

Restitution

This section provides information on cultural property issues, such as requests for repatriation of museum objects, and claims for the return of works of art looted during the Holocaust era. Below we outline some of the work undertaken by the MGC and other organisations on this issue. In the resources section you will find references to advisory groups and links to useful sites. The overview section features some relevant case studies and will carry details of new developments as appropriate.

Glossary

Restitution refers to the return of an object from a museum collection to a party found to have a prior and continuing relationship with the object, which is seen to override the claims of the holding museum.

Repatriation refers to the return of an object of cultural patrimony from a museum collection, to a party found to be the true owner or traditional guardian, or their heirs and descendants.

Spoliation refers to the plunder of assets, in this context works of art, during the Holocaust and World War II.

Restitution & Repatriation

Although museums have received requests for restitution or repatriation of objects for many years, the number of claims and the variety of sources from which they have emanated have increased substantially in recent times.

In 1997, *Museums and Repatriation*, a report by Moira Simpson of the University of Warwick, commissioned by the Museums Association, examined the current situation with respect to repatriation issues in UK museums. Among the recommendations was the preparation of 'a set of guidelines to advise museums on issues which need to be considered when addressing repatriation requests'.

The MGC has commissioned a set of guidelines, [Restitution and Repatriation: Guidelines for Good Practice](#) priced £8, which will be available from February 2000. The Guidelines provide advice for governing bodies, museum directors and staff facing requests for repatriation or restitution of objects or collections, and include case studies of recent requests. They do not instruct museums on whether or not to return objects from their collections. The MGC believes that responsibility for decisions on such requests should lie with museums' governing bodies, which are best placed to examine the validity and consider the merits of each request.

Spoliation

The issue of works of art looted or confiscated from victims of the Holocaust is one that affects both national and non-national museums.

overview

conservation

development

funding

mgc grants

new technology

registration

▶ restitution

introduction

resources

case studies

security



The MGC is committed to ensuring that museums have taken reasonable steps to guarantee that works of art, which might have been wrongfully taken during World War II, are identified. We are working closely with the National Museum Directors' Conference to develop effective ways of investigating and resolving claims, ensure that acquisitions are free from claims, deal with risks involved in lending and borrowing, and share information.

In June 1998, the NMDC established a Working Group on Spoliation of Art during the Holocaust and World War II, which includes a representative from the MGC, and is chaired by Sir Nicholas Serota, Director of the Tate Gallery. The Group published a Statement of Principles and Proposed Actions in November 1998 in which each national museum, gallery or library was tasked with drawing up an action plan.

In April 1999, the MGC issued a Statement of Principles on Spoliation (see below) which contains guidance for non-national museums and which accords closely with those issued by the NMDC. In addition, all museums with Designated collections have been asked to draw up an action plan for an initial review of their collections, together with an outline of how they intended to undertake research.



[MGC Statement of Principles on Spoliation](#)



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Restitution Resources

The following websites and advisory groups offer further information on the issues surrounding restitution.

Repatriation

African Reparations Movement - <http://www.arm.arc.co.uk/CRBBhome.html>

This site gives details of ARM's Campaign for the Return of the Benin Bronzes.

American Indian Ritual Object Repatriation Foundation -

<http://www.repatriationfoundation.org>

The American Indian Ritual Object Repatriation Foundation assists with the return of ceremonial materials to the appropriate American Indian Nation, clan or family and liaises between American Indian groups, government officials and art dealers and collectors.

Hellenic Ministry of Culture - <http://www.culture.gr>

This website includes information about the Greek Government's request for the return of the Parthenon Marbles.

Human Remains

The Museum Ethnographers Group (MEG) has produced Professional Guidelines concerning the storage, display, interpretation and return of human remains in ethnographic collections in the United Kingdom. These are included in the MGC Guidelines on Restitution and Repatriation.

Len Pole, chairman MEG, len.pole@which.net

Museums Standing Advisory Group

A Standing Advisory Group on Repatriation and Related Cultural Property Issues was set up in 1999 under the chairmanship of Dr Neil Chalmers, Director of the Natural History Museum. The aim of the group, which includes a representative from the MGC, is to act as a forum for the exchange of information on repatriation and related cultural property issues, and to offer general advice. It does not make recommendations on specific cases.

Spoliation

External Advisory Committee

Following the establishment of the NMDC Working Group, an independent Advisory Committee made up of leading experts to help the working group by offering independent advice and policy guidance was set up in May 1999. Sir David Neuburger QC chairs the Committee.

Both the Art Loss Register and Trace are compiling databases of stolen works of art, including works looted during the Holocaust. There is a charge if you wish to search their databases for reference to works in your collection.

Art Loss Register (ALR) - <http://www.artloss.com>

The ALR is compiling a database of stolen works of art including works looted during the Holocaust. Claimants are able to register stolen art at no cost, but there is a charge if you wish the ALR to search their databases for reference to works in your possession.

Trace - <http://www.trace.co.uk>

Other organisations with a particular interest in the spoliation of art during the Holocaust are:

Association of Art Museum Directors

The Association of Art Museum Directors in North America has issued a Statement of Principles. The full text can be found at <http://www.aamd.org/documents.shtml>.

European Commission for Looted Art - Email: 106771.731@compuserve.com

ECLA acts as a centre of research, and is establishing a central registry of all information known on looted art. In addition, it carries out historical research, provides guidance for claimants, and pursues individual restitution claims.

Holocaust Art Restitution Project (HARP) - <http://www.lostart.org>

HARP documents cultural losses during the Holocaust and is located within the National Jewish Museum in Washington DC.

Holocaust Educational Trust (HET) - <http://www.het.org.uk> The HET undertakes research and educational work on the subject of the Holocaust. Provides about other organisations working on restitution.

International Council of Museums

ICOM has issued a series of recommendations concerning the return of works of art belonging to Jewish owners. The full text can be found at <http://www.icom.org/worldwar2.html>.

US Holocaust Museum - <http://www.ushmm.org/assets/>

Lists, by type of asset, organisations in different countries attempting to trace possessions lost or stolen during the Holocaust (including art, Libraries and Archives).

World Jewish Congress: Commission for Art Recovery (CAR) -

<http://virtualjerusalem.com/clients/wjc-artrecovery>

CAR carries out research into works whose provenance contains names of victims of spoliation, names associated with looting or trading spoliated art, names featured on Nazi confiscation lists and details corresponding with information from post-war allied restitution organisations.

Restitution Case Studies

Truganini's Necklace and Bracelet

In 1905, the Royal Albert Memorial Museum (RAMM) in Exeter acquired a bracelet and necklace said to have belonged to Truganini, one of the last survivors of Tasmania's Aboriginal communities in the 19th century. Contact with the Tasmanian Aboriginal Centre Inc (TAC) in 1994 led to negotiations for the turn of the necklace and bracelet. Exeter City Council, the governing body of the RAMM, decided in 1995 to return the material to the care of the TAC. Truganini's necklace and bracelet are now held at the TAC in Hobart, Tasmania, where they are regarded as valuable reference points for connecting the present-day Aboriginal community with one of their principal cultural heroes.

Contact: Len Pole, Curator of Ethnography, RAMM, Exeter

T: 01392 265312

E: len.pole@which.net

Lakota Ghost Dance Shirt

In 1992, Glasgow Museums received a repatriation request from the Wounded Knee Survivors Association (WKSA) for the return of five objects, including a Ghost Dance Shirt, associated with the massacre of the Lakota Sioux at Wounded Knee in 1890. Following a public hearing this was reduced to a single request for the return of the Shirt. The WKSA's commitment to storing the Shirt in the South Dakota Historical Society, and allowing public access to it until they have their own museum, made an agreement to return possible. The handover took place at the site of the mass grave at Wounded Knee in August 1999.

Contact: Mark O'Neill, Head of Curatorial Services, Glasgow Museums

T: 0141 287 2700

E: mark.o'neill@cls.glasgow.gov.uk

In both these case studies, material was deaccessioned because the museums in question were legally able to do so.

MUSEUMS & GALLERIES COMMISSION

SPOILIATION OF WORKS OF ART DURING THE NAZI, HOLOCAUST AND WORLD WAR II PERIOD - STATEMENT OF PRINCIPLES

1. Introduction

- 1.1 The principles and recommended actions outlined below have been drawn up and approved by the Museums & Galleries Commission (MGC). They are based on principles and recommendations drawn up and issued by the National Museums Directors' Conference (NMDC), with which the MGC is working in close collaboration on this issue.
- 1.2 The Statement of Principles is issued by the MGC in its role as the principal advisory body on museums for Government and for museums themselves. It covers the MGC itself and the non-national museum sector, the twenty-six national cultural institutions in membership of NMDC having already subscribed to NMDC's own parallel Statement of Principles (see 1.1. above).
- 1.3 The powers of non-national museums are governed by a variety of instruments, including Charity law, local government legislation and Royal Charter. Restitution or compensation in any single case may, therefore, be affected by the legal status of the institution concerned and may require consent from appropriate bodies. It is recognised that in cases where compensation is offered as an alternative to restitution, the institutions concerned would generally be unlikely to be able to finance this from their existing running budgets and assistance would therefore need to be sought from their funding bodies or from central Government.
- 1.4 This document outlines the broad principles and proposed actions agreed by the MGC. It is not intended to create or alter any existing legal right or obligation.
- 1.5 The MGC has commissioned a set of Guidelines for Good Practice covering the subject of Requests for Restitution and Repatriation. These are expected to be published by July 1999. The general principles they set out will be relevant for material covered by this statement of principles.
- 1.6 At the same time, however, the MGC is, in collaboration with the Museums Association (MA) and the NMDC, assessing the need for more detailed guidance governing material which may have been wrongfully taken during the Nazi period, the Holocaust and World War II. In particular:
 - a. surveying collections and dealing with new acquisitions and loans;
 - b. guidance and information for enquirers or potential claimants;
 - c. dealing with claims.
- 1.6 For the purposes of interpreting this document, wrongful taking shall mean any act of theft or other deprivation, the legality of which is open to reasonable challenge, and which was committed during the Nazi, Holocaust and World War II periods .

2. Statement of Principles

- 2.1 The MGC recognises and deplors the wrongful taking of works of art, which constituted one of the many horrors of the Nazi period, the Holocaust and World War II.
 - 2.2 The MGC's supports the principle outlined in the MA's Code of Practice for Governing Bodies (1994) which states that a museum's 'Collections Management Policy should ensure, through the appropriate documentation, that the museum does not acquire or exhibit any stolen or illegally exported works and that it acquires legal title to items accessioned to its collections'.
 - 2.3 This is reflected in Section 4.2.5 a. of the MGC's Guidelines for the Museum Registration Scheme:

The Museum will not acquire, whether by purchase, gift, bequest, or exchange, any object or specimen unless the governing body or responsible officer is satisfied that the museum can acquire a valid title to the item in question, and that in particular it has not been acquired in, or exported from, its country of origin (or any intermediate country in which it may have been legally owned) in violation of that country's laws.
 - 2.4 The MGC is committed to working with other institutions and organisations both within the UK and internationally to increase awareness and understanding of the facts surrounding the spoliation of works of art by the Nazis and others during the Holocaust and World War II period.
 - 2.5 The MGC requires agents or owners offering items in lieu of inheritance tax to provide details of known provenance and to confirm, that they have legal title to the items being offered, and that to the best of their knowledge such items have not been stolen or illegally exported.
 - 2.6 The MGC requires applicants for Government Indemnity to take steps to confirm to the best of their knowledge that the owners of items offered on loan have legal title to them, and that such items have not been stolen or illegally exported.
 - 2.7 The MGC requires applicants to its purchase funds to demonstrate to the best of their knowledge that funds will not be sought for any stolen or illegally exported works, or for works for which full legal title cannot be acquired.
 - 2.8 The MGC recommends that museums give prompt and serious consideration to claims to title for specific works in their collections.
 - 2.9 The MGC recommends that museums adopt a practical approach to reviewing and making accessible information relating to provenance of their collections, taking into account the nature and size of the collections concerned and the resources available.
 - 2.10 The MGC advocates a process of reviewing, reporting and researching the issue of works of art wrongfully taken which respects the dignity of all parties and the complexity of the issue. Each claim represents a unique situation which must be reviewed thoroughly on a case by case basis taking into account both the interests of individuals and the statutory and legal responsibilities of the institutions.
3. Actions concerning research and access to information
 - 3.1 The MGC recommends that each museum with a Designated collection, and all other museums with collections which might contain material relevant to this statement of principles, should

develop an action plan with regard to research on and access to information about their existing collections. This will vary in scope and timescale according to the size and nature of the collections and the resources available and may include:

- research based around specific enquiries;
- collation and monitoring of new information about provenance for this period as part of ongoing research;
- identification of objects for which provenance is unknown for any point during the years 1933-45.

The guidance referred to at 1.5 a above will advise on issues to consider in prioritising research and making information available.

- 3.2 Each institution developing an action plan should nominate a person as the main point of contact for enquiries on this subject who will also keep a central record of research being undertaken.
 - 3.3 The MGC will in turn keep a central record of the nature of the research being undertaken in each institution.
 - 3.4 The MGC undertakes to draw up guidance for potential enquirers including information about the collections of each institution, points of contacts, and types of information that may be available (eg databases, files, websites).
 - 3.5 The MGC plans to work together with the UK Government, MA, NMDC, the Holocaust Educational Trust, other UK organisations and relevant overseas individuals and organisations to collect details of useful information sources, for example about missing objects, and the history of the movement of works of art during the period.
4. Procedures for acquisitions and incoming loans
 - 4.1 In accordance with standard good practice, institutions acquiring or borrowing any new object should:
 - exercise due diligence in satisfying themselves that the vendor/donor/executors/lender have good title to the object;
 - in accordance with the MA guidance and MGC Registration requirements (both referred to above) take reasonable steps to satisfy themselves that the object has not been wrongfully taken without restitution having taken place subsequently;
 - seek from the vendor, donor or executors the fullest possible information with regard to provenance including for the years 1933-45.
 - 4.2 In accordance with standard practice, all information with regard to provenance collected during the acquisition process must be recorded on the main acquisition file.
 - 4.3 For unique works of art with a value in excess of the level requiring an export licence, for which the provenance in the period 1933-45 is uncertain, and which may have been outside the UK

for all or part of this period, it is recommended that a check be made with the Art Loss Register and/or other appropriate databases of missing works of art/claimants. Detailed guidance (referred to at 1.5a above) will provide suggestions regarding other types of check that may be carried out, depending on the nature of the acquisition.

- 4.4 If there is no evidence of wrongful taking then the acquisition may proceed. If there is demonstrable or probable evidence of wrongful taking, then the institution should not proceed to acquire the object.
- 4.5 Guidance for staff (referred at 1.5a above) should include information and advice on:
 - use of warranties
 - information to seek from vendor or lender
 - suggested sources of information and approaches to checking provenance.
- 4.6 Consistent with current practice institutions should publish, display or otherwise make accessible all recent gifts, bequests and purchases, thereby making them available for further research examination and study.
- 4.7 Borrowing institutions should ensure that the terms of the UK Government indemnity record the fact that it does not cover any third party claims and draw the attention of the lender to this fact.
- 4.8 In the event that an institution believes that an object it is seeking to borrow is, or is likely to become, the subject of a claim, it should not proceed with the loan.
5. Discovery of the wrongful taking of works of art
 - 5.1 If, in the light of new information, a museum becomes aware that an object in its collection was, or is likely to have been, wrongfully taken during the Nazi, Holocaust and World War II period and was not subsequently restituted, this information should be made public and recorded with the MGC and the Department for Culture, Media and Sport (DCMS). The known facts regarding the provenance of the work shall be shown on object labels and in any new publications relating to the work.
 - 5.2 Making public means issuing a press release to all media to which the institution in question usually issues press releases and to such principal additional media within the UK as are generally known to serve any ethnic or national group likely to have a particular interest in the matter. The guidance referred to at 1.5a and 4.5 above will provide advice on such additional media.
 - 5.3 An institution would normally expect to receive any claims within a period of six years from the publication of new information relating to provenance in accordance with 5.1 and 5.2 above.
 - 5.4 If a claimant shows within a reasonable period of compliance by an institution with 5.1 and 5.2 above that on a balance of probabilities a work of art was wrongfully taken during the Nazi, Holocaust and World War II period, and that but for such wrongful taking, the claimant would have an interest in the object, then the institution will seek to resolve the matter in an equitable, appropriate and mutually agreeable manner, (taking into account the possibility of competing third party claims) as permitted by its legal status and in conjunction with DCMS.
6. Processes for dealing with enquiries and claims

- 6.1 Each museum developing an action plan shall nominate a member of staff as the main point of contact for enquiries and claims.
- 6.2 Should an institution receive a claim that an object in its collection was wrongfully taken during the Nazi, Holocaust and World War II period it shall record the date and nature of the claim both in a register kept by it for that purpose and in the dossier of the object concerned and shall, as soon as practicable, advise the MGC and DCMS of the claim. Within the limits of its then existing resources the institution shall review such claim promptly and thoroughly with the claimant, including requesting evidence of the claimant's interest in the object to help determine its provenance.
- 6.3 Guidance for enquirers and claimants should include information and advice on searching for objects and information that should be included with a claim.
- 6.4 The MGC will keep a central record of the progress of all claims received.

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