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Metro Views: What's another word for injustice?

By MARILYN HENRY IN NEW YORK
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By allowing the Sachs collection to become emmeshed in legal limbo Germany has done precisely the damage it hoped to avoid.

One of the most interesting collections of Nazi-looted art is in the German Historical Museum (Deutsches Historisches Museum) on Unter den Linden in Berlin. Unless the German government lives up to its restitution policy, the collection of more than 4,000 posters apparently is fated to have been taken twice, first in 1938, and again in 2010.

This is the collection assembled by Hans Sachs, a German Jewish dentist whose patients included Albert Einstein. His story raises the troubling question: How is it that, 65 years after the liberation of Auschwitz, a Jewish family is not entitled to its artworks in Germany?

A German appellate court made a paradoxical ruling late last month. It affirmed that Sachs's son, Peter, is the legal owner of the posters. Peter Sachs, a retired pilot, lives in Florida. The posters, however, were to remain in the German museum, according to the court.

The court's full ruling has yet to be published, so its reasoning is not entirely clear. But everything from the ruling's implications to its timing is unfortunate. The deprivation of property is eerily reminiscent of the dispossession of the Jews by the most evil regime in history. And the ruling was announced on January 28, one day after International Holocaust Remembrance Day, on which President Shimon Peres delivered a speech to the German parliament.

AN EARLY collector of graphic and commercial arts, Sachs owned some 12,500 graphic works when the Nazis arrested him on Kristallnacht, in November 1938, and sent him to Sachsenhausen. When his wife secured his release a few weeks later, Sachs and his family fled to New York.

The posters were seized by the Gestapo.

The West German government in 1961 paid Sachs some 225,000 deutsche marks as compensation for his seized artworks. Five years later, he learned that part of his collection had survived World War II. The posters were in East Berlin, then under communist control and beyond his reach. Sachs died in New York in 1974.

In 2005, Peter Sachs learned of that part of the collection was in the Deutsches Historisches Museum in

reunified Berlin. He claimed it. The German Finance Ministry wasted no time in warning him that there would be no “double-dipping.” The ministry calculated what percentage of the 1961 payment Peter Sachs would be obliged to repay, if he recovered the posters, to avoid “double compensation” – meaning both restitution and compensation. The posters in the Berlin museum are currently valued at some 4.5 million euros.

Most claims for Nazi-era looted artworks suffer from some sort of disadvantage to the claimant. Documents to establish prewar ownership likely are missing. The current location of the artworks may be unknown. Or the current possessor may have acquired rights to the artworks through commercial transactions in the last seven decades.

None of those factors impeded Sachs’s claim. Instead, Peter Sachs had unusual advantages: Thousands of posters, marked with his father’s insignia, were in a public museum in a nation with a liberal restitution policy.

However, restitution was rejected in 2007 by a blue-ribbon German panel, known as the Advisory Commission for the Return of Cultural Assets Confiscated as a Consequence of National Socialist Persecution.

It apparently did not examine German restitution policy, but gave its rendition of Hans Sachs’s intent, three decades after his death in exile. “In light of the expressed will of the collector Dr. Hans Sachs, the commission recommends to leave the collection in the Deutsches Historisches Museum,” the panel said. It also said the dentist viewed his claim as settled by the postwar payment he received for his loss, despite the German government’s position that prior compensation does not preclude the restitution of artwork.

Peter Sachs, dissatisfied with the panel’s recommendation, took his claim to a German court. The museum mounted a spirited defense both of its possession of the posters and the honor of the commission. The panel is chaired by Jutta Limbach, the former president of the German Constitutional Court, and also includes former German president Richard von Weizsäcker.

A CLAIM this clear never should have gone to the commission or the court. The Limbach commission’s role is purely advisory, and it was inexperienced in restitution. The Sachs claim was only its second case since the panel was established in 2003. Neither the museum nor the government were bound to heed advice that conflicts with government policy.

In 1998, at a diplomatic conference at the US State Department, 44 nations adopted a set of nonbinding protocols calling for the identification and return of Nazi-era looted artworks. These are known as the Washington Principles.

In some of the angry reaction to the museum’s retention of the Sachs collection, victims’ advocates have said that Germany should adhere to the Washington Principles. These international principles, however, are unnecessary. Germany, aware of its unique responsibility, in 1999 adopted its own unequivocal policy to return Nazi-era looted artworks.

At a German conference in December 2008, Bernd Neumann, Germany’s culture minister, reiterated his government’s commitment to contend with looted-art claims. “A fair and just solution can only stem from a willingness in principle to return the object,” Neumann said. “There cannot be any statute of limitations. Restrictions on disposition are unthinkable.”

Again last May, Neumann stressed the need to restore Nazi-era looted works. He urged the city of Munich to restitute a Paul Klee painting that had been plundered as “degenerate” – not because of Jewish ownership. “Germany can justifiably point to very many efforts made to live up to our responsibility as regards the Holocaust, even if there remains much to be done,” Neumann said in a letter to Munich Mayor

Christian Ude, reported by Bloomberg News.

“Against the backdrop of the international debate, we must carefully examine all signals that we send in restitution cases to avoid damaging Germany’s image abroad,” Neumann wrote.

True enough. But by allowing the Sachs collection to become enmeshed in a convoluted legal limbo, in which a rightful Jewish owner cannot collect his property, Germany had done precisely the damage it hoped to avoid.



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