

NATIVE PEOPLES

The Arts & Lifeways

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Seminole People in the 1930s
Warriors of the Forest
The Pacific Bridge
Passing The Torch
Partial Recall
Yurok Ceremonies

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SPOILS OF WAR

A Call for a Code of Ethics in the Indian Art Market

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Editor's note: In May of 1991, Elizabeth Sackler purchased two sacred Hopi Kachina masks and one Navajo Yeibeche mask about to be auctioned at a prestigious Manhattan establishment. The Hopi and the Navajo requested their removal from the auction bloc but those requests were denied. Ms. Sackler personally bid \$39,000 to assure the return of the masks to their proper owners.

In January, 1995, the Bard Graduate Center for Studies in the Decorative Arts sponsored a conference, "The Spoils of War: World War II and Its Aftermath: The Loss, Reappearance & Recovery of Cultural Property." Panelists described the four Collecting Points organized by the United States in occupied Germany during 1945. Collecting Points were responsible for the sixteen million works of art stolen by the Nazis during World War II. The one hundred twenty-four person staff was responsible for storage, inventory, and the repatriation of art to owners or countries of origin.

Conference panelist Walter Farmer, formerly the Director of the Wiesbaden Collecting Point, was outraged at Harry McBride, the-then Administrator of the National Gallery of Art in Washington, DC. According to Farmer, McBride recommended the Army transfer two hundred works of art "...of the greatest importance" under the guise of security and without regard for anticipation of repatriation, from the high-security warehouses in Wiesbaden, Germany, to the National Gallery in Washington, DC.

Farmer and his staff of Monuments, Fine Arts, and Archives Specialist Officers were so outraged they wrote "the Wiesbaden Manifesto" and submitted it to the United States Senate on November 7, 1946.

President Harry S. Truman reviewed the protest which resulted in the two hundred masterpieces being returned to Germany and repatriation status. President Truman stated: "We are unanimously agreed that the transportation of those works of art [to Washington, DC], undertaken by the United States Army, upon direction from the highest national authority, establishes a precedent which is neither morally tenable nor



Elizabeth Sackler and Peter Jemison sign a Deed of Gift, repatriating a ceremonial turtle rattle to the Haudenosaunee Standing Committee on December 16, 1995. Photo by Polly Nordstrand.

trustworthy...No historical grievance will rankle so long, or be the cause of so much justified bitterness, as the removal, for any reason, of a part of the heritage of any nation, even if that heritage be interpreted as a prize of war...There are yet further obligations to common justice, decency, and the establishment of the power of right, not might, among civilized nations."

Co-panelist Willi Korte, lawyer and historian stated "...we have to make sure that everybody involved in the purchase or sale of art accepts in the end the principle that stolen works of art have no place on the market..."

The Wiesbaden Manifesto is exemplary in moral and ethical standards that support an integrity in the marketplace. The Manifesto's commitment to the handling of those spoils of war and the issues of ownership and restitution is inspirational to the American Indian Art Market.

Oftentime, spoils of war, antique artifacts, and ceremonial material created by native peoples are referred to as Fine American Indian Art. Auction houses and dealers all too rarely provide provenance for the artifacts and ceremonial material they sell. The absence is due to lack of information, the questionable origins of material, or inappropriateness of sale.

However, often spoils of war are described and purchased with gusto. A major auction was described in an Indian art magazine recently as "...a spectacular sale of important Custer, Indian War, and Western memorabilia in which

fine and historically significant Indian items...originally part of collections assembled by two individuals who were members of Lt. Col. George Custer's command on the Sioux Expedition of 1876." Sale items included a pair of Sioux moccasins recovered from the Custer battlefield, circa 1876.

The Wiesbaden Manifesto questions the status of spoils of war and the moral obligations to decency and the "power of right."

The plundering of "art" is now under intense scrutiny by governments, lawyers, dealers, museum directors, collectors, and archaeologists. Enlightened historians acknowledge the effects of the first pillaging of the Americas. Hans Koning, wrote in *The Conquest of America*, "...it is the Europeans and their descendants who are still sitting pretty on all that loot and on the mountain of skulls. It was the looting of the Americas that paid for the Industrial Revolution."

For other items of unclear origin, collectors may not know that the legitimate purchase of stolen property does not establish legitimate ownership. Almost without exception, the transfer of stolen property in "a good faith" purchase does not establish title. Collectors of Indian art today ought to inquire about provenance from dealers, galleries, and auctions houses before a purchase.

Standards of the Wiesbaden Manifesto could be adopted by the Indian Art Market. A market that ignores the existence of the human connection to its art damages the contemporary art market and collections, as well as intercultural relationships. Embracing integrity and ethical standards invites confidence and a sense of true respect for the art and its creators. 