

# Art & Cultural Heritage Law Newsletter

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## Protecting Tribal Sacred Items: A Case Study

By: Gregory A Smith<sup>1</sup>



*Acoma Sky City*

In the mid-1970's, a ceremonial shield was stolen from a home at Sky City, the ancestral, mesa-top village of the Acoma people located within New Mexico. Decades later, that shield reappeared in a Paris auction house, having been recently shipped there according to the French authorities from an undisclosed person in the American Southwest.

For Acoma, the shock of the theft of the shield was greatly compounded by its subsequent offer for sale and publication of its image on the Internet. As a rule, tribes do not discuss culturally sensitive matters in public. There are spiritual reasons for this, as well as a deep-rooted concern regarding cultural appropriation and the market-based effect of a tribe publicly validating the significance of an item. This reticence, however, makes it difficult to recover certain items. Acoma, after internal

discussions, realized that if the French courts were not going to be of assistance (in prior holdings, the French courts have found that under French law American Indian tribes do not have status as a legal entity and are not recognized as sovereign states; therefore, they have no capacity or standing to bring a suit), additional actions were needed.

With the Paris auction scheduled for May 30, 2016, Acoma coordinated with various Federal agencies, including the State, Interior and Justice Departments, to hold a press conference at the National Museum of the American Indian, Washington, DC, a week beforehand. Several major Indian organizations were involved, including the National Congress of American Indians, the oldest and largest Native organization, the American Association on Indian Affairs, whose Working Group on International Repatriation has been a

leader in this area for years, and the National Association of Tribal Historic Preservation Officers, representing the historic preservation officials for scores of tribes. Speakers included members of Congress, Federal officials and then-Acoma Governor Riley who called “upon the Eve auction house to immediately cease the sale of the Acoma Shield and all other items of cultural patrimony...” and implored “the Republic of France to take immediate forceful action to stop this.” The press conference generated a number of articles that were published in papers and other media around the world. On the day of the auction, the Acoma shield was withdrawn, but despite the success of this governmental and media effort, it would still take years to secure its return to Acoma.



Kurt Riley, then-Governor of the Pueblo of Acoma with Conroy Chino, Acoma elder. (NMAI)

Out of Acoma’s effort to seek the return of the shield emerged a strategy: first, to seek court action ordering the seizure of the shield; second, to raise awareness and lobby Congress to pass a joint House-Senate resolution condemning illegal trafficking in tribal cultural patrimony; third, to secure reliable data by having Congress direct the Government Accountability Office (GAO) to prepare a report on this issue; fourth, to seek an increase in funding for the Bureau of Indian Affairs (Interior Department) law enforcement specifically for investigation and enforcement of cultural property crimes; and, finally, to advance Federal legislation that would create an explicit export ban on items obtained illegally under various Federal laws, thereby strengthening the hand of the United States in negotiations for return of items from foreign countries.

Four of these five goals have been accomplished.

- The U.S. Attorney in Albuquerque sought and, on August 31, 2016, a federal district court judge issued a warrant for arrest *in rem* of the shield. Simultaneously, the U.S. Department of Justice invoked a mutual lateral assistance treaty with France to secure support from French authorities in the investigation of the shield and to prevent its sale.
- Effective December 1, 2016, both the

Senate and the House passed the “Protection of the Right of Tribes to stop the Export of Cultural and Traditional Patrimony Resolution” or the “PROTECT Patrimony Resolution.” The PROTECT Patrimony resolution: condemned the theft and illegal sale and export of tribal cultural items; called upon key federal agencies to consult with Native Americans, including traditional Native American religious leaders, to address ways to stop illegal conduct and secure repatriation of tribal cultural items to Native Americans; encouraged the Comptroller General of the United States, who heads up the Government Accountability Office, to determine the scope of illegal trafficking and the steps needed to secure repatriation; supported restrictions on export; and encouraged all levels of government to work together on these issues.

- In response to Congressional requests, the GAO completed a report on this issue. See *Native American Cultural Property: Additional Agency Actions Needed to Assist Tribes with Repatriating Items from Overseas Auctions*, GAO-18-537, August 2018; <https://www.gao.gov/assets/700/693744.pdf> The GAO report validated the concerns of Tribal leaders.
- In the FY 2017 budget, the Congress provided \$1 million in the Bureau of Indian Affairs Law Enforcement budget for inves-

tigation of cultural property crimes, funding which is now reoccurring in that budget.

Not yet achieved is passage of legislation to create an explicit export ban on certain items of cultural patrimony. However, there is currently pending in the Congress the Safeguard Tribal Objects of Patrimony Act or STOP Act (S. 2165; H.R. 3846), which provides for such a ban and which has been the subject of three hearings. Advocates hope that it will move forward in both the Senate and the House very soon.

As for the Acoma Shield, as of this writing its return is being actively worked on following direct discussions regarding the shield’s significance between the consignor of the shield and Acoma leadership. As is often the case, while the law matters, more is often accomplished through communication and mutual understanding. ♦

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## Promoting Responsible Practices: The Responsible Art Market Initiative<sup>1</sup>

By: Justine Ferland<sup>2</sup> and Sandrine Giroud<sup>3</sup>

### Should the art industry be subject to stricter regulations?

The question remains a key concern for many of those working in the art trade: some argue in favor of greater transparency and accountability, whereas others warn of the added costs and barriers that would be created by further regulation. People with a wide range of viewpoints are slowly but surely coming to accept the importance of an industry worth over US\$60 billion, its financialization and associated risks, and the need for more sustainable practices. Maintaining trust and credibility in a market that has discretion at its core without undermining the commercial interests of the industry while also promoting fair and efficient competition for future growth: this is the challenge still facing the art market today. The Responsible Art Market Initiative (RAM) is a direct response to this challenge.

### An initiative by the market for the market

RAM is the first of its kind: a non-profit, cross-market initiative launched in Geneva (Switzerland) in 2015, under the auspices of the Geneva-based Art Law Foundation (ALF) and the University of Geneva's Art-Law Centre (ALC). Its mission is to raise awareness among art businesses of the risks facing the art industry and to provide practical guidance and a platform for sharing best practice to address those risks. RAM's founding members span the entire spectrum of the art market and include art businesses, academic institutions, and attorneys.

*There is a real and sustained appetite for practical guidance on risks in the art market and responsible practices to address them.*

To date, RAM has published two sets of practical guidelines and checklists that are increasingly used and referred to: the *Guidelines on Combatting Money Laundering and Terrorist Financing*<sup>4</sup> and the *Art Transaction Due Diligence Toolkit*<sup>5</sup>. RAM holds an annual conference in Geneva during the Art Genève art fair. This provides an opportunity for art market professionals to meet and exchange ideas on market practices, challenges, and new initiatives.

From the outset, RAM has endeavored to go beyond the question of whether the art market

should self-regulate. Instead, its work involves: (i) gathering industry knowledge and practices through dedicated working groups composed of a diverse array of professionals, (ii) synthesizing and structuring the information into practical take-aways and best practice, (iii) testing findings through surveys and bilateral discussions with industry stakeholders, and (iv) holding public discussions and debates at RAM's numerous events to discuss the latest ideas. As such, these responsible practices are not exhaustive and are bound to evolve and need to be adapted to the specific context of particular art businesses or industry sectors. They do not purport to set a standard to be applied in all situations; rather, RAM advocates for a risk-based approach to determine the degree of due diligence required in relation to a specific issue.

### Lessons learned

Almost five years into the project, RAM is going from strength to strength and its message is resonating more widely. Here are some of the lessons learned so far:

**There is a real and sustained appetite for practical guidance on risks in the art market and responsible practices to address them.** One of the measures of RAM's success is the growing number of people attending its annual event and the fact that the audience includes very diverse and international art market professionals such as art dealers, gallery representatives, academics, service providers, and government agencies. This indicates a real interest in the initiative's mission described above and consolidates RAM's position as an initiative by the art market, for the art market. RAM is clearly viewed as able to address the risks faced by the industry from a practical, holistic standpoint and suggest the best practice that should be adopted in response.

In addition, RAM has been able to further its mission by submitting its draft guidelines and checklists for public consultations. It has reached out to key stakeholders for suggestions on how to improve, simplify, and enhance them prior to their public launch, and thereby ensured that the published documents are applicable in practice. The growing number of art dealers, individuals, and collectors who use or have adapted the RAM guidelines and checklists in their businesses indicates that the initiative has become a key point of reference for responsible conduct in the art market. It has succeeded in remaining accessible and useful for all art trade players, including smaller organizations without large compliance or legal departments.

### The art market needs a platform for dialogue and exchange on best practice.

RAM's goal of fostering a culture of dialogue has proven effective in creating a space where practices can be discussed freely and in a constructive manner. Through numerous international events, the initiative has brought together unlikely groups of panelists that have or represent diverse—and sometimes opposed—interests. These panelists, whose varied backgrounds included the art business, finance, legal compliance, art history, and scientific expertise, participated heartily in frank exchanges on topics such as the need (or not) for further regulation in the art market, the usefulness of new technologies, and the practicalities and limits of risk management procedures. Some panelists also agreed to touch upon sensitive topics about which they usually prefer not to speak in public, strengthening RAM's position as an independent and open discussion forum that welcomes all art businesses and their employees to discuss art market practices.

**Independence is crucial to RAM's success—but other certification initiatives may be helpful in the long term.** Throughout its expansion, RAM has endeavored to remain fully independent and to avoid all actual or perceived conflicts of interests. It has done so by aiming for equal representation of all art market stakeholders in its working group—now renamed the Advisory Board. This includes large and small galleries, auction houses, dealers, freeports, lawyers, law enforcement officers, art experts, appraisers, insurance companies, insurance brokers, compliance experts, and academics. From the outset, RAM has also clearly held that it is not, and will not become, a certification body for “diligent” or “responsible” art businesses. However, the fact that this question recurs again and again at RAM events and bilateral discussions with art market stakeholders raises the question of whether some form of certification by a different independent body may indeed be helpful in the future to further increase transparency and trust in the market.

### The future

Although RAM's activities have generated positive responses and global interest, more work has yet to be done to ensure that the initiative remains a useful point of reference in the ever-evolving art market.

With stricter anti-money laundering and terrorist financing regulations having recently come into force (or coming into force in the near future), RAM will be reviewing its *Guidelines on Combatting Money Laundering and Terrorist Financing* and especially the various country guides summarizing the anti-money laundering regimes that apply in different jurisdictions<sup>6</sup> to ensure that all its materials remain up to date.

Moreover, having organized events in Geneva, London, and New York so far, and with Advisory Board members coming from all across Europe and the United States, RAM has long since transcended the Swiss borders of its two founding institutions to become an international point of reference in responsible art market practices. This is excellent news but also sometimes complicates discussions and working sessions between the stakeholders involved. To facilitate smaller group conversations and ensure that national issues and particularities are adequately addressed, RAM is currently working on the creation of regional committees. For the moment, these efforts are focused on the United States and the United Kingdom (in addition to Switzerland). These regional committees will allow smaller groups of interested professionals to organize local awareness-raising events and discuss topics that are especially relevant to their jurisdictions and areas of practice.

In addition, the growing interest expressed by

various art market players in getting involved in the initiative has prompted RAM to reflect on ways to further develop and encourage dialogue on a daily basis, outside of its various events and public consultations. In that regard, RAM is currently working on an updated, more interactive website, which it hopes will become a truly interactive platform where all interested stakeholders can engage in further discussion of risk and best practice in the market. Although the exact form is still to be determined, RAM hopes to share as many relevant resources as possible, link to other initiatives and organizations who are playing a role in creating a more responsible art market, invite further comments on the existing guidelines and checklists, and, in the long term, foster online dialogue between all members of the “RAM Community”.

Last but not least, RAM is also working on a new set of guidelines aimed at summarizing best practice for authentications of fine art, in the specific and practical spirit of the two previous publications. These guidelines will be launched at RAM’s next annual conference, which will be held in Geneva, Switzerland, at the beginning of 2020.

The RAM experience shows that the art market needs and wants more dialogue on best practice. Whatever the direction taken as regards (self-) regulation of the art market, dialogue must be the first step to ensure that the relevant information is shared and considered to lay the foundation for a sustainable art market. ♦

<sup>1</sup> An interview based on this article was published in the Deloitte Luxembourg and ArtTactic Art & Finance report 2019 available at <https://www2.deloitte.com/lu/en/pages/art-finance/articles/art-finance-report.html>.

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<sup>3</sup> Partner at LALIVE, Switzerland, board member of the Art Law Foundation, and member of RAM’s Task Force.

<sup>4</sup> *RAM’s Guidelines on combatting Money Laundering and Terrorist Financing* available at <http://responsibleartmarket.org/guidelines/guidelines-on-combatting-money-laundering-and-terrorist-financing/>.

<sup>5</sup> *RAM’s Art Transaction Due Diligence Toolkit* available at <http://responsibleartmarket.org/guidelines/art-transaction-due-diligence-toolkit/>.

<sup>6</sup> These country guides were drafted by legal professionals from various jurisdictions on a voluntary basis and are available at <http://responsibleartmarket.org/guidelines/guidelines-on-combatting-money-laundering-and-terrorist-financing/>.

**For more information:**

<http://responsibleartmarket.org>.

## California Court Refuses to Enforce French Judgment for Copyright Infringement of Photos of Picasso Artworks — Internationalizing U.S. Fair Use Doctrine?

By: Armen R. Vartian<sup>1</sup>

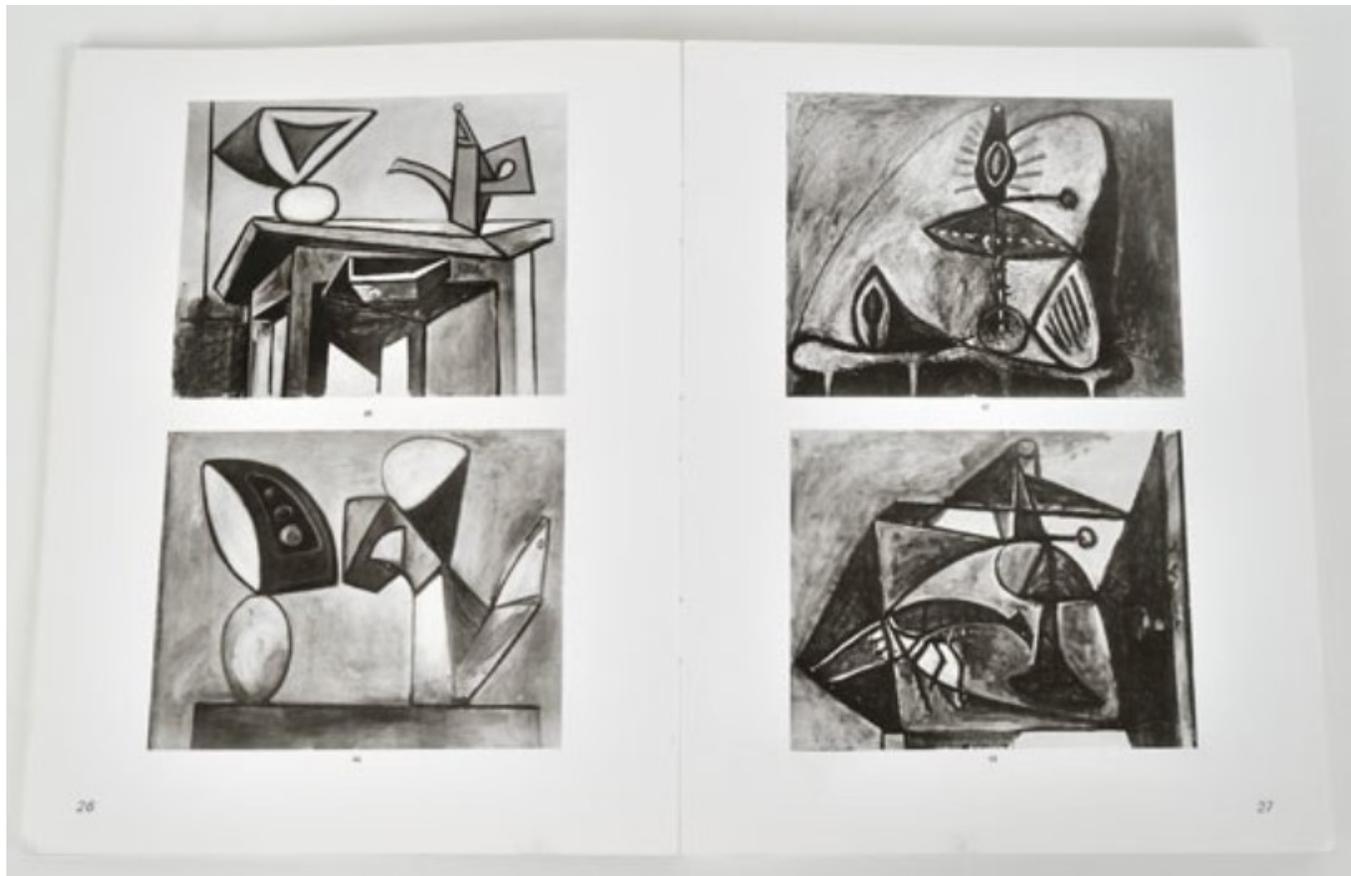
In the recent case of *de Fontbrune v. Wofsy*, the U.S. District Court for the Northern District of California declined to enforce a €2 million judgment obtained in France against a U.S. defendant, on the ground that the judgment was “repugnant” to U.S. law protecting fair use of copyrighted materials. The fair use doctrine does not apply in France, and its application by a U.S. court raises questions of whether U.S. defendants are entitled to greater rights in foreign courts than citizens of those countries themselves.

The court’s decision was in response to cross-motions for summary judgment. Plaintiffs alleged that defendants had violated a 2001 French order prohibiting them from publishing photographs of various Pablo Picasso paintings the copyrights to which were then owned by

plaintiffs, and for violations of which that court had imposed an “astreinte”, a form of liquidated damages order, on future violations. It was undisputed that in 2012 another French court had imposed a judgment of €2 million based on findings that, in fact, defendants had violated the 2011 order because works containing the copyrighted photographs were found in a Paris bookshop, and applying the *astreinte* from that order. Plaintiffs requested summary judgment under California’s Uniform Foreign Country Money Judgments Recognition Act (“Act”), and defendants requested summary judgment based upon various defenses to the Act. The defenses included challenges to the jurisdiction of the French court, both personal and subject matter jurisdiction, and to whether plaintiffs had standing to assert entitlement to the *astreinte* because plaintiffs had transferred

the copyrights to the Picasso photographs during the interval between the 2001 order and the 2012 judgment. The court engaged in a lengthy discussion of French law and procedure, and was aided by experts on French law presented by both parties, and by the Court’s own research.

While acknowledging that defendants might have meritorious arguments with respect to the subject matter jurisdiction of the French court that issued the 2012 judgment, and whether plaintiffs had standing as a result of having transferred ownership of the original copyrights – questions which the Court found were related to one another as a result of the operation of French law – the Court denied defendants summary judgment on those issues. Likewise, although the Court noted that defendants did not



learn of the 2011 proceedings to enforce the *astreinte* until after one hearing had already been held and a second was about to be held, the Court denied summary judgment on that ground as well, preserving the issue for trial.

Instead of sending the entire case to trial, however, the Court granted summary judgment to defendants and dismissed the case based on its discretion under the Act to deny recognition to foreign judgments where such judgments are “repugnant to the public policy of this state or of the United States”. While the parties agreed that the fair use doctrine does not exist in France, plaintiffs asserted that whether or not defendants’ infringement was a fair use was irrelevant, as fair use does not rise to the level of a “public policy” of California or of the United States as a whole. The Court acknowledged that under California law, there was a “high bar” to application of the Act’s “public policy” exception, and to deny recognition of a foreign judgment a court must find not only that the judgment is contrary to public policy, but that it is “so offensive to our public policy as to be prejudicial to recognized standards of morality and to the general interests of its citizens”.

The Court found very little authority on whether a meritorious fair use defense entitled a court to refuse recognition to a foreign judgment for copy-

right infringement, and relied on a single case from the New York federal courts where that issue was raised in connection with a U.S.-based fashion website publishing images from French clothing designers’ shows, for which an *astreinte* had been imposed by a French court and brought to New York for enforcement. The courts in that case considered whether or not the French fashion shows were “newsworthy events” entitled to protection under the U.S. Constitution’s First Amendment as well as by the fair use doctrine. The only relevance of that decision to the California court was its suggestion that fair use might rise to the level of a public policy objection under New York’s foreign judgment recognition statute, which was identical to California’s.

The Court then reviewed the four traditional fair use factors under U.S. law, namely (1) purpose and character of the use; (2) nature of the copyrighted work; (3) amount and substantiality of the infringed portions versus the work as a whole; (4) effect of the use on the potential market or value of the copyrighted work. The Court found that defendants’ infringement was a fair use, and that “The 2012 Judgment is, therefore at odds to the U.S. public policy promoting criticism, teaching, scholarship and research”.

Plaintiffs have appealed this decision to the U.S. Court of Appeals for the Ninth Circuit. One need not quarrel with the district court’s application of the fair use doctrine to question whether or not a U.S. court should have been engaged in such an analysis in the first place. This is not a case where the infringing conduct occurred entirely in the U.S. – had the facts been such, perhaps the litigation would not have proceeded in France at all. Rather, from the agreed facts presented in the Court’s decision, the French courts were presented with infringing conduct that occurred in France, and both the 2001 and 2012 French judgments were based on that conduct. Presumably the U.S. entered the picture only because the French plaintiffs sought to have their judgment recognized in order to execute that judgment against defendants’ assets in the U.S. Basic principles of comity between nations would caution against the application of the judgment debtor’s law to, in essence, make unenforceable a judgment of a foreign country’s courts, legally acquired. ♦

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## One Year Later — Is France Implementing the Savoy-Sarr Report on the Return of African Cultural Heritage?

By: Anne-Sophie Nardon<sup>1</sup>

In November 2017, the French President Macron gave a speech in Ouagadougou, declaring notably that he could not accept that a large share of several African countries' cultural heritage be kept in France : *“There are historical explanations for it, but there is no valid, lasting and unconditional justification. African heritage cannot solely exist in private collections and European museums. African heritage must be showcased in Paris but also in Dakar, Lagos and Cotonou; this will be one of my priorities. Within five years I want the conditions to exist for temporary or permanent returns of African heritage to Africa”*.

After the speech President Macron surrounded himself with advisors gathered in a committee called “Presidential Council for Africa”. He

also appointed Bénédicte Savoy and Felwin Sarr to jointly prepare a report on the conditions for the restitution of cultural property in Africa. The report came out a year later, in November 2018, and was the subject of my article in the Winter 2018 issue of this *Newsletter*. Has France followed through? The short answer is that the Savoy-Sarr recommendations have been approved by some, but criticized by the majority. *The main reason for this is that the report went far beyond the guidelines President Macron set out in his Ougadadougou speech.*

*First of all, the authors of the report gave their own understanding of the mission that was given to them, and which had been written so as to include both permanent and temporary restitution of cultural artifacts to African countries.*

*They took a stand by excluding the very idea of a “temporary restitution”, explaining that what counts is not the mere possibility of circulating the cultural heritage, but the actual transfer of title of property to the African countries.*

*Secondly, the report advocates a systematic return of all African cultural heritage obtained by France, based on the dates of acquisition. If the cultural heritage item entered France before 1960, that is to say before the independence of the former colonies, the restitution should be made “without further research regarding the origin or provenance”. After 1960, the restitution should take place unless it can be proven that the objects were acquired legally.*

Extract of the report, pages 61 - 62 :

### Criteria for Restitutability

The massive and continuous integration—over the past 150 years—of cultural heritage material from Africa into French collections leads us to a response in terms of the following schema in regards to the demands for restitutions coming from Africa:

1. **Restitution** in a swift and thorough manner **without any supplementary research** regarding their provenance or origins, of any objects taken by force or presumed to be acquired through inequitable conditions:
  - a. through military aggressions (spoils, trophies), whether these pieces went on directly to France or whether passed through the international art market before then finding their way to being integrated into collections.
  - b. by way of military personnel or active administrators on the continent during the colonial period (1885-1960) or by their descendants.
  - c. through scientific expeditions prior to 1960.
  - d. certain museums continue to house pieces of African origin which were initially loaned out to them by African institutions for exhibits or campaigns of restoration, but which were never given back. These objects should be swiftly returned to their institutions of origin.<sup>75</sup>
2. **Complementary Research** for pieces that entered into the museums after 1960 and those received as gifts or donations to the museum where we have a good reason to believe the pieces left African soil before 1960 (but which remained within families for several generations). In cases where research is not able to ascertain the initial circumstances around their acquisition during the colonial period, the pieces requested can be restituted based on justification of their interest by the country making the request.
3. **Preservation within the French collections** of pieces of African art objects and cultural heritage where the following has been established:
  - a. after confirmation that a freely consented to and documented transaction took place that was agreed upon and equitable
  - b. that the pieces acquired conformed to the necessary rigor and careful monitoring of the apparatus in place on the art market after the application of the UNESCO Convention of 1970, in other words, without “taking any ethical risks”. Gifts from foreign Heads of State to French governments remain as acquisitions for France except in cases where the heads of state concerned have been ruled against for the misuse of public funds.

### A legal challenge

The restitutions that the report recommends are legally challenging for various reasons linked to French law and to international law. If we look at the French legal system, the first issue is the three principles of (i) inalienability, (ii) imprescriptibility and (iii) unseizability that protect national collections and forbid any restitution, except through a complicated procedure involving the passing of a law by the parliament.<sup>2</sup> This means that the current legal system would not allow museums to relinquish title to art works.

Also, the applicable set of rules concerning the title of property, as well as the burden of proof resting on the claimant, tend to protect the possessor, and would not allow for the restitution of cultural heritage present in the collections for more than 30 years. Thirdly, many items of African cultural heritage found in the state museums' collections have been donated or bequeathed, and cannot therefore be "declassified" or deaccessioned.<sup>3</sup>

Neither does international law support the legality of restitution as advocated by the Savoy-Sarr report. Most items at issue were acquired before the Hague Conventions of 1899, 1907 and 1954, and before the UNESCO convention of 1970, which are not retroactive.

This is the reason why the Savoy Sarr report suggests the adoption of "ad hoc procedures" finalized by the signature of bilateral agreements that would derogate from French and international law.

### Future?

President Macron's 2017 speech and the Savoy Sarr report have undoubtedly opened the door to a public debate on African cultural heritage. Since then, several studies and conferences entitled "African Heritages" have been launched by the Ministry of Europe and Foreign Affairs and the Ministry of Culture. The French government has promised to return to Benin 26 works that had been taken by a French army general in 1892.<sup>4</sup> Besides, loans to African museums have been arranged.

A movement to improve African museum infrastructures has also been initiated, for instance in

Porto Novo, Benin, the Museum of Art and Civilization dedicated to voodoo is currently being built.<sup>5</sup> Also in Benin, the French Development Agency is financing the creation of a museum in the royal palaces of Abomey.<sup>6</sup>

The European Union has adopted new rules on the introduction and the import of cultural goods<sup>7</sup> for "the purpose of safeguarding humanity's cultural heritage". France is not the only state that has embarked on this path. Germany, for instance, has returned human remains from the genocide of the Herero and Namas to Namibia.<sup>8</sup>

The present debate at the International Council of Museum (ICOM) on the very definition of what a museum should be is revealing. At its 139th session in Paris on 21 and 22 July 2019, the ICOM Executive Board proposed the two following definitions :

*"(i) Museums are democratising, inclusive and polyphonic spaces for critical dialogue about the pasts and the futures. Acknowledging and addressing the conflicts and challenges of the present, they hold artefacts and specimens in trust for society, safeguard diverse memories for future generations and guarantee equal rights and equal access to heritage for all people (ii) Museums are not for profit. They are participatory and transparent, and work in active partnership with and for diverse communities to collect, preserve, research, interpret, exhibit, and enhance understandings of the world, aiming to contribute to human dignity and social justice, global equality and planetary wellbeing."*

The debate is still on. ♦

<sup>1</sup> Co-founder and managing partner, Borghese Associés, a Paris-based law firm specialized in art and cultural heritage law.

<sup>2</sup> Article L.451-3 of the French Patrimonial Code (*Code du patrimoine*), "Museum collections in France are imprescriptible".

Article L.451-5 of the French Patrimonial Code (*Code du patrimoine*), "The property constituting the collections of museums in France belonging to a public person is part of their public domain and is, as such, inalienable. Any decision to downgrade one of these goods may only be taken with the assent of the "National Scientific Com-

mission for Collections mentioned in Article L 115 I".

Article L.3111-1 of the General Code on the Property of Public Persons (*Code général de la propriété des personnes publiques*): "The property of public persons mentioned in Article L.1, which is in the public domain, is inalienable and imprescriptible". While Article L2311-1 provides that "The property of public persons mentioned in Article L.1 is unseizable".

<sup>3</sup> Article L 451-7 of the French Patrimonial Code, provides that "Property incorporated into public collections by donation and bequest or, for collections not under the control of the State, those acquired with the assistance of the State may not be declassified".

<sup>4</sup> [https://www.liberation.fr/planete/2019/07/04/restitution-d-oeuvres-au-benin-paris-dit-travailler-a-un-retour-rapide\\_1737979](https://www.liberation.fr/planete/2019/07/04/restitution-d-oeuvres-au-benin-paris-dit-travailler-a-un-retour-rapide_1737979)

<sup>5</sup> <https://www.arte.tv/fr/articles/lafrique-demande-la-restitution-de-biens-culturels>

<sup>6</sup> <https://www.connaissancedesarts.com/international/un-nouveau-musee-au-benin-accueillera-les-26-objets-restitues-par-la-france-en-2021-11123610/>

<sup>7</sup> [https://www.consilium.europa.eu/media/36881/st\\_13603\\_2018\\_rev\\_1\\_en.pdf](https://www.consilium.europa.eu/media/36881/st_13603_2018_rev_1_en.pdf)

<sup>8</sup> [https://www.lemonde.fr/afrique/article/2019/03/14/l-allemande-va-acceler-er-la-restitution-de-restes-humains-datant-de-l-epoque-coloniale\\_5435985\\_3212.html](https://www.lemonde.fr/afrique/article/2019/03/14/l-allemande-va-acceler-er-la-restitution-de-restes-humains-datant-de-l-epoque-coloniale_5435985_3212.html)

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