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## The moral dispute is beside the point

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Arbitration is no hokey compromise; research continues to be required. Ten years after the “Washington Declaration” the Berlin Conference puts debates about restitution and looted art on a more objective level.

It was exactly ten years ago when Germany, among others, signed the “Washington Declaration” covering the handling of works of art looted by the Nazis from Jewish collectors. That marked the beginning of public interest in what may well have been the largest loot of art in history and the consequences, thus also in issues of “restitution“ or return of the works to heirs. The moral rules and the rules by which the game is played are also being discussed by the public. What would be “fair” compensation for suffering an injustice? Given the background of the holocaust, should there really be a public interest in settlement?

Hermann Parzinger, president of the Prussian Cultural Heritage Foundation, which early on was among the institutions to institute a program for systematic provenance research and, with its symbolic power, brought the other museums in line, responded to the question clearly affirmatively as well as soberly at the Berlin meeting drawing an interim balance (see, FAZ, December 13) insofar as he described the settlements as normal: Two sides are approaching each other - the victims’

heirs and the museums, which, after all, do not represent private interests but those of all people, in particular when the dispute involves showpieces of a large state collection. The dispute about the Kirchner painting, which the State of Berlin released with premature haste, rendering the entire restitution practice controversial in the wake of the Washington principles demonstrated how it should not be done.

However, the biggest problem remains locating the possibly illegally acquired works and identifying their owners. Despite spectacular disputes which poison the climate Washington has introduced a change in mentality because not only museums, libraries and archives are now getting involved in the challenge, but also political entities.

Scientists, legal practitioners, museum people, representatives of the art trade and the organizations representing victims came together in the State Library. They had been invited by the state minister for culture, the Prussian Cultural Heritage Foundation and the awkwardly-named Coordination Office for Cultural Losses, which pursues provenance investigations and is based in Magdeburg. As hoped, the meeting was especially a forum for specialists who came to this event in order to throw more light on this dark chapter of German history. It was not so much a question of assigning guilt, but discussing the obstacles, the limits of professional search and restitution (besides money issues) and about obstructions by governments in other

countries. It was striking how many young historians sat attentively in the audience who are unprejudiced, committed and creative in their approach to this large, long neglected subject.

The eleven principles adopted in Washington in 1998, accepted by forty-four states, represent the first international agreement following the Second World War for handling looted art. Yet these recommendations are not legally binding. Still, it is unlikely that any museum, any archives or library, at least in Germany, would consider that a reason for not researching and looking.

Parzinger recalled the generous gifts and loans by private Jewish collectors such as James Simon or Ludwig Darmstaedter without whom hardly any museum in Germany would be feasible. Yet, after 1933, in opposition to their patrons, museums became part of the system and participated actively in the looting ventures staged by the Nazis. Thus, the responsibility is clear and there is hardly any museum that would not find some of these works in their inventory if they were to look, said Parzinger. He believes that those establishments that react only when attorneys appear on the scene to force the demands of their clients, the heirs of the victims, are almost invariably provoking a sale of the works. After all, the heirs need the proceeds to be able to pay the expensive attorneys. By contrast, museums and libraries that have invested in provenance research are often finding better solutions, such as loan agreements following compensation for damages.

Discussions at the Berlin conference dealt mostly with professional issues. Why, for instance, complicated

successful research often helps to identify former owners but not the heirs. The signatories to the “Washington Declaration” obligated themselves to find the heirs, and yet the search often ends at the next border. Countries like Sweden, Switzerland or Poland ultimately have to abandon their reticence, said provenance researchers and legal practitioners. The large data bases that in the meantime exist in Great Britain, the United States, Austria and Germany should be linked. It is amazing that that has not been accomplished yet and it is less a technical problem than a matter of national self-interest. These problems get aggravated when countries like the Czech Republic, but also France, prove to be not eager to solve the puzzle of the origin of looted works of art, works that the Allies had left in their care.

Agnes Peresztegi, who represents Jewish heirs in Budapest, speaks of a circling of the wagons mentality of her government that has emerged since 1998. Even justified claims by one of the biggest Hungarian art collectors were flatly rejected. First confiscated by the Nazis, the collection was hauled off to the Soviet Union after the war. Although, in the seventies some works were returned to the Budapest Museum of Fine Arts, they are to remain there. The reason given: They were a “gift” of the Soviet Union to the Hungarian (Communist) state.

Nor is it proper for many countries to regard heirs as foes. That is neither fair nor justified, says New York attorney David J. Rowland. Art dealers, once beneficiaries of the looting and nowadays benefiting again from new ownership shifts, are now beginning – at

least the large auction houses whose operations span the world – to check on their own newly-arrived paintings for their provenance. Yet, when they have identified the former owners, it is not rare that the return is often opposed by the justified claims of the present owners who bought these paintings in good faith. In such cases – as evidenced by museums - only settlement or a mutual agreement will do, says Monica Dugot, director of the restitution department of Christie's New York. She also stated "We do not need moral arguments." The pictures that are being auctioned do not belong to the auction houses and current owners are no friends of the Nazis. What is needed therefore are hard facts.

A central data base is therefore required to document and disseminate worldwide all finds, searches and changes in ownership – from the Nazis to present owner. No one appears to be against that. But who should install it and make

it work, if not museum directors, art dealers, attorneys and victim associations, thus all those who now again promised in Berlin that everything would now proceed better, faster and more professionally?

Uwe Hartmann, an art historian, who recently became a distributor of German public funds for provenance research and was on his own able to clear up many suspicious cases, summarized the situation: The assumption that now, ten years after the Washington Declaration, there are actually many more suspected "cases" of looted works of art to be negotiated than had been assumed ten years ago, is simply true. In Germany, too. Not a bad result but still a huge challenge.

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