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Theft Of Art During World War II: Its Legal And Ethical Consequences

THE AFTERMATH OF NAZI ART LOOTING IN THE UNITED STATES AND EUROPE: THE QUEST TO RECOVER STOLEN COLLECTIONS

Hector Feliciano

The Lost Museum - The Nazi Conspiracy to Steal the World's Greatest Works of Art chronicles the paths and collections of several influential Jewish families and art dealers whose art was looted by the Nazis during World War II. The Lost Museum details the history of several major collections and the attempts by the descendants to reclaim the looted art. This article is a brief introduction to the history surrounding these events and further

1 This article is based on an address that Mr. Feliciano delivered at the DePaul-LCA Journal of Art and Entertainment Law's 1999 Symposium held on October 14th at DePaul College of Law. The Symposium was entitled "Theft of Art During World War II: Its Legal and Ethical Consequences."

2 Since 1996, Hector Feliciano has been Editor-in-Chief of World Media Network, a European newspaper syndicate, based in Paris, that jointly publishes cultural supplements for 23 newspapers throughout Europe. For his most recent book, The Lost Museum - The Nazi Conspiracy to Steal the World's Greatest Works of Art, Mr. Feliciano spent more than seven years tracking down the story of Nazi art pillaging. Further, Mr. Feliciano has located more than two thousand missing or unclaimed artworks in museums, galleries, collections and auction houses in the United States and Europe. Mr. Feliciano holds a Bachelor's degree in History from Brandeis University, a Master's degree in Journalism from Columbia University, and a Doctor of Philosophy degree in Comparative Literature from the University of Paris. He is currently a National Arts Journalism Fellow at Columbia University.

discusses the most recent developments in the family’s attempts to reclaim their works of art.

I. INTRODUCTION

Initially, it is important to note that Hitler, among all of the dictators of his time—i.e., Stalin, Mussolini and Franco—was the only one who considered himself a true artist. As an adolescent, he twice attempted to enroll in the School of Fine Arts in Vienna. Unfortunately, he failed. Hitler also tried to enroll in the Vienna School of Architecture. Again he failed. It is important to consider this fact when thinking about art theft during the World War II for the looting performed by the Nazis reflected Hitler’s appreciation for art. Their systematic approach toward looting demonstrated that the Nazis knew exactly what they were doing. The Germans were extremely organized and meticulous in assembling their looted art inventory.

German art history scholars prepared the looted inventory by ensuring that each collection was individually coded for identification purposes. For example, the Rothschild collection, coded by the letter "R," ranged from R1 to R5,002. In the case of the Alphonse Kann collection, the code was “KA,” and ranged from KA1 to KA1,202. This identification process was necessary as evidenced by the fact that 203 private collections, over 100,000 artworks, were confiscated in France alone.

Hermann Goering, a top official in the Nazi Party who acquired an impressive art collection himself, frequently pursued looted paintings. He would routinely visit the inventories of looted art, selecting works to keep for himself. Interestingly, a photograph exists portraying Goering as a caricature of himself. In the photo, Goering is looking at a looted painting with another man—a meticulous art historian who was in charge of the art confiscation center. In the background, a gentleman can be seen opening a vintage bottle of champagne. The mere fact that this occasion

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4 The Kann collection was particularly impressive. It contained over 25 works by Picasso, including the Harlequin which was subsequently purchased by the Museum of Modern Art after World War II from the Kann family.

5 Id. at C10.
prompted a photo opportunity indicates that this was a significant event. This suggests that the Nazis were far from ashamed of what they were doing. To the Nazis, looting artwork was not stealing, rather artwork was ordinary bounty due the victors of war. Hence, this simple photograph reveals the brutality of the looters.

II. THE ROTHSCHILD COLLECTION

*The Astronomer* by Vermeer is a painting that belonged to the French descendants of the Rothschild family. Hitler desperately wanted this painting because it belonged to the Flemish school. The Nazis held the Flemish school in high esteem because of the significance it placed on German and Germanic art. The Nazis considered German and Germanic art as the pinnacle of art history. Germanic art included both Dutch and Flemish works including pieces by Vermeer, Rembrandt, Van Eyck and Rubens. When the Nazis looted these types of works, they handled them very carefully. For example, *The Astronomer* was found at one of the Rothschild mansions near Paris. It was then taken to the Jeu de Paume. From the Jeu de Paume, it was taken to Germany where it was safeguarded. Compare this conduct to how the Nazis handled "degenerate art."

The Nazis bartered what they considered degenerate art in exchange for any type of German or Germanic art. They would do this even if the German pieces were in very bad condition or were anonymous. Even if a piece was considered only slightly German or Germanic they would trade three Picassos, two Matisse, or two Bonnards in exchange for the degenerate art. The Nazis established a bartering currency rate that is very astonishing to us today. As soon as a piece of degenerate art was looted, they would immediately send it to the Paris art market or to Switzerland to be sold or traded. This is why these works are accessible all over Europe, the United States and Asia today.

6 Jeu de Paume was a Nazi looted art depot.
7 The Nazis regarded any work by a modern artist—Picasso, Matisse, Max Ernst, Léger and Braque—as degenerate art.
Interestingly, the Nazi’s meticulous method of inventory has assisted in finding many lost paintings. For example, each of the 5,000 pieces in the Rothschild collection was inventoried in detail, many pieces also being photographed. In fact, photographs are usually the best tools available to track down works of art.

III. THE GOODMAN COLLECTION

*Landscape with Smokestacks* by Degas is part of the Goodman Collection that is now located at the Art Institute of Chicago. Fritz Goodman, a Dutch banker, owned the collection. Prior to the outbreak of World War II, he sent part of his collection to Paris for safekeeping. Goodman continued to send paintings to Paris during the course of World War II. *Landscape with Smokestacks* was among those paintings sent to Paris. This painting disappeared during the War. It reappeared, however, at an exhibition at the Art Institute of Chicago, among other Degas landscapes. The Goodman family surprisingly stumbled across the painting while paging through the Degas exhibit catalog prepared by the Art Institute of Chicago. The painting did not actually belong to the Art Institute of Chicago, but was owned by Daniel Searle, a Board of Trustees member at the Art Institute. Upon discovery of *Landscape with Smokestacks*, the Goodman family made a claim to repossess it from Mr. Searle. After a barrage of legal volleys between the Goodman family and Mr. Searle, a trial date was set in Chicago, Illinois to resolve the question of ownership.

The Goodman family asked if I could intervene to help reach a settlement. The painting had been purchased by Mr. Searle for $850,000. At the time the Goodman family contacted me, they had already spent over $200,000 on legal fees—almost one quarter the value of the painting. I approached James Wood, the director of the Art Institute, and asked if he would be willing to join me as a third party in the case to see if a settlement could be reached. A settlement proposal had previously been proposed between Mr. Searle and the Goodman family. For whatever reason, however, the parties had been unable to reach an agreement prior to my intervention. Fortunately, we were able to eventually settle. In the settlement agreement, the Art Institute acquired the painting from
Mr. Searle for half of its estimated value. The Goodman family received a possessory interest in the other half of the painting's value, and Mr. Searle received a tax credit. A strong motivating factor for the parties to reach a settlement was the approaching trial date. 8

IV. ROSENBERG COLLECTION

Another case of looted artwork involved the Odalisque by Matisse. The Nazis looted this painting from Paul Rosenberg’s private collection. Paul Rosenberg was a very well known art dealer during the 1920's and the 1930's. He was the exclusive art dealer for Picasso and Braque, and later on for Léger and Matisse. During the war, Mr. Rosenberg hid part of the collection in a bank in southwestern France. Unfortunately, the Nazis looted this painting and took it to the Jeu de Paume where it was either sold or bartered.

A well known New York art dealer, Knoedler Art Company, brought the Odalisque into this country and sold it to a Seattle family. The way the Rosenberg family discovered the Odalisque is quite remarkable. The granddaughter of Paul Rosenberg took my book, The Lost Museum, to a reception one Sunday in the New York City area. She inadvertently left the book sitting on a table. A gentleman at the reception noticed the book and began paging through the illustrations. He saw the photograph of the Odalisque and claimed he knew of its whereabouts. It belonged to his grandfather who donated it to the Seattle Art Museum. He immediately told the granddaughter, who then called me. We called the Seattle Art Museum and requested a slide of the painting. The museum sent a black and white photo taken either by the Nazis or by the Paul Rosenberg himself.

The Bloedel family in Seattle purchased the Odalisque and later donated it to the Museum. The Rosenbergs presented a claim for repossession to the Seattle Art Museum. The Museum did not

8 Landscape with Smokestacks is quite beautiful. A whole generation of Goodmans had never seen the painting until the unveiling ceremony hosted by the Art Institute of Chicago.
reject the claim outright, rather the Museum waited until it was determined exactly what the Knoedler Art Company knew about the painting’s stolen origin at the time it sold the painting to the Bloedel family. The Seattle Art Museum originally intended to sue the Knoedler Art Company in New York claiming that Knoedler knew that the painting was stolen at the time of the sale to the Bloedel family. After a year of correspondence between the Rosenbergs and the Seattle Art Museum, the Museum asked the Rosenbergs to file suit against the Museum. In turn, the Seattle Art Museum sued the Knoedler Art Company. The Rosenbergs’ lawyer, tired of waiting, sought summary judgment in order to return the painting to the Rosenbergs. This move motivated the Seattle Art Museum to immediately conduct an extraordinary meeting of the Board of Trustees which decided unanimously to return the painting to the Rosenbergs. Again, the pressure of an approaching trial motivated a private agreement between the disputing parties.  

V. THE SCHLOSS COLLECTION

The Schloss family collection consisted of 333 pieces of German and Dutch art and was highly sought after by the Germans. The Schloss family had the collection relocated and hidden in central France by a moving company at the start of the War. The Nazis interrogated dozens of moving company drivers in an effort to locate the art. After three years of interrogations, the Nazis were finally told the whereabouts of the hidden collection. The informant, a French art dealer, received twenty percent of the collection in kind. This was common practice for the Nazis. They typically maintained a percentage of the commission in kind to compensate those who helped them—a finder’s fee of sorts.

Every item in this collection was stolen, including numerous books. Today, approximately 150 to 160 pieces are still missing. The problem is that the value for any single painting in this collection ranges between $300,000 to $800,000. Since, the

9 Upon repossession of the painting, the Rosenbergs eventually sold the *Odalisque* to a Las Vegas hotel.

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litigation expenses incurred to retrieve a painting are so high, it
deters the Schloss family descendants from attempting to recover
the entire collection.

A Frans Hals painting was looted from the Schloss collection in
France. It was first taken to Paris and later moved to Germany
where it disappeared. In 1967, the painting reappeared at a Park-
Bernet auction (which later merged with Sotheby’s Auction
House), a New York action house and was sold. The auction
catalog mentioned nothing about the painting’s history. Between
1967 and 1989, the painting exchanged hands between several
auction houses in New York City. Only once during this time did
an auction catalog mention that this painting had been looted by
the Nazis. This is a glaring omission when one considers that the
Catalogue Raisonné, specifically dedicated an entire paragraph to
the fact that this painting was looted by the Nazis in 1944 and that
its origin is unknown. In the four exchanges between Sotheby’s
and Christie’s, the fact that this painting’s origin is unknown is
mentioned only twice. It is questionable whether an auction house
actually reads the Catalogue Raisonné before buying or selling a
work of art.

Unaware of the painting’s shady past, the Newhouse Galleries in
New York purchased the painting in 1989. The Newhouse Galleries proceeded to show the painting at a Paris auction. A
Schloss family member noticed the painting at the auction and
called the police. The painting was subsequently seized in Paris.
Christie’s, the last seller, became a party to the lawsuit. Ten years
later, the dispute over the painting is currently before the court of
cassation, the highest appellate court in France. A decision is
expected soon.

VI. THE KANN COLLECTION

Alphonse Kann had several manuscripts looted from his
residence. I was able to track them down to the Wildenstein
Gallery in New York City. In 1997, the Kann family notified the
Gallery and asserted their possessory rights in the manuscripts.
The Wildenstein Gallery rejected their claim stating that the
manuscripts were purchased before the War.
Concomitantly, a book dealer asked James Marrow, an art historian from Princeton University, to go to New York City and examine a series of manuscripts that were for sale at the Wildenstein Gallery. Mr. Marrow did not know about the Kann family’s claim on the manuscripts. Upon examination, Mr. Marrow realized these manuscripts were magnificent and had not been seen for decades. Further inspection uncovered a code “KA” along with a number on the underside of each manuscript’s front page. Not knowing what the “KA” code meant, he asked members of the Wildenstein Gallery who were unable to help him. Mr. Marrow eventually contacted another expert who told him that these manuscripts had been stolen by the Nazis from the Alphonse Kann collection. Mr. Marrow proceeded to inform the Kann family that the manuscripts were being offered for sale. The Wildenstein Gallery claimed the attempted sale of the manuscripts was merely coincidental with the Kann family’s claim for repossession. The Kann family recently filed suit against the Wildenstein Gallery for $50,000,000 or the return of the manuscripts.10

VII. THE UNCLAIMED COLLECTION

I recently found a painting by Léger in the Pompidou Center. Recall that work by Léger was considered degenerate art by the Germans. It is therefore apparent why the Germans returned this work to the French. Researching the history of the painting, I noticed a reference to a book by Rose Valland, an art historian during the Nazi resistance. The Valland book contained a photograph of the back room of the Jeu de Paume. The photograph revealed works from Picasso, Matisse, and Léger. With the systemic inventory method of the Germans, an inventory of the paintings in that back room certainly existed somewhere. I eventually found this inventory at the National Art Gallery in Washington D.C. The owner of the Léger painting was Leon

10 The trial should proceed sometime in 2000. Mr. Marrow and I will testify as experts for the Kann family.
Rosenberg, the brother of Paul Rosenberg. The Rosenberg family has subsequently sought to repossess this painting.\textsuperscript{11}

\textbf{VIII. CONCLUSION}

Four hundred unclaimed paintings hang in the Louvre; 100 are at the d’Orsay; and 40 others reside at the Pompidou Center. In total, approximately 2,000 unclaimed paintings currently occupy French art museums. Unclaimed sculptures stand in the Elysee Presidential Palace as well as in the Prime Minister’s dressing room. Most regrettably are those artworks that will never be found. We can only hope that one day the devastation brought by the Third Reich will finally come to an end.

\textsuperscript{11} Other paintings I have found include a Cubist painting by Klee at the Pompidou Center, sold by the Kann family in order to pay the legal fees for repossessing other pieces of art; Courbet’s \textit{The Cliffs of Etretat, After a Storm} located at the d’Orsay museum; a painting by Boucher, located at the Louvre; and a work by Picasso located at the Pompidou Center currently in the legal process of repossession by the Kann family.