



## **State Of the African Diaspora Parliament**

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President of Parliament  
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### **CODE ON RESTITUTION, OR RATHER RECONQUEST**

#### **LEGISLATIVE INTENT**

More than 95% of the classical heritage of Africa is out of Africa.

France detains more than 90 000 artifacts coming from Africa; 180 000 African artifacts are kept in Belgium, in the Tervuren Museum; 69 000 in the UK, in the British Museum; 37 000 in Vienna, in the Weltmuseum; 75 000 in Berlin, in the future Humboldt Forum; in the USA, more than 100 museums detain African art.

Most of these artifacts were looted during the period of Colonization, in the context of violence, crime, and massacres. They were stolen by the colonial troops and taken back as trophies. Sometimes, they were sold and scattered; sometimes, they were shown in exhibitions. They were conceived as symbols of the so-called magnificence of Colonization.

Everything has been done to take away our treasures, our goods, our cultures, and even our lives. But no one has ever succeeded in taking away our dignity. For centuries, our predecessors fought to regain their freedom, but also their heritage. It is this fight that we are continuing today. In this sense, cultural treasures are a symbol of the fight we are waging for ourselves. Whether it is our land, our subsoil, our tangible or intangible treasures, we must ensure that everything that is ours is finally returned to us.

The State of the African Diaspora has already achieved many victories and has had several laws passed in that regard in France, in Belgium, and in the European Parliament for the benefit of many countries such as Benin, DRC, and others. But all African countries must mobilize and commit themselves to this cause, because beyond culture, justice, spirituality, development, and tourism, at the end of the day, what is at stake bears a name: sovereignty.

## **Title I: Definitions and Principles**

### **Article 1: Sovereignty**

No one, no company, no State, no entity is entitled to violate the sovereignty of any other territory unless it has been attacked by the rulers of the said territory.

All property, all treasures, all human remains taken in the past in such a context of the violation of sovereignty is a crime, possibly a war crime, and a crime against humanity, depending on the circumstances.

All property, all treasures, all human remains kept today after any violation of sovereignty in the past is an act of complicity of crime, possibly of war crime or crime against humanity, depending on the circumstances, and an act of concealment.

Robbery and crime have always been against natural law in all societies; therefore, those who killed, and took properties, treasures, or human remains that did not belong to them, and those who detain such artifacts or human remains still today, did not need to be warned by any specific law at the time. What they did was already illegal when they did it, and they knew it. Moreover, any law voted anywhere to protect or justify the benefit of crime and robbery is null and void and is another crime.

Whoever detains artifacts or human remains that were taken from a country during a period of Colonization cannot be regarded as a legitimate owner, whatever his documents, and therefore, must retribute.

Whoever detains artifacts or human remains that were taken from a country after Colonization but has no document about how these so-called properties were acquired, must retribute.

### **Article 2: Restitution and Reconquest**

Restitution is the process by which someone gives back something to his original owner; reversely, reconquest is the process by which the original owner fights back to get the property that used to be his property.

The colonial treasures were taken away by the colonists during the wars of conquest; therefore, when the formerly colonized countries fight to recover their heritage, it is objectively a "reconquest".

While the concept of restitution remains in the perspective of the former colonialist peoples, who sometimes give the impression they are making a kind of favor, the concept of reconquest is more in line with the vision of the anticolonial peoples, who are fighting to get back their properties.

### **Article 3: Restitution and Return**

Restitution is a legal concept designating the process by which a title of the property is transferred from person A to person B, who was the original owner.

Return is a geographical concept designating the process by which an artifact is transferred from point A to point B, where it used to be originally.

There can be return without restitution and restitution without return. When African countries are not ready for « return », they are still ready for restitution. While return can be postponed, when the countries are not ready, restitution can and should be signed as soon as possible.

#### **Article 4: Restitution and Reparation**

Reparation is the principle of all justice. There is no justice without reparation. The most perfect form of reparation is restitution. Whenever some artifacts or human remains that were stolen are still accessible but detained illegally out of the country, therefore restitution is possible and necessary.

Restitution should not happen without the public or private entity that is guilty of paying damages to the victims. If the artifact has been destroyed or lost, the victim can demand instead another compensation.

Restitution is only a particular form of the more general issue of reparation.

#### **Article 5: Reconquest and Reappropriation**

Reconquest is the physical process by which someone struggles to get back his property; reappropriation is the psychological, moral, and even spiritual process by which someone takes full possession of his own property.

As a matter of fact, reconquest is not enough. After decades or centuries of loss, the link between the owner and its property has been broken, and therefore, needs to be repaired through a whole and complex process that includes ceremonies, education, culture, etc. Without reappropriation, reconquest will remain superficial and will lose a great part of its meaning, relevance, and power.

### **Title II: Reconquest**

#### **Article 6: Duties of the Government of SOAD**

The Government of SOAD shall make all efforts necessary to reconquest the artifacts and human remains belonging to Africa but detained illegally out of Africa.

The Government of SOAD shall encourage all the States of Africa and beyond to reconquest the artifacts and human remains belonging to them but detained illegally out of Africa.

#### **Article 7: Duties of the MPs, Ambassadors, and other citizens of SOAD**

The State Department of SOAD shall empower the Ambassadors in order to reinforce the campaign for reconquest; the Capacity Building Department of the SOAD Parliament shall empower the MPs in order to reinforce the campaign for reconquest.

Ambassadors and MPs shall read all the information provided by SOAD about restitution, that is available in the newsletters of SOAD, in the press releases, on the main website of SOAD, on [www.restitutionmuseum.com](http://www.restitutionmuseum.com), etc.

Ambassadors and MPs shall remain in contact with the members of the SOAD Government working on the topic, that is the Prime Minister, the Vice Prime Minister in charge of restitution, restoration, reparation, repatriation, and the Minister of Historical Legacy.

Ambassadors shall discuss with Governments and Royalties to mobilize them, in connection with the Government of SOAD, for the program for Reconquest.

MPs shall galvanize civil societies and media about the topic of restitution to keep up the pressure on States in Africa, but also in the Diaspora, where the artifacts and human remains are detained.

Ambassadors and MPs shall work in collaboration between themselves, and in collaboration with the Government of SOAD to organize the Reconquest.

### **Article 8: Duties of the Entities Illegally Detaining African Artifacts or Human Remains**

The public or private entities that detain artifacts and human remains that do not belong to them shall retribute them as soon as possible. They shall not wait for any request from the countries, or the victims who, most of the time, are not even aware of the details of their loss, what is lost exactly, and where it is.

The countries that detain artifacts and human remains that do not belong to them shall go through a process by which they shall retribute the artifacts or human remains to the governments or communities where they belong. They shall also provide all the technical information that is required for the conservation of the artifacts, they shall pay damages to all the victims of these crimes and acts of robbery, they shall ask for forgiveness and make a commitment to never again be involved in any similar process of colonization or recolonization. They shall also educate their own population at school and in the media about what has happened in the past, why, and how, based on experts coming from Africa and from the Diaspora.

The countries detaining artifacts and human remains that do not belong to them shall not try to find any excuse to postpone restitution. As soon as the request is made in a written document sent to the government, restitution is expected to happen in a period that shall not exceed six months. Return can take longer, but restitution cannot. Should these countries fail to respect that timeline, SOAD, and its partners are entitled to take the case to court.

### **Article 9: Mandate and Agreements**

The countries of Africa who want to re-conquest their artifacts and human remains can give a mandate to SOAD, that will operate on their behalf without any cost.

They may also take this opportunity to sign with SOAD a cooperation agreement that goes beyond the process of reconquest and will include other aspects such as education, culture, diplomacy, tourism, economy, etc.

The countries of Africa that want to sign with the western countries and entities are encouraged to do so with SOAD being a third party to this process. They may use the legal protocol provided by the experts of SOAD.

## **Article 10: Partners**

The States involved in the process, be they in the South or in the North, shall not forget to include the kingdoms and chieftaincies at every stage of the process. As a matter of fact, the kings, queens, and traditional rulers were, and still are the first victims of this process of colonization. Not including them would be a loss of legitimacy and power.

The States involved in the process, be they in the South or in the North, shall not forget to include the civil societies at every stage of the process. As a matter of fact, they are usually the ones pushing for the results. Not including them would be a loss of efficiency and power.

The Government of SOAD shall engage with multilateral partners such as Governments, kingdoms, NGOs, museums, auction houses, private owners, etc., and will seek to achieve this reconquest by any means necessary.

## **Article 11: Legal Action**

Should the entities detaining African human remains refuse to retribute or seem to delay the process beyond the 6 months indicated in article 7, SOAD and its partners may attack these institutions as being complicit of crime, a war crime, crime against humanity, or concealment of these crimes, depending on the cases, and as being mass graves, a crime that falls under UN laws.

Should the entities detaining African artifacts refuse to retribute or seem to delay the process beyond the 6 months indicated in article 7, SOAD and its partners may attack them as being complicit of crime, a war crime, crime against humanity or concealment of these crimes, depending on the cases.

The Government of SOAD shall create a team of lawyers, experts in the topic of restitution, who will work with the Pan-African Caucus of lawyers and support the Government in that regard.

## **Article 12: Naming and Shaming**

The Government of SOAD shall create an index of countries and entities, based on their attitude regarding restitution. This index will be made with experts and NGOs working on the ground.

The objective shall be to name and shame the institutions that refuse to respect fundamental rights in that regard and to promote the ones that are moving in the right direction.

The index will be published and updated every year and publicized in the media.

## **Article 13: Reparation and Preparation**

The Government of SOAD shall create a seminar to educate Kings, Queens, Traditional Rulers, Ministers, Diplomats, MPs, experts and human rights defenders about the nuances and intricacies of reconquest. All the concepts, all the strategies, all the resources will be provided to them by this mechanism, as there is no reparation without preparation.

### **Title III: Conservation and Promotion**

#### **Article 14: Return**

When restitution is signed, but the return is not yet possible, SOAD will propose different solutions to the African governments:

-the first is maintenance. People can decide to leave the cultural goods where they are, but they can negotiate a fee on the rent, so that the income accumulated over the years can finance the museum in their country until the time comes to return it, decided according to the contract.

-the second option is to place custodianship (through legal assignment) of the goods with the SOAD Assets & Heritage Royal Trust (SAHRT). The Trustees of the Trust are and will consist of Members of the SOAD Government, Presidents of Federations/Associations of Kings & Queens, Princesses, and other Royal Dignitaries, Public and Private Officials and Individuals from different countries from around the world. The Trustees of SAHRT will be intercessors to lobby, discuss, agree, and sign with any institution detaining cultural artifacts, that the artifacts are signed over to the Trust as its Legal Guardian, even though the artifacts may remain with the institution until « Return » is organized.

-the third option is placement. Cultural goods can be placed in residences or in private offices of bankers or billionaires, who like to surround themselves with prestigious works. Being placed in these very safe places, with all the proper insurance, the artifacts can bring revenues to the country, waiting for the time of return to come, according to the contract.

-the fourth option is traveling exhibitions. As a matter of fact, if a country is not yet ready for return, it can entrust all or part of its legacy to gallery owners or curators who will be charged with organizing international exhibitions. This circulation will provide funds, that will finance museums, waiting for the final return, decided according to the contract.

#### **Article 15: Reappropriation**

SOAD will encourage the African countries to create a full process of Re-appropriation. Reappropriation needs to start even before Reconquest has actually been achieved.

It will include spiritual ceremonies, educational material, cultural events so that people can understand and fully integrate the meaning, relevance, and power of this Reconquest.

African Governments shall not forget to include the Kingdoms and Chieftaincies on the one hand, and the civil societies on the other hand in the process of Reappropriation. Without them, it would simply be impossible to carry out this process.

SOAD shall encourage the central Governments of Africa to respect the diversity of regions in each country. Though the process of Reconquest is led on a national basis, reappropriation must be done often through the particular regions, peoples, or tribes, that have to be included in the process with due respect. If it is not done properly, instead of bringing pride and unity to the country, it will only bring division and resentment.

## **Article 16: Ceremonies**

The ceremonies will be fulfilled by the spiritual and traditional leaders of the country. The human remains shall be buried according to the traditions; the artifacts will be welcome with the proper rites.

## **Article 17: Conservation**

African countries can work in collaboration with the western entities that used to detain these artifacts to precisely know the conditions and requirements for safe and durable conservation.

If it is not yet in existence, they shall also create a school of historical legacy, to produce or restore the skills that are required to maintain these artifacts.

They shall be invited to work on it with the faculty of the historical legacy of SOAD.

## **Article 18: Reconstruction/Restoration**

It is generally understood that many of the artifacts that were looted and pillaged have been through different mechanisms of changing hands, through public and private exchanges through auctions, private collectors hoarding, and through direct sales – many artifacts may never be recovered, not to mention the ones that have been destroyed. Many seasoned collectors who have a thirst and appetite for African cultural art may never reveal that they have such stolen goods and even less, be prepared to return them.

In this context, with the Vice Prime Minister in charge of Restitution, Reparation, Repatriation and Restoration, and the Minister of Historical Legacy, the Faculty of Historical Legacy will work with the Kingdoms and/or the Governments of African countries to identify the local Artisans to reconstruct those artifacts that have been destroyed or maybe very difficult to recover. The Faculty will identify through research and support from those institutions where the art has been sold to provide the pictorial records of all the artifacts, they have sold in the past in order that they can be reconstructed and restored back to their point of origin.

## **Article 19: Valorization and Education**

SOAD shall encourage the African Governments to valorize their historical legacy by different means: with museums, of course, and exhibitions, but also with branding, goodies, communication, and even financial instruments, that will bring revenues to the country.

SOAD shall encourage the African Governments to educate their pupils and students about their historical legacy.

The Ambassadors and MPs will encourage the African Governments to work with the SOAD Royal Faculty of Historical Legacy, to use the « Adopt an artifact » Campaign, to use [www.restitutionmuseum.com](http://www.restitutionmuseum.com), and all the resources that may be available to educate the young generation about their legacy.

## **Article 20: Repatriation of people and artifacts**

SOAD shall encourage the African governments to promote tourism based on these artifacts.

The first target of this tourism strategy should be the African Diaspora; however, in fact, the members of the Diaspora are not tourists, but sons and daughters of Africa.

Therefore, the process of repatriation of these artifacts and human remains should not be implemented without a parallel strategy for the repatriation of the African Diaspora who is often, by the way, the first initiator of the campaigns on reconquest.

While promoting the return of the artifacts and human remains, the African countries should also promote the return of the African Diaspora.

Doing so, the African countries should organize a whole year of return and, why not, embrace the « **International Decade of the African Diaspora Great Return 2020-2030** » promoted by SOAD – which is the Return of Artifacts, Return of Diaspora, Return of Justice, Return of Power.