

**WITNESSES OF ATROCITY AND THE PRESERVATION OF MEMORY:  
AN ANALYSIS OF AND RECOMMENDATIONS FOR THE RELATIONSHIP  
BETWEEN MEMORIAL MUSEUMS AND SURVIVORS**

by

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## **ABSTRACT OF THE THESIS**

Witnesses of Atrocity and the Preservation of Memory:  
An Analysis of and Recommendations for the Relationship between Memorial Museums  
and Survivors

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This thesis aims to explore the relationship between memorial museums and survivors, the moral and ethical obligations between them, and best practices regarding this relationship. Using three museums as case studies, the Auschwitz-Birkenau State Memorial and Museum, United States Holocaust Memorial Museum and the future National September 11 Memorial and Museum, I will discuss the existing policies that dictate the relationship between memorial museums and survivors. There are different types of relationships between survivors and a memorial museum which are generally determined by the survivor's choice of how involved they want to be with the museum. This analysis will discuss measures that museums take to include survivors and the manner in which museums reach out to survivors. Additionally, the collecting practices of these museums will be explored in respect to how they address the acquisition of objects that could be considered personal property. This study will culminate in a set of recommendations for the relationship between memorial museums and survivors. The ethical issues surrounding the rights of survivors and museums' plans for keeping them involved with the museum has applications in the creation of policy and codes of ethics in memorial museums in the United States and abroad.

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## Table of Contents

<b>Abstract of the Thesis .....</b>	<b>ii</b>
<b>Acknowledgements .....</b>	<b>iii</b>
<b>Introduction.....</b>	<b>1</b>
<i>The Relationship between Survivors and Memorial Museums .....</i>	<i>1</i>
<b>Case Study One: the Auschwitz-Birkenau State Memorial and Museum.....</b>	<b>3</b>
<i>History of the Auschwitz-Birkenau State Memorial and Museum .....</i>	<i>4</i>
<i>History of Survivor Involvement .....</i>	<i>6</i>
<i>The Conflict over Seven Roma Portraits: Dina Babbitt and the Auschwitz-Birkenau State Memorial and Museum .....</i>	<i>8</i>
<i>The Fight over a Suitcase: Michel Levi-Leleu and the Auschwitz-Birkenau State Memorial and Museum.....</i>	<i>11</i>
<i>Conclusion.....</i>	<i>13</i>
<b>Case Study Two: The United States Holocaust Memorial Museum .....</b>	<b>16</b>
<i>Survivor Involvement.....</i>	<i>18</i>
<i>Collecting for and the Presentation of the Permanent Exhibition .....</i>	<i>19</i>
<i>Conclusion.....</i>	<i>22</i>
<b>Case Study Three: the National September 11 Memorial and Museum .....</b>	<b>23</b>
<i>Defining Survivors at the National September 11 Memorial and Museum .....</i>	<i>25</i>
<i>The Relationship between Survivors and the National September 11 Memorial and Museum .....</i>	<i>25</i>
<i>Ethics Involved in Collecting at the National September 11 Memorial &amp; Museum .....</i>	<i>28</i>
<i>Plans for Survivor Outreach and Future Involvement.....</i>	<i>30</i>
<b>The Relationship between Museums and their Stakeholders .....</b>	<b>32</b>
<i>The Impact of NAGPRA: A Model for Survivor Museums? .....</i>	<i>32</i>
<b>Recommendations .....</b>	<b>35</b>
1. <i>Memorial museums should recognize that they possess moral and ethical obligations toward the survivors of atrocities that they aim to represent. ....</i>	<i>36</i>
2. <i>Memorial museums should recognize a broad and inclusive definition of survivorship. ....</i>	<i>36</i>
3. <i>Memorial museums should create and staff a survivor affairs department.....</i>	<i>38</i>

4. <i>Memorial museums should create a collections policy that is mindful of survivor concerns.</i> .....	39
5. <i>Memorial museums should consider the beliefs of victims in the creation of memorials and repositories which will house human remains and have a policy regarding future claims on the remains housed at their institution.</i> .....	41
<b>List of Abbreviations</b> .....	<b>44</b>
<b>Bibliography</b> .....	<b>45</b>
<b>Curriculum Vitae</b> .....	<b>49</b>

## **Introduction**

What kind of ethical protocols do memorial museums have in place when dealing with survivors? Astonishingly, there are few guidelines that address the ethics of memorial museums or the rights of survivors in this type of museum. However, the Native American Graves Protection and Repatriation Act (NAGPRA) and the museum policies resulting from it may serve as an example of the ways in which museums can develop ethical protocols in this regard. Based upon the model of dealing with Native American ownership, repatriation, and representational issues, policies could be developed in memorial museums to deal with similar issues with survivor groups. Using the experiences of the Auschwitz-Birkenau State Memorial and Museum (ABSMM), United States Holocaust Memorial Museum (USHMM) and the future National September 11 Memorial and Museum (N911MM) as illustrative examples, this analysis aims to shed light on the problems that may emerge from the lack of robust museum policies surrounding survivorship. I conclude this review with some suggestions for how memorial museums, the institutions that purport to take survivorship seriously, might develop sound ethical protocols in this area.

### *The Relationship between Survivors and Memorial Museums*

Surprisingly, the International Coalition of Sites of Conscience (ICSC) and the International Committee of Memorial Museums in Remembrance of the Victims of Public Crimes (ICMEMO), two international organizations dealing primarily with memorial museums, do not have any policies or recommendations for the relationship between memorial museums and survivors. Focused upon the “preservation of memory,” ICSC and ICMEMO are the two international organizations dedicated to memorial

museums. The ICSC focuses on the connection between past and present historical injustices and educational programming to emphasize this connection.<sup>1</sup> Although the majority of the seventeen accredited sites of conscience and the six founding museums and sites can be considered memorial museums, there is no mention of the role of survivors, the families of victims and their descendants within their educational mission, which gives contemporary stakeholders precedence over survivor stakeholders.<sup>2</sup>

ICMEMO is the only one of the 31 international committees of the International Council of Museums (ICOM) that is dedicated to memorial museums.<sup>3</sup> ICMEMO sees memorial museums as a place to commemorate tragic acts and victims as well as educate the general public about these events. As with the ICSC, ICMEMO does not state how survivors fit into this educational mission. These two organizations should deal with the role of the survivor in the memorial museum; however the ICSC and ICMEMO have an emphasis on contemporary stakeholders, education, and the preservation of memory. The issues of survivor involvement with memorial museums needs to be expanded past the planning phase of museums to incorporate issues such as property rights, collection policies, and the institution's moral and ethical obligations to survivors.

In this analysis, the Auschwitz-Birkenau State Memorial and Museum (ABSMM), United States Holocaust Memorial Museum (USHMM), and the National September 11 Memorial and Museum (N911MM) will be case studies. Being one of the

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<sup>1</sup> "About Us," *International Coalition of Sites of Conscience*, 2011, <http://www.sitesofconscience.org/about-us/en/>.

<sup>2</sup> The preservation of memory is emphasized; however there is no mention of the role of survivors, families of victims and their descendants in the preservation of memory and its use to analyze historical issues. It is clear that even though many of the members of ICSC are memorial museums, the educational purposes of these sites are emphasized over the commemorative.

<sup>3</sup> "International Committees," *International Council of Museums*, 2010, <http://icom.museum/who-we-are/the-committees/international-committees.html>.

first and most well known memorial museums, the ABSMM is included in this analysis because European Holocaust museums have become a model for later memorial museums. The museum developed over time, changing its exhibitions to take into account different portrayal of victims at the site. At the ABSMM, their policies regarding claims on personal property and collections policy have been called into question by their reaction to two survivors who have made claims on objects in the museum's collection. The second case study will be on the USHMM, the best known and most successful Holocaust memorial museum in the United States. While the USHMM integrated survivors in every step of the creation of the museum; it has not implemented any policy or guidelines regarding its relationship with survivors. The N911MM will be the final case study, with a focus on its status as a nascent museum and the way in which the museum is proactively dealing with issues such as property rights and its moral obligations to survivors and the families of victims. These three case studies are illustrative of a larger whole in that they represent issues that are prevalent in memorial museums with regards to survivor relations and how museums anticipate and deal with these issues.

### **Case Study One: the Auschwitz-Birkenau State Memorial and Museum**

After World War II, memorials and memorial museums dedicated to the Holocaust began to appear across Europe. Many of them are located on the sites of former concentration camps. The catalysts for these memorials are multifaceted, including the obligation to remember, the need for states to explain their past actions, the desire to educate about the



history of Holocaust events and sites, and the expression of guilt.<sup>4</sup> Furthermore, the grounds at the former concentration camps are characterized by many as cemeteries and sacred space. The largest is Auschwitz-Birkenau which has attracted many visitors since its opening in 1947 and currently has over a million visitors annually. More than tourist destinations, these sites become pilgrimage sites due to the atrocities associated with them, and visiting such sites becomes a cathartic experience. They are geared towards visitor experience, memorialization rituals, and education, even sacrificing historical resources for this mission by repurposing architectural remains.<sup>5</sup> Many of these museums show greater consideration for the tourists, who account for a large percentage of the sites' revenues, than the few remaining survivors of the events that they aim to commemorate.

### *History of the Auschwitz-Birkenau State Memorial and Museum*

While there are many memorial museums and historic sites located at former World War II concentration and forced labor camps in Europe, such as Majdanek, Buchenwald, Dachau, and Sachsenhausen, the UNESCO World Heritage Site at Auschwitz-Birkenau in Poland is perhaps the best known. After World War II ended, Auschwitz functioned as a prisoner of war camp for captured German soldiers,<sup>6</sup> and the POWs were put to work exhuming mass graves, dismantling the factories around Auschwitz, clearing the camp

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<sup>4</sup> James Young, *The Texture of Memory: Holocaust Memorials and Meaning* (New Haven and London: Yale University Press, 1993), 2.

<sup>5</sup> Debora Dwork and Robert Jan van Pelt, *Auschwitz: 1270 to the Present* (New York: Norton and Company, 1996), 362. The Prisoner Reception Center at Auschwitz I which housed sanitation facilities, such as a delousing room, gas chambers for clothing, a bathhouse and laundry, is currently the visitor center for the site and museum; there is no indication at the site of the building's history.

<sup>6</sup> Jonathan Huener, *Auschwitz, Poland, and the Politics of Commemoration, 1945-1979* (Athens, OH: Ohio University Press, 2003), 61.

grounds, and even preserving the camp by repairing buildings and constructing some of the museum's earliest exhibits.<sup>7</sup> In early 1946, although there was still a Soviet military presence at Auschwitz, Tadeusz Wąsowicz, a former political prisoner under the Nazi regime, was named director of the site. Mr. Wąsowicz envisioned the site becoming a place to memorialize Polish and international martyrdom and to study German crimes committed during World War II.<sup>8</sup> The first workers at the Auschwitz site were former inmates under the Nazi regime. They fulfilled the duties of being tour guides, protecting the site, and maintaining and preserving the remaining structures and ruins.<sup>9</sup>

In 1947, the Polish Parliament acted to preserve the camp as a memorial.<sup>10</sup> At that time, even prior to the museum's official opening two exhibits were on view, Block 11, known as the "Block of Death" and Block 4a, which displayed artifacts that testified to the extermination process, a precursor to the "Material Proof of Crimes Exhibit."<sup>11</sup> Restoration of Auschwitz I, including the renovation of Prisoner Blocks 15 and 16 and the reconstruction of the chimney and Zyklon-B chutes of Crematorium I, began in early 1947 and the permanent exhibits opened in June of the same year.<sup>12</sup>

The displays went through interpretive changes during the ensuing years, under the communist government the focus shifted from the glorified presentation of Polish martyrdom during World War II, to Cold War-era displays about socialist political prisoners. During this period, because of the memory and infamy associated with the site, it was used as a political arena from which the Polish government presented political

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<sup>7</sup> Huener, *Auschwitz, Poland, and Politics*, 61.

<sup>8</sup> Huener, *Auschwitz, Poland, and Politics*, 61-62.

<sup>9</sup> Huener, *Auschwitz, Poland, and Politics*, 62.

<sup>10</sup> Young, *Texture of Memory*, 130-131; see also Huener, *Auschwitz, Poland, and Politics*, 69.

<sup>11</sup> Huener, *Auschwitz, Poland, and Politics*, 69.

<sup>12</sup> Huener, *Auschwitz, Poland, and Politics*, 70, 73.

propaganda, such a staging rallies at the former concentration camp. The exhibits were designed to support the communist ideals of the Polish government by extolling the evils of the “imperialistic” German fascism as manifested at Auschwitz.<sup>13</sup> The changes in the commemorative narrative at ABMM reflected the changing political climate in Poland and generally emphasized the suffering that the Poles endured in the camps while suppressing the representation of other groups.<sup>14</sup> The exhibition and sites were restructured and renovated in 1989 to refocus on the original purpose as a memorial and museum dedicated to the Holocaust.

### *History of Survivor Involvement*

Survivors were involved at the ABSMM from its creation; however, the majority of participating survivors were Polish political prisoners at the camp, leading to an absence of Jewish, Romani, and other voices within the museum’s exhibitions and planning. When the memorialization of the Auschwitz complex was conceived, the focus of the exhibitions and memorial activity remained on Auschwitz I.<sup>15</sup> The plight of the Jews was mostly left out of the exhibitions the changes made in 1989. That same year, a commission was created under Prime Minister Tadeusz Mazowiecki to rework the exhibitions at Auschwitz I to make them adequately reflect and represent all groups of victims.<sup>16</sup>

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<sup>13</sup> Huener, *Auschwitz, Poland, and Politics*, xiv, 79, 96-97, 122.

<sup>14</sup> Huener, *Auschwitz, Poland and Politics*. Huener describes these changes in detail in his book.

<sup>15</sup> Dwork, *Auschwitz*, 364; see also Huener, *Auschwitz, Poland, and Politics*, 47.

<sup>16</sup> Huener, *Auschwitz, Poland, and Politics*, 47; see also Dwork, *Auschwitz*, 364, 373.

From May 6<sup>th</sup> through 8<sup>th</sup>, 1990, a meeting of international Jewish intellectuals gathered at Yarnton Manor at Oxford University to discuss “the future of Auschwitz.”<sup>17</sup> The meeting, which was a result of cooperation between the Polish Ministry of Culture and the Center for Hebrew Studies at Oxford University, presented the first opportunities for Jewish survivors, religious leaders, and academics to discuss how Jewish memory should be preserved and presented at Auschwitz. They also had the opportunity to offer the Polish Ministry of Culture a set of recommendations.<sup>18</sup> “The Yarnton Declaration of Jewish Intellectuals on the Future of Auschwitz” laid out five recommendations for the ABSMM. It stipulated that the exhibits clearly show: 1) that 1.6 million men, women, and children were murdered there; 2) that over 90 percent of those murdered here were Jews, and that, aside from the “tribes of Sinti and Rom,” Jews were the only people condemned to death for the “crime” of having been born; 3) that a large number of non-Jews, especially Poles, died at Auschwitz, and that the camp played a key role in the Nazi campaign to destroy Polish nationhood; 4) that both Jews and non-Jews murdered there were drawn from all walks of life and all political persuasions, from dozens of cultural, religious, and national traditions; and 5) that the atrocities committed at Auschwitz were perpetrated by the Nazi party and its collaborators.<sup>19</sup> In addition, the Yarnton Declaration suggested that politics be removed from the site, the training of guards be standardized, visitors be reminded that it was a “holy” site, to encourage a type of decorum, and a memorial space be created representing the needs of all victim groups to know about

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<sup>17</sup> Young, *Texture of Memory*, 150; see also Marc H. Ellis, *Ending Auschwitz: the Future of Jewish and Christian Life* (Louisville, KY: Westminster/John Knox Press, 1994), 142, note 1.

<sup>18</sup> Young, *Texture of Memory*, 152.

<sup>19</sup> Young, *Texture of Memory*, 152.

what happened in the camps.<sup>20</sup> These recommendations and issues were further debated at a meeting in 1992, and many of the recommendations from “The Yarnton Declaration” were improved, changed or omitted.<sup>21</sup> Although not all of the recommendations were adopted by the Auschwitz Museum, the fact that the Polish Ministry of Culture reached out to the Jewish community for suggestions in restructuring the site shows the growing recognition of the importance of the role of Auschwitz II (Birkenau) in the destruction of Europe’s Jewry and the importance of this survivor group which was previously ignored.

*The Conflict over Seven Roma Portraits: Dina Babbitt and the Auschwitz-Birkenau State Memorial and Museum*

The problems associated with the integration of survivor interests are illustrated through the experience of Holocaust survivor Dina Babbitt. While the circumstances of this particular case make it unique, it is nevertheless symptomatic of the broader issues surrounding survivor relations at the ABMM. On September 18, 1943, Babbitt, who was studying art in Prague, was imprisoned at the Auschwitz II (Birkenau) camp in Poland. The medical officer of the “Gypsy camp” at Auschwitz was Josef Mengele, referred to as Dr. Mengele, who conducted medical experiments on inmates. While in the camp, Babbitt’s artistic skills caught Mengele’s attention and he asked her to document the Roma prisoners at the camp. Babbitt agreed on the condition that her and her mother’s life would be spared. Beginning in February or March 1944, Babbitt painted a total of 12 portraits of Roma prisoners, documented Mengele’s medical experiments, and made several portraits of Nazi officers’ families based on photographs they brought to her. Babbitt and her mother survived imprisonment in Auschwitz and Ravensbrück and were

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<sup>20</sup> Young, *Texture of Memory*, 152-154.

<sup>21</sup> Young, *Texture of Memory*, 154; see also Ellis, *Ending Auschwitz*, 142, note 1.

liberated in May 1945 by the Soviet Army. Babbitt was unable to take the watercolors with her when she left Auschwitz.<sup>22</sup> After the Soviet Army left, the many residents of the neighboring towns and the remaining inmates looted materials from the camps, including Babbitt's watercolors.<sup>23</sup>

In 1963, the museum purchased six of Dina's watercolors from Ewa, a former prisoner.<sup>24</sup> The seventh watercolor was bought by the museum in 1977 from an anonymous prisoner.<sup>25</sup> In 1973, the museum discovered that the works were by Babbitt by comparing her signature to those in a book about the Holocaust in which she had contributed illustrations after the war. In January 1973, Babbitt traveled to Poland to visit the museum to see and reclaim her works.<sup>26</sup> Going to Poland with the assumption that she would return to the United States with her watercolors, Babbitt was crushed when the museum refused to return them. After this encounter with the museum, Babbitt realized

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<sup>22</sup> The chronology of Babbitt's life during the Holocaust is compiled from the following sources: Ron Grossman, "Holocaust Survivor Wants Her Paintings Removed from Auschwitz," *Jewish World Review*, October 24, 2006, [http://www.jewishworldreview.com/1006/return\\_paintings.php3?printer\\_friendly](http://www.jewishworldreview.com/1006/return_paintings.php3?printer_friendly); "Dinah Gottliebova-Babbitt," *Exhibition-Biographies, The Last Expression: Art and Auschwitz*, ND, [http://lastexpression.northwestern.edu/exhibition\\_fr\\_biographies.html](http://lastexpression.northwestern.edu/exhibition_fr_biographies.html); Steve Friess, "History Claims Her Artwork, but She Wants It Back," *New York Times*, August 20, 2006, [http://www.nytimes.com/2006/08/30/arts/design/30surv.html?pagewanted=2&\\_r=1](http://www.nytimes.com/2006/08/30/arts/design/30surv.html?pagewanted=2&_r=1); Bruce Weber, "Dina Babbitt, Artist at Auschwitz, Is Dead at 86," *New York Times*, August 1, 2009, [http://www.nytimes.com/2009/08/02/arts/02babbitt.html?\\_r=1](http://www.nytimes.com/2009/08/02/arts/02babbitt.html?_r=1); George Gene Gustines, "Comic-Book Idols Rally to Aid a Holocaust Artist," *New York Times*, August 8, 2009, [http://www.nytimes.com/2008/08/09/arts/design/09comi.html?\\_r=1](http://www.nytimes.com/2008/08/09/arts/design/09comi.html?_r=1); Robin Cembaleset, "An Artist Seeks to Recover Works From Auschwitz: Her Paintings of Gypsies Were Commissioned by Mengele," *Forward*, vol. c1, May 23, 1997, p. 1.

<sup>23</sup> Huener, *Auschwitz, Poland, and Politics*.

<sup>24</sup> The museum claims that Ewa was rescued from the camp by a local boy, whose family adopted her, and as a token of appreciation another prisoner gave the boy the pictures. Later, the works were returned to Ewa and sold to the museum to help pay for her education. Auschwitz-Birkenau State Memorial and Museum, "Museum's Position on Issue of Portraits Made by Dinah Gottliebova-Babbitt," *News 2006*, October 2, 2006, [http://en.auschwitz.org.pl/m/index.php?option=com\\_content&task=view&id=57&Itemid=8](http://en.auschwitz.org.pl/m/index.php?option=com_content&task=view&id=57&Itemid=8).

<sup>25</sup> ABSMM, "Museum's Position on Portraits by Gottliebova-Babbitt."

<sup>26</sup> ABSMM, "Museum's Position on Portraits by Gottliebova-Babbitt," see also Friess, "History Claims Her Artwork."

that the sole reason the museum reached out to her was to authenticate the works. Babbitt received photographs of her works and some letters, but she could not bear to respond after feeling betrayed and used by the museum to authenticate the works.<sup>27</sup> It was not until the 1990s that Babbitt decided to resume correspondence with the museum in an attempt to repatriate her artwork.

Negotiations between the museum and Babbitt took place in the late 1990s, and it was suggested that the works be loaned to Babbitt for the remainder of her lifetime or a few works possibly returned to her, but she refused because she wanted full ownership of all the works and the right to hang them in a museum in the United States.<sup>28</sup> Although she was previously revolted by the idea of having only a few of her works returned, toward the end of her life, Babbitt began to embrace the idea. Prior to her death in 2009, serious conversations with the ABSMM resumed concerning returning one of the works to her before her death. She thought that there was a slim possibility that someone from the museum would come to her with the original “Celine,” the first portrait she painted, for her to see one last time, but nothing happened before Babbitt died. However, the museum did send her a picture of a Roma picnic at the museum and a letter explaining the support of the Roma organization for the museum and urging that she and her family to stop requesting that the works be returned.<sup>29</sup> Dina Babbitt was not the only survivor who made a claim on an object in the ABSMM’s collection which resulted in a dispute over ownership.

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<sup>27</sup> Michelle Babbitt, telephone conversation with author, December 10, 2010.

<sup>28</sup> Friess, “History Claims Her Artwork”.

<sup>29</sup> Michelle Babbitt, telephone conversation. Michelle Babbitt also stated that Roma organizations are divided on the issue of returning the works to Dina Babbitt and her heirs.

*The Fight over a Suitcase: Michel Levi-Leleu and the Auschwitz-Birkenau State Memorial and Museum*

Like the claims made by Dina Babbitt, the claims made by the Levi-Leleu family for an object in the collection of the ABSMM were met with refusal on the part of the museum. Pierre Levi was a Jewish diamond dealer in Paris when World War II began.<sup>30</sup> In an attempt to elude Nazi suspicion, Pierre changed the family's last name to a more French sounding "Leleu" and moved his wife and two young children into hiding in Haute-Savoie in 1942.<sup>31</sup> On April 10, 1943, Pierre Levi was arrested in Avignon while traveling to meet with his family.<sup>32</sup> He was deported and went through the Orgeval and Drancy transit camps located in France before arriving at Auschwitz on July 31, 1943.<sup>33</sup> There are no documents which reveal the fate of Pierre Levi after his arrival in Auschwitz, but it is assumed that like many others, Pierre Levi perished at the infamous camp.<sup>34</sup> In 1945, Pierre's family was informed that he had "lost his life for France," but were given no further details.<sup>35</sup>

In September 2004, an exhibition at the Foundation for the Remembrance of the Shoah in Paris entitled "The Fate of the Jews from France during World War II," for which the Foundation borrowed objects from the Auschwitz-Birkenau State Memorial Museum that were confiscated from French Jews during the Holocaust.<sup>36</sup> Among the objects loaned by the Auschwitz Museum was a suitcase which bore a tag inscribed with,

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<sup>30</sup> Jennifer Anglim Kreder, "The Holocaust, Museum Ethics and Legalism," *Review of Law and Social Justice* 18, no. 1 (2008): 23.

<sup>31</sup> Mariusz Lodkowski, "Battle Over a Suitcase from Auschwitz," *Sunday Times*, August 13, 2006, <http://www.timesonline.co.uk/tol/news/world/article607646.ece>; see also Alan Riding, "The Fight Over a Suitcase and the Memories it Carries," *New York Times*, September 16, 2006, B9.

<sup>32</sup> Lodkowski, "Battle Over a Suitcase;" see also Riding, "Fight Over a Suitcase."

<sup>33</sup> Lodkowski, "Battle Over a Suitcase;" see also Riding, "Fight Over a Suitcase."

<sup>34</sup> Lodkowski, "Battle Over a Suitcase;" see also Riding, "Fight Over a Suitcase."

<sup>35</sup> Lodkowski, "Battle Over a Suitcase."

<sup>36</sup> Lodkowski, "Battle Over a Suitcase;" see also Riding, "Fight Over a Suitcase."



“86 Boul, Villette, Paris Pierre Levi,” and another tag with his prisoner reference number, “48 Gruppe 10.”<sup>37</sup> In February 2005, Michel Levi-Leleu, Pierre Levi’s son, visited the exhibition at the Foundation and to his surprise, discovered the suitcase with his father’s name and address on it.<sup>38</sup> The loan of the suitcase was intended to be for only a short period; the objects were scheduled to be returned to Poland by June 30, 2005.<sup>39</sup> However, at the request of Michel Levi-Leleu the suitcase remained in Paris.<sup>40</sup> The Auschwitz Museum reluctantly agreed to extend the loan of the suitcase to January 2006 so that the Foundation would have more time to “persuade the family into not demanding its restitution.”<sup>41</sup> Michel Levi-Leleu asked the Auschwitz Museum to repatriate the suitcase, when they refused he began legal proceedings to keep the suitcase in France.<sup>42</sup>

In December 2005, one month before the extended loan expired, the Levi-Leleu family got a court order which prevented the return of the suitcase before the issue of its ownership was resolved.<sup>43</sup> During the court proceedings, the suitcase remained on display at the Foundation for the Remembrance of the Shoah in Paris.<sup>44</sup> The court came to a decision in May 2008 regarding Levi-Leleu’s claims, but it appears as if the Levi-Leleu family and the ABSMM reached an out of court settlement.<sup>45</sup> According to a press release issued by the Museum in June 2009, the suitcase will remain in the Foundation in

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Kreder, “Holocaust, Museum Ethics, and Legalism,” 24; see also Auschwitz-Birkenau State Memorial and Museum, “Settlement Reached over Auschwitz Suitcase,” *News 2009*, June 4, 2009, [http://en.auschwitz.org.pl/m/index.php?option=com\\_content&task=view&id=630&Itemid=8](http://en.auschwitz.org.pl/m/index.php?option=com_content&task=view&id=630&Itemid=8).

<sup>38</sup> Riding, “Fight Over a Suitcase.”

<sup>39</sup> Lodkowski, “Battle Over a Suitcase;” see also Riding, “Fight Over a Suitcase.” The Levi-Leleu family had no previous knowledge of the suitcase’s existence.

<sup>40</sup> Lodkowski, “Battle Over a Suitcase.”

<sup>41</sup> As quoted in Riding, “Fight Over a Suitcase.”

<sup>42</sup> Lodkowski, “Battle Over a Suitcase.”

<sup>43</sup> Riding, “Fight Over a Suitcase.”

<sup>44</sup> Riding, “Fight Over a Suitcase.”

<sup>45</sup> Kreder, “Holocaust, Museum Ethics, and Legalism,” 24, note 162; see also ABSMM, “Settlement Reached over Suitcase.”

Paris “on a long-term basis” and the Levi-Leleu family has rescinded its claim on the suitcase.

### *Conclusion*

The majority of the objects in the ABSMM’s collection were confiscated from camp prisoners, including Jews who were killed in the gas chambers. The museum seems to make the horrifying assumption that there can be no survivor claimants for the objects in their collection because all such objects came from persons who perished in the Holocaust. The museum also knows that even if survivors do exist, most if not all would have great difficulty in proving their ownership rights if they were able to prove them at all. For these reasons, the ABSMM does not anticipate survivor claims and has not developed any policy or protocol with regard to survivor claims on objects in their collection.

By denying survivors’ ownership rights, the ABSMM erodes, even if inadvertently, survivor rights. Survivors retain ownership rights to their personal property. Their rights should not be lost by virtue of their experience in the Holocaust, or due to the “educational value” of their property. In cutting off those rights, the museum improperly conflates the ideas of voluntary abandonment of property and the forced alienation of property. The forced alienation of property, which occurred frequently during the Holocaust, should not be seen as rescinding ownership rights. By ignoring the forced alienation of property the museum continues to assert its ownership over all objects left at Auschwitz. The museum bolsters its claim by asserting that “everything left from the camp should remain inviolate and integral.”<sup>46</sup> In this regard, the ABSMM

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<sup>46</sup> ABSMM, “Settlement Reached over Suitcase.”

simply fails to recognize that the majority of the objects that were left at Auschwitz were previously the personal property of prisoners that were forcibly taken and not abandoned by their owners. Compounding the problem for survivors, Poland has no restitution law which allows for the claim of personal property taken by the Nazis during WWII. Thus, the ABSMM sees itself as the owner of these objects, rather than as a custodian caring for and preserving these historically important objects.

Seeing as memorial museums present tragic moments and they have an obligation to respect the opinions and sensibilities of those who lived through the events. Considering that the personal effects of many people were taken under duress, essentially stolen, by the Nazis during the Holocaust, museums have a moral obligation to return those objects. This idea is not confined to memorial museums; in 1999 the American Association of Museums (AAM) issued *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*.<sup>47</sup> While this code of ethics deals mainly with the return and acquisitions policies in museums that collect and display art and other cultural property, the principles could also be applied to a memorial museum, such as the ABSMM, which houses objects that were confiscated during the Nazi Era. In fact, because of their intimate connection to the event, memorial museums should be particularly sensitive to claims of ownership and the emotional undercurrent of these claims. Memorial museums aim to commemorate tragic events and educate the public to prevent similar events from reoccurring; however, by denying victims' ownership claims on objects that can clearly be identified as personal property, the survivors are re-

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<sup>47</sup> American Association of Museums, "Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era," *American Association of Museums*, 1999, [http://www.aam-us.org/museumresources/ethics/nazi\\_guidelines.cfm](http://www.aam-us.org/museumresources/ethics/nazi_guidelines.cfm).

victimized. So blinded by its mission of education, authenticity, and completeness, the ABSMM once again victimized Holocaust survivors Babbitt and Levi-Leleu.

It is clear when looking at the disputes between the ABSMM and Babbitt and Levi-Leleu, that the museum feels that it has ownership over these objects and denies the rights of survivors to their private property. During the Holocaust, everything was taken from the victims of Nazi persecution at the concentration camps. By claiming that the objects are property of the ABSMM because they were left on the site after the Nazi retreat, the museum is making itself the heir to property stolen by the Nazis. They further victimize the Holocaust survivors when those survivors ask for the return of their property. In both the Babbitt and Levi-Leleu cases, the museum denies the survivor's claim of right to the artifacts by questioning the survivor's ownership of the objects. The ABSMM has taken, and continues to take, the view that the works by Babbitt rightfully belong to Mengele. In the case of the Levi suitcase, the museum claims that it cannot be definitively connected to Pierre Levi, despite the fact that his address and prisoner reference number are inscribed. Based on the circumstances of how the Nazis acquired the property, and how it came into possession of the museum it may be assumed that the museum knows that they do not have good title to many of the works in their collection. As a result they have hidden behind Poland's World War II restitution laws (which do not acknowledge individual property rights), denied survivors' rights to ownership of objects and convinced others who have tried to make property claims not to pursue them.<sup>48</sup>

These conflicts also point to why the ABSMM should rethink its lack of a policy regarding survivor relationships and current modes of survivor relations. It is apparent that they deal with conflicts with survivors on a case-by-case basis, which in general has

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<sup>48</sup> Kreder, "Holocaust, Museum Ethics and Legalism," 25.

been successful for them since they have been able to persuade other claimants to discontinue their restitution cases. The museum has deliberately ignored their moral obligations to Holocaust survivors in the creation of these excuses and in their refusal to return the objects. These two situations with survivors will hopefully lead the ABSMM to rethink their relationship with survivors and adopt policies regarding claims on objects in their collection that could be subject to claims in the future.

### **Case Study Two: The United States Holocaust Memorial Museum**

The USHMM conceives of itself as a “survivor resource” that serves this community through various kinds of programming; however it lacks formal policies for addressing survivor issues. At the USHMM, there is recognition that survivors hold a different status in the museum than visitors, employees, or museum volunteers.<sup>49</sup> The “Office of Survivor Affairs” acts as a liaison between survivors and other museum departments.<sup>50</sup> In addition, the department organizes survivor volunteers at the museum, works with other departments to ensure the inclusion of survivors, does outreach to establish and strengthen survivor relations on behalf of the museum, and most importantly serves as a place where survivors can go to learn about services and get questions answered.<sup>51</sup> Diane Saltzman, the director of Survivor Affairs, explained that the department tries to be as helpful as possible to survivors and strives to supply information about assistance available to survivors and other materials and resources to help survivors, such as new research and archives.<sup>52</sup> The museum sees itself as a custodian of the objects that survivors have donated and allows them to have access to and maintain a relationship

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<sup>49</sup> Saltzman, telephone conversation.

<sup>50</sup> Saltzman, telephone conversation.

<sup>51</sup> Saltzman, telephone conversation.

<sup>52</sup> Saltzman, telephone conversation.

with such objects in recognition that they embody emotions and memories for the survivor.<sup>53</sup>

From the museum's conception, Jews have been seen as the primary victims of the Holocaust and the uniqueness of the victimization of the Jewish people has been emphasized.<sup>54</sup> This orientation has shaped the way that many Americans think about Holocaust survivors and victims. According to Novick, "the term Holocaust survivor [and victim], in recent American usage, has a very explicit meaning: it always or almost always, refers to a Jewish survivor [or victim] of the Nazi murder program."<sup>55</sup> At the museum, Holocaust survivors are identified as:

"any persons, Jewish or non-Jewish, who were displaced, persecuted, or discriminated against due to the racial, religious, ethnic, social, and political policies of the Nazis and their collaborators between 1933 and 1945."<sup>56</sup>

This definition of a Holocaust survivor does not limit survivors to those who were interred in concentration camps, but also includes those who fled or went into hiding. Additionally, the language used, specifying that "any persons, Jewish or non-Jewish" can be classified as a survivor can be seen as a way that the museum is trying to create a more inclusive definition of Holocaust victims.

The USHMM is the largest institution dedicated to Holocaust memory, scholarship, and education in the United States. Established some twenty years following World War II, the USHMM was intended to preserve the memory of the Holocaust in the

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<sup>53</sup> Saltzman, telephone conversation.

<sup>54</sup> President's Commission on the Holocaust, *Report to the President*, (Washington, DC: Government Printing Office, 1979), <http://www.ushmm.org/research/library/faq/languages/en/06/01/commission/#letter>.

<sup>55</sup> Novick, *Holocaust in American Life*, 67.

<sup>56</sup> "Benjamin and Vladka Meed Registry of Holocaust Survivors," *The United States Holocaust Memorial and Museum*, <http://www.ushmm.org/remembrance/registry/>.

United States, where many victims of Nazi persecution settled after WWII. On May 1, 1978, President Carter announced the creation of the President's Commission on the Holocaust, which was to advise the President on the creation of a national Holocaust memorial.<sup>57</sup> The Commission gave its proposals to the president in 1979; these recommendations were carried out by the United States Holocaust Memorial Council.<sup>58</sup> In addition to carrying out the recommendations, the commission had two main goals: to provide a suitable way to observe the Days of Remembrance of the Victims of the Holocaust, and to "plan, construct and oversee the operation of a permanent living memorial."<sup>59</sup> The museum opened to the public in 1993.

### *Survivor Involvement*

Survivors have been integral in every step of the museum's creation at the USHMM.<sup>60</sup> Seven out of the thirty-four members of the President's Commission on the Holocaust were Holocaust survivors, three survived concentration camps and four were forced to flee their home countries because of Nazi persecution. Of these survivors, all were Jewish. For many years there were survivors on the museum's council, and more recently, the children of Holocaust survivors.<sup>61</sup> Additionally, many survivors contributed to the creation of the USHMM through the donation of objects. The museum's collection began with over ten thousand "object survivors," including letters, diaries, art, clothing,

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<sup>57</sup> Linenthal, *Preserving Memory*, 12.

<sup>58</sup> Young, *Texture of Memory*, 335; see also Pub. L. No. 96-388, Congressional Record, vol. 126 (1980), <http://www.ushmm.org/research/library/faq/languages/en/06/01/96-388/>.

<sup>59</sup> Young, *Texture of Memory*, 335; see also Pub. L. No. 96-388.

<sup>60</sup> Diane Saltzman, telephone conversation with author, December 30, 2010; see also Linenthal, *Preserving Memory*.

<sup>61</sup> Saltzman, telephone conversation.

and photographs donated by survivors as a result of a worldwide appeal in 1988 which called for donations to the museum.<sup>62</sup>

Many survivors remain involved with the museum as volunteers; currently, there are over ninety survivor volunteers at the museum who perform various services.<sup>63</sup> Besides fulfilling traditional museum volunteer positions as tour guides and working at the visitor services desk, survivor volunteers perform research functions. Many work in the museum library and archives to assist other survivors and families of victims in locating people who were lost during the Holocaust and to translate materials in the museum archives. Survivor volunteers also speak at events at the museum and do outreach at schools and conferences. The museum sees the stories that they share as an invaluable resource which adds to the historic resources available at the museum. Other survivors choose to not be as actively involved with the museum, but are still invested in its future.

#### *Collecting for and the Presentation of the Permanent Exhibition*

In collecting objects relating to the Holocaust there were two reservations; first, that it would create an “obscene market” for these items, a problem which the museum overcame by not purchasing objects, but obtaining them through donations and loans.<sup>64</sup> Secondly, there were concerns that the museum would come to be seen as a “terrible cabinet of curiosities”.<sup>65</sup> This apprehension was countered by the careful consideration

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<sup>62</sup> Linenthal, *Preserving Memory*, 145.

<sup>63</sup> “Our Survivor Volunteers,” *The United States Holocaust Memorial Museum*, <http://www.ushmm.org/remembrance/survivoraffairs/meet/>.

<sup>64</sup> Linenthal, *Preserving Memory*, 152.

<sup>65</sup> Linenthal, *Preserving Memory*, 162.



that was given to the display of objects and the input of survivors on what should and should not be included in the museum's permanent exhibition.<sup>66</sup>

The USHMM relied on survivors in the creation of its permanent collection. The core of the museum's collection, over ten thousand objects donated by Holocaust survivors, seemed lacking to the newly appointed museum staff.<sup>67</sup> Ralph Appelbaum, the exhibition designer, characterized the early collection as "the contents of what survivors brought out [of Europe] in their pockets," and it was determined that it was necessary to collect artifacts and material evidence from Eastern Europe.<sup>68</sup> Two new staff members were appointed to travel through Europe and collect more significant artifacts for the museum's collection.<sup>69</sup> Miles Lerman, member of the President's Commission on the Holocaust, had agreements by 1992 with every eastern European country, except Albania, which allowed the museum to actively collect objects in those countries and to translate archival materials to microfilm for the USHMM's archives and preservation purposes.<sup>70</sup> The museum began its search for artifacts for the permanent exhibition by contacting former concentration camps in Poland that might be willing to loan them materials; they negotiated for one of the dismantled barracks from Auschwitz-Birkenau and negotiated for a few thousand of the hundreds of thousands of shoes housed at Majdanek.<sup>71</sup> Long-term loans were formed with these institutions for a wide variety of material evidence and artifacts that characterize the former concentration camps – such as concrete fence posts, a casting of a dissecting table, thousands of shoes, cans of Zyklon-B

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<sup>66</sup> This will be discussed in further detail below.

<sup>67</sup> Linenthal, *Preserving Memory*, 145.

<sup>68</sup> As quoted in Linenthal, *Preserving Memory*, 146.

<sup>69</sup> Linenthal, *Preserving Memory*, 146.

<sup>70</sup> Linenthal, *Preserving Memory*, 147.

<sup>71</sup> Linenthal, *Preserving Memory*, 147.

gas, women's hair, suitcases, utensils, artificial limbs, and glasses – these agreements were made with the assumption the objects would not be returned to the lending institutions.

The presence of so many of the objects in the USHMM's collection on loan from the ABSMM and Majdanek, leads one to question if any guidelines regarding survivor claims on the objects were stipulated in the loan contracts. Since the museum does not have any policies regarding survivors and their rights within the museum, it is doubtful that property rights were discussed in these documents, especially when one considers that most of the artifacts were donated by the ABSMM, which has a poor track record when it comes to survivor rights and claims on private property. However, given that the USHMM strives to aid survivors in every way possible, it is likely that if a situation similar to that of Levi-Leleu's claim arose, the museum would most likely try to negotiate with the lending museum on behalf of the survivor to possibly allow the artifact to be displayed in a different museum. However, as seen in the cases with Babbitt and Levi-Leleu, the lending museum will probably be unwilling to relinquish ownership of the object no matter what types of negotiations are entered. The remaining objects in the collection of the USHMM are copies, architectural remains or were donated by survivors, so it is very unlikely that a claim would be made on these objects. Although the museum has no policies to deal with potential claims from survivors, the majority of objects that could potentially be claimed do not actually belong to the USHMM, but are loaned by memorial museums and historical sites in Poland. However, in their collections policy, the USHMM does allow for survivors to have access to objects that they donated to the

collection, which lets them maintain a relationship with these objects that undoubtedly hold many memories and mark an important period in their lives.

### *Conclusion*

Although there is an Office of Survivor Affairs at the USHMM, which specifically deals with survivors, the museum does not have any policies in place which directly address survivors; when a conflict arises between a survivor and the museum, it is dealt with on a case-by-case basis.<sup>72</sup> Survivors are addressed in different museum policies, additionally other policies apply to survivors even if they do not explicitly mention them, such as the policy about museum volunteers which encompasses survivor volunteers but does not distinguish them from other volunteers.<sup>73</sup> The museum assumes that a policy or guidelines outlining the relationship between the museum and survivors is unnecessary because the museum has not had any problems to date, is well respected, and survivors have been an integral part of the museum since its conception.<sup>74</sup>

While the museum has a history of integrating survivors into museum planning and practice through determining the content of the permanent exhibition and as an integral part of the museum as volunteers and speakers, there is no policy which guarantees that the museum will act ethically towards survivors in the future or guarantee their position in the museum. Deciding to deal with conflicts on a case by case basis may have worked for the museum, but is potentially problematic. It means that the way in which the museum treats survivors may vary and leaves the museums unprepared for future conflicts. Currently, the USHMM has not put any guarantee into writing that it will

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<sup>72</sup> Saltzman, telephone conversation.

<sup>73</sup> Saltzman, telephone conversation.

<sup>74</sup> Saltzman, telephone conversation.

act in an ethical manner towards survivors into museums policy, only their word and past actions regarding survivor rights and involvement. In memorial museums such as the USHMM, which is removed geographically from the events that it aims to commemorate, survivor involvement creates the vital link between the events and the museum.<sup>75</sup> As Edward Linenthal states, “those who shaped the permanent exhibition faced the daunting challenge of creating something that would reduce the distance between European event and site, and an American audience in Washington, D.C.”<sup>76</sup> Creating a policy which guarantees the rights of survivors in a memorial museum is important because it ensures their future involvement. The USHMM has done an excellent job incorporating the interests of survivors in the curation of the museum and in its daily practices. However the museum has not considered what to do in the case of conflict, as demonstrated by the museum’s lack of policy regarding survivors.

### **Case Study Three: the National September 11 Memorial and Museum**

The approach of the N911MM to defining survivors, collecting methods, and survivor outreach differs from the earlier memorial museums such as the ABSMM and USHMM. After the attacks on September 11, 2001, many memorials were erected around the country to memorialize the event and those who lost their lives. The National September 11 Memorial & Museum was established to illustrate the historic attacks on the World Trade Center (WTC) in 1993 and the terrorist attacks in 2001 at the WTC, Pentagon, and the plane crash near Shanksville, Pennsylvania and to commemorate the victims of both attacks. The memorial component of the N911MM is scheduled to open September 11,

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<sup>75</sup> Young, *Texture of Memory*, 237.

<sup>76</sup> Linenthal, *Preserving Memory*, 55-56.

2011, in order to commemorate the tenth anniversary of the attacks, and the museum will open a year later, on September 11, 2012.

From the initial conception of the N911MM, survivors have been integrated into its planning process. In July 2001, the Lower Manhattan Development Corporation (LMDC) was created by Governor Pataki and Mayor Giuliani as a group to oversee the planning, rebuilding, and revitalization of downtown Manhattan, including the memorial complex at the WTC. The first plans for a memorial complex on the site of the World Trade Center were presented in November 2001.<sup>77</sup> In creating the memorial and museum the LMDC perceived the family members of victims and survivors, as well as those who lived nearby as essential stakeholders. The museum aspires to:

[h]onor both the victims of these attacks and all those who risked their lives to save others, recognizing the thousands who survived and the extraordinary compassion that came to define the aftermath. Through the lens of 9/11, the museum will demonstrate the consequences of terrorism on individual lives and its impact on communities at the local, national, and international levels.<sup>78</sup>

The museum will have a historical exhibition that will trace the events leading up to the attack, on September 11, 2001, and the recovery effort. In addition to the historical exhibition and any future temporary exhibitions, there will be a Memorial Exhibition. This exhibition aims to have a portrait, recorded remembrance, and artifacts for each victim of the 2001 and 1993 WTC attacks and relies solely on the donations and participation of the family members of victims for materials.<sup>79</sup>

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<sup>77</sup> Philip Nobel, *Sixteen Acres: Architecture and the Outrageous Struggle for the Future of Ground Zero* (New York: Metropolitan Books, 2005), 48.

<sup>78</sup> *Remembering 9/11* (New York: National September 11 Memorial and Museum, ND), 3.

<sup>79</sup> "Memorial Exhibition Archive," *National September 11 Memorial & Museum*, 2009, <http://newmuseumme.national911memorial.org/>.

*Defining Survivors at the National September 11 Memorial and Museum*

There is no official definition of a 9/11 survivor at the N911MM.<sup>80</sup> Instead, the museum permits survivors to define themselves.<sup>81</sup> Potentially, a survivor could be defined by one's proximity to the event; where one lived or worked, personal closeness to a victim, or experiences of the day.<sup>82</sup> One way the museum is accomplishing the self identification as a survivor is through recorded memories of September 11, 2001.<sup>83</sup> The museum is collecting recordings through outreach and partnerships with organizations such as StoryCorps, a national oral history project. There are also plans to have a booth in the museum where those who want to identify as 9/11 survivors can voluntarily record their experiences of that day; there is a similar booth currently at the 9/11 Preview Site space in lower Manhattan.<sup>84</sup> Alternately one could say that everyone is a survivor of the September 11, 2001, attack because it was an attack on the United States.<sup>85</sup> This idea is incorporated into the museum through the survivor stairs which "will remind visitors that, in some sense, all visitors to this place are survivors of September 11."<sup>86</sup>

*The Relationship between Survivors and the National September 11 Memorial and Museum*

From its conceptualization, the N911MM has considered survivors to be primary stakeholders in its development. Survivors, family members of victims, rescue workers, downtown locals and other stakeholders have been an integral part of planning the

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<sup>80</sup> Weinstein, conversation.

<sup>81</sup> Seth Joseph, conversation with author, February 18, 2011.

<sup>82</sup> Joseph, conversation.

<sup>83</sup> Joseph, conversation.

<sup>84</sup> Joseph, conversation. The 9/11 Preview Site displays a timeline of the events of September 11, 2001, models for the future WTC site, a few artifacts, films regarding oral history projects about 9/11, a recording booth, and a gift shop.

<sup>85</sup> Joseph, conversation.

<sup>86</sup> *Remembering 9/11*, 29.

museum. Beginning in 2006, the museum sponsored a Conversation Series between the museum and stakeholders where the museum could report on its progress and receive feedback.<sup>87</sup> The Conversation Series was open to the public and representatives from different stakeholders were invited to the series to ensure their views were present.<sup>88</sup> One of its goals was to keep the stakeholders informed of the developments occurring at the memorial and museum.<sup>89</sup> The Conversation Series included talks by and discussions with:

[p]rominent thinkers on museums, memorialization, American history, and the continuing impact of collective trauma, as well as representatives of key constituencies... These strategic conversations were intended to help crystallize the working assumptions that will inform the planning process, and help the team develop a shared vision and vocabulary for what the memorial museum could become.<sup>90</sup>

The participants in the Conversation Series come from a variety of backgrounds, including survivors, family members of victims, FDNY, NYPD, and PAPD representatives, local residents and businesses, interfaith clergy, architects and landmark preservationists, museum professionals, government personnel, exhibition designers, and other interested parties.<sup>91</sup> Additionally, the stories of those close to events – survivors, rescue workers, volunteers, and family members of victims – have been integral in the creation of the museum, providing the bulk of the material in the museum’s collection, creating a “multilayered perspective” of the events of September 11, 2001, which is

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<sup>87</sup> Joseph, conversation; see also Weinstein, conversation.

<sup>88</sup> Joseph, conversation.

<sup>89</sup> “Museum Planning Conversation Series: Summer 2006,” in *Museum Planning Conversation Series Report 2006-2008*, by National September 11 Memorial and Museum (New York: National September 11 Memorial and Museum, ND), 1, <http://www.national911memorial.org/img/museum/Conversation%20Series%202006%20-%202008.pdf>.

<sup>90</sup> “Introduction to Series,” in *Conversation Series Report 2006-2008*, by N911MM.

<sup>91</sup> “Museum Planning Conversation Series: 2007-2008,” in *Conversation Series Report 2006-2008*, by N911MM, 1.

incorporated into both the historical and memorial exhibitions.<sup>92</sup> The museum encourages participation by all in the creation of the museum and the historic record it aims to preserve by collecting oral remembrances of the 1993 and 2001 attacks, donating objects, or attending one of the Conversation Series or other meetings held to get public feedback.

One of the concrete ways that the N911MM has addressed survivor concerns is by creating a repository for the unidentified dead within the institution itself.<sup>93</sup> Presently, 41 percent of the remains have yet to be attributed, and, for this reason was determined early on in the planning phases of the museum that a facility for the Medical Examiner be created within the museum.<sup>94</sup> The repository will have limited access; museum visitors and employees will not have access to the interior of the chamber. There will be a room for families of victims with a window into but no access to the repository.<sup>95</sup> When planning for the repository, it was decided that it would face east because this orientation has significance in several different religions. In discussions with stakeholders about the repository, many “stressed the importance of highlighting this element for museum visitors. Emphasizing the presence of human remains would underscore that the memorial museum was a place of reverence.

The incorporation of a repository of unidentified human remains recovered from Ground Zero for the Medical Examiner into the museum shows consideration for the victims of the WTC attacks and their families. The repository will be located at the museum for several reasons. Currently, the remains are temporarily housed in climate

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<sup>92</sup> N911MM, *Collections Management Policy*, 4.

<sup>93</sup> Joseph conversation.

<sup>94</sup> Sheila Anne Feeney, “41 Percent of 9/11 Families Still Have No Remains,” *AM New York*, March 1, 2011, <http://www.amny.com/urbanite-1.812039/41-percent-of-9-11-families-still-have-no-remains-1.2722991>; see also Joseph conversation.

<sup>95</sup> Joseph, conversation.



controlled trailers near the Medical Examiner's office in Bellevue, New York.<sup>96</sup> With the creation of the new museum, there will be available space to build a repository that will suit the needs of the Medical Examiner; however in the museum there will be no lab or office for the Medical Examiner.<sup>97</sup> It was decided that out of respect for the site and the victims, there would be only a repository in the museum to allow the families of victims to visit their loved ones and grieve in proximity to the memorial itself and site of their loved one's death.<sup>98</sup>

*Ethics Involved in Collecting at the National September 11 Memorial & Museum*

As we have seen in the case of ABSMM, in collecting after tragedies, there has not always been consideration for survivors and the families of victims and their property rights. In contrast, survivor property rights have been a topic of careful planning and discussion at the N911MM. Following the terrorist attacks, the Port Authority salvaged and collected materials from the rubble at Ground Zero and Fresh Kills, keeping watch for items that could be identified as personal property and human remains. This process followed the precedents set by the recovery effort following the Oklahoma City bombing in 1995.

After the terrorist attacks, the importance of the historical moment was understood by all, and there was an impulse to collect objects during the recovery at Ground Zero. Many different agencies were involved with this recovery, including the FDNY, NYPD, and city engineers; all generally agreed that it was important to collect

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<sup>96</sup> Joseph, conversation.

<sup>97</sup> Joseph, conversation.

<sup>98</sup> Joseph, conversation. However, at the time of writing, controversy has arisen over these plans and some families have expressed their disapproval over the plans for having the repository within the museum itself.

objects from the site. However, it was difficult for historians, curators, and others trying to preserve the historical record to get permission to collect at Ground Zero due to “fears about liability in releasing materials, given concerns about ascertaining ownership [of the objects].”<sup>99</sup> As a result, the objects collected during the recovery period are mostly architectural elements and other artifacts that could not be considered personal property, as these objects were returned to claimants if any could be identified.

The museum is still actively collecting and seeking donations from survivors or family members of victims.<sup>100</sup> The majority of the objects currently in the museum’s collection were donated or on long-term loan, such as the architectural fragments which were loaned by the Port Authority.<sup>101</sup> However the museum does make purchases for its collection it considers “ethical”, such as photographs from a photographer, the reproduction rights to a photograph, or artwork.<sup>102</sup> The museum finds it acceptable to purchase these items because photography and art are the livelihoods of these people.<sup>103</sup> Further, the museum will not purchase any architectural fragments or objects that could be claimed as personal property by a survivor or the families of victims.<sup>104</sup> The museum has also purchased collections amassed by people on or after September 11, such as Michael Ragsdale’s collection of papers which show the aftermath of 9/11 and the ways in which daily life changed after the attacks.<sup>105</sup> The museum is working collaboratively with other institutions that have collections of 9/11 artifacts, oral histories, or images to

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<sup>99</sup> Gardner, “September 11 and Mourning After,” 48.

<sup>100</sup> Weinstein, conversation.

<sup>101</sup> Weinstein, conversation.

<sup>102</sup> Weinstein, conversation.

<sup>103</sup> Weinstein, conversation.

<sup>104</sup> Weinstein, conversation.

<sup>105</sup> Joseph, conversation; see also Becky Diamond, “Rise of Freedom: The Paper Man,” *Fox News*, December 15, 2010, <http://www.foxnews.com/us/2010/12/15/rise-freedom-paper-man/>.

share resources when possible and to make contacts for potential future loans.<sup>106</sup> Finally, the museum has decided that it will enter into different types of restricted ownership, such as “life tenures, limited ownerships or sharing of custodial title or physical possession for unique historical items that represent exceptional interpretive additions to the collection.”<sup>107</sup>

### *Plans for Survivor Outreach and Future Involvement*

At the N911MM, it is recognized that survivors and other stakeholders are an integral part in the creation of the museum and there are plans to keep survivors and their interests at the core of the remainder of the planning process and involved with the museum after it opens. The museum plans on holding more focus groups with survivors and the families of victims, like the Conversation Series, to keep them involved with the museum in the future.<sup>108</sup> Outreach to stakeholders will also continue as part of the museum’s aim to collect objects and oral histories, find volunteers, and garner participation and support for events at the museum.<sup>109</sup> Although the museum is scheduled to open in September 2012, there are plans to continue collecting oral histories about the terrorist attacks to allow the exhibitions to evolve over time. Volunteerism is one of the ways that the museum intends to involve survivors, family members of victims, and rescue workers at the museum. Seth Joseph, who was a curatorial assistant at the Oklahoma City National Memorial and Museum and currently works at the N911MM, explained that at the Oklahoma City National Memorial and Museum, it was a healing experience for

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<sup>106</sup> N911MM, *Collections Management Policy*, 3.

<sup>107</sup> N911MM, *Collections Management Policy*, 12-13.

<sup>108</sup> Weinstein, conversation.

<sup>109</sup> Weinstein, conversation.

survivors to volunteer at the museum and work with the objects in their collection.<sup>110</sup> He feels that survivors and family members of 9/11 victims will have a similar cathartic experience volunteering at the September 11 Museum.

No matter what their relationship with the museum or survivor status, the family members of victims and survivors will receive special privileges at the museum. There will be no admissions fee in the foreseeable future for survivors and family members of victims.<sup>111</sup> Additionally, family members, survivors and donors will have expedited access to materials in the museum's collection and archives.<sup>112</sup> Family members of victims who donated objects to the museum can request that access to the materials be limited by providing stipulations regarding the objects display, storage, or availability to the general public.<sup>113</sup> In the museum, there will be a special place for the families of victims that is inaccessible to the public called the "Family Room."<sup>114</sup> The Family Room serves as a place of catharsis and a place where family members will be able to escape the emotional impact during their visits to the museum. Finally, family members of victims will be allowed on site for the tenth anniversary and opening of the memorial, which will have limited public access until the completion of construction on the site.<sup>115</sup> The N911MM has approached their relationship with and integration of survivors in the museum differently than its predecessors. Located at the WTC and commemorating the 1993 and 2001 WTC attacks and the September 11 attacks at the Pentagon and United Airlines Flight 93 which crashed near Shanksville, Pennsylvania. The N911MM has done

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<sup>110</sup> Joseph, conversation.

<sup>111</sup> Weinstein, conversation.

<sup>112</sup> N911MM, *Collections Management Policy*, 28.

<sup>113</sup> Joseph, conversation.

<sup>114</sup> Joseph, conversation.

<sup>115</sup> Joseph, conversation.

an excellent job incorporating the views of these different survivor groups and the families of victims into the planning process of the museum.

### **The Relationship between Museums and their Stakeholders**

The three case studies discussed, the ABSMM, USHMM, and the N911MM, show the different states of survivor rights within memorial museums. These relationships parallel the changing relationship between Native Americans and museums since the passing of the Native American Graves Protection and Repatriation Act (NAGPRA). The relationship between museums and Native American communities can serve as a model for a policy driven relationship between museums and their stakeholders. Since the passing of the NAGPRA in 1990, museums have largely rethought their relationships and responsibilities toward Native American stakeholders. The history of collecting and studying Native Americans through their cultural objects and remains goes back to the “discovery” of the continent in the fifteenth century. These objects were first collected as curios to be displayed in cabinets of curiosity to show their owners cultured manner and scientific knowledge. For much of the nineteenth century, Native American objects and remains were collected by museums for study and display, as primitive art in art museums and as counterpoints which displayed the progression of Europe in natural history museums.

#### *The Impact of NAGPRA: A Model for Survivor Museums?*

The landmark legislation embodied in NAGPRA was a victory for the stakeholder rights that changed the climate of collection and display. Because it addressed issues of survivor remains, stakeholder identity, and issues of display and storage, NAGPRA provided a valuable prototype that sensitized planners of survivor and memorial museums in the

United States to crucial stakeholder issues. It was created with the intention of making the interests of the Native American and scientific communities balanced and stressed the importance of tolerance for Native religions and traditions.<sup>116</sup> The law not only protected Native American burial sites on federal and Native lands, but also has many stipulations which govern the relationship between Native Americans and museums. Under NAGPRA, all museums that receive federal funding had to create an inventory of all Native American cultural objects and remains in their collection and provide these inventories to Native American tribes which have culturally affiliated objects or remains in the museum's collection. This process resulted in the repatriation of many Native American remains and cultural objects to their modern descendant communities, but has also encouraged cooperation between museums and Native American tribes in the storage and display of their cultural artifacts and has created greater access to museum store rooms for Native Americans. Museums stress their legal ownership over objects, like at the ABSMM, but also acknowledge the "moral rights of others" regarding culturally affiliated objects.<sup>117</sup>

The relationship between Native Americans and museums can be compared to that between museums and survivors, families of survivors, and other stakeholders. While museums stress their legal ownership over objects, there is also recognition that Native Americans have an important relationship with these objects.<sup>118</sup> Museums have now

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<sup>116</sup> Jennifer R. Richman, "NAGPRA: Constitutionally Adequate?," in *Legal Perspectives on Cultural Resources*, ed. Jennifer R. Richman and Marion P. Forsyth (New York: Altamira Press, 2004), 216.

<sup>117</sup> Miriam Clavir, *Preserving What is Valued: Museums, Conservation, and First Nations* (Vancouver, Toronto: UBC Press, 2002), 81.

<sup>118</sup> World Archaeological Congress, "First Code of Ethics," *World Archaeological Bulletin* 5 (1991): 22-23, as quoted in Christina E. Garza and Shirley Powell, "Ethics and the Past: Reburial and Repatriation in American Archaeology," in *The Future of the Past: Archaeologists, Native*

come to realize the deep connection between Native Americans and their cultural objects because they are central to Native goals of preserving their traditional culture, language, oral history, community and Native identity.<sup>119</sup> In some cases, instead of repatriation of the cultural objects, tribes have chosen to have these objects remain in museums for conservation reasons and so that they can be seen by a larger audience. However, the relationship between Native American tribes and their cultural objects has been retained through agreements allowing tribal ownership of objects that are displayed and stored in museums. Although Native Americans were not given access to museum storerooms in the past, now many receive special privileges within the museum to view collections of culturally affiliated objects.<sup>120</sup> Many museums have also come to recognize the academic and educational benefits of allowing Native Americans into the museums to interact with and speak about their cultural objects. Similarly, for stakeholders at memorial museums, the objects in the museum's collection represent the traumatic events commemorated by the museum and are wrapped up in the structure of emotional attachments. For some, these objects not only represent historic events but also come to symbolize those lost in traumatic events. Like with Native American cultural objects, there is recognition that there is an emotional connection to these objects that persists even when they are removed from their original circumstances and are moved into a museum.

While there are some similarities between the position of Native Americans and memorial museum stakeholders, the input that these groups have in the creation of museums is vastly different. The beliefs of Native Americans are beginning to modify

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*Americans, and Repatriation*, ed. Tamara L. Bray (New York and London: Garland Publishing, 2001), 41.

<sup>119</sup> Clavir, *Preserving What is Valued*, xvii, 71-73.

<sup>120</sup> Clavir, *Preserving What is Valued*, 32, 82.

museum practices.<sup>121</sup> Memorial museums are now built with survivors, families of victims and other stakeholders in mind and involved in every step of the process. In addition over time, many aspects may be modified to please the museum stakeholders. However not all stakeholder groups are necessarily included, as was the case with the representation of Jewish victims at the ABSMM until recently. While the relationship between memorial museums and their stakeholders are, in general, not guided by any policy, the relationship between Native Americans and museums has been brought about and dictated by NAGPRA. Its policies regarding repatriation and the relationship between museums and Native Americans can be seen as a model for creating some basic policies which will dictate issues regarding ownership and representational issues as well as the relationship between memorial museums and survivors.

### **Recommendations**

As we can see from these three case studies, memorial museums face a variety of potential problems and conflicts when addressing survivor issues. As exemplified by the conflict between the ABSMM and Holocaust survivors Dina Babbitt and Michel Levi-Leleu, property claims and the alienation of survivors are two types of problems that memorial museums could face. Implementing a set of policies at a memorial museum that provides a framework for the museum's dealings with survivors would prepare for these problems and create a standardized procedure for the museum to deal with such conflicts. The following recommendations can be adopted by memorial museums to mediate their relationship with survivors, families of victims, and their descendants and help to ensure a continued connection with these stakeholders.

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<sup>121</sup> Clavir, *Preserving What is Valued*, 93.



1. *Memorial museums should recognize that they possess moral and ethical obligations toward the survivors of atrocities that they aim to represent.*

Serving both historical and commemorative functions, memorial museums have a different relationship with survivors as stakeholders in the museum than they do with the general public. These institutions historically present traumatic events that were directly experienced by survivors, in addition to commemorating those who died. It is reasonable to suppose that when a museum presents an event or objects that were integral to someone's life that they have a responsibility to take into consideration their concerns about the representation of the event and the artifacts associated with it. Consideration for the welfare and wishes of survivors should take precedence over educational and other museological missions. The USHMM has already shown this deference in its decision not to display the hair of Holocaust victims. Further, memorial museums should endeavor to avoid taking actions that will please some stakeholders but will alienate others. However, museums should not go so far to appease survivors and other stakeholders that the historical representation of the events is compromised. Historical content should not be omitted because of stakeholder apprehensions, but rather should be displayed in a way that is more sensitive to their opinions.

2. *Memorial museums should recognize a broad and inclusive definition of survivorship.*

While it is important for memorial museums to know to whom they bear special relationships, it is equally important, because of the emotions involved, to allow people to define themselves as survivors. However, memorial museums should not have the exclusive right to determine who is a survivor. Any sense of survivorship might reasonably include survivors of the events and the immediate family of victims, in

addition to other groups that were directly affected by the events. Such is the case at the N911MM, where there is no official definition of survivor, however, those who lived downtown, rescue workers and others who helped in the aftermath of the event are considered to be important stakeholders at the museum. Similarly, at the USHMM, survivors are defined as not only those who were imprisoned in a concentration camp, but also those who experienced Nazi persecution, which is a self defining category. What groups are included depends on the individual institution and its historical and commemorative mission.

In every memorial museum all survivor groups should be treated equally. There should not be a hierarchy of survivor groups based on perceived suffering, relationship to the event, involvement with the museum, or any other criteria. Creating a hierarchy of survivors within a memorial museum is problematic for several reasons. First, creating a hierarchy of survivors would make some survivor groups feel trivialized. The role of the memorial museum is not to pass judgments on survivor experiences and determine which survivor groups had an authentic experience of the event; it is to commemorate the event, victims and survivors through historical and memorial exhibitions. Second, this could lead to the alienation of some survivor groups if they feel that the museum does not take their interests seriously or sees them as being less important than those of other survivor groups. Although all survivor groups should be treated equally, the museum will have different relationships with survivors depending on their relation to the event. For example, the N911MM will have a different relationship with a rescue worker than it will with the family of a victim whose remains were never recovered. For the rescue worker, the N911MM will represent a tragic event in which they took part, however for the

family of a victim, the museum and site represents the final resting place of their loved one. The different emotional connections to the event should be taken into consideration in survivor relations. Finally, memorial museums should allow for different levels of survivor participation. Although it is desirable to have input and participation of as many survivors and families of victims, some of these stakeholders will not want to participate in these activities because of their emotional impact. Memorial museums should understand that not all survivors will want to participate and should not allow different levels of participation on the part of the survivor to determine their treatment by the museum.

3. *Memorial museums should create and staff a survivor affairs department.*

Having a department in the museum that organizes and oversees all matters involving survivors is a critical way to ensure their inclusion in the museum.

Consideration for survivors should extend beyond what is displayed at the museum and should be considered when developing events, educational programs, research, and other activities in which the museum partakes. In addition, survivors should be kept up to date with what is happening at the museum through newsletters or other means. A department of survivor affairs creates a single point of contact which will focus on outreach programming and survivor volunteers, and will create a bond between the museum and stakeholder communities. The Office of Survivor Affairs at the USHMM is an excellent example of such a department within a memorial museum. The Office not only organizes all survivor volunteers at the museum and speaking engagements with survivors outside of the museum, but also helps survivors know where to go within museum for research

and other needs, and keeps survivors up to date on services outside of museum that are available to them.

4. *Memorial museums should create a collections policy that is mindful of survivor concerns.*

Memorial museums need a collections policy that takes into consideration the concerns of survivors. Museums should consider alternative ownership arrangements, long term loans, the creation of an inventory that identifies objects that may be subject to survivor controversy, and policies about acquiring objects of questionable provenance. Memorial museums should create a policy about acquiring objects that could be considered personal property in their collections policy. Many memorial museums include personal objects in their collection because they represent the human lives that were lost. Before acquiring such objects, the museum should determine if they will have good title to the object and the potential for someone making a claim on the object in the future. The conflict between Dina Babbitt and the ABSMM illustrates this point; when acquiring the watercolors, the museum did not consider any potential claimants for the works until after issues arose. If the museum had considered if there would be claimants for these works before purchasing them, the conflict between the museum and Babbitt could have been avoided. This statement should also detail what the museum's actions would be should a claim be made on an object in their collection. This should include evaluating the claimant's relationship to the object and their right to ownership.

Due to the emotions that many objects embody, survivors and the families of victims may be reluctant to donate objects to the museums personal collection. Alternatives to full ownership of objects, such as loans of varying length or the use of photographs and copies, should be considered by the museum to allow these stakeholders

to maintain ownership of the objects while still helping the museum to fulfill its historical and educational mission. These alternatives will give survivors or family members of victims who want to retain an object that has great personal, but also historic value different options that for making an artifact available for public display. While these options may not have worked to solve the conflicts between the Auschwitz Museum and Dina Babbitt and Michel Levi-Leleu, they provide a way to include objects of great historical significance in the museum while respecting the desires of family members and survivors.

Similar to the inventory mandated by NAGPRA, memorial museums should keep an inventory of all items in their collection, specifically demarcating objects that could be considered claimed as personal property, and archive that is made publicly available. Already there are examples of similar inventories in the Nazi-era provenance research projects at many museums including the Metropolitan Museum of Art, the Museum of Modern Art, and the Museum of Fine Arts in Boston, in which the museum creates inventories of art in their collections that may end up in their collection as a result of Nazi looting. Such an inventory would not only benefit survivors or the families of victims who lost personal property during tragic events by making this information publicly available, but would also benefit the museum by allowing it to be forewarned of any objects in its collection that may have contested ownership and may cause conflicts in the future.

5. *Memorial museums should consider the beliefs of victims in the creation of memorials and repositories which will house human remains and have a policy regarding future claims on the remains housed at their institution.*

Several memorial museums house human remains, such as the memorial filled with ashes at Majdanek, the Tuol Sleng memorial containing human skulls, and the repository for unidentified remains at the N911MM. When creating memorials or repositories for human remains at a memorial museum, consideration for the beliefs of the victims should be taken into paramount account. In these instances, the remains could not be identified to be returned to living relatives, so they are housed at these institutions. Out of respect for the dead, the ways that the remains are housed and displayed should take into consideration the burial customs of the victims.

A lack of respect for survivor remains can create serious conflicts. Such was the case for the Memorial to the Murdered Jews of Europe in Berlin, Germany. In 2005, a new Holocaust monument was opened in Berlin.<sup>122</sup> During the opening ceremony Lea Rosh, who spearheaded the almost two decade long memorial campaign, stated her intentions to include a tooth she found at the Belzec concentration camp, which she claims is from a Jewish victims, and a yellow star of David worn by Jews in Nazi Germany in one of the concrete pillars which were to be later added to the memorial.<sup>123</sup> Many in the Jewish community were outraged because the burial of human remains outside of a Jewish cemetery is considered blasphemous and against Jewish customs. The thought of the inclusion of the tooth also appalled Paul Spiegel, the president of Germany's Central Council of Jews, stating that the inclusion of the tooth was

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<sup>122</sup> Kate Connolly, "Jews Angry Over Memorial Plan for Death Camp Tooth," *The Telegraph*, May 13, 2005, <http://www.telegraph.co.uk/news/worldnews/europe/germany/1489942/Jews-angry-over-memorial-plan-for-death-camp-tooth.html>.

<sup>123</sup> "Berlin's Holocaust Memorial Hits a Snag," *Spiegel*, May 12, 2005, <http://www.spiegel.de/international/0,1518,355715,00.html>.

“irreverent” to all victims and that “the Holocaust memorial in Berlin is not a cemetery.”<sup>124</sup> After threats of boycotts by the Jewish community and other survivor groups, Rosh announced a few days later that she would return the tooth to the Belzec concentration camp where it will be buried.<sup>125</sup> This situation could have been avoided if Rosh had met with different survivor groups to discuss her plans for the monument, which she did not before her announcement at the opening ceremony for the memorial.

At any memorial museum that houses human remains, there should be a policy in place, which will allow for the repatriation of remains if they are later identified or a living relative makes a claim. Several memorial museums have become repositories for the unidentified remains of victims because of their connection to the events and commemorative nature. These repositories should not be conceived of as permanent; with advances in technology there may be ways to identify these remains in the future and museums should strive to have as many remains identified and returned as possible. While a memorial museum is an appropriate place to house unidentified remains, every effort should be made to repatriate them because the mission of memorial museums is to commemorate and educate the public about an atrocity; it is only a mausoleum by default. It seems that creating museums and memorials that also serve as mausoleums are becoming more acceptable in the post-9/11 environment; it is likely that many more museums will follow in the footsteps of the N911MM play the dual role of a repository for memory and the unidentified remains of victims.

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<sup>124</sup> “Should Shoah Victim’s Tooth be Buried at Berlin’s Holocaust Memorial?” *World Jewish Congress*, May 12, 2005, <http://www.worldjewishcongress.org/en/news/5202>; see also “Holocaust Memorial Hits a Snag,” *Spiegel*.

<sup>125</sup> “Play Time at the Holocaust Memorial,” *Deutsche Welle*, May 13, 2005, <http://www.dw-world.de/dw/article/0,1564,1582335,00.html>.

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The preceding set of recommendations is grounded by the policies and relationships that emerged post-NAGPRA between Native Americans and museums. Having a similar set of guidelines or a policy that structures the relationship between memorial museums and survivors guarantees roles and rights of survivors in the museum. Creating these protocols ahead of time, with the needs of survivors in mind, should help ameliorate survivor conflicts with the memorial museum, such as the disagreement between Dina Babbitt and the Auschwitz Museum. Although the relationship between survivors and museums is structured through these guidelines, the survivors should determine the amount of their involvement with the museum.

Although memorial museums generally stress the importance of survivor involvement within the museum, formal policy in this regard is sorely lacking. Like the reforms in museum practice after the passage of NAGPRA, memorial museums would benefit from a similar reorientation in fundamental practice by creating a set of guidelines which outline their relationship with survivors and their moral obligations to them. Survivors have an important role within memorial museums as witnesses to atrocity and create a concrete link to events that is unmatched by objects and architectural remains. The recommendations discussed here are intended to serve as a beginning for individual museums to create policy and guidelines that work for their individual institution that will facilitate the relationship between memorial museums and survivors.



### **List of Abbreviations**

AAM	American Association of Museums
ABSMM	Auschwitz-Birkenau State Memorial and Museum
FDNY	Fire Department of New York City
ICMEMO	International Committee of Memorial Museums for the Remembrance of Victims of Public Crimes
ICOM	International Council of Museum
ICSC	International Coalition of Sites of Conscience
LMDC	Lower Manhattan Development Corporation
N911MM	National September 11 Memorial and Museum
NYPD	New York City Police Department
PAPD	Port Authority Police Department
USHMM	United States Holocaust Memorial Museum
WTC	World Trade Center

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Summer 2008

#### PUBLICATIONS

- “Anonymous central Italian artist, *Man of Sorrows with Dominican Monk and Flagellant*, mid-fourteenth century.” In *Passion in Venice: Crivelli to Tintoretto and Veronese*, ed. Catherine Puglisi and William Barcham. New York: Museum of Biblical Art, 2011.
- “Anonymous Flemish sculptor, *Ecco Homo*, late sixteenth-early seventeenth century.” In *Passion in Venice: Crivelli to Tintoretto and Veronese*, ed. Catherine Puglisi and William Barcham. New York: Museum of Biblical Art, 2011.