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INANIMATE VICTIMS:
STOLEN ARTWORK FROM WWII AS DISPLACED VICTIMS OF THE HOLOCAUST

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ABSTRACT

In the period surrounding World War II, the Nazi Party staged a discriminatory attack not only on human beings, but also on the cultural realm of Germany and its conquered territories. Just as the Nazis divided the human sphere, they designated different styles of art as “Aryan” or “degenerate,” and dealt with them accordingly. The Third Reich revered Aryan styles and expelled or destroyed degenerate works. While many pieces of art came from museum collections within Germany or were looted from churches, in regards to paintings stolen, especially in Western Europe, the Nazis looted most of the works from the collections of Jewish dealers. In the period following the war, many works were restituted to their rightful owners through the efforts of different governments including the United States and its allies as well as individual survivor efforts. This process, however, was not an easy one and continues today, almost 75 years after the end of World War II. Hundreds of works still exist in a category of unknown or disputed ownership, and legal cases remain open. The works that remain in limbo, much like the persons who remained stateless after the end of the war, are displaced and will remain displaced until they are situated with a rightful owner.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS.....	iii
Introduction	1
Chapter 1 History of Nazi Classification and Collection of Artworks	10
The Nazi Art Exhibitions	11
Abroad: Collections and Collaborators	15
Documentation	26
Nazi Intentions.....	27
Chapter 2 Restitution in the Post-war Period to the Turn of the Century	32
Advantages in the Restitution Process: Nazi Recordkeeping	33
Issues that Inhibited Restitution.....	36
Allied Efforts Towards Restitution in the Immediate Post-War Period.....	41
United States Efforts Towards Restitution in the Later Post-War Period	44
Survivor Efforts in the Post-War Period	47
Chapter 3 Restitution from the Late 1990's to the Present	52
Continuous Efforts and Inhibitions Towards Restitution	53
The Internet's Role in Restitution.....	56
Contemporary Restitution Cases	58
Museums Abroad.....	63
Hollywood and the News	64
Conclusion.....	67
Appendix A Terms.....	72
BIBLIOGRAPHY	73

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Introduction

The time period surrounding World War II and the Holocaust was one of chaos, destruction, and decimation of people and cultures. With genocide, the complete eradication of a people is only successful if that culture is also erased. The Holocaust is perhaps the most pertinent example of genocide's impact on culture and administrators' efforts to formulate a culture to represent the values and ideologies of the ideal new order. As a result of the implementation of ideology on culture, Nazis sorted styles of art into categories deemed acceptable or not under the Third Reich, and looted both types to satisfy their need for an artistic representation of their utopia. Along with the works stolen for Nazi use in their own collections, the Nazis attacked many styles of artworks and essentially exiled or destroyed them both physically and from the psyche of the Third Reich. Many of these works on both sides of the ideological sorting still exist in the limbo of wrongful ownership, and therefore can be categorized as a displaced victim of the Holocaust.

In order to understand the argument that artwork can be considered a displaced victim of the Holocaust, one must have a definition of "displacement" as it pertains to victims of the Holocaust. I will give a brief background of the history of Displaced Persons (DP's) and then explain how I am applying the concept to inanimate objects. I must explicitly state that in no way am I trivializing the experiences of Holocaust victims and survivors by drawing this comparison. I fully comprehend the tragedy and suffering of Holocaust victims and do not intend to argue that inanimate objects such as artworks are the same as people. I intend to use the comparison only to

illustrate that the systematic persecution of human beings also applied in the cultural sector of Nazi Germany and the territories occupied by the Third Reich.

There are several legal definitions of ‘displaced persons’ from different parties tasked with handling the placement of displaced persons. These definitions stemmed from the refugee crisis created by the end of the war and liberation of occupied nations that resulted in the need for adjustment of quotas and definitions of eligible immigrants from Europe to other nations, such as in the United States or Palestine. According to the United States’ Displaced Persons Act of 1948, a displaced person is defined as, in part:

[a person] who on or after September 1, 1939, and on or before December 22, 1945, entered Germany, Austria, or Italy and who on January 1, 1948, was in Italy or the American sector, the British Sector, or the French Sector of either Berlin or Vienna or the American zone, the British zone, or the French zone of either Germany or Austria; or a person who, having resided in Germany or Austria, was a victim of persecution by the Nazi government and was detained in, or was obliged to flee from such persecution and was subsequently returned to, one of these countries as a result of enemy action, or of war circumstances, and on January 1, 1948, had not been firmly resettled therein.¹

For the purpose of this argument, the latter part of the definition is the most significant as it highlights the persecution of the Nazi government as a prerequisite for victimhood and as the reason for displacement.² A similar definition from the United Nations Relief and Rehabilitation Administration (U.N.R.R.A.), defined displaced persons the UN was able to assist, specifically including both “[p]ersons not of United Nations nationality, either in liberated territory, or in enemy territory, who are victims of enemy persecution, i.e., those who ‘have been obliged to leave their country, or place of origin or former residence by action of the enemy, because of

¹ United States of America. Congress. Displaced Persons Act of 1948. 1009-014. June 25, 1948. <http://library.uwb.edu/Static/USimmigration/62%20stat%201009.pdf>

² The scope of the thesis will cover more areas than those listed in the US definition, because much of the art stolen was stolen from those areas in Allied zones like Paris.

their race, religion, or activities in favor of the United Nations,” and “[p]ersons who are ‘Stateless and who have been driven from their previous place of settled residence and can be repatriated thereto.’”³ Both definitions represent displacement as a forced experience and as a direct consequence of discrimination based on qualities unfavorable to the persecuting body of government.

It is important to note, in light of these legal definitions, that Nazi legislation in the pre-war period made repatriation difficult for many Jews who originated from Germany. The First Regulation to the Reich Citizenship Law of November 14, 1935 states in Paragraph 4: “A Jew cannot be a citizen of the Reich.”⁴ This effectively stripped German Jews of their citizenship and rendered them instead just Jews in Germany. This law was later applied to Austria, and had the same ramifications regarding Jews being stateless within their own countries.⁵ This made placement of these persons difficult in the post-war period due to a lack of belonging in any country. Repatriation cannot be accomplished when a person lacks a tie to any nation.

In addition, many liberated from concentration camps in Eastern Europe or ghettos, those who came out of hiding, were partisans during the war, or were affected for various other reasons either had no homes or families to return to or refused to return to homes where they faced

³ W. Arnold-Forster, "U.N.R.R.A.'S Work for Displaced Persons in Germany." *International Affairs (Royal Institute of International Affairs 1944-)* 22, no. 1 (1946): 1-13. 2 (sections 4 and 5).

⁴ The Reich Citizenship Law of September 15, 1935, and the First Regulation to the Reich Citizenship Law of November 14, 1935. In United States Chief Counsel for the Prosecution of Axis Criminality, Nazi Conspiracy and Aggression, Volume IV. Washington, DC: United States Government Printing Office, 1946. Documents 1416-PS and 1417-PS, pp. 7-10.

⁵ "Nuremberg Laws, Specially Altered, Extended to Austria." *Jewish Telegraphic Agency IV* (May 25, 1938) 3. http://pdfs.jta.org/1938/1938-05-25_047.pdf?_ga=2.97842655.1556822734.1553440047-1308216830.1553440047. Accessed March 24, 2019

hostility and antisemitism from their neighbors.⁶ These “unrepatriables” numbered in the hundreds of thousands, and lived in camp environments in Germany called Displaced Persons Camps, where many stayed until more than a decade after the end of WWII.⁷ The total number of Displaced Persons after the war was 1.5 million, which included both Jews and non-Jews, all facing the same struggles of statelessness. Jews accounted for about 250,000 of this 1.5 million.⁸ Some laws and quotas did see adjustments as the DP camps remained full, such as the Displacement Act of 1948’s adjustment to include “Eligible displaced person' shall also mean a person displaced from the country of his birth, or nationality, or of his last residence since January 1, 1946, [...] and cannot return to any of such countries because of persecution or fear of persecution on account of race, religion, or political opinions;” as a category.⁹ This acknowledgement that many DPs, even those with citizenship, could not return home on the principle that either the country that they were expected to return to was the one that sent them to death or that they were afraid to be killed by their neighbors was important, but still not enough to increase quotas to the point that the DP camps would close.

⁶ "Displaced Persons Camps." Yad Vashem.

<https://www.yadvashem.org/articles/general/displaced-persons-camps.html>. Accessed March 24, 2019.

⁷ Atina Grossmann uses the term “unrepatriable,” which does not appear to be a word recognized by the dictionary but I felt it was an appropriate term for what I am covering. Atina Grossmann, *Jews, Germans, and Allies: Close Encounters in Occupied Germany* (Princeton, NJ: Princeton Univ. Press, 2009) 132; Menachem Z. Rosensaft, *Life Reborn: Jewish Displaced Persons, 1945-1951 ; Conference Proceedings, Washington, D.C. January 14-17, 2000* (Washington, DC: U.S. Holocaust Memorial Museum, 2001) 6.

⁸ Martina Ravagnan and Sarah Ponichtera, *Guide to the Records of the Displaced Persons Camps and Centers in Italy 1945-1955; Record of the DP Camps of Italy*; RG 294.3; YIVO Institute for Jewish Research, 2014. <http://digifindingaids.cjh.org/?pID=2370636#a18> Accessed March 31, 2019.

⁹ United States. Congress. Senate. *Displaced Persons: Index to Hearings before the Subcommittee on Amendments to the Displaced Persons Act of the Committee on the Judiciary, United States Senate, Eighty-first Congress, First and Second Sessions, on Bills to Amend the Displaced Persons Act of 1948* 219.

These camps became home to revitalized Jewish societies where Jews created new families and resurrected their old traditions. Even with these Jewish efforts to improve life in the DP camps and create a quasi-home, an extended stay was not ideal or wanted, but was an unfortunate side effect of pre-war antisemitism and immigration restrictions. Elie Wiesel, potentially one of the most prominent survivors of the Holocaust and a displaced person, described DP camps as “another kind of exile,” highlighting the struggles experienced by Jews even after their liberation.¹⁰ According to Menachem Z. Rosensaft in his introduction to the “Life Reborn: Jewish Displaced Persons 1945-1951 Conference Proceedings,” “the survivor’s extended stay in the DP camps was dictated primarily by their inability to settle elsewhere. At first, virtually all doors, except to their countries of origin, to which they refused to return, were slammed shut.”¹¹ Survivors in DP camps encountered laws and restrictions from quotas, many of which did not favor Jews, set for both immigration to the United States and to Palestine as set by the British Mandate.¹² Quotas in the United States reflected a pre-war antisemitism and xenophobia that restricted Jewish immigration into the US and infamously caused the S.S. St. Louis to turn back to Nazi Germany with 937 passengers on board after arriving on the United States’ coast.¹³ The British Mandate of Palestine and its immigration quotas put in place in 1923 to placate the Arab population restricted Jewish immigration to a few thousand over the span of several years.¹⁴ Both of these restrictions forced Jews to remain displaced in Europe.

¹⁰ Abraham J. Peck, “An Introduction to the Social History of the Jewish Displaced Persons’ Camps: The Lost Legacy of the She’erith Hapletah.” *Proceedings of the World Congress of Jewish Studies* vol. 8, 1981, 189.

¹¹ Rosensaft, 8.

¹² Displaced Persons Act of 1948; Rosensaft, 8.

¹³ United States Holocaust Memorial Museum. “Voyage of the St. Louis” Holocaust Encyclopedia. <https://encyclopedia.ushmm.org/content/en/article/voyage-of-the-st-louis>.

¹⁴ Dvora Hacoheh. “British Immigration Policy to Palestine in the 1930s: Implications for Youth Aliyah.” *Middle Eastern Studies* vol. 37, no. 4 (2001) 207.

The essential thing to understand about displacement as it relates to this paper is as follows. As a result of discrimination and persecution by the government of Nazi Germany, hundreds of thousands of Jewish people (amongst the millions of displaced persons) were stateless for several years following the war, displaced in countries they did not originate from. In the same way, as we will see below, artwork was judged and defined as “degenerate” and through a process of looting and trading was stolen from its original location and owners and subsequently spread all over Europe and beyond through a system of storing, trading, and hiding. While the last DP camp closed in 1957, theoretically ending the post-war period of displacement, there are artworks still technically displaced, in the sense that they are either unaccounted for or in the process of being battled over in legal cases across the world.

This paper will explain the application of Nazi ideology to the cultural sector of life and the upheaval of the art world in Europe and subsequent displacement of artworks that still lingers in the almost 75 years since the end of the war. Previous literature on the subject focuses mostly on the background and history of the topic, covering the ‘who, what, when, where, and why’ surrounding art looting in the WWII era. Many of the sources found on the topic end with the completion of the war, and much scholarship focuses on Western Europe. Legal scholars more than historians took an interest in the restitution processes, as many of the sources dealing with recent processes are legal texts. As far as sources I came across while writing this paper, no other scholars explored the angle of looking at paintings affected by the war as displaced victims of WWII.

Paintings were of course not the only objects that suffered from the looting and pillaging performed by the Nazi Party and their various taskforces and collaborators: books, archival materials, pieces of silver, furniture... the list of what Nazis stole is long. It is estimated that the

over the course of the war, the Nazis confiscated over 600,000 paintings alone.¹⁵ For this reason, this paper cannot focus on all aspects of Nazi looting. Instead, this thesis will focus particularly on paintings. The Nazis looting paintings on a large scale, indiscriminant of styles, because of both their value and the ease with which a canvas can be taken out of its frame and rolled for convenient transport; they are not heavy or potentially fragile like sculptures, which were much less commonly the target of looting. Paintings, especially more prominent ones, also carry detailed provenance history. By looking at the provenance of a painting, one can know who owned the painting, when it was purchased, where it was, and many other things at any given time. When a provenance tells us that a collector or dealer possessed a work in an occupied territory and then there is a strange gap from 1942-1945, it can be assumed that this work was at one point in the possession of the Nazis. Several works possessed by the National Gallery of Art in Washington, D.C., display provenances like this and will often note, ‘confiscated by ERR in 1943’ or something similar to denote a history of confiscation. Most pieces of silver or jewelry do not have documented histories like this, so following their ownership at any given time is difficult. It is factors like these that make paintings so much easier to track and also so interesting to focus on.

In addition, artworks, especially when considering paintings and sculptures, have an inherent value that extends beyond simply existing as a piece of property. There is a communal ownership over artworks, especially works that develop cultural significance. It is these qualities that set artworks apart from other objects and give them an almost lifelike presence in our

¹⁵ Stuart E. Eizenstat, "Art Stolen by the Nazis Is Still Missing. Here's How We Can Recover It." *Washington Post*, January 2, 2019. Accessed April 3, 2019. https://www.washingtonpost.com/opinions/no-one-should-trade-in-or-possess-art-stolen-by-the-nazis/2019/01/02/01990232-0ed3-11e9-831f-3aa2c2be4cbd_story.html?utm_term=.228a394ccb5a.

cultural psyche. What I mean is this: take the *Mona Lisa* for example. The *Mona Lisa* is potentially one of the most recognizable artworks in the world. Even though it does not belong to the public, there is an aspect of public claim because it is such a significant work. Consider someone purchasing the *Mona Lisa*, and subsequently destroying it. Since that person purchased it, should they not be allowed to do what they wish with it? Regardless of the personal ownership of the object, there would be absolute public uproar at the destruction of a priceless work of art. My argument asks you to consider that artworks, especially those often in the public eye, extend past the point of just being property and hold greater importance in the context of cultural heritage and identity that deserves attention.

Paintings, in this context then, possess almost inherently lifelike qualities. To emphasize the lifelike qualities of paintings, it is especially relevant to note how the Nazis actions towards people according to their ideologies also applied to inanimate objects such as artworks. The classification, segregation, deportation, destruction, and exploitation of both people and artworks under the Third Reich are strikingly similar. The fact that paintings somehow take on a life of their own emphasizes these similarities and allows paintings to act as a metaphor for people in this situation.

The first chapter of this thesis will explain the background information regarding the art that is the subject of the later restitution cases. This includes how art was categorized, what steps led up to the introduction of the ideological application in the public sphere, where and who art was stolen from, for what purpose, and key players in the extensive theft and distribution of artwork during WWII. The second chapter will cover efforts to recover and reclaim art by the Allied forces and individuals from the immediate postwar period to the late 1990's. The immediate postwar period was crucial for the recovery and documentation of art, and was

essential for the restitution of much of the art stolen. The chapter ends in the late 1990's because after that period, rapid advancement in both technology and legislation changed the face of Nazi-era provenance research and restitution efforts, which is where the third chapter begins. The third chapter additionally covers recent and ongoing cases of litigation and recovery of art stolen during the war, as well as the involvement of museums both in the United States and abroad.

After the background section of this paper, the efforts in recovery, prosecution, and restitution will come from the perspective of the work of the United States. This is due, in part, to the extensive work by the United States forces, but also due to the accessibility of materials and language restrictions. In addition, much of the records and documentation reflect what the United States was able to gather and does not include materials that remain inaccessible in Russia. Much of the research in this field focuses on Western Europe, so while the effect on Eastern Europe is briefly discussed, this paper mainly focuses on art in Austria, Germany, and especially France, which was arguably impacted the most and had the most prominent collectors, which led to immense amounts of invaluable documentation.

Chapter 1

History of Nazi Classification and Collection of Artworks

This chapter will provide background for looting and stealing of art. In order to understand the dispersal and the displacement, it is necessary to understand where the art came from, what it was intended for, how it was taken, and where it was sent. This chapter will outline the two art exhibitions held in Munich to demonstrate Nazi opinions about artistic styles. After this I will cover the areas subject to looting and the systematic processes of looting by discussing the Einsatzstab Reichsleiter Rosenberg, different collaborators, and the Jewish collectors affected by Nazi looting.

Much like the ideological categorization of people under the Third Reich, artworks were separated into desirable and degenerate styles. Specifically, modern artistic styles such as impressionist, abstract, cubist, post-impressionist, and other avant-garde styles were “degenerate” while more traditional, natural pieces were “Aryan.” Both types of art held value for Germany in different ways, but a clear distinction was drawn and demonstrated to the German population through the two exhibitions held by the Nazis in Munich. After the Germans’ invasion of other territories, they took extensive efforts to confiscate the collections of Jewish individuals for use by the Reich. The Germans spared no resources for these efforts, going as far to change legislation and enlist a task force. All of this was done with grand intentions to open a museum that would make Linz, Austria a great artistic center of the world. This chapter will provide a documentation of the Nazi efforts to classify art and then collect it through various channels.

The Nazi Art Exhibitions

There was a concentrated effort by the Reich Chamber of Culture to re-Germanize the visual arts throughout the period of the Third Reich, beginning in 1933. Modern art was popular, but featured distorted and unnatural imagery. The Nazi Party's ideology emphasized returning to tradition, and this applied to natural, traditionalist artistic styles. In order to visually demonstrate the right versus wrong of artistic styles, the Reich Chamber of Culture employed two simultaneous art exhibitions in Munich in 1937. Both of these were elaborate works of propaganda utilized to influence the public's view towards ideologically valuable styles and turn people against art that the Nazis deemed to be degenerate. The regime employed the two large-scale art exhibitions in order to "emphasize the differences between National Socialist art and the degenerate art of the Weimar Republic."¹⁶

The first exhibition sponsored by the Reich Propaganda division, entitled "The Great German Art Exhibition," opened on July 18, 1937 and featured works meant to exemplify German superiority and inspire the German people to want to leave a cultural legacy that would be remembered for eternity.¹⁷ The exhibition featured works by natural-born German artists worthy of being compared to, according to Hitler's philosophies, the Egyptian Pyramids or the Greek Acropolis.¹⁸ It also displayed works meant to encapsulate the ideal German citizen and image, using generic subjects such as farmers, workers, soldiers, mothers and the family unit,

¹⁶ Alan E. Steinweis, *Art, Ideology & Economics in Nazi Germany: The Reich Chambers of Music, Theater, and the Visual Arts* (Chapel Hill: University of North Carolina Press, 1993) 144.

¹⁷ Benjamin H. D. Buchloh, *The Dialectics of Design and Destruction: The Degenerate Art Exhibition (1937) and the Exhibition Internationale du Surréalisme (1938)*, October 150 (150), 2014 49.

¹⁸ Eric Michaud, *The Cult of Art in Nazi Germany* (Stanford, Calif: Stanford University Press, 2004) 205.

and naturalistic landscapes.¹⁹ The nature of the regime's ideology meant that art that could be considered appropriate had to express traditional qualities. Hitler believed that "German art of past epochs [were] underappreciated and undervalued and that greater recognition would come with time."²⁰ The intention of this exhibition was essentially a smaller-scale, less developed version of the intended nucleus of Hitler's ultimate art center in Linz, The Führermuseum, which will be covered later in this chapter. This exhibition is less studied and was less of a spectacle than its neighbor, the Degenerate Art Exhibition, which shows the regime's overall interest in emphasizing what was not German over what was considered more ideally German.

The second exhibition, the Degenerate Art Exhibition (Entartete Kunst), opened on July 19, 1937 and signified the epitome of everything that the Third Reich did not represent. It was set in direct contrast to the Great German Art Exhibition.²¹ In the introduction to the Degenerate Art Exhibition catalogue, the intentions of the exhibition are spelled out clearly. It states:

[The Exhibition] means to give, at the outset of a new age for the German people, a firsthand survey of the gruesome last chapter of those decades of cultural decadence that preceded the great change.²²

The "gruesome last chapter" mentioned in the catalogue is referring to the period of the Weimar Republic (1918-1933). The Nazis recognized this period in Germany as an extremely liberal and morally questionable time due to the rise in homosexual behavior, modern art styles, and sexual liberalism. Adolf Ziegler, who had a role in curating both the Degenerate Art Exhibition and the

¹⁹ Neil Jonathan Levi, *Modernist Form and the Myth of Jewification*. First ed., (New York: Fordham University Press, 2013) 57.

²⁰ Jonathan Petropoulos, *The Faustian Bargain: The Art World in Nazi Germany* (New York, N.Y: Oxford University Press, 2000) 31.

²¹ Buchloh, 49.

²² Shearer West, *The Visual Arts in Germany, 1890-1937: Utopia and Despair* (New Brunswick, N.J: Rutgers University Press, 2001) 181.

Great German Art Exhibition, stated about the exhibition in his speech to open it, “All in all one can say that everything sacred to a decent German was necessarily trampled into the dirt here.”²³

The exhibition featured art that appeared mutilated and unnatural in order to emphasize the inequality between the traditional Aryan art and the modern art in the exhibition. Hitler, famed for his energetic, rhetorically convincing speeches, also opened the exhibition with what Alan E. Steinweis described as “his most emphatic condemnation of artistic modernism to date.”²⁴

Hitler believed that art was the ticket to eternal recognition and that great civilizations succeeded in being remembered by creating a visible cultural legacy through monumental artworks.²⁵ The Degenerate Art Exhibition was meant to signify to the German people what held Germany back from the former glory that the regime promised to restore, and therefore what must be condemned and destroyed in order to return to the greatness of traditional Germany.²⁶ Hitler speaking at the event emphasized his personal rejection of the art inside of the exhibition and would therefore recommend, like the effect of many of his rally speeches, the German public’s agreement on the subject. Shearer West notes that the rejection of modern artistic styles appealed to many people who could not comprehend the abstraction and “avant-gardism” of modern art.²⁷ In addition to Hitler’s desire for a state that valued tradition and nature, modernist movements were often linked in people’s minds to foreign nations and therefore became

²³ Levi, 67.

²⁴ Steinweis, 145.

²⁵ Michaud, 205.

²⁶ It is important to note that although the period when the Degenerate Art exhibition was being shown followed the Nuremberg Race laws, art made by Jews was not systematically considered ‘degenerate,’ which is demonstrated in that only 6 of the 112 artists whose work was displayed in the exhibit were Jewish.

Stephanie Barron, Peter W. Guenther, Art Institute of Chicago, and Los Angeles County Museum of Art, *Degenerate Art: The Fate of the Avant-Garde in Nazi Germany* (Los Angeles, Calif; New York;: Los Angeles County Museum of Art, 1991) 9.

²⁷ West, 184.

associated with the downfall of the German economy.²⁸ This negative affiliation was used as fuel for the nationalist ideology employed by the Nazi regime to promote their intention to return to the basic foundation of German tradition through artworks. The propaganda utilized to enforce this idea was that of a resistance against the corrupt “Other” in order to maintain the superiority of the Aryan race.²⁹ Over the course of the display in Munich, over two million people viewed the exhibition, emphasizing the effectiveness of the Nazi propaganda machine as well as its effective weaponization of art.³⁰

With the introduction of the two exhibitions to the public, the Nazis needed to form legislation in order to justify their actions regarding cultural materials belonging to Germany. The constantly changing legal landscape of Nazi-occupied Europe is pertinent information to explain how Nazi departments and taskforces could take actions concerning public and private property and will be examined throughout this chapter. Concerning the Berlin collections used in the shows, it is important to note that the works exhibited in these shows were not the result of looting, which had not commenced yet. The Reich Chamber of Culture required the legal means to confiscate artworks from public museums owned by the state, many of which were on loan to or donated to the museums by private individuals. In order to negate the need for financial compensation or explanation for the removal of art from museums, the “Law Concerning the Confiscation of Products of Degenerate Art” of 1938 retroactively made the confiscations of art from public institutions legal.³¹ This gave the regime the legal right to confiscate artworks from both private and public entities and then either destroy or auction the works they came to possess. After the confiscations, member of the Reich Chamber of Culture “purged” the works

²⁸ Barron, 9, 11.

²⁹ Buchloh, 55, 56.

³⁰ Levi, 52.

³¹ Steinweis, 145.

now belonging to the regime; the Chamber removed over twelve thousand drawings and five thousand paintings and sculptures from the public collections of Germany and then either auctioned them off or simply destroyed them.³²

Abroad: Collections and Collaborators

Once the war began and Nazi forces occupied new territories, efforts to seize artworks from private collections as well as museums abroad began. In large cultural centers like Paris, there was a significant presence of Jewish art collectors and dealers. Figures like Paul Rosenberg, the Rothschilds, Adolphe Schloss, David David-Weill, and others held collections and galleries full of valuable artworks. As discussed earlier in the chapter, the term “value” in regards to Nazi perception meant different things concerning different artistic styles and genres. Collections like the Schloss, Rothschild, and David-Weill collections were valuable for their traditionalist and Old Masters works, and therefore the Nazis desired them for the Reich’s use in museums and private collections. Modern and contemporary art, while degenerate, was valuable in terms of resale value on the art market. Both styles were indiscriminately confiscated and stored for later sorting and dispersal according to which version of “valuable” they were.

The looting and confiscation of collections was systematic and well documented. In order to enforce the Reich Chamber of Culture’s goals and regulations abroad, Hitler ordered the creation of a special task force called the Einsatzstab Reichsleiter Rosenberg (ERR) in 1940 under Reichsleiter Alfred Rosenberg. The ERR, previously intended to find and secure only works targeted by the regime, was authorized by Hermann Göring, President of the Reichstag

³² Steinweis, 144; Jost Hermand, *Culture in Dark Times: Nazi Fascism, Inner Emigration, and Exile* (New York: Berghahn Books, 2013) 59-60.

and Commander of the Luftwaffe, to locate and confiscate the art collections of Jewish people in both Eastern and Western Europe. The taskforce operated under the pretense that their actions were legal under international law when prompted by protests against the confiscations from the French. Under an order from Göring, the ERR claimed that their goal was not to steal the works, but to protect them from destruction or displacement during the war.³³ The task force heavily utilized the assistance of collaborators within the art market to efficiently discover and confiscate collections left unattended by fleeing owners. The collections of Jewish owners were particularly susceptible to confiscation by the ERR due to a law enacted by the Vichy Regime in July of 1940 that “stripped emigrants of French citizenship, leaving their assets in a precarious legal situation.”³⁴ The ERR had several goals. While the primary goal was to collect artworks for use in the German collections, the other goal was to confiscate works that could be traded on the art market for either works that fit the regime’s ideology or for foreign currencies, which the regime was desperately short on.³⁵

The collection that this paper will focus on most heavily is that of Paul Rosenberg, due to the current and ongoing efforts by his heirs to reclaim the works from his collection as recently as October of 2018.³⁶ The Rosenberg collection is regularly featured in articles about art restitution because of the scale of the recovery efforts as well as the “museum worthy” (i.e. prominent and recognizable to the general public as well as art enthusiasts) quality of the works he owned. The collection was large and consisted primarily of modern style 19th and 20th century

³³ Peter Harclerode, and Brendan Pittaway, *The Lost Masters: World War II and the Looting of Europe's Treasurehouses* (New York: Welcome Rain, 2000) 24.

³⁴ Elizabeth Campbell Karlsgodt, *Defending National Treasures: French Art and Heritage Under Vichy* (Stanford, Calif: Stanford University Press, 2011;2014) 196.

³⁵ Rothfeld, Anne. "The Holocaust Records Preservation Project." *Prologue Magazine*, Summer 2002. Accessed March 12, 2019.

³⁶ Catherine Hickley. "In Pursuit of Nazi Loot Still at Large." *New York Times*, November 1, 2018, Arts sec., C5.

French artworks by artists including Pablo Picasso, Georges Braque, Henri Matisse, Edgar Degas, and other prominent impressionist, cubist, and fauvist artists. Paul Rosenberg's access to these works was possible through his personal relationships with many artists. Picasso, for example, painted several works for the Rosenberg collection, including *Portrait of Mrs. Rosenberg and Her Daughter, 1918*. After the lapse of Picasso's contract with Daniel Henry Kahnweiler, Picasso entered into a verbal contract with Paul Rosenberg that gave Rosenberg the right of first refusal for any of Picasso's works and that by 1919 gave Paul Rosenberg acknowledgement as "Picasso's dealer." Several texts, museum exhibition catalogues, and other documents acknowledge him as such.³⁷ In addition, Paul Rosenberg is partially credited with assisting Picasso's stylistic move away from Cubism and towards Neoclassicism in the 1920's, a move which involved Picasso moving his place of residence to the home next door to the Rosenberg Gallery at 21 Rue la Boetie.³⁸

Georges Braque, another Cubist artist who worked closely with and often collaborated with Picasso, also left his contract with Kahnweiler in favor of making Paul Rosenberg his official dealer. Braque and Paul Rosenberg also had a right of first refusal contract, but this one was a written contract instead of a verbal one like Picasso's contract with the dealer.³⁹ The acclaimed dealer was a regular and personal buyer of Pierre-Auguste Renoir's works.⁴⁰ Henri Matisse signed a contract with Paul Rosenberg in 1936 that gave the collector first look at Matisse's paintings with some exceptions. Rosenberg had the option to choose paintings he preferred with no obligations to sell or show them but had the ability to if he wished. After

³⁷Michael C. Fitzgerald and Pablo Picasso, *Making Modernism: Picasso and the Creation of the Market for Twentieth-century Art* (Berkeley, Calif: University of California Press, 1996) 85, 90-91.

³⁸ Ibid, 91.

³⁹ Alexander Danchev, *Georges Braque: A Life* 1st U.S. ed. (New York: Arcade, 2005) 163-165.

⁴⁰ Fitzgerald, 99.

Rosenberg fled France for New York in June 1940, his and Matisse's relationship continued even in Rosenberg's new location.⁴¹ The purpose of detailing Paul Rosenberg's relationships and contracts with these artists is to emphasize the prevalence of this collector in the art world. He possessed both relationships with and artworks from the most important artists of the 19th and 20th century, and held one of if not the most valuable collection in Paris in regards to 19th and 20th century modernist art. This collection and his prominence would make him a visible and obvious target for the ERR.

The works in the Rosenberg collection were heavily targeted by the ERR which expended many resources on tracking down the collection's various hiding spots. Paul Rosenberg, aware that his collection was under threat of seizure, utilized a bank vault in the commune of Libourne to conceal between 162 to 172 works before he fled France, which:

contained no less than 5 Degas, 5 Monets, 7 Bonnard, 21 Matisses, 14 Braques, 33 Picassos, plus a good selection of items by Corot, Ingres, van Gogh, Cézanne, Renoir, and Gauguin.⁴²

In addition, he hid another 200 plus paintings in a rented chateau in Floriac.⁴³ The only works from his collection spared were part of the "substantial inventory" that the collector took with him when he fled to New York.⁴⁴ The ERR raided and pillaged both locations, the chateau in September of 1940, only 3 months after its beginning as a hiding place, and the bank vault in April of 1941. Braque himself hid several of his own works in the same bank, which would fall

⁴¹ John O'Brian, *Ruthless Hedonism: The American Reception of Matisse* (Chicago: University of Chicago Press, 1999) 51-52, 54.

⁴² Lynn H. Nicholas, *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War* 1st ed, (New York: Knopf, 1994) 91.

⁴³ Hector Feliciano, *The Lost Museum: The Nazi Conspiracy to Steal the World's Greatest Works of Art* 1st ed, (New York: BasicBooks, 1997) 69.

⁴⁴ O'Brian, 54.

to the Nazis at the same time as Rosenberg's collection.⁴⁵ In total, more than 400 works from the Rosenberg collection were confiscated from the bank, the chateau, and his gallery in Paris. Almost equally as devastating, the ERR also confiscated the collector's business records, which were extensive and detailed the provenance of countless works, his transactions, his gallery shows and exhibitions, and other information essential to the history of the Parisian art world.⁴⁶ It can also be assumed that this information could have potentially lead the ERR to other dealers and collectors based on sales receipts or communications.

The ERR relied on collaborators to locate the stores of artworks and move them through the art market. Three significant figures stand out in the history of the Rosenberg collection. Yves Perdoux and Count Lestange, both Parisian art dealers, offered the Nazis the location of Rosenberg's Floriac chateau in exchange for 10% commission on anything sold by the Nazis on the market or to high-ranking officials.⁴⁷ In addition, dealers willing to exploit the precarious situation of Jewish people under the Third Reich purchased artworks in large and small quantities from Jews under duress and trying to liquidate their assets before fleeing their homes. Because of the inflation of the Reichsmark, dealers purchased artworks from occupied territories at such an advantaged rate that "these acquisitions are often referred to as 'technical looting.'"⁴⁸ 'Technical Looting' essentially means that the price a work was purchased for is so

⁴⁵ Alexander Danchev, "The Strategy of Still Life, or The Politics of Georges Braque," *Alternatives: Global, Local, Political* 31, no. 1 (2006): 6,8.

⁴⁶ Danchev, 13.

⁴⁷ "Woman Seated in an Armchair." Art Object Page. National Gallery of Art. <http://www.nga.gov/content/ngaweb/Collection/art-object-page.71071.html#provenance>; "Madame Stumpf and Her Daughter." Art Object Page. National Gallery of Art. <http://www.nga.gov/content/ngaweb/Collection/art-object-page.52167.html#provenance.;> Feliciano, 74.

⁴⁸ Jonathan Petropoulos, "Art Dealer Networks in the Third Reich and in the Postwar Period," *Journal of Contemporary History* 52, no. 3 (July 2017), 548.

disproportionate to its value, especially considering the currency exchange rate, that it can be considered theft.

The third figure and one of the most prominent collaborators was Gustav Rochlitz. Rochlitz, originally from Germany but residing in Paris during the war, was a struggling dealer who had a history of dealings in Switzerland in the 1930's and moved to Paris after his businesses in Germany and Switzerland failed.⁴⁹ Rochlitz held a collection of Old Masters which German officials took great interest in. He became a willing and active dealer to German officials, trading his traditional works for "degenerate" works looted by the ERR. After the war, the United States' Art Looting Investigation Unit interrogated Rochlitz extensively. In the interrogation report, the summary states:

It has been established that Rochlitz, perhaps more than any other individual, sought and derived personal and material gain from the depredations of the Einsatzstab Rosenberg. He has taken elaborate measures to convince his interrogators that the exchanges with the Einsatzstab to which he was a party were forced upon him, and that he was threatened with "consequences" demurred; however, at no time has he claimed ignorance of the fact that the 82 paintings which he received from the Einsatzstab were works confiscated from French Jewish collections.⁵⁰

Several of the works in the report were from Paul Rosenberg's collection.⁵¹ The section of the interrogation report above reveals that Rochlitz's intentions were to benefit directly from the German occupation of France and the stealing and looting of Jewish collections. He engaged in trades with the Germans fully aware of the origins of the artworks he received for his own possessions. Furthermore, the interrogation report states:

⁴⁹ "Detailed Interrogation Report No. 4: Gustav Rochlitz," OSS Report, 15 August 1945, 2. https://www.dfs.ny.gov/consumer/holocaust/history_art_looting_restitution/The%20Allies/OSS%20and%20the%20ALIU/ALIU%20Reports/gustav_rochlitz.pdf, Accessed 20 October 2018.

⁵⁰ Ibid, 11.

⁵¹ Ibid, 6.

The group of pictures which came into his hands included a number of celebrated masterpieces of French painting of the 19th century, works which would commend impressive prices in the open market, yet which he obtained in return for questionable “old masters” of inferior quality simply because Nationalist Socialist propaganda had tagged all modern French painting as unwanted “degenerate art.”⁵²

This section of the report emphasizes the important point that there were two kinds of “valuable” art, one being traditionalist art for Nazi display and the other being degenerate art, valued on the art market as masterpieces but by the Nazis for trading. In addition to Rochlitz’s significance as an owner of desirable works, the report notes that he disposed of several works in France, Switzerland, and Germany.⁵³ The significant location in this list is Switzerland, which had lax legislation regarding art that will be covered in a later chapter. The report also dubs Rochlitz an “unscrupulous opportunist” as well as defining his business dealings “unsavory.”⁵⁴ Being morally dubious was practically a requirement when it came to art dealers willing to move stolen works. In her testimony in “The Eizenstat report and related issues concerning United States and Allied efforts to restore gold and other assets looted by Nazis during World War II: hearing before the Committee on Banking and Financial Services, House of Representatives,” Lynn H. Nicholas explains that anyone involved in the art world was fully aware of where the paintings originated from and the way which they became available on the market, and “most refused to buy them.”⁵⁵ It was those dealers who lacked the morality to refuse that the ERR had to rely on to carry out their missions. The ERR also relied on resources and assistance from the military.

⁵² Ibid, 11.

⁵³ Ibid, 11.

⁵⁴ Ibid, 12.

⁵⁵ United States. 1997. *The Eizenstat report and related issues concerning United States and allied efforts to restore gold and other assets looted by Nazis during World War II: hearing before the Committee on Banking and Financial Services, House of Representatives, One Hundred Fifth Congress, first session, June 25, 1997*, 113. Washington: U.S. G.P.O.

The military was fully committed to the tasks of the ERR, exhibited in Göring's orders to give the ERR's efforts support from the Luftwaffe for traveling and transporting their confiscated works, emphasizing again the importance of the cultural aspect of Nazi ideology and its application in wartime efforts.⁵⁶

Hildebrand Gurlitt was another significant collaborator who came to light recently, with the discovery of a trove of looted artworks in the possession of his son in 2012. Gurlitt, a museum director originally opposed to the Nazi Party and their dealings, was an exhibitor and promoter of avant-garde art, as well as the works of Jewish artists.⁵⁷ Gurlitt's father was a "half-Jew," causing complications for Gurlitt in his business ventures under the Third Reich. Despite his opposition to the Nazi Party, he changed his mind in order to save his business because "art dealers who were 'partly Jewish' could continue in their positions only if they could ensure foreign currency income to the government."⁵⁸ This is another example of Nazi hypocrisy, as they allowed actions directly against their own ideology if it would benefit them. Gurlitt began dealing the Regime's degenerate possessions for both foreign currency and other works, and eventually moved into large-scale dealing in the occupied territories. Gurlitt worked closely with other art dealers, namely Rochlitz, in his trading network. Interrogation reports and the discovery of his collection prove that his original motivation for collaboration, to only save his building, also changed as he benefitted enormously from being a Nazi collaborator. This is discussed further in Chapter 3. Jonathan Petropoulos argues that the network of collaborating art dealers

⁵⁶ Karlsgodt, 202.

⁵⁷ Meike Hoffmann, "Hildebrand Gurlitt and His Dealings with German Museums During the 'Third Reich'". *New German Critique*, 1 February 2017, 44.

⁵⁸ *Ibid*, 47.

was essential for the Reich's success in moving confiscated artworks throughout the war, and for the continued dispersal of non-restituted works after the war ended.⁵⁹

Another Parisian Jewish collector targeted heavily by the ERR, David David-Weill collected works that met the standards of the Regime as more acceptable. The collection included romantic and impressionist paintings by artists such as Jean-Baptiste-Camille Corot, Pierre-Auguste Renoir, and Francisco Goya. David-Weill, like Paul Rosenberg, sent his collection to chateaus in Souches and Mareil-le-Guyon to protect it from bombing.⁶⁰ In the same month as the seizure of the Rosenberg collection from the bank vault at Libourne, the ERR arrived at the chateaus and confiscated 130 crates of works from the collection. Because of the scale and importance of many of the works, the ERR assumed the works in the bank vault to be possessions of the Louvre or other museums in France.⁶¹ Due to their value, the ERR sent these works to Germany from the Jeu de Paume and scattered them between the Linz museum's intended collection and the art market.⁶² In addition, the ERR confiscated 1,000 pieces of silver from the collection with the intention of using them in the Führermuseum and sent the pieces to Munich for storage.⁶³ In total, the ERR confiscated 2,687 works from the David-Weill collection.⁶⁴

Out of the three collections of these Jewish art connoisseurs, the collection of the late Adolphe Schloss was the most valuable in terms of meeting the ideals promoted and propagated by the Nazi regime. The collection possessed works by early Masters such as Frans Hals, Rembrandt van Rijn, Peter Paul Rubens, and Anthony van Dyck, which Hitler specifically

⁵⁹ Petropoulos, "Art Dealer Networks in the Third Reich and in the Postwar Period," 546.

⁶⁰ Feliciano, 90

⁶¹ *Ibid*, 93.

⁶² *Ibid*, 92.

⁶³ Harclerode, 22.

⁶⁴ *Ibid*, 44.

intended to be featured in the Linz museum.⁶⁵ In the care of Schloss's wife and children after his death in 1910, the family left the collection vulnerable in a chateau in central France, much like the Rosenberg collection, and the ERR plundered the collection in 1943.⁶⁶ Out of the 333 works in the Schloss collection at the time of the plunder, the ERR and the SS officers who arrived at the chateau selected 284 works for private use and for use in the Führermuseum. These works were not intended for trading, unlike the majority of the Rosenberg collection. Instead, the ERR and Nazi officials chose 262 works specifically to hang on the walls of what would become the Führermuseum in Linz, Austria in order to exhibit the traditionalist values that were the core of Nazi ideology.⁶⁷ According to Hector Feliciano in *The Lost Museum: The Nazi Conspiracy To Steal The World's Greatest Works Of Art*, "the Dutch masters would of course have a significant place [in the Linz Museum]," of which the Schloss collection was a large source.⁶⁸ While the Allies discovered some of these paintings in the Alt Aussee salt mines where they were hidden during the war, some are still missing or are in the process of being restituted. This will be discussed further in Chapter 2.

Looting did not only occur in Western occupied territories. Eastern Europe also possessed cultural centers, and more often than not these centers emulated more convincingly the ideals of what the Nazis looked for in artworks. The ERR operated in the East alongside

⁶⁵ Feliciano, 95; Harclerode, 281.

⁶⁶ Cleve R. Wootson Jr. "A painting stolen by Nazis is up for auction — despite a Jewish family's demand for its return." *The Washington Post*. April 24, 2017. Accessed April 24, 2017. https://www.washingtonpost.com/news/worldviews/wp/2017/04/24/a-painting-stolen-by-nazis-is-up-for-auction-despite-a-jewish-familys-demand-for-its-return/?utm_term=.bf5a4bb9cfc4.

⁶⁷"Historical introduction." Collection Schloss - Archives et patrimoine [France-diplomatie].

⁶⁸ Feliciano, 21.

Himmler's own personal art dealer, Wilhelm Vahrenkamp.⁶⁹ Nazi forces completely destroyed many of Poland's cultural sites, including painted ceilings and significant monasteries, in an effort to eradicate Polish culture and by extension, evidence of the history of Polish people.⁷⁰ Amongst the museums in Poland, however, a fine collection of pieces including works by Johannes Vermeer, Rembrandt, Albrecht Dürer, and other artists was of particular interest to Hans Posse, Hitler's acquirer.⁷¹

Dr. Otto Kümmel, who previously created a list of all objects looted from Germany by France, was instructed by Hitler to compile a list of every inherently German work of art that had been taken, stolen, or purchased from Germany in wars since the year 1500 with the instructions to retrieve them. Napoleon was responsible for taking many of these works and Germany also lost many works as a result of reparations in the Treaty of Versailles, including two panels from the Ghent Altarpiece.⁷² Interestingly, works that were owned and sold by German Jews living in France during the World War I also counted as German according to the Nazis and therefore needed to be reclaimed.⁷³ Nicholas refers to the Kümmel list as a "convenient wish list."⁷⁴ The Ghent Altarpiece would eventually become a work that Germany battled bitterly for because it was of German origin and therefore was considered inherently German and the rightful property of Germany by the Nazi regime.

⁶⁹ Petropoulos, 548; Petropoulos notes that there was less activity in the East because most of what was looted in the East was archives, archeological findings, and books, amongst other non-art objects.

⁷⁰ Nicholas, 67.

⁷¹ Ibid, 68.

⁷² Ibid, 121-122.

⁷³ Ibid, 121-122.

⁷⁴ Ibid, 122.

Documentation

The Germans had a reputation for carefully documenting almost every aspect of their actions and plans during the war period. Within the Jeu de Paume, a museum in Paris that the Nazis converted into a storage unit for their confiscated artworks, there was a meticulous system of documentation that involved card files on which, according to Patricia Kennedy Grimstead, “ERR art historians prepared provenance research cards on approximately 23,000 individual works of art from confiscated French Jewish collections in Paris.”⁷⁵ These card files are discussed more in depth in Chapter 2. Between 1940 and 1944, an estimated 22,000 works of art passed through the Jeu de Paume.⁷⁶ Within the museum, a woman by the name of Rose Valland was an essential resource to both the Germans during the war and the Allied forces in the postwar period. Valland was a French woman who worked in the Jeu de Paume before the Nazi invasion. Nazi officials continued to employ her as an attaché to assist the Nazi invaders with keeping the museum temperature controlled to protect the artworks. Valland performed dangerous espionage by keeping inventory and taking photos of all of the works brought into the museum and sending notes to other members of the art community about the Nazis’ actions. She is an integral figure in locating and returning much of the confiscated art that passed through the Jeu de Paume, but also for having knowledge of what works were condemned and destroyed, as she was witness to several paintings being burned because the Nazis deemed them “degenerate.”⁷⁷ After the war, Valland was appointed part of a recovery committee, allowing her to use the extensive documentation she accumulated over the course of the occupation to lead

⁷⁵ Patricia Kennedy Grimsted, "The Postwar Fate of Einsatzstab Reichsleiter Rosenberg Archival and Library Plunder, and the Dispersal of ERR Records," *Holocaust and Genocide Studies* 20, no. 2 (2006), 294.

⁷⁶ Harclerode, 43.

⁷⁷ Karlsgodt 204-206.

both French and Allied forces to traded works confiscated from both French museums and private collections.

Nazi Intentions

Hitler's enormous architectural vision of turning the city of Linz, Austria, into the art center of the world of course included a large, monumental museum as its centerpiece.⁷⁸ The city of Linz held particular significance as Hitler's place of birth and childhood. It can be assumed that the intention for the museum was for it to be a utopian space unmarred from its conception by the influence or presence of un-German entities, and mirroring the idealized vision of Germany, on a larger scale, as a nation devoid of any non-Aryan influence or scarring. With a brand new facility and thousands of confiscated works to choose from to curate exhibitions, no unapproved art would ever enter the building if all went according to Hitler's vision, because every piece of art considered degenerate would be out of Germany or destroyed. Hitler assigned Albert Speer, the Reich's architect, the task of creating a building large enough to house "the greatest collection of works of art ever assembled."⁷⁹ The works in the museum, if it had been completed, would have exemplified the naturalistic and traditional qualities idealized by the Nazi Party. The goal for the museum was to "collect all the most famous works of the old and new 'Germanic' classical periods for an exhibit that will overwhelm every visitor"⁸⁰ Artists like Vermeer, Raphael, Donatello, and other Old Masters were sought after entities for the museum, and many were acquired through the many channels available to the Nazis, like trade, morally

⁷⁸ Petropoulos, 119; Hermand, 53.

⁷⁹ Harclerode, 3.

⁸⁰ Hermand, 53.

questionable sales, and their systematic stealing through their military entities. The ERR confiscated more than 21,000 artworks from France alone with the intention of using them to fill the Führermuseum.⁸¹ The collections of David David-Weill, the Rothschilds, and Adolphe Schloss specifically held great value to the museum's vision because they contained pieces of naturalistic styles as well as Old Masters like Frans Hals, Rembrandt, Rubens, and van Dyck, all of which would be ideal centerpieces of the museum's exhibitions and make the collection a competitive one compared to all of the other art museums in the world.⁸² Because these works were exclusive and rare, the ERR traded many of the works they confiscated and considered unimportant or not valuable to obtain works of this caliber that depicted the traditionalist values that the Nazis wanted to exhibit. These works would ideally emphasize Germany's return to its former and traditional glory. In addition to the ERR, Hitler employed Hans Posse as his chief aquisitor of the Linz Museum. Posse held the role of piecing together the Linz Museum's future collection and dealt all across Europe to acquire any and all works worthy of hanging on the walls of the Führermuseum.⁸³ By 1945, Posse and his team would acquire over 8,000 major works for the Linz museum.⁸⁴

The Linz museum was not the only destination for confiscated works. There were several prominent Nazi officials with their own private art collections. Second to Hitler, Reichsmarschall Göring was an avid art collector. In the words of Alex Danchev, Göring "wolfed down old masters like oysters."⁸⁵ In other words, the Reichsmarschall aggressively and predatorily hunted down the works of Old Masters and acquired them by any means necessary. This included but

⁸¹ Petropoulos, 52.

⁸² Feliciano, 21, 90, 95; Harclerode, 281.

⁸³ Nicholas, 45.

⁸⁴ Ibid, 49.

⁸⁵ Danchev, 13.

was not limited to trading almost a dozen confiscated degenerate works for a single, high-value traditional work such as a Titian or a Rembrandt. While Göring's first priority was collecting works to hang in the Führermuseum, the Reichsmarschall had a personal collection he wished to expand. If the Führermuseum was meant to possess and display the greatest collection of works ever compiled, then Göring's country home, named Karinhall after his wife, was meant to house the second.⁸⁶

Göring had lofty goals for his collection at Karinhall and put forth exceptional effort to obtain the best works of art, including his own personal efforts as well as employing his own 'director,' Walter Andreas Hofer, who would essentially assist Göring in researching and curating his collection.⁸⁷ Göring was a frequent visitor to the Jeu de Paume. Tasked with assisting Hitler in selecting paintings for the Linz museum, he often surveyed the constantly expanding collection of looted works stored in the Jeu de Paume to ensure that the most valuable works were intended for the Führermuseum. An advantage to his assistance in the project was that, as the person choosing which works went on to Hitler's museum, he had the privilege of first selection from the works passed over for the museum for his own collection. Even though priority was supposed to go to the Linz museum, there is evidence that Göring and Posse fought bitterly over a Vermeer work.⁸⁸ He compiled an impressive collection of tapestries that would eventually end up in the hands of the Soviets after the war, as well as multiple works taken directly out of the Louvre.⁸⁹ Because the Nazis had some sort of 'code' when it came to collecting works not from Jewish collections, they had to acquire the works under a guise of legality. Göring went about this by trading his works for works from other sources like

⁸⁶ Nicholas, 35.

⁸⁷ Petropoulos, 550.

⁸⁸ Nicholas, 48.

⁸⁹ Karlsgodt, 237, 256.

museums, but the trades were never necessarily respectable or equal, and the other parties in the trade could not expect to ever gain full equity for the works that the Reichsmarschall received from them.⁹⁰ Göring also had access to a personal train to transport his large quantities of selected loot to his personal home where he planned to store his collection.⁹¹ Göring was able to operate his quest because of his promise that he would eventually make his collection the property of the Reich.⁹² Whether the Reichsmarschall ever truly intended to take this action is unknown, but it is clear that he amassed a large and impressive collection of works in various ways, some more legally dubious than others. In addition, it is important to understand that there were overall Nazi expectations for artworks that demonstrate motivations for looting as well as individuals with their own intentions to benefit from the plunder of Europe's art treasures. It serves to indicate the scope and complications of the web of art transfer and why later restitution efforts were so widespread and required several different departments.

The Nazis' process of sorting, looting, trading, and acquiring works is a topic that could be covered in several books, and has been several times. Lynn H. Nicholas's *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War* is cited several times in this chapter and is an excellent source for any further curiosities on the subject, as it offers an extensive look at much of the Nazis' actions as well as the results. This chapter was intended to show the wide scope of looting and the reasoning and methods of why the looted art was dispersed in the way it was. These methods and motivations directly impacted the way that restitution efforts had to function. Because of the large collections of works obtained by

⁹⁰ Ibid, 13.

⁹¹ Michelle I. Turner, "The innocent buyer of art looted during World War II," *Vanderbilt Journal of Transnational Law*, November 1999, 1511. LegalTrac (accessed November 4, 2018). <http://link.galegroup.com.ezaccess.libraries.psu.edu/apps/doc/A58726610/LT?u=carl39591&sid=LT&xid=66545d00>.

⁹² Karlsgodt, 202.

Nazis in general as well as individual Nazi collectors and collaborating dealers through theft, the process of restitution had to begin before WWII even ended. The next chapter will detail how the Allied forces handled the immense task of trying to return the stolen property and the efforts that took place in the post-war period.

Chapter 2

Restitution in the Post-war Period to the Turn of the Century

This chapter will discuss the restitution efforts and processes immediately following World War II until the late 1990's. As mentioned in the introduction to this paper, the documents and testimonies accessible for research mostly come from the perspective of English speakers and documents from the United States government due to language barriers for documents from other nations. This chapter utilizes mostly primary sources including oral testimonies, files, and letters.

In the immediate post-war period, Nazi documentation was essential to restitution. This chapter will discuss in further detail their method of documentation and how it was used in the restitution process. It will also discuss the obstacles in the immediate post-war and later periods after the war that introduced difficulties for restitution efforts, as well as the efforts by the United States and the Allies to deal with issues of Nazi-era stolen property. The experiences of governments were vastly different from those of individuals, and the testimony of George Leitmann demonstrates the issues that plagued individual survivors attempting to recover their artwork. Because of the tangled web of dispersal detailed in the previous chapter, the post-war period was complicated and hindered by many factors but was still essential for the recovery of personal property.

Advantages in the Restitution Process: Nazi Recordkeeping

The Nazis kept extensive records documenting every aspect of their operations, or, in Jonathan Petropoulos's words, "cultural imperialism."⁹³ This extended to their work in obtaining and sorting art. As previously mentioned, Rose Valland kept detailed documentation of the pieces that came through the Jeu de Paume in Paris. Each entity involved in the confiscation and transfer of artworks held their own records, from individual dealers to the ERR. The ERR especially kept a seemingly endless record system. The United States Holocaust Memorial Museum possesses a collection of 39 reels of microfilm originally from the National Archives, each containing over one thousand images of every accessible card file from the ERR's meticulous documentation of their confiscated works. The collection also documents the organization of the files, with the code used to indicate which collector a work was confiscated from. For instance, this segment of this specific card file identifies the owner of the work as DW, which according to the code, means that this work came from the David-Weill collection. The sequentially increasing number indicates the number of that object, in the order it was registered, taken from the specific collection.⁹⁴

⁹³ Jonathan Petropoulos. "Not a Case of "Art for Art's Sake": The Collecting Practices of the Nazi Elite." *German Politics & Society*, no. 32 (1994): 117.

⁹⁴ "ERR (Einstazstab Reichsleiter Rosenberg) Card File and Related Photographs, 1940-1945," [Electronic Record], Records of United States Occupation Headquarters, World War II, Record Group (RG) 260. National Archives at College Park, 2005, 9.



Other names on the coded list include ‘R’ for Rothschild and ‘Rosenberg Paris’ for any works obtained from the collection of Paul Rosenberg. The card files also included sections for the artist, and if the identity of the artist was unclear or unavailable, a best guess for the country of origin of the work was included. The date of acquisition, material, size, description, and other pertinent information are also included. In the image below, for instance, of a scan of the ERR card file microfilm from the USHMM, this card file from Reel 14 identifies a Landscape by Pierre-Auguste Renoir, a renowned French Impressionist painter, confiscated from the collection of Alfred Weinberger, a Parisian collector and dealer. The painting, an oil painting on canvas of 30.4 by 35 cm was confiscated on September 10, 1942 and bears Renoir’s signature, as noted in the box designated for identifying signatures on the works.⁹⁵ Cards identifying works by Pablo Picasso, Henri Matisse, Georges Braque, and other modern artists appeared commonly in the ERR card files. While the cards have space for several sections, many of the sections on the cards were regularly left blank, as discovered by viewing hundreds of them. It appeared that only some sections were crucial for the identification of works, such as the artist, title, description,

⁹⁵ Card File, Reel 14, *Einsatzstab Reichsleiter Rosenberg (ERR) Card File, 1940-1945*. Microfilm. (National Archives Microfilm Publication M1943 Reel 14) Records of United States Occupation Headquarters, World War II, Record Group (RG) 260. National Archives at College Park, MD. Accessed at United States Holocaust Memorial Museum Archives, Washington, DC.

date confiscated, and collection confiscated from, and those sections were almost always filled out.

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	<u>geb. 1841 in Limoges</u>				
	<u>gest. 1919 in Bagères</u>				
IM-NR.	GROSSFOTO	AUFBEWAHRUNGORT	WERT	INV. NR. ALTE SIG.	AUS
ID-NR.					
THEMA BZW. GEGENSTAND					
<u>Landschaftsstudie.</u>					
BESCHREIBUNG					
<u>AGL/Dr.Egg.</u>					
MATERIAL	GRÖSSE	GERAHMT FASSUNG	BEZEICHNET SIGNATUR	VEI	
<u>Öl auf Leinwand</u>	<u>30,4 x 35 cm</u>		<u>signiert rechts unten:</u> <u>Renoir</u>		
UFGANGSTAG	STANDORTWECHSEL	ZUSTAND BEHANDLUNG (AUCH UMSEITIG)	BEME HERKUNFT SCHRIFTTU -UMSEITIG)		
PARIS: <u>10.9.1942</u>					
REICH:					
EINSATZSTAB RR, Sonderstab Bildende Kunst, Berlin W 9, Bellevuestr. 3					

A further testament to the Nazis' extensive and elaborate recordkeeping and its value to the restitution process is a letter from Benjamin Ferencz to his then-girlfriend and later wife. Ferencz, who will be discussed along with his letters in greater detail in a later section, was a G.I. working in the War Crimes Branch of the U.S. Army. In the letter, he states, "He [Karl Haberstock, Hitler's art dealer] could tell us all the paintings that had been purchased for Hitler

and the other big shots, how much had been paid, from whom, etc.”⁹⁶ Ferencz emphasizes the value of these records for restitution efforts, stating “that information is vital if we are ever to return the paintings to their rightful owners.”⁹⁷ According to the National Archives’ file on the ERR Card File and Related Photographs, 1940-1945, “photographic materials were used in identifying and restituting looted cultural treasures” at United States Collecting Points in Germany directly after the war.⁹⁸

Issues that Inhibited Restitution

While the Nazis’ recordkeeping was essential to the identification of artworks among the collections and their owners, it did not by any means solve all of the problems regarding restitution. The restitution process had several advantages, but had many more obstacles. There are several factors that were major inhibitors for the process of restoring stolen artwork to rightful owners and heirs. These factors include but are not limited to foreign laws, postwar actions of both the US and foreign nations, and well-hidden troves.

In regards to postwar actions, or lack thereof, consequences for dealers and other collaborators were relatively lenient. For example, in the case of Hildebrand Gurlitt, the dealer avoided consequences and was able to keep his collection because he denied that he was an important figure in Hitler’s dealings and also asserted that none of the works in his possession

⁹⁶ Letter, Benjamin B. Ferencz to Gertrude Ferencz, July 6, 1945. Benjamin B. Ferencz Collection 12.001.03*01. United States Holocaust Memorial Museum Archives, Washington, DC, 3.

⁹⁷ Ferencz, July 6, 3.

⁹⁸ “ERR Card File and Related Photographs,” 2.

were looted or the previous property of Jewish owners.⁹⁹ As the discovery of his trove in 2012 suggests, none of this was factual information and Gurlitt should not have escaped unscathed by the law, especially considering that the long-lost Rosenberg Matisse, *Sitting Woman*, was a prominent centerpiece in Gurlitt's hoard of stolen works.¹⁰⁰ Gurlitt was not the only dealer that managed to avoid retribution, as most dealers except for the most consequential ones spent very little time incarcerated, faced little to no punishment, and were integrated back into society to continue working as dealers or museum professionals with little to no difficulty.¹⁰¹ This meant that they could not only keep their collections, much of which were obtained by means under the Third Reich and therefore ethically questionable, but could also continue the dispersal of looted works in the postwar period through their trade networks in efforts that would go relatively ignored or undetected for several years. This made the tracking of looted works increasingly complicated.

Even in the case of Hitler's personal art dealer and appraiser, Karl Haberstock, punishment was underwhelming for his vast involvement in dealing to Nazi officials and his role on the council responsible for destroying works labeled 'degenerate.' According to Petropoulos, Haberstock recorded over one hundred transactions with Hitler in the seven years between 1936 and 1943.¹⁰² In addition, during that time, Haberstock was appointed to the Disposal Commission, which left him in a position to sell off works of art from Germany's collections for fractions of their worth. Many times, according to Petropoulos and an Art Looting Intelligence Unit (ALIU) interrogation, he made a sizable profit and was "considerably tempered by self-

⁹⁹ Petropoulos, "Art Dealer Networks in the Third Reich and the Postwar Period," 557.

¹⁰⁰ Petropoulos, "Art Dealer Networks in the Third Reich and in the Postwar Period," 557, 561.

¹⁰¹ Ibid, 557.

¹⁰² Petropoulos, *The Faustian Bargain*, 81.

interest”.¹⁰³ According to the interrogation records from the ALIU, which will be discussed in greater detail later in the chapter, Haberstock purchased paintings from Rochlitz, demonstrating the interconnectivity of collaborating art dealers.¹⁰⁴ The point of delving into Haberstock’s history is to underline how involved and active Haberstock was in the dealings of the Nazis as well as how profitable his involvement was. For the scale of his involvement, Ferencz refers to Haberstock in his letters as “our new war criminal.”¹⁰⁵ The ALIU’s report of Haberstock’s interrogation states:

It is recommended that he be tried on the same level as the leading members of the Sonderauftrag Linz. He was, beyond any passable doubt, one of the individuals most responsible for the policies and activities of this group which dominated German official purchasing and confiscation of works of art from 1939 through 1944.¹⁰⁶

Essentially, the ALIU recommended that Haberstock be tried and punished to a very high degree. Against the ALIU’s advice, this did not happen.

According to the National Archives’ ALIU document, Haberstock was “relatively cooperative” during the American’s interrogations.¹⁰⁷ In fact, Ferencz’s letters paint an image of a fairly unfazed man, even in the face of foreign interrogation. In Ferencz’s letters, the image of

¹⁰³ Petropoulos, *The Faustian Bargain*, 83-84; Theodore Rousseau Jr.. “Karl Haberstock Detailed Interrogation Report No. 13..” War Department, Office of the Assistant Secretary of War, Strategic Services Unit. Washington. 1 May 1946.

https://www.dfs.ny.gov/consumer/holocaust/history_art_looting_restitution/The%20Allies/OSS%20and%20the%20ALIU/ALIU%20Reports/karl_haberstock.pdf, 2.

¹⁰⁴ J. S. Plaut. “Gustav Rochlitz. Detailed Interrogation Report No. 4.” Office of Strategic Services, Art Looting Investigation Unit., APO 413, U.S. Army. 15 August 1945.

https://www.dfs.ny.gov/consumer/holocaust/history_art_looting_restitution/The%20Allies/OSS%20and%20the%20ALIU/ALIU%20Reports/gustav_rochlitz.pdf

¹⁰⁵ Ferencz, July 6, 3.

¹⁰⁶ Rousseau Jr., 7.

¹⁰⁷ Michael Hussey, Michael J. Kurtz, and Greg Bradsher. “OSS Art Looting Investigation Unit Reports, 1945-46” [Electronic Record], Records of the Office of Strategic Services, World War II. Descriptive Pamphlet M1782. National Archives at College Park, MD, 5.

Haberstock is one of a man perfectly willing to divulge information about his activities, unafraid of the Americans' interrogations, even described as "puzzled" when confronted with an American shouting threats of potential death at him, and then recorded offering paintings to the American soldiers.¹⁰⁸ This is the image of a man believing himself immune to punishment, his only crime being an excellent art dealer with a talented eye for valuable works and with powerful connections. For his extensive involvement, however, Haberstock avoided any consequences during the Nuremberg Trials for his cooperation in revealing information about other Nazi dealers and others who benefitted from the stolen property of Jewish victims, including Herman Göring, and for participating in a denazification program, which allowed him to continue to work as an art dealer after the war ended.¹⁰⁹ Haberstock was also allowed to keep much of his collection. The final possession and controversial utilization of Haberstock's collection will be discussed in Chapter 3.

Another complication to restitution is the manner in which Europe was liberated. Because the Soviets had a hand in liberating a large portion of Eastern Europe, this unfortunately meant that most of the looted property in territories liberated by the USSR came into the possession of the Soviets, who were not keen on returning anything. This includes but is not limited to archival materials, documentation relating to concentration camps, artworks, books, personal possessions, etc. According to Sophie Coeuré, communism had a heavy influence on the way that the USSR decided to handle their newfound possession of looted property. She states, "the Communists' 'very particular interpretation of property' also applied to the GDR, where art galleries, which were likely to still have paintings acquired under duress in occupied France, were declared

¹⁰⁸ Ferencz, July 6, 3.

¹⁰⁹ Simon Goodman. *The Orpheus Clock: The Search for My Family's Art Treasures Stolen by the Nazis*. First Scribner hardcover ed. (New York, NY: Scribner, 2015) 280-281.

‘property of the people’.”¹¹⁰ Many works and documents remain in Russia. *Returned from Russia: Nazi Archival Plunder in Western Europe and Recent Restitution Issues*, edited by Patricia K. Grimstead, F.J. Hoogewoud, and Eric Ketelaar is an excellent source regarding the research on this topic.

Finding hidden repositories became one of the most apparent obstacles in restitution processes, because in order to recover a work, one must know where the work is. While this may seem obvious, with every discovery of a trove comes discoveries of paintings that no one was aware were missing in the first place, because maybe heirs did not know enough to even search for them. As seen with the discovery of a large Nazi storehouse in a salt mine in 1945 all the way to the discovery of the Gurlitt hoard in 2012, large stashes of stolen works were put into place and there is potential that extensive caches are still hidden, whether still uncovered from hiding by the Nazis or currently stashed in the collections of descendants. The discovery of the Nazi trove in a salt mine in Alt Aussee, Austria is documented in letters from Benjamin B. Ferencz, mentioned before briefly, to his then-girlfriend and later wife. Ferencz was a graduate of Harvard Law School who fought actively in several campaigns during World War II under General Patton and was eventually appointed to the War Crimes Branch of the U.S. Army. After the war, Ferencz was the youngest Chief Prosecutor at the Nuremberg Trials.¹¹¹ Ferencz’s letters, possessed by the USHMM, were written during the time period of his activity in the War Crimes Branch, where he dealt with the liberation of camps and documentation of war criminals as well as the art trove discovery at Alt Aussee and the interrogation of Karl Haberstock.

¹¹⁰Sophie Cœuré, “Cultural Looting and Restitution at the Dawn of the Cold War: The French Recovery Missions in Eastern Europe.” *Journal of Contemporary History* 52, no. 3 (July 2017), 599.

¹¹¹ "Benjamin B. Ferencz." United States Holocaust Memorial Museum. Accessed February 9, 2019. <https://www.ushmm.org/confront-genocide/speakers-and-events/biography/benjamin-b-ferencz>.

In a letter dated July 6, 1945, Ferencz writes of the discovery of a cave housing “billions of dollars worth of art treasures.”¹¹² In another letter, he describes the trove as “probably one of the finest collections in the world, for a glimpse of which artists would travel across continents and stand dumbfounded in rapt admiration.”¹¹³ Ferencz’s statements, even as a person who he admits is not well versed in art, are a testament to the scale and skill of the Nazis’ efforts to obtain artworks capable of making Germany a cultural center on the world stage. In the case of the works found in the trove, restitution efforts were put in place almost immediately and many works were restituted in this way because of the discovery so soon after the war.

Unfortunately, in the case of troves held by individuals in their own homes and collections, it seems that these troves only appear upon the death of the person hiding them if they are discovered at all. There are still prominent paintings missing, including Raphael’s *Portrait of a Man*, which has not been seen since WWII.¹¹⁴

Allied Efforts Towards Restitution in the Immediate Post-War Period

Of course, one cannot mention the Allied efforts towards protecting and preserving art and discovering hidden art hoards without mentioning the Monuments Men. Officially dubbed the Monuments, Fine Arts, and Archives Section (MFAA), The Monuments Men were a collection of academics and experts in the art field put in place by the Allies to discover, protect,

¹¹² Ferencz July 6.

¹¹³ Letter, Benjamin B. Ferencz to Gertrude Ferencz, June 23, 1945. Benjamin B. Ferencz Collection 12.001.03*01, United States Holocaust Memorial Museum Archives, Washington, DC.

¹¹⁴ Nicholas, 78.

and recover any art treasures under threat of siege or damage as a result of the war.¹¹⁵ A report from 1946 regarding the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas efforts, which the MFAA was eventually created under, denotes that cultural monuments “constituted, in a broad sense, the heritage of the entire civilized world,” and therefore the work to protect these monuments was essentially vital to the preservation of culture.¹¹⁶ The unit took responsibility for protecting and salvaging works and records in private and public collections as well as returning what they could or compensating the rightful owners of art objects.¹¹⁷

American forces also set up Collecting Points, at which they collected stolen properties, made records of them, and redistributed them to their original owners or museum collections. These temporary Collecting Points existed under the command of the United States Army in Munich, Weisbaden, Marburg, and Offenbach. The collecting points were open from the end of the war until 1951 and were responsible for documenting “several million pages” regarding looted art from WWII.¹¹⁸ There were, as a result of the Monuments Men and the U.S. Collecting Points, instances of Allied theft and looting of artworks. There is scholarly research available on the subject, and *The Spoils of War – The American Military’s Role in the Stealing of Europe’s Treasures* by Kenneth Alford is an excellent source for further research on the topic.

¹¹⁵ Jim Morrison. "The True Story of the Monuments Men." Smithsonian.com, February 7, 2014. Accessed February 24, 2019. <https://www.smithsonianmag.com/history/true-story-monuments-men-180949569/>.

¹¹⁶ United States. American commission for the protection and salvage of artistic and historic monuments in war areas. *Report of the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas*. United States: 1946, 1.

¹¹⁷ For more information and for digitized documents, photographs, and other archival material from the monuments men, the Monuments Men Foundation for the Preservation of Art’s website is an excellent resource.

¹¹⁸ Rothfeld, Anne. "The Holocaust Records Preservation Project." *Prologue Magazine*, Summer 2002. Accessed March 12, 2019. <https://www.archives.gov/publications/prologue/2002/summer/nazi-looted-art-1.html>.

American and Allied forces played an integral role in recovering Jewish property, including but not limited to stolen works of art. In the testimonies of American officials as well as letters written home to family members across the span of several decades, well into the 2010's, it is clear that the officials of the United States government understood the importance of protecting art treasures and took on a large bulk of the responsibility to recover lost property. In addition, as brought up by Constantin Goschler, the United States was the only one of the Allies that did not have a war on its own territory and therefore was free from having to rebuild or be concerned about its own citizens. Therefore, they had both the resources and the time to assist those without help.¹¹⁹ During the war, in 1944, the United States established the Art Looting Investigation Unit (ALIU) under the authority of the Office of Strategic Services (OSS). The ALIU's mission, according to the National Archive's record file on the OSS Art Looting Investigation Unit Reports, 1945-46, was

to collect and disseminate such information bearing on the looting, confiscation and transfer by the enemy of art properties in Europe, and on individuals or organizations involved in such operations or transactions, as will be of direct aid to the United States agencies empowered to effect restitution of such properties and prosecution of war criminals.¹²⁰

According to the document, the ALIU was comprised of museum professionals and professors with expertise in art-related fields, all with an acute knowledge of art and was meant to function under the MFAA as an intelligence unit.¹²¹ The Unit compiled lists of suspects involved in art looting and dealing, and after the war, set up an interrogation location in close proximity to the

¹¹⁹ Axel Frohn, ed., "Holocaust and 'Shilumim': The Policy of 'Wiedergutmachung' in the Early 1950s." (Washington DC, 1991) 7.

¹²⁰ Hussey, 2-3.

¹²¹ Ibid, 3; "Theodore Rousseau, Jr. (1912-1973)." Monuments Men Foundation for the Preservation of Art. Accessed March 24, 2019. <https://www.monumentsmenfoundation.org/the-heroes/the-monuments-men/rousseau-theodore-jr>.

trove discovered in the Alt Aussee.¹²² Members of the ALIU personally apprehended Rochlitz, who was mentioned in Chapter 1, and handed him over to French authorities. They also detained Haberstock for 36 days, during which period it can be assumed Ferencz's interrogation took place.¹²³

United States Efforts Towards Restitution in the Later Post-War Period

Active attention to the importance of restitution efforts did not become a public issue in the eyes of Western cultures until the mid- to late- 1990's and began, in part, due to cases against several large Swiss banks. The testimonies of officials demonstrate the hoops that Jewish survivors were expected to leap through in order to reclaim their property, even so long into the post-war period. The length of this process is emphasized in the testimony of Stuart Eizenstat. Eizenstat, who held many roles in the United States government during the administrations of Presidents Jimmy Carter and Bill Clinton, gave a detailed testimony to The USC Shoah Foundation in 2016 in which he described many of the obstacles in the restitution process. For one, he claims that the government of Israel was unwilling to risk upsetting the footing they had established with other governments by making claims for Jewish property. He states, "They [the Israeli Embassies] wouldn't have anything to do with it. They were very explicit that that would interfere with their lateral relationships with these new democracies, post communist countries, and we [the United States] were on our own."¹²⁴ The State of Israel received reparations from

¹²² Ibid, 5.

¹²³ Ibid, 5.

¹²⁴ Stuart Eizenstat, USC Shoah Foundation, Washington, D.C., United States, July 14 2016, 1 tape, 01:53:29, (November 10, 2018), <https://vha.usc.edu/viewingPage?testimonyID=59345&returnIndex=0#>, 1:02:00-1:04:00

Germany in the 1960's but after this did not prioritize efforts to reclaim personal property.¹²⁵ It was clear that the recovery of Jewish property was not a high priority for the governments that Jews resided under, and without government support, many Jews were left without the resources to recover their properties. In the testimony of Ferencz, he states that especially at the beginning of the post-war period, restitution of property was not a high priority for the U.S. government or any of their allies in the post-war effort, although his claims about the United States' efforts were disproved earlier in this chapter. In order for Ferencz to secure funds, staff, and an extension of the restitution law to proceed with stolen property efforts, "Quadripartite approval," or, the approval of Russia, France, and Britain in addition to the United States, was necessary to utilize occupation funds to recover property. According to Ferencz's Commanding General, the other governments, especially the USSR, would "never agree to using their money for private property claims."¹²⁶

The unwillingness of other countries to assist in the process of recovery, and their role in actively impeding the recovery process was a significant obstacle. In the case of Switzerland and their national banks, active efforts by Swiss banks to retain Jewish bank accounts came to light in the 1990's. According to Eizenstat, a *Wall Street Journal* column brought attention to Swiss banks denying the existence of records regarding war-era Jewish bank accounts. As discussed in Chapter 1, many Jews used bank accounts in an attempt to preserve and protect their assets, and used banks in Switzerland because of the country's neutrality. The relevance of discussing the bank vaults in Switzerland puts emphasis on "assets". As in the case of Paul Rosenberg and other art collectors, many used bank vaults for what they believed was a safe location for their most

¹²⁵ Frohn, 3.

¹²⁶ Benjamin B. Ferencz, Transcript, United States Holocaust Memorial Museum, Washington, D.C., United States, August 26, 1994, 76.

valuable possessions. This included money, of course, but could also pertain to jewels and jewelry, fine silver, and artworks. By denying the existence of the bank vaults or any records connecting the bank vaults to Jewish survivors and victims, the banks in Switzerland participated in both obstruction of justice and significantly restricted the restitution process. Eizenstat states that finding out that these undisclosed bank accounts really did exist and were being hidden by the Swiss banks was “really quite a shock,” highlighting the unsuspected sabotage by a seemingly neutral agency.¹²⁷ When confronted by Eizenstat, the banks in Basel, Switzerland claimed that they did an investigation and found \$32 million in 75 to 80 bank accounts. After a 6 to 7 year long investigation by Paul Volker, the former chairman of the U.S. Federal Reserve Bank, 21,000 bank accounts that were “almost certainly Jewish” were uncovered.¹²⁸ According to Eizenstat, the subsequent class action lawsuits against the Swiss banks resulted in a \$1.25 billion settlement.¹²⁹

The claims against the Swiss banks, both private and central, only became more appropriate with the discovery that the central banks accepted gold bars from the Nazi banks to assist them in avoiding the United States’ Reichsmark boycott, and that a portion of the gold bars existed because the Reich melted the jewelry and gold teeth of Jewish victims.¹³⁰ This claim from Eizenstat is backed by several sources, including Michael R. Marrus in *Some Measures of Justice: the Holocaust Era Restitution Campaign of the 1990’s*. Marrus notes that a portion of the gold possessed by the Nazis in their banks was from the gold teeth and jewelry of the Jews in

¹²⁷ Eizenstat, 1:04:40-1:05:00.

¹²⁸ Eizenstat, 1:05:00-1:07:30.

¹²⁹ Eizenstat, 1:07:45-1:09:10.

¹³⁰ Eizenstat, 1:18:00-1:20:00

death camps who had their belongings confiscated upon entry.¹³¹ It can also be assumed, although unstated, that a portion of the gold was acquired from the looting and pillaging of Jewish homes upon their deportations. In addition, the ALIU's report of Haberstock's interrogation notes a high likelihood that Haberstock concealed funds in Swiss banks, another indicator of a swayed neutrality.¹³² Eizenstat's testimony, while not directly mentioning fine arts, paints an important picture of the scale and scope of the theft of Jewish property. It also highlights the obstruction of the recovery process not only from withheld information, but also unwillingness by neutral governments and the Israeli government to acknowledge the continuous struggles of Jewish people after the war to regain their property, and with it, their dignity and sense of freedom and autonomy from the Nazis and their allies.

Survivor Efforts in the Post-War Period

George Leitmann's testimony to the USC Shoah Foundation is an important source for the perspective of a survivor's individual struggle to reclaim their property. Leitmann, a Professor of Engineering Science at UC Berkeley and a Jewish survivor from Vienna, recalled the lengthy and difficult process of reclaiming his family's artworks from the Austrian government. In his testimony, Leitmann claims that he and his mother only became aware of the Austrian government's Art Restitution Acts about stolen art treasures from a family friend sending them news clipping that had only been published in Vienna's official gazette in either

¹³¹ Marrus, Michael Robert. *Some Measure of Justice: The Holocaust Era Restitution Campaign of the 1990s*. (Madison, Wis: University of Wisconsin Press, 2009) 14.

¹³²Rousseau, 7.

the late 1960's or 1970. According to the Austrian Embassy's website, the two Art Restitution Acts took place in 1969 and 1985.¹³³ This represents significant obstacle in the process of restitution. For many, there was not an overt invitation to make restitution claims. Instead, there was a small announcement in an Austrian paper and an extremely limited amount of time to make a claim. For those who lost belongings and who missed this window, it would have been nearly impossible to have a chance to regain their lost possessions. Regarding his claim, Leitmann states:

What happened was that after I made my claim, nothing happened for a number of months and then suddenly I got a registered letter saying 'There will be a hearing in your case on Thursday at 2:00 pm at the district court in Vienna' and it was Tuesday...and obviously there wasn't time to go to Vienna to present the case.¹³⁴

Leitmann was fortunate enough to acquire a lawyer with help from the consulate of Austria in San Francisco, however for most others, this would have ended the process for them with no option to move forward, and their property would be handed to other claimants. Leitmann testified that there were 12 to 13 claimants for both the Steen painting and van Ruisdael paintings that he and his mother were attempting to claim.¹³⁵ When the claimants were narrowed down to two or three, including Leitmann and his mother, all proceedings had to occur in-person in Austria. Here lies another struggle of the restitution process. For many survivors, going back to the places where they had lived and faced persecution, violence, and been forced to flee was difficult and in some cases impossible. The requirement for survivors to travel back

¹³³ "Victims of National Socialism & Restitution Issues." Austrian Embassy Washington. Accessed February 16, 2019. <https://www.austria.org/restitution>.

¹³⁴ George Leitmann, USC Shoah Foundation, Berkeley, California, USA, May 10, 1993, 4 Tapes, 07:25:55, Accessed November 20, 2018, Tape 4, 0:2:45 – 0:5:25. <https://vha.usc.edu/viewingPage?testimonyID=55695&returnIndex=0#>.

¹³⁵ Leitmann, Tape 4, 0:5:25 – 0:7:00.

to Austria, as in the case of Leitmann, was a possible obstruction of their ability to reclaim their artworks. Plane travel and lodging were also large expenses, and it is possible that many survivors could not have afforded the costly trip.

In addition to needing to be present in Austria for any proceedings, the courts were very interested in records and documentation of ownership. Leitmann's opposing claimants, a wealthy Dutch family and the niece of Herman Herzog, both had some form of documentation backing up their claims to the two paintings. The Dutch family had access to an inventory, signed by their attorney in the summer of 1942, showing possession of these paintings in Amsterdam. These accounts later appeared to be forged, because they contradicted German records of possession. Specifically, the van Ruisdael painting was particularly well-documented because it was at one point in the possession of Martin Bormann, the SS Obergruppenführer, proven by receipts provided by the other claimant on the case, a member of the British Intelligence and the daughter of Austrian victim Richard Herzog, who had obtained the receipt. Coincidentally, the receipt showed possession by Bormann beginning in February of 1942, which disproved the Dutch family's claim to have been in possession of the painting in the summer of 1942.¹³⁶ Regardless of the authenticity of the Dutch family's paperwork, claimed by Leitmann in his testimony, there was a large emphasis on proof of ownership such as the receipts held by Herzog's daughter and by the Dutch family. Obviously, there is the issue of retaining these receipts. If a family was forced to flee their homes, or if their homes were looted, there is a possibility that these receipts would have been stolen or destroyed. In some cases, evidence of ownership was found in letters written to or from a survivor that mentioned possessing a painting, but instances like these

¹³⁶ Leitmann, Tape 4, 0:7:00-0:15:00.

depended on the survival of the letters for the purpose of proof and are uncommon.¹³⁷ In addition, if a family fled and took important belongings with them, a receipt for a piece of art would not necessarily be an item that seemed worth taking at the time. Therefore, a family's claim might be baseless for the sole purpose that they do not have proof of purchase. In some cases, depending on the relevance and prominence of a painting, the provenance might be documented and could be evidence of a family's ownership. For lesser-known works, however, the provenance might not be documented and therefore any proof of ownership would not exist.

Unfortunately, these grey areas were a huge issue in resolving restitution cases and many cases were resolved with, as Leitmann described, "Solomonic judgment," in that they were given to all of the claimants to decide amongst themselves what to do with the paintings. In Leitmann's case, because of the resources of the Dutch family, their lawyer handled everything with neither of the other claimants having any say in what would happen to the pieces or where the works would be auctioned.¹³⁸ In scenarios like these, an inability to respond to the high levels of claims as well as the lengthy processes and varying abilities of claimants to provide what the courts considered viable evidence meant that most claimants did not end up receiving their property back in the form they wanted it. Instead, many had to settle for a portion of the monetary value of the artworks they previously owned, especially when they could not afford the taxes incurred for a newly acquired, expensive work of art.¹³⁹

From Leitmann's personal experience, one echoed by many survivors, it becomes clear that reclaiming personal property was a battle for survivors of the Holocaust. As with Leitmann, small windows for claiming stolen property coupled with the lack of proper documentation,

¹³⁷ Colin Moynihan. "The Nazi Downstairs." *The New York Times*, December 30, 2018.

¹³⁸ Leitmann, Tape 4, 0:12:00-0:13:30.

¹³⁹ James Barron. "Nazis Stole His Renoir. His Granddaughter Finally Got It Back." *The New York Times*, September 12, 2018. Accessed February 16, 2019.

expenses regarding travel to Europe as well as personal trauma presented a plethora of restrictions and obstacles that kept many families from reclaiming their art. This chapter makes clear both the positives and the negatives of post-war actions until the late 1990's to emphasize how much work was done that was essential to future restitution. It also emphasizes how much work there still is to do.

Chapter 3

Restitution from the Late 1990's to the Present

This final chapter will cover efforts made in restitution from around the turn of the century to the present (2019) in order to demonstrate the ongoing relevance of Nazi era provenance research and restitution efforts. This period not only involves ongoing cases of restitution, but also the evolution and improvements in the processes of returning stolen artworks to create more transparency and efficiency. Since the late 1990's, many agencies and technologies have changed the way that art looted during the Nazi period is handled, searched for, and returned.

The division is created between the post-war period and the later 1990's for several reasons. One is that in the later 1990's, around 1997 and 1998, several countries involved in the war that were sites of looting changed their legislation regarding restitution and made several committees and councils to make improvements to the processes. The United States also created more institutions dedicated to restitution claims of Holocaust victims. In addition, the widespread introduction and use of the Internet paved the way for online portals for stolen art as well as more readily available information such as online articles and auction catalogues, where museums can easily document works in their collections and heirs can more easily search for information on stolen pieces. It is for these reasons that the split in the chapters is not at the turn of the millennium and is instead in the later 1990's.

Continuous Efforts and Inhibitions Towards Restitution

Restitution efforts are continuously underway in several countries previously under Nazi occupation. Austria, for example, was a country involved in WWII in which many Jews owned and lost artworks. In an attempt to catch up to claims left potentially unmade in the two periods of the Art Restitution Acts of 1969 and 1985, in 1998 the Austrian government created a commission to investigate the origins of any works owned by the Austrian government that were obtained between 1938 and 1945. That commission continues to investigate and make efforts towards returning any works in the possession of the Austrian government found to be stolen property or unjustly acquired.¹⁴⁰ In the Netherlands, the Dutch Restitution Committee was established in 2003 and conducts research into works of art identified by museums as “problematic.” As of November 2018, the Committee has returned hundreds of stolen works.¹⁴¹

The United States continues to make efforts towards restitution of Jewish property as well. Stuart Eizenstat, identified in the previous chapter, brokered the Washington Conference Principles on Nazi Confiscated Art in 1998, which was a “consensus on non-binding principles” intended to make the process of Nazi-era art restitution among 44 participating nations easier and more direct. Some of the principles in the document include identifying confiscated works, making archives and resources available, making public the identification of confiscated works, and creating efficient and fair solutions to restitution issues, amongst other things. According to a *New York Times* article from November 2018, 39 of the participating nations are active. Eizenstat

¹⁴⁰ "Victims of National Socialism & Restitution Issues." Austrian Embassy Washington. Accessed February 16, 2019. <https://www.austria.org/restitution>.

¹⁴¹ Siegal, Nina. "In a Netherlands Museum Director, the Nazis Found an Ally." *The New York Times*, November 11, 2018. Accessed February 12, 2019. <https://www.nytimes.com/2018/11/11/arts/design/in-a-netherlands-museum-director-the-nazis-found-an-ally.html>.

named Hungary, Poland, Spain, Russia, and Italy as nations not actively doing their part in Nazi-era restitution efforts.¹⁴²

In the United States itself, efforts continue. The Holocaust Claims Processing Office (HCPO), under the New York State Department of Financial Services, was established in 1997 to perform pro-bono advocacy for claimants seeking restitution of property and assets lost or stolen during the Holocaust. The HCPO engages in research to document pre-war ownership of claimants to their objects because possessing documentation of ownership, as mentioned in the previous chapter, is a major obstacle in the restitution process.¹⁴³ In addition, the HCPO takes responsibility for submitting claims to the appropriate parties, which can also be unclear for claimants going into the process. As of 2019, the Office has resolved 141 cases involving art, most of which is valued more in terms of sentiment than money.¹⁴⁴ Similarly, the Claims Conference operates as an advocate for survivors needing to make claims for assets and property. The Conference on Jewish Material Claims Against Germany, which is the longer title for the Claims Conference, has operated since 1951 and covers mostly real estate and business claims related to the Holocaust, but their participation in efforts to reclaim stolen property and/or compensation for stolen property remain significant.¹⁴⁵

As far as legislation, there still remain inhibitors to reclaiming survivors' and heirs' stolen properties. International law does not govern private property cases, so each individual

¹⁴² William D. Cohan, "Five Countries Slow to Address Nazi-Looted Art, U.S. Expert Says." *The New York Times*, November 26, 2018. Accessed March 31, 2019. <https://www.nytimes.com/2018/11/26/arts/design/five-countries-slow-to-address-nazi-looted-art-us-expert-says.html>.

¹⁴³ "Holocaust Claims Processing Office (About the HCPO)." Department of Financial Services. Accessed March 12, 2019. https://www.dfs.ny.gov/consumers/holocaust_claims.

¹⁴⁴ *Ibid.*

¹⁴⁵ "Asset Recovery and Pending Claims." Claims Conference. Accessed March 12, 2019. <http://www.claimscon.org/what-we-do/successor/asset/>.

country has its own legislation regarding claims and stolen property. In Germany, “law is not restitution friendly.” It stipulates that claims need to be made within 30 years of the supposed theft of the works, and after 10 years, unless it can be proven without doubt that a buyer purchased the stolen work not in good faith, the law recognizes the current owner as its official owner.¹⁴⁶ Germany is not the only country with ‘good faith laws’ either. Switzerland has extremely problematic laws regarding stolen property, which was one of the reasons that it was such an active location for the dealing of stolen works during WWII. They also utilize a good-faith law based around a statute of limitations on a stolen work of art, which comes into effect as soon as the work is stolen, regardless of when the owner discovers its theft. In addition, after the statute has run out, the work can be purchased as a ‘good title’ and the original owner has no right to reclaim the stolen work. The statute was originally 5 years, and was extended to 30 years in 2005, however the new extension only applies to events that occurred after 2005.¹⁴⁷ Because any stolen works that arrived in Switzerland during the war would have fallen under the 5 year statute, at this point any unrecovered works are considered ‘good titles,’ have probably been sold, and there is very little chance of the original owner reclaiming the work.¹⁴⁸

This does not fully encompass the efforts put in by different nations to assist in restitution efforts. As mentioned, the Washington Principles involve the participation of 44 nations. It would be an entire paper on its own to discuss the efforts of every nation in response to the

¹⁴⁶ Catherine Hickley. "In Pursuit of Nazi Loot Still at Large." *The New York Times*, November 1, 2018, Arts sec., C5.

¹⁴⁷ Judith Bresler. "United Kingdom: Holocaust-Looted Art: A Changing Legal Landscape." Lootedart.com, June 2011. Accessed March 12, 2019.
<https://www.lootedart.com/OW91H4689161>.

¹⁴⁸ Michele Kunitz. Switzerland & the International Trade in Art & Antiquities, 21 *Nw. J. Int'l L. & Bus.* 519 (2001), 532-533.

Principles. This section serves to provide a few examples of individual nations' efforts in order to give a more general idea of what possibilities exist for restitution efforts by nations.

The Internet's Role in Restitution

In 2000, the Internet played a vital role in a particular restitution case. A 17th century Flemish painting came to the attention of the family searching for it when the National Gallery of Art published information about it on their website. The Frans Snyders painting, which passed through the hands of Göring and Haberstock, was stolen from the collection of Marguerite Stern in Paris during the Nazi occupation. The *New York Times* article about the incident notes that the Nazis' record keeping helped with identifying the painting as a possession of the Stern collection because it was marked with "ST." The code indicates that this painting was a confiscation from the Sterns.¹⁴⁹ With credit to the National Gallery, the institution readily and hastily began the process to return the painting, even though it was one of the Gallery's prized possessions. The National Gallery's website notes that it "has conducted extensive research into the provenance [...] of objects in its collection, with particular attention [...] to the World War II era."¹⁵⁰ The Gallery also provides detailed provenance records online for the works in their collection.

Aside from articles published online, several databases for cataloguing stolen art have streamlined the process of discovering and recovering works of art. The Nazi-Era Provenance Internet Portal also revolutionized restitution, identifying as a "searchable central registry of

¹⁴⁹ Celestine Bohlen. "National Gallery to Return a Family's Painting Looted by the Nazis." *The New York Times*, November 21, 2000. Accessed February 16, 2019. <https://www.nytimes.com/2000/11/21/arts/national-gallery-to-return-a-family-s-painting-looted-by-the-nazis.html>.

¹⁵⁰ "World War II Provenance Research." National Gallery of Art. Accessed February 16, 2019. <https://www.nga.gov/collection/wwii-research.html>.

Nazi-era cultural property held by U.S. museums.”¹⁵¹ The Portal acts as a database for museums to upload any works in their possession with either gaps in provenance in the years surrounding WWII or provenance explicitly implying periods of being in Nazi possession. The Portal is managed by the American Alliance of Museums (AAM). Founded in 1906 and headquartered in Arlington, Virginia, AAM is an association of museums, museum professionals and staff, and others that is dedicated to “developing best practices and advocating for museums” on issues within the museum community.¹⁵² Amongst the Alliance’s values, ethics, standards, and professional practices are a significant portion of their work. They have a standard of ethics for every museum in the Alliance, and this includes expected conduct when dealing with objects with potential Nazi-era provenance issues.¹⁵³ In order to facilitate this ethical code, the Alliance’s creation of the database allows people searching for their family’s art to find it in a more organized fashion as well as helps museums to practice their due diligence in making sure any art in their collections was obtained legally and morally. Currently, “29,858 objects from 179 participating museums” are listed on the portal and can be searched for using the database.¹⁵⁴

The Art Loss Register is another online database for lost and stolen works of art. It began as The International Foundation for Art Research, a not-for-profit entity based out of New York, which established an archive of records of stolen artworks and also published a newsletter with

¹⁵¹ "About the Portal." Nazi-Era Provenance Internet Portal. Accessed February 16, 2019. http://www.nepip.org/public/info/about.cfm?menu_type=info.

¹⁵² "About AAM." American Alliance of Museums. December 09, 2017. Accessed March 24, 2019. <https://www.aam-us.org/programs/about-aam/>. More information regarding the AAM and their work can be found here.

¹⁵³ "Unlawful Appropriation of Objects During the Nazi Era." American Alliance of Museums. June 11, 2018. Accessed March 24, 2019. <https://www.aam-us.org/programs/ethics-standards-and-professional-practices/unlawful-appropriation-of-objects-during-the-nazi-era/>. More information regarding the AAM’s code of conduct regarding objects with Nazi-era provenance can be found here.

¹⁵⁴ "The Nazi-Era Provenance Internet Portal Project." Nazi-Era Provenance Internet Portal. Accessed March 12, 2019. <http://www.nepip.org/>

updates and announcements about stolen art.¹⁵⁵ The database, now a private company, provides art registration services as well as “search and recovery” services to anyone from individual sellers to international law enforcement. The Register operates globally out of a main office in London and claims to both assist in recovery of objects and assets as well as deter theft because of the highly detailed and visible documentation of works and their provenance.¹⁵⁶ Several other databases exist for this purpose.

Contemporary Restitution Cases

The collections of Jewish art dealers and connoisseurs are still in limbo, with some cases concluding while other battles continue. Of course, one of the most famous cases of Nazi-era restitution was that of Gustav Klimt’s *Portrait of Adele Bloch-Bauer I*. Ferdinand Bloch-Bauer commissioned the portrait of his wife from Klimt in 1907. Adele passed away in 1925 from meningitis, and Ferdinand fled Austria after the Nazi invasion in 1938.¹⁵⁷ The Nazis looted the work from the Bloch-Bauer home in 1938 along with 4 other Klimt paintings.¹⁵⁸ Adele’s niece, Maria Altmann, who escaped from Austria and moved to the United States, submitted a claim for all of the Klimt paintings stolen from her aunt under Austria’s 1998 Art Restitution Act, which was mentioned earlier in the chapter. The case began in 1998 and only reached a conclusion in

¹⁵⁵ “Our History.” The Art Loss Register. Accessed March 24, 2019.

<http://www.artloss.com/about-us/our-history>

¹⁵⁶ “Our Company.” The Art Loss Register. Accessed March 12, 2019.

<http://www.artloss.com/about-us/our-company>.

¹⁵⁷ Jonathan Petropoulos, *Report of Professor Jonathan Petropoulos, Claremont McKenna College*. Report. Department of History, Claremont McKenna College. July 14, 2005. Accessed March 31, 2019. <http://www.bslaw.com/altmann/Klimt/Petropoulos.pdf>. 6, 9.

¹⁵⁸ The Bloch-Bauers owned 6 paintings from Klimt. According to Adele’s wishes in her will, Ferdinand did gift one of the landscapes to the Österreichische Galerie in 1936 but kept the other 5 paintings, which included the famed portrait. *Ibid*, 8.

2006, with Altmann winning the case because of technicalities in her uncle's will, which left the works to his nieces, versus her aunt's will, which left the paintings to the Belvedere Museum.¹⁵⁹ Because of the extensive coverage of the case due to the high profile nature of the defendant, Austria, there is much scholarship on the subject in addition to a film, which is mentioned later in the chapter.¹⁶⁰

Not many cases will ever be as high profile as the Adele Bloch-Bauer portrait, but cases continuously appear in the public's sphere of attention. In September of 2018, the heir of Alfred Weinberger, mentioned in the previous chapter, received a Renoir taken from Weinberger's collection during the war. While it is unclear whether *Two Women in a Garden* is the Renoir from the ERR card file in the previous chapter, it can be assumed that this painting was confiscated at the same time as the other painting and was documented in the same way. In an article in the *New York Times*, Weinberger's heir, Sylvie Sulitzer, claims that Weinberger filed two claims for the painting, in 1947 and 1958. Between that time and the painting's resurfacing into the Weinbergers' awareness, the painting was transferred and sold at several auctions including with Sotheby's and Christie's, and remained undetected as a piece of stolen property, even when background checked.¹⁶¹ The Weinbergers were only made aware of the painting in 2013, and judging by the date of the article (published in 2018), the restitution process took five years. Sulitzer's experience is representative of the experience of many others trying to reclaim

¹⁵⁹ Tom Teodorczuk, "The Woman in Gold." Christie's, June 15, 2016. Accessed March 31, 2019. <https://www.christies.com/features/The-Woman-in-Gold-7494-1.aspx>.

¹⁶⁰ Jonathan Petropoulos's *Report of Professor Jonathan Petropoulos, Claremont McKenna College* is an extensive and detailed report on the topic and is an excellent source for further information.

¹⁶¹ James Barron. "Nazis Stole His Renoir. His Granddaughter Finally Got It Back." *The New York Times*, September 12, 2018. Accessed February 16, 2019.

their art in that it was long and arduous, and a chance encounter led to the discovery of the stolen work. While Sulitzer's case was resolved and ended positively, many other cases remain open.

Several of these cases involve the heirs of Paul Rosenberg. The heirs of Paul Rosenberg are notable figures in the world of Nazi-era restitution for their unwavering commitment to retrieving the works stolen from their late father. As late as November of 2018, the Rosenberg heirs have successfully recovered all but 60 works looted from the Rosenberg collection.¹⁶² Matisse's *Woman Seated in an Armchair* resurfaced in the Gurlitt trove in 2012, and the family has successfully reclaimed several others in the past decade alone.¹⁶³ Unfortunately, even with the fame, prestige, and detailed documentation of the Rosenberg collection, the family still finds itself locked in unresolved battles for certain works. Late in 2018, the Rosenberg heirs' lawyer, Christopher A. Marinello of Art Recovery International, put a press release in the *New York Times* regarding a Degas portrait from Paul Rosenberg's personal collection that is still at-large. The article claims that the Rosenbergs became aware of the painting's whereabouts in 1987, and the owner at the time tried to get the heirs to purchase it back. When that failed, the painting went off the grid again, and continues to pop up only every so often. The article also emphasizes the importance of established looted art databases on the Internet as an inhibitor for anyone trying to sell the stolen painting, because it would raise red flags on any background check.¹⁶⁴ The issue of compensation is also raised; for someone who purchased a work and is expected to hand it over, many want something in return for the valuable work they will no longer possess. While heirs sometimes will negotiate and provide compensation, it raises the ethical issue of making someone pay for the return of something that they owned in the first place. In this case,

¹⁶² Hickley, C1.

¹⁶³ "Woman Seated in an Armchair." Art Object Page. National Gallery of Art.
<http://www.nga.gov/content/ngaweb/Collection/art-object-page.71071.html#provenance>

¹⁶⁴ Hickely, C5.

the Rosenberg heirs have not yet filed a lawsuit because they are unsure of the current location and holder of the painting. If or when the painting resurfaces, it is possible that either the owner of the work will be willing to give the painting back. If not, litigation is an extremely possible and likely solution.

Such an instance occurred in regards to a sale at Christie's Auction House in 2008. In this case, the buyer demanded repayment by the auction house, not the original owners, for the almost \$350,000 he spent to purchase an impressionist landscape. While the buyer, Alain Dreyfus, was willing to return the painting to the rightful heirs of Alfred Lindon, from whose collection in Paris the painting was stolen, he essentially wanted a refund from the auction house. Dreyfus argues that it was Christie's responsibility to do its due diligence and research the provenance of the painting before selling it. Christie's claims it is committed to ensuring that paintings sold through the auction house are legitimately owned and that the provenance of all works that could potentially be affected by Nazi looting is thoroughly researched. In this case, a private entity was able to discover the provenance of the painting and trace it back to the Lindon collection using online databases, however Christie's takes no responsibility and considers the sale complete and non-refundable because they claim that the specific online database used by the private company was not available at the time of the sale.¹⁶⁵ While this is an unusual case and the buyer was an honest, "good faith" buyer, he could be out more than a quarter million dollars in order to do the right thing and return the painting.

On the subject of auction houses, Christie's and Sotheby's auction houses both claim strict commitments to provenance research and Nazi-era restitution. Christie's website states that

¹⁶⁵ "Buyer Of Nazi-Tainted Painting Requests Christie's To Reimburse Him For Purchase Price Paid A Decade Ago." *Art Law*, June 7, 2018. Accessed March 12, 2019. <https://artlaw.foxrothschild.com/2018/06/articles/art-recoverytheft-1/buyer-of-nazi-tainted-painting-requests-christies-to-reimburse-him-for-purchase-price-paid-a-decade-ago/>.

they will never knowingly sell a work that they are aware is stolen, and are constantly researching objects in order to avoid it to the best of their ability.¹⁶⁶ As shown earlier, these efforts are not foolproof and sometimes works can slip through the cracks because of a lack of resources or information. Sotheby's makes a very similar claim, with the inclusion that they will work with clients to find a "mutually-acceptable settlement between the current holder and the heirs of the former owner" if a discovery of faulty provenance should arise.¹⁶⁷ Sotheby's appears to stay true to its word. In a case in late 2018, Sotheby's assisted a family to trace the provenance of an Egon Schiele landscape back to their relative through letters she kept while she hid during the war.¹⁶⁸ When Elsa Koditschek's home in Vienna was confiscated during the war for the use of the SS, her Schiele painting was confiscated with it and sold sometime between 1941 and 1943. Sotheby's discovered the painting's questionable provenance and when the painting sold in late 2018, the proceeds were split between the current owners and Koditschek's heirs. Additionally, in the lot description for the painting on Sotheby's website, the auction house notes the painting's history as a stolen work and states, "Please note that this lot is being offered for sale pursuant to a settlement agreement with the heirs of Elsa Koditschek," a clear emphasis on Sotheby's commitment to transparency when dealing with works of dubious provenance. The lot notes that the painting sold for \$24,572,500, demonstrating the immense value of the painting and the injustice that could have occurred had the current owners and Sotheby's not come to an agreement to share the profit with the painting's technically rightful owners.¹⁶⁹

¹⁶⁶ "About Christie's Restitution." Christie's. Accessed March 12, 2019.

<https://www.christies.com/services/restitution-services>.

¹⁶⁷ "Restitution." Sotheby's. Accessed March 12, 2019.

<https://www.sothebys.com/en/about/services/restitution>.

¹⁶⁸ Colin Moynihan. "The Nazi Downstairs." *The New York Times*, December 30, 2018.

¹⁶⁹ "Egon Schiele DÄMMERENDE STADT (DIE KLEINE STADT II) (CITY IN TWILIGHT (THE SMALL CITY II))." Sotheby's. Accessed March 13, 2019.

Museums Abroad

While the United States' museum community is active in its efforts to ensure the restitution and fair acquisition of works, museums in other nations are not necessarily held to the same code of standards regarding possession of Nazi-era provenance research and action, and action appears to be the choice of the individual museum rather than an expectation for all. In 2000, a small museum in Germany came under fire for exhibiting a collection entirely bequeathed to them by Karl Haberstock.¹⁷⁰ As discussed in previous sections, Haberstock was Hitler's main art dealer and received no punishment for his active involvement in Nazi activity regarding legally and morally dubious transactions involving artwork. Able to live out his life in Germany, continue his profession, and keep much of his collection, Haberstock suffered little for his crimes. For this reason, the Augsburg Municipal Art Museum had no qualms about hanging the extensive collection. Jonathan Petropoulos, who is cited several times in this paper, was a vocal critic in 2000 of the museum's choice to hang the Haberstock collection.¹⁷¹ The museum continues to possess and exhibit works from Haberstock's collection today, and does not appear to have plans to stop.

The Boijmans Museum in Rotterdam, the Netherlands also appeared in the news in November of 2018. The museum's director during the war period was a collaborator with the Nazis and accepted several paintings from a German art-clearing house for the museum in

<http://www.sothebys.com/en/auctions/ecatalogue/2018/impressionist-modern-art-evening-sale-n09930/lot.19.html?locale=en>.

¹⁷⁰ Williams, Carol J. "German Museum's Collection Drawing Some Harsh Critics." *Los Angeles Times*, May 26, 2000. Accessed February 16, 2019.

<http://articles.latimes.com/2000/may/26/news/mn-34250>.

¹⁷¹ Williams.

1943.¹⁷² Dutch museums have appeared to be committed to righting any wrongdoing in recent years. An investigation began in 2009 regarding museum acquisitions by Dutch museums from the year 1933 to the present, and more than 160 museums took part.¹⁷³ As of November 2018, 172 objects in Dutch collections have been found to have questionable provenance, and 30 of those works are in the collection of the Boijmans Museum.¹⁷⁴ A spokesperson for the Museum claims that the Museum is committed to doing justice for the people who had their art stolen and returning whatever works of art they are able to. The same *New York Times* article that details the Boijmans Museum's efforts also notes an instance in another Dutch museum, the Stedelijk, that the Committee decided a Kandinsky painting in the museum's collection with problematic provenance would stay in the collection and rejected a Jewish family's claim for it.¹⁷⁵ Unfortunately, not all processes are perfect and not all efforts are necessarily conducive for justice. There are several other museums in Europe that have faced issues of Nazi-era restitution and have taken action in different ways, but these two museums specifically serve as examples of both the ongoing efforts by heirs and museums to rectify the wrongdoings of different nations during WWII as well as ongoing willfulness to ignore the wrongs of the past.

Hollywood and the News

A public interest in the history and cases of Nazi era looted art came with two blockbuster films in 2014 and 2015. *Monuments Men* and *Woman in Gold*, with their star-

¹⁷² Seigal.

¹⁷³ "About the Investigation." Museale Verwervingen Vanaf 1933. Accessed March 13, 2019. <https://www.musealeverwervingen.nl/en/36/about-the-investigation/>.

¹⁷⁴ Seigal.

¹⁷⁵ Seigal.

studded casts, caught the attention of average moviegoers and spurred a newfound interest in the topic. This of course followed the discovery of the Gurlitt hoard in 2012. The *Monuments Men* film came under some fire from historians for a lack of factual accuracy.¹⁷⁶ While the historical accuracy is questionable in any Hollywood production, the films nevertheless raised awareness in the public about the topic and the ongoing issue of Holocaust-era restitution. A documentary entitled *The Rape of Europa* (2006), based on Lynn H. Nicholas's book of the same title, was also a widely acclaimed documentary that was available on streaming services, including Netflix, for a period of time and attracted many viewers. As of May 2018, a television program called "Hunting Nazi Treasures" on the subject of the systematic looting by the Nazis, from the author of *The Monuments Men*, is airing on national television. According to an article on the series, the show not only interests viewers but also results in leads for more stolen treasures, a further demonstration that the search for the physical works and the justice they bring with them is not over.¹⁷⁷ In addition to movies, documentaries, and TV shows, newspapers continue to bring awareness to the ongoing cases and stories of Nazi-era restitution as well. It is not uncommon to see a press release, a new discovery, or a happy ending in the Arts section of a newspaper every few weeks, even into 2019. The process and occurrences are current and continuous, and much work still needs to be done.

The practice of art restitution is clearly complex and complicated. There are many positives and improvements to the process, but many inconsistencies and negatives still remain.

¹⁷⁶ Aisha Harris. "How Accurate Is The Monuments Men?" Slate, February 10, 2014. Accessed March 8, 2019. <https://slate.com/culture/2014/02/the-monuments-men-true-story-fact-checking-the-george-clooney-matt-damon-movie.html>.

¹⁷⁷ Michael Granberry. "TV Series 'Hunting Nazi Treasure' Hopes to Find Art Stolen by Nazis." *The Columbus Dispatch*, May 8, 2018. Accessed March 14, 2019. <https://www.dispatch.com/entertainmentlife/20180508/tv-series-hunting-nazi-treasure-hopes-to-find-art-stolen-by-nazis>.

The most important step in the restitution of stolen works is a willingness from the party possessing stolen works to correct its wrongdoing. Within this chapter, it is clear that many parties are willing to make amends. Those who are not willing remain on the wrong side of history.

Conclusion

Many works of art still hang in limbo between being stolen during the war and not yet being returned to a state of rightful ownership. Nazi art dealers and collectors often passed stolen works down to their children, and there remains a chance that many of these descendants unlawfully possess works stolen from Jewish victims from Austria, France, Germany, or any other territory occupied during WWII. Some works sit undetected in apartments, or in the collections of museums. Some are just missing entirely with no clues to where they might be located. There are still several that are in the middle of litigation, or have investigators close to discovering them. In any case, any artwork that was stolen and has still not been returned to its rightful owner or the heirs of that owner is still displaced as a result of the Nazis' attempt to decimate the Jewish population of Europe and any culture that did not fit within the ideology of the Third Reich, and can therefore be considered a displaced victim of the Holocaust.

The end of WWII brought international recognition to the atrocities committed and even gave them a name and a definition in 'genocide.'¹⁷⁸ International regulations were put in place in order to prevent and prosecute such crimes. Unfortunately, the same did not occur in terms of the personal property of the victims of genocide. As of 2019, there is no international law or agreement regarding stolen personal property, even though property stolen during genocide could technically fall under a crime of genocide. Each case is still handled by the government where the work physically exists, which in many cases is still in Germany, Austria, and

¹⁷⁸ UN General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*, 9 December 1948, United Nations, Treaty Series, vol. 78, p. 277.

Switzerland. As noted in Chapter 3, these countries' laws still do not favor restitution even though they were the greatest perpetrators of the crimes. This is curious because in the perpetrating countries, especially considering Germany as an example, repenting and attempting to right wrongs is a common theme since the post-war period. For instance, Germany is the largest acceptor of refugees in Europe in an effort to atone for their actions during the Holocaust, which included but were not limited to exiling and deporting a large segment of the populations of Germany and its occupied territories.¹⁷⁹ Their guilt does not appear to have changed their policies on their decimation of cultural materials. Almost 75 years after the end of WWII, this seems unlikely to change, and it remains unclear whether there will be a resolution.

The lack of international intervention does not signal the end of the issue. Many documents and records still remain inaccessible in Russia, and therefore there are holes in the research regarding these issues. It is a result of this that much of the research regarding art theft in Eastern Europe, as areas liberated by the USSR, is incomplete and not widely available. This paper, therefore, focused on the more-studied areas, but there is still much work to be done. This paper also does not cover the countless stories of individuals, because each story could warrant an entire paper. As such, I made a point to mention the stories of some individuals to paint a more general picture, but hopefully this does not detract from the thousands of other stories that still deserve to be told. I also want to state that while I mention the United States' extensive work towards the restitution of personal property from WWII, it is important to note that other nations actively participated in their own efforts, but as mentioned in the introduction, the resources available to write this paper mostly centered around the US's efforts and documentation of their procedures.

¹⁷⁹ "Migration and Migrant Population Statistics: Statistics Explained." Eurostat. March 2019. Accessed March 31, 2019. <https://ec.europa.eu/eurostat/statistics-explained/pdfscache/1275.pdf>.

This paper is somewhat personal for me for many reasons. For one, I am the granddaughter of a Holocaust survivor, and have always been interested in the subject. This fact combined with my interest in both History and Art History as well as an interest in pursuing a career in law made this subject especially attractive to me. I am a firm believer in justice, and believe that there are areas surrounding the Holocaust and WWII as a whole that are still lacking in that department. By doing this research, I further understand the scope of the injustices committed during WWII and hope to bring light to some of them.

In fact, it is more important than ever that measures are taken to bring justice to the cultural spheres of the world. Art is a monumental part of cultural heritage. As such, art is regularly used as a weapon. While works of art being stolen from wealthy European collectors might seem unimportant to some, it is the bigger picture of the continuous looting and pillaging of art during wartimes that keeps this topic relevant. WWII is long over, and restitution of works stolen during that period becomes more and more unlikely as time goes on because of the depletion of the interest of heirs, or depletion of the existence of heirs, to recover artworks stolen during the 1940's. Yet the fight for stolen cultural heritage across the world is not over.

Until very recently in Iraq, ISIS was using art as a weapon, both figuratively and literally. In 2015, ISIS militants broke into the Mosul Museum, stole the artifacts that were somewhat easily mobile and took sledgehammers and electric sanders to larger artifacts.¹⁸⁰ They not only destroyed - in seconds - artifacts that had existed for thousands of years, but effectively destroyed a physical representation of the cultural heritage of the Iraqi people. At Art Law Day 2018, hosted by the Benjamin N. Cardozo School of Law, Colonel Matthew Bogdanos of the US

¹⁸⁰ Kareem Shaheen, "Isis Fighters Destroy Ancient Artefacts at Mosul Museum." *The Guardian*, February 26, 2015. Accessed March 31, 2019. <https://www.theguardian.com/world/2015/feb/26/isis-fighters-destroy-ancient-artefacts-mosul-museum-iraq>.

Marine Corps Reserves and an attorney in Manhattan spoke about his efforts to protect museums and artifacts in Iraq and emphasized the importance of protecting cultural heritage so that the next generation can understand their history through artworks.¹⁸¹ He also spoke about ISIS's methods to convert looted artworks into weapons through illegal antiquities trade to fund terrorism in the same way that Nazis utilized the sales of degenerate artworks to fund their war machine. Similar instances of art looting as a result of civil war occurred in Afghanistan in the 1990's. Over the years, many works returned to the museum, but experts believe there is a possibility that the Taliban melted many of the pieces made of precious metals to sell the metals for cash, effectively funding their war efforts.¹⁸² In October of 2017, Bogdanos participated in the return of a 2,300-year-old bull sculpture to Lebanon, where the sculpture fell victim to looting and sale to private collectors during the Lebanese civil war in 1981.¹⁸³ Of course, this is not only occurring in Middle Eastern nations, but these are both the most current and prevalent examples of the continued theft of cultural objects and attacks on cultural heritage during wartimes. The current refugee crisis all over the world as a result of these civil wars and many others signals the creation of existence of a new generation of displaced persons. As this crisis continues to grow, we must also consider the impact on the cultural heritage of these refugees and how cultural objects continue to be stolen and dispersed all over the world in a new

¹⁸¹ "Art Law Day 2018." Appraisers Association of America | Art Law Day. Accessed March 31, 2019.

<https://www.appraisersassociation.org/index.cfm?fuseaction=Page.ViewPage&pageId=767>.

¹⁸² John Boone, "Looted in the 90s. Recovered in 2004. Now Afghan Treasures Restored to Glory." *The Guardian*, October 6, 2009. Accessed March 31, 2019.

<https://www.theguardian.com/world/2009/oct/06/looted-artefacts-returned-afghanistan-museum>.

¹⁸³ Colin Moynihan, "Looted Antiquity, Once at Met Museum, to Return to Lebanon." *The New York Times*, October 11, 2017. Accessed April 3, 2019.

https://www.nytimes.com/2017/10/11/arts/design/looted-antiquity-once-at-met-museum-to-return-to-lebanon.html?utm_source=Breakfast+with+ARTnews&utm_campaign=91bdbffbee-EMAIL_CAMPAIGN_2017_10_11&utm_medium=email&utm_term=0_c5d7f10ceb-91bdbffbee-293409985.

generation of displaced victims. The weaponization of stolen art is something that still exists today, and is the reason that the restitution of works stolen during WWII is so important. By restituting works, even three quarters of a century after the war, the world sets a precedent that artworks and cultural heritage must survive and efforts to destroy these will not be unnoticed nor go without consequence.

Appendix A

Terms

AAM – American Association of Museums

ALIU – Art Looting Investigation Unit

DP – Displaced Person(s)

ERR – Einsatzstab Reichsleiter Rosenberg

HCPO – Holocaust Claims Processing Office

MFAA – Monuments, Fine Arts, Archives

OSS – Office of Strategic Services

SS – Schutzstaffel

UNRRA – United Nations Relief and Rehabilitation Administration

USHMM – United States Holocaust Memorial Museum

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ACADEMIC VITA

Melanie Kovacs

The Pennsylvania State University

Schreyer Honors College

Bachelor of Arts in History, Bachelor of Arts in Jewish Studies

Minor in Art History

Certificate of Holocaust and Genocide Studies

Relevant Experience and Leadership

National Museum of American Jewish History

Philadelphia, PA

Internship, Development

June 2018-August 2018

- Researched and evaluated data of similar institutions to identify prospective donors to Museum.
- Curated social media posts that reached the Young Friends members of the museum to provide information about events and connections.

Hillel

University Park PA

Internship, Development

August 2018-Present

- Created story bank by interviewing involved students to increase impact of donor outreach.
- Telefundraising to generate support for Hillel's various programming.

Study Abroad

Paris, France

Department of Jewish Studies

Pennsylvania State University

Shoah, Embedded Program

March 2019

- Traveled to Paris to enrich Holocaust education surrounding specific events in France.
- Met with French professors, Holocaust survivors, and visited memorials and museums.

Study Abroad

Poland

Department of Jewish Studies

Pennsylvania State University

The Holocaust, Embedded Program

March 2017

- Traveled to Poland for embedded class trip to learn about the Holocaust in Poland, which included trips to Auschwitz and the ghettos with access to archives at Auschwitz.
- Supplemented trip with a blog of experiences and photo project presented to class.

Honors and Awards

Student Marshal, History Department

Spring 2019

- Selected to be the representative for the History Department at Spring Commencement.

Rock Ethics Institute Honors Thesis Fellowship

Fall 2018-Spring 2019

- Fellowship and funding awarded to support ethics-related honors research project.

J.D. Kogan Scholarship in the College of the Liberal Arts

Fall 2018-Present

- Awarded for academic excellence in a major in the College of the Liberal Arts.

Phi Beta Kappa

Spring 2018-Present

- Nation's most prestigious academic honors society with mission of championing education in the liberal arts and sciences, fostering freedom of thought, and recognizing academic excellence.

Jerome Markowitz Family Undergraduate Scholarship

Fall 2017-Present

- Awarded to students majoring in Jewish Studies who have achieved superior academic standing.

Paterno Fellows Program

Fall 2015-Present

- Honors Program including advanced academic coursework, thesis, study abroad and/or internship, ethics study, and leadership/service commitment.

President's Freshman Award

Spring 2016

- Presented annually to undergraduate degree candidates who have earned a 4.00 (A) cumulative grade-point average in their first semester of admission.