

# COUNTRY REPORTS

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## Colonial-Looted Cultural Objects in England

**Abstract:** This article provides an overview of the state of legislation and the efforts toward the repatriation of colonial-looted cultural objects in England. It discusses the National Heritage Act, Charities Act, and general trust rules which make it challenging to deaccession any objects from museums in the United Kingdom, including and especially colonial-looted objects. It highlights how the UK's former period of colonization resulted in vast holdings from these territories, but that the UK has yet to create a comprehensive policy on repatriation, despite numerous calls for return of several famous heritage objects, including the Maqdala treasures and the Benin Bronzes. This article sketches the powers of the current possessors – namely national, regional, and university museums. Finally, the article considers the many updates in the conversation surrounding colonial repatriation in 2022, from the debate at the House of Lords to potential changes to the National Heritage Act to the new Charities Act to the publication of Arts Council England's guidelines for museums on restitution and repatriation.

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## Introduction

Experts estimate that 80-90% of Africa's cultural heritage can be found in European museums, or at least in their storage. This situation is due to conquest, theft, and legitimate trade.<sup>1</sup> The United Kingdom's role in fomenting a colonial empire means that it currently holds a vast amount of cultural objects acquired during its colonizing activities. One need look no further than the Benin Bronzes, which came to be located outside of the former Kingdom of Benin (in what is now the Edo State, Nigeria) as the result of a punitive expedition by British colonial troops who invaded Benin City, the kingdom's wealthy capital, in 1897. The British troops aimed to expand Britain's political and commercial reach in West Africa by sending the Oba (King) Ovonramwen of Benin into exile, destroying his trade monopoly around the Niger Delta, and colonizing his kingdom.<sup>2</sup> In the process, the troops looted thousands of antiquities, donating some to the British Crown and selling others to museums and collectors around the world. The two largest collections of Benin Bronzes are located in the Ethnological Museum of Berlin and the British Museum in London, but significant collections also exist in France, the United States, and other public and private collections worldwide.

Other examples of the UK's vast colonial holdings include the Maqdala treasures, taken by the British Army during the 1868 Abyssinian Expedition in Ethiopia and later spread among London's Victoria and Albert Museum (V&A) and the British Museum, among other institutions.<sup>3</sup> The British Museum houses the 11 Tabots, so sacred to the Ethiopian Orthodox church that only Ethiopian Orthodox priests are permitted to see them (and which have never been on display in London). The British excelled at destroying the local symbols of political power, but they made careful efforts to remove anything of value from the city first. Such was the case with the Qing Emperor's Summer Palace in China; the Abyssinian Emperor's base at Maqdala; the Ashanti city of Kumasi in present-day Ghana; and the Oba's palace at Benin City in present-day Nigeria.

Despite these vast holdings, and unlike other countries, the UK government has not yet made a policy decision to return these objects of African cultural herit-

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<sup>1</sup> A. Steffes-Halmer, *Africa's Art Goes Back Home*, "DW", 11 September 2021, <https://www.dw.com/en/african-lost-heritage-and-europes-restitution-policies/a-59763966> [accessed: 13.10.2022].

<sup>2</sup> E. Gregg, *The Story of Nigeria's Stolen Benin Bronzes, and the London Museum Returning Them*, "National Geographic", 17 September 2022, <https://www.nationalgeographic.co.uk/travel/2022/09/benin-bronzes-return-to-nigeria> [accessed: 13.10.2022].

<sup>3</sup> Note that the British Library signed a memorandum of understanding with the Ethiopian National Archives in 2019 in order to "foster greater collaboration, research, capacity building and knowledge exchange"; and the Library offered to donate digitized manuscripts to the National Archives. Embassy of Ethiopia, London, *Minister Signs MoU with British Library on Debut Visit to the United Kingdom*, 19 March 2019, <https://www.ethioembassy.org.uk/minister-signs-mou-with-british-library-on-debut-visit-to-the-united-kingdom/> [accessed: 13.10.2022].

age.<sup>4</sup> Currently, national museums in the United States, France, and Germany have returned or agreed to return African artefacts. While a number of British university and regional museums have agreed to return artefacts, the English national museums have been restricted by the National Heritage Act 1983 (NHA)<sup>5</sup> and the British Museum Act 1963 (BMA).<sup>6</sup> This past year has however been a landmark in terms of colonial restitution and efforts to amend legislation to allow for the return of cultural heritage. While no changes have yet been finalized, the sheer volume of discussions and lobbying efforts signal changing tides for the future.

## The Legislation

British law concerning the deaccessioning of museum objects – especially those with colonial-looted pasts – is a patchwork of sorts, which draws upon charities law, museum law, civil and criminal law, and has different rules for public and private museums. While this reality makes dealing with colonial-looted objects a challenge, it also provides multiple different avenues through which return could be facilitated with the right political and institutional will.

The NHA was an effort to make the British national museums as autonomous as possible, separating them from the government departments to which they once belonged.<sup>7</sup> Unlike in the United States, British national museums receive government funding, although they are not considered arms of the government as, for example, is the case in France. Rather, British museums are governed by their trustees, not the UK Government. The NHA works in concert with the BMA and the Museums and Galleries Act 1992 (MGA).<sup>8</sup> These Acts specify that the museums may not dispose of any object they own in their collections unless the Board of Trustees has determined that: a) the object is a duplicate; b) the object is – in the opinion of the Board of Trustees (of that museum) – “unsuitable for retention”<sup>9</sup> in their collections

<sup>4</sup> See the French Sarr-Savoy report: F. Sarr, B. Savoy, *The Restitution of African Cultural Heritage. Toward a New Relational Ethics*, November 2018, [http://restitutionreport2018.com/sarr\\_savoy\\_en.pdf](http://restitutionreport2018.com/sarr_savoy_en.pdf) [accessed: 13.10.2022] and President Emmanuel Macron’s pledge to return 26 African artworks: *France’s Macron Vows Return of African Art, Admitting “Colonial Pillage”*, “Voice of America”, 6 October 2021, <https://www.voanews.com/a/france-macron-vows-return-of-african-art-admitting-colonial-pillage/6263989.html> [accessed: 13.10.2022]. See also G. Harris, “*The Benin Bronzes Are Returning Home*”: *Germany and Nigeria Sign Historic Restitution Agreement*, “The Art Newspaper”, 4 July 2022, <https://www.theartnewspaper.com/2022/07/04/the-benin-bronzes-are-returning-home-germany-and-nigeria-sign-historic-restitution-agreement> [accessed: 13.10.2022].

<sup>5</sup> National Heritage Act 1983, c. 47.

<sup>6</sup> British Museum Act 1963, c. 24.

<sup>7</sup> For example, the Victoria and Albert Museum and the Science Museum were part of the Department of Education; the Royal Armouries were part of the Department of the Environment.

<sup>8</sup> Museums and Galleries Act 1992, c. 44.

<sup>9</sup> See, e.g., NHA, section 6(3)(b) referring to the Victoria and Albert Museum, which is duplicated for each of the applicable museums.

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and disposal would not be a detriment to the interests of students or members of the public or has become useless; c) the object is loaned or transferred to another national museum; or d) the object has become useless for the purposes of their collections because of damage, physical deterioration, or infestation by destructive organisms.<sup>10</sup> In the case of the British Museum, the Trustees cannot deaccession an object if it was created before 1850. Notably, there are over 2,000 museums in England, but the NHA covers (and thus limits) only three (not including the British Museum).<sup>11</sup> The BMA also includes an additional criteria by which the Trustees may remove an object from their collection; one that is not available to other museums: “if an object appears to the Trustees to have been made not earlier than the year 1850, and substantially consists of printer matter of which a copy made by photography or a process akin to photography is held by the Trustees”.<sup>12</sup> This criterion is however unlikely to apply to colonial-looted objects.

A substantial number of museums in England and Wales operate as charities, and thus are currently subject to the Charities Act 2011,<sup>13</sup> which affects the duties and powers of museum trustees. Some charities are exempt from the Charity Commission’s supervisory regulation because they are supervised by another body, the Department of Digital, Culture, Media, and Sport (DCMS) per the NHA, BMA, or MGA. Thus, most of the national museums and galleries are exempt charities, but must still comply with charity law.<sup>14</sup> Under section 106 of the 2011 Act, charity trustees can seek authorization from the Charity Commission if they feel compelled by a moral obligation to make a transfer of charity property, an action known as an “*ex gratia* payment”. This act would include the Trustees of a museum agreeing, with permission from the Charities Commission or DCMS, to return an item from the museum’s collection to its country of origin on moral grounds, even where this act would otherwise be prohibited by charity law.

As a criminal matter, colonial-looted objects could be covered by the Dealing in Cultural (Objects) Offences Act 2003 (DOCA).<sup>15</sup> The United Kingdom did not sign the 1970 UNESCO Convention on the Means of Prohibiting and Preventing

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<sup>10</sup> BMA, section 5(2); NHA, section 6(3)(d); MGA, section 4(5)(d) (applying only to the National Portrait Gallery).

<sup>11</sup> The NHA regulates the Victoria and Albert Museum; the Science Museum; Kew Gardens; the Royal Armouries; the Armed Forces Museums; the Royal Naval College; and the Historic Buildings and Monuments Commission of England. The MGA established Boards of Trustees for the National Gallery; the Tate Gallery; the National Portrait Gallery; and the Wallace Collection. Of course, the BMA only regulates the British Museum.

<sup>12</sup> BMA, section 5(1)(b).

<sup>13</sup> Charities Act 2011, c. 25. The previous version was amended in 2006.

<sup>14</sup> Department for Culture, Media, and Sport, Charity Commission, *Charitable Museums and Galleries: A Guide to Conflicts of Interest Policies, Trustee Benefits and Transactions Between Trustees and Charities*, Department for Culture, Media, and Sport, London 2008.

<sup>15</sup> Dealing in Cultural (Objects) Offences Act 2003, c. 27.

the Illicit Import, Export and Transfer of Ownership of Cultural Property<sup>16</sup> until 2002. Unlike the US, the UK's Ministerial Advisory Panel determined that no statutory change to UK law was necessary, having previously believed that States Parties had a greater legislative burden.<sup>17</sup> Nevertheless, the UK enacted the DOCA the following year. It states that “a person is guilty of an offence if he dishonestly deals in a cultural object that is tainted, knowing or believing that the object is tainted”, with “tainted” meaning having been removed, in defined circumstances, from a building or structure of historical, architectural, or archaeological interest. Accordingly, it is irrelevant where the removal or excavation was done or under what system of law the offence was committed, in line with the requirements of Article 3 of the 1970 UNESCO Convention. While the Act was aimed at changing the culture of the marketplace by encouraging more due diligence and general good practices,<sup>18</sup> the Act was not actually invoked until 2016, and then not for a matter involving an international transaction, but for theft from churches in England and Wales.

Finally, the Human Tissue Act 2004 allows listed English institutions which are restricted by law from deaccessioning collection items to transfer human remains less than 1,000 years old.<sup>19</sup> The law includes material with which the human remains may be mixed or bound. There have been a number of successful repatriations under this Act, including the return in the summer of 2022 of ancestral remains of over 100 individuals from the Moriori and Maori tribes to New Zealand.<sup>20</sup>

## The Possessors

It is important to understand the structure of English museums, as that influences their means of deaccessioning objects from their collections. All museums in England are governed by trustees or other decision makers, who are bound by a fiduciary duty to “consider maintaining and developing the collection for current and future generations, and their responsibility to act in the interests of carrying out the charity's objectives now and in the future”.<sup>21</sup> Legal restrictions on all museums can be enumerated in the museum's governing document; conditions placed

<sup>16</sup> 14 November 1970, 823 UNTS 231.

<sup>17</sup> Department for Culture, Media, and Sport, *Ministerial Advisory Panel on Illicit Trade: Report*, Department for Culture, Media, and Sport, London 2000.

<sup>18</sup> House of Commons, Culture, Media, and Sport Committee, *Cultural Objects: Developments Since 2000. First Report of Session 2003-04*, The Stationery Office, London 2003.

<sup>19</sup> Human Tissues Act 2004, c. 30.

<sup>20</sup> Natural History Museum, *The Natural History Museum, Hokotehi Moriori Trust and Museum of New Zealand Te Papa Tongarewa Hold Formal Ceremony to Mark the Return of Ancestral Remains to New Zealand*, 30 June 2022, <https://www.nhm.ac.uk/press-office/press-releases/formal-ceremony-marks-return.html> [accessed: 13.10.2022].

<sup>21</sup> Arts Council England, *Restitution and Repatriation: A Practical Guide for Museums in England*, Arts Council England, Manchester 2022, p. 30.

by a donor on a gift or bequest; conditions where an object is acquired through external grant funding which may require approval or result in financial penalty; conditions placed if the object is received under either the acceptance in lieu or the Cultural Gifts Scheme, which requires permission from the Secretary of State.

Museums in the UK could be established as charities, companies, run by local authorities, governed by statute, or as part of a university. If a museum is a charity, it is required to benefit the public through the advancement of arts, culture, heritage, or science. Charity law requires that any action taken by the trustees must be (1) in the best interests of the museum; and (2) in the interests of the public. Charitable museums must seek advice or authorization for deaccessioning from the Charities Commission for England and Wales, or a court order. National museums, though charitable, are exempt from oversight by the Charities Commission and are instead regulated by DCMS.<sup>22</sup>

Museums established as companies are governed by directors in accordance with English and Wales company law, and all restrictions depend upon the association's constitution or articles of association. Museums run by local authorities will be run by local councillors, who are bound by the regulatory framework of the local authority. Where the local authority has agreed to hold a collection in a charitable trust, the charity law rules will apply, along with its restrictions on disposal.<sup>23</sup> As indicated above, national museums are governed by statute and thus are subject to the decisions of the trustees or a board of governors. The particular statute (NHA, BMA, etc.) will control their ability to deaccession objects. Finally, UK universities often have substantial cultural collections and their own museums. These museums will be governed by a university board or council, depending upon the structure of the university. In such cases, the governing document will determine if an object can be removed from the collection. University museums may also be charities and thus subject to charities law.

## Recent Developments and Initiatives

During the Premiership of Boris Johnson, his government adopted a “retain and explain” policy with respect to contested heritage.<sup>24</sup> While this policy was promulgated in the context of the Black Lives Matter protests and calls for statues of major historical figures to be taken down as part of a reappraisal of the UK's colonial history, it reflects both a policy and a mentality against removal, with a preference toward contextualizing and explaining an object as part of “shared history”.

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<sup>22</sup> Ibidem, p. 31.

<sup>23</sup> Ibidem, p. 32.

<sup>24</sup> UK Should “Retain and Explain” Controversial Statues, Says Minister, “BBC News”, 25 September 2020, <https://www.bbc.co.uk/news/uk-politics-54299049> [accessed: 13.10.2022].

In August 2022, Arts Council England (ACE) released its long-awaited guidance: *Restitution and Repatriation: A Practical Guide for Museums in England*, written in collaboration with the Institute of Art and Law in London. The *Guide* addresses the practical, ethical, and legal concerns for a museum dealing with restitution or repatriation claims, and provides a step-by-step procedure to be followed – from understanding the object and stakeholders, to assessing the claim, and to implementing the decision. It also provides a recommended template policy on restitution and repatriation, to be used by English museums. The *Guide* emphasizes that museums should take proactive steps in a “spirit of transparency, collaboration and fairness”.<sup>25</sup> It also explains that each situation is different and requires a case-by-case analysis, while the *Guide* itself provides best-practice principles. These principles start with encouraging museums to proactively engage in provenance research for all the items in their collections and to be transparent in sharing that information with the public. There is an acknowledgment that not all claims will have a legal basis, but that museums should nevertheless consider ethical or moral rationales for repatriation. ACE promotes four ethical factors for museums to consider: (1) the significance of the object to the claimant; (2) how the object was removed from its place of origin or from a past owner; (3) how the museum has engaged with the object; (4) and who is raising the claim.<sup>26</sup>

The same month, and only a few days after the publication of the ACE guidelines, the Horniman Museum, which is not constrained by the NHA, returned its collection of Benin Bronzes to Nigeria. This was considered a landmark return, because the Horniman is directly funded by the government through the DCMS, unlike other institutions which had announced returns of cultural objects. Earlier in the summer, Oxford’s Pitt Rivers and Ashmolean museums, plus Cambridge’s Museum of Archaeology and Anthropology, announced that they had agreed to return 213 Benin objects.

A short debate on the Heritage Act was held in the House of Lords at the Lords Grand Committee on 13 October of this year (2022). The debate was prompted after the V&A returned the Eros Head from the Sidamara Sarcophagus to Turkey this past summer. The V&A had been trying to return the sculpture for 88 years.<sup>27</sup> Lord Vaizey, current chairman of the Parthenon Project – a campaign to return the Parthenon Marbles to the Parthenon – questioned whether the Act still works for

<sup>25</sup> Arts Council England, *op. cit.*, p. 4.

<sup>26</sup> *Ibidem*, pp. 17-18.

<sup>27</sup> When the head was gifted to the V&A in 1933, the V&A considered returning it to Turkey a year later, but the then-director decided not to after considering the potential repercussions for the Parthenon Marbles in the British Museum. The head has now been returned in what the V&A is calling a “cultural partnership”, but is effectively a long-term loan. M. Bailey, *Victoria & Albert Museum Returns - and Reattaches - a Third-Century Marble Head of Greek God Taken from Turkey*, “The Art Newspaper”, 1 July 2022, <https://www.theartnewspaper.com/2022/07/01/victoria-and-albert-museum-returnsand-reattaches-a-third-century-marble-head-of-greek-god-taken-from-turkey> [accessed: 13.10.2022].

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today's purposes. Many Lords addressed the constant issue of there being a "ping pong effect" between the Government and museums, as the central Government tells the museums that they need to make their own decisions about their collections, but then they are stymied by the limitations of the NHA.<sup>28</sup> There is an understanding that when the Government makes these pronouncements they are telling the public that they have no intention of changing the law in Parliament, and any arrangement would have to be negotiated with the trustees and be limited to loans. Unfortunately, some Lords repeated outdated concerns about deaccessioning and repatriating cultural heritage. These tropes included (to paraphrase here): that the UK was a great empire and acquired items as all empires did as a general practice; that the actions of former empires are irrelevant in the modern day times; that the (African) country of origin does not know what to do with these items; that there is too much internal power politics for the UK to return their heritage; and that we cannot unwind history. Some Lords did see the issue as an opportunity for cooperation with the nations of origin, and some supported the creation of an independent review board, akin to the Spoliation Advisory Panel for Nazi-looted art.<sup>29</sup> Ultimately, the Parliamentary Under-Secretary of State of DCMS, Lord Kamall, noted that museum trustees in the UK operate independently and thus it is up to the museum's trustees to respond to restitution claims. He also asserted that the proposed changes to the Charities Act (discussed below) were not intended nor agreed upon. Most importantly however, Lord Kamall stated that the Government's position regarding the NHA remains unchanged: i.e. that claims for deaccessioning should be considered on a case-by-case basis and that it is the trustees, not the Government, who are responsible for these decisions.<sup>30</sup> He noted instead the role of the UK museums in encouraging tourism; the opportunities created by technology to share the collections and be more accessible; and the opportunity for scholarship due to the vast size of the holdings. In short, the Government has no plans to amend the NHA.<sup>31</sup>

A proposed change to the Charities Act would allow trustees to make *ex gratia* transfers of "low valued" property on their own accord, without the involvement of the Commission. The value threshold is dependent upon the gross income of the charity, to be detailed in a new section 331A. Higher value property still requires the

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<sup>28</sup> 824 Parl Deb HL (5th ser.) (2022) cols. 174GC-176GC. The Lords referenced comments made by Tristram Hunt, the Director of the Victoria and Albert Museum, who has been lobbying for changes to the NHA for some time. G. Harris, *Victoria & Albert Museum Director Says It Is Time to Change UK Law that Stops Museums from "Disposing" of Works*, "The Art Newspaper", 4 July 2022, <https://www.theartnewspaper.com/2022/07/04/victoria-and-albert-museum-director-says-it-is-time-to-change-uk-law-that-stops-museums-from-disposing-of-works> [accessed: 13.10.2022].

<sup>29</sup> See Department for Digital, Culture, Media, and Sport, *Spoliation Advisory Panel*, <https://www.gov.uk/government/groups/spoliation-advisory-panel> [accessed: 13.10.2022].

<sup>30</sup> 824 Parl Deb HL (5th ser.) (2022) cols. 179GC-176GC.

<sup>31</sup> *Ibidem*, col. 184GC.



approval of the Commission or Secretary of State of DCMS. Notably, this authorization would apply to trustees of charities established by legislation that would otherwise prohibit the disposal of property, namely national institutions. The UK national museums – and the British Museum in particular with regard to the Parthenon Marbles – have always maintained that they were unable to return objects of cultural heritage to their countries of origin because they were prohibited by legislation, namely the national institutional legislation discussed above and the Charities Act; unless Parliament enacts a law specifically allowing for an object’s return.

Notably, this projected change to the Charities Act will override the 2005 case of *Attorney General v. Trustees of the British Museum*.<sup>32</sup> In that case, the Trustees of the British Museum had asked the Attorney General to permit them to deaccession, on moral grounds, four old master drawings that had been stolen from an individual by the Gestapo during the Nazi occupation of Czechoslovakia. The Attorney General sought the Court’s determination as to whether the Trustees could remove an object from the museum’s collection on moral grounds, a condition which was not included in the BMA. The Court held that the BMA was the controlling legislation, and it was clear that section 3(4) prevented recognizing any implied exceptions (such as moral grounds), and there was no express statutory exception to justify “ignoring on moral grounds the prohibition on dispositions”.<sup>33</sup> In a political feat, this past December 2022, George Osborne, the chair of the British Museum, met with Kyriakos Mitsotakis, the Prime Minister of Greece, in London. The negotiations were apparently the latest in a series of discussions over the past few months between the British Museum and Greek ministers, with an Athens newspaper reporting that the negotiations are “at an advanced stage”.<sup>34</sup> The deal could result in Britain returning the marbles to Greece in early 2023, for display at the Acropolis Museum. In 2017, the UK Law Commission had published a report, *Technical Issues in Charity Law*,<sup>35</sup> which became the source of the changes which were introduced in 2022. The report was critical of the 2005 decision, noting that it is both onerous and a disproportionate use of resources given the value of the payment for museum trustees to have to request permission for the deaccession of small-value objects.<sup>36</sup> The report therefore recommended that trustees be given the power to make small *ex gratia* payments which would improve efficiency.<sup>37</sup>

<sup>32</sup> [2005] EWHC 1089 (Ch).

<sup>33</sup> *Ibidem*.

<sup>34</sup> T. Seymour, *Secret Talks Between British Museum and Greece to Return Parthenon Marbles in “Advanced Stages”*, “The Art Newspaper”, 5 December 2022, <https://www.theartnewspaper.com/2022/12/05/after-spending-200-years-in-the-british-museum-the-elgin-marbles-may-be-about-to-return-to-greece> [accessed: 19.12.2022].

<sup>35</sup> Law Commission, *Technical Issues in Charity Law*, The Stationery Office, London 2017.

<sup>36</sup> *Ibidem*, para. 10.4.

<sup>37</sup> *Ibidem*, paras. 10.5-10.10

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It is interesting that this “moral ground authority” is being enhanced following ACE’s guidelines a few months earlier, which also encouraged museums to consider the ethical grounds for restitution/repatriation. The new Charities Act does not explicitly provide guidelines as to what qualifies as a “moral ground”, but the guidelines published by ACE provide helpful factors and specific questions for the trustees to consider. However, following the announcement of this change, the Government has delayed implementation of the specific sections on moral grounds until it “fully understands the implications for national museums and other charities”.<sup>38</sup> This delay was implemented despite the report from the Law Commission years earlier. The proposed update may give the Trustees the authority – but not the requirement – to actually deaccession and repatriate heritage. Nor can the Trustees be forced by a third party. While this change would make deaccessioning and repatriation an issue for museum trustees, it does not provide an affirmative duty on the part of the trustees to return colonial looted objects. Such a duty, as in the case of the Washington Principles for Holocaust-era artwork,<sup>39</sup> would seem to be a necessary step to ensure that trustees are proactive, and not simply reactive, in returning colonial artwork. Additionally, the proposed change is limited to a small number of objects which meet the “low value” threshold, so it would likely have a limited effect.

It has been proposed in a number of contexts that the model of the Spoliation Advisory Panel (SAP) for Holocaust-looted art be replicated for colonial-looted cultural heritage.<sup>40</sup> The SAP is an advisory, non-departmental public body, independent from the Government; although its members are appointed by the DCMS, with backgrounds in law, the civil service, academia, the art world, and cultural institutions.<sup>41</sup> The SAP was established in 2000 as an alternative forum for claims from persons dispossessed of their artworks by the Nazis, where the art is currently held in UK national collections, museums, or galleries, “for the public benefit”. Other countries (excluding the USA) have followed suit with similar models. To date, the SAP has returned 22 objects. The recommendations of the SAP can be implemented whereby art is deaccessioned from national collections via the Holocaust (Return of Cultural Objects) Act 2009 (as amended in 2019);<sup>42</sup> which is per-

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<sup>38</sup> The ramification of the change in the Act was identified and publicized by Alexander Herman, the Director of the Institute of Art and Law. A. Herman, *Museums, Restitution, and the New Charities Act*, The Institute of Art & Law, 25 September 2022, <https://ial.uk.com/museums-restitution-and-the-new-charities-act/> [accessed: 13.10.2022].

<sup>39</sup> Washington Conference Principles on Nazi-Confiscated Art, 3 December 1998, <https://www.state.gov/washington-conference-principles-on-nazi-confiscated-art/> [accessed: 13.10.2022].

<sup>40</sup> F. FitzGibbon, *We Need a Fair and Formal Process for Restitution Claims – But What Would That Look Like?*, “Apollo”, 21 July 2021, <https://www.apollo-magazine.com/restitution-process-uk-museums-spoliation-advisory-panel/> [accessed: 13.10.2022]; 824 Parl Deb HL (5th ser.) (2022) col. 174GC (Lord Vaizey of Didcot).

<sup>41</sup> Department for Digital, Culture, Media, and Sport, *Spoliation Advisory Panel...*

<sup>42</sup> Holocaust (Return of Cultural Objects) Act 2009, c. 16.

mitted despite the other laws prohibiting institutions from removing art. The SAP's recommendation and removal must also be approved by the Secretary of State. Trustees must then agree and authorize the deaccessioning of the object per their authority under the Holocaust Act. The enactment of the Holocaust Act not only created a pipeline and authority by which tainted artworks could be deaccessioned from a museum's collection; it also created a known category of items which were presupposed to be problematic (objects related to the Nazi era). This categorization negates the need to justify why these objects should have special status as the starting point for any discussion. Carving out specific terms for colonial-looted objects could thus be an efficient approach to returning the objects, without necessitating a full overhaul of the current museums' legislation. Such a panel would also create an opportunity to engender goodwill among the African community, as panel members could include African cultural experts. Thus, an independent reviewing body in the UK to return works of art is not without precedent and is a possible good model to follow.<sup>43</sup>

African groups and countries continue to lobby for the return of their heritage. In 2018, the Ethiopian Ambassador said it would not accept a loan of its heritage, and that only the full return with ownership rights and display in Ethiopian museums would be satisfactory.<sup>44</sup> The African Foundation for Development (AFFORD), an international organization with an office in London, has been working with the All-Party Parliamentary Group – Afrikan Reparations (APPG-AR) on African cultural restitution. The group is chaired by Bell Ribeiro-Addy, Labour MP from Streatham, and has received expert comments from museums and law firms on the state of the UK legislation. Their objectives are (1) to continue the work on African reparations and restitution begun by the late Bernie Grant MP; (2) to raise awareness within Parliament on the issue of restitution; (3) to seek equitable and transparent solutions to the issues of African reparations and restitution; and (4) to disseminate and foster understanding of Britain's shared history with Africa and its former colonies. To that end, the APPG-AR has been organizing a series of Parliamentary hearings to better understand the issue. The hearings began with a discussion on mapping and provenance; followed by written evidence submitted in November on the UK legal frameworks, exploring UK law and wider international legal and human rights frameworks that have informed current and past legal challenges seeking the return of stolen artefacts – hearings which have been held within UK heritage institutions.

It is worth bearing in mind that despite these ambitious debates and proposed legislative changes, most African artefacts are held in regional museums, not na-

<sup>43</sup> See 824 Parl Deb HL (5th ser.) (2022) col. 174GC (Lord Vaizey of Didcot).

<sup>44</sup> *Ethiopia Calls for Restitution of Artifacts from British Museums*, "Artforum", 22 April 2018, <https://www.artforum.com/news/ethiopia-calls-for-restitution-of-artifacts-from-british-museums-75062> [accessed: 13.10.2022].

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tional ones. Consider for example Jesus College, Cambridge;<sup>45</sup> the Pitt Rivers Museum in Oxford;<sup>46</sup> and the Horniman Museum and Gardens in London<sup>47</sup> – all of which have agreed in the past year to return the Benin Bronzes in their collections to Nigeria. There are over 2,000 museums in England alone; the vast majority of which are free to make their own determinations about their collections within the confines of charity law and museum ethics. They should thus be encouraged by the publication of this summer’s ACE guidelines; the changing public dialogue surrounding the return of colonial-looted cultural heritage; and their duty to act in the interests of the public and as places of scholarship. The return of cultural heritage is but one avenue in the ongoing work to decolonize modern societies.

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<sup>45</sup> G. Harris, *Oxford and Cambridge Universities Approve Returning 213 Looted Benin Bronzes to Nigeria*, “The Art Newspaper”, 1 August 2022, <https://www.theartnewspaper.com/2022/08/01/oxford-and-cambridge-universities-approve-returning-213-looted-benin-bronzes-to-nigeria> [accessed: 13.10.2022].

<sup>46</sup> Pitt Rivers Museum, *The Benin Bronzes*, <https://www.prm.ox.ac.uk/benin-bronzes> [accessed: 13.10.2022].

<sup>47</sup> Horniman Museum & Gardens, *Horniman to Return Ownership of Benin Bronzes to Nigeria*, 7 August 2022, <https://www.horniman.ac.uk/story/horniman-to-return-ownership-of-benin-bronzes-to-nigeria/> [accessed: 13.10.2022].

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