin Kingdom.[32] The eyes

feature two iron irises that are seen as embodying both the mystical authority of Indigenous metal and enduring the gaze of someone with a divine nature.[33] Above the eyes are iron bars set into the forehead that instill the head with the sacred power of Indigenous iron, and royal sacrifices are offered upon these bars to renew the Oba's authority. [34]

Along the eyebrow bridge, four raised marks can be found that are used as cultural identifiers, with three marks for men and four for women or foreigners.[35] The hair has a clearly defined texture that's visible throughout the individual strands, reflecting the naturalistic style used for brass heads crafted during the early fifteenth to mid-sixteenth centuries.[36] In contrast to later brass heads, the neck features a minimalistic coral necklace that only covers the neck. The coral, an important feature of Benin royal costumes due to the belief it could make the Oba's words come to fruition, was procured by trade from the Mediterranean Sea.[37] Necklaces including these coral beads were sewn together with elephant tail hair, an animal associated with royalty and physical force in the Benin Kingdom.[38]

Figure 3. Sixteenth Century Brass Head. From Benin, Nigeria. Brass head, possibly late sixteenth century. Height 103/4 (27 cm). British Museum, London. Picture from "The Royal Arts of Africa: The Majesty of Form" by Suzanne Preston Blier. Page 46.

Unlike the earlier brass heads, the head in Figure three is believed to be from the late sixteenth century and features a neck encased with a much taller coral necklace with strands that stretch to cover the chin as well as a portion of the bottom lip. The necklace from the brass head in Figure two appears to follow the natural curvature and portions along that head's neck before stopping under the chin, while the head in Figure three has a much wider base the necklace ascends from until reaching the lips. This attribute is accredited to Oba Osemwende.[39] The head from Figure two stands at 8 / inches (21 cm), while the head in Figure three has a height of 10 / inches (27 cm).[40] Distinguishing the early-style brass heads from those crafted in the late sixteenth to mid-eighteenth

centuries is made easier by their thinner casting, relatively naturalistic features, and smaller scale.[41] Another notable distinction between the head in Figure two would be the diamond, fishnet patterned headpiece adorned upon the head in Figure three. The headpiece features two cork-shaped items protruding from the front, directly in line with the eyes below. On both sides of the headpiece and above the ears, short extensions of brass come to a point, forming flower-shaped clusters. Long vertical pieces of brass with evenly spaced lines carved along them are said to possibly represent the barbells of mudfish, shoot out from underneath the headpiece and encompass the sides of the head. [42]

Brass heads representing queen mothers were also created and placed on special altars dedicated to these women, located at both the royal palace and the queen mother's residence outside the city.[43] Like other royal altar heads, the brass expense and bright, red shine highlight the queen mothers power and prestige within the Benin Kingdom.[44] The earliest queen mothers are believed to date back to the reign of Oba Esigie in the early sixteenth century, who had established the queen mother office for his mother, Idia.[45] On the base of one head that honors Idia, a fish is depicted to represent her role in helping drive the attacking Igala back across the Niger River.[46] The family altars of Benin chiefs also included heads, but they were crafted with wood instead of brass or terracotta.[47] For some especially decorated chiefs, the artist may incorporate thin sheets of brass to signify their importance.[48] For the altars of highranking foreigners and commoners, such as the Yoruba or Ishan among others, the heads of rams, goats, and bullocks can be found. [49]

Figure 4. Queen Mother Brass Head. From Benin, Nigeria. Queen mother head, possibly fifteen century. Brass, height 151/2 inches (39 centimeters). British Museum, London. Picture from "The Royal Arts of Africa: The Majesty of Form" by Suzanne Preston Blier. Page 48.

This queen mother brass head in Figure four is believed to have been made during the fifteenth century and reaches a height of 15 / inches, standing much taller than the heads in Figures two and three.[50] Unlike the head in Figure three, the queen mother head has a coral necklace that reaches below her chin and follows the natural neckline of the queen.[51] The headpiece adorning the queen mother head has the same diamond and fishnet pattern as the head in Figure three, but it doesn't have the additional protruding materials coming from the front and sides. Instead, the headpiece extends far above the head, reducing in size before reaching a rounded point that curves forward, like a "chicken beak". This is believed to resemble the coiffure, or hairstyle, that court women in Benin would wear.[52] The queen mother head has the same parallel iron bars set into the forehead as in Figure two, but the forehead in Figure three is obscured by the headpiece adorning the casting. However, the queen mother's head still shares other similarities with the royal head from Figure three, such as the bars protruding down from the headpiece and encompassing the side of the head. [53] All three of these brass heads share one common feature: the raised marks along the eyebrow ridge to signify the gender or foreign status of the head.

Figure 5. Memorial Brass Head. From Benin, Nigeria, Memorial head, nineteenth century. Wood, height 113/4 inches (30 cm). Staatliches Museum Für Völkerkunde, Munich. Picture from "The Royal Arts of Africa: The Majesty of Form" by Suzanne Preston Blier. Page 49.

One immediately noticeable feature of the wooden memorial head in Figure five is the vulturine fishing eagle feather placed on one side of the headdress, signifying this head's identity as a chief. The feather symbolizes longevity, status, and achievement for chiefs in the Benin kingdom.[54] These heads were believed to have been introduced in the Ogiso period before local chiefs were permitted to commission wooden imitations of

brass heads for royal altars in 1830.[55] This memorial head is less naturalistic than the previous brass heads from Figures two through four due to the proportions of the eyes, nose, and base. [56] The eyes and nose are large, with the eyes nearly reaching across the entirety of the face except for a break for the nose bridge. The nose is broader and flatter, and directly underneath the nose are two other small lip-like features that stack into each other.

This memorial head includes a coral necklace with much thicker strands that wrap around the bottom of the face, stopping where the chin should be, instead of coiling down the neck to the base of the head like in the heads from Figures two through four. The base is mostly flat and devoid of decorations except directly under the coral, where two horizontal lines and a row of small, vertical patterned carvings meet with the necklace. Towards the backside of the memorial head, two pieces of brass extend out from the base before reconnecting above the coral necklace and behind the ears to create a handle-like feature. These handles are patterned with lines that resemble the grooves found on fish fins. This memorial head includes a headpiece with a checkered pattern as opposed to the diamond, fishnet-like pattern found in the headpieces in Figures three and four, but it shares the same dome shape as Figure three. Along the hat brim, more coral strands encompass the forehead, and two triangle-shaped brass pieces protrude directly above the ears.

Yoruba

A central theme in both Benin and Yoruba cultures is the emphasis on authority and sacred power, shown through artistic physical representations of kings, queens, and deities. This could be due to a shared history between the people of Benin and the Yoruba. According to the legend, Oranmiyan, a warrior prince from the Yoruba city of Ife, arrived in the region in the thirteenth century.[57] He renamed the area Ibini, meaning “land of vexation,” which later evolved into the name Benin.[58] This marked the beginning of a second dynasty in Benin that has continued to live on into the present day.[59] The first dynasty, known as Ogiso or “Rulers of the Sky”, is thought to have been founded around 900.[60] Due to this early connection and later exchanges through trade and military interactions, Yoruba religious and artistic traditions became deeply embedded in Benin’s culture.[61]

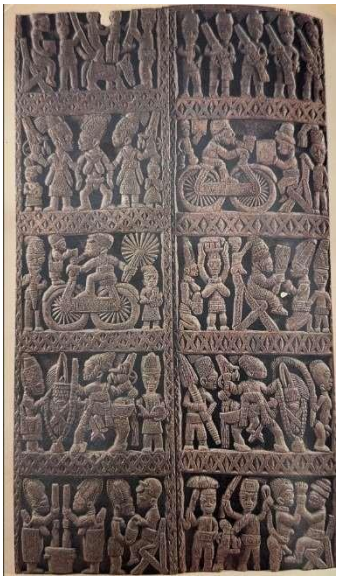

Figure 6. Yoruba Palace Doors. From Yoruba, Nigeria. A palace door panel from Osi-Ilorin by Arowogun, early twentieth century. Height 5'111/2 inches (1.82 cm). Fowler Museum of Cultural History, University of California, Los Angeles. Picture from “The Royal Arts of Africa: The Majesty of Form” by Suzanne Preston Blier. Page 78.

Other artworks produced in Yoruba showcase these characteristics, such as the palace doors in Figure six. The Yoruba palace door panels were wooden, intricately carved artworks that once welcomed visitors into the palace's main courtyards.[62] Some of the most finely detailed doors in the Ekiti area, northwest of Ife, were created by Arowogun, a famous artist from Osi-Ilorin.[63] Arowogun's artistic carving style was characterized by their dense compositions, filled with lively figures in flat relief.[64] The door panel is divided into several sections, or registers, each separated by a textile-like pattern that creates a border of crosses between the scenes. [65] Currently, these doors are located at the Minneapolis Institute of Art but not currently on view.[66]

Arowogun did not intend to create chronological narratives with these palace doors but rather to depict an internal hierarchy of centrality and distance through scenes relating to rulership, contemporary life, and the history of the Yoruba dynasty.[67] The central panels of this door hold the most important imagery, symbolizing the authority of leadership and societal structure within Yoruba, with the focal point being the seated king. The king is depicted with an elaborate crown and holding a fly whisk, both objects that symbolize his royal status in Yoruba.[68] Before him, a kneeling figure presents an offering while behind him, a similar scene unfolds as one figure carries a drum and another kneels with a vessel. The larger headpiece and inclusion of breasts upon these figures reveal they’re women, while the objects they possess suggest the scene represents the preparatory arrangements before a royal ceremony may commence. [69]

A peculiar figure perches behind the seated king, seemingly reaching towards his crown. This figure is likely the embodiment of Eshu, a Yoruba trickster and messenger deity, who is recorded to receive a portion of every offering given to the king.[70] While this inclusion may seem frivolous to some due to Eshu’s role in royal ceremonies, others

claim it could represent Arrowguns playfulness and self-importance as he displays the perilous nature of royal authority directly upon the palace doors. At any moment, Eshu could disrupt the composure of the ceremony and authority of the king. [71] Beneath the royal scene, another panel features two warriors, one on a horse while the other follows in pursuit holding a spear, with a bound and naked prisoner.[72] While this could be a variety of wartime scenarios, the inclusion of a bound prisoner compared to an active battlefield could be intended to highlight Yoruba's military dominance over others rather than solely their involvement in violent conflicts.[73] Above the king's panel, a scene involving a pipe-smoking cyclist and a seated figure wearing a colonial helmet plays out.[74] The seated figure hands a book to the cyclist, presumably containing written laws, as a school child on the left and a court messenger on the right watch.[75] In the top right corner, a panel including a line of policemen holding rifles further reinforces the power of Yoruba's military.[76] The bottom left corner depicts a court scene consisting of a judge delivering the verdict of a bound and naked prisoner while armed guards observe.[77] These panels surrounding the king allude to beliefs in Yoruba that traditional and modern authority must be enforced to create a stable society.[78]

While not as much information is available on the five panels making up the left side of the palace doors, the panels are just as intricately detailed as those on the right. The bottom left panel includes six figures, two of them appear to be mixing or mashing an unknown material into a bowl while two babies rest against their backs. On the right side of the panel, one figure hands a vessel-like object to another, imagery that could lead one to theorize the contents came from the bowl. Due to the breasts of the other three figures, the only seemingly male figure in this scene is the seated figure receiving the vessel. [79] According to accounts from the nineteenth century, women occupied a pivotal role within the local and state economy in Yoruba. Yoruba women founded kingdoms and communities, wielded political authority as rulers, acted as regents, sat on the king's council, and organized the household while maintaining the spiritual well-being of their families and kingdom. It wasn't uncommon for kings and proletarians to have multiple wives, a practice known as polygamy. With this information on domestic life and women's roles within society in Yoruba, it's not inconceivable to speculate that this panel could be representing a domestic scene involving multiple wives or preparations for a royal ceremony. [80]

Above this panel is a new scene with another horse being ridden by one figure while two other figures stand on the left and right. The figure riding the horse could potentially represent another warrior, due to the garments he's wearing closely resembling the previous warrior figure that had been riding a horse and the pistol he's armed with. The figure on the left has no weapons as he holds onto the front of the horse's reins, but the figure on the right does have a round object with a handle that he's holding. That object makes a second appearance in the panel directly above this one in the hands of what appears to be a child. In the middle of the panel is another cyclist smoking a pipe, but this cyclist has a small child on the front of the bike. One last figure appears standing in front of the bike, holding a carrot-shaped object. [81]

The last two panels at the top left have opposing content within their respective scenes. In the second panel down, a woman in the middle has her arms in the grasp of

two armed figures standing on both sides of her, with two child-like figures behind them. In the top panel, two small children sit on a swing over the back of an animal while two figures help hold them steady. On the left side, another seated figure is shown reading a book. Every figure carved in this entire palace door has visible facial features, including those in this panel who appear to be smiling compared to the stern facial expressions on the figures in the panel below.

Arowogun included multiple other fine details throughout the palace doors to help identify different garments and objects. Every hat and garment was carved with multiple different shapes, textures, patterns, and depths to help create visible clothing layers and differentiate the identity of the figures. The artist used line direction to help the audience discern the object's purpose, such as with the lines on the rope that lead the eyes to the bound prisoner at the end, solidifying the object's identity as a rope to viewers. The straight lines carved into the horse's tail and the wheels of the bicycle benefit from this artistic style as well.

According to Benin tradition, Oba Oguola sent to the Oni of Ife requesting for a brasssmith around the fourteenth century. In return, Iguegha was sent to Benin to produce brass-castings.[82] When comparing brass heads from the Yoruba to ones produced by Benin, similar stylistic characteristics can be identified.

Figure 7. Yoruba Brass Head. Head with crown, Olokun grove site, Ile-Ife, Nigeria, c. early 14th century CE. Copper alloy; Height: 343 mm. Nigeria National Museums, Ife. Photo: Karin Willis, Courtesy of the National Commission of Monuments and Museums, Nigeria and The Museum for African Art, New York.

The bronze head in figure seven is associated with the goddess Olokun, who was originally known as the finance minister in ancient Ife and believed to date back to Ife's first dynasty. She later became the deity of commerce, beads, and the sea.[83] This head features vertical facial lines and a crown with a long, decorative stem protruding from the center. These vertical facial markings can be found on other Ife sculptures and are

believed to depict individuals involved in ritual practices involving scarification through blister beetles or leaves from the bùjé plant.[84] Compared to the Benin bronze heads from before, the Yoruba head from figure seven shares artistic styles such as naturalistic features, facial markings, and decorative head adornments. When it comes to the repatriation of looted artifacts to Africa such as the Benin Bronze, multiple legal, ownership, and preservation issues arise that complicate the process.

Legal Limitations

Some countries have shown interest in revisiting the laws that limit artifact repatriation, such as France. In November of the year 2017, President Emmanuel Macron of France pledged to repatriate cultural heritage found in French museums back to their source countries in Africa.[85] Despite multiple similar individual situations of repatriation from other international museums, a legal framework to facilitate the return of African cultural heritage and artifacts has not yet been developed.[86]

Shortly after President Macron's declaration, he created a commission under which a professor from France and a professor from Senegal were appointed. The purpose of this commission was to draft a report detailing a definitive legal resolution for repatriation. The commission drafted a report known as the Savoy-Sarr that highlighted the positive impacts of restitution while demanding swift action to take place.[87]

> [G]reat importance is for young people to have access to their own culture, creativity, and spirituality from other eras that certainly have evolved since, but whose knowledge and recognition can no longer merely be reserved for those residing in Western countries or for those who count themselves among the African diaspora living in Europe. The youth of Africa, as much as the youth in France or Europe in general, have a right 'to their artistic and cultural heritage'.... cultural and artistic resources inherited from Africa's past itself, held and stored in museums and countries completely out of reach from the African youth who often are unaware of not only the richness and creativity of this legacy, but often are not even aware of its existence.[88]

The passage above from the Savor-Sarr report reflects on how crucial it is for the future generations of Africa to have access to their cultural identity. On a continent with the majority population being under the age of twenty, the threat of losing cultural heritage and identity is high when artifacts are kept alive through oral traditions rather than physically being there. [89]While this report was a significant step forward towards developing a legal framework for repatriation, while urging other museums to follow suit, the report failed to develop a concrete legal system. [90]

The primary obstacle regarding repatriation in West Africa is the legal principle of “the inalienability of public collections,” particularly in France and the United Kingdom.[91]

These two countries house a significant portion of African cultural artifacts, which makes their domestic laws crucial when discussing the feasibility of repatriation and transferring objects. In France, the Code Du Patrimoine states that objects located in French national collections are inalienable, preventing their removal from public ownership. However, exceptions have been made for human remains and Nazi-looted art, and the Savoy-Sarr Report suggests taking a similar approach with African art. [92] Cultural heritage laws vary among European nations, but in the United Kingdom, the British Museum Act of 1963 is an act of parliament that prohibits the museum from removing objects from its collection, except under specific circumstances.[93] The removal or transfer of objects from the British Museum is only permitted if;

> The object is a duplicate of another; the object appears to the Trustees to have been made not earlier than the year 1850, and substantially consists of printed matter of which a copy made by Figuregraphy…is held by the Trustees; or in the opinion of the Trustees the object is unfit to be retained in the collections of the Museum and can be disposed of without detriment to the interests of the students. [94]

While the museum often cites this law to justify holding onto African artifacts, historical records, such as a declassified report by The Art Newspaper in the 1970s detailing the sale of more than thirty Benin pieces, reveal the museum has sold and moved objects before despite this restriction.[95] In other cases, the act has been challenged due to the museum's possession of Nazi-era looted cultural objects. In response to this, in 2009, the United Kingdom pushed the passage of legislation called the Holocaust (Return of Cultural Objects) Act. This act stated that national museums that were forbidden from deaccessioning would have the ability to repatriate objects looted or subject to forced sales during the 1933-45 period.[96] The successful revision of this legislation has caused some historians to question whether similar legislation could be introduced for African art. Other European nations, such as Germany, the Netherlands, and Denmark, do not have legal restrictions on deaccessioning or transferring objects concerning repatriation. [97] This information begs the question if these laws, or at the very least parts of them, are necessary.

In contrast, West African nations have weaker legal protections for cultural heritage. The roots of modern African legal systems trace back to the legal traditions imposed by colonial rule. After decolonization, many countries initially retained colonial-era laws before adapting them to their national priorities, leading to an inherited post-colonial legal system.[98] A common belief is that West African legal systems largely replicate the laws of their former colonial rulers. This perspective disregards the role of these nations in shaping their legal structures, however, most former colonial laws did become the foundation for post-colonial legal frameworks. European nations such as France, Spain, and Portugal governed their colonies through direct administration by enforcing their home country’s legal system. As for the British, colonial rule was based on common law traditions and involved more indirect control. Depending on the political needs, the British either reinforced or weakened local traditions in their colonies. After

decolonization, many West African countries abandoned their pre-colonial laws, possibly to gain acceptance from former colonial powers that held a major position in the international arena, making them powerful financial partners.[99]

This historical continuity influenced the legal domain of cultural heritage, resulting in a centralized heritage management structure that mirrored those implemented by former colonial rule.[100] This influenced how heritage laws were designed, enforced, and prioritized after decolonization in West Africa. The historical evolution of these legal systems helps explain contemporary approaches to cultural heritage protection laws in West Africa.[101]

In regards to Nigeria, cultural heritage legislation began with the passage of a 1924 ordinance aimed at preventing the export of ancient artworks and artifacts without government approval.[102] In 1953, the Antiquities Act of 1953 was introduced with the intent to restrict antiquities export and halt the demolition of historical buildings.[103] This led to the establishment of the Antiquities Commission, which was tasked with preserving and managing cultural heritage in Nigeria. However, this law was weakly enforced and ineffective.[104] Due to this, it was replaced by the National Commission for Museums and Monuments Act, which included previous provisions along with new measures for designating national monuments.[105] Article 60 of the act specifically mandates the identification, collection, and preservation of ancient and historical monuments, records, archeological sites, and remains deemed nationally significant by the National Assembly.[106]

In the Republic of Benin, Article 10 of the Constitution of December 11th, 1990 establishes that “every person has a right to culture” while assigning the State the responsibility of “safeguarding and promoting the national values of civilization, both material and spiritual, as well as cultural traditions.”[107] After this, on February 25th, 1991, the Beninese government introduced a cultural charter with similar goals outlining the necessity of Benin to “assure the safeguarding, protection, and promotion of the national cultural heritage.”[108] In 2007, another cultural charter followed that highlighted the characteristics of Benin’s culture in relation to its geographical composition. Other countries in West Africa, such as Cameroon, Mali, and Ghana, have attempted to create similar laws aimed at maintaining and protecting cultural heritage, but concerns around the enforcement of these laws remain.[109]

One of the most explicit attempts to demand the repatriation of looted cultural artifacts would be the Declaration of African, Caribbean, and Pacific States on the Return or Restitution of Cultural Properties.[110] This declaration was signed in Lomé (“The Lomé Convention”) on December 15th, 1989, and urged United Nations member states to “acknowledge the legitimate right of the ACP states to cultural identity, to promote the return or restitution of cultural property taken from ACP states and now found in member states.” [111]

While similar cultural heritage protection treaties and acts have been made regarding looted cultural heritage, most of these do not apply to African art due to limitations on jurisdiction and time periods. For example, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict aimed to protect

immovable and movable cultural heritage during wartime, but it's not applicable to conflicts before World War II. [112] In the same year, several European countries signed the European Cultural Convention with the intention of "develop[ing] mutual understanding among the peoples of Europe and reciprocal appreciation of their cultural diversity."[113] Similar issues are present in this convention, such as an emphasis on protecting European cultural activities without consideration of West African cultural heritage housed within European institutions.[114] This begs the question, do West African artifacts in European museums belong to Europe's cultural narrative, or to the cultures from which they originated?[115]

The UNESCO 1970 Convention on Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property prevents the illegal trade and transfer of cultural artifacts across borders, but only for items stolen after it came into effect.[116] Beyond this, other issues the convention has include not being ratified by many of the major illicit importing nations and no requirement to consider the ethnic origins of artifacts during their return.[117] In 1983, the United States Congress passed the Convention on Cultural Property Implementation Act, which adopted the UNESCO Convention of 1970 into the United States jurisdiction.[118] Following this, in 1985, the Council of Europe developed its own treaty called the 1985 European Convention on Offenses Relating to Cultural Property.[119] This treaty aimed to protect cultural property from illicit trafficking and destruction, but only in regard to private individual instances of illicit trade. This once again did not address the looting done by sovereign or government order.[120] In 2003, the United Kingdom introduced the Cultural Objects (Offences) Act, which criminalized the acquisition, sale, import, or export of illegally obtained cultural objects.[121] Similar to the UNESCO Convention of 1960 and the 1985 European Convention, instead of addressing broader systemic issues, this law primarily targets private dealers and individuals involved in the illicit art trade.[122] One of the most important pseudo-legal frameworks concerning looted art and artifacts would be the Washington Conference Principles on Nazi-Confiscated Art ("Washington Principles"), created in 1998.[123] These non-binding principles included facilitating the identification of all art confiscated by the Nazis and not subsequently restituted by providing accessible and open archives.[124] This was done in an attempt to "assist in resolving issues related to Nazi-confiscated art."[125] Building upon these principles, the United States Congress passed the Holocaust Expropriated Art Recovery Act (HEAR Act) of 2016, which extended the statute of limitations for bringing a claim for Nazi-looted artworks.[126] With this act passed, a claimant would have six years upon the discovery of the artwork to gather evidence proving ownership. This law prevents procedural hurdles from arising due to state-imposed legal deadlines.[127] If legal and procedural difficulties can be eased for Nazi-looted art, some historians have argued they could be eased for looted African artifacts as well.[128]

Preservation and Ownership

During decolonization between 1951 and 1975, most African nations gained independence, but the previous colonial powers had left behind unstable political systems.[129] Before the colonial period, Africa didn't have a firm set of national borders across the continent; it was formed by three types of frontiers that included multiple overlapping diverse groups of people. Due to several revolutionary movements and wars of expansion, these frontier lines underwent some fluctuations that have made it difficult to pinpoint exactly where Indigenous communities resided before colonial borders were established. During the Berlin West African Conference of 1884-1885, European powers, including Britain, France, Portugal, Spain, Germany, Belgium, and Italy, worked hastily to allocate various parts —or more accurately, the potential resources of the African continent amongst themselves. To achieve this, the European powers tried to bribe chiefs with beads, cloths, and even liquor to sign agreements ceding their territories. For some local or regional rulers, that was enough, but others who tried to resist were forced to comply violently.[130]

Ultimately, these borders were drawn without regard for the complex ethnic, cultural, and linguistic divides existing among the African communities residing within them. As a result, most of the newly designed countries represent a forced integration of diverse groups into often volatile, multi-ethnic, and multi-religious states. This also led to multiple closely related ethnic groups being isolated from each other as they were forced into different colonial regions. Even after independence, the forced proximity from colonial boundaries that fostered long-term tensions, ethnic rivalries, and conflicts among border groups means these issues persisted throughout the post-colonial period. As a result, the continent is still dealing with multiple boundary disputes that stem from colonial borders, including violent conflicts with groups that had been traditional war enemies. [131]

Along with artificial borders forcing volatile communities together while splitting others apart, policies like land rights based on ethnicity furthered feelings of exclusion and tension.[132] Conflicts over the control of state institutions such as the military, land, and economic monopolies led to the return of colonial-era authoritarian governance under the guise of a single-party rule in many cases.[133] Some scholars argue that the violence of the post-independence period is linked to unfinished military conflicts from the 19th century that had been temporarily interrupted by colonial rule.[134]

Ethnic conflicts stemming from artificial borders continue to persist, with one example being the 1994 genocide in Rwanda.[135] The Hutu and Tutsi communities had previous tension that grew under Belgian colonial policies that ingrained ethnic hierarchies.[136] Another result of artificial borders was separatist movements driven by an ethnic group's desire for independence. This movement fueled the Nigerian Biafra War after disputes over political marginalization and resources with the Igbo people.[137] Crossborder conflicts have also stemmed from unresolved boundary disputes, such as with the Eritrea-Ethiopia War, which can be linked back to competing territorial claims from the period of Italian colonial rule.[138] Despite these challenges, Africa has made steps towards addressing tensions related to borders. The African Union's Border Program was launched in 2007 and aims to promote clear demarcation and collaborative management.[139]

The resolution of the Bakassi Peninsula dispute is one example of a success story. After years of debating, the International Court of Justice facilitated a settlement between Nigeria and Cameroon in 2002 to the surprise of many. This case offered hope for diplomatic solutions over boundary conflicts even in highly argumentative circumstances.[140] In Côte d'Ivoire, nationality laws labeling ethnic groups as "foreigners" despite generations of residence have fueled political instability.[141] In addressing the colonial legacy of artificial borders left in Africa, identity and citizenship must be highlighted for ethnic groups who previously had their identities stripped or merged with others. When it comes to artifact repatriation, the lack of stable governance, combined with broken national identities, makes it difficult to establish unified national policies for the preservation of returned artifacts. For some historians, the possibility of theft, neglect, or destruction of these artifacts outweighs the ethical obligation presented. [142] As for disputes over ownership, the Benin Bronzes case highlights how colonization continues to impact artifact repatriation debates. Over recent decades, Nigeria has actively pursued the return of the Benin Bronzes to their country of origin. In March 2002, the Benin Royal Palace and Nigeria's Federal Ministry of Information and Culture issued a formal request seeking the return of all cultural property looted by the British during the punitive expedition of 1897. Despite the British Museum director visiting in 2018 to explore potential collaborative exhibitions, the British Museum has not returned any of the Bronzes.

In the nineteenth century, the British empire was responsible for not only Africa's loss of minerals and land, but also for the subjugation of the local people. Looting was used as an economic tool while simultaneously allowing for colonial powers to assert dominance by erasing the cultural identity and ingraining a sense of inferiority among the colonized.[143] Unlike with the cases of Nazi-stolen art, there is no database of stolen or looted cultural property taken during colonial times. This makes claims of ownership from the current royal family in Benin difficult to prove, as most of the bronzes had been sold with a lack of written records by the time Nigeria gained independence.[144] Other African nations have faced similar struggles with establishing clear lines of ownership due to the unequal power dynamics, lack of documentation, and conflicting international and national laws stemming from colonization that complicate artifact repatriation.[145] Campaigns like Operation Legacy are examples of how systematic the destruction of African history was. Initiated in 1961 during decolonization in Africa, Operation Legacy was a covert British campaign intended to remove, destroy, or hide thousands of official records, documents, and artifacts from the former British colonies in Africa.[146] British officials, fearing the potential for sensitive documents and materials to be found and used against them, did this by burning, drowning, or secretly hiding hundreds of African artifacts and historical documents.[147] These actions have left a legacy of complex ownership and jurisdictional issues due to the destruction of African history that further complicates the repatriation of cultural artifacts.[148]

It wasn't until 2011 that the British Foreign and Commonwealth Office was forced to admit the full extent of this operation in response to a legal challenge from the UK High Court. The British government revealed that 1.2 million historical documents from 37 former colonies had been hidden for over half a century, which became known as the

‘migrated archives.’ The removal and concealment of these cultural artifacts and historical materials during Operation Legacy was not just an attempt to boost British trade, but also a form of narrative control. Having control over the historical narrative allowed colonial powers to rewrite the history of colonialism in Africa by only reporting what fit their image and objectives. By destroying and concealing elements of Africa’s art and history from before and during colonization, European powers could insist that Africa had been underdeveloped and their role in world civilization had not existed.[149]

Some Africanist scholars, such as Professors Kenneth Onwuka Dike and Jacob Festus Adeniyi Ajayi, claimed that European colonization disrupted the evolution of African boundaries in the continent, but campaigns like Operation Legacy made it difficult to prove.[150] In the 1950s and 1960s, Africanist scholars began to question the lack of history about Africa beyond the history of Europeans in Africa that was being taught in European and African universities.[151] Despite the lack of a tangible nonEuropean history for Africa, scholars on the continent began trying to refute the prejudiced assumptions and Eurocentric claims coming from Western writers about Africa, such as Africa having no history before colonization.[152] This momentum shift within African history became known as African historiography and is often referred to as the birth of modern African written history. Professor Dike was credited with being “The Father of Modern African Historiography” and described the development as follows:

> Besides European history, there were courses only on ‘European activities in Africa’ at the undergraduate level and postgraduate level research was generally on British and French policy towards their African territories. By the late 1940s, however, African research students (in the 1940s) were insisting that African history must be the history of Africans, not of Europeans per se in Africa, and that local records and historical traditions must be used to supplement European metropolitan archives; In short, that oral tradition must be accepted as valid material for historical reconstruction.[153]

Professor Dike held a position at the University College, Ibadan, an affiliate of the University of London. Under his guidance, the university became an epicenter for the African ‘Intellectual Counter-Revolution’ as Dike introduced courses in African studies beyond the history of Europeans in Africa.[154] Professor Ajayi, who trained at the University College before completing a PhD in African history from the University of London in 1958, became another well-known pioneer of the new African historiography. In a speech for the University of Ibadan in 1989, he said:

> History, in the sense of the writings of historians, had a crucial role to play by undoing the evil of colonialism which has undermined people’s self-confidence by insisting they had no history; that they should forget their past and learn the history of Europe instead. Mental decolonization and the discovery of a sense of identity were urgent necessities. Knowing where we are coming from was an essential precondition for trying to find our way into the future.[155]

Both of these quotes emphasize how important the denial of African history was to the colonization effort and, in particular, to the subsequent looting of Africa. By destroying, denying, and excluding the existence of a civilized African past in all contexts, imperial powers were able to propagate their own views of Africa being a 'land of barbarians that lack self-initiative.'[156] This was further propagated by leading intellectuals, scholars, and professors through the academic curriculum at most metropolitan universities in Europe.[157] The destruction and concealment of these cultural assets by colonial powers have forced scholars to try and piece together African history based on incomplete or biased records as well as missing artifacts.[158] Furthermore, governments can reject the request for artifact repatriation due to a lack of historical evidence proving ownership.[159] The return of these artifacts would allow African historians the ability to more accurately represent African history as well as reconnect the public with their heritage.

Recent developments towards repatriating the Benin Bronzes have provided hope for their return. For instance, the Netherlands recently announced plans to return over a hundred Benin Bronzes to Nigeria, following Germany's return of twenty during the Abuja ceremony in 2022. Eppo Bruins, the Dutch Minister of Culture, Education, and Science, described this decision as a step towards rectifying historical wrongs and hoped it would inspire other nations and institutions, such as the British Museum, to follow suit.[160] However, debates over ownership have caused issues with negotiations over the bronzes.

In Nigeria, there are questions over whether the federal government, the Benin royal family, or local authorities should have control over the artifacts. In 2023, Nigeria's president Muhammudu Buhari transferred ownership of the Benin Bronzes to the current Oba of Benin, causing further complications that led to the postponement of artifacts that had formally been pledged to return. Due to concerns over potential loss or neglect of artifacts, Nigeria plans to open the Edo Museum of West African Art in Benin City by 2026, to provide proper preservation and care for returned Artifacts.[161] Despite the complications associated with the return of the Benin Bronzes, the willingness of governments currently working with Nigeria to find a mutual agreement provides hope for other African nations seeking artifacts.

Conclusion

While it would be an oversimplification to claim that colonization is the root of every challenge faced by the African continent today, the legacy it left has continued to disrupt artifact repatriation processes. The systematic looting of African cultural heritage during the colonial era has not only led to the material loss of cultural artifacts, but also to their agency over how African histories are represented and remembered in Western museums. The legal frameworks currently in place often fail to properly address African art due to limitations based on jurisdiction, time periods, and narrow definitions of ownership. Given the legal exceptions already made for other forms of looted cultural property, such as Nazi-confiscated art, it is clear that international legal frameworks can be adapted when there is enough pushback.

The return of these artifacts is vital for the survival and continuation of African culture and traditions, especially on a continent with a majority of the population under the age of twenty. Without physical artifacts or elders to pass the knowledge about them on, communities will be left with incomplete histories and will become disconnected from their culture. Repatriation would allow African nations to tell their history on their own terms while providing cultural institutions on the continent an opportunity to boost the economy with tourism. If justice can be extended in cases like the Washington Principles and the HEAR Act, then a similar solution for looted African art can and should be explored.

Acknowledgement

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