

# REPATRIATION POLICY

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## 1. PURPOSE

The Canadian Museum of Civilization Corporation (CMCC) recognizes the need to consider from time to time the repatriation of certain objects of Aboriginal origin to Aboriginal people.

This policy has been developed in the spirit of the recommendations of the Assembly of First Nations/Canadian Museums Association Task Force on Museums and First Peoples, approved in principle by the CMCC Board of Trustees in 1992, and in response to the concerns of Aboriginal people in regard to the ownership and representation of their cultural heritage and negotiations between Canada and Aboriginal people in the context of comprehensive land claims and self-government agreements.

This policy applies to human remains and associated burial objects, archaeological objects and related materials, ethnographic objects, and records associated with these held in the collections of the Canadian Museum of Civilization and the Canadian War Museum. This policy will complement the CMCC policy on human remains.

This policy covers those parts of the CMCC collection not bound by treaties, e.g. the Nisga'a Final Agreement, as of June 30, 2001.

## 2. MANDATE

The Canadian Museum of Civilization Corporation is committed to maintaining its mandate under the Museums Act, which states that:

The purpose of the Canadian Museum of Civilization is to increase, throughout Canada and internationally, interest in, knowledge and critical understanding of, and appreciation and respect for human cultural achievements and human behavior by establishing, maintaining and developing for research and posterity a collection of objects of historical or cultural interest, with special but not exclusive reference to Canada, and by demonstrating those achievements and behaviour, the knowledge derived from them and the understanding they represent.

## 3. DEFINITIONS

- Artifact:** Any object made or modified for human use.
- Aboriginal:** Refers to indigenous peoples of Canada, including people of Indian, Inuit or Métis ancestry.
- Associated Records:** Records illustrating and illuminating the history of human remains or objects, including collectors' notes, catalogue records, photographs

and audio-visual records, and research notes and reports.

**Custodial Arrangements Agreement:**

An agreement between the Canadian Museum of Civilization Corporation and an Aboriginal Government, providing for the sharing of possession of objects in the CMCC collection by the CMCC and the Aboriginal Government.

**Associated Burial Objects:**

Objects which, by their attributes or location, can be demonstrated to have been placed in direct association with the burial of a human being as part of the burial rite.

**Ethnographic Objects:**

Objects, other than archaeological artifacts, originating with and/or used by members of a First Nation and illustrative of the First Nation's culture at a particular period. While ethnographic objects may, in theory, illustrate any period in the history of a people, those in the CMCC collection generally represent the period following European contact, and were originally acquired, by the museum or other collectors from living Aboriginal people.

**Archaeological Objects and Materials:**

Artifacts and non-artifactual materials, e.g. food remains, recovered from an archaeological site.

**Contemporary Work of Art:**

Representation made in any medium by an artist or artists of Aboriginal origin, particularly, but not exclusively, since 1945.

**Human Remains:**

Human skeletal remains from archaeological sites in Canada.

**Canadian Museum of Civilization Corporation:**

Includes the Canadian Museum of Civilization and its affiliate, the Canadian War Museum.

## **4. CMCC COLLECTIONS**

4.1 The Canadian Museum of Civilization Corporation collections relating to Aboriginal peoples in Canada are established, maintained and developed under the Museums Act for the preservation, generation and dissemination of knowledge about Aboriginal cultures and history. They include archaeological materials, including human remains, objects, the detritus of manufacture, e.g. lithic flakes, associated natural specimens, e.g. pollen samples; ethnographic objects; works of contemporary art; and records, in print, audio-visual, and electronic formats.

4.2 Archaeological Objects and Materials:

Archaeological collections held by CMCC represent all of the territories and provinces of Canada. Regional representation is consistent with research which has been carried out by staff and contract archaeologists, and under various territorial permitting systems which have listed CMCC as a designated repository. Decisions taken since 1991 under the Human

Remains Policy have also had an impact on collections.

CMCC's archaeological collection include artifacts (objects of human manufacture), as well as associated archaeological materials such as animal bone or soil samples, found within archaeological sites and also valuable as a source of information about the past. It also includes human skeletal remains. These can consist of individual bones, or whole or partial skeletons. Most were found in the course of archaeological excavations; a few were acquired by private donation, police work, or non-archaeological collection by naturalists, geologists or anthropologists. The majority of the remains held by CMCC date to the period preceding the arrival of the first Europeans, and none represent individuals whose name or identity is known.

#### 4.3 Ethnographic Objects:

The CMCC collection contains objects of Aboriginal origin from the ten provinces, the Northwest Territories, the Yukon, and Nunavut. These were acquired between 1879 and the present, by purchase from Aboriginal people or from private collectors or by donation. A large proportion were purchased by ethnologists carrying out research in Aboriginal communities between 1889 and 1945. Research for exhibits, publications and other programmes, now generally undertaken in collaboration with members of the Aboriginal communities concerned, continues to be a primary context for adding material to the collection. From time to time, usually with contributing funds from the Cultural Properties Export Review Board or other programmes, the CMCC purchases ethnographic objects of Canadian Aboriginal origin which have left Canada or are threatened with export. A small proportion of the ethnographic collection represents indigenous peoples of countries other than Canada.

#### 4.4 Works of Contemporary Art:

The CMCC collection contains contemporary works of art produced by Aboriginal artists.

## 5. REPATRIATION REQUESTS

5.1 Each request for repatriation must be made in writing, and will be considered within the framework established by this policy.

5.2 Requests for repatriation may be considered

- i) as independent requests from Aboriginal individuals;
- ii) as requests from Aboriginal governments;
- iii) in the context of negotiations of comprehensive claims between Canada and Aboriginal people; and,
- iv) in the context of self-government negotiations between Canada and Aboriginal people.

5.3 Each request for repatriation will be reviewed according to the following criteria:

- i) the historical relationship of the requestor(s) to the human remains or objects concerned;
- ii) the conditions under which the materials requested were acquired by the museum;
- iii) the possibility of competing claims to the material; and,
- iv) the character of the objects, i.e. whether they meet the criteria set out in Section 6.

- 5.4 Requests for material which may be the subject of competing claims will not be considered until the Canadian Museum of Civilization Corporation has received written confirmation from the Aboriginal governments concerned that the overlapping claims have been resolved.
- 5.5 Requests from Aboriginal individuals and organizations outside treaty and self-government negotiations will be reviewed by the appropriate Acquisitions sub-committee, whether at the Canadian Museum of Civilization or at the Canadian War Museum, and the CMCC Collections Committee. Those approved by the Collections Committee will be submitted to the CMCC Board of Trustees for approval.
- 5.6 A list of objects proposed for deaccession under the terms of a Treaty or Self-Government Agreement with a First Nation will be presented to the Board of Trustees for approval prior to the presentation of the draft Treaty (or chapter thereof) or Self-Government Agreement to the Federal Caucus for review.

## **6. CRITERIA FOR REPATRIATION**

- 6.1 Where a formal request has been received and reviewed, and any overlapping or competing claims from other groups are resolved, the Canadian Museum of Civilization Corporation may repatriate the following:
- i) human remains demonstrably linked to the Aboriginal government or individuals making the request;
  - ii) objects directly associated with burials demonstrably linked to the Aboriginal government or individuals making the request; and,
  - iii) objects which have demonstrably originated with the Aboriginal society and were employed by traditional curers and/or definitively related to traditional and ongoing religious practice.
- 6.2 Human remains and associated burial objects will be repatriated only to an Aboriginal Government or an organization designated in writing for this purpose by an Aboriginal Government.
- 6.3 Objects will be repatriated only to an Aboriginal Government, except where the following conditions are met:
- i) the requestor is an individual or group of individuals with an undisputed historical relationship to the objects and the objects are demonstrated to have been acquired under conditions which were illegal at that time;
- or
- ii) the Aboriginal Government has designated in writing a duly constituted organization, such as a cultural centre, to assume responsibility for the material in question.
- 6.4 The Canadian Museum of Civilization Corporation will maintain a record, including a

catalogue record, visual record and copies of scientific documents pertaining to all repatriated objects. The Canadian Museum of Civilization Corporation will provide one copy of all public records relating to repatriated objects to the Aboriginal society concerned. Where records in the CMCC are governed by pre-existing agreements with third parties, the CMCC will abide by those agreements, as well as by Canadian copyright law.

6.5 In keeping with the purpose of the Canadian Museum of Civilization Corporation, as described in the Museums Act, the CMCC maintains the right to reproduce records of repatriated objects for purposes related to its mandate, and to reproduce in any form any record or object in the national collection, under conditions which comply with Canadian copyright law.

## **7. CUSTODIAL ARRANGEMENTS AGREEMENTS**

7.1 Objects remaining with the Canadian Museum of Civilization Corporation may be subject to custodial arrangements negotiated from time to time between the Canadian Museum of Civilization Corporation and the Aboriginal Government, as resources permit.

## **8. DONATIONS**

8.1 Where objects comprising a collection to be donated clearly include objects which fall within the parameters of an existing agreement between the CMCC and an Aboriginal Government, e.g. the *Nisga'a Final Agreement*, which takes precedence over this policy, the donor will be so informed before the donation is accepted.

## **9. RESEARCH**

9.1 Nothing in this policy precludes the conduct of research on CMCC collections by CMCC research staff and others accredited by CMCC.

9.2 Research on CMCC collections, including human skeletal remains and associated burial objects, will be completed in accordance with the CMCC Policy on Research.

## **10. SCOPE**

This policy relates only to requests for repatriation from Aboriginal peoples residing in Canada. Requests for repatriation from indigenous peoples in other nations will be considered in accordance with international agreements with those nations to which Canada is a party, or, in accordance with specific agreements which may be made between the Canadian Museum of Civilization Corporation and museums in other nations. In the absence of such agreements, the CMCC may consider requests from indigenous peoples in other nations in accordance with the terms of this policy.

## **11. RELATED POLICIES**

This policy should be read in company with the Canadian Museum of Civilization Corporation's Human Remains Policy, Research Policy, Collections Development Policy and the Museums Act.

## **12. ROLES AND RESPONSIBILITIES**

### **President and CEO**

Approves this policy.

Acts on the recommendations of the Director-General, Research and Collections Branch.

Proposes repatriation agreements to the Board of Trustees.

### **Director-General, Research and Collections**

Recommends deaccessioning of human remains and objects approved for repatriation by the Collections Committee, and implements the decisions of the Board of Trustees.

## **13. REVIEW**

This policy will be reviewed every five years, or at any time requested by the President and CEO, CMCC.

## **14. INQUIRIES**

Inquiries concerning this policy are to be addressed to the Director-General, Research and Collections, CMC.

## **15. REFERENCES**

"Turning the Page: Forging New Partnerships between Museums and First Peoples" A Report jointly sponsored by the Assembly of First Nations and the Canadian Museums Association, Ottawa, 1992.

Canadian Museum of Civilization Corporation Policy on Human Remains, 1992.

Canadian Museum of Civilization Corporation Research Policy.

Canadian Museum of Civilization Corporation Collections Development Policy.

Government of Canada

1990 An Act respecting museums. The House of Commons of Canada, Bill C-12. Short title: *The Museums Act*.

## **16. APPROVAL**

This policy was approved on May 1, 2001.

