

## Book review

### *Museums and the Holocaust* Second Edition

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The second edition of *Museums and the Holocaust*, edited by Ruth Redmond Cooper, Director of the Institute of Art and Law, gathers the contributions of renowned specialists in the field of provenance research and related legal issues. This new edition demonstrates the efforts being made since the first edition, written by Professor Norman Palmer, was published in 2000.

While my anticipation was already piqued by the online launch of the book on Holocaust Memorial Day, my high expectations were exceeded.

Divided into three major parts, the book gives a comprehensive overview of the current situation on Nazi-looted art and its connection to museums worldwide. After initial thoughts on the subject by Norman Palmer, Leonie Schwarzmeier, German Lawyer, elaborates on the Nazi legislation, such as the *Reich Flight Tax Ordinance* of 1931. She shows the economic pressure under which Jewish citizens were forced to sell their possessions and how their property was confiscated. Another contribution presents the legal problems that always arise when works of art pass through many hands within different jurisdictions. Legal issues such as the *lex situs* rule as well as limitation periods are explained. Since international loan agreements have become indispensable in today's museum practice, due attention is also given to seizure statutes. The general reflections in the first part of the book are rounded off by a contribution by Dr Jacques Schuhmacher, curator at the V&A Museum in London. He summarises the efforts and successes of provenance research in British museums, examining, among other things, the interesting question of how these museums were able to acquire looted artworks even though the respective curators were in some cases themselves *Monuments Men*. However, the 1998 Washington Conference was a turning point for provenance research in British museums.

The second part of the book shows the successes that countries have achieved in handling Nazi-looted art in museums, as well as the challenges faced. While some countries have established restitution committees, others take a different approach. In the United Kingdom, the Holocaust (Return of Cultural Objects) Act of 2009 enabled the restitution of paintings and other objects from certain national museums, and the Spoliation Advisory Panel started its work in 2000. Since its inception, twenty claims have been heard by the Panel, five being unsuccessful. The author is critical of the panel's procedure rules and suggest that they should be observed by all parties involved in possible future reforms.

Germany has also set up an Advisory Commission. Until November 2019 it has dealt with seventeen cases, one of them being the *Welfenschatz* recommendation. Isabel von Klitzing, provenance research specialist, and Carola Thielecke, inhouse lawyer at the Stiftung

Preußischer Kulturbesitz, describe how some works of art were returned immediately after the war and Germany was confronted with different legal systems in the following period due to its division into East and West. Once again, the Washington Conference can be described here as a turning point in the restitution practice. While no specific legislation exists, ethical guidelines and soft law instruments such as the *Gemeinsame Erklärung* have been used for successfully return Nazi-looted art over the last twenty years. Of course, an action in court is also possible, although the relationship between the special post-war laws and general civil law has not yet been finally clarified by the highest courts. The problem of the statute of limitations also prevents a judicial clarification. Famous museums such as the *Bayerische Staatsgemäldesammlungen* have integrated provenance research in their due diligence and the database *lostart* has been online since 2000. Academics are also continuing to address the issue of looted art, such as Professor Weller at the University of Bonn working on a restatement of Restitution Principles. Even if criticisms regarding the transparency of the Commission's decisions are already being taken into account, it is first and foremost necessary to increase the number of cases processed.

Lawyer Corinne Hershkovitch has investigated the situation in France, where Jews also faced the looting of artworks. The Nazis classified artists as 'degenerate' in order to loot their works for Hitler's collection and at the same time destroyed many more paintings. The courageous and impressive work of Rose Valland from the Jeu de Paume Museum should of course not go unmentioned in this context.

The Ordinance of 1945 still provides the legal basis for the restitution of looted art. The establishment of the MNR is outlined. Up to the end of October 2018, the commission (CIVS) made recommendations in 35,287 cases and more than 45 million Euros have been paid as compensation. Only 5 per cent of all the MNR artworks have been returned to date, which the author considers to be primarily due to a lack of provenance research.

In Austria, the Art Restitution Act has been in existence since 1998, as well as the commission. Looking at the decisions of the last two decades, it becomes obvious that they have tended to be made in favour of the victims, even if the evidence is often no longer available. In the context of a painting by Egon Schiele, the Art Restitution Advisory Board ruled in March 2020 in favour of the heirs of the murdered Dr Morgenstern.

Due to its communist character between 1949 and 1989, Poland did not pursue the restitution of works of art. However, in 2017, the National Treasures Restitution Act was implemented and over the past 30 years, the small number of 50 Nazi-looted cultural goods found their way back to Polish public collections.

Lawyer Agnes Peresztegi assesses the progress in Hungary. Both the Museum of Fine Art and the Hungarian government seized, as allies of the Germans, artworks from Jewish collections and the Soviet Red Army took what was left over. In 1991, Hungary was the first former

communist country using compensation laws. Nevertheless, even if provenance research started in the 1990s, the author criticises the fact that no Hungarian state museum is making any efforts towards transparent provenance research and no independent commission was established. Similarly, there is a lack of uniform legal handling of looted art cases.

A chapter is devoted to the situation of Israeli museums such as the Israel Museum. It is shown that works of art entered the country, for example, via organisations that held works of art of unknown owners in trust. Some works were also purchased or donated. While provenance research is already standard in other countries, there is no legal basis for it in Israel. Until its liquidation, the Hashava Company was entrusted with the task of returning assets looted during the Holocaust. The results of all international conferences have not been transposed into national law, but initial progress is evident through the Jerusalem Declaration of 2018. According to the authors, provenance research is done ineffectively and lacks a budget. Nevertheless, the Israel Museum had completed provenance research for 620 items by 2016, of which 18 had been given back to the rightful owners. The Hashava Foundation was established a year ago and in addition to the task of returning works of art, this Foundation also makes a valuable contribution to legislation and administration in Israel with regard to cultural property.

Museums in the US have made considerable progress in provenance research. Whereas claims against US museums were not a question before the 1990s, this situation changed markedly. The chapter outlines many of the changes implemented and explains why even court cases concerning works of art that have never been in the US are nevertheless heard there (e.g. the Adele Bloch – Bauer case). The US Supreme Court recently denied the admissibility of action in the USA in the case of the Guelph Treasure because, in the court's view, there is no exception to the *Foreign Sovereign Immunities Act*. The HEAR Act was enacted in 2016 to harmonise the different statutes of limitations in the US legal system and can be seen as a strong signal that the US wants to simplify the restitution of looted art.

After this exciting literary journey through museums worldwide, the book concludes with an essay on the remarkable successes of the Monuments Men. In another contribution to the Gurlitt story, it is worked out that despite all efforts, over 1000 works of art have gaps in their provenance. The Max Stern Art Restitution Project is also mentioned and illuminates, by giving concrete examples, how complex the relationship between claimants and museums can be and what should be done to make both sides happy.

Reading this highly informative work shows how much provenance research and the handling of looted art in museums is of public interest worldwide. At the same time, the authors critically comment on grievances in this field and point out possible solutions. Always bearing in mind that behind every looted work of art there is a personal human fate, the book makes a valuable input to the current discussion. The ongoing issues of how to deal with colonial art illustrate how far-reaching the questions of restitution are and one can only be grateful to the editor and the contributors for this exciting and legally sound read.

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