

ART + law

# French Museum Collections: *An Inalienable Patrimony*

By Yves-Bernard Debie



A tweet in the beginning of March 2017 made public France's refusal the previous December of a restitution demand by the Benin government made in the summer of 2016. The demand concerned objects from the ancient kingdom of Dahomey that were taken by the French army at the end of the nineteenth century.

The French response was unequivocal:

The objects to which you allude have been the public property of the French state for a long time—more than a century in some cases. In keeping with the laws as they stand, they cannot be seized and are subject to the principles of inalienability and imprescriptibility. As such, they cannot be restituted.

The French Minister of Foreign Affairs also reminded his Beninese counterpart that France ratified the 1970 UNESCO convention, which is not retroactive, and has applied it since 1997, while Benin only began to adhere to it on March 1, 2017.

Legal experts can only welcome this decision. The reasoning behind it is clear and is based in law. Its principal merit is that it protects French museum collections and their universal vocation.

Above and beyond the reference to the UNESCO convention and its non-retroactive nature, or to notions of imprescriptibility (what can and cannot be seized), the inalienable nature of the French national collections is itself a sufficient cause to justify France's refusal.

The rigor of these principles has been clearly articulated in this column before:

According to the first paragraph of article L. 451-5 of the Code of the French Patrimony, "the

property that makes up the collections of France's museums belongs to a public entity and is therefore inalienable" (*Tribal Art* magazine, no. 81, p. 144).

In other words, these collections cannot be sold, donated, or given up in any way, shape, or form, or under any circumstance whatsoever.

Although the decision was generally welcomed in France, it also aroused impassioned reactions, as well as downright hostile ones. France was accused of refusing to honestly recognize its colonial past and of hiding behind legal arguments created to justify its cause—although the principle of inalienability goes back to the royal domain, which became public through the Edict of Moulins in 1566. The proponents of restitution maintained that everything that had been “stolen” during the colonial period, seen as a crime against humanity, should be returned. “Everything must go” and “total liquidation” are the bywords of this movement that would see all museums close.

Asked about this argument in support of Benin's demands, Dr. Julien Volper, curator at the Musée Royal de l'Afrique Centrale in Tervuren, Belgium, and lecturer at the Center for Cultural Anthropology of the Université Libre in Brussels, said the following:

What shocks me in the press coverage about the Dahomey objects is above all the complete absence of any historical, ethnographic, or legal knowledge that the majority of the articles on the subject evince. I will cite just one example.

On August 1, 2016, *Le Monde* published a column by CRAN President Louis-Georges Tin titled “Trésors pillés: la France doit répondre positivement à la demande du Bénin” (Looted Treasures: France must respond positively to Benin's demands). A photograph that illustrates this article on *Le Monde's* website shows one of the temporary exhibition galleries at the Musée du Quai Branly – Jacques Chirac as it appeared during the *Bénin: cinq siècles d'art royal* (*Benin: Five Centuries of Royal Art*) show that was on view there in 2007 and 2008. The ancient kingdom of Benin, the exhibition's subject, is located in what is now Nigeria and has nothing whatsoever to do with the Benin Republic's demands, which concern objects from the former kingdom of Dahomey. This same gross error is made

in another article, this one in *Le Point*, published on November 11, 2016, and titled “Faut-il restituer au Bénin ses biens culturels?” (Should Benin's cultural property be restituted?).

Ignorance of law and history, as well as of original contexts and the destinies of the works in question, is a sad state of affairs in and of itself. So is the political ambition of some individuals and the opportunism of yet others, which is to simply add fuel to the fire of the controversy surrounding these looted treasures of the past in order to gain media exposure that will benefit themselves and to which they can proudly and triumphantly point.

Between the dry legal principles on the one hand and the well-meaning but hollow arguments opposing them on the other, a third way might be found. This involves dialog, diplomacy, and education.

The frustration of peoples who see the majority of their cultural past dispersed all over the world today has to be heard. Cooperation between museums should be strengthened and emphasized. The art market has a role to play as well. Just as in the West, African elites are perfectly welcome to invest in it and then give the resulting collections to their countries' museums.

Instead of continuously reopening the same wounds, wouldn't it be wiser to recognize that traditional African art, like other cultural art forms, can be the best ambassador for peoples and places? For more than a century, one exhibition after another and catalog after catalog have brought the genius of African artists to light and have contributed to completely changing Western perceptions of the continent.

Anyone who has ever visited the Musée Royal de l'Afrique Centrale in Tervuren (currently closed for renovations) or the Musée du Quai Branly – Jacques Chirac, dedicated to the arts and civilizations of Africa, Oceania, Asia, and the Americas, will certainly have been moved by the beauty, power, and intelligence of the spiritual creations on display and would be hard-pressed to look upon the artists and the cultures from whence they originated with feelings of superiority, fear, or indifference.

As André Malraux said, “Art is the shortest path from one man to another.”



FIG. 1 (top left): General Alfred Amédée Dodds (1842–1922). C. 1900.

From an album of 510 celebrities of the time, second Félix Potin Collection (Kodak inv. P. 1019/2), folio 8, p. 101. Fonds Kodak-Pathé. Musée d'Orsay. © RMN-Grand Palais (Musée d'Orsay)/Hervé Lewandowski.

FIG. 2 (bottom left): Figure of King Béhanzin, final king of Dahomey, in the guise of a shark. Attributed to Sossa Dede, Fon, Benin. Between 1889 and 1893.

Wood, iron tacks, pigment. H: 168 cm. Donated by Amédée Dodds. Musée du Quai Branly – Jacques Chirac, inv. 71.1893.45.3. © MQB-JC/RMN-Grand Palais. Photo: Patrick Gries.

FIG. 3 (above): Portable altar, *asen*, with emblems of Béhanzin. Attributed to the atelier of the Lanmandoucelo Aïssi family. Fon, Benin. Before 1892.

Copper alloy, silver. H: 148 cm. Donated by Amédée Dodds. Musée du Quai Branly – Jacques Chirac, inv. 71.1895.16.4. © MQB-JC/RMN-Grand Palais. Photo: Patrick Gries.