In 1998, 44 countries met in the U.S. capital and adopted guidelines called the Washington Principles for resolving disputes over Nazi-looted art. Twenty years later, the framers of those guidelines gave a forceful but qualified endorsement of the principles in Berlin at a three-day conference, “20 Years Washington Principles: Roadmap for the Future.”

Approximately one thousand participants assessed the field of Nazi-Era art restitution at the Haus der Kulturen der Welt, a late 1950's futurist Cold War monument on John-Foster-Dulles-Allee, now bordered by the glass and steel towers of the new Berlin.

“The U.S. and Germany issued a joint declaration (the only such official document promulgated at the conference) reaffirming their commitment to the Washington Principles.”

The Cold War setting was more than coincidence. The United States initiated the meeting in 1998 and provided a venue. As with the Marshall Plan, Germany was the crucial European partner this year as it was 20 years ago.

The anniversary conference was organized by the German Lost Art Foundation. Despite the international range of participants, the focus was weighted toward Germany, and the U.S. and Germany issued a joint declaration (the only such official document promulgated at the conference) reaffirming their commitment to the Washington Principles.

*David D’Arcy is a journalist who writes frequently about art restitution.
Institutional leaders cited the progress that had been made in the original mission to reach “just and fair solutions.” Claimants and their lawyers bemoaned the slow pace of recovery of pillaged property. Provenance researchers, practicing a craft advanced by the search for Nazi loot, talked of scant resources to address enormous tasks. Central to the event was an inventory of countries, with a report card on how they measured up to the 1998 principles. Critics suggested that the real problem might be the framework itself.

No one said that the job was over. If there was a consensus, it was that the Washington Principles, like the field of restitution, was a work in progress, a conclusion reached by an independent observer – Elinor Landmann, a Swiss journalist designated by the conference – who reported to assembled participants after two days of meetings.

Ronald Lauder, the former ambassador and art collector who was one of the conveners of the 1998 conference, said: “We have made giant strides toward achieving the goals of identifying, publicizing, restituting, and compensating for some of the looted art, cultural objects, and books, and in so doing, providing some small measure of belated justice to some victims of the Holocaust or their heirs. We could not have foreseen how relevant this issue would still be 20 years later.”

In a keynote address that had its stern moments, Lauder reminded his audience of the need for consistency, compassion and efficiency in addressing claims by theft victims and their heirs and reaching “just and fair solutions.” “The Washington Principles don’t tell countries how to work out the legal details of return because every country has a different legal system. Instead, the Principles encourage countries to find Jewish art in their museums, their institutions, and private collections that was stolen by the Nazis,” he said.

Lauder moved quickly to identify countries that he thought had fallen short. “In almost every country in Europe, there are different reasons that this has happened, but in the end, it all comes down to one issue — justice has been denied — and because of that the old ghosts of World War II won’t go away.

“In France, after the war, 60,000 artworks came back, of which 15,000 went unclaimed. Of those, France gave 2,000 of the best works to its museums and sold all the rest,” he said.

“For 20 years, France has not been able to figure out who owns those 2,000 works in their museums, which is interesting. Somehow the auction house, Christie’s, can review 100,000 pieces every year, but France cannot figure out 2,000 pieces in 20 years,” he noted.

The Netherlands, also faulted by Lauder (and others throughout the conference), had gone down the wrong path, Lauder said, by failing to recognize sales during wartime as coerced and by introducing an approach that balanced the interests of museums that held looted art against the interests of families from whom the objects had been stolen. The balance of interests would be a flashpoint over two days.

Lauder also took aim at Spain, a country that’s normally not at the center of conversations about Nazi-looted art, saying that it was deficient in searching its museum collections for pillaged works. And Switzerland, where works seized in Germany were sold before and during World War II, had failed to trace works that were seized from Jews, Lauder said.

After praising his host, Monika Grütters, the German Minister for Culture and the Media, as “someone with the best of intentions,” Lauder described Germany as a maze of federalist bureaucracies where local governments create roadblocks and auction houses do as they please without regard to provenance.

“If there is just one stolen work in each museum, which is quite possible, plus all the other institutions throughout the country, we are talking about...
many thousands of pieces that are still hidden,” he said.

Lauder left the conference after his address, but Stuart Eizenstat, another former ambassador and 1998 convener, who also gave a keynote address in Berlin, stayed for much of the first two days. He, too, echoed praise for the original framework of the Principles and voiced his doubts about whether countries were honoring its spirit.

“In making a fair assessment of the success of the Washington Principles,” he said, “I believe the glass is slightly more than half-full, but that is not satisfactory. It is time for one last push to correct the flaws in implementing the Washington Principles, both in my country, the United States, and in key countries which still have Nazi-looted art in their possession. With the assistance of advanced digital technology, which did not exist at the time of the Washington Conference, there can be no excuse for failing to have the widest distribution of information about Nazi-looted art and cultural property, including books.”

“In making a fair assessment of the success of the Washington Principles,” [Eizenstat] said, “I believe the glass is slightly more than half-full, but that is not satisfactory.”

“No museum, state-controlled or private; no art gallery or collector; no auction house; no private owner, should want to hold or deal in Nazi-looted artworks, stripped in the most violent way from their owners during World War II,” he continued. “Every nation that committed to the Washington Principles and the Terezin Declaration should redouble its efforts to identify, publish, and restitute or compensate or find other ‘just and fair solutions’ when an owner or heir has a legitimate claim.”

“More broadly, good faith implementation of the Washington Principles can help in a more general way beyond Nazi-looted art, by creating a more transparent global art market, with greater assurance that buyers and sellers have the fullest information about the provenance of the art in which they are dealing,” Eizenstat noted.

The art market also came to the attention of Hermann Parzinger, director of the Stiftung Preussische Kulturbesitz, or SPK (Berlin Museums), who acknowledged that some German auction houses remained out of compliance with the Washington Principles. Parzinger also said that German private collections were difficult to monitor. The German Limbach Commission, set up to review and advise on claims, was faulted by a range of speakers for considering far too few claims on works in German museums, although German authorities were commended for their actions, albeit belated, on the Gurlitt hoard found in a Munich apartment in 2012 (and another cache later found in Salzburg). Long lines at a concurrent exhibition1 at Berlin’s Martin Gropius Bau that was devoted to works acquired and held by Gurlitt was evidence that the subject of restitution had found its way to a general German public. The Museum Berggruen also organized an exhibition with the provenance of works from its collection.

Eizenstat made special mention of Russia in his remarks. “Russia suffered greatly at the hands of the Nazis during the War. The Red Army took substantial artworks from Germany at the end of the War as partial compensation for their grievous losses, but this included some art the Nazis had taken from German Jews. At the conclusion of the Washington Conference,” Eizenstat continued, “the Russian government representative joined my closing news conference to announce their restitution of one such work in their collection. They also passed a law that distinguished their trophy art from that which belonged to Jews and would be treated according to the Washington Principles.”

But any commitment, he suggested, seems to have ended there. “There has been some provenance research started at Russian cultural institutions, and some is recorded on an electronic database of all displaced cultural property and is also published in scientific publications and shown in

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exhibits. But there has been no restitution of any Nazi-looted art, nor any process for their identification or handling of claims,” he said.

No one representing Russia or any Russian institutions was there to respond to Eizenstat at the Berlin conference. Now were there participants from Hungary or Poland, both of which have veered toward right-wing populism in recent years. To be fair, although the French Ambassador to Germany, Anne-Marie Descotes, spoke at the beginning of the sessions on the second day of the conference, she left the hall before questions were asked from the floor about France’s willingness to remove looted works from its official collections. French law currently prohibits the deaccessioning of art from French museums.

Decorum reigned for most of the two days of talks at the Haus der Kulturen der Welt (the third day was devoted primarily to workshops), where little time was provided for questions. Claimants and their lawyers were not among the invited speakers, except for a handful of heirs of theft victims whose claims had been successful, including heirs of the Jewish newspaper magnate Rudolf Mosse, who recovered property, some of which was purchased by the SPK of Berlin.

When voices did rise from the audience, out came the conflicts.

Marc Masurovsky, a co-founder of the Holocaust Art Restitution Project (HARP), which predates the Washington Principles, rose to state what he had already said in a widely-circulated article, that the Washington Principles had been a failure. (In an article in the Observer and in his blog, Masurovsky maintained that national governments that should be supporting provenance research were shortchanging that work because of the unflattering truths about those countries during World War II that might be revealed.)

Stuart Eizenstat’s response to Masurovsky was rapid and harsh. Not true, said the American diplomat, ending that conversation, at least in public.

Another exchange on the floor came when the current chair of the Dutch commission, Fred Hammerstein, rose from his seat to tell the audience that the Dutch panel ruling on restitution always took the side of claimants. Eizenstat’s response was to commend the Netherlands for its previous, early work in provenance research, and to reject the assertion that the Dutch government’s recent approach of balancing the interests of museums holding looted art with those of theft victims was consistent with the Washington Principles. Claimants whose cases have been before those Dutch panels echoed Eisenstat’s views.

The Dutch position shows no sign of changing. After the conference, Hammerstein defended balancing interests of museums and theft victims in the Dutch press. Russia and the recently elected populist governments of Poland and Hungary, were also challenged during the conference. No representatives of those governments were present to respond – not a positive sign for Jewish claimants seeking the return of property in those countries.

A delicate issue which arose was “heirless property,” i.e., works of art and other objects looted from Jews for which no living heirs could be found.

Israeli speakers, such as Colette Avital, chair of the Center Organization of Holocaust Survivors in Israel, and Shlomit Steinberg, a curator at the Israel Museum in Jerusalem, suggested that art found to be heirless might eventually be sent to Israel.

Reading from a declaration passed in Israel in October, Avital noted that “we strongly believe that it is incumbent upon us to perpetuate the memory of the cultural life of the destroyed communities of which the looted works of art and sacred objects are part.” She also called on museums “to allow in the meantime unclaimed looted art stored in museums to be temporarily loaned to and exhibited in museums in Israel and around the world. These works should be displayed with appropriate explanations of the circumstances of their looting.”

“We urge countries and museums,” she added, “to make a firm commitment to take the appropriate steps to return the works of art that are so loaned for exhibition to their rightful owners when claims for restitution are filed.”
Calling Nazi-loot heirless has been a matter of debate, with many rejecting the “heirless” term outright. The Israeli proposal for loaning objects, rather than selling them, addresses a problem that arose in 1996. Objects presumed to be heirless at that time, which were looted from Jews who were presumed to have been killed, were stored in the Mauerbach Monastery in Austria. Those objects were auctioned by Christie’s in Vienna, with proceeds going to the Jewish Community of Vienna. (The sale was the beginning of a historical shift in the auction houses’ attitude toward restitution of art looted during the Nazi Era.) After the 1996 auction, people claiming to be heirs appeared and questioned the decision to sell the objects.

“If the conference had any drama onstage, it came from the ceramicist and author Edmund de Waal, a rare poetic voice in the field of restitution.”

If the conference had any drama onstage, it came from the ceramicist and author Edmund de Waal, a rare poetic voice in the field of restitution. De Waal spoke of the impending “eve of departure,” of those with a memory of life before the Holocaust. Speaking without notes (rather than reading a prepared script, as most speakers did), de Waal said, “It is time to restitute our story.” Having recovered his family’s large collection of netsuke after the war, including the hare with amber eyes, which was the focus of his best-selling book by the same name, de Waal’s family recently sold 79 of those objects to benefit refugees in London, “because my father was a refugee child.”

The other almost 200 netsuke in the collection have been placed on a ten-year loan to the Jewish Museum in Vienna.

De Waal spoke of a third initiative, an exhibition that he curated at the Kunsthistorisches Museum in Vienna. “That is another kind of restitution. It’s saying that you don’t have to wait for the government, for the national museum, for the provenance researchers – who are extraordinary – for the lawyers, who sometimes are extraordinary, for all the people to line up their extraordinary documents, and make something happen. You can take the issue, you can take the power of the story back to where it belongs. … You can bring back loss and make it into something else. I can look at the Kunsthistorisches Museum in the face. I can look at its shadows, its institutional shadows, and say, “I restituted you, not you restituted me.”

De Waal received a standing ovation, the only one of the conference.

Yet de Waal’s novel and generous approach to restitution might not have satisfied claimants who were still waiting to recover their families’ property, as de Waal already had. For them, the “fair and just solution” was a promise still unkept, the part of the glass that remained unfilled.

Ronald Lauder put it simply in his opening remarks to conference participants: “In the United States, if a person is holding a stolen object, he is just as guilty as the thief who grabbed it in the first place. Nazi-looted art in Europe should be no different.”
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