

Transcultural relations and colonial legacies. Restitution beyond objects,  
cultural memory and digital mediation

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Keynote Address

# Reclaiming Looted Heritage through Legal Decolonisation and the Restitution of Asante Regalia to Ghana

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## **Salutation**

Your Excellencies, distinguished scholars, traditional leaders, jurists, museum professionals, and custodians of memory, students, ladies and gentlemen! Good afternoon, to you all.

I wish to express my heartfelt gratitude to the organisers and partners of this important conference that create an opportunity for open dialogue and an avenue for rethinking restitution and heritage. I really appreciate the involvement of Exploring Visual Culture, a non-profit, cross-border transnational academic network dedicated to advancing research, dialogue and practice in art education, visual culture and creative arts pedagogy.

## Can anyone in good conscience sustain an enactment of a law to protect illegality? *His Royal Majesty, Otumfuo Osei-Tutu, II*

## **Introduction**

My speech today, touches on Asante royal artistic regalia looted by British soldiers in 1874 and 1896, that is about 150 years ago. They are not just objects. No matter how simple they may seem, they carry deep cultural, social, historical, educational, aesthetical and spiritual significance. Made of gold and silver through the *Cire Purdue* (lost wax technique), these artistic regalia are precursor to Asante identity, spirituality, and economic life, and demonstrate creative and innovative prowess and versatility of precolonial Ghanaian artists. Surprisingly, available colonialist literature refers to the creators of these artworks as craftpersons, reducing them to mere makers and producers.

Asante royal artistic regalia demonstrate authority, memory, continuity, and dignity of the Asante State. These royal artistic regalia belong to a living political and spiritual tradition, not to the colonial archive of conquest. They are part of the socio-cultural and artistic soul of Asanteman.

In January 2024, the British Museum and the V&A announced a long-term loan of Asante regalia to the Manhyia Palace Museum in Kumasi, with 15 items from the British Museum, 17 from the V&A and 7 from the Fowler Museum, California. The V&A's items all date from the third Anglo-Asante War of 1874. The V&A said the regalia would be shown in Ghana for the first time in 150 years, and that the partnership would mark anniversaries tied to the Anglo-Asante war, the return of Asantehene Prempeh I, and the Silver Jubilee of Asantehene Osei Tutu II (Patterson, 2024). The 32 artworks are not return; they were lent under stringent terms and conditions.

In this keynote, we will discuss the legal architecture of colonial plunder, and propose possible ways we might dismantle it through concerted effort of using what I call **legal decolonization**. We will examine the case of Asante royal regalia looting as mirror to global injustice in the pursuance of restitution. We will take a dive into a proposal of a mandatory *return-or-relinquish clause*, the recognition of collective cultural rights, and the integration of national heritage laws with binding UN-mandated restitution obligations.

### ***Why Loan Looted Asante Royal artistic regalia?***

A central question that begs for answers is why looted Asante royal regalia are given back as loan instead of unconditional restitution. Honestly, loan is not the same thing as restitution. A loan grants temporary access while ownership remains elsewhere. It can be considered useful, even gratuitous, but it can also become a moral substitute for a legal solution.

The British Museum acknowledges that the Asantehene's request for the return of regalia was made in January 2, 1974 (British Museum, 2024), and that the Museum's Trustees replied that it would be **legally impossible** to return any objects. Alternatively, the British Museum resorted to dialogue for a partnership with Ghanaian and Asante partners since 2018, renewing a Memorandum of Understanding with the Golden Stool of Asante in 2023 and continuing collaborative research with communities and artists. On January 25, 2024, the Museum announced a new partnership with the Manhyia Palace Museum to provide a major long-term loan of 32 Asante gold and silver royal regalia to Kumasi. This loan was timed to coincide with the Asantehene's Silver Jubilee, the 150th anniversary of the 1874 Anglo-Asante War, and the centenary of the return of Asantehene Prempeh I from exile (British Museum, 2024). This led to institutional collaboration, training, and the possibility of a loan, that could further be extended for another three years. Understanding this, require examination of British municipal laws, UN conventions and treaties.

His Royal Majesty, Otumfuo Osei Tutu II, during his lecture at the British Museum on July 19, 2024 had this to say about their engagement and agreement with the British authorities for the return of the cultural objects (Fineline Pictures, 2024):

*When we seriously engaged with the two museums [British Museum and Victoria and Albert Museum], I set for my team a target to make sure my people will see their stolen ornaments back in Kumasi for the Silver Jubilee of our reign. I'm proud we achieved this and a number of our prized ornaments are now resting within the palace where they were forcibly extracted. Even so, we do not and cannot pretend that the agreements have offered a solution to restitution. What it does is to acknowledge the impediments in the path not in order to submit to it but to find avenues for fruitful engagement while continue to seek the appropriate rational resolution.*

The expressions of the Asantehene, *'my people will see their stolen ornaments back in Kumasi'* and *'ornaments are now resting within the palace where they were forcibly extracted'* are quite significant. The word *'stolen'* in legal terms matters. Under common law and international cultural heritage laws, the passage of time or the fact that the pieces are now in a museum does not make a theft legal. *'A forcible extraction,'* is how the Asantehene accurately describes the British extraction, stressing that the original title never legally went to the museums. But the legal deception at work is exposed by the fact that the items are on loan, *'resting within the palace'* not as a permanent return. A loan agreement usually assumes that the lender has good title. While taking a loan does not give ownership to the Asantehene's team, the legal framework of a loan works against permanent return since it confirms the museums' holding as bailment rather than as a transfer of title. The expression *'my people will see'* foregrounds the psychological and cultural win of access and visibility, but from a narrow property legal standpoint, to see is not to possess. The ornaments are physically in Kumasi but legally they are still in London. It is a partial yet reasonable solution.

It is a masterly acknowledgement of legal reality that the Asantehene admits that *'we do not and cannot pretend that the agreements have offered a solution to restitution.'* I acknowledge that the main obstacles are not only factual, but legal, especially the British Museum Act 1963 and the National Heritage Act 1983, which are quite restrictive when it comes to deaccessioning. The Asantehene describes them as *'impediments'* which means he does not see them as permanent restrictions. Instead, he presents the loan as a strategic conduit for productive collaboration. This is a typical legal move, employing a restricted and non-prejudicial arrangement (a loan that leaves ownership nominally untouched) to establish a new factual reality. Once the items are physically returned to Kumasi, if only temporarily, the moral and political impetus for permanent restitution is increased. He is looking for the *'appropriate rational resolution,'* which is complete legal return. This is not a settlement but a stepping stone to one. It maintains the Asante's right to claim

possession, but avoids the instant legal obstacle. But there is a danger that certain courts or future arbitrators may see acceptance of the loan as an implied acknowledgement of ownership by the museums. The Asantehene avoids this trap by saying outright that the loan does not attempt to address restitution. He is using possession without prejudice, a clever but weakly constructed legal bridge.

### **What British Municipal laws and UN Conventions say**

This is the **core of the problem**. Colonial looting and taking is transformed into administrative partnership, but the legal title of the artworks remains untouched. Access is offered, while ownership is protected. It is legal trite that mere possession does not transfer legal title of ownership. That is why we must speak not only about restitution, but about legal decolonisation.

The legal obstacle is not hidden. **Section 5 of the British Museum Act 1963** provides that:

(1) The Trustees of the British Museum may sell, exchange, give away or otherwise dispose of any object vested in them and comprised in their collections if—

(a) the object is a duplicate of another such object, or

(b) the object appears to the Trustees to have been made not earlier than the year 1850, and substantially consists of printed matter of which a copy made by photography or a process akin to photography is held by the Trustees, or

(c) in the opinion of the Trustees the object is unfit to be retained in the collections of the Museum and can be disposed of without detriment to the interests of students:

Provided that where an object has become vested in the Trustees by virtue of a gift or bequest the powers conferred by this subsection shall not be exercisable as respects that object in a manner inconsistent with any condition attached to the gift or bequest.

(2) The Trustees may destroy or otherwise dispose of any object vested in them and comprised in their collections if satisfied that it has become useless for the purposes of the Museum by reason of damage, physical deterioration, or infestation by destructive organisms.

(3) Money accruing to the Trustees by virtue of an exercise of the powers conferred by this section [F1 or section 6 of the Museums and Galleries Act 1992] shall be laid out by them in the purchase of objects to be added to the collections of the Museum.

It implies that this section of the *British Museum Act 1963* allows disposal only in narrow circumstances, such as duplicates, certain printed matter, objects unfit for retention, or objects that have become useless through damage or deterioration. In other words, the law frowns on deaccessioning or disposing of its holdings except in the narrowest of circumstance. Section 14 of The *National Heritage Act 1983*, which deals with 'Acquisition and disposal of objects,' only allows removal in very narrow circumstances, and that there is no power under that Act to return items simply because they were acquired through imperial conflict. **These legal provisions protect imperial possession more strongly than restorative justice. That is not neutral. It is a legal continuation of colonial power.** In effects the given laws reinforce colonial possession and ownership of looted African cultural heritage.

International law gives us a different language, and a more just one. The UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property requires States Parties to prevent museums from acquiring illegally exported cultural property, to prohibit import of stolen cultural property in specified circumstances, and, at the request of the State of origin, to take appropriate steps to recover and return such property. This is enshrined in Article 7 of the 1970 UNESCO Convention. It states that:

The States Parties to this Convention undertake:

(a) To take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of this Convention, in the States concerned. Whenever possible, to inform a State of origin Party to this Convention of an offer of such cultural property illegally removed from that State after the entry into force of this Convention in both States;

(b) (i) to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution;

(ii) at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices. The requesting Party shall furnish, at its expense, the documentation and other

evidence necessary to establish its claim for recovery and return. The Parties shall impose no customs duties or other charges upon cultural property returned pursuant to this Article. All expenses incident to the return and delivery of the cultural property shall be borne by the requesting Party.

The provisions in **Article 7** create the core obligations to prevent illicit acquisitions by museums, block the import of stolen cultural property, and facilitate the return of such property to its country of origin. **Article 13** also asks States to facilitate the earliest possible restitution of illicitly exported cultural property, and **Article 15** allows special agreements among States on the restitution of cultural property removed before the Convention entered into force. It states that: *'Nothing in this Convention shall prevent States Parties thereto from concluding special agreements among themselves or from continuing to implement agreements already concluded regarding the restitution of cultural property removed, whatever the reason, from its territory of origin, before the entry into force of this Convention for the States concerned.'*

It is a legal trite that laws do to take retroactive effect. This is the main reason why colonial-era looting is often left outside the strongest legal remedies. That notwithstanding the Intergovernmental Committee for the Promotion of the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation (ICPRCP) was established in 1978 by UNESCO. The Committee is explicitly responsible for the return or restitution of cultural property that has been lost or stolen, with a particular emphasis on cases that occurred prior to 1970. But the effectiveness of this is in question. For instance, the British Museum and the Getty Museum in Los Angeles have designated 1970 as the year from which the provenance of objects must be questioned, aligning with the date of the convention (UNESCO, 2000). This rule increases the difficulty of circulating items that have been trafficked prior to the coming into force of this Convention.

That limitation is real, but it is not an excuse for inaction. It means that restitution must be pursued through a combination of treaty interpretation, special agreements, domestic legal reform, and political will. Available literature supports that view. Lixinski (2020), for example, argues that law can contribute to reparative heritage practice only when it operates on the terms of the formerly colonized community and for its benefit, rather than reinforcing colonial possession under the language of neutrality. Likewise, some scholars also argue for a decolonial archival praxis that goes beyond access and toward community stewardship, shared authority, and structural change (Ghaddar, 2019). Boehme (2025), interestingly, observes that implementation of colonial heritage restitution is partial and uneven, shaped by domestic law, museum policy, and the extent of political support. In the context of Ghana, Dzidzienyo (2020) points to the need for stronger museums, more investment in heritage institutions, and deeper public awareness if restitution and reparation is to be meaningful and sustainable.

## Legal Decolonisation

That leads me to the central claim of this keynote speech. Legal decolonisation means changing the rules that make colonial custody permanent and restitution optional. It means replacing the logic of 'borrow forever' with the logic of 'return or relinquish.' It aims at not shielding egregious historical thefts from legal accountability.

Interestingly, former colonial powers have argued that colonialism was not illegal according to the standards of the time, despite the morally abhorrent looting of the cultural heritage of colonised nations. Consequently, crimes against the cultural heritage of colonised nations have been particularly neglected. Sullo (2025) contends that transitional justice should adopt a decolonised approach to Eurocentric international law and consider alternative legal frameworks, such as interpolity law and the legal resistance of the colonised nations, in order to address colonial injustices.

For the Asante royal regalia, the colonial government sanctioned the transfer of the artworks through military force. The V&A subsequently acquired the regalia at auction in 1874, thereby ratifying their acquisition. How is it possible for objects that were plundered by British troops during the raid on the Asante Kingdom and the devastation of the royal residence to have a valid legal title? The plunder was deemed legitimate solely because it was purchased. At this juncture, it is evident that the British Museum Act of 1963 and the National Heritage Act of 1983 were subsequently implemented to provide legitimacy to such plunder.

Asantehene Otumfuo Osei Tutu, appeals to the conscience of all involved in ensuring the fruitful restitution. He commented:

From both sides, we need with sincerity to appeal to our conscience. Nobody disputes the fact that much of the cultural objects at issue were obtained in illegal unethical circumstances. Can anyone in good conscience sustain an enactment of a law to protect illegality? That has to be monumental challenge to jurisprudence, and I dare say, a challenge to what I unshakeably believe to the British justice.

In my view, the Asantehene's assertion is legally persuasive and morally unassailable. His argument addresses a fundamental principle of any mature legal system: no legislation should be allowed to safeguard the profits of illegal activities. When he asks if anybody with a conscience can uphold legislation that protects items acquired by ways known to be illegal and immoral, he is not presenting a sentimental case but a precise jurisprudential question. Most common legal systems, including British justice, accept the defence of illegality and the idea that one cannot benefit from one's own crime, but ironically, many national museums and statutes of limitation effectively do just that when it comes to colonial-era takings. It is this: how can a legal system that prides itself on fairness and the rule of law consistently uphold a title that flows from

acknowledged illegality when the original owners and their heirs have never consented to such a title and have, in fact, continued to demand its return? The Asantehene's 'monumental challenge to jurisprudence' is this. His appeal to 'British justice' is especially acute since it strikes at the self-image of the British legal system, where fairness, good conscience and the refusal of unjust enrichment are seen as basic. This is not, then, a radical assertion but a serious, lawyerly reminder that legitimacy in law cannot forever be sustained by an original act of illegality, however long a time has passed.

### **Proposed Framework for Legal Decolonisation**

Based on the foregoing it is proposed that:

The legislation governing museums ought to be amended in order to incorporate a language that allows for the return-or-relinquishment of artefacts that were obtained by colonial violence, coercion, or obvious injustice. It is not appropriate for legal title to be guarded by procedural complexities indefinitely in situations when provenance is indisputable.

In addition to recognising institutional property rights, laws pertaining to national heritage should also acknowledge collective cultural rights. The legal system needs to recognise that some things are not just possessed; rather, they are held in trust for the benefit of peoples whose sovereignty was damaged as a result of colonialist invasion.

Similar to the situation at the British Museum and the Victoria and Albert Museum, restitution should not be limited to symbolic circulation. The only time that loans, exhibits, and training are helpful is when they lead to a legitimate path toward the transfer of ownership or an agreed-upon legal settlement that puts a stop to permanent colonial control.

It is imperative that capacity building and restitution go hand in hand. It should not be expected of source communities to shoulder the liabilities of return while once imperial institutions continue to enjoy all the benefits of ownership. An example of restitution without repair would be that. Asantehene again, declared the position of Asanteman on restitution and invited all and stakeholders towards reaching amicable solutions (Finelines Pictures, 2024):

It remains our inalterable position that articles of cultural importance looted or procured in an unethical circumstance through the colonial enterprise must be restored to their origins. This is the position of UNESCO and position clearly endorsed by the government of France...

My sincere hope is that in fullness of time, sooner than later, State authorities will take steps to review laws contrived to protect illegalities and permit all concerned to apply themselves to the rational resolution of the challenge of restitution. I stand

ready in the spirit of international harmony to invite the world to Kumasi for a global conference to seek universal consensus on the peaceful and rational restitution of illegally procured cultural objects.

His Royal Majesty Asantehene Osei Tutu's declaration is both legally solid and strategically convincing. He correctly grounds his case on accepted international standards, UNESCO's 1970 Convention and a recent legislative change in France under the Sarr-Savoy report, strengthening his claim that restitution is not charity, but a legal and moral duty. His call for states to "review laws contrived to protect illegalities" satirically underscores a core issue: that many Western museums are protected by national laws (for example, the UK's National Heritage Act 1983) that effectively immunise colonial-era acquisitions from challenge, creating a closed legal loop that privileges possession over provenance. The platform's shift from aggressive litigation to consensus-building often produces more enduring outcomes and represents a significant diplomatic manoeuvre. A global scholarly conference in Kumasi is beneficial. However, the legal realist will have to observe that such a conference risk generating merely non-binding pronouncements without binding enforcement mechanisms, or without a willingness of large holding states (such as the UK or Germany) to apply ethical norms retrospectively. The Asantehene's "unalterable position" is ethically infeasible and increasingly consistent with emerging soft law, but the harsh legal fact is that voluntary restitution is a function of political will, which his invitation cannot ensure.

The Asante case provides us with an opportunity to improve ourselves. As a result, this presents an opportunity to transform a gesture into justice, a loan into legislation, and a partnership into reciprocity. Both the British Museum and the Victoria and Albert Museum have previously recognised the enormous cultural value of these regalia, as well as the historical violence that brought them out of Kumasi (Patterson, 2024; British Museum, 2024). All that is left to do is bring the law into alignment with that acknowledgement.

If the law can safeguard an artefact in a museum for perpetually, then the law can also be altered to return that object to the people who own it for perpetuity. It is possible to decolonise the legal system in order to reopen justice if the law can freeze colonial possession. If heritage is something that belongs to mankind, then humanity must no longer tolerate a system in which certain peoples are made to appreciate what was stolen from them, while other peoples are urged to be thankful for the opportunity to access their own inheritance.

## **Conclusions**

Finally, the Asante regalia urges us to face an uncomfortable but important truth: that which was stolen by violence cannot be normalised by time, and that which was grabbed through violence

cannot be redeemed morally by way of a loan. The British Museum and the V&A itself have recognised the historical value of these artefacts, and the current arrangement is a long-term loan, not a transfer of ownership.

The difference is important since restitution is not a ceremonial act. Restitution is about the restoration of rights and dignity, as well as historical justice. If the law can be used to defend possession over generations, then the law can be changed to restore ownership across generations.

That is why legal decolonisation must now shift from concepts to practices. It demands a clear return-or-relinquish framework, the acknowledgement of collective cultural rights and the harmonisation of national museum laws with the restitutionary spirit of the UNESCO Convention. As stated in the 1970 UNESCO Convention, States must aid the restoration of cultural property that has been illicitly exported as soon as feasible, and exceptional arrangements for the return of cultural property taken before the Convention went into effect are allowed.

Also, scholarly work suggests that colonial legacy restoration is only partly executed and domestic legislation and political will remain crucial, indicating that without comprehensive legal reforms and a strong commitment from governments, the full restoration of cultural heritage may not be achieved. Thus, a decolonial strategy has to go beyond access, beyond partnership, beyond symbolic circulation, toward healing and structural transformation.

So, the Asante case is not only about Kumasi, or Ghana, or a single royal court. The question is whether international heritage law will continue to safeguard the afterlife of empire or if it will finally work for the rehabilitation of historical injustices. The solution is not in the temporary placing of items but in the permanent restoration of power.

And let us be clear: access, visibility, and partnership are insufficient when the title is still grounded in colonial expropriation. The future of restitution must be one where legislation stops sanctifying criminality and becomes an instrument of justice.

The Asante regalia must not be left lying in Kumasi in borrowed circumstances. The Asante regalia should be in Kumasi under legal and recognised circumstances. This case represents the path to justice, the essence of decolonisation, and the current challenge confronting the global community. That is the route of justice, the meaning of decolonisation and the challenge presently facing the world community.

Thank you.

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