An Update on Holocaust Restitution Cases

While recognizing the justice being served in the return of masterpieces looted or forcibly sold during World War II to heirs of the Jewish gallery owners and collectors whose walls the paintings once adorned, it is still possible to lament both the narrative being conveyed about the Holocaust—the very wealthy losing material objects which, however rare, do not remotely approach the cost in human lives—and the tragedy of the works being removed from the public eye and sold for staggering prices to private collectors. While this is an academic review, it is important, in this discussion, to pay particular attention to popular media, because, for better or for worse, public discourse has affected political discourse. On whichever side of the restitution tug-of-war one finds oneself, public perception can be a very powerful force. Museums, even if they are strictly speaking acting appropriately on the basis of the letter of the law, may come under fire in mainstream publications for underappreciating the spirit of the law, while heirs trying to reclaim works, if they are not careful, can quickly be painted in the media as greedy philistines.

Much ink has been spilled lately over what is often front page news about works and collections being restored to heirs and the inevitable court cases surrounding those returns. Robin Cembalest, Executive Editor of ARTnews, has, over the past few years, consistently produced valuable investigative stories about all aspects of the restitution cases, most notably the high profile story of Maria Altmann (1916–2011), a niece of collector Adele Bloch-Bauer (1881–1925), who successfully secured the return from the Austrian government of five paintings by Gustav Klimt (1862–1918), which had been stolen from Bloch-Bauer’s husband Ferdinand (after Adele’s death).

Although most of the literature on the subject does not address Talmudic principles, one of the major factors in rabbinic literature, particularly the Talmud, in the legal calculus that determines when lost and stolen properties must be returned to the original owners is the concept of ye’ush (e.g. Baba Metzviya 21a), roughly “despair.” If the original owner loses hope of ever securing the object’s return, the object, in certain cases, belongs to the current owner. Sometimes, however, the objects in question are so valuable—even priceless—that they are not easy to forget. Can one ever forget a collection of more than a thousand valuable paintings, such as the one that the Dutch art dealer Jacques Goudstikker (1897–1940) lost to the Nazis? Jewish collectors and art dealers, whose troves of Rembrandts and Pissarros were looted by the Nazis or forcefully sold at far below market prices, were not about to forget their collections. In many instances, their heirs are still fighting in court to retrieve the works, whether from public or private collections, despite the U.S. State Department-supported 1998 Washington Conference on Holocaust-Era Assets and the 2009 Terezin Declaration on Holocaust Era Assets and Related Issues.

The story that emerges from Melissa Müller and Monika Tatzkow’s Lost Lives, Lost Art: Jewish Collectors, Nazi Art Theft, and the Quest for Justice and Peter Sutton’s Reclaimed: Paintings from the Collection of Jacques Goudstikker is one of very wealthy collectors, whose lavish lifestyles were dashed to pieces almost literally over night. Müller and Tatzkow note (205) that Louis von Rothschild (1882–1955), after the death of his father Baron Albert von Rothschild (1844–1911), who collected works by, amongst others, the Dutch landscape painter Meindert Hobbema (1638–1709), was asked about the value of his palace. “How much is St. Stephen’s Cathedral worth?” he was rumored to respond.

Writing in an afterword, Gunnar Schnabel, a lawyer who co-wrote Nazi Looted Art: Art Restitution World-Wide (Berlin: Proprietas-Verlag, 2007) with Tatzkow, notes that many books and articles on Nazi art looting have appeared since the mid-1990s, but thousands of works still appear in state museums and private collections. “It is still usually up to the claimants themselves to take the initiative,” Schnabel writes, “to undertake costly and time-insensitive research, to conduct restitution negotiations that may drag on for years, or to file a lawsuit in order to at least partially rectify the prolongation of injustices.
committed decades ago”. Schnabel applauds the “incremental steps” that are being taken, but stresses the urgency of the work ahead: “Numerous cases around the world remain unresolved.”

However important Müller and Tatzkow’s research is—and it’s hard to feel anything but sympathy for the victims and their heirs—Tyler Green, writing in the Wall Street Journal is not wholly impressed:

Though the authors deftly summarize restitution efforts regarding each particular collector or family’s artworks, they uncover little new information, and the vignettes about the art that their subjects owned are cursory and narrowly informed. Most entries seem designed to rouse a sympathetic emotional response—reducing their subjects to a sentimental, what-wonderful-people-they-were sameness—rather than to present a broad view of Jewish participation in Europe’s 20th-century avant garde.

But Green reserves his most passionate criticism for New York Times critic Michael Kimmelman, who accused Altmann of “cashing in” by selling the Klimt paintings she obtained from the Austrian government in 2006, instead of donating them to a museum. “A sensible reaction to this happy news might have been to celebrate that the heirs were finally, belatedly free to do with their property whatever they liked,” writes Green, but Kimmelman criticized Altmann instead. “If such a prominent observer can still deride great Jewish patrons of the arts as greedy collectors, any attempt to provide a fuller understanding of who they really were is welcome,” Green says.

Lest anyone accuse Green of taking Kimmelman out of context, the latter’s response in the New York Times begins, “How sad—if unsurprising—to hear that the heirs of Ferdinand and Adele Bloch-Bauer are indeed cashing in, as planned, and selling four Klimts at Christie’s in November.” But Green’s criticism of the layout and images in Lost Lives, Lost Art—that they “often seem a bit like pages torn from Vanity Fair”—ought to extend to the rest of the work as well, and indeed to Holocaust studies in general. All too often, unfortunately, the importance of the message—and there are few subjects more essential and important than Holocaust memory—comes at a great expense of the medium. When one tries to evaluate the significance of a painting of Auschwitz, it is difficult to cling to the same critical vocabulary that one uses to contextualize Monet’s water lilies. “I’m in a life and death struggle,” Archie Rand told me and art critic Richard McBee in a conversation at the Yeshiva University Museum in 2004, in which he stubbornly insisted his paintings are Jewish art precisely because he authored them that way. “What do I care about a specific red?” Rand’s works stand on their own, but his statement about a change in perspective and vocabulary when one is wrestling with issues larger than floral arrangements and donor portraits is a vital one. Art, even if it tackles the most terrifying and terrible of subjects, needs to be addressed as art. Choosing an ambitious—even necessarily elusive—subject matter cannot be a shortcut and a smokescreen that evades authentic critical analysis.

Müller and Tatzkow’s fifteen chapters tell of immensely wealthy collectors who tried in vain to protect their collections. On the one hand, Ferdinand Bloch-Bauer wrote to the painter Oskar Kokoschka on April 2, 1941, “They took everything from me in Vienna. I was left without even a memento” (156). But the book doesn’t really respond to the position articulated by Salomon de Rothschild (1744–1855) to his younger brother James (Jakob) (1792–1868). “Too conspicuous, Jakob!” he wrote. “By showing off your wealth, you’re stirring up anti-Semitism.”

That is not to say that Jewish collectors are in any way guilty because of their financial success. However much some of them showed off their wealth, they had the right to do so, and many of their peers of other faith groups certainly displayed their wealth with unrestricted glee. But it is a missed opportunity that neither Müller and Tatzkow’s Lost Lives, Lost Art nor Sutton’s Reclaimed seriously entertains the possibility that there is a tradeoff involved in the restitutions. It might very well be the case that justice is served if and when every work is returned to heirs of its previous owners, but that justice comes at a price. There is no Solomonic possibility of divvying the paintings up and sending one part

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1 Gunnar Schnabel and Monika Tatzkow, Nazi Looted Art: Art Restitution World-Wide (Berlin: Proprietas-Verlag, 2007), 237.
2 Tyler Green, “Patrons of the Arts, Victims of the Nazis,” Wall Street Journal (October 30, 2010).