

2006/ETH.02
(Original: English)

ICOM
International Council of Museums / Conseil international des musées
Ethics Committee / Comité pour la déontologie

Meeting · 26 May/mai 2006 · Réunion

(Room XVI, Miollis Building, Maison de l'UNESCO · 9h00-12h30;14h00-17h30 · Chambre XVI, bâtiment Miollis)

ICOM ETHICS COMMITTEE MEETING
(Friday 26 May 2006, Paris)

Room XVI, Miollis Building, Maison de l'UNESCO.
9h00 - 12h30 / 14h00 - 17h30.
(Simultaneous translation was provided in English and French)

0. Welcome & apologies

Bernice Murphy (Australia), as Chair of the Ethics Committee, welcomed members to the meeting: Elisabet Olofsson (Sweden) and Michel Van-Praët (France) – both members of the Executive Council; Abdoulaye Camara (Senegal); Piet Pouw (Netherlands, welcomed for the first time); and also attending their first meeting, since being nominated by the Advisory Committee in June 2005: Eva Maehre Lauritzen (Norway); and Regine Schulz (USA).

Apologies were received from W. Richard West (USA, the third Executive Council member of the Ethics Committee).

Apologies from ICOM President Alissandra Cummins (via Secretary-General John Zvereff) were received, together with her good wishes for successful work by the Committee. In addition to the Secretary-General's attendance ex-officio, the Chair welcomed as an observer from the Secretariat: Lysa Hochroth (Editor, *ICOM News*). Margarida Ascenso and Thomas Jandia were thanked also, in absentia, for their preparatory assistance in arrangements for the meeting.

1. Adoption of the agenda

The agenda was agreed and adopted.

2. Adoption of the minutes of the previous Ethics Committee meeting (Doc.2/ 2)

Minutes of the Ethics Committee meeting, 2 June 2005 (Paris) were reviewed and adopted (moved Michel Van-Praët; seconded Abdoulaye Camara).

3. Matters arising from the minutes of the previous meeting

3.1. Reports to Executive Council & Advisory Committee (June 2005)

‘Report to ICOM Executive Council’ (Sun.5 & Thurs.9 June 2005) (**Doc. 3/ 3.1.a**)

‘Report to ICOM Advisory Committee’ (Wed. 8 June 2005) (**Doc. 4/ 3.1.b**)

Circulated copies of the two Reports by the Chair were **noted** and taken as read.

3.2 Membership and Mandate of Committee – see doc. (**Doc. 5/ 3.2**)

As requested by the Executive Council, the Chair had modified the Mandate document of the Ethics Committee to conform more closely to the Mandates of the Legal Affairs Committee and Finance and Resources Committee. She stressed that any changes were matters of form, but not significantly of substance.

The Committee resolved that the revised Mandate document should now be passed back to the Executive Council. It is desirable that the Standing Committees be introduced in a consistent way on the ICOM Website, and that their key documents be listed similarly, so that the purposes and work of the committees would be made clear to users of the ICOM Website.

3.3 Relationship to ICOM Strategic Plan, 2004-2007 – again see doc.as above (**Doc 5/ 3.2**)

Members noted the Strategic Plan's objectives and deferred discussion of raising awareness of the Committee's work to item **6.2** below.

4. Review of work of Ethics Committee

(Regine Schulz joined the committee at 9.45 am, during this item)

4.1 Revised ICOM Code of Ethics (2004 version) published 2006

It was noted that the 2004 *ICOM Code of Ethics for Museums* had been published by ICOM in February 2006: in English, French and Spanish official language versions (booklet format, grey/blue cover; each version 16-pp.)

- *ICOM Code of Ethics for Museums* (ICOM, Paris, 2006)
- *Code de déontologie de l'ICOM pour les musées* (ICOM, Paris, 2006)
- *Código de deontología del ICOM para los museos* (ICOM, Paris, 2006)

The Code is also available in HTML and PDF formats (the 3 official languages) on ICOM's Website.

The Chair noted that she had liaised with Geoffrey Lewis and the ICOM Secretariat throughout January to work over some small inconsistencies and final proof-reading needed before the Code's publication. Michel van-Praët had similarly assisted the Secretariat in proofing and finally correction of any errors in the French version. However the Spanish version was not able to be checked similarly (which would be corrected by including the presence of a Spanish-speaking participant in the Committee's work in future).

It was also noted that some errors still appeared in Web-posted versions of the Code, and occasional errors persisted in committee documents on the Website generally (especially in French). These are matters for attention until corrected.

4.2 Application and promotion of the ICOM Code (new *Code of Ethics* versions Eng/Fr tabled)

Bernice Murphy reported that there had been some debate in recent months over certain terms used in the new Code – arising from several concerns raised by Guido Carducci from within the legal section of UNESCO's Cultural Heritage division. Such concerns, once reported through the Secretariat, gave rise to some lengthy email discussion between herself and Patrick Boylan: (a) through their duties as Chairs respectively of the Ethics and Legal Committee (and some differences of view on the new Code's format and presentation had been debated in detail); (b) through their collegial commitment to working constructively in shaping advice for the Executive Council and ICOM members. The Secretary-General and President received copies of their discussions. Points of agreement remain strong:

- (a) **The two Chairs jointly affirm that vigilance is needed in moving forward with the new Code.**
 There is a need to attend actively to queries that may arise about the new Code's interpretation and to make sure that it is well understood as a reference-tool. It embraces ethical principles of self-regulation of the museum profession held consistently since 1986 (the adoption of ICOM's first complete Code at the Buenos Aires General Assembly); and indeed since 1970 (ICOM's first statement on the Ethics of Acquisition).
- (b) **The ICOM Code is an international base-standard guide on ethics for the museum profession.**
 It is also a living document, as ethical consciousness needs to be continually debated and thoughtfully evolved: to make clear how ethical issues raise new implications to consider in the more culturally diverse contexts of museum work today.
- (c) **ICOM actively encourages discussion of the meaning and application of its Code as part of the ongoing education process about ethics.**
 Questions of interpretation or queries as to specific wording in the 2004 version will be welcomed in appraising the application of the Code. It is understood that there will always be matters that need further assessment in the work of both the Legal and Ethics committees. Discussing the many different applications of the ICOM Code – not only its principles and codified contents – is a vital part of the educational work that must actively promote any code produced for the museum profession.

4.2.1 Comment from UNESCO

Dr Guido Carducci (Chief, International Standards Section, Division of Cultural Heritage, UNESCO) joined the Committee briefly (in the afternoon), to provide a perspective on his views. Dr Carducci's opinion was first reported through the Secretariat in March: that there were some difficulties of interpretation of the new Code from the perspective of international legal instruments and standards on cultural heritage protection.

For reference: Luigi Carducci was a contributing author, with an article on 'Ethics, Law and Heritage' to *ICOM News*, vol. 58, no.3, 2005 (p.5), in the theme issue dealing with *Ethics and Heritage*. Bernice Murphy also contributed an article as Ethics Committee Chair in the same issue: entitled 'ICOM's Evolving Perspectives on Ethics and Museums' (p.4).

When meeting with the committee (in the afternoon), Dr Carducci explained his interest and involvement over some years in teaching international law. He had thus accepted the Chair's invitation to offer some personal comments on the ICOM Code, but stressed he was not providing an official 'UNESCO viewpoint'.

A summary of Dr Carducci's points will be made (from notes by the Chair) for the Committee's reference, to be forwarded as a working document for the agenda of the next meeting. Prof. Lyndel Prott (formerly also of UNESCO's International Standards Section), well known to the Chairs of both the Legal and Ethics committees and herself a respected expert in international heritage law, had also provided some notes for assistance to the Committee in considering legal terminology used in the ICOM Code. These notes (received by the Chair only the day before the meeting) will be incorporated as a working document for the next meeting.

Resolution concerning ongoing interpretive work

In concluding this discussion of the Code's interpretation, **the Committee resolved** that the *Glossary of the ICOM Code of Ethics for Museums*, being separated from the main text (and appearing at the end of the document), would be a useful section to accommodate any additional work that might be required on interpretation of the Code's intent or meaning. This could assist the ongoing educational work intended to support the Code, while not disturbing the structure or contents of the eight main sections of the Code as published in Feb.2006. The sections of the Code appear as follows:

***[Note for translators – the section of Minutes following below – in Eng, French & Spanish versions – should take the table of headings respectively from Eng, Fr or Spanish version ONLY of ICOM's Code.]

ICOM Code of Ethics for Museums

Introduction (by Geoffrey Lewis)

ICOM Code of Ethics for Museums

1. *Museums preserve, interpret and promote the natural and cultural inheritance of humanity.*
2. *Museums that maintain collections hold them in trust for the benefit of society and its development.*
3. *Museums hold primary evidence for establishing and furthering knowledge.*
4. *Museums provide opportunities for the appreciation, understanding and management of the natural and cultural heritage.*
5. *Museums hold resources that provide opportunities for other public services and benefits.*
6. *Museums work in close collaboration with the communities from which they originate as well as those they serve.*
7. *Museums operate in a legal manner.*
8. *Museums operate in a professional manner.*

Glossary

Code de déontologie de l'ICOM pour les musées

Introduction (par Geoffrey Lewis)

Code de déontologie de l'ICOM pour les musées

1. *Les musées assurent la protection, la documentation et la promotion du patrimoine naturel et culturel.*
2. *Les musées qui détiennent les collections les conservent dans l'intérêt de la société et de son développement.*
3. *Les musées détiennent des témoignages de premier ordre pour constituer et approfondir les connaissances.*
4. *Les musées contribuent à la connaissance, à la compréhension et à la gestion du patrimoine naturel et culturel.*
5. *Les ressources des musées offrent des possibilités d'autres services et avantages publics.*
6. *Les musées travaillent en étroite coopération avec les communautés d'où proviennent les collections, ainsi qu'avec les communautés qu'ils servent.*
7. *Les musées opèrent dans la légalité.*
8. *Les musées opèrent de manière professionnelle.*

Glossaire

Código de Deontología del ICOM para los museos

Introducción (Geoffrey Lewis)

Código de Deontología del ICOM para los museos

1. *Los museos garantizan la protección, documentación y promoción del patrimonio natural y cultural de la humanidad.*
2. *Los museos que poseen colecciones las conservan en beneficio de la sociedad y de su desarrollo.*
3. *Los museos poseen testimonios esenciales para crear y profundizar conocimientos.*
4. *Los museos contribuyen al aprecio, conocimiento y gestión del patrimonio natural y cultural.*
5. *Los museos poseen recursos que ofrecen posibilidades para otros servicios y beneficios públicos.*
6. *Los museos trabajan en estrecha colaboración con las comunidades de las que provienen las colecciones, así como con las comunidades a las que prestan servicios.*
7. *Los museos actúan ateniéndose a la legalidad.*
8. *Los museos actúan con profesionalidad.*

Glosario

The Committee passed a further **Resolution** arising from this discussion, concerning its liaison with the Legal Affairs Committee – see under item (5.1) below.

4.2.2 Some specific issues for further attention or clearer explanation

4.2.2.1 Ethics of acquisition for museum collections (Code, Section ►2)

There were originally lengthy passages on the dangers of illicit traffic in previous versions of the ICOM Code of Ethics – for example under ‘*Acquisition of Illicit Material*’ and ‘*Field Study and Collecting*’ (Articles 3.2 and 3.3 in the previous Code, and indeed found in short passages elsewhere). The present Code has generally sacrificed expansive prose discussion about the dangers of illicit traffic and malpractice internationally, in favour of a more concise statement of principles in a shorter and more integrated format overall.

The Ethics Committee will pay attention to ways in which any discussion or promotion of the Code can make clear that there has been no change in fundamental principles that the Code upholds.

4.2.2.1 Issues of ‘legal title’ & ‘valid title’ (Fr: ‘titre légal de propriété’ & ‘titre valide de propriété’; Sp: ‘título de propiedad’ & ‘título válido de propiedad’)

The two terms ‘legal title’ and ‘valid title’ are defined in the glossary to the new Code. However only ‘legal title’ is used in the Code itself. There are some complex issues arising around the use of these two terms (one having a clear meaning in law; the other not, but pointing to contexts relevant to the museum profession). The two terms will be dealt with in working documents to be prepared for the next meeting of the Committee, incorporating some considerations raised by both Dr Luigi Carducci and Professor Lyndel Prott. The two terms are merely noted in this record.

4.2.3 PIMA Code of Ethics (Code of the Pacific Islands Museums Association) 2006 (Doc.6/ 4.2.3)

The Committee welcomed the appearance of a new code of ethics from a culturally diverse region in the museums field – the first full code from an associate body since ICOM’s own new version had been published. The PIMA Code of Ethics (a code recently released by the Pacific Islands Museums Association) had been produced earlier in the year. The Chair reported that this was an important new resource for ICOM, published by one of its Affiliated Organizations. The PIMA document (circulated with the Agenda) is a culturally specific code arising from a meeting of the Pacific Island Museums Association at the Australian National University, January 2006. Prof. Amareswar Galla, Chair of ICOM’s Cross-Cultural Task Force, had convened an intensive workshop and series of meetings involving PIMA directors in Canberra and Sydney, and the ICOM Ethics Chair had contributed to a culturally co-chaired workshop that developed this new code over two days.

Since PIMA is an ICOM Affiliated Organization, the linking of this new Code to the ICOM Website will provide a very valuable reference tool to expand the culturally diverse dimensions of the Ethics Committee’s and ICOM’s work on cultural heritage care and protection. The Code provides an important document of ethical principles and practice from the point of view of Indigenous communities, and significantly advances the cross-cultural work throughout ICOM. (See also item 5.2.2 below, concerning the Committee’s interest in the task of linking an ethical awareness of intellectual property (IP) issues in culturally diverse contexts to the ICOM Code itself.)

5. Connections to work of other ICOM Committees

5.1 ICOM Legal Affairs and Properties Committee (Chair, Patrick Boylan)

The Committee is conscious that both the world and responsibilities facing ICOM are changing. It is recognised that there will be increasing legal challenges and disputes about ownership of cultural property, and ICOM has to be more ready than previously to provide informed advice and comment on international issues in this area.

The Ethics Chair will continue regular discussions with the Chair of the Legal Committee, Patrick Boylan, about concerns he has expressed at the shortening of the ICOM Code in some passages he regards as crucial to highlight the dangers of illicit trafficking. Every effort will be undertaken to uphold and promote the consistency of purpose running through all of ICOM's Code versions, and to take active steps in the educational role of promoting the Code's standards.

Meanwhile discussion of issues concerning legal interpretation of ICOM's Code (issues that arose in discussion with Dr Guido Carducci, under **Item (4) Review of the work of the Ethics Committee** above), brought forward the following points in the conscious aspirations of the new Committee, as detailed below.

1. The Committee has become strongly conscious of the ways in which it can provide value to ICOM by concentrating on the conditions of the museum profession and standards required through an ethical consciousness – which are sometimes different and more particular to the life of museums than conduct that may be required by law.
2. The amount and types of legislation affecting museums today is growing so rapidly that the volume of specialised knowledge of law is greater than museum professionals can generally be acquainted with (as was a reasonable expectation in the past).
3. The Committee does not wish to become overwhelmed by legal matters. It notes that ICOM's National Committees operate under some 110 different legal jurisdictions, and there is great complexity of legal implication to the increasing number of International Conventions. With legal issues themselves having become so specialised, the Ethics Committee is convinced that it should concentrate on elucidating ethical issues relevant to museums, and turn to specialists for advice on legal aspects of significant issues – as happens increasingly within museums themselves.
4. The Committee stressed its role as a group representing the museum profession (and its relationships within the NGO sphere) vis-à-vis the role of governments (and their activities on behalf of heritage pursued through the IGO sphere). It is a responsibility to offer advice through an understanding of both spheres. However it is important to articulate points at which they may have *different interests and priorities*, calling for different kinds of attention. It is not in ICOM's interests to treat the NGO and IGO spheres as equal or convergent – which is neither feasible nor desirable.
5. The Committee finally stressed its desire to work cooperatively with the ICOM Legal Affairs Committee and to confer with this partner committee on technical legal matters, when this would assist the Ethics Committee's work.

The Committee resolved that in any future preparation of substantial changes to the ICOM Code, ICOM's Legal Affairs Committee should be consulted. It should be invited to comment and refer queries back to the Ethics Committee – before any such document would be sent forward to the Executive Council or General Assembly for ICOM's adoption and publication.

In making this resolution, it was noted that the Legal Affairs Committee had not existed when the Ethics Committee first began work on revision of the ICOM Code (in 1999-2002). However, since the Legal Affairs

Committee was created in 2002, the work of these two standing committees has offered greater combined resources of expertise to ICOM (as had the Finance and Resources Committee also).

5.1.1 ICOM mediation process developed for handling disputed property & ethics of acquisition (announced Jan.2006) (Doc.7/ 5.1.1)

ICOM's adoption of a document on desirable mediation processes in legal disputes is a significant outcome of the Legal Affairs Committee's work. See ICOM media release in the three official languages: *Promoting the Use of Mediation in Resolution of Disputes over the Ownership of Objects in Museum Collections: Statement by the President of ICOM Alissandra Cummins* (Jan.2006) http://icom.museum/mediation_eng.html – **Doc.8/ 5.1.1**) [Translators: the French and Spanish versions of ICOM's announcement (and title) are required here.]

The Committee welcomed the ICOM mediation process document, and congratulated the Legal Affairs Committee on its development. The Committee strongly supports the value of promoting possibilities of mediation between disputing parties in the hope of helping museums to avoid costly legal processes.

The Committee noted that although there might be occasions where a legal dispute about cultural property occurs, mediation is adopted, and a dispute is settled, there might nevertheless remain strong issues of ethical principle unresolved. **The Ethics Committee therefore resolved** that in such situations it is important to maintain the possibility of raising an independent voice – perhaps to the Executive Council and even publicly – to draw attention to questions of ethical importance or violation of principle, irrespective of dispute settlement or action in the legal sphere.

5.2 ICOM International Committees/ Affiliated Organisations

5.2.1 ICAM (Archit.Museums) & ethical integrity of architectural archives (Doc.8/ 5.2.1)

The Secretary-General of ICAM (International Federation of Architectural Museums, an Affiliated Organization of ICOM) informed the ICOM Secretariat in May 2006 about ICAM's work on ethics and the integrity of architectural archives. ICAM had established its own *Principles for the Acquisition of Architectural Records* (adopted in Montreal in 1989; discussed further in 2002 and 2004). These Principles, originally formulated to protect the integrity of archives, and to inhibit the break-up and export of complete architectural archives of special importance to individual member countries, are currently under review.

An ethical commission has been set up by ICAM to re-examine and make a firm link between the ICAM Principles and the ICOM Code of Ethics for Museums, as well as considering codes of ICA (International Council of Archives).

ICAM has sent a draft of its *Code of Ethics for Architectural Museums, Centres and Collections* to ICOM, and welcomes any comments. (The document came too late for preparation of papers for the present meeting, but will be examined subsequently.) The work of ICAM on the ethics of architectural archives was meanwhile **noted by the Committee** with interest and affirmation.

5.2.2 ICME (Ethnography Mus.) - Request for a reflection from the Ethics Committee on the ethics of intellectual property (Daniel Papuga/Chair ICME) (Doc.9/ 5.2.2)

Daniel Winfree Papuga (President ICME) wrote to the Committee in April 2006, noting that 'discussions about Intellectual Property are becoming increasingly relevant to the museum world', and referring also to issues of protection of cultural diversity arising through the forums that led to the *UNESCO*

Convention on the Protection and Promotion of the Diversity of Cultural Expressions (or ‘Cultural Diversity Convention’ (October 2005).

Mr Papuga drew attention (for reference) to three papers from the 2005 ICME Conference in Nafplion, Greece, noting especially the central paper by Wend Wendland (of WIPO): *Safeguarding Cultural Heritage, Protecting Intellectual Property and Respecting the Rights and Interests of Indigenous Communities: What Role for Museums, Archives and Libraries?* – available at: <http://museumsnett.no/icme/icme2005/wendland.pdf>.

Daniel Papuga’s own paper, *How do our ethical codes relate to safeguarding intellectual property?*, highlights some of the important issues he would like ICOM’s Ethics Committee to address – and his paper is available at: <http://museunisnett.no/icme/icme2005/DaDuga.pdf>.

Mr Papuga concluded his April letter with a specific question: ‘Is Intellectual Property a planned discussion theme for the Ethics Committee, and can we expect a future version of the ICOM Code of Professional Ethics to address also Intellectual Property issues?’

The Ethics Committee resolved that the issues raised by the President of ICME are indeed important for the Ethics Committee to address, and they fit readily into some scoping of tasks for the current Committee, as already envisaged by the Chair in correspondence and discussion since early 2005. The Chair will communicate a positive response in principle to Daniel Papuga on the important issues raised, noting the lack on this occasion of the presence of committee member Richard West, who has signaled his personal interest in ensuring that these matters are well advanced by the Ethics Committee.

6. Ethical queries concerning ICOM process

6.1 Process for handling complaints (& Nat. Committees consultation) (Sec-General/ JZ)

The Committee considered the changing situation in a faster moving international world (and an increased momentum of activities within ICOM itself) in which ethical issues are moving more quickly within ICOM and within public consciousness.

John Zvereff discussed the need for the Secretariat to have some agreed lines of process, in liaison with the Ethics Committee, in addressing ethical issues (sometimes complaints) that might arise. John Zvereff also alerted the committee to a possible reaction of indignation when a national museums association is contacted by ICOM about a case internal to that country – as had occurred in one instance. The question might be posed by a country with a large museums association: what is ICOM’s intention in raising issues and seeking a response from within a community that already upholds an ethics code of its own?

The Committee noted that it is a positive value to utilise ICOM’s broad international networks in many countries, unless there are sensitive constraints in a particular case, or where confidentiality or the nature of a case would override this principle (for example if a complaint were against a member of a National Committee directly). Conversations with professional colleagues should respectfully explore multiple vantage-points, and should precede and inform any judgments finally arrived at.

The Committee also noted that in taking up any issue, ICOM seeks to promote awareness, raise consciousness, stimulate solutions – not to contact parties in an accusing manner. Actions of condemnation or public shaming (for example through *ICOM News*) would be an ‘action of last resort’ for ICOM to adopt, and only after other, more constructive possibilities were exhausted or precluded.

The Committee resolved, in response to the Secretariat's query, that although the context of complaints varies, it is in general a good principle to 'touch base' with different ICOM committees (National or International) relevant to a case, to ensure where possible that ICOM acknowledges their position and advice – even if it might not necessarily be acted upon; and even if some negative reaction might be aroused in the first instance. Only where there were very sensitive or confidential matters to respect would the Ethics Committee not seek some consultation with a National Committee concerned.

6.2 Disclosure/ publication of Ethics Committee decisions (Piet Pouw)

There was much discussion under this item of the agenda.

6.2.1 Raised public awareness

The antiquities cases arising from Italian (and more recently Greek) government actions to combat illicit traffic and recover smuggled antiquities have been remarkable in capturing public attention in the last twelve months. Media interest in collection building by museums – especially the processes of acquisition – has now risen to a level that ICOM could not have imagined in 1970 (when the first statement on the Ethics of Acquisition was published). ICOM welcomes this increased public awareness. However it places strain on ICOM's structures and resources to respond dynamically to so many evolving questions and cases in numerous parts of the world, all involving museum ethics at a fundamental level. The interest is meanwhile of positive assistance to ICOM's education process.

6.2.2 ICOM's rhythm of an annual Ethics Committee meeting (June ICOM meetings each year)

The rhythm of one meeting only per year is now under strain. Yet any proposal to increase meetings will have to contend with the issue of resources – since service on ICOM's committees is on an honorary basis, and it is hugely expensive (for some, prohibitively so) to cross the world to serve ICOM from outside Europe while being expected to find their own resources to do so. Some members cannot double the present expected commitment of an annual meeting readily. (Unable to be resolved, **this issue was noted** for report later to the Secretariat/ Executive Council.)

6.2.3 Email communication

Email exchange is now an additional option. However there is no back-up of simultaneous translation to support discussion of complex issues among members, as occurs when the committee meets face-to-face in Paris. Email can handle some communication, but enables group decision-making only when quite direct questions can be framed. (**The Committee noted** that communication issues need to be considered further.)

7. Issues for the Committee's attention or noting

7.1 Correspondence to UNESCO: National Museum of Tanzania; Barbier-Mueller Museum (Switzerland); & disputed ownership of Makonde Mask (Doc.10/ 7.1)

The Committee noted that this long-running, quite public case involving ICOM (continuing from the 1990s) had now turned to UNESCO channels between Tanzania and Switzerland at an inter-governmental level.

The Committee also noted that these were the only channels remaining (from ICOM's viewpoint) through which to address the matters of dispute between the Barbier-Mueller Museum and Tanzania.

The Committee resolved that ICOM could add nothing further of value to this case.

7.2 Questions from an officer in a European museum concerning activities of another museum in this country (also an institutional member of ICOM) (Doc.11/ 7.2)

Questions were raised for a response from the Ethics Committee concerning the activities of the deputy director of a museum in Europe who is seemingly also the owner of a private publishing company producing books, brochures and postcards, including photographs and documents concerning this museum and its activities. The publishing house appears to sell a great proportion of its production to the museum in which the deputy director is employed, while the greater part of all items on sale at the museum appear to be produced from the same publishing company.

The Committee's initial response is that if the above circumstances are accurate, then the situation would represent a clear case of conflict of interest to a serious degree – certainly in violation of ICOM's new Code (for example, sections **1.10, 8.12, 8.18**) and likely in violation of the standards assumed in most types of employment contract these days for officers of public institutions or government bodies in general.

The Committee resolved that, while it can give an opinion unhesitatingly in principle, it would require corroboration of the situation from independent sources before ICOM could itself be in a position to call attention to the case or recommend any action of direct censure. In the first instance, respecting the confidentiality of the individual who has made this complaint, the Committee will endeavour to establish means whereby it may verify the case circumstances more securely.

7.3 Cultural property discussion-list query (2005): South African claim re. Cape silver stolen from South African museum 1990s & alleged ICOM non-action (Doc.12/ 7.3)

This case is already in the public domain: A Belgian dealer has expected to claim market-related prices as re-imburement for returning goods purchased 'in good faith' that were later identified as having been stolen from South Africa more than a decade ago. The law of his own country (Belgium) would support his right to compensation in Belgium. Quote from protest message below from Dr Jillian Carman (Johannesburg, 27 Nov.2005; Cultural Property Protection Discussion List; CPProt Digest, Vol 4, Issue 333: '*Stolen Antiquities: Finders shouldn't be keepers*')

"The facts are that, in Belgian law, purchasers of stolen goods "in good faith" are entitled to be reimbursed, and the dealer was expecting to be paid a price that is far in excess of any museum budget in SA, a developing African country - in fact, in excess of the combined budgets of almost all our museums.... The complaint should rather be: what has ICOM been doing about the case?"
(Dr Jillian Carment)

The Chair has checked with Geoffrey Lewis and he has no record or memory of ICOM being approached about this case in earlier years. No approach has been made recently. After discussion, **it was resolved** that the Ethics Committee would seek assistance through appropriate collegial channels to learn what has happened about this case within South Africa, and to understand whether Dr Carment has requested any action formally.

7.4 Proposal for a Bill of Rights for Museum Visitors (Michel Favre-Félix) (Doc.13/ 7.4)

The case: Formal proposal to ICOM to create a "Bill of Rights of Museum Visitors" – contained in e-mail letter to Chair from Michel Favre-Félix favre.felix.michel@wanadoo.fr; President of the ARIPA (Association pour le Respect de l'Intégrité du Patrimoine Artistique), France, 4 April 2006).

[Translators: leave the text of this letter in English, as a reference text only]

"...Where the 2001 code promoted the public's contacts with museum staff, guaranteeing the sharing of knowledge, and assuring its members of their rights of access to collections, to documents and to information about the collections (Art.7.2, passages of articles 2.6, 2.8, 3.1, 8.3, 8.6), the new restructured version has eliminated all these safeguards.

For example...the commitment of 'Professional Responsibility to the Public' (7th point) was no longer stated at all and the article 7.2 - which contains four precise ethical duties towards the public - was dropped in its entirety. ... [W]e think that the terms used in the new code – being far more general than the 2001 text – still

leave room for various interpretations from museums' authorities, which could well lead to, or seem to endorse, a reduction of the previous duties acknowledged towards the public. ...

Of course it is not our role to set up the contents of such a Bill of Rights, but at least we wish to promote this idea and it seems sensible that it should be based upon the 2001 commitments. | From our side, the first step in support of this project takes the form of this demand that such a Bill of Rights be considered and discussed by ICOM. The signatures gathered, here added as PDF attached piece, show that support exists for such a development among connoisseurs and professionals within the heritage field. | ...Michel Favre-Félix."

The Committee considered the matters raised and came to an agreement that the request from M.Favre-Félix opened up issues that are too difficult for the Ethics Committee to act upon in the manner proposed – creation of a Bill of Rights for Museum Visitors. A 'Bill of Rights' opens up quasi-legal issues of 'visitor rights' which move far from the domain where the Ethics Committee has its greatest responsibility to work on professional matters for the application of museums and museum professionals in their daily work. 'Rights of visitors' moves to a larger social domain, and requires other agencies of society (including agencies of government) to be involved in determining what such 'rights' should be and how they are to be safeguarded.

Meanwhile the social responsibilities of museum work are clear (in ICOM's definition of a museum), and are signalled in the new *ICOM Code of Ethics for Museums*, though perhaps more briefly, since the whole Code has been compressed to revolve around eight clear principles. Note section ►4 (p.8): **Principle: Museums have an important duty to develop their educational role and attract wider audiences from the community, locality, or group they serve. Interaction with the constituent community and promotion of their heritage is an integral part of the educational role of the museum.**

[French: ►4 (p.8): **Principe: les musées ont l'important devoir de développer leur rôle éducatif et de drainer le public le plus large qui soit de la communauté, de la localité ou du groupe qu'ils servent. Interagir avec la communauté et promouvoir son patrimoine font partie intégrante du rôle éducatif du musée.**]

[Spanish: ►4 (p.8): **Principio: Los museos tienen el importante deber de fomentar su función educativa y atraer a un público más amplio procedente de la comunidad, de la localidad o del grupo a cuyo servicio está. La interacción con la comunidad y la promoción de su patrimonio forman parte integrante de la función educativa del museo.**]

It was resolved to explain to Michel Favre-Félix that his proposal would require the Ethics Committee to move too far from the main territory of its work. Issues of cultural diversity, intangible heritage values, Indigenous cultural rights and their impact on evolving ethical issues for museums – and the request from ICME to develop an ethical vision of intellectual property – have a higher priority for the Ethics Committee's attention at present.

7.5 Illicit trafficking of antiquities and the ethics of acquisition (Italian, Greek and other actions)

Question for the Committee:

How will the Ethics Committee co-ordinate and develop its case-study work?

Email letter updating Committee members (B.Murphy to EthComm, 29/11/05) (**Doc.14/ 7.5**)

Bernice Murphy reminded the Committee of an outline and summary she had provided (e-mail report, circulated 29 Nov.2005). She had reported on lengthy e-mail discussions (Secretary-General, Patrick Boylan as Legal Affairs Committee Chair, and some email conversation also involving Geoffrey Lewis) on how the Ethics Committee should consolidate its work.

In discussion with the Committee, the following important tasks were reviewed:

(a) Promotion of the new Code and continuity of the Committee's educational work on behalf of ICOM – ongoing attention to issues of interpretation and application.

(b) Appraisal of the great upsurge in international legal actions against illicit trafficking of antiquities – notably the Italian Ministry of Culture’s actions against high-profiled museums in the USA and Europe that had acquired works without due diligence on provenance (objects that evidence could show were directly connected to illicit excavation and looting).

The e-mail report circulated had explained the reasons for the Chair’s advice to take a cautionary approach to public comment while legal actions were still in process – especially concerning the trial of Marion True, formerly of the J Paul Getty Museum, in a court in Rome. Ongoing actions by the Italian government (recently joined by the Greek government) against the Getty and other museums in the United States were noted. **The Chair undertook a task for the Committee:** that she would continue gathering material on the Italian, Greek and related government actions, to distil these and bring key issues before the Committee at a later stage.

(c) The importance of utilising ICOM’s National Committees (and perhaps regional networks) for consultation, where possible, was again stressed – see Minutes above under (6.1)

(d) Connection of the Committee’s meetings and business with ongoing action or themes evolving over time.

The Committee resolved that a case-study approach to reflection on the international legal actions by governments against illicit trafficking, and the direct connection of these actions with the ethics of acquisition by museums, would be crucial themes for the Ethics Committee to pursue in its educational work.

7.5.1 Leiden Network coverage of Italian actions in Europe (Elisabet Olofsson)

Elisabet Olofsson gave a very useful report informally to the Chair (outside the meeting itself) as to the origin of the Leiden Network, and the themes of its work. There was not time to discuss the Leiden Network with the whole Committee, though it could be useful to bring an oral report to the next meeting for their information. The Leiden Network’s raising of the Italian government’s actions against museums in Europe, and the possibility of an Ethics Committee response, had been overtaken by the huge expansion of Italian actions focusing on museums in the USA – and the constantly changing ground these actions provided for the Committee’s reflection.

The subject was left unresolved, but it could be revisited, in two ways:

(a) Review of the Leiden Network’s meetings and scope of work (Elisabet Olofsson could keep a ‘watching brief’ on this matter for the Ethics Committee, to propose ways in which that Network’s concerns could be connected positively to the work of ICOM’s Ethics Committee).

(b) Review of ways in which decisions and work of the Ethics Committee could be made more public and directed towards the education process required to support the Committee’s (and ICOM’s) work on ethics (Piet Pouw had particularly raised this question, and it would be helpful if he would **continue to raise the Committee’s attention to mechanisms of public awareness that could advance the education process on museum ethics**) – see (6.2) above.

7.6 ‘Declaration of Universal Museums’ (2002): follow-up actions by ICOM? (Piet Pouw)

This matter was not discussed in detail at the meeting, but was considered a subject to retain for consideration in the Ethics Committee’s work. The topic will be **moved forward to the next agenda**.

8. 60th anniversary of ICOM (Nov. 2006)

& 36th anniversary of ICOM’s *Ethics of Acquisition* (1970)

8.1 Commemorating the 60th anniversary of ICOM in 2006 (November)

Various plans to celebrate the 60th anniversary, and the central importance of the Code of Ethics in ICOM, were noted. These included the possibility of a meeting or public discussion concerning these issues in November. Any decision about a November event in ICOM's name would depend on a variety of logistical factors and be a matter for the Secretariat and Council to resolve.

8.2 Records of the work of ICOM on ethics – historical consolidation and publication needed

The importance of compiling and publishing a history of ICOM's long-standing work on ethics was also noted. This would be ongoing, after the anniversary's passing. A disturbing oral report was noted from Patrick Boylan, when present with the Committee: on how much older historical material recording documents (e.g. comparative national codes) and business of the early ethics sub-committees, previously held within the old ICOM documentation centre in Miollis, had apparently gone 'missing' since the centre was rationalised and reduced during various physical moves of recent years.

Patrick Boylan and Bernice Murphy resolved to consult with the Secretariat: to try to gain a stocktaking of exactly what records did survive of ICOM's work on ethics over thirty years: and to try to repair (perhaps through photocopying of dispersed records held by individuals) the gaps in continuous primary records that should be held – and eventually lodged in appropriate state archives for future use of researchers and ICOM alike. ICOM's attention to its own archival records, as a museum institution *conserving the heritage of cultural heritage work internationally by museums*, is clearly a high priority for ICOM.

9. Other matters

9.1 A further meeting of the Ethics Committee in 2006

Members reviewed their day's work, and noted that the business of the committee had indeed exceeded the time provided when a one-day only meeting was scheduled some months ago. The issues of legal opinion on the interpretation of the new ICOM Code (consultation with UNESCO, and related matters) had occupied much more time than anticipated.

It was resolved that a further Ethics Committee meeting should be convened in 2006, perhaps in November, or at the time of next Executive Council meeting early in December. It was noted that resources for such a committee meeting would be an issue for some members – particularly as a meeting once per year was the normal schedule and commitment made when members accepted appointment and undertook to do this work on an honorary basis, including finding resources for international travel and accommodation without charge to ICOM. A date should be explored and, when resolved, communicated to members as soon as possible.

The meeting closed at 17h15 pm.

Minutes record compiled by Chair (B.Murphy)

Assistance in forming this Minutes record, through notes also taken by Lysa Hochroth (ICOM Secretariat) is gratefully acknowledged.