

10 November 2006

Cultural Property Unit
Department for Culture, Media and Sport
2-4 Cockspur Street
London SW1Y 5DH

A Response from ICOM UK on the Restitution of Objects Spoliated in the Nazi-Era

ICOM UK is a non-profit, non-governmental organisation representing almost one thousand museum professionals in Britain, a part of an international organisation of over 21,000 museum professionals across 146 countries. The International Council of Museums (ICOM) works to establish the professional and ethical standards for all museum activities, promoting training and raising public awareness through a truly global network. It operates through 115 national committees and through 30 committees of specialists and 6 regional bodies. It has 60 affiliated organisations including the International Council on Monuments and Sites (ICOMOS) and the International Organisation for the Conservation of Cultural Heritage (ICCROM). Its strategy is based around generating and disseminating knowledge, being pro-active and inclusive. Its headquarters is based at UNESCO in Paris. ICOM UK is a member of the UK National Commission for UNESCO Culture Committee.

My purpose in writing is to submit a response to your Department's consultation document entitled *Restitution of Objects Spoliated in the Nazi-Era* and in particular to address the international implications of the proposed new legislation. We have chosen to focus our response on:

- Proposals to remove the current statutory and other forms of restrictions to allow national museums to release spoliated works of art and other cultural objects from their collections;
- The remit of the Spoliation Advisory Panel;
- The autonomy of the Trustees of museums to make decisions on the de-accession of items spoliated during the Holocaust and Nazi-Era

ICOM and ICOM UK have a keen interest in developments in spoliation research, restitution and national and international actions in the field. ICOM maintains an on-line bibliography on the *Spoliation of Jewish Property*¹. In January of this year, Alissandra Cummins, President of ICOM, made a statement² on *Promoting the use*

¹ http://icom.museum/biblio_spoliation.html

² http://icom.museum/mediation_eng.html

of Mediation in Resolution of disputes over the Ownership of objects in Museum Collections. This statement is highly pertinent to the issues being raised in this current consultation paper and DCMS are advised to examine it as they prepare their response. A number of members of our Executive Board have been closely involved in spoliation issues as either advisers to museums, or as those responsible for spoliation research within national and non-national museums.

We would also draw your attention to *the ICOM Code of Ethics for Museums*³ published in a revised version in 2006 to which we refer throughout this consultation response.

1. Proposals to enable national museums to release spoliated works of art

ICOM UK believes that museums should be enabled, through new legislation, to release items from their collections when found, through a proper due diligence and provenance research process to have been looted by the Nazis, their allies or collaborators in the Nazi and Holocaust Era (1933-45). As the consultation document makes clear a definition of spoliation is hard to reach because of the range of circumstances under which items could have been lost to private owners in that period. We are clear though that the legislation should plainly cover items lost or removed by the Nazis, their allies and collaborators and in no other circumstances. DCMS is advised to work to ensure that the legislation is framed in such a way as to enable all deserving cases to be considered for restitution whether on legal, moral or ethical grounds. The ICOM Code of Ethics states the following:

6.3 Restitution of Cultural Property

When a country or people of origin seeks the restitution of an object or specimen that can be demonstrated to have been exported or otherwise transferred in violation of the principles of international and national conventions, and shown to be part of that country's or people's cultural or natural heritage, the museum concerned should, if legally free to do so, take prompt and responsible steps to co-operate in its return.

2. The remit of the Spoliation Advisory Panel and the autonomy of Trustees

We congratulate the work of the Spoliation Advisory Panel to date and their carefully measured consideration of the facts before them and their subsequent recommendations.

ICOM UK believes that the role of the Spoliation Advisory Panel should continue to be advisory. Parties that come before the panel have chosen to seek mediation to reach a settlement of their dispute but we feel the final decision as to whether an object should be de-accessioned from the collection should rest with the Trustees of the institution concerned. They must of course take advice in reaching such a decision and take full account of the evidence considered and the recommendations made by the Spoliation Advisory Panel – but the decision must remain theirs. ICOM is due to issue guidance on the recommended procedure for institutions involved in such cases. Again we refer to the ICOM Code of Ethics:

³ <http://icom.museum/ethics.html#intro>

2.14 Responsibility for Deaccessioning

The decision to de-accession should be the responsibility of the governing body acting in conjunction with the director of the museum and the curator of the collection concerned

3. Conclusion

In times of global upheaval such as we are currently witnessing it is essential that the Government takes every action to ensure that any looting is prevented, particularly on the scale seen in the Nazi and Holocaust Era, now and in the future. The ICOM Code of Ethics states:

6.4 Cultural Objects From an Occupied Country

Museums should abstain from purchasing or acquiring cultural objects from an occupied territory and respect fully all laws and conventions that regulate the import, export and transfer of cultural or natural materials.

ICOM UK supports measures currently being taken by the Museums, Libraries and Archives Council (MLA), with funding from DCMS, to publish *Cultural Property Advice* an on-line advisory service for the trade, private individuals and the public to ensure that people are given every possible advice on how to avoid engaging in the illicit traffic of cultural objects from around the world.

We welcome work carried out by the National Museum Directors' Conference through the Spoliation Working Group, and non-national museums, with support from MLA, to carry out detailed provenance research and prioritise areas of collections which have uncertain provenance between 1933 and 1945. This transparent approach, following NMDC's Statement of Principles and Actions, with support from the MLA funded Spoliation Research Adviser, has been invaluable in facilitating legitimate claims from those who lost cultural objects during the period. We would encourage DCMS and MLA to ensure the reports on these cultural objects are kept up-to-date with the transfer of the database from NMDC's website to the new *Cultural Property Advice* site and that museums are given the training, encouragement and support they need to continue this research and update their entries on the database in the light of new information.

Thank you for encouraging a debate on this issue. ICOM UK hopes that appropriate parliamentary time can be found to take this legislation forward, together with that on the ratification of the 1954 Hague Convention and its first and second protocols, another key issue for the protection of cultural property for future generations.

Yours sincerely,

Professor Jack Lohman
Chairman ICOM UK