

# **MUSEUM & COPYRIGHT**

June 12, 2019, Nairobi

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## **OVERVIEW OF THE CHALLENGES**



NATIONAL MUSEUMS OF KENYA

WHERE HERITAGE LIVES ON

ABOUT US

SERVICES ▾

# FILMING TERMS AND CONDITIONS

## Photo Shoots

Visitors may take personal memento photos inside the museum during their visit,

In--door Photos

During museum hours:

- ▶ Fee: Kshs. 6,000.00
- ▶ This privilege is available to a wedding or event party only, to a maximum of 20 guests. Additional guests must pay admission to the museum.
- ▶ Reservations: required within working hours Monday - Friday 8am - 5pm or via email

**Outside of museum hours:**

- ▶ Fee: Starts at Kshs. 15,000.00
- ▶ Contact us to make arrangements.

# Brazil's national museum hit by huge fire

🕒 3 September 2018

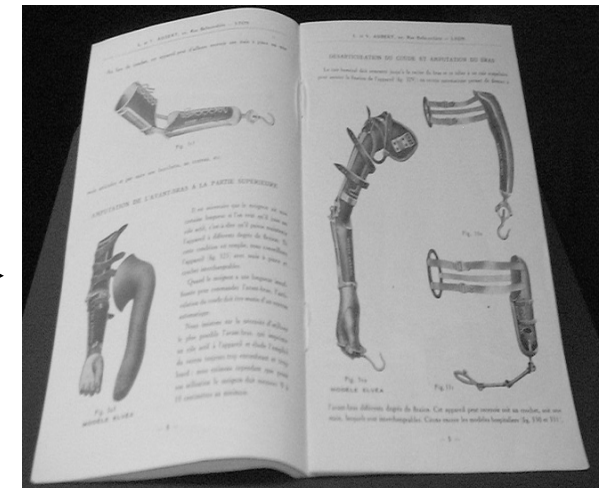
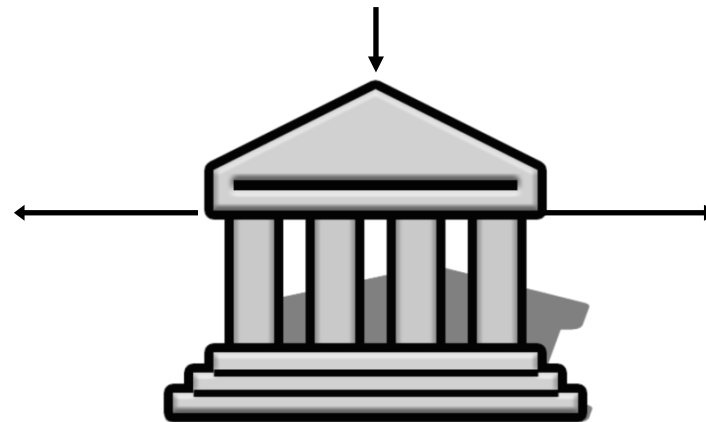
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**Brazil National Museum fire**

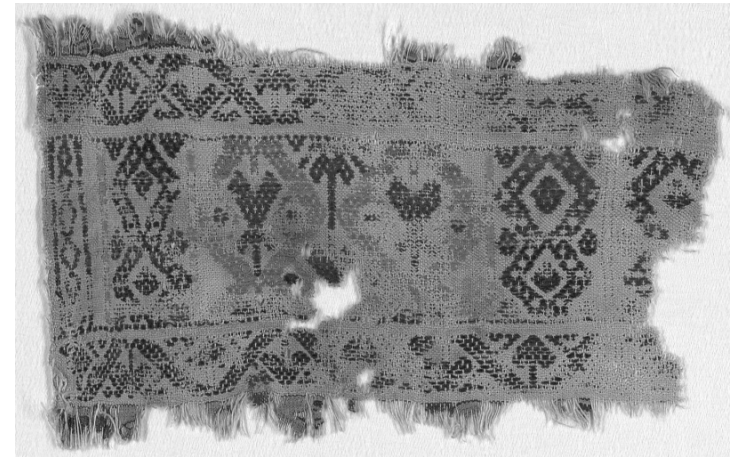


- **MUSEUMS HAVE TO CONSIDER COPYRIGHT WHEN PERFORMING THEIR MISSIONS**

- See 2007 ICOM Internal Rules and Regulations, art. 3 “A museum is a non-profit, permanent institution in the service of society and its development, open to the public, which **acquires, conserves, researches, communicates** and **exhibits** the tangible and intangible heritage of humanity and its environment for the purposes of **education, study and enjoyment**”.

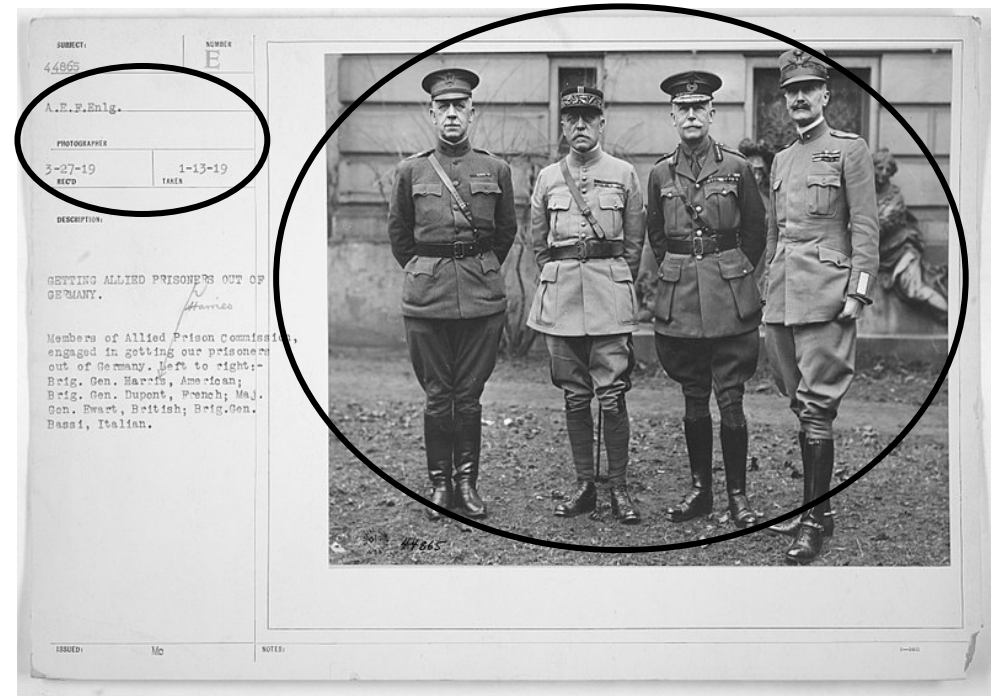


- Copyrighted works



- Public domain works

- Non copyrighted works

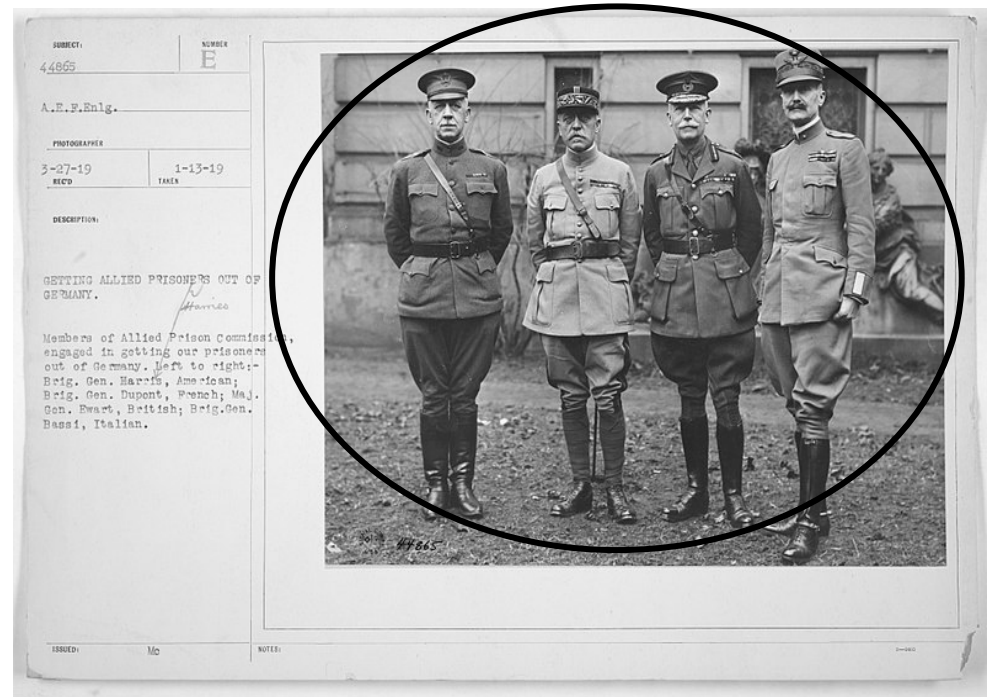


- When museums **do not own** the related copyrights, museums generally seek **assignments** or **licenses** from rights holders, either individually from the artists or his / her representative (family, third party or CMO)

- **Preservation of works**

- **Exhibition of works**

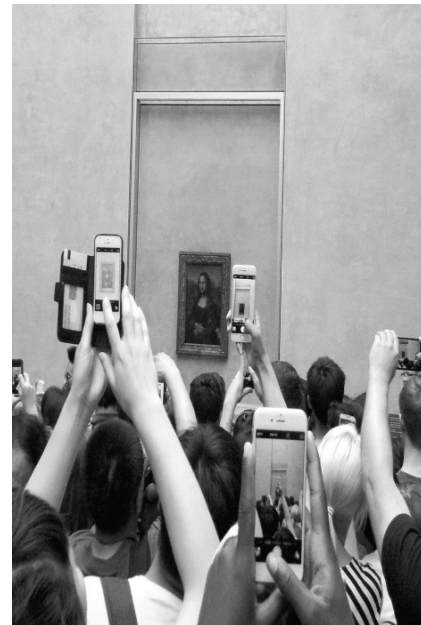
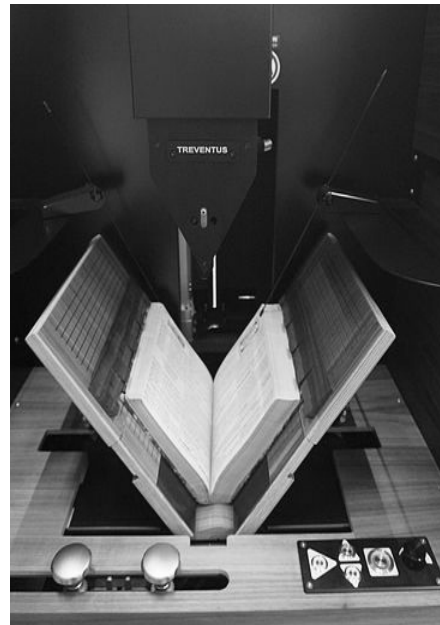
- **Communication of works**



- In some case, there are however limitations and exceptions (L&Es) allowing the museum to use the works without authorization of the rightholder

## REPORT ON MUSEUM PRACTICES AND CHALLENGES (SCCR/38/5)

| ACQUISITION                             | PRESERVATION                               | EXHIBITION                       | COMMUNIC.                      |
|---|--|----------------------------------|--------------------------------|
| Copyright status<br>Licensing practices | Archive and document<br>Restore or replace | Onsite display<br>Photo-shooting | Online museums<br>Publications |





## TYPOLOGY ON LIMITATIONS AND EXCEPTIONS (SCCR/38/6)

| <b>COLUMN 1</b>                                | <b>COLUMN 2</b>          | <b>COLUMN 3</b>                         | <b>COLUMN 4</b>                            |
|--|--------------------------|---|--|
| <b>Category of Museum Function or services</b> | <b>Rights implicated</b> | <b>Elements of statutory exceptions</b> | <b>Elements for ongoing considerations</b> |

- **Preservation**
- **Replacement**
- **Archiving**
- **Study & research**
- **Making available on terminals**

- **Exhibition of physical works**
- **Exhibition of time-based media**
- **Photo-shooting**
- **Non-attributed works**
- **Exhibition catalogue**
- **Online exhibition**

## **ZOOM INTO THE AFRICAN GROUP**



- **Most countries in Africa** provide a **general exception** for private purposes and/or educational and scientific research
- **Few countries in Africa** provide **specific exceptions** for museums, such as:
  - Ethiopia, Malawi, Côte d’Ivoire (reproduction for preservation purposes);
  - Guyana, Malawi, Nigeria (reproduction for research or study);
  - Côte d’Ivoire, Malawi, Sao Tomem, Principe (making available for research or study);
  - Lesotho, Sao Tome and Principe (general use for museum activities).
- **Other countries** provide **no exceptions** for museums

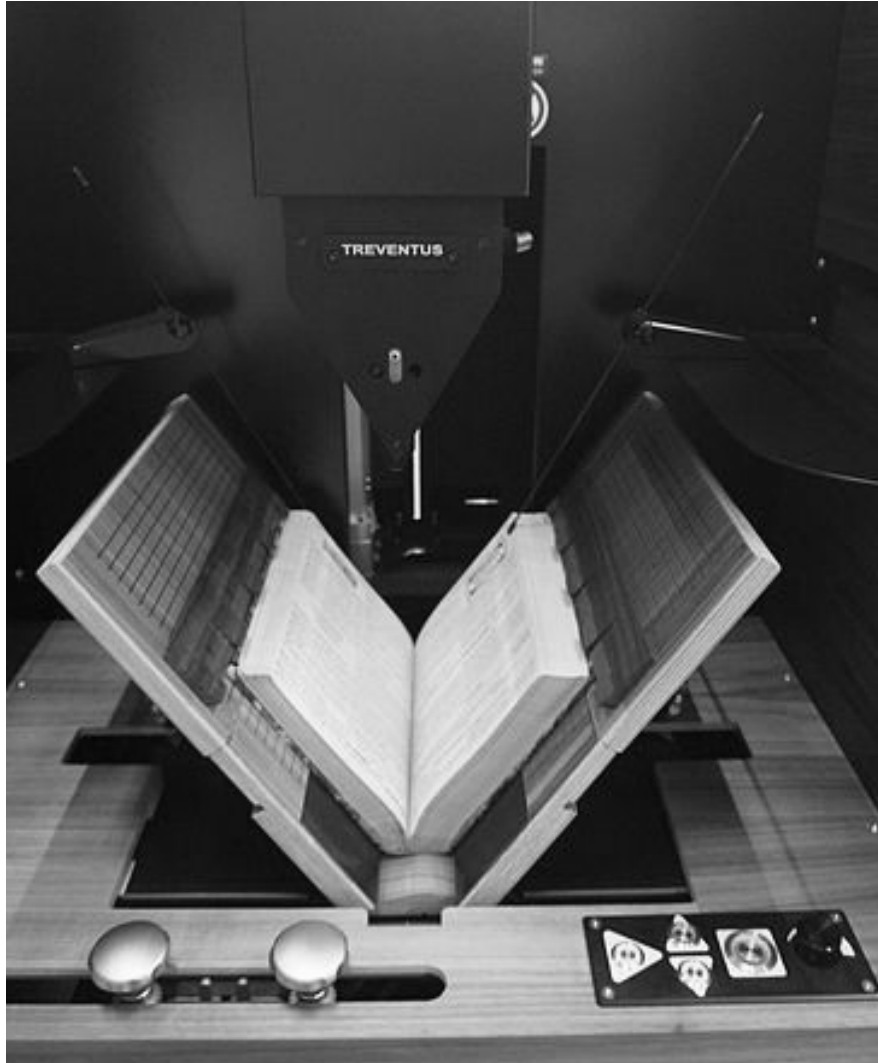
## Specificities of African region

- **Majority of countries do not provide specific exceptions** for museums but only general exceptions or no exceptions

=> Are specific exceptions for museum desirable? What kind of specific exceptions?

- Interview results revealed the **lack of awareness** towards copyright in general (including licensing practices) and exceptions among museum professionals

=> How to raise awareness among museum professionals in your country?



**Topic: Preservation**  
(*cf.* Typology p. 6)

**Definition:** Copyright exception authorizing museums to reproduce works for preservation purposes

- **CATEGORY OF EXCEPTIONS**
- **CATEGORY OF BENEFICIARIES**
- **CONDITIONS OF USE**
  - Scope of works
  - Number of copies
  - Remuneration
  - Authorship requirements.

- **HYPOTHETICAL STATUTES**

- **Specific:** “*[some] **works** [forming part of a collection accessible to the public] may be **reproduced** [by the museum] [without payment of remuneration to the copyright owner] for **preservation purposes** [by any means whatsoever.] [The other rights of the copyright owner must not be prejudiced. The source should be mentioned.]*“
- **General:** “*It shall be **lawful** to make **reproductions** [by photographic or other pictorial processes, provided this reproduction is **not-for-profit**, of statues, monuments and other works of art acquired by the authorities that are displayed in streets, parks and **museums**”*

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- **CONDITIONS OF USE**
  - Scope of works
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  - Authorship requirements.
- **UNWAIVABLE NATURE OF THE EXCEPTIONS**
- **EXTENSION TO DIGITAL**
- **CROSS-BORDER USES AND ITS IMPACT (E.G. FOREIGN USERS)**
- **LIMITATION OF LIABILITY OF MUSEUMS IN LIEU OF EXCEPTIONS**
- **IMPLICATIONS OF EXTENDED COLLECTIVE LICENSES (ECL)**



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**THANK YOU FOR YOUR ATTENTION**

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