

ICOM's ethical principles

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Ethics has not always been part of the identity of ICOM. Alissandra Cummins presents a historical recount of the origin of the rules of ethic and highlights the social consciousness of museums as central for the development. International attention in the recent years concerning a growing list of cases of return of cultural heritage has enhanced the importance of ethics in the daily life of museums.

The subject of ethics in museums is no longer merely of esoteric interest to the museum community only; rules and regulations in cultural institutions have become a hot topic on the worldwide media stage. This heightened interest may be explained by an increase in visitor numbers, more elaborate programming but most particularly, the increased media coverage of illicit trafficking of art objects due to several high-profile restitution cases in recent years. Museums are increasingly facing challenges that are closely related to their social, political and ecological environment. The role of today's museum professionals is to protect tangible and intangible heritage. They promise to protect and care for this heritage to high ideals of responsibility, integrity and service to society. Museums are witnesses of the past, vehicles for democracy and education and guardians of the future.

The Global Context: a History

Ethics are a vital component of ICOM's positioning today. This was not always the case, however. For the first twenty years of ICOM's life, the principles guiding professional ethical conduct relatively

speaking took a back seat. While it was understood that museums and museum professionals should work in a professional manner, there were no clear guidelines as to what this behaviour might entail. It was assumed that each country would govern in terms of employment conditions and professional conduct standards for museum professionals.

Certain nations, who had their own professional museum associations, tackled the subject of ethics early on. For example, the American Association of Museums (AAM) was the first to establish a code of ethics in 1925. ICOM's preoccupation with ethical issues gradually increased as the idea of museums' social responsibilities strengthened in the 1970s. A greater realisation of the museum's role in society, including growing concerns in terms of cultural diversity led to a heightened awareness of all aspects of museums' governance within ICOM. The year 1968 was a significant one in the development of ICOM's ethical principles. The political activist movements around the world, and particularly in Paris, did not escape either ICOM's or UNESCO's attention. Political activists called for reform of traditional establishments that upheld elitist policies in terms of access to cultural amenities. Museums were then highlighted as conservative institutions created for the social elite. They were seen as failing to meet the needs of modern society and urban classes. These criticisms were high on the agenda of the ICOM General Assembly in 1971, during which there were several demands to reform ICOM as an organisation representing museum professionals. The museum's social conscience was in effect, reborn.

Meanwhile, UNESCO had been preparing for its own General Conference in 1970 in Paris. Its major point of debate was the increasing destruction of heritage on a worldwide scale in terms of pillage and trafficking of illegal cultural objects. This General Assembly would give life to the *UNESCO Convention on the means of*



Tell Jokha - the sumerian Umma in the southern part of Iraq resembles a lunar landscape with thousand of holes witnessing illegal excavations

prohibiting and preventing the illicit import, export and transfer of ownership of cultural property. The 1970 UNESCO Convention contains minimum standards for legislative, administrative, and international treaty measures, which the member states must implement to prevent illicit trafficking in cultural goods.

In September 1969, ICOM's internal newsletter, ICOM News, stated »that unless the museums meet their own responsibilities [UNESCO's] efforts cannot be fully effective«. ICOM thus supported UNESCO by focusing on how museums could assist in combating illicit traffic by applying heavier sanctions against the acquisition of objects of dubious origins. The UNESCO Convention prompted deeper reflection and a sense of responsibility within ICOM in terms of ethics.

In developing its ethical principles, ICOM consequently focused on Ethics of Acquisition at first. During a meeting of a committee of experts designated by ICOM's Executive Council in 1970, it was decided that a code of ethics would be developed in the matter of collections. By 1980 however, the scope of this statement of ethics, the Ethics of Acquisition, had become limited. ICOM appointed a committee to examine various national codes and evolve a comprehensive ICOM Code of Professional Ethics, which was adopted in 1986. This then broadened the scope of application considerably as it touched on all elements of museum responsibility in their management, exhibiting and interpretation of objects. This edition was revised in 2004, ratified at the ICOM General Assembly in Seoul and the latest published version appeared in 2006, which defined more clearly the responsibilities of the individual in relation to the museum's operations.

The Current Context

The ICOM Code of Ethics for Museums provides the most up-to-date version of the code of professional conduct for the museums sector worldwide. The Code sets minimum standards of professional practice and performance for museums and their staff. It reflects principles that are generally accepted by the international museum community. In joining ICOM, members undertake to abide by this Code, which means that today almost 30,000 members in 137 countries are bound by ICOM's Code of Ethics. The Code of Ethics applies a principle-driven approach to addressing specific problems or issues raised and making recommendations on actions. It requires that acquisitions be supported by positive evidence of legal ownership and title. Museums must also ensure that their previous history does not include illegal acquisition or transfer, contrary to the laws of the country of origin or of any intermediate country through which they have transited.



Bronze rat and hare in the Yves Saint Laurent estate auction in 2009. The two sculptures from the middle of the 19th century were part of the summer palace of Emperor Qianlong. The palace was robbed by British and French troops as part of the Opium war in 1870. Photo by courtesy of David Desmond

The Legal Context

ICOM encourages debate on its Code of Ethics as part of an ongoing educational process on ethics. The world and the issues facing ICOM and the museum community are constantly evolving and the Code of Ethics should therefore be considered a living, working document which takes into consideration the more culturally diverse context of museums and museum professionals today.

Legislation is generally slower than ethics to express evolving standards or principles of self-regulative conduct. Having said that, the amount and types of legislation affecting museums today is growing at a rapid pace, to the extent that museum professionals have a hard time staying abreast of developments. Rules on acquisitions have become much stricter in recent years, particularly in relation to objects acquired by confiscation, or forced sale, or as result of colonisation or war. However, many of the laws and conventions being ratified today do not have retroactive forces and consequently cannot be applied to several cases that museums are facing today.

ICOM actively encourages member countries to ratify the UNESCO 1970 convention on illicit trafficking. The UNESCO Convention of 1970 enters into effect on the day of its official ratification only.

The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects is a complement to the UNESCO Convention. Perhaps the most important clause in that Convention is the principle that anyone with a stolen item in his/her possession must in all cases restore it. This rule forces buyers to check that the goods have come onto the market legally, otherwise they will have to be returned. The two conventions together enable the preservation of cultural heritage and consequently the memory of humankind. They are a potent weapon in the fight against illicit traffic.

After years of responding to the call for assistance in terms of complex issues, ICOM recognised the need for a complement to the Code of Ethics for certain key issues where legal guidance was required. Even museums following these principles carefully can face claims for the return of objects or whole collections from individuals, organisations (such as places of worship or other museums), or from governments, on the grounds that the museum holding the object is not the legal owner of it.

It was in this context that ICOM adopted a mediation strategy, proposed in 2006, whereby the organisation offers detailed guidance on mediation procedures that the parties to a dispute might adopt in these circumstances. ICOM may suggest the names of two or more independent experts with relevant specialisations whom the parties might consider appointing as mediators to advise on the merits of each side's case. However, mediation is always voluntary, and the parties to a dispute can still seek a legal remedy through the courts. Several restitution initiatives witnessed in recent years signal a greater awareness of shared responsibilities in caring for and interpreting cultural heritage.

- In the UK, the Holocaust (Stolen Art) Restitution Act was introduced last November by Labour MP Andrew Dismore giving national institutions in the UK and Scotland the power to return art stolen during the Nazi era.
- Last October, the National Palace Museum in Taiwan rejected two bronze statues that were removed from China 150 years ago. Once the property of the Imperial Summer Palace in Beijing, NPM rejected the possibility of bidding at auction for the bronze rat and rabbit heads from a French collector, when these went on sale in 2009 – being mindful of pleas by Chinese museums that these sculptures should return to Beijing.

- In 2008, Syria restituted around 700 antique pieces to Iraq, including gold coins and jewellery. These pieces had been stolen following the US intervention in Iraq.
- In June 2009, France voted a law proposal to allow restitution of preserved, mummified Maori heads to New Zealand. Almost 500 Maori heads were housed in different museums around the world; around 300 have been restituted.

The fact that new legislation or recent ratification of conventions do not have retroactive forces means that such cases can often end up in lengthy and costly legal disputes.

While the ICOM Code of Ethics has become the respected minimum standard for museums and museum professionals, it is rarely revised and debated. It needs to be increasingly consulted and referenced in real-life everyday situations within museums. It is healthy discussions such as the present seminar that will allow museum ethics and practice to improve and evolve.

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