



**THE HON. MR. JUSTICE ISAAC LENAOLA,
JUDGE OF THE SUPREME COURT OF KENYA**

**VICE PRESIDENT, SPECIAL RESIDUAL COURT FOR
SIERRA LEONE**

**PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF
REFUGEE AND MIGRATION JUDGES (IARMJ)**

**THEME: AMPLIFYING VOICES AND BUILDING
ALLIANCES FOR
REPARATORY JUSTICE AND HEALING**

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1.0. Introduction

The African Union's theme for 2025 as "*Justice for Africans and people of African descent through reparations*" underlines a historic commitment to pursuing the reparations owed to Africans both on the continent and in the diaspora, acknowledging the profound harm caused by the transatlantic slave trade, slavery, colonialism, and neo-colonialism. Africa witnessed various massacres during the colonial period. The same includes, amongst others, the Congo Massacres during King Leopold's Rule (1885-1908); the Herero genocide in Namibia, (Between 1904 and 1915), more than 80,000 Herero were massacred with great cruelty by troops led by General Lothar von Trotha; the massacre in Sotik (1800) of the Talai Clan by the British colonial government; *Mau Mau* uprising, the

battle and massacre at Shar-al- Shatt on 23rd October 1911 that saw the death of about 4000 people and the *Maji Maji* Rebellion (1905-1907).¹ The claim for lost artifacts is also a struggle that often needs to be rekindled. African artefacts are currently contained in western museums, institutions and private collections. The most notable are the Goddess Statute of Ngonso, Zimbabwe Birds, Maqdala treasures, the Nadji and Bangwa Queen amongst others.²

There is enough evidence that has been provided to prove beyond any reasonable doubt that slavery and colonialism were *ipso facto* serious human rights violations against people of African descent, which to date remain unaddressed. Yet, every human being whose rights have been violated has a right to reparations under international human rights law. Other groups of people who suffered similar violations have received reparations. For example, in 1952, the Federal Republic of Germany reached an agreement with Israel for the payment of \$222 million, following a claim by Jews who had fled from Nazi-controlled countries. In 1990, Austria made payments estimated to be \$25 million to survivors of the Jewish Holocaust. In 1988, the United States passed a law which enabled the government to make restitution (estimated to be \$1.2 billion) to Japanese Americans for the losses suffered as result of their internment and ill treatment at the hands of United States of America authorities during World War II. These cases are evidence of the upholding and enforcement of the right to reparations as relief for the human rights violations suffered by these groups.³

Pursuing an African Agenda for Reparations calls for supporting longstanding African demands for repair. Addressing these demands is not just a moral imperative; it is a critical step towards tackling the multiple crises faced by contemporary African societies. Furthermore, pursuing an African agenda for reparations requires the adoption of a holistic scope, in the sense that these efforts cannot be limited to redressing violence against individuals and groups, but must also consider injustices against institutions and states, as well as cultural and environmental ecosystems. Reparation should not only apply to past injustices rather, they should also address injustices in the present day that are preventing the construction of a better future for the continent.⁴

This paper therefore delves into the alternatives Africans and people of African descent have in their claim for reparations. The existing legal

¹ Massacres committed in Africa during colonial times

<https://www.oikoumene.org/resources/documents/massacres-committed-in-africa-during-colonial-times>

² Africa's Lost Souls: The Top 7 African Looted Artefacts <https://themoveee.com/africas-lost-souls-the-top-7-african-looted-artefacts/>

³ Dr. Musa Kika 'Data on Governance Alliance Police Brief No. 15 *The pursuit for legal claims on Reparations for Slavery and colonialism in Africa under international human rights law*

⁴ Pursuing an African Agenda for Reparations for Colonial Crimes and Slavery file:///C:/Users/Admin/Downloads/Reparations-for-Europe-s-Colonial-Crimes-in-Africa-and-Slavery_A-Critical-Step-in-Tackling-Africa-s-Contemporary-Challenges.pdf

frameworks, the obstacles to reparation and case studies of instances where Africa has been able to succeed in their claim for reparations are also discussed.

2.0. The role of the African Union (AU), UN conventions, and international law in shaping reparation claims.

Slavery and slave trade are prohibited under international human rights law and enslavement has been recognized among the acts constituting, under specific circumstances, a crime against humanity.⁵ The preamble of the International Convention on the Elimination of All Forms of Racial Discrimination and several international declarations have also condemned colonialism and related practices of segregation and discrimination. The right to reparation is recognized as an element of the right to effective remedies and is protected under international law.⁶ The *United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* sets out the international legal framework on reparations. Under the Principles, States are under legal obligation to provide reparations for gross violations attributable to them, as are persons found liable for relevant war-time violations. In addition, States are also obligated to endeavour to provide repair and redress for victims in circumstances where those directly responsible are unwilling or unable to meet their obligations through measures such as establishment of reparations programmes.

The principles recognize various forms of reparations including;

- a. *restitution* which entails restoration of victims' rights, property, and citizenship status;
- b. *rehabilitation* through psychological and physical support;
- c. *compensation*; satisfaction through acknowledgement of guilt, apology, burial of victims, and construction of memorial sites among other measures; and
- d. *guarantee of non-repetition* through reformation of laws and civil and political structures that led to or fueled violence.⁷

In April 1993, the first *Pan-African Conference on Reparations* was held in Abuja, Nigeria, which urged the international community to recognize the unique and unprecedented '*moral*' debt owed to the African peoples as a result of slavery and colonialism.

In September 2001, the United Nations (UN) adopted the *Durban Declaration and Programme of Action*⁸ as the UN's blueprint to combat racism, racial discrimination, xenophobia and related intolerance globally. In this Declaration is a commitment to redress the injustices which arose from slave trade and colonialism. In December of 2013, the United

⁵ International Covenant on Civil and Political Rights, art. 8, Universal Declaration of Human Rights, art. 4, and Rome Statute of the International Criminal Court.

⁶ Including article 8 of the UDHR, article 2(3) (a) of the ICCPR and article 6 of the CER

⁷ See Also Kariuki Muigua '*Promoting Justice for People of African Descent through Reparations*

⁸ https://www.ohchr.org/sites/default/files/Documents/Publications/Durban_text_en.pdf

Nations General Assembly, through Resolution 68/237 proclaimed the International Decade for People of African Descent, commencing on 1 January 2015 and ending on 31 December 2024, with the theme “*People of African descent: recognition, justice and development.*”

Under the programme of activities of the International Decade for People of African Descent, all States concerned were called upon to take appropriate and effective measures to halt and reverse the lasting consequences of, inter alia, slavery, the slave trade, the transatlantic slave trade, colonialism, apartheid, genocide and past tragedies, bearing in mind their moral obligations. The international community and its members were invited to honour the memory of the victims of these tragedies as a means of reconciliation and healing and called upon to contribute to restoring the dignity of the victims.⁹

In 2019, the Human Rights Council passed resolution 42/17 to examine how transitional justice measures can contribute to sustaining peace and realizing Sustainable Development Goal 16. The Resolution urges States to seek sustainable peace, justice, truth and reconciliation through comprehensive transitional justice strategies, in particular to thoroughly investigate and prosecute those responsible for such violations and crimes, in order to avoid their recurrence, and to promote reconciliation at the national level. In July 2021, the Human Rights Council adopted resolution 47/21 in July 2021, which, in its preamble, acknowledges that there is an increasing willingness and emerging practice to acknowledge the need to repair the continuing impact of enslavement, the transatlantic trade in enslaved Africans and colonialism.

The agenda of the *Durban Declaration and Programme for action* during its 20th Anniversary provided recommendations for further action to:

- (a) acknowledge that truth, justice and reparations with regard to enslavement, the transatlantic trade in enslaved Africans and colonialism and their legacies contribute to non-recurrence and reconciliation and benefit all of society;
- (b) construct a shared narrative on these past legacies and their enduring consequences;
- (c) ensure effective participation of people of African descent and their communities in these processes;
- (d) make amends for centuries of violence and discrimination; and
- (e) dismantle structures and systems rooted in these past legacies and re- envision public spaces.

It is also stressed in the agenda that reparatory justice is essential for transforming relationships of discrimination and inequity and creating societies for all based on justice, equality and solidarity.

⁹ Report of the Secretary General ‘*Implementation of the International Decade for People of African Descent*’

<https://documents.un.org/doc/undoc/gen/n23/245/15/pdf/n2324515.pdf#:~:text=The%20prese nt%20report%20is%20submitted,observed%20from%202015%20to%202024.>

The need for reparations for people of African descent is acknowledged under *the Accra Proclamation on Reparations* which was adopted during the Accra Reparations Conference (held in Ghana from 14th to 17th November 2023). The Accra Proclamation on Reparations proposes:

- a. The establishment of a committee of Experts on reparations.
- b. Establishment of the office of AU special envoy on reparations for Africans, establishment of a global reparations fund.
- c. Recognition of African civil society efforts on reparation.
- d. Enhancing global south partnership.
- e. Exploration of legal and judicial options for reparation
- f. Amplification of marginalized voices in the reparatory justice movement.
- g. Providing a united front in global financial systems and structures; and
- h. Campaigning for support of people of African descent suffering from the effects of climate change.¹⁰

In addition, the *Resolution on Africa's Reparations Agenda and the Human Rights of Africans in the Diaspora and People of African Descent Worldwide* adopted by the African Commission on Human and People's Rights recognizes the need for reparations for people of African descent. The Resolution recognizes that the human rights situation of Africans in the diaspora and people of African descent worldwide remains an urgent concern. It also acknowledges that Africans and people of African descent continue to suffer systemic racism, racial discrimination, xenophobia and related intolerance and other violations of their human rights. It notes that accountability and redress for legacies of the past including enslavement, the trade and trafficking of enslaved Africans, colonialism and racial segregation is integral to combatting systemic racism and to the advancement of the human rights of Africans and people of African descent.

The Resolution urges African countries to undertake several measures including:

- a. Promoting and protecting the human rights of African migrant workers worldwide including in the Middle East and Arabo-Persian Gulf states.
- b. protecting the human rights of migrants and ensuring the right of all citizens to receive full and authentic information about migration
- c. Taking measures to eliminate barriers to acquisition of citizenship and identity documentation by Africans in the diaspora; and
- d. Establishment of a committee within the African Union to consult, seek the truth, and conceptualize reparations from Africa's perspective.¹¹

¹⁰ Accra Proclamation on Reparations <https://au.int/en/decisions/accra-proclamation-reparations#:~:text=Exploration%20of%20legal%20and%20judicial,future%20litigatory%20action%20for%20reparations.>

¹¹ African Commission on Human and Peoples' Rights., '*Resolution on Africa's Reparations Agenda and The Human Rights of Africans in the Diaspora and People of African Descent Worldwide*' - ACHPR/Res.543 (LXXIII) 2022'

It is necessary to actualize this Resolution in order to enhance the reparations agenda for people of African descent and strengthen human rights of Africans in the diaspora and people of African descent worldwide.

3.0. International criminal and human Rights Legal Systems

In respect of claims for reparations for slavery and colonialism by African people, there are a few mechanisms which exist within the international legal system, whose mandate could be explored. These mechanisms are the International Criminal Court, the International Court of Justice and the United Nations Human Rights Bodies with specific mandate on people of African Descent.

3.1. The International Criminal Court

The International Criminal Court (ICC) was established through the Rome Statute. Of crucial significance is that the ICC may exercise jurisdiction in a situation where genocide, crimes against humanity or war crimes were committed on or after 1 July 2002 and (amongst other requirements) the crimes were committed by a State Party national, or in the territory of a State Party, or in a State that has accepted the jurisdiction of the Court. Therefore, although slavery and colonialism are crimes against humanity, the ICC has no competence to receive and determine claims for reparations for these crimes because they occurred prior to 1 July 2002.

3.2. United Nations Human Rights Bodies with specific mandate on people of African Descent

a) The Permanent Forum of People of African Descent

The Permanent Forum of People of African Descent (Permanent Forum) was established through the United Nations General Assembly Resolution 69/16 of November 2014. It was established as “a consultative mechanism for people of African descent and other relevant stakeholders [and to act] as a platform for improving the safety and quality of life and livelihoods of people of African descent, as well as [being] an advisory body to the Human Rights Council.”

As part of its mandate to ensure equal enjoyment of all human rights by people of African descent, the Permanent Forum of People of African Descent has a duty to exercise its powers to ensure that Africans are accorded the right to reparations as was done in respect of other population groups. Amongst its powers, the Permanent Forum can make recommendations to the United Nations Security Council, through the United Nations General Assembly, to establish a special mechanism with the mandate to investigate and adjudicate claims for reparations for slavery and colonialism suffered by people of African descent.¹²

b) UN Working Group on the rights of people of African descent.

The Working Group of Experts on People of African Descent (Working Group) was established in 2002 through Resolution 2002/68 (as a Special

¹² Dr. Musa Kika ‘Data on Governance Alliance Police Brief No. 15 *The pursuit for legal claims on Reparations for Slavery and colonialism in Africa under international human rights law*

Procedure) of the Commission on Human Rights. The mandate was subsequently renewed by the Commission on Human Rights and the Human Rights Council through successive resolutions, of which the latest is Resolution A/HRC/RES/45/24) which extends the mandate by three years from October 2020.⁴¹ The Working Group's mandate includes "to propose measures to ensure full and effective access to the justice system by people of African descent."

The absence of an international mechanism with jurisdiction to address, through judicial orders, the most serious human rights violations suffered by Africans-slavery and colonialism- undermines access to justice for people of African descent. Therefore, the Working Group offers an additional pathway through which recommendations can be made to the various United Nations bodies, as part of the advocacy for the establishment of a special judicial mechanism for the adjudication of claims for reparations for slavery and colonialism suffered by people of African descent.¹³

3.3. The International Court of Justice

The International Court of Justice (ICJ) was established as one of the principal organs of the United Nations. Its mandate is to adjudicate and settle disputes between Member States, in accordance with international law. The International Court of Justice has two forms of jurisdiction. First is what is characterised as the "contentious jurisdiction" which entails resolving disputes of law between Member States under international law. Decisions made by the ICJ in exercise of its contentious jurisdiction are final and binding upon the Member States. As a general rule, any State that is a party to the ICJ Statute, can bring cases before the ICJ against another State which is also party to the Statute. All the 193 Members of the United Nations are ipso facto parties to the Statute of the ICJ.

However, Member States are permitted to deposit declarations with the United Nations Secretary General, through which they prescribe conditions under which they recognize the jurisdiction of the Court. For instance, several Member States have stipulated that they only recognize the jurisdiction of the ICJ to settle legal disputes which arise from facts which arise after a certain period.

In the above context, the United Kingdom has stipulated that it accepts the jurisdiction of the International Court of Justice only over disputes arising after 1 January 1987. Similarly, the government of Spain has excluded from its recognition of the ICJ's jurisdiction all disputes arising prior to 29 October 1990 or relating to events or situations which occurred prior to that date, even if such events or situations may continue to occur or to have effects thereafter. Germany (which colonized Namibia) has deposited a declaration stipulating that it recognizes the jurisdiction of the ICJ in legal disputes whose facts arose after 30 April 2008 and other than legal disputes which "relate to, arises from or is connected with the deployment of armed forces abroad, involvement in such deployments or decisions

¹³ Supra note 12

thereon.” Portugal, which colonized Angola and Mozambique, amongst other polities in Africa) deposited its initial declaration recognizing the jurisdiction of the ICJ in December 1955. However, in February 2005, it amended this declaration to, amongst other requirements, stipulate that it recognizes the jurisdiction of the ICJ only in legal disputes whose facts arose after 26 April 1974.¹⁴

Such exceptions restrict the ICJ’s jurisdictional competence to receive and adjudicate legal disputes which may be brought by African States against countries who are party to the ICJ statute and who were responsible for slave trade and colonialism. An advisory opinion can however be sought from the ICJ on whether the absence of an international mechanism to receive and adjudicate complaints and claims for reparations, arising from slavery and colonialism, is not a contravention of article 2(3) of the ICCPR. Furthermore, article 26 of the ICCPR recognises the right of all peoples to enjoy their rights equally without any discrimination. An advisory opinion could be sought from the ICJ on whether the refusal by certain countries to pay reparations for their role in slavery and colonialism, yet they paid reparations for violations of the rights of other people does not constitute unfair discrimination.¹⁵

4.0. Case Studies

4.1. Mau Mau Movements for Reparations

In 1887, the British began their expansion into Kenya; they settled largely in the Kenyan Highlands and as a result forcefully dispossessed large group of people from their ancestral lands. The Mau Mau movement was formed and waged an armed struggle for the return of their homelands. Different operations were undertaken by the British to put down the rebellion culminating with the state of emergency in 1952. The crimes that took place against the Mau Mau have been described as “monumental, system-atic and widespread” and had official approval. These crimes would squarely be considered crimes against humanity under current international criminal law.¹⁶

A representative suit was filed seeking compensation and apology for inhumane treatment, abuse, and injuries during the “Mau Mau war”. The claims were tort claims of assault, battery and negligence. The British government was accused of abuse and failing to take adequate steps to prevent the widespread use of torture that it knew was being perpetrated in its name. The British government responded that any such claims were affected by limitation of rights. It also argued that any liabilities had been assumed by the government of Kenya at independence. The British government filed a preliminary application to strike out the case arguing that the colonial government was a separate legal entity and that the claim

¹⁴ Dr. Musa Kika ‘Data on Governance Alliance Police Brief No. 15 *The pursuit for legal claims on Reparations for Slavery and colonialism in Africa under international human rights law*

¹⁵ Supra

¹⁶ Regina Menachery Paulose and Ronald Gordon Rogo ‘*Addressing Colonial Crimes through Reparations: The Mau Mau, Herero and Nama*

<https://www.jstor.org/stable/10.13169/statecrime.7.2.0369?seq=1>

was time barred. The court found that the British Army had been deployed in Kenya during the war and that the colonial government was reporting directly back to Britain. Hence liability went straight back to London. It also held that although the major decision-makers were absent, documentary evidence and junior decision-makers who could provide evidence were available. As a result, the case was allowed to proceed despite the limitation of time challenge.¹⁷

With this second loss, the British government chose to enter into negotiations for an out-of-court settlement with the claimants over the matter. It was again suggested that an apology should be issued, and a welfare fund created as a means of collective reparations for the estimated 5,000 survivors. However, the Foreign and Commonwealth Office eventually decided it preferred to provide financial compensation and an apology but nothing more creative. The negotiations led to the agreement for payment of a nominal sum of damages and a monument for survivors. William Hague gave a historic apology at the House of Commons where he stated, “torture and ill-treatment are abhorrent violations of human dignity which we unreservedly condemn”. While the initial claim has been settled, another set of lawsuits are ongoing, keeping state crimes during the colonial era in the spotlight.¹⁸

Reparations for the Mau Mau served as a recognition of the suffering of the victims and enabled them to face their perpetrators. And while these are only the first steps in a long-delayed healing process, the case has shown that reparations for colonial crimes are possible. This is very important as colonial crimes have often been swept under the carpet by Western powers. The Mau Mau case has also opened the door for other ethnic groups, such as the Nandi, to pursue their own independent claims regarding land settlements.

4.2. Herero Movements for Reparations

The Herero and Nama people have pursued justice for crimes against humanity and genocide since 1946. In 1998, the Herero began their journey for legal recourse at the International Court of Justice. The ICJ did not hear the claim since the Herero were not a state. It is speculated that the Namibian government was not interested in this particular lawsuit because it appeared to have more of an interest in collecting aid for all of its peoples as opposed to assisting one minority group.

The Herero tribe attempted to seek redress through the US court system on various occasions. The Herero filed suit against Deutsche Bank for funding the imperial German government during the time of the genocide. The lawsuit sought “compensation to buy land from white farmers” and “a formal apology from the German government”. The timing of the first lawsuit coincided with a movement in Namibia for land reform. The Herero attempt at filing judicial lawsuits was to avoid the forceful land

¹⁷ Supra

¹⁸ Supra

grabs from White farmers that were taking place in Zimbabwe and South Africa.

In 2001, the Herero People's Reparations Corporation filed suit for a total of US\$4 billion against the German government, Deutsche Bank, Terex Corporation and Weormann Line. In 2004, after the case was moved to the Federal District Court, the Court determined that the Herero had no "statutory basis for asserting jurisdiction over Woermann Line". The Herero then pursued two different lawsuits, the first against Deutsche Bank in the Superior Court in New York and against Weormann Line in New Jersey. In 2006, the Appeals Court in New Jersey upheld the lower courts dismissal of the Herero claim for "brutally employed slave labor and [running] its own concentration camp". Interestingly, the Court stated, "[w]hile we are inclined to believe that the conduct alleged by Appellants did violate international norms at the time it occurred, a mere inclination does not support a cause of action . . .". The Court appeared fearful that this claim could open the floodgates to other similar lawsuits. In 2017, the Herero filed suit against the German government in New York, specifically seeking damages as a result of the genocide, including "reparations for the thousands of square miles of land that was seized by German colonial authorities". In addition, the plaintiffs seek to "enjoin and restrain" the German government from "continuing to exclude plaintiffs" in discussion and negotiations regarding the genocide. The German government responded that service violated the principle of state immunity. By April 2017, as a result of stalled negotiations over reparations for the "forgotten genocide", the Namibian government was considering its options in suing the German government for the Herero genocide. The German government has stated on occasion that it will fund "targeted development projects" but not pay reparations.

4.3. Return of African Artifacts

90% of Sub-Saharan Africa's objects are held outside of Africa. Hundreds of thousands of illegally acquired objects like masks, sculptures, weapons, ceremonial dresses, jewelry, and toys lay in Western institutions with little hope of being returned. Europe has the largest collection of African artifacts.¹⁹

One of the most well-known of these artifacts is the Rosetta Stone. Described as "a symbol western cultural power," The Rosetta Stone is an Egyptian stone slab from 196 B.C. that was the key to understanding ancient hieroglyphics and unlocking history that was thought to have been forever lost. After being discovered in 1799 by the French during an excavation, the Rosetta Stone was soon stolen by the British just two years later and has resided in the British Museum ever since 1802, despite repeated pleas and commands for the Stone to be returned to Egypt where it rightfully belongs.

¹⁹ Jana Sinker 'Why are African artifacts everywhere but Africa?'

<https://africasacountry.com/2024/11/why-are-african-artifacts-everywhere-but-africa>

Evidence also abounds, of the massive looting of African artifacts by Europe and America. In 1899, for instance, the famed kingdom of Benin was burnt down by the British colonialists. Artifacts worth hundreds of millions of dollars in today's currency were looted and shipped off to Europe where they continue to earn even more money in museums. Most of the artifacts in Africa today, such as the Igbo ukwu bronze pot, and the Nok culture, remain, only because they were unearthed towards the later part of the 20th century.²⁰

The continued retention of these priceless works in museums, public offices and private collections all over the Western world is a 'grave injustice to humanity and not just the people of Africa'.²¹ This is in stark contrast to the Jewish artworks and property that were stolen by the Nazis during the holocaust. In the latter case, efforts have been made to return every single traceable artwork belonging to the families of Jewish holocaust victims to their surviving families or to the Government of Israel.²²

The return of African artefacts is a means to rectify colonial injustice. Fortunately, there is a swing in the right direction as Western institutions begin returning these objects, causing pressure to accumulate for other institutions to follow suit. For instance, more than 1000 Benin Bronzes have been returned to Nigeria after being in British possession since 1897.²³ on April 20, 2024, the UK decided to return 32 gold and silver artifacts to Ghana looted over 150 years ago from the Asante King during conflicts in the 19th century. 39 artefacts were returned to Uganda in 2024 by the University of Cambridge on a three- year loan between museums while 7 related to the Asante Kingdom were permanently returned to Ghana.²⁴

The return of the artifacts however has been subjected to the British Museum Act 1963 that prohibits removing artifacts unless there is a direct issue regarding state or authenticity. The artifacts are therefore returned on loan to African museums. France has equally taken this route in its return of artifacts to Africa.

Most African countries also lack highly secured and technologically advanced museums to house the returning artifacts. Reparations must go hand-in-hand with the return of the stolen artifacts. Funds from the payments of reparations will be invested in safeguarding the artifacts and in the reconstruction of the arts sector in concerned African countries,

²⁰ Chika Esiobu 'Returning African Stolen Artifacts' <https://www.chikaforafrica.com/essays/blog-post-title-three-n4tye>

²¹ The Late Mobutu Sese Seko stated as much in the 1974 United Nations General Assembly

²² Supra note 18

²³ Supra note 19

²⁴ <https://www.cbsnews.com/news/africa-stolen-artifacts-colonial-deaccessioning-repatriation/>

cities and communities. Henceforth, demands for the return of Africa's stolen artifacts must be made with an insistence on reparations payment.²⁵ The African Union can step in to ensure the safety of these returning artifacts. A collective management of the returned artifacts will be a huge step in the right direction, as far as the idea of continental unity is concerned. African governments and the AU should proactively strategize and demand a more concerted exercise. A carefully calculated demand for monetary reparations to follow the return of these artifacts must be emphasized at the same time. As these artifacts are returned, they should be stored in a safe house, and the reparations immediately invested in commencing the construction of museums and Pan-African University of the Arts across the continent.²⁶

4.4. The Common African Position on Asset Recovery (CAPAR)

The Common African Position on Asset Recovery (CAPAR) sets out the recommended measures and actions required to effectively address the continuous loss of African assets and to effectively identify, recover and manage African assets that are in, or recovered from, foreign jurisdictions, in a manner that respects the development priorities and sovereignty of Member States.²⁷

The priorities for asset recovery in Africa are grouped into four (4) pillars, namely: (i) detection and identification of assets; (ii) recovery and return of assets; (iii) management of recovered assets; and (iv) cooperation and partnerships. The main policy recommendations under CAPAR to Member States in order to ensure the effective, efficient and expeditious recovery of African assets are as follows:

- (a) Strengthen domestic and regional systems for the detection and identification of African assets in foreign jurisdictions;
- (b) Prioritize the regulation, protection and incentivization of whistleblowers who aid the detection and identification process;
- (c) Strengthen and enhance existing bodies and institutions in the detection and identification process;
- (d) Encourage and advocate for transparency at domestic, regional and global levels to aid the effective and expeditious detection and identification of African assets;
- (e) Prioritize the recovery of African assets at a domestic, regional and global level;
- (f) Strengthen legal and financial institutions to aid the process of asset recovery;
- (g) Create and maintain an agreed African framework for management of recovered assets;

²⁵ Chika Esibou 'Returned to te Re- stolen?: Safety matters and Africa's Homecoming Artifacts' <https://panafricanreview.com/returned-to-be-re-stolen-safety-matters-and-africas-homecoming-artifacts/>

²⁶ Supra note 24

²⁷ <https://au.int/sites/default/files/documents/42297-doc-COMMON-AFRICAN-POSITION-ON-ASSEST-RECOVERY-ENGLISH-NEWLY-PROOFREAD-1.pdf>

- (h) Enhance or create institutional, legal or policy frameworks for the management of recovered assets at a domestic level;
- (i) Implement strategies to enhance transparency in the management of recovered assets;
- (j) Prioritize cooperation and partnerships in efforts towards the recovery of African assets through advocacy and engagement at a regional and global level;
- (k) Take steps to enhance coherence and cooperation between domestic, regional and global systems, frameworks and institutions.

CAPAR is a milestone in the African Union's approach to the recovery of assets stolen from the continent. The framework provides national and continental-level guidelines for identifying, reclaiming, and managing recovered assets in a manner that upholds African sovereignty. CAPAR is also essential in strengthening domestic and cross-border recovery efforts within Africa.²⁸

5.0. Conclusion

There are clearly a number of mechanisms to advocate for and achieve reparations in Africa. The challenge that exists is the collaborative efforts from members states to present a joint voice in their claim for reparation and establish a Global Reparation Fund in order to ensure effective and adequate compensation as a form of reparations.

Other significant reforms would include embracing other forms of reparations including restoration, rehabilitation, satisfaction, and guarantee of non-repetition; establishment of an international tribunal on atrocities related to the transatlantic trade among other human rights violations; and fostering economic empowerment for people of African descent and dismantling racism, racial discrimination, xenophobia and intolerance. Promoting justice for people of African descent through reparations is a long overdue agenda that needs to fast-tracked and realized.²⁹

For African states there is need to develop holistic programs in collaborations with civil society to pressure international bodies to ensure that the issue of reparation is on their agendas and receive necessary attention. For International organisations and the human rights sector the proper mechanism is to deploy political, material, and financial resources to hold former colonial powers accountable for colonial crimes and slavery; adopt programs that consider the colonial dynamics that structure the continent's socio-political, economic, environmental, and cultural challenges.³⁰

²⁸ Civil Forum for Asset Recovery 'Implementing the Common African Position: Launch of six national assessments of CAPAR implementation' <https://cifar.eu/implementing-the-common-african-position-launch-of-six-national-assessments-of-capar-implementation>

²⁹ Supra note 7

³⁰ Africa Future Labs 'Pursuing an African Agenda for Reparations for Colonial Crimes and Slavery' <https://www.afalab.org/news/2023-10-17-reparations-for-europes-colonial-crimes-in-africa-and-slavery-a-critical-step-in-tackling-africas-co/>

The use of Alternative Justice Systems couched in African Traditions has proved to be a preferred mode of restoration of the lost artefacts. This is equally significant to tracing would be beneficiaries of compensation occasioned from the loss of artifacts.