

Loot, intransigence, and the darkening of a colonial blot

The recent news that the Netherlands will return 484 valuable artefacts it looted from Indonesia and Sri Lanka during the colonial period – it includes the fabled “Lombok treasure” of precious stones, gold and silver jewellery to Indonesia and the exquisitely-decorated bronze-and-gilt cannon of Kandy to Sri Lanka – once again puts the focus on an issue that will not go away. Should colonial countries continue to hold on to cultural artefacts and precious objects that were stolen during the period of imperial domination, or acknowledge their misappropriation and return them to their original homelands?

The British have stubbornly refused for decades to return the so-called Elgin Marbles, a collection of classical Greek marble sculptures purloined by Lord Elgin from the Parthenon temple in Athens, or the Rosetta Stone taken from Egypt in 1802. But they had shown more generosity in repatriating some of the Benin Bronzes (looted by British forces in 1897) to Nigeria. Yet, when it comes to their extensive treasure trove of Indian artefacts, from the Kohinoor diamond to the sculptures from the Amaravati stupa, they dig in their heels, fearful of starting a haemorrhage that, in the words of former Prime Minister David Cameron, would soon leave the British Museum empty.

We cannot blame the British for everything that is wrong in our country today; nor should we see the return of such looted items as a panacea to cure all the ills and wrongs of colonialism. One can even accept that there is a statute of limitations on colonial wrongdoings, but there is none on human memory, especially living memory, for as I have pointed out in my book, *An Era of Darkness*, there are still millions of Indians alive today who remember the iniquities of the British Empire in India. History belongs in the past; but understanding it, and doing whatever we can about it, is the duty of the present.

A trauma that lingers

Equally, we must understand that the return of stolen property is not a substitute for the trauma and the horrors caused by colonialism, because the agony suffered can never truly be removed through such belated restitution. The same holds for financial reparations, since the value of the human lives lost because of colonial indifference or brutality can never be accurately computed. The return of cultural artefacts is rather a moral obligation which the West owes to its colonies, just as reparations can be morally justified as the



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Retrospective justice for colonialism is not answered by financial reparations and the return of artefacts alone, as there needs to be moral atonement too

wealth and the economic success of these former colonial powers were built on the broken backs of their colonies. The return of cultural items offers a semblance of justice as well as expiates a legal and moral obligation which cannot and should not be ignored.

The return of some of the treasures looted from India in the course of colonialism is also a much easier solution than financial reparations would be. The money exacted by the British from India in taxes and exploitation has already been spent, and cannot realistically be reclaimed. But individual pieces of statuary sitting in British museums could be, if for nothing else than their symbolic value. After all, if looted Nazi-era art can be (and now is being) returned to their rightful owners in various western countries, why is the principle any different for looted colonial treasures?

Flaunting the Kohinoor on the Queen Mother’s crown in the Tower of London is a powerful reminder of the injustices perpetrated by the former imperial power. Until it is returned – at least as a symbolic gesture of expiation – it will remain evidence of the loot, plunder and misappropriation that colonialism was really all about. Perhaps that is the best argument for leaving the Kohinoor where it emphatically does not belong – in British hands.

Need for true atonement

Of course, the process should not end with a few pieces of statuary or jewellery alone. I have argued for some time that the question of retrospective justice for colonialism is not answered by financial reparations alone, but by moral atonement.

This, in my view, should take three forms aside from the (still improbable) return of looted colonial-era artefacts: teaching unvarnished British colonial history in schools in the United Kingdom, setting up with British tax money a museum to the horrors and iniquities of colonialism in the Imperial capital. And, above all, expressing an apology to the victims of colonialism.

When Willy Brandt was Chancellor of Germany, he sank to his knees at the Warsaw Ghetto in 1970 to apologise to Polish Jews for the Holocaust. There were hardly any Jews left in Poland, and Brandt, who as a Socialist was persecuted by the Nazis, was completely innocent of the crimes for which he was apologising. But in doing so – with his historic ‘Kniefall von Warschau’ (Warsaw Genuflection),

he was recognising the moral responsibility of the German people, whom he led as Chancellor. That is precisely why, when I released my book, *Inglorious Empire*, in the United Kingdom, I called for atonement, rather than financial or other compensation for India.

What Britain could do

While no British government of 2023 bears a shred of the responsibility for the horrors of colonialism, as a symbol of the nation that once allowed it to happen, the British government could atone for the past sins of the nation. That is also what Canada’s Prime Minister Justin Trudeau did in 2016 when he apologised on behalf of Canada for the actions of his country’s authorities a century earlier in denying permission for the Indian immigrants on the *Komagata Maru* to land in Vancouver, thereby sending most of them to their deaths. Mr. Trudeau’s Willy Brandt moment needs to find its British echo.

It is unlikely to happen. Britain continues to persist in its intransigence. The U.K. is still well behind the Dutch on the issue of the restitution of colonial artefacts. It shelters behind de-accessioning laws that prevent anything currently in a British Museum from being returned to the place it was looted from. Since pretty much every museum in London is a *chor bazaar*, the British do stand to lose a lot, from the Elgin Marbles in the British Museum to the mechanical tiger devouring a British redcoat (commissioned by Tipu Sultan) in the Victoria & Albert Museum. It is safer to say no to everything than to return one item and unwittingly prise open the floodgates.

But while they say no, they are not prepared to say sorry. An apology – an act of genuine contrition at, ideally, Jallianwala Bagh, like Mr. Trudeau’s over *Komagata Maru* – might work best as a significant gesture of atonement. And building a Museum of Colonialism would show a determination, in the metropolitan country, to learn the lessons of Empire – to teach British schoolchildren what sources of loot, pillage and profit built their homeland, just as German children are shepherded to concentration camps to see the awful reality of what their forefathers did.

If all this is done, then true atonement – of the purely moral kind, involving a serious consideration of historical responsibility rather than mere admission of guilt or payment of money – might be achieved. Is that really too much to hope for?

Quiet diplomacy could ease South China Sea tensions

The Foreign Ministers of India and the Philippines met at the fifth meeting of the Philippines-India Joint Commission on Bilateral Cooperation, in New Delhi, on June 29. Building on the shared interests of the two maritime Asian republics and nearly 75 years of diplomatic history, the External Affairs Minister of India, S. Jaishankar, and the Secretary for Foreign Affairs of the Philippines, Enrique Manalo, outlined the path for a strengthened bilateral partnership between Manila and Delhi in the 21st century.

The South China Sea issue

The decision to open the resident defence attaché office in Manila; boosting cooperation between the Coast Guards of the two countries; acquisition of naval assets by Manila under a concessional line of credit from Delhi; expansion of training and joint exercises on maritime security and disaster responses, and commencing a maritime dialogue are some examples of the evolving strength of this nautical partnership. However, the most notable development was the agreement on regional and multilateral issues, particularly on maritime highways such as the South China Sea. While India reiterated its consistent position on adhering to international law, including the United Nations Convention on the Law of the Sea (UNCLOS), its unambiguous call to respect the 2016 Arbitral Award on the South China Sea is a departure from India's earlier position. From "noted" to "adherence to the 2016 Arbitral Award" is a candid recognition of its legitimacy.

The Philippines had submitted a case of arbitration to the Permanent Court of Arbitration (PCA) in order to settle disputes with China. Despite China's formal withdrawal from the arbitration on February 19, 2013, the proceedings continued as scheduled under UNCLOS guidelines. The UNCLOS' Annex VII stipulates: "The absence of a party or the failure of a party



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to present its case shall not be a bar to the proceedings." The PCA finally released the Award on July 12, 2016. The arbitration took into account maritime rights, the status of particular marine features, historical rights, and the legitimacy of particular Chinese actions in the South China Sea, that Manila claimed to be illegal. The tribunal's decision is "final and binding" in accordance with UNCLOS Article 296 and Article 11 of Annex VII.

The PCA denied China's assertion that it had historical rights in the South China Sea, and the unanimous decision was unexpectedly in the Philippines' favour. It further stated that any prior claims to resources situated inside the "nine-dash line" were unfounded. The tribunal determined that development and land reclamation had fundamentally changed the reefs in contravention of UNCLOS commitments. China has "inflicted irreparable harm to the maritime environment" in addition to "destroying evidence of the natural condition of features in the SCS [South China Sea]".

The Tribunal also found that "China has violated the sovereign rights of the Philippines in its Exclusive Economic Zone (EEZ) by (a) interfering with Philippines' fishing and petroleum exploration, (b) constructing artificial islands, and (c) failing to stop Chinese fishermen from fishing in the zone". It added that China had reduced the traditional fishing rights of Filipino fishermen and that by physically obstructing Philippine vessels, Beijing had raised the "serious risk of collision" at sea. Finally, it determined that China had no legal basis for asserting historic rights to resources located within the sea areas under the Tribunal's jurisdiction.

It is essential to remember that the Tribunal "did not rule that it was unlawful in principle for China to undertake construction activities on the disputed islands that it occupies", and that "there is nothing in the decision which would make it unlawful for China to construct military installations on the islands it occupies, with the

exception of Mischief Reef". But the Tribunal emphasised that the dispute is driven by their fundamentally different interpretations of separate rights under UNCLOS in the South China Sea. What should be done in response to a China that is assertive and disobeying international law?

A case for dialogue

The South China Sea is a crucial maritime gateway and junction for shipping between the Pacific and Indian Oceans. Any confrontation in the South China Sea, one of the world's most vital oceans in terms of geopolitics, economy, and strategy, will be a danger to regional and global security. As free and stable marine commons are crucial to global trade and economy, India and many other nations have an interest in safeguarding the water lanes that pass through the region.

Despite the fact that the PCA declared its decision, the reality on the ground has not altered, making it practically impossible to carry out the decision. By reiterating the need for a peaceful conflict resolution that fully respects legal and diplomatic channels and abides by the ruling, India has sent a strong message that the region wants peace and respect for international law.

There is a realisation that the South China Sea problem requires a political framework, which can only be created through dialogue. Leaders of the Association of Southeast Asian Nations (ASEAN) should try to find a political solution through "quiet diplomacy", as the potential for resolving this issue through legal methods is very low. The creation of a "political framework" and progress towards a legally binding "code of conduct" falls more on the shoulders of ASEAN's leaders. If the ASEAN nations want to convey a crucial political message to China, greater understanding is needed among themselves.

The views expressed are personal