On Ethics and Effectiveness: German Museums, Nazi Art Confiscation, and International Restitution Efforts

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Abstract
German museums were historically dedicated to ethical public service. During the Nazi period, the German state confiscated artworks from primarily Jewish owners. These works ended up in museums and private collections worldwide, and post-war restitution efforts proved insufficient in returning stolen works to their rightful owners. Today, Nazi-era provenance issues require progressive legal action, as has been recognized in international forums such as the Washington Conference on Holocaust Era Assets. Modern German museum policy demonstrates the state’s commitment to fulfilling ethical obligations, and its legal framework for provenance research and restitution has been mostly successful. The efforts of Germany and other involved countries such as Austria, the United States, the United Kingdom, and Canada indicate what is necessary for creating responsible, effective restitution policies. These examples demonstrate that firm policies, designated support systems, and sustained commitment to ethics lead to positive results in settling provenance conflicts. Modern provenance policies indicate that museums’ commitment to ethical responsibility should continue to evolve in the future.

Keywords: art restitution, Holocaust, museum policy, museum ethics

Introduction

Museums have many responsibilities to their publics, and policy helps guide these duties. The recent history of Germany and its museums indicate the importance of museums being ethical and proactive in implementing certain responsibilities. Before the Nazi period, Germany’s history of museum policy
was consistent with ethical behaviour, and today its museums have attempted to be proactive in handling Nazi-related restitution cases. Modern German museums and the legal framework guiding them indicate what can and should be done to right wrongs related to ownership and responsibility. Museums and governments in other involved nations have made similar efforts, with varying success. The policies of Germany and these other governments indicate the necessary components of creating responsible, effective restitution policies, and demonstrate how museums can be ethical stewards of public culture.

In the first section of this paper, I will briefly discuss the history of museums as ethical institutions, with particular regard to German museums. The next section details the history of Holocaust-era art confiscation and early post-war restitution attempts. Section III discusses the modern role of German museums on a national and international stage, analyzing how German governments and cultural institutions have implemented restitution policies as recommended by the Washington Conference. The following section investigates restitution policies and progress in other countries, namely Austria, the United States, the United Kingdom, and Canada. Section V provides general observations and recommendations for restitution progress moving forward. I also discuss the benefits of restitution and how it affects ethical practice in the museum field.

I. Historical German Museums and Ethical Practice

Museums and art galleries have ethical responsibilities to the publics they serve. While initially intended for a restricted clientele in their earliest iterations, museums and galleries have eventually come to be seen as a humanistic, intellectual project intended to culturally benefit all classes (McClellan, 2008, 13-23). While these educational goals have become more refined and inclusive over the twentieth century, this kernel of ethical responsibility has defined museums' purpose, and continues to be a major point of consideration for those involved with museums (Meszaros, 2008, 157-158). How this purpose is expressed within museums depends on the contexts of place and time.

Historically, German museums fulfilled ethical obligations and responsibilities. The history of museums in Germany can be said to start with the Wunderkammern tradition, in which princes would display “cabinets of curiosity” as a show of their cultural knowledge. While the Wunderkammern were private aesthetic-focused collections, they also reflected princes’ duty to act as patrons of the arts and public culture. James Sheehan observes that “it became standard practice” in the 18th century to give students and artists access to royal collections, as Prussian King Frederick William II decreed in 1786 for his collection (Sheehan, 2000, 17-20). Early public collections were often overseen and publicized by designated experts and were intended to be educational; as early as the 1830s, Gustav Waagen, art historian and director of King Frederick William III’s Altes Museum in Berlin, envisioned museums providing an “aesthetic education” for all classes. Museums were connected with the idea of national and personal Bildung, which incorporates, as Sheehan puts it, the processes of “formal education, aesthetic cultivation, and character formation” (2000, 115-116). This purpose was further articulated during
The late 19th century as museum policy shifted from the royal sphere to become more democratic and organized along bureaucratic lines. By the early 20th century, many museums were offering inexpensive guides, courses for teachers, and programming aimed at working class people (Sheehan, 2000, 115-116). Focus on public duty, educational intent, and policy existed in German museums since their early iterations. As such, ethical museum policy is consistent with Germany's past practices.

II. Nazi-Era Confiscation And Restitution

Despite their ethically-minded background, German museums have also served as instruments for sinister intentions. During the Nazi regime, Germany instituted state-sanctioned unethical practices related to museums and their objects.

From 1933 to 1945, Nazi systematic policy, as well as other forms of extralegal intimidation, forced valuable artworks out of primarily Jewish collectors’ hands. Aryanization policies prohibited Jewish people from owning businesses, which included galleries and art dealerships. Overt looting and subtler methods of confiscation further contributed to a thorough process of art theft. Jewish collectors frequently sold their art at deflated prices due to pressure from Nazi officials, or put their collection up for sale under duress in a desperate attempt to buy passage out of Europe. The loss of art reached a remarkable scale. Kiesha Minyard estimates that the Nazis “pillaged nearly one-third of the art held in private hands at the time” (2007, 117). Stuart Eizenstat believes that in total, “a staggering six hundred thousand paintings” were stolen by the Nazis (2006, 307). This significant loss was part of a systematic, nationalistic policy of cultural intimidation.

Art confiscation served as a tool to entrench the power of the Nazi state. Adolf Hitler sought to hoard great works of European art, hoping to develop a museum in his hometown of Linz, Austria; after the outbreak of war, Hitler turned his sights to established institutions throughout Europe as sources of art for the planned Führermuseum. Works confiscated from Jewish collectors and Jewish-owned institutions also made their way into the private collections of other Nazi officials such as Hermann Goering (Feliciano, 2001, 165-166). In addition to furnishing Nazi collections, art confiscation also bolstered Hitler’s goals of Jewish cultural genocide. Art confiscation was a way to intimidate and degrade Jewish art collectors and dealers as well as strip them of their valuable assets and sources of income. While some artworks were acquired for Nazi goals, others were deemed “degenerate” under the Aryan ideal and were either sold for profit or destroyed (Karrels, 2014, 298-299). During the Nazi period, the German state used art as a weapon in a dehumanize campaign against Jewish collectors.

In addition to serving the Nazi state’s genocidal plans, unethical policies of art confiscation also benefitted German museums. Many institutions purchased confiscated works at lowered prices at auctions (Schnabel, 2010, 233-234). According to Hector Feliciano, the staffs of these museums were delighted to acquire these works and were “little concerned with the provenance of their purchases” (2001, 172). Pilfered artwork also entered the international market through auction and trade (Karrels, 2014, 299). Even in supposedly neutral countries like Switzerland, museums and galleries exploited
the trade of plundered art in order to introduce these works into their collections (Feliciano, 2001, 171). In this way, the German state and its museums, as well as international institutions, participated in and took advantage of highly unethical policies.

Post-War Restitution

During World War II, the Allies acknowledged the Nazi art-looting problem and attempted to resolve it. In 1943 the London Declaration was issued, stating, as Gunnar Schnabel has synthesized, “that all confiscations and expropriations from victims of persecution, as well as clandestine and feigned transactions under civil law, would henceforward be deemed null and void” (Schnabel, 2010, 235). However, after the war’s end in 1946, the Federal Council of German states held a Special Committee on Property Control and determined that “only property expropriated through government measures should be restored,” while artwork taken through intimidation would be unaffected. The Allies rejected this measure and issued restitution acts in 1947 and 1949 which assumed that members of persecuted groups had suffered unfair property loss, and declared that current owners of contentious works had to refute that such persecution had occurred when they obtained the works in question, or return them to the original owners. Hordes of stolen artwork discovered after the war were also an issue, and countries such as the United States attempted to return these works to their countries of origin through Central Collecting Points (Schnabel, 2010, 235). These procedures were intended to remedy Nazi crimes against European art collectors.

However, post-war Allied restitution efforts fell short of what was needed. As both Schnabel (2010) and Katherine Skinner have observed, Allied return procedures were largely inadequate. Skinner notes that strict deadlines and troubles at Central Collecting Points often impeded restitution. In 1948, the United States stopped the unsuccessful repatriation scheme altogether (Skinner, 2013, 676-677). The United Kingdom’s restitution committee did likewise around the same time (Woodhead, 2014, 115). As such, “the issue of dispossession went unaddressed for close to fifty years,” and individual claimants struggled to bring restitution cases to fruition (Skinner, 2013, 677). The post-war system was ill-equipped for rectifying past unethical actions, and, as it happens, would remain as such for decades.

III. Modern German Museums And International Involvement

After the Nazi state’s defeat in World War II, German policy involving museums experienced a shift towards multiple levels of commitment. Since the end of the war, to avoid “a repeat of a Nazi-style, centralized administration of culture,” German cultural policy has been predominantly determined by the Länder, or states (McIsaac, 2007, 371). The Kulturstiftung der Länder, the state cultural foundation, was founded in 1987 and contributes to “preservation, conservation, and education in relation to the German cultural heritage,” which includes regional museums (Kulturstiftung der Länder, 2015). Following the reunification of Germany in the wake of the Soviet Union’s collapse in 1990, control of policy evolved
to allow a more nationalized focus (McIsaac, 2007, 372). The Kulturstiftung des Bundes, the federal cultural foundation, was established in Germany in 2002; this office controls cultural policy when it involves national interests, and certain nationally-focused museums fall under its sphere (Kulturstiftung des Bundes, 2017). Increasing globalization in the decades after the country’s reunification has also encouraged German museums’ participation in international systems such as the International Council of Museums (ICOM) and the Network of European Museum Organisations (NEMO) (International Council of Museums, 2016; Network of European Museum Organizations, 2017). German museums are involved in multiple levels of organized structures, and thus have responsibilities to these systems.

**International Discussions on Nazi-Era Art Restitution**

At the end of the 20th century, Germany, as part of a wider community, participated in international efforts to address Nazi-era restitution cases. The fall of Soviet Union led to the release of formerly classified documents, which included the Nazis’ meticulous records of art confiscation. As such, it became easier for heirs of looting victims to seek documentation of ownership and pursue restitution cases against museums (Skinner, 2013, 675). Internationally as well as in Germany, interest rose in resolving long-dormant cases of restitution. In 1996, the first lawsuits were filed in the United States against Swiss banks holding dormant Holocaust-era accounts (Alford & Bayzler, 2006, 3). The successes of these cases led to a rejuvenation of formerly stagnant appeals for justice.

Wider international interest in rectifying Holocaust-era art theft eventually led to coordinated efforts to address the issue. The Washington Conference on Holocaust-Era Assets was held in December 1998 and was specifically dedicated to the cause of investigating the provenance of artworks in museums and returning them to Jewish victims persecuted by the Nazis; 44 countries, including Germany, attended the conference (Schnabel, 2010, 237). The conference’s resulting Washington Principles hold the involved countries to certain obligations, requiring these states to actively investigate provenance, publicize cases of contested artwork, and achieve “a just and fair solution” in collaboration with the heirs of victimized collectors (Washington Conference, 1998, 93). In accordance with the Washington Principles’ statements, ICOM released its official recommendations for restitution in 1999 (Adler, 2007, 66). In 2000, the affected countries met again under the Vilnius Forum and issued a declaration of commitment to the Washington Principles. The Terezin Declaration reiterated these sentiments in 2009 (Fisher & Weinberger, 2014, 2). These periodic meetings have kept interest in Holocaust-era restitution alive, and have led to an increase in concrete action towards achieving justice for victims of art confiscation.

**Restitution Progress in Germany**

After participating in global forums on Nazi-era restitution, Germany swiftly made its own
national commitments. In 1999, the federal government, the Länder, and local communities issued a joint declaration stating their dedication to “the search and return of cultural objects confiscated by Nazi persecution, especially objects of Jewish owners,” and their commitment to ensuring museums complied by these statutes (Siehr, 2002, 343). Taken together, these efforts worked to create a culture fostering restitution efforts in Germany. The legal actions Germany has taken following its assertion of the Washington Principles indicate its dedication to these ethical measures. In their 2014 report on Holocaust-era art restitution, Wesley Fisher and Ruth Weinberger considered Germany to be one of the few “countries that have made major progress towards implementing the Washington Principles and the Terezin Declaration” (2014, 5). This is largely thanks to Germany’s organized infrastructure for provenance research and art restitution, and its commitment to maintaining this system.

Germany did not only declare its commitment to the Washington Principles, but actively worked to implement them in the years following the conference. In 2001, the German government set up the Central Office for the Documentation of Lost Cultural Assets, and its federal cultural ministry issued guidelines for integrating the Washington Principles into its structure (Federal Government Commissioner for Culture and the Media, 2014, 27). In the same year, German museums gathered to hold a special meeting on provenance research, and the online Lost Art database was launched to catalogue stolen art (Siehr, 2002, 343). The restitution cause has sustained momentum, as indicated by the creation of a restitution Advisory Commission in 2003, the expansion of official guidelines in 2007, and the creation of the Office for Provenance Research in 2008. The Office provides funding as well as advice and networking opportunities for museums undertaking provenance research; it has spent over €18.2 million funding research and increased its budget “significantly” in 2014, indicating the Office’s continuing importance (FGCCM, 2014, 27). Provenance has been further augmented by the European Shoah Legacy Institute’s Provenance Research Training Program, which Germany was the first country to host (Fisher & Weinberger, 2014, 23-24). Furthermore, the German Cultural Policy report released in 2014 maintains a commitment to rectifying Nazi-era art crimes, stating that “Germany faces up to its historical responsibility in this sensitive area and is firmly committed to finding these works of art” and achieving “fair and just solutions” (FGCCM, 2014, 27). These legal actions and sustained commitment have had positive results in specific circumstances.

Certain examples indicate the dedication of the German government and museums to provenance research and restitution. The country has encouraged a culture acknowledging its guilt in World War II, and has expressed societal desire to right past wrongs (Berenbaum, 2006, 46). This is evident in responses by the German government and museums to Holocaust-era art theft controversies. In 2013, the collection of Nazi art dealer Hildebrandt Gurlitt, many pieces of which are suspected of having been confiscated from museums or looted from Jewish owners, was seized from his living heir. There was a swift official response to the Gurlitt scandal, with the German federal government establishing an official task force run by German and international experts to research the collection’s provenance (Fisher & Weinberger, 2014, 24). Individual museums have also made visible changes to
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embrace restitution. For example, the Bayerische Staatsgemäldesammlungen advocates transparency in its ownership and restitution disputes (Bayerische Staatsgemälde-Sammlungen, 2016). The museum website lists restitution cases such as that of August Liebmann Mayer’s collection; Mayer’s daughter is stated to have pursued restitution of four confiscated paintings and eventually reached a compensation agreement with the museum in 1963 (Bayerische Staatsgemälde-Sammlungen, 2010). Further indication of Germany’s commitment to ethics is evident in how notable figures in the cultural heritage sector have articulated the importance of provenance research. Bernd Neumann, the Federal Commissioner for Culture, stated in 2011 that “museums, archives, and libraries gain standing, credibility, and competence when they confront the history of their collections,” and that returning confiscated objects to their rightful owners is a “moral responsibility” for museums (Goldstein & Weitz, 2011, 222-223). These examples indicate that Germany and its museums are conscious of ethical responsibilities in restitution cases and are committed to resolving them.

However, despite this culture of supporting ethical restitution, Germany has also encountered conflicts in repatriation cases. A 2016 case indicates that sensitive resolution of provenance disputes is still a pressing issue. The Commission for Looted Art in Europe tracks down artwork of suspicious provenance, and in 2016 it revealed that the Bayerisches Staatsgemäldesammlungen sold paintings to the family members of Nazis rather than to the original Jewish owners’ heirs. Gottlieb and Mathilde Kraus, Jewish collectors who were victims of Nazi persecution, had about 160 artworks stolen from them; the Nazis gave two of these pieces to Heinrich Hoffman, Hitler’s personal photographer. After the war, these two works came into the possession of the Bayerische Staatsgemälde-Sammlungen, which in the 1960s returned them to Hoffmann’s daughter rather than to the Kraus family. The Kraus heirs have unsuccessfully sought restitution since then (Perlson, 2016). After this scandal became public, the museum responded to what it deemed “false claims” by pointing to its past “earnest and extensive efforts in provenance research”; it failed to address its intention to take action in the Kraus case (Bayerische Staatsgemälde-Sammlungen, 2016). This example shows that even when a museum has purported to be dedicated to restitution, it can still make errors in judgement and resist ethical action. Though the government has expressed good intentions in upholding its responsibilities, in practice ethical evolution has not been an entirely smooth process for German museums.

IV. International Restitution Progress

Being the nation within which the Nazis operated, modern Germany inherits the responsibility of that government’s actions, and thus should be held to a higher standard in restitution measures. However, other countries also possess Nazi-stolen art and benefitted from Nazi art looting by buying stolen art at auction. These nations thus have a duty to seek justice. Analyzing more successful examples of restitution in countries outside Germany reveals progress, but also indicates that there are still problems even among countries most actively seeking to resolve issues concerning stolen art. The involvement of 44 nations in the Washington Conference indicates a widespread desire to correct the
problem of art theft, but some observers are critical of the overall effect (Fisher & Weinberger, 2014, 2-9). As will be seen, success has been achieved, but varies in scope.

Restitution Progress in Countries Where the Holocaust Took Place: Austria

Austria was the first country to be occupied by Nazi Germany during World War II. When the Nazis took over the Austrian government in 1938, they continued to implement policies of confiscation against Jewish art collectors. While Austria was not considered legally responsible for the Nazis’ actions, it nonetheless bears the responsibility of ensuring that stolen property is returned to its rightful owners, especially considering its dismissive attitude towards such matters after the restoration of its independence in 1955 (Azizi & Lessing, 2006, 226-227). Writing in 2006, Michael Berenbaum saw Austria as coming to terms with its wartime responsibility for the Holocaust (2006, 46). Fiorentina Azizi and Hannah Lessing also note the Austrian government’s confrontation of its ethical duties, which has led to a more hospitable environment for Holocaust-era restitution (2006, 5-12). Austria has made legal changes accordingly.

Around the time of the Washington Conference, Austria demonstrated its awareness of the Nazi art theft problem and altered its policies to better accommodate restitution procedures. In 1998, Austrian cultural minister Elisabeth Gehrer ordered an internal investigation of the Austrian archives to determine the ownership histories of suspiciously-acquired artworks; in the same year, the Austrian government passed the Federal Art Restitution Law, which was “designed to return Nazi-looted artworks that had been obtained by Austrian federal museums under duress in the postwar period” (Schoenberg, 2006, 289). The federal government also established a Commission for Provenance Research and a Restitution Committee for overseeing individual restitution cases. Fisher and Weinberger consider Austria to be a country that has made “major progress” towards implementing successful Holocaust-era restitution policies (2014, 5-12). On a structural level, Austria appears to have instituted important changes.

Despite changes to the Austrian system, however, infamous cases of resistance to restitution have still occurred within Austria. One notorious example revolves around Egon Schiele's painting *Portrait of Wally*, which originally belonged to Lea Bondi, a Jewish resident of Vienna; the Nazis forcibly confiscated the piece from her private collection in the late 1930s. After the war, *Portrait of Wally* accidentally fell into the possession of the Austrian National Gallery, which then gave it away in an art exchange to collector Rudolph Leopold, the founder of the Leopold Museum. When the work became subject to seizure during a loan to the Museum of Modern Art in New York City, the Austrian government claimed that its 1998 Federal Art Restitution Law did not cover private foundations like the Leopold Museum, and thus the Museum did not have to comply with the claimants’ demands (Spiegler, 2006, 281-284). E. Randol Schoenberg has also pointed out the flaws in the Austrian restitution system,
accusing the advisory commission established to review restitution cases of excluding claimant families from the process and ignoring evidence presented to it (2006, 290). Furthermore, claimants must pay heavy fines to bring their cases to court in Austria, which are “calibrated according to the value of the assets at issue” (Grimes, 2011). The Maria Altmann restitution case, in which Schoenberg was involved as a lawyer, was one such instance in which Austrian court costs were prohibitive; this led Altmann to seek justice through the American legal system in order to obtain the Gustav Klimt works that originally belonged to her uncle and aunt, Ferdinand and Adele Bloch-Bauer (Schoenberg, 2006, 288-291). Altmann and the Republic of Austria eventually arbitrated outside of court through a three-judge panel in 2006, which ruled in Altmann’s favour (Grimes, 2011). Though laws have been established in a spirit of restitution-focused justice, the Austrian legal system has not been conducive towards restitution, and has at times actively impeded it.

Some improvement has occurred since these controversies. In 2009, Austria amended its Restitution Law to be more progressive (Fisher & Weinberger, 2014, 12). However, the resistance present in these recent events indicates that more must be done to change the country’s mindset and help those involved understand the necessity of restitution.

Restitution Progress in Countries Formerly Belonging to the Allies: The United States, the United Kingdom, and Canada

The United States, the United Kingdom, and Canada were Allied countries, but they are still culpable in art theft. Spoliated artwork ended up in the museums of these countries during and after the war. These states have also experienced problems with Nazi-era restitution, which indicates the continuing pertinence of this issue in these countries. As signatories to the Washington Principles, the United States, the United Kingdom, and Canada must be committed to the cause of Holocaust-era art restitution.

Progress in rectifying Nazi-related provenance problems has been made in the United States. Support for Holocaust-era justice gained momentum in the U.S. during the mid-1990s, when American courts became involved in disputes regarding Swiss Holocaust-era bank accounts. William Slany points to the importance of interdepartmental cooperation and determination for the successes in this area of Holocaust-era justice; he also notes that the resources within the National Archives and the research undertaken by government-based historians gave serious weight to claims (2006, 35-41). This movement led to the passage of the Holocaust Victims Redress Act and the creation of a Presidential Advisory Commission on Holocaust Assets to determine rightful ownership of disputed property (Skinner, 2013, 711-712). The American art and museum world responded accordingly. In June 1998, the Association of Art Museum Directors drafted guidelines detailing procedures for museums to follow should they find Nazi-confiscated art in their collections, an action which predated the Washington Conference. In 2003, the American Association of Museums launched an online registry of works with
suspicious Nazi-era provenance issues (Association of Art Museum Directors, 2017). The United States overall has established a positive environment for Holocaust-era restitution claims, to the point that claimants such as Maria Altmann have chosen to make lawsuits through the American legal system rather than in that of the country at fault (Schoenberg, 2006, 291). A spirit of dedication is evident within the United States, as demonstrated by its early efforts to rectify past injustices.

However, work still remains to be done in the United States. Skinner has pointed out that success can vary in settling restitution claims; she claims that “resolutions to rectify these injustices lack teeth in the United States, and no substantial, comprehensive, and rational method of implementation exists” (2013, 711-712). Minyard has noted the American government’s lack of provisions for funding, which means that both victims and museums suffer from the high costs of seeking and compensating restitution claims (2007, 119). An investigation of museums by a Claims Conference in 2006 found that “only some institutions appeared to follow the Washington Principles and AAM guidelines conscientiously,” while others were uncompliant (Karrels, 2014, 300). This points to a lack of institutional commitment in upholding the Washington Principles. As Skinner puts it, “there is a disconnect between the lofty mentality of the late 1990s actions and the current method of operation” (2013, 700). Minyard has also observed that “the Holocaust restitution movement... has not made a significant impact in the United States” (2007, 123). Overall, the American example indicates that the country requires a more integrated structure for researching and settling Holocaust-era claims. It also demonstrates that initially firm commitment to Nazi-related restitution issues has stagnated over time.

In the United Kingdom as well there has been both progress and setbacks in handling restitution cases. After the Washington Conference, Britain established a Spoliation Advisory Panel to hear claims for Nazi-related restitution and provide solutions for museums and claimants. Charlotte Woodhead has recognized in this panel’s establishment a strong motivation to correct “past wrongs” and determine the “rightful owner” of an artwork on moral grounds rather than a purely legal basis (2014, 113-120). However, implementing restitution in Britain has not been without its problems. The British Museum houses artwork which the Nazis had confiscated from collector Arthur Feldmann. When Feldmann’s heirs pursued restitution, the British Museum refused to return the art, claiming that such actions would violate a 1963 law against deaccession of its collections. Intervention came in 2009 when the British Parliament passed the Holocaust (Return of Cultural Objects) Act, which permitted deaccession in Nazi-looting cases. However, the British Museum still resists deaccession (Besterman, 2014, 21). In 2013, the museum agreed to compensate the Feldmann heirs even though the 2009 law would have permitted the return of the contested artwork (Woodhead, 2014, 123). This example indicates that while British museums have been reluctant to implement Holocaust-era restitution, the government appears to be interested in furthering the process. During the passage of the 2009 act, Baroness Deech claimed in Parliament that the display of looted art in museums is an unethical reminder of past wrongdoing and ultimately detrimental to the purpose and reputation of museums. In her view, looted art on display “has ceased to be an object of beauty and one that museums can be proud of or use for
educational and aesthetic aims” (Besterman, 2014, 21). While British museums have had problems, there is a sentiment among lawmakers that Holocaust-era restitution is ultimately a moral imperative.

Canada as well has had successes in the restitution process following the Washington Conference. Shortly after Canada adopted the Washington Principles, the Canadian Art Museum Directors Organization (CAMDO) established practical guidelines for museums in accordance with the goals of the conference. In 2001, the Canadian Museums Association and the Canadian Jewish Congress met at the Canadian Symposium on Holocaust-Era Cultural Property to discuss the issues brought up in Washington and to determine a national strategy for the just return of Holocaust-era art (Canadian Museums Association, 2001). Individual determination of institutions like the Art Gallery of Ontario, which started its still-ongoing Provenance Research Project in 1998, have helped foster receptiveness to restitution ideals (Art Gallery of Ontario, 2017). In 2006, the National Gallery of Canada, upon discovering a stolen work in its collection, contacted the original owners themselves to recommend that the family file a claim for restitution (Adams, 2014). These efforts indicate that there is an impetus towards restitution present within Canada.

Like the United States and the United Kingdom, Canada has also lost momentum during its restitution procedures. Only four claims in total have been made against Canadian museums, the most recent being an Art Gallery of Hamilton case in 2014 (Whyte, 2014). When CAMDO issued a survey of its member institutions in 2007, only ten museums out of 84 responded. As such, the total number of Nazi-confiscated works in Canada is unknown, and furthermore, “what information has been gathered to date is largely piecemeal.” James Adams attributes these small gains more to “individual institutional initiative than national strategy” (2014). Restitution requires more governmental support in Canada, and there is a need for provenance research to be more widely publicized. In 2014, the federal government provided CAMDO with a grant of $191,000 for provenance research and the development of a research guidelines project; however, this grant terminated in March 2015. There have been plans since 2014 to develop a national database of works with suspected Nazi-era provenance, but this have yet to come to fruition (Adams, 2014). Canada has demonstrated interest in seeking Holocaust-era restitution, but actually realizing this interest through structured action has not been forthcoming.

V. Museums And Restitution: Looking forward

Progress in returning stolen works of art to their rightful owners has been made in several countries, but even with varying degrees of involvement, there is work to be done in regards to Holocaust-era restitution matters. While Fisher and Weinberger note that museums are now researching their collections with more resolve, “overall there have not been any dramatic changes” in restitution progress since the Terezin Declaration of 2009 (2014, 2-9). How can museums handle restitution cases more effectively and uphold their ethical responsibilities to greater standards?

Despite renewed interest and established laws, there are several challenges barring successful
restitution of stolen works. Fisher and Weinberger point out how “no mechanism exists to monitor [the] progress” of the countries which endorse the Washington Principles, and as such success has varied (2014). The Washington Principles also have imperfections, leading governments and private museums to abuse a loophole with claims that private museums do not fall under the requirements of the Principles, as Austria did in the Portrait of Wally case (Eizenstat, 2006, 308). As such, these institutions and the governments of the countries they reside in have avoided facing restitution claims. There is also a problem regarding private collectors of artworks with dubious provenances, who may deliberately keep the pieces “away from public scrutiny” to avoid having to return them to the original owners (Feliciano, 2001, 173). Furthermore, structural lack of support for restitution can be prohibitive. Court costs can severely limit families’ attempts to reclaim artworks. Cultural institutions also require funding for provenance research and restitution support. Museums may suffer financially in cases of successful restitution, both in terms of compensating heirs and losing valuable artworks that draw in visitors and revenue, which contributes to institutions’ general reluctance to return stolen works. There is also a lack of resources for determining provenance documentation, which can make proving ownership difficult (Dugot, 2006, 273). Additionally, when research is publicized, it is not standardized; results may be confined to a single country’s websites and left untranslated, meaning that victims of art theft may be unable to trace their assets (Eizenstat, 2006, 309). These impediments are challenging to surmount.

German museums offer important lessons for a successful restitution model. Fisher and Weinberger found in their international study of Nazi-related restitution progress that the best results were achieved in countries which “established a centralized mechanism for ensuring that provenance research is independent and of high quality” (2014, 9). The German example is indicative of such an infrastructure, as the federal government has offices dedicated to provenance research and provides funding for individual museums to carry out this research. Other nations confirm the idea that these components constitute a successful restitution infrastructure. For example, interdepartmental governmental cooperation and state-supported historical research in the U.S. contributed to important changes in American policy regarding Holocaust-era restitution issues. Meaningful, complex implementation at the structural level appears to contribute to an environment in which restitution-based justice thrives.

However, restitution failures even in active countries like Germany indicate that more monitoring and guiding policies are needed. Here, participation on an international level and commitment to international responsibilities is critical. In her recommendations, Nancy Karrels calls for better-defined formal networks to share information and expertise as well as to help articulate policies and procedures (2014). Fisher and Weinberger also believe that better monitoring of provenance efforts is needed, and that independent examination both within involved countries and on an international level would be beneficial (2014). The Washington Principles have served as a form of guidance, but a firmer connecting mechanism with concrete procedures would enable its regulations to be fulfilled to a greater, more practical extent.
Integration of resources is also needed to ensure successful outcomes in restitution cases. Claimants and museums alike bear heavy costs in such cases, and it is likely that more satisfactory results for both sides could be achieved with greater sources of financial support for all involved parties. Financial compensation in lieu of returning a piece of art may also be an acceptable resolution for some claimants, and would allow museums to keep the art in question. Information is another key resource requiring greater support. An international network for sharing information and other results of research would be beneficial in publicizing cases of stolen art. Such a resource would have to be widely accessible in terms of language, international readability, and common understanding. International resources such as the Commission for Looted Art in Europe exist (2016), but a more in-depth global network for publicizing Holocaust-era research could accomplish more.

For there to be successful results in matters of restitution, the emotional commitment of governments and museum leaders is also crucial. In her investigation of American museums which have implemented the Washington Principles the most effectively, Karrels finds that involved museum leaders who were “acutely aware of the legal, ethical, and public image significance of Nazi-era provenance research” were instrumental in effectively researching and settling provenance disputes (2014). This certainly seems to be the case in Germany. The effect of British political impetus in enacting change likewise indicates the importance of emotional commitment. The individualistic dedication of Canadian institutions such as the AGO or the National Gallery of Canada further demonstrates the importance of structurally-supported commitment to the cause of restitution. More can be accomplished when involved countries and their affected institutions emotionally commit to an ethically-focused culture incorporating restitution-based justice.

Progress has been made, but more can be done to encourage ethical actions. The examples of successful systems indicate that a firm government-supported structure for provenance research and restitution is highly beneficial, and should be developed further. Greater interconnectedness among involved countries for the purposes of monitoring and resource-sharing could also lead to positive changes in restitution. Underlying these concrete structures should be a culture of emotional commitment to ethical responsibility. Taken together, these actions may invite more profound realizations of long-awaited justice.

**Why It Matters**

Nazi-related restitution cases are important not only for their own sake but also for what they can teach museums in broader terms. As indicated by the recent controversies surrounding the collections of the Kraus, Feldmann, and Gurlitt families, rectification of Nazi-era art crimes is still relevant in contemporary times. Louise Tythacott and Kostas Arvanitis state that “restitution is one of the most important... issues facing Western museums in the twenty-first century” (2014, 1). The conflicts that have arisen from Nazi-related cases indicate the truth of this statement. Fisher and Weinberger
state that repatriation “is not a matter of ‘public relations’ but of historical truth and basic morality” (2014, 10). In the case of Nazi-related repatriation, it allows governments to admit injustice, and gives Holocaust victims an opportunity to heal. Restituting art acknowledged to have had been stolen validates the suffering of Holocaust victims, and though it cannot erase that suffering, the return of artwork constitutes a tangible apology for survivors and their families, as Roger Alsdorf and Michael Bazyler have pointed out (2006). Restitution of art is a moral cause with critical social outcomes.

Furthermore, by restituting artwork, museums and governments open the door to other difficult conversations surrounding the return of stolen property. Woodhead believes that effectively dealing with Nazi-related issues sets a precedent for ethical practices in museums in other restitution cases (2014, 122). Ineffectively handling restitution, however, has negative ramifications. When talking about museums and restitution in general terms, Tristram Besterman puts it bluntly: “For a profession whose business is to understand context, this blindness to contemporary human sensitivity is both disturbing and indefensible. Museums which refuse to ‘get it’ are not only behaving unprofessionally, but are also, for that very reason, inherently unsustainable” (2014, 20). The restitution of Nazi-confiscated art indicates the ethical importance of confronting history and rectifying past wrongs.

Repatriation has important implications for museums’ ethical responsibilities as a whole. As aforementioned, in historical and contemporary times, museums have been intended to benefit the societies they serve. When museums as institutions create educational learning environments and provide opportunities for cultural and social enrichment, the institutional culture in itself is recruited into this purpose. Meszaros urges museums to model ethical behaviour to their publics, as museums ultimately teach their publics methods of thinking (2008). As Woodhead says, “the public trusts museums as institutions and there is international legal recognition that museums should act in accordance with moral principles” and the professional ethical codes which guide them (2014, 122). In terms of modelling responsibility, confronting the issue of restitution is a primary example of museums acting in accordance with ethical principles.

Restitution need not be contrary to the basic purpose of museums. Traditionally, museums are meant to preserve valuable objects, meaning that restitution may go against “their basic desire to keep objects in perpetuity. However, museums are recognized as having a duty to their publics to be morally responsible stewards of the objects they hold. The ICOM Code of Ethics for Museums states that “museums that maintain collections hold them in trust for the benefit of society and its development” and must act responsibly toward the objects in their care (Fisher & Weinberger, 2014, 2). Furthermore, modern museum professionals recognize that institutional goals to preserve and promote culture and heritage are not solely invested in objects. Arvanitis and Thyttacott have observed that the traditional role of museums has evolved over the past 30 years; in contemporary times, museums have shifted away from acting as houses of valuable collections to focusing on “engaging with wider agendas of access, inclusion, and social responsibility” (2014, 6). However, this is not only a contemporary mode of operation; as previously observed, the notion of social responsibility has existed in German museums,
for example, since the days of the Wunderkammern. The commitment of modern institutions to rectify issues of Nazi spoliation fits well into museological traditions and the evolving purposes of museums.

VI. Conclusion

As the examples of Germany and other affected countries demonstrate, it is important for museums to be ethical and to uphold the responsibilities expected of them. The issues surrounding repatriation of Nazi-spoliated art form a striking example of this duty. German museums have had a socially-conscious streak governing their principles since their earliest iterations, and properly confronting the issue of confiscated art corresponds with that tradition. Researching provenance and repatriating art have increasingly become acknowledged as moral responsibilities for the museums which have benefitted from unethical practices. It befits international agreements and general understandings of ethical justice for governments and museums to implement proper restitution procedures. By doing so, museums and the societies they serve can move forward more responsibly and more ethically.
References


MACDONALD GERMAN MUSEUMS, NAZI ART CONFISCATION, AND INTERNATIONAL RESTITUTION EFFORTS

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