

# Museum ethics today

## - from grey-area problems to vibrant chromatic complexity

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Referring to a controversial recent case about the return of a series of watercolours of Roma subjects - inmates of Auschwitz - the chairperson of ICOM's Ethics Committee explained the central themes of the case in relation to the most recent Code of Ethics of 2004. According to Bernice Murphy the development of the Code of Ethics reflects the growing position of museums as caretakers of the cultural heritage.

There is an unprecedented interest by public media world-wide today in ethical issues and museums. This interest has been aroused by many factors. One is the huge expansion in facilities and programming, and the high-profiled position that the most successful museums have gained in public consciousness since the 1970s. Another factor is a rising interest in governance and transparency applying to museums, especially concerning public trust in the conduct of their boards and senior staff – these were issues previously directed to scrutiny of the business world, but have now been shifted to cultural institutions. A further factor has been the internationally networked media coverage of illicit trafficking, restitutions of looted cultural property, and ongoing, diverse repatriation claims mounted by colonised peoples who have experienced devastating loss of their heritage historically.

The general public today has strong expectations of museums. There are high standards of value attributed by visitors to both the objects and knowledge that museums present and circulate, linking them with other museums near and far. This gives a special character to the museum profession itself in public standing. At the same time this situation challenges our imagination and obligates museums in special ways to honour the public expectations that underlie their unusual position of social trust.

### **The ICOM Code of Ethics for Museums (2004)**

The 2004 ICOM Code, while being consistent in matters of principle with earlier versions, is a substantially reorganised document. It is shorter, and has combined the ethical principles applying to both *institutions* and *individuals* into a single integrated document. This version has reordered and compressed the earlier Code by shaping its contents around *eight key principles*. These principles are the eight 'pillars' of a systematic framework of

standards that bind together the conduct of all who work in or with museums: this includes volunteer staff and boards of governance as well as personnel in the most technically skilled areas or most diverse positions of responsibility. In the 1990s, more complicated questions affecting ethical codes and practice were pressing in upon the museum profession. For example, *repatriation and restitution claims* were becoming stronger and more diverse in their nature. Meanwhile there needed to be clearer acknowledgment of museums' ethical obligations to *source communities*, with respect to how their cultural heritage is *cared for, interpreted and presented* by museums to general audiences. Furthermore, the restoration of indigenous peoples' *intellectual authority, voices and judgment* – concerning the knowledge that needs to be transmitted (and in some cases withheld) when organising displays and exhibitions of their heritage – led not only to fundamentally changed practices within museums; this changing situation encouraged the forging of important *new ethical relationships* that acknowledged *new centres of expertise* beyond the mural boundaries of museums as institutions.

### **Philosophy of ethics for museums**

Ethics entails a sense of *duty towards public good*. However ethics involves much more than a state of mind filled with high ideals and good intentions. A philosophy of ethics for museums involves a disposition towards *action*, towards the exploration of informed judgment in daily decision-making. It involves not only a commitment to good conduct, but an accompanying recognition that good conduct ethically is a *learned activity* (not innately acquired). Moreover good conduct ethically sometimes involves difficult choices.

The easiest ethical decisions to make are between good and bad principles. More challenging and difficult are the decisions that require discrimination between two or

#### **Facts box**

- The complete Code of Ethics for Museums can be found at <https://icom.museum/ethics.html>
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more equally good principles that point to conflicting paths of professional conduct or perhaps quite different outcomes.

### The case of Dina Gottliebová-Babbitt

I can indicate an example by reference to a case before the ICOM Ethics Committee (Dina Gottliebová-Babbitt versus the Auschwitz-Birkenau State Museum in Oswiecim, Poland) – on which a full judgment is yet to be published. The case involves a claim for repatriation of watercolour sketches of inmates made at Auschwitz by a Czech-born woman who was caught up in the holocaust. Through her academic training as an artist, Mrs Babbitt was – under the direction of the infamous Dr. Mengele – enlisted to carry out watercolour portrait sketches documenting the facial character and features of Roma people interned by the Nazi regime, prior to their later extermination in the gas chambers. In recent years Mrs Babbitt, who married an American and moved to the United States after the war, made strong appeals for restitution of the few watercolours painted by her that had survived the events of the liberation of Auschwitz in January 1945.

As notified to the artist by the Auschwitz-Birkenau Museum in the 1970s – but not then arousing any claim for return – a group of watercolour portraits of Roma subjects are today in the collection of the museum, which has resisted Mrs Babbitt's claim for restitution. When supporters of Mrs Babbitt's restitution cause first approached ICOM and the Ethics Committee on her behalf, the impression of an 'artist's rights' claim seemed strong.

However through research by colleagues in ICOM who were able to study this case from close by, a much more detailed and complex picture emerged of the historical facts, and all the issues involved today in the relationships offered to Mrs Babbitt by the museum. The research also clarified other parties' interests – such as the counter-appeals by the surviving Roma community from that area today for the museum's retention of the watercolours, as primary historical records of their community's grim fate in the penumbra of the holocaust. The one point I would stress here is that it became impossible to maintain a simple 'artist's rights' argument about this case, without consideration of other aspects. Artists' rights, and human rights arguments, turn upon questions of reciprocal status and liberty in the original situation of these 'portraits' being commissioned. I indicate here only a few aspects of the complexity of this case – on which the Ethics Committee will publish its final opinions later this year. A sensitive grasp of evolving ethical issues directly connects with ICOM's larger work as a global organisation today. Furthermore



Fig. 1: The watercolour of a Roma girl was one of the drawings that Dinah Gottliebová made in 1944 in the Birkenau concentration camp. Collection Auschwitz Birkenau Museum. The portrait was part of the horrific archives of the SS-Hauptsturmführer dr. Mengele.

I would argue that an ethical framework not only continues to anchor the museum profession at its heart and core, but that ethical values carry our collegial work along many new trajectories, which challenge our imagination of the world in evolving and innovative ways.

Since its first formal statement on 'The Ethics of Acquisition' forty years ago (in 1970), ICOM's activities, programs and key documents have come to embrace a much more comprehensive understanding of all peoples and cultures as having vital interests in the collections that museums have acquired, and the research and interpretive work that museums accomplish. Such a change in awareness has rightly penetrated the frameworks of principle and guidelines in ICOM's *Code of Ethics for Museums*. However in addressing some new issues that sharpened over recent decades, the ICOM Code now engages and counterbalances some complex tensions internally. These tensions require a subtle understanding of *how* they are balanced – sometimes seeming to create oppositional dynamics at certain points – within the Code's 8-part structure and paragraphs today.

I will illustrate one strand of these tensions briefly, and this concerns the complex issue of repatriation.

- The general *presumption of permanence* (or 'inalienability') of public collections – securing public trust and honouring the modern history of museums as durable institutions for public benefit – has

traditionally required the most cautious approach to any proposal for *deaccessioning* or *disposal* of objects from museum collections.

- However this important older value now seems challenged by a more recently framed exhortation in ICOM's Code: namely, that museums have an ethical obligation to consider in a transparent manner any credible claims from *communities of origin* – not only for involvement in interpretation or treatment of collected material, but perhaps even for restitution or repatriation of collection items. As the ICOM Code now states: "*requests for return*" of "*sensitive materials*" by source communities should be treated "*expeditiously [and] with respect and sensitivity*".

The framing principles and purpose of ICOM's *Code of Ethics* are intended to guide museums towards a conscientious respect for such complexity – not to encourage a quest for simple solutions.

The most important mechanism for assisting museums to accomplish their ethical obligations towards diverse communities today is dialogue and engagement. On so many difficult issues for museums today – including possible restitution claims – I would recommend discussion and *the building of dialogue networks and relationships*, especially with communities who have compelling interests in museum collections. Relationship-building, or perhaps even the mechanism of *mediation* in property disputes (as ICOM now urges strongly with the support of its Legal Affairs Committee), are highly recommended as alternatives to legal measures, confrontation or silence on difficult issues.

ICOM is increasingly interested in acknowledging and supporting culturally diverse solutions to common ethical issues found in all societies: for example, of recognised *public or collective good* and *reciprocity of duties* that flow between *individuals and communities* in matters of *conservation of knowledge, culture and the environment*; and of the necessity of active care for *interpretation and transmission of heritage* from one generation to the next. Museums are challenged to recognise the inescapable *connectedness* of their collections and knowledge, and of the interdependent resources they command. Museums are sharply called upon to live up to their ideals of embracing multiple cultural heritages, and their stewardship of an encyclopaedic valuing of streams of difference in human history.

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