

Museums Association's Response to DCMS' Consultation on Restitution of Objects Spoliated in the Nazi-Era

November 2006

1. Introduction

1.1. The Museums Association (MA) is an independent membership organisation representing museums and galleries in the UK and people who work for them. The Association has over 5000 individual members and 600 institutional members. Formed in 1889, it receives no regular government funding. It seeks to inform, represent and develop museums and the people who work for them in order that they may provide a better service to everyone.

1.2. The MA has given its views on restitution and illicit trade in previous policy statements and responses to consultation such as its evidence submitted to an inquiry by the Culture, Media and Sport Select Committee on the illicit trade in cultural property, of October 2003, and policy statement on repatriation of cultural property, of September 2006. We find it difficult to add to these views in such detailed terms as are requested in this consultation, so have made general comments in response to the issues raised.

1.3. The MA's code of ethics recognises the interests of people who made, used, owned, collected or gave items in the collections. Specifically museums should:

'7.7 Deal sensitively and promptly with requests for repatriation both within the UK and from abroad of items in the museum's collection, taking into account: the law; current thinking on the subject; the interests of actual and cultural descendants; the strength of claimants' relationship to the items; their scientific, educational, cultural and historical importance; their future treatment.'

2. Responses to Consultation Issues

- *How far a power to make restitution of objects lost during the Nazi era should extend;*
- *Who should be responsible for taking the final decision as to whether a particular object should be released from a museum collection;*
- *What provision, if any, should be made in repatriation to non-statutory restrictions on disposal from collections; and*
- *What role the Spoliation Advisory Panel should have.*

2.1. The MA agrees that museums should have the power to deaccession and return items from their collections which were lost during the years 1933 to 1945 as a result of the actions of the Nazis, their allies or collaborators. The MA supports increased clarity and assistance to deal with this through legislation, but emphasise the need for flexibility so that cases can be considered individually.

2.2. The MA supports the wider policy view that museums should have the power to deaccession and dispose of items from their collections as part of responsible collections management. The MA's Code of Ethics promotes a presumption against disposal, however for cases where disposal is appropriate the MA is developing a toolkit to help museums to deal with disposal decisions seriously and openly. We believe a legislative framework should allow this. In addition, restitution of cultural property is a wider issue than just Nazi-era spoliation, so we question whether this legislation could be widened to consider restitution in other cases, and therefore also the Beneventan Missal (consultation question 2.a) and b)). Although the number of individual cases for restitution is small, they are incredibly varied and therefore need a flexible framework. However, the MA accepts that little parliamentary time is available to consider this issue, and on that basis it may be pragmatic to restrict legislation more narrowly to objects spoliated in the Nazi-era.

2.3. Given the MA's call for flexibility, we advocate guidance on issues such as the entitlement that should be demonstrated by a claimant through Codes of Practice to be considered by museums, the Spoliation Advisory Panel and Secretary of State. However, the potential for repercussions from wrongful decisions is significant, and therefore the balance of who makes the final decision to release an object for repatriation is important.

2.4. We recognise that the Spoliation Advisory Panel has been exemplary in its practice to date and value the role it has played in debating spoliation cases. This role has depended on the panel's impartiality and non-determinative position so we consider that the panel should feature highly in Codes of Practice as a group for referral, but that the decision to dispose should remain with the museum. It is important that museums remain independent and therefore they should be allowed to deal with restitution cases themselves. The Advisory Panel should influence the museum's decision making as standard practice, with museums taking decisions under public scrutiny.