

Twenty years after Washington

An evaluation from the Claims Conference and the WJRO

The Conference on Jewish Material Claims Against Germany (Claims Conference) and the World Jewish Restitution Organization (WJRO) were among the non-governmental organizations that endorsed the “Washington Conference Principles on Nazi-Confiscated Art” as delegations to the 1998 Washington Conference on Holocaust-Era Assets. The experience during the twenty years that have passed since that time has shown that while the Washington Conference Principles are basically sound, elaboration of how they are to be implemented is necessary both in the interests of “just and fair solutions” for the original Jewish owners and their heirs and of historical truth.

It quickly became clear to the Claims Conference and the WJRO that the initial emphasis on existing collections in government museums, while understandable, was far from a comprehensive approach, given the enormity of the theft and the presence of stolen objects in private collections. We therefore moved to identify, scan, and make accessible the scattered original records of Nazi looting, beginning with those of the Einsatzstab Reichsleiter Rosenberg (ERR), to show as much as possible what was taken, from whom, and the fate of the plundered artworks, libraries, archives, and ceremonial objects. The results so far may be seen at www.errproject.org including the Database of Art Objects at the Jeu de Paume, the importance of which in helping to identify looted artworks has been very great and has led in the last few years to our establishment with the Commission on Art Recovery of the Jewish Digital Cultural Recovery Project (<http://jdcrcp.org>), which aims to create a comprehensive listing of all Jewish-owned cultural objects plundered by the Nazis, their allies and collaborators from the time of spoliation to the present. In this regard we have begun to form a cooperating network of major institutions, including the German Lost Art Foundation, the Federal Archives, and the Zentralinstitut für Kunstgeschichte (Central Institute for Art

The Israeli Ambassador Colette Avital and Wesley A. Fisher during a panel discussion at the Berlin Conference.



History). The desirability of such a comprehensive database dates back to the Washington Conference but only in recent years has the opening of archives combined with existing databases and other projects made this possible.

While most provenance research and the media have focused on expensive paintings, it was always clear to us that references to “art” in the Washington Principles mean much more than that. Judaica has always been a priority for the Claims Conference and the WJRO, and among our various projects, we recently published a Handbook on Judaica Provenance Research: Ceremonial Objects. As of April 2019, thanks to the Minister of State, the Handbook is also available in German as Handbuch zur Judaica Provenienzforschung: Zeremonialobjekte (<http://art.claimscon.org/wp-content/uploads/2019/03/FINAL-Judaica-Hanbook-DEUTSCH-March-15-2019.pdf>).

In reports that we have done on progress in the countries that endorsed the “Washington Conference Principles” and subsequently the 2009 “Terezin Declaration”, only about one-third of the countries have done anything to implement them during the past twenty years. Most of what progress has taken place has been in provenance research. Primarily, this is in the few countries that were already undertaking research around the time of the Washington Conference. But there have been positive developments in, for example, Croatia and Slovenia. Much more remains to be done, however. It is important that there be additional openly accessible listings in all relevant countries of all restitutions made

until the present day; objects suspected of having been looted but for which conclusive proof has not been found; all unclaimed looted objects; and annual statistics on the number of objects being researched. The results of all measures taken in provenance research should be widely publicized and digitally interconnected through networks internationally, and budgets for provenance research need to be adjusted to meet the needs. While Germany and some other countries have made some progress in this area, there remains little standardization and communication in provenance research not only among countries but among regions and often individual institutions within countries.

The situation in regard to restitution is far worse. Up until today, except for Austria, the return of Nazi looted art is only guided by nonbinding recommendations rather than legally binding rules. Only one more restitution law has been passed in Europe after the year 2000. With encouragement from the WJRO, in 2016 Serbia passed a law regarding unclaimed “heirless” Jewish property that permits the Jewish communities—and through them individual families—to claim cultural property. But the law only refers to art taken in Serbia and excludes looted artworks brought into the country. Judicial and commission deliberations concerning restitution remain greatly inconsistent both between countries and within them. In light of the historical circumstances under which the Nazi art looting took place, the presumption of confiscation from 30 January 1933 onwards and the reversal of the burden of proof should be applied in favor of the claimant. To avoid any conflict of interest, provenance research and restitution should be carried out by completely separate, independent administrations.

The treatment of original Jewish owners and their heirs remains greatly unfair and depends largely on where the given artwork happens to be currently located. The dispossessed and disenfranchised collectors—nowadays mostly their heirs—should not be treated as mere supplicants. It may be helpful to set up a central contact point in the respective countries that provides advice, contacts the institutions concerned and defuses tensions during the process. Germany is currently establishing a help desk to provide assistance and guidance to Jewish claimants.

In accordance with what has been the policy since the JRSO and JCR, the underlying sense in the Jewish world continues to be that unclaimed looted art and cultural property should not escheat to the governments. Such property belonged to Jews, is recognized as having belonged to the Jewish people (“Vilnius Forum Declaration”), and the Jewish people should at least have a say in decision-making concerning such unclaimed and heirless looted art. The modes of representing the interests of the

Jewish people in such decision-making vary greatly. They include or may potentially include successor organizations; Jewish communities in the respective countries; non-Jewish government entities that work with the relevant Jewish communities and organizations; the Government of the State of Israel; and WJRO foundations that consist of representatives of the local Jewish community, Jews abroad, and the relevant country government. But throughout much of the world, Jewish interests are unfortunately ignored regarding unclaimed looted art and cultural property. Decision-making should include the right to exhibit the objects on loan both within the country and outside it, in Israel and elsewhere (“Jerusalem Declaration”, see p. 75). Unclaimed looted objects may constitute interesting exhibitions on the history of the artworks, Jewish artists and art collectors, and they also may help in Holocaust education.

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