

Returning Stolen Art Work

by Michael Curtis



Dishonesty is a way of life, as is denial or dodging the truth, and disowning the consequences of actions. This is familiar all over the world. To take a recent few examples. Russia denying responsibility for shooting down Malaysian Airline Flight MH 17, over a war zone in Ukraine on July 17, 2014 killing 298 people, though international investigation has asserted that a Russian missile launched from its base in Kursk to Ukraine and back was responsible. Indeed, three men with ties to Russian military and intelligence have been accused of the deed. Saudi Arabian leaders including Mohammed bin Salman have denied involvement in the murder of journalist Jamal Khashoggi. China has declared that the largest protest demonstrations, over 2 million, in Hong Kong are the result of foreign conspiracies.

An ongoing problem is unwillingness to acknowledge or abide by honesty regarding the restoration of stolen or looted art and cultural artifacts. There are two aspects: the first is the issue of recovery of art objects, including 600,000 paintings

stolen by Nazi Germany during World War II to their former, mainly Jewish, owners; the other is decisions by the western world concerned about its colonial past as it struggles with the impact of decolonization and artifacts taken by countries during their colonial past.

The first problem was the subject of the Conference on Holocaust-Era Assets held in Washington, D.C. on December 3, 1998 when delegates of 44 governments and 13 non-governmental organizations agreed on certain Principles in dealing with Nazi confiscated art, identifying it, encouraging pre-War owners and their heirs to make known their claims to it and recover it, and help finding a fair solution to claims of ownership. The result in recovery and restitution of the artworks has been imperfect, particularly in Russia and Poland which have been reluctant to repatriate the art taken by the Nazis.

Claims for repatriation and return of Nazi theft have been difficult to resolve, especially if a national museum is involved. One Holocaust case is *Government of Austria v. Altmann* 2004 concerning six Gustav Klimt paintings stolen from a Jewish family during World War II and then located in the Austrian National Gallery. Another Holocaust case, *Menzel v. List* 1969 concerned a Chagall painting stolen from a Jewish family, sold by a Paris gallery; the court's decision was to repatriate to the original owner.

The second, broader issue, has been the subject of international agreements. The 1954 the Hague Convention adopted a statement for the protection of cultural property in the event of armed conflict, the first international treaty to protect cultural heritage. A convention at UNESCO in November 1970 formulated a treaty to prohibit and prevent illicit trade and transfer of ownership of cultural property. Since December 18, 1972 the United Nations bodies, especially the UNGA, have passed many resolutions on the protection and the return of cultural property, to save the wealth and diversity of

cultural values in the world. On December 9, 2015 the UNGA unanimously adopted a resolution for the return or restitution of cultural property.

Some repatriation has taken place as a few examples show. In 1983 some 12,000 cultural objects were repatriated from Italy to Ecuador, and in 2007 a hundred cultural objects, some from 3300 B.C., went from Italy to Pakistan. Greece in 2008 returned two statues to Albania, Syria returned 700 cultural objects to Iraq, and Spain repatriated several objects to Nicaragua. In March 2017, the U.S. returned an Etruscan vessel from 470 B.C. to Italy, and cultural objects to a number of countries.

Yet the problem remains serious and unresolved. One aspect of this is that it is not axiomatic that a cultural artifact should be returned to its country of origin, because the claim for return to a country's cultural heritage is disputed, or for reasons of safety or security. Cases, therefore, have ended in refusal to repatriate as in two cases. *Iran v. Berend*, 2007, concerned fragments of a 5th century limestone relief. Iran sought to prevent the sale of the item at an auction and to recover the fragment as part of a national monument. *Government of Peru v. Johnson* concerned pre-Columbian artifacts, but the government could not prove the objects came from Peruvian territory.

Perhaps the most contentious case is that of the Greek marble sculptures, Elgin Marbles, originally part of the temple of the Parthenon, taken from the Ottoman Empire to London, sold to the British government in 1816, and housed in the British Museum. To this point, the UK government has refused all Greek requests for their return.

The battle continues over whether an object should be returned to its country of origin. The answer partly depends on whether the object was acquired by use of force, by brutal conquest, ethnic cleansing, or illegally by former colonial powers, or

whether it was obtained by some kind of legal agreement, or whether it is claimed simply as part of a cultural heritage or nationalism. Thus, in the latter case, Egypt is identified with the Pharaonic era, Iran with ancient Persia, Italy with the Rome of Julius Caesar.

In the first scenario, the argument for repatriation is strong; in the second, it is more arguable, partly because it would mean reductions of holdings in Western museums. Those holdings by their breath indicate the culture of former colonies or possessions and provide valuable information for Westerners about the history of those countries, but retaining them may not be considered appropriate in the climate of a more equitable relationship between Europe and the U.S., and Africa and Asia.

A major difficulty is that those holdings are large. The Rijksmuseum in Amsterdam has 1,000 stolen pieces from former colonies. The Netherlands possesses precious jewels, the Barjarmasin diamond, and 4,000 colonial objects. A report of November 2018 suggested France should return objects taken during its colonial era, unless the objects were obtained legitimately.

French President Emmanuel Macron is strongly in favor of the report, arguing that he could not accept that a large part of the cultural heritage of a number of African countries is in France.

Whatever the historical explanations, there is no valid, lasting, and unconditional justification for this, indeed, the Musee du Quai Branly has 90,000 African works, of which 46,000 were obtained between 1885 and 1960 in French public collections. Macron announced on November 23, 2018 that France proposed to return 26 looted objects to Benin. They were taken from Benin in 1892 when France warred against the kingdom of Dahomey (now Benin). However, they amount to about .05 per cent of the 5,000 works wanted by Benin.

Britain destroyed almost all of the city of Benin in 1897 and looted 4,000 works of art, including the Benin Bronzes. The British Museum, BM, has about 700 articles from Benin, and plans to send works to a new museum in Benin city, Nigeria. The BM has 73,000 objects from Sub-Saharan Africa, many obtained in the colonial era. Easter Island in the Pacific has asked the BM to return the Hoa Hakananai'a, an important stone monolith from the Chilean island, that has been in the BM for almost 150 years.

Germany has now posed a new problem by the planned opening of a new museum. In 2011 Germany decided to return to Turkey a 3,000 year old sphinx that German archaeologists took from central Anatoli in the early 20th century. But it also has hundreds of sculptures, Benin Bronzes it bought on the open market. The new museum, the Humboldt Forum in Berlin, to be opened in 2020 is to bring together a collection of non-western art obtained during the colonial era, making it comparable in its depth to the BM or the Louvre.

But the proposed museum has caused division. It is gathering of but not repatriating the looted objects, partly seized by force and partly taken for scientific inquiry. Will it in fact be a memorial to the colonial past, a past that included both the genocide of Herero and Nama ethnic groups, in areas now part of Namibia, and the Maji Maji revolt in what is now Tanzania. Moreover, the forum is being built on the site of the former East German, Communist, parliament. The controversial Forum is at once a reminder of the German colonial, often brutal, period, and a stage in the creating of the "new Germany."

Underlying the moral question is the practical issue. Does repartition of stolen or looted goods help political relations with African countries from which they were taken? It is not a black or white issue. The issue is still related to the wider issue of culpability for colonial actions, and crimes. The Humboldt forum opens a new debate and challenge on the Western

past.