

DOI: 10.24193/OJMNE.2022.40.06

THE ROLE OF MUSEUMS AND PUBLIC COLLECTIONS INSTITUTIONS IN CONDUCTING PROVENANCE RESEARCH OF NAZI LOOTED ART OF JEWISH OWNERSHIP

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Abstract: *This paper presents some findings of a research on a PhD level that aimed to develop a policy model regarding handling provenance research of Nazi looted art of Jewish ownership. The paper focuses on two major aspects related to provenance research of looted art, namely, the Museums' conflict of interests and training and education of researchers to handle collections in training for provenance research. The research offers practical tools for states that wish to rethink their cultural policy with regard to Nazi looted art. The research was carried out using a qualitative approach, and the data rely on in-depth, semi-structured interviews, analysis of various historical and present-day documents, plus discussion from the focus group. Interviewees included key art world figures, museum directors, art curators, senior diplomats, and senior government officials. The paper argues that it is of great importance for humanity to protect, preserve and maintain cultural heritage objects. Developments in culture heritage show collective history, social changes are reflected within cultural heritage objects and will present recommendations drawn from the findings regarding the role of museums and public collections' handlers in training for provenance research of Nazi looted art of Jewish ownership.*

Keywords: Nazi looted art; provenance research; cultural heritage policy, role of museums, public collections, education and training for provenance research.

Introduction

Looted art consists of artworks, including paintings, prints and sculptures, as well as other cultural property plundered from Jews by the Nazis, their allies and collaborators. It includes Judaica, meaning not only the ritual objects but also libraries and archival materials relating to Judaism and to Jewish organizations and Jewish life generally (Fisher & Weinberger, 2014). Until the 1990s, the world had had three decades of silence regarding Nazi-era looted art. An unusual combination of historical,

psychological and political events brought a new international and public awareness of the Holocaust and restitution over the 1990s (Beker, 1999).

Provenance relates to the place of origin or earliest known history of something, a record of ownership of a work of art or an antique, used as a guide to authenticity or quality (Oxford Dictionary). Curators note that provenance is the history of ownership of a valued object. It tells the story of the object's journey. A full provenance provides a documented history of an object that can help prove its ownership, assign the object to a known artist, and establish the object's authenticity. It is often used to establish an object's value (Steinberg 2008).

Furthermore, the provenance research of Nazi-looted art is a historical quest of a country, to learn about the art objects historical story. By searching for provenance, a country can practice remembrance, educate the public about the Holocaust by using a different view.

Throughout history, the sanctioned looting of cultural assets has been an integral part of war. Cities that contained private and public collections of valuable goods have been looted through time. The Nazi Party (1933) perpetrated the biggest theft of cultural property during WWII. Nazi art plunder occurred in a methodical manner and on an overwhelming scale throughout occupied Europe. It was not a mere incidence of war, but an official policy. As for the Nazis' open policy of Jewish persecution and the destruction of their cultural heritage, which came to its final form on January 20, 1942, at the Wannsee Conference, the Nazis knew it allowed them to confiscate whatever suited them; amongst the loot were major Jewish-owned art collections throughout occupied Europe. A national revolution became a cultural revolution, as well as a political and economic one. The forbidden fruits of this revolution have haunted us till this day. At the end of the war, art objects changed hands, transferred from one person to another, to dealers, art galleries, museum collections, and private owners. Yet post-war Europe was a wounded region and each state's priority was to rebuild its country back as it had been. Provenance research of Nazi-looted art and Nazi-looted art of Jewish ownership was left aside at that time (Fisher & Weinberger, 2014).

Many of the looted art pieces could be part of known museums and cultural institutions' collections, with no knowledge to whom they belong. Some are even part of current public exhibits, with no knowledge of their provenance or ownership lineage. Legal battles between

institutions and the art's possible heirs are still in progress. Yet the question remains unanswered: Where is the justice for these crimes?

The art world invests in looted art without a set governance on the matter or any practical solutions or policies in place. The 1990s brought new, international awareness of Nazi-looted art, which climaxed at the 1998 Washington Conference, when the Washington Principles were signed by 44 countries. However, only five European states started plans to create a mechanism to handle the matter, and unsuccessfully so.

The topic of provenance research of Nazi-era looted art is complex. It involves strong feelings and emotions, enormous amounts of money, and many different actors' conflicts of interest. Combining these components might lead to a tragedy and, on the other hand, by looking into it all and understanding the terrain, might lead to a holistic solution, a cleaner art market for the public's sake and much-needed justice.

This article analyses the active provenance research for Nazi-era looted art and how difficult it is to conduct, maintaining the premise that each object has an owner. It emphasizes ownership and the object's creator. Once the piece transfers from its original, primary owner, it becomes licit or illicit, depending on the circumstances of its transaction dynamics, plus the wider historical context in which these translocations took place. This article offers insights, which can allow European countries to review their cultural policy on the matter of Nazi-looted art, and Nazi-looted art of Jewish ownership.

The findings discussed in this article are based on a doctoral research which relies heavily on interviews and document analyses conducted with government officials, diplomats, curators, directors of cultural institutions, and Jewish community representatives. The article argues that provenance research is significant for reaching solutions concerning Nazi-looted art collections, it claims that the provenance research of Nazi-looted art has immense importance in maintaining and rebuilding European heritage by creating due diligence within cultural institutions collections and in facing the collections' provenance. The article aims to describe some of the complexity of these phenomena, characterizing the different interests that preside over the global cultural institutions' practices, art business, and government views.

The article adds a fresh approach to the existing knowledge on the provenance research of Nazi-looted art and Nazi-looted art of Jewish ownership and offers a few tools for rethinking the

provenance research of Nazi looted art of Jewish ownership for a much-needed change on the matter.

Nazi Looted Art: A stolen Cultural Heritage

Cultural heritage can be the victim of a war. As history shows, the Nazis engaged in a highly organized and sustained program of physical, cultural and economic genocide, confiscating unimaginable numbers of art objects from Jewish families (Kowalski, 1998; Kurtz, 1985; Nicholas, 1995; Yeide, 2009). During the Nazi regime, a national revolution became a cultural revolution; additionally, the political or economic and the theft of cultural property during World War II (WWII) was an official policy—the plundered art was intended to fill the Führermuseum (Nicholas, 1995; Petropoulos, 1999) and was part of an open policy of persecuting the Jewish people and destroying their cultural heritage; this well-orchestrated crime came to its conclusion on January 20, 1942, at the Wannsee Conference. By following this policy, the Nazis knew it allowed them to confiscate major art collections belonging to Jewish families throughout Europe, as well as Jewish-owned businesses, bank accounts, etc.

At the end of WWII, and even after, huge quantities of looted art and cultural goods were found by Allied forces, the ERR handled the goods and the first step was to transfer the goods to collecting points. These points were established throughout Germany; transferred goods were to be sorted there and later returned to the state from which they had been looted, as well as to their rightful owners. There was no controversy over what should be done with the seized object from the occupied countries, the question was how to do it (Nicholas, 1995). In May 1945, an immediate return of a number of universally recognized works of art occurred, a program of ad interim restitution was to be agreed upon between the US Army and the respective recipient nations. By late June 1945, the principle of ad interim return was approved and reaffirmed at Potsdam. States received some of their country's looted objects and it was up to the receiving governments of each nation if and under which circumstances they would return the objects to their rightful owners. Some artworks found their way back to their owners once WWII was over, but many more disappeared. Scholars state that many artworks and cultural objects disappeared into the new owners' collections, passed from one seller to another, purchased or donated to museums all over the world, without warning of the history of these new acquisitions (Masurovsky 2020; Nicholas, 1995; Steinberg 2008).

The topic of Nazi looted art was discussed in several international forums over the years. Beker (1999) states that the Nazi looting debate was neglected over the years and did not receive proper attention from scholars until the 1990s. The unification of Germany in 1990 and the dissolution of the Soviet Union in 1991 were followed by a number of goodwill agreements between Germany and the countries of the former USSR, as well as the opening of official negotiations on repatriation (Konstantin & Kozlov, 1991). Forgotten bank accounts, life insurance policies, seized property, and artworks that had changed hands many times were rediscovered in public museums or in foreign private collections by the heirs of the previous Jewish owners (Steinberg 2009). The increasing value of art and the legal possibilities of recovering Jewish property arose in the late 1990s.

International documents, resolutions and different principles were created during the years, where provenance research proceedings and the restitution of cultural assets are the main topic. The main resolutions and international documents are as follows: The 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects. The convention attempted to handle the problems arising from the 1970 convention, such as the failures to respond to private law issues. In 1998 a clear statement concerning art restitution, confiscated by the Nazi regime in Germany before and during WWII, was heard for the first time at the Washington Conference on Holocaust-Era Assets, December 3rd, 1998. In 1999, the European Union issued Resolution 1205 of the Parliamentary Assembly of the Council of Europe (1999). The assembly added its weight to the process of restitution of looted Jewish cultural property to its original owners or their heirs, be they individuals, institutions, or communities. In October 2000, the Council of Europe held the Vilnius International Forum in Lithuania as a follow-up to the Washington Conference of December 1998. As a result, the Vilnius Forum Declaration was drafted. All participating governments were asked to reach 'a just and fair solution' to reconstitute looted art. In 2009, a non-binding declaration was issued by 47 countries, agreeing for measures to right economic wrongs that accompanied the Holocaust against the Jews and other victims of Nazi persecution in Europe - The Terezin Declaration. A year later, 43 of the signatories (excluding Belarus, Malta, Russia, and Poland) endorsed a companion document (Guidelines and Best Practices for the Restitution and Compensation of Immovable (Real) Property, 2010) which set best practices for immovable property.

Summarizing these major intergovernmental conferences and resolutions, it is safe to say that no mechanism exists to monitor progress by the 44 countries that endorsed the 1998 Washington Conference Principles on Nazi-Confiscated Art or by the 47 countries that endorsed the 2009 Terezin Declaration.

Researching Provenance – Protecting Cultural Heritage

It is of great importance for humanity to protect, preserve and maintain cultural heritage objects. Developments in culture heritage show collective history, social changes are reflected within cultural heritage objects. One needs to remember that cultural objects are significant to indigenous peoples and cultural groups because they inspire pride and identity (Amineddoleh, 2013).

The purpose of provenance research is to research the object's ownership history. Provenance is a place of origin or the earliest known history of an object. As per the Oxford Dictionary, provenance is a record of ownership of a work of art or an antique used as a guide for authenticity or quality. Provenance research sheds light on how collections came to be, it is a valuable information about the artists, collections, art dealers, curators and other important historical figures. Museum curators use provenance research in order to establish the complete story of an object from the day it left the artist's hands until it reached its current collection. A full provenance provides us with a documented history of an object that can help prove its ownership, assign the object to a known artist, preserve it and establish the object's authenticity. It is often used to establish an object's value (Steinberg, 2008). As for cultural assets which were looted by the Nazi regime between the years 1933-1945, the outcome of such research will allow a state to be knowledgeable about the asset's rightful owners, its legal heirs and will allow a state to achieve a proper settlement. As per expert's assessments during the Nazi regime 600,000 pieces of art and thousands more books and Judaica artifacts were confiscated and looted from the Jewish people in Europe by the Nazis and their assistants (Petropoulos, 2000). At the end of World War II allied forces locates massive quantities of looted art pieces and cultural objects. All were transferred to different collecting points to be cataloged and ultimately to be transferred to their legal owners. Most of the art was returned to its country of origin, with the assumption that each government will locate its owners and perform restitution. According to the claims conference and the WJRO report of 2014, 85% of these cultural assets were sent to the USA and

to Israel, 8% were sent to west European countries and the remaining 7% were divided between countries such as South Africa, Argentine, Brazil, Australia, Canada and West Germany.

Since WWII, cultural assets were transferred, moved from one place to another, changing hands and states. Moreover, public and private collections worldwide contain an unknown number of objects for which there is no provenance, no history, therefore no understanding of who owned these objects. As stated by Masurovsky (2018) every object begins with an owner, its maker or its creator, it is a working axiom. To live by it, provenance research must be conducted.

Provenance research of Nazi looted art is a highly complicated phenomenon. Most literary sources document accurate facts but with little practical interpretation of events or integrating any international conventions or laws. Hence, it is difficult to understand from the existing literature how reality is perceived and interpreted by the different actors. Different models exist for handling restitution of Nazi looted art and the practice of provenance research and yet none seem to have solved the problem. There is also a need for more knowledge, with regard to these models, to study their failures and create better ones.

This article aims to open a window into unique perspectives on art restitution of the Nazi era. It uses existing theoretical tools combined with obtained data, which was gathered in the field, as part of a doctoral research, to provide further information on the importance of provenance research, its unique value to the restitution process and as a strategy for European culture.

Methodology

The research was conducted according to the qualitative research approach. The qualitative approach offers a platform to understand others' personal experiences and reasons for actions, rather than just examining extant theories or results (Hays & Wood, 2011). Qualitative approach seeks to gather a comprehensive understanding of the way people interpret their perceived world of content from the participant's point of view (Weil, 2005). It aims to explain social reality by learning from peoples' experiences (Shkedi, 2012). The data was collected through in-depth interviews, comprised of 17 interviewees who sat for comprehensive, semi-structured interviews and five participants who took part in the focus group, as well as through document analysis. The interviewees included 17 participants who were chosen since they served in the past and present key positions in the Israeli and German governments and who served in the past and present in key positions in museums, cultural institutions and in the provenance research sphere.

Interviewees include ambassadors, diplomats, government officials, lawyers, Holocaust survivors, senior civil servants, and senior officials in NGO agencies operating in the provenance research field. The interviewee group included eight women and nine men, ranging in age from 40 to 95 years. The focus group participants were chosen since all are currently working in the field of Nazi-looted art provenance research and have significant international and national experience.

Content analysis was used to analyze the data, using Shkedi's (2012) analysis procedure that includes mapping, coding and categorizing. All participants agreed to provide data by signing a consent form.

Findings

Content analysis yields, among others, two important categories. The first category is **Training and Education**. It seems that training and education was identified as one of the problems in the provenance research. The field of provenance research lacked important skills, which leads to a lack of provenance researchers, who are capable to work on art collections. Participants have mentioned that: *"curators lack the knowledge to investigate their collections"*, and another stated that: *"too many things to learn and to be familiar with, I realized I knew nothing, each and every day I found myself learning new things"*.

Content analysis showed that no academic faculties were teaching the subject, no courses were constructed, not as part of art studies or history studies. The participants mentioned the researchers' need for tools and the fact that the entire field needs to be developed as a profession: *"there is the need to learn the craft, there is so much you need to know"*, *"I needed to learn it all by myself, it's a whole new world of looking at the art, but there was no place to learn but from colleges who did it before. I was part of the Gurlitt task force and there I learned plenty"*. The lack of capable researchers emerged upon the publication of the Dutch committee for the Evaluation of the restitution policy for cultural heritage objects from WWII "Striving for Justice" (Published on December 2020). The report confirms the importance of professional researchers. Furthermore, collected data showed that provenance research is required to tell the victims' stories, the stories of the destruction of culture. *"By not researching and not publishing the story, it's like you still continuing the Nazi party actions"*. Participants claim that the stories need to

be known for the sake of culture: *“this is not some regular theft it was an organized plunder, to destruct our culture completely, and it needs to be known”*.

Ultimately, the data collected showed that the provenance research of Jewish-owned Nazi-looted art can assist in telling Holocaust victims’ history and life story. By telling the story a state can educate the people, create remembrance and revive its lost culture. Data also showed the need for capable researchers and training programmes and academic courses, in order to train professional and capable researchers which leads to progress in the field.

The second category to which the data analysis refers is the museums’ conflict of interests: the collected data indicated that museums experience a conflict of interest, on the one hand they possess the will to keep their collections, but at the same time they wish for justice, keeping their positive reputation as collections owners. The participants kept on repeating the same lines during the interviews saying: *“there is no doubt as per conflict of interests, they got the art in a way they believe is clean and now they just don’t want to give it up, but also wish to remain true in the eyes of their colleges”*. Another participant mentioned the situation as chaotic: *“it’s a chaotic situation, many many trees that you cannot see the forest at all, you need to understand so much, who are the bad guys in the story and who are the good guys, there is too much at stake”*.

Participants mentioned that the state has an important role in assisting museums reaching for solutions. *“a country needs to work with its cultural institutions”*. Participants mentioned that: *“a country sometimes neglect to interfere for the fear of feeling it’s going to lose the art which is in the country’s interest to keep”*.

In a nutshell, the above-mentioned findings show that museums are in a constant conflict of interest. Being conservative bodies, museums work hard to keep their collections inside their walls. However, museums wish to preserve their reputation, as they see themselves as being the rightful owners.

Discussion

The findings in training and education suggest that cultural assets tell the story of people, of a society and therefore, are valuable. As the literature shows, the Nazis engaged in a highly organized and sustained program confiscating unimaginable numbers of cultural and art objects from Jewish families (Nicholas, 1995; Yeide, 2009). The theft of cultural property during World War II (WWII) was an official policy which included persecuting the Jewish people and

destroying their cultural heritage. As for the postwar era, the literature is consistent with the findings. The literature shows that postwar restitution was a complicated procedure and an expensive one, states placed the burden of proof on the victims and their heirs which most times prevented families from receiving their property back (Steinberg, 2009). The literature follows the findings regarding the importance of telling the story of the Holocaust and the cultural plunder during WWII. Telling the story can educate people and create remembrance. And yet academic institutions do not include cultural crimes and ethics ideas into their future studies. A student who wishes to address cultural crimes against the Jewish communities of Europe from 1933 to 1945 cannot find an academic curricular standard (Masurovsky, 2018). Therefore, when there is no teaching about the Jewish cultural losses, there is no knowledge concerning a crucial aspect of history and the Nazis' war against the Jewish people.

The provenance research of Nazi-looted art is a historical mission to learn about the Holocaust and achieve remembrance. Provenance is ownership history, tells the story of an object, of its owners (Steinberg 2008). The findings show that researching provenance is for the story to be told and not only for the restitution procedure. It is the history of a community's history, therefore the new generation needs to know its history, to learn about this part of European history. Knowledge is power (Baldwin, 2016), once it exists it creates remembrance. Museums grant knowledge to researchers, educate children and are a focal point of a tourist's journey, therefore telling a story for education's sake is within their job description (Weiss, 2007).

The literature scarcely mentions the lack of trained researchers (Lupfer & Obenaus, 2020), whereas the findings show a solid need for professional researchers and emphasize the importance of capable researchers and forming training modules. There are two pillars of a restitution policy, as the 2020 Restitution Policy for Cultural Heritage Objects from the Second World War: report stated; creating of an inventory of looted art and being able to identify possible heirs to the items, these two tasks can only be achieved by capable and professional people.

The conclusion which emerged out of this discussion is that a policy model for European countries regarding handling Jewish-owned Nazi-looted art is associated with the need for capable and professional researchers. Knowing the object's history, sharing its story will raise awareness for Jewish and other groups' cultural losses and eventually will create Holocaust remembrance.

The second finding, regarding the museums' conflicts of interests, can be explained by museums being conservative institutions, where their primal work is to conserve and preserve objects in their collections for sake of maintaining people's cultural heritage. The literature describes the Nazi plunder during the years 1933 to 1945 where unimaginable numbers of Jewish cultural and art objects, as well as those of other families were confiscated (Kowalski, 1998; Kurtz, 1985; Nicholas, 2006; Yeide, 2009). During WWII and after, cultural objects and art works were dislocated, transferred between owners and many more disappeared. Museums purchased or received donations from all over the world, without knowing that these new acquisitions might be the forbidden fruits of the WWII dark history (Masurovsky, 2020; Nicholas, 2006; Steinberg, 2008). The literature shows that it was not a priority for museums to ask questions regarding the line of ownership of these purchased or donated items (Reed, 2013). It seems museums chose to overlook the lack of information while entering the cultural artefacts and art works to their collections. As mentioned by the literature, museums took a chance that might come back to haunt them (Steinberg 2009). The findings are consistent with the literature stating that the art market flourishes while museums buy illicit cultural and art objects. Value is a higher priority and cultural objects and art become more attractive.

The literature describes and the findings agree that cultural institutions have the need to disregard the lack of proven provenance or illicit origin due to the institution's or an individual's wish to protect the assets, to keep them safe from the possibility of destruction, this being in the public interest (Masurovsky, 2020, Amineddoleh, 2013). The findings show that museums are aware of their moral and ethical duty to investigate their collections, but chose to do it slowly and for appearances' sake only, as the literature concurred (Weis, 2007). Curators today can look for the provenance of works of art via various databases. The internet has allowed institutions the option of sharing their information about their collections, the provenance information as well, which increased the conflict-of-interest problem. The literature shows the change in the museums' views due to the globalization process, which forced them to face facts. The information flow forced a change of attitude. Museums are part of the art market, and therefore losing a cultural object or a piece of art to its rightful owners can lead to fewer visitors, researchers and benefactors, ultimately all leads to loss of income. As the findings show, due diligence of the process and transparency can be keys for the provenance research policy. Hence, the conclusion is that a policy model for European states is associated with the museums' wish to protect and

preserve their collections inside a museum's walls. The offered policy should be associated with due diligence and the transparency of the provenance research process.

Conclusions

This paper suggests various conclusions that assist in formulating a policy model for European countries wishing to handle Jewish owned Nazi looted art. The suggested policy relies on the provenance research of the collections belonging to cultural institutions. The procedure will assist states in preserving their cultural heritage, maintaining and unifying societal identity. The study suggests advancing a policy that is associated with qualified, capable and professional researchers, who will be able to create inventories of the looted cultural and art objects and who will be able to search for the objects' rightful owners. Provenance research reveals the objects' story, and once the story is told, society becomes knowledgeable about the Jewish cultural and art losses during the Holocaust, which ultimately leads to remembrance.

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