

A TEACHER'S GUIDE TO THE HOLOCAUST

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In Support of Principles on Nazi-Confiscated Art

I have been impressed -- indeed I have been almost overwhelmed -- by the way this conference has evolved so far. We have moved from sadness and moral outrage, through a clearheaded definition of the issues and the problems, to a strong determination to resolve the issues, with more and more countries committing themselves to doing far more than what has been done up to now.

This is especially true as regards art. I was immensely pleased yesterday afternoon, when the chairman of the Russian delegation in effect opened a new chapter in restitution for his country. And immensely gratified as one delegation after another has committed itself to the principles of open archives, a full accounting, and international cooperation in helping victims and their families find lost art.

The U.S. Government is very hopeful that out of the discussions of today and yesterday will come a consensus on broad principles that can guide us down this road. There are some difficult steps to take, but I hope we can take them in a spirit of mutual respect and cooperation among all nations and all concerned institutions.

After we announced at the London Conference on Nazi Gold that the United States would host a follow-up conference on other Nazi-confiscated assets and that art would have a prominent place on the agenda, the U.S. Government surveyed what was being done by various countries and other interested parties both in Europe and in this Hemisphere. We noted the actions being taken by a number of countries, such as France and the Netherlands, to identify Nazi-confiscated art and, in the case of Austria, to provide a comprehensive solution by which art can be returned to pre-war owners, notwithstanding former legal barriers such as the statute of limitations.

Several weeks ago, we prepared a discussion paper of [11 general principles](#), which was used as the basis of extensive consultations

and which all of you have today. These principles are not, in themselves, a solution. They are a means by which nations can fashion their own solutions consistent with their own legal systems. The principles try to capture the spirit of this conference for nations engaging in this task.

If these principles are properly applied, the discovery of Nazi-confiscated art will no longer be a matter of chance. Instead, there will be an organized international effort -- voluntary in nature but backed by a strong moral commitment -- to search provenance and uncover stolen art. This effort will be undertaken by governments, NGOs, museums, auctioneers and dealers.

Claimants who have long been ignored will be encouraged and actively assisted in making claims. Those who research claims will no longer find that files are closed. There will be open archives everywhere in the world, easily usable by researchers.

Informed by these principles, issues of ownership will no longer be decided solely by endless, expensive, winner-take-all litigation. Instead, there will be enhanced opportunities for mediations, arbitrations, and negotiated settlements, so that the art world and cultural exchange will be steadily freed from the taint of Nazi confiscation.

And let me add that, in light of the announcement yesterday by the Russian Federation that it will participate in developing a database, open its archives to researchers, extend the period in which Holocaust survivors can apply for return of their art under legislation passed by the Duma, and support the 11 principles suggested to this conference, I am confident that some of the greatest collections in the world will be returned to their rightful owners and a vast storehouse of information about other works will open up.

The first three principles envision a massive cooperative effort to trace this art. We call upon museums to search the provenance of their holdings; on governments to open up their World War II and related archives to private researchers; for commercial galleries and auction houses to seek information, document, and make available what information they have. It is important to locate what was confiscated. It is equally important to know what was not confiscated, or what was restituted to the pre-war owners. The taint of "stolen art" should not be applied to works that do not deserve it.

Researchers in Switzerland, Austria, the Netherlands, and France are at work today tracing the provenance of artworks in their national collections. The international auction houses have redoubled their provenance investigations. Non-governmental organizations have launched projects to find lost art and help survivors and their families in the painful task of remembering what they owned and when and how it was seized. The guidelines issued by the American Association of Art Museum Directors and the Museum Directors Conference of the United Kingdom call for institutions to research their collections and make them available as well to outside researchers. All these practices consistent with these principles. More and more nations are adopting them.

The fourth principle deals with gaps and ambiguities in the provenance of works. The vast displacement of art, the destruction of many records, and the furtive nature of the international market during the War mean there must be some leeway in establishing provenance.

Where there is no bill of sale, a diary entry or an insurance listing might be acceptable evidence of pre-war ownership. If a work is not on a Nazi confiscation list, it may be in the archive records of the Monuments and Fine Arts Commission or the secret inventories of the French Resistance, or in other archival collections. Conversely, there may be circumstantial evidence that works were not stolen but sold at market, or restituted to families and subsequently sold. Provenance work is not easy. But I can say from experience that neither was it easy to trace the movement of Nazi gold. Some said it would be impossible. Yet in 2 years of hard work we were able to do it, as was the Swiss Bergier Commission.

The next three principles -- numbers 5, 6, and 7 -- deal with publicizing the information and encouraging resolution of the issues. They include circulating photos of the art and information about it everywhere in the world, through the traditional media and on the new electronic media. Maximum publicity will tell survivors and their families if their art still exists. It will also tell the international art community if questions still exist about a given work. I applaud the Government of France for its initiative in displaying on the Internet a portion of the unclaimed art restituted to France by the Allied military authorities--the so-called MNR collection. An impressive number of other nations and non-governmental organizations are also preparing databases and their own web sites.

The Internet is a powerful tool, but as anyone who uses it knows, it can be overwhelming. With that in mind, we suggest the eventual establishment, as a cooperative project, of a central registry--in effect, a digital "collecting point"-- of information about Nazi-confiscated art. This will greatly help museums and collectors avoid acquiring stolen objects and assist the victims of the theft in locating their losses.

A number of countries and institutions are making the details of their archival holdings and access information available on their dedicated web sites. The U.S. National Archives and Records Administration has placed its finding aid to Holocaust-era art on the Internet. We encourage all governments, museums, art dealers and other institutions to join in this effort. On-line repositories could include lists of losses that have not been restituted; lists of unclaimed items, and information that will help individuals research and make claims. They should be linked for easier access. In posting information on the Internet, institutions should bear in mind the benefits of adhering to common standards. For example, Object I.D., which is already gaining world-wide acceptance and is available in many languages sets forth minimum descriptive data for uniquely identifying a work of art.

After existing art works have been matched with documented losses comes the delicate process of reconciling competing equities of ownership to produce a just and fair solution--the subject of the eighth and ninth principles. We can begin by recognizing this as a moral matter -- we should not apply the ordinary rules designed for commercial transactions of societies that operate under the rule of law to people whose property and very lives were taken by one of the most profoundly illegal regimes the world has ever known.

In this regard, the U.S. Government applauds the courageous decision of the Government of Austria to return art held in its federal museums and collections to surviving pre-war owners and their rightful heirs notwithstanding legal defenses. We hope other European

governments will follow Austria's example in their own way, so they can complete the restitution process their predecessors left in abeyance after the war.

The leadership of the art world is moving in the same direction. The Art Dealers Association of America has flatly stated its members will not knowingly purchase or sell Nazi-confiscated art. The guidelines of the Museum Directors Associations, in both the United States and the United Kingdom, call on museums not to acquire such art until ownership questions are resolved.

Practices such as these recognize that the public enjoys works of art because they represent the highest achievements of our civilization. They are proud of their museums and public collections. They do not want this pride to be clouded by unresolved claims of the Holocaust.

And as the desire to do justice grows stronger we hope that collectors of art will use the Internet to look at their holdings, and then look into their own hearts and decide what to do. They may follow the example of two families in Brazil. One owned a Picasso, the other a Monet. Knowing these works had passed through a wartime dealer notorious for his dealings with the Nazis, they voluntarily put them at the disposal of the Jewish community of Sao Paulo pending discovery of the rightful owners.

To illustrate the eighth principle, that solutions should be flexible and just, I commend to you the recent settlement of the disputed ownership of a painting by Degas, "Landscape With Smokestack." The claimant family produced a fairly clear record of ownership. The owner had paid full value with no knowledge of the wartime provenance. Both were in a position to wage a legal battle that could have gone on for years. Instead, they settled on partial payment for the family and donation of the work to the Art Institute of Chicago, where the public could enjoy it and a label accompanying the work acknowledged both parties. Art claims do not have to be winner-take-all propositions, which produce prolonged struggles in the courts, and drain the resources of both parties. In an atmosphere of good will, a wide range of solutions is there to be found.

And there are additional opportunities when the original owner is found to have died without heirs, the subject of the ninth principle. The art could be sold with the proceeds going to victims of the Holocaust and Jewish communities around the world. Or it could be displayed in museums and identified in ways that educate the public about the cultural losses of the Holocaust.

The tenth principle states that to ensure objectivity and to enhance public confidence in their work, national commissions in this field should have members from outside the government, such as art experts, historians and representatives of communities which were victims of the Holocaust and, where appropriate, distinguished persons from other countries.

The final principle -- which I suggest today for the first time -- speaks to the need to give the other principles vitality. Nations should take specific measures to apply these principles so they can more quickly accomplish our mutual goals. For example, they should strive to develop internal processes, making use of alternative dispute resolution mechanisms, to reconstitute looted property.

While the proceedings of the conference will be published shortly, they will remain open until the end of the millennium so that nations may submit reports on the progress they have made to put these principles into effect.

In conclusion, the important test for any country today is not only what it did or failed to do in the past, but what it is doing and will do to face the past honestly and make amends for what was done. The U.S. Government supports these principles as an action plan to resolve a difficult, longstanding, embarrassing problem. I urge the delegates to this Conference to form a consensus around them so that the enthusiasm we have generated can result in real action.

The American philosopher Ralph Waldo Emerson once said "every genuine work of art has as much reason for being as the earth and the sea." It is to cap the glory of art with the crown of justice that we try to finish our work today.

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