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Looted Art and Its Restitution:

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Throughout history, soldiers have claimed the spoils of war, and the plunder and sacking of cities has been as common as the practice of forcibly requisitioning food from the countryside. Cultural property has always taken a special place in the debates that have raged about these and other customs of war since the Ancient World. In this lecture, I want to explore some of the reasons why conquering armies have so often made a point of looting art objects from the places they have invaded, what efforts have been made to control or abolish this practice, how the nature of cultural spoliation has changed in the recent past, and how it is being dealt with in the present and might further be dealt with in the future.

The history of art looting is a very long one. It begins perhaps with Jason and the Argonauts looting the Golden Fleece – although no doubt the Classicists among you can think of earlier examples, this is probably the most famous one; and it continues with the habit of the Romans of looting art from conquered cities in order to parade it through the streets of Rome in the ceremonial procession of the Roman Triumph before putting it on display in the forum. In Byzantium the Hippodrome was adorned with looted art, and during the Fourth Crusade in 1204 the city itself was in turn looted by the Crusaders, with large amounts of cultural booty taken back to Venice to adorn the cathedral of St Mark, most notably of courses, the four gilded horses of the Apocalypse which remain in the city to this day. During the Thirty Years' War, Swedish troops looted libraries across Europe to stock the university library at Uppsala; in other examples, such as the sack of Magdeburg, wanton destruction as well as theft of riches was carried out by individual soldiers for their own personal enrichment. Magdeburg in fact caused widespread shock and dismay across Europe; while Early Modern lawyers such as Grotius conceded that provided a war was being fought for a just cause, any property seized from the enemy became the property of the individual or state that took it, they also urged moderation and also insisted that soldiers needed the express permission of their commanding officer before engaging in looting of any kind.

Private looting indeed has always gone on side-by-side with state-sponsored spoliation, but it has also aroused more disapproval. Most notorious of all was Thomas Bruce, seventh earl of Elgin, British Ambassador to the Ottoman court, who obtained permission from the Sultan to take away old pieces of stone from the Parthenon in Athens, then under Turkish rule, which he and his team

did with such enthusiasm – and carelessness, breaking several of the sculptures in the process – that several shiploads returned with them to Britain, where he intended to decorate his home with them. They were only the best-known of a vast series of acquisitions of ancient archaeological remains, many of which were taken from territory occupied by the Ottoman Empire by purchase or agreement with the Ottoman authorities, often achieved through the use of bribery. Even at the time, Elgin's action ran into widespread criticism, in England as well as from the nascent Greek independence movement supported by Byron with some of his most biting satirical verses. Defenders of such acquisitions argued above all that they would not be safe if they remained *in situ*, since local people were already quarrying many of these sites for building materials; critics, that the remains were far more seriously damaged by those who took them to pieces in order to carry off the most valuable parts.

Cultural looting on the grand scale, with the plundered objects appropriated for public display in the victorious capital, was in the ancient world an act of state designed to advertise the supremacy of the victor and underline the humiliation of the defeated. Here, these displays said, was a great power whose generals could defeat rich and well-resourced rival powers; they advertised both to the victorious state's own citizens the rewards that could be gained from military conquest, and to the rest of the world the inadvisability of coming into conflict with a state of such power and magnificence.

By the nineteenth century, however, such rationalizations had been joined by the claim of the acquiring country to be the true heir of Classical civilization, whose legacy permeated the minds of educated elites across Europe. This influence was nowhere greater than in Revolutionary France, where Napoleon's victorious armies began concluding a series of treaties with conquered states across Europe, notably the Treaty of Tolentino, signed by the Pope in 1797, that allowed them to appropriate artworks to stock the Louvre Museum, founded in 1793 and later renamed, if only relatively briefly, the Musée Napoleon. The loot carried off to Paris from all over Italy included the four horses of the apocalypse from St Mark's in Venice, and scores of ancient Greek statues, which entered Paris in a Roman-style triumphal procession, accompanied by banners that read: 'Greece relinquished them, Rome lost them, their fate has changed twice: it will never change again.' They were joined by Renaissance paintings, by live camels and lions, and by the entire Papal archive. All this underlined the claim of Paris to be the new Rome. Only the French, it proclaimed, were civilized enough to appreciate such treasures.

While the looting of European culture was now frowned upon, toleration and even enthusiasm greeted the acquisition of cultural object from other parts of the world. During the French invasion of Egypt in 1798, for instance, large quantities of antiquities were collected by a team of 167 scientists, scholars and artists shipped over to Africa by Napoleon; and when he was defeated, the British claimed the collection as booty, validated by the Treaty of Alexandria, and put it in the British Museum, where it remains, including the famous Rosetta Stone. No-one seems to have objected.

But after Napoleon's defeat at the Battle of Waterloo, the Duke of Wellington did not claim the objects taken from Italy and placed in the Louvre for the British Museum. On reaching Paris, the Prussian army took back the art looted from them by force, and Wellington, resisting pleas from the

Prince Regent to purchase some of the finer pieces for the royal collection, decided to arrange for the rest to be returned to the 'countries from which,' he wrote, 'contrary to the practice of civilized warfare, they had been torn during the disastrous period of the French revolution and the tyranny of Napoleon.' 'The same feelings which induce the people of France to wish to retain the pictures and statues of other nations,' he added, 'would naturally induce other nations to wish, now that success is on their side, that the property should be returned to their rightful owners.' In addition, he wrote, returning it would underline to the French the scale and finality of their defeat, while keeping it in Paris might encourage them to believe that they were still the rightful masters of Europe.

In the event, only about 55 per cent of the looted objects were returned; the rest had been sent out to provincial museums, beyond the ken of the occupying Allied armies. These events sparked widespread debate across Europe. Paradoxically, they led to a new determination by European states to found or expand museums and to send out expeditions to acquire ancient cultural artefacts, following the example of Napoleon rather than that of Wellington. This new development among others sparked for example the acquisition of the Elgin Marbles by the British Museum in 1816.

Nevertheless, Wellington's disapproval of military plunder did find an increasing number of supporters as the nineteenth century progressed. The Duke himself thought that plunder distracted the troops from the military operations at hand, and alienated the local population, which, as his experience in Spain had shown, it was very important to keep on one's side. This latter consideration played a significant role in the American Civil War, in which the Union was concerned to avoid lasting damage to universities, museums and their collections in the South, and ordered that 'classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places whilst besieged or bombarded.' This was the first formal recognition that cultural property was different from other kinds of property, and formed the basis for subsequent international declarations on the issue.

By this time, the idea that looting of cultural objects in wartime should be outlawed had gained strength as the rise of the nation-state brought with it a growing consciousness of the need to preserve the national heritage. European nations began to catalogue and protect their own heritage, and take steps to preserve what was increasingly regarded as the common European cultural heritage, above all in Greece and Italy. Even the destruction and looting of the Chinese emperor's summer palace in the Second Opium War in 1860 aroused widespread criticism in Europe. In 1874 the so-called Brussels Declaration on the laws and customs of war outlawed the destruction of enemy property unless it was militarily required. These principles were elaborated at the first Hague Conference in 1899 and enshrined in the Hague Convention of 1907, to which Germany was a signatory.

The Hague Convention explicitly banned what it called 'pillage', and declared that an occupying country must act as the trustee of the property and possessions of the state and citizens of the country it occupied. The problem was, however, that modern artillery warfare, high-explosive shells, and the sheer mass and weight of military hardware now available made indiscriminate bombardment of towns and cities far easier than ever before, while the advent of democracy and

mass nationalism had begun to transform the nature of warfare into a conflict not between professional armies but between whole nations and peoples, in which attacking the civilian population by means of economic blockade or, indeed bombardment from the ground or air was becoming tacitly accepted, even though in the state of military technology at the time, accurate pinpointing of targets to avoid cultural monuments was more or less impossible.

In the First World War, Zeppelins bombed London, and German bombardment destroyed the national Serbian museum in Belgrade. It proved impossible to stop actions such as the destruction of Louvain library by the German army in 1914 along with sundry other, less famous monuments. On the other hand, actual looting, and in particular the theft or removal of works of art, was carried out on a fairly limited scale during the First World War, at least in comparison to what came after. The stalemate on the western front ensured that there was little opportunity for the occupying Germans to acquire works of art illicitly – Paris was well beyond the German zone, for instance – and few examples seem to be known of theft on the more mobile eastern front. It seems likely that on the whole, military discipline held, minimizing individual acts of plunder, while the belligerent states did not follow the example of Napoleon and make cultural plunder a primary object of their campaigns.

In the Second World War, however, the situation changed dramatically. The war saw the plunder, looting and spoliation of cultural objects in Europe on a scale that dwarfed anything seen even in the French Revolutionary and Napoleonic period. Indeed, it already began as soon as the Nazis came to power in Germany. The upheaval of the First World War had opened up a new world of expropriation on a general scale, with the Bolshevik Revolution in Russia followed by the mass confiscation of private property of all kinds by the state, in the name of the Communist ideology of goods held in common by all citizens. In Germany the issue was raised by the Left in the Revolution of 1918, when it confiscated the property of the deposed German princes without compensation. Already as the issue became a topic of public debate with the princes' attempts to win their property back in the courts and a counter-proposal by the Left to hold a national referendum on the topic, the Nazis proposed instead the confiscation of what it called 'bank and stock market princes and other parasites of the German people', identifying these as Jews. The confiscation of Jewish property was also advocated in the 1928 addendum to the Nazi Party Programme of 1920 which made it clear that the speculators and profiteers slated for expropriation in the 1920 Programme were exclusively Jewish. Unlike the Bolsheviks, the Nazis promised to preserve private property and private enterprise in general. But from the very beginning, they did not rule out expropriation without compensation in certain well defined cases.

There were four fundamental ideological tenets that predisposed the Nazis to looting and theft. The first was that might was right, that in the struggle of all against all that Social Darwinism, at least in the version they believed in, prescribed as the fundamental law of human existence, the victor was justified in taking the spoils, the defeated had no rights either to property or even ultimately to life. Success justified anything. The fruits of this belief could be seen already on 2 May 1933, as on a prearranged signal, Nazi stormtroopers across Germany burst into Social Democratic Party and trade union offices, arrested the officials and threw them into concentration camps. The

stormtroopers looted the premises, carrying off with them not only whatever cash they found there, but also furniture, equipment and even in some cases beds and bed-linen. The Nazis seized the premises and property of the Communists and Social Democrats, only later passing a law making these actions legal. The moderate Marxist Social Democrats were enemies of the Reich; they had been defeated; what right did they have to any of this?

Nazi hatred of the Social Democrats and to an even greater degree the Communists dovetailed with a second central ideological belief, namely that the Jews, as an imagined collectivity responsible in the Nazi view for undermining German civilization and destroying Germany from within, had acquired such assets as they had by underhand, criminal means when it really belonged to the German people. Like the belief that might was right, this too was applied in Germany before the outbreak of war, above all through the process of so-called Aryanization, by which Jewish businesses were forced to sell up to non-Jewish buyers, often under duress and frequently below the market price. Following the nationwide pogrom of 9-10 November 1938, a huge financial penalty was imposed on the Jews, and many were expropriated; during the pogrom itself, indeed, low-ranking stormtroopers, SS men and Gestapo officials stole large quantities of personal possessions from the Jewish families whose homes and businesses they raided and trashed. Jews were loaded down with additional tax burdens, and subject from the very beginning of the regime to unco-ordinated but officially approved attempts to force them to emigrate and dispose of their property.

These two beliefs meshed with a third, namely that German culture was intrinsically superior to other cultures, so that inferior races such as for example the Slavs were capable neither of sustaining their own culture nor of properly safeguarding the products of other cultures, above all German culture. Thus German cultural artefacts had to be repatriated to Germany and taken out of the hands of subhuman Slavs. This policy applied even more strongly to the Jews, who were gradually deprived of the right to participate in German cultural life, attend concerts, visit museums and galleries, or even play or listen to German music, though Jewish orchestras were permitted to play to Jewish audiences the music of composers like Mahler and Mendelssohn whom the regime banned for the general, 'Aryan' public because it regarded them as Jewish. Such beliefs were reminiscent of the French view, under Napoleon, that only France had the right to safeguard European culture, but of course the Nazis took them much further, gave them a racial twist, and applied them in an extreme version of the nationalist ideology of the nineteenth century to their own alleged heritage rather than that of the Classical world.

Finally, at every level the Nazis believed that they had undergone enormous sacrifices and deprivations in the 'time of struggle' under the Weimar Republic, suffering poverty and persecution for the sake of Germany and Germany's future. Hitler had promised them a glorious future, including the prosperity that the economic disasters of the Weimar years had so cruelly denied them, and from the Nazi seizure of power onwards, they eagerly sought to grasp it: wealth and property were surely, they believed, the just rewards for all the sacrifices they had made. This included cultural property as well as jobs, houses, money, bribes and much more besides.

In practice, of course, such beliefs legitimised not only formal practices of looting and expropriation by the Nazi Party and the German state but also random but very widespread acts of individual theft,

blackmail and extortion by ordinary Party members, lower state officials, low-ranking stormtroopers and, during the war, members of the Armed Forces. Built on a individual allegiances and client systems, starting at the top with Hitler as German Leader and extending downwards through the *Gauleiter* all the way to the lowest ranks of Party officials, the Nazi system was an open invitation to corruption, speculation and extortion. With almost all the conventional restraints on such things removed, with no free press or media to ferret out acts of embezzlement and theft by leading or other officials in the regime, with the police incorporated into the SS and the judiciary and state prosecution service prevented from pursuing cases against the Party and its servants, the Third Reich soon became a byword for corruption.

In this situation, a few leading Nazis used their newly acquired fortunes to start building up large collections of art, both personal and institutional. Hermann Göring for instance owned not only ten houses, castles and hunting lodges, all provided and maintained at the taxpayer's expense, but also a private train, with two whole carriages for his personal living quarters, and a luxury yacht donated to him by the Reich Association of Automobile Manufacturers. In all these locations, and particularly in his vast and ever-expanding principal hunting-lodge at Carinhall, named after his first wife, Göring wanted to display artworks, tapestries, paintings, sculptures and much else besides, to emphasise his status as the Reich's second man. Göring spent large sums of money on acquiring cultural objects of all kinds, using whatever means he could.

By contrast, the Reich's first man, Adolf Hitler, made a point of avoiding ostentatious displays of personal wealth, preferring instead to accumulate an art collection for public use. Hitler had long planned to turn his home town of Linz, in Austria, into the cultural capital of the new Reich, even drawing sketches for the new public buildings and museums he hoped to construct there. After his visit to Florence in 1938 he put these ideas into concrete form: Linz would become the German Florence, with a comprehensive collection above all of German art housed in a range of purpose-built galleries and museums. Berlin, too, had to have art museums suitable for its new status as the coming capital of the world. In 1939 Hitler engaged the services of an art historian, Hans Posse, a museum director in Dresden, to amass the collection he needed for this purpose. Posse was provided with almost limitless funds, and by the middle of the war he was acquiring art objects from all over German-occupied Europe, amassing an almost incredible total of more than 8,000 by 1945. Armed with full powers from Hitler, he was able to outbid or outmanoeuvre other agents such as Kajetan Mühlmann who working for Göring or for other major German museums or indeed for themselves. Dealers used by Hitler and Posse, such as Karl Haberstock, made considerable profits out of their business. All of this, of course, drove up prices for German artists such as Cranach or Dürer; but in this race for cultural supremacy, money was no object.

All this seems a long way away from looting. Yet appearances are deceptive. Many countries for example had rules and regulations controlling the export of art treasures, but during the war, the Germans were easily able to ignore them or brush them aside. Moreover, the high prices offered in many cases for old German Masters were not quite what they seemed, at least not from 1940 onwards, since the Germans fixed exchange rates with the French franc and other currencies in occupied countries at rates that were extraordinarily favourable to the German mark. But in many

cases it was not necessary to spend any money at all, as became apparent in March 1938 with the Nazi invasion of Austria. The first country to be annexed by Nazi Germany, it immediately became the object of looting on a massive scale, far beyond anything that had previously happened in Germany. While German invaders and Austrian Nazis broke into the homes of Jews, stealing whatever they wanted, or stopped Jewish women on the streets and divested them on the spot of their fur coats and jewellery, the SS and Gestapo made straight for the homes of Vienna's most prominent Jewish families with orders to confiscate the contents.

Top of the list were the Rothschilds, whose collections were confiscated and then put up for auction to meet alleged tax liabilities – a common practice in the 1930s, made easier by 1939 through the imposition of special taxes and levies on German and Austrian Jews. Further regulations required Jewish emigrants to leave their assets behind if they emigrated, for appropriation by the Reich. After the conquest of France in 1940, too, the property of citizens who had fled the country also fell to the German Reich; the same applied eventually to all Jews deported to Auschwitz and other extermination camps in the east from every occupied country in Europe.

Looting extended far beyond the expropriation of the Jews when the Nazis invaded countries inhabited by people they regarded as subhuman, uncultured Slavs. Following the takeover in March 1939 of what remained of the Czech state after the Munich Agreement of the previous September, the invaders began confiscating without compensation from both public and private collections, including not only allegedly German items from the Czech National Museum and the library of Prague University but also the palaces of the Habsburg, Schwarzenberg and Lobkowitz families, the last-named of which included Breughel's *Hay Harvest*. However, Hitler's treatment of Czechoslovakia was relatively mild compared to that meted out to the Poles, whose country he invaded in September 1939. Bohemia had after all been part of Germany in one form or another for most of its existence, the Czechs were socially and economically advanced, and they had offered no resistance to the German takeover. With the Poles it was a very different matter. They were to the Germans as the Irish were to the British: backward, dirty, uncivilized, and mired in Catholic superstition. Moreover, they refused to negotiate and put up a stiff though futile resistance when invaded. Even before he sent his troops in, Hitler vowed to wipe Polish culture and identity off the face of the map. They were even less entitled, he thought, to act as the guardians of German cultural products than the Czechs were, indeed they were not entitled to act as the guardians of any kind of culture at all.

The German invaders also carried off large quantities of cultural booty. Country houses along the invasion route were ransacked, and pressure applied to their aristocratic owners to reveal the whereabouts of hidden treasures. On 16 December 1939, the German authorities ordered the compulsory registration of all artworks and cultural objects dating from before 1850, together with jewellery, musical instruments, coins, books, furniture and so on from the same period. These were duly confiscated, along with the vast majority of Polish property in the areas incorporated into the Reich. These orders in effect constituted a licence to any Germans to loot what they wanted. In the remainder of Poland, the General Government ruled by the Nazi legal expert Hans Frank, lootings and confiscations were unrestrained.

Hans Frank himself decorated his headquarters with looted artworks, and shipped trophies back to

his home in Bavaria. When American troops arrived there in 1945, they found a Rembrandt, a Leonardo, a fourteenth-century Madonna from Cracow, and looted vestments and chalices from Polish churches. Quarrels broke out, as Hermann Göring tried to obtain pictures for himself while Hans Frank objected to the removal of prize loot from his headquarters. Perhaps this was not such a bad idea, however, since Frank had no idea of how to display or preserve Old Masters, and was once reprimanded by Mühlmann for hanging a painting by Leonardo da Vinci above a radiator.

This process of looting and expropriation was repeated on an even larger scale when Germany invaded the Soviet Union on 22 June 1941. Among the most famous of these items was the celebrated amber room given to Peter the Great by King Friedrich Wilhelm I of Prussia and subsequently augmented by further gifts from his successor. The Soviets had taken away all the furniture and movable items but left the amber panelling in place, and the room, installed in the Catherine Palace in the town of Pushkin, was dismantled and returned to Königsberg in East Prussia, where it was put on display; most of it was in all likelihood destroyed in the battle for Königsberg at the end of the war, and any items remaining in storage will by now have crumbled into dust. The Soviets of course had removed many cultural treasures out of reach of the invading armies, there were no great private collections left in the Soviet Union, since all had been confiscated by the Communist state, and the Germans never managed to conquer Moscow or St Petersburg; but much still remained to be looted; 500 paintings were carried off from Kharkhov alone, for example, and Himmler requisitioned considerable quantities to decorate and furnish the SS's headquarters at Wewelsburg. The scale of looting and expropriation practised by the Germans between 1938 and 1945 was thus unprecedented. It gave the opportunity, or excuse, for similar acts of plunder, both official and individual, by the incoming Red Army in the later stages of the war. In their hasty retreat, the Germans were forced to leave behind numerous collections, like others across Europe by this time placed for safe keeping in cellars, mines and other hiding places away from the heat of battle and the destructiveness of bombing raids. Special Soviet art recovery units roamed the countryside searching for these hoards, and those they succeeded in finding were carried off to a special repository in Moscow. In a deep quarry tunnel at the village of Groscotta near Dresden, they found numerous paintings stored by the Dresden museums, including the *Sistine Madonna* by Raphael and Rembrandt's *Abduction of Ganymede*. Large quantities of art loot were taken off to Moscow, including even the Pergamon Altar from Berlin. One and a half million cultural objects were returned to East Germany with the establishment of the German Democratic Republic as an ally, or client state, of the Soviet Union, after 1949.

But a good deal went astray. The mayor of Bremen for example had sent the city's art collection for safe keeping to a castle not far from Berlin, where Red Army troops found them; arriving to inspect the collection, Viktor Baldin, a Russian architect enlisted in the Red Army, found the valuable works scattered around the countryside, and did his best to recover them, in one case trading a Russian soldier a pair of boots for an etching by Albrecht Dürer. While Baldin kept the hundreds of drawings he had found in safe keeping, seeking an opportunity to return his collection to Bremen, other items from the same collection began to turn up on the art market at intervals; one dealer gave a Berlin woman 150 marks and a pound of coffee in return for a Cranach in 1956. Eventually, when Mikhail

Gorbachev inaugurated a more liberal regime in Russia, Baldin handed over his collection, and negotiations began for its return. The Bremen city council was able to offer in return a panel from the Amber Room taken by a German soldier who had been employed in packing it away, and a small number of items were returned, but this was not enough, and the Russians asked why they should return looted art to Germany when so many of their own cultural treasures had disappeared or been destroyed as a result of the actions of the invading German armies. Indeed in 1998 the Russian State Parliament declared all the looted art state property requiring an act of parliament to return it to the Germans. Controversy continues to rage in Russian political circles, and in the meantime, the bulk of the collection remains in the Hermitage, and 1,500 items from the Bremen state museum are still reckoned to be missing.

In the chaos and destruction of the last months of the war, many valuable cultural objects of all kinds were lost or destroyed. In particular, mass strategic bombing of German towns and cities obliterated a large part of the architectural heritage, notably in Dresden. Paintings, sculptures and other movable artworks had by this time largely been moved out of harm's way and placed in mines, tunnels and other underground repositories. The deliberate destruction of cultural heritage happened sporadically, notably in the retreat of the German armies from Italy, but overall it was fairly limited. Cultural destruction was mainly the result of the immense destructive power of modern warfare.

The Western Allies, not least as the result of pressure on the military authorities by concerned art experts in Britain and the USA, were acutely aware of the need to preserve the cultural heritage of Europe in the final phase of fighting. Already before the D-Day landings in 1944. Eisenhower's supreme headquarters established a Monuments, Fine Arts and Archives Section, or MFAA, charged with locating and safeguarding cultural objects and preventing looting by Allied troops. US officials everywhere began compiling lists of looted art to prevent Nazis from keeping them hidden and making profits with them on the art market once the memory of the war had faded. MFAA units followed the army into liberated towns, scoured castles and mines, and began storing artworks preparatory to returning them to their original owners.

Following the Yalta Conference it was agreed that all property 'taken to Germany during the occupation' of any country 'would be presumed to have been transferred under duress and accordingly treated as looted property'. The US ordered an embargo on trade in artworks. Looted art found in Germany was stored at the Munich Collecting Point.. A major operation soon began to return the looted art, and lorries and trains carried many thousands of paintings, drawings, sculptures, altarpieces and other objects across Europe back to their places of origin. The Munich and other Collecting Points were finally closed down in 1951, when the remaining objects were handed over to a West German agency, which returned another million objects to their owners, three-quarters of them outside Germany, over the next ten years. The rest, some 3,500 lots, were then distributed to German museums and other institutions from which they could, and can, still be claimed on presentation of the proper documentation.

However, although the vast majority of surviving major works looted by the Nazis were restored, including eventually the large collections returned to East Germany by the Soviets, inevitably a large

number of objects remained unaccounted for – at least 20,000 of them according to one estimate. Most of these are small items, silver, jewellery, crockery and the like, or paintings and drawings by minor artists that are obscure enough to have escaped the attention of art experts. It may not have been easy to conceal well-known paintings by celebrated artists, but such items as these were far easier to hide away until the opportunity presented itself to bring them to sale. During the 1950s, art dealers were not particularly concerned about the provenance of the items they were asked to put up for auction: most of their effort went into establishing their authenticity. Large numbers of artworks were brought onto the market by people who had acquired them in a variety of dubious ways during the war, and then sold on to institutions that in many cases bought them without knowing where they had come from. In many cases, the original owners were dead, and sometimes their heirs had been killed by the Nazis as well. Entire families perished in very large numbers at Auschwitz, and while institutions, museums and galleries, possessed the knowledge, the resources and the evidence to mount actions to try and regain what they had lost, the same was seldom true of individuals. As a result the number of restitution actions and claims fell sharply during the 1950s, at the same time as new international agreements protecting cultural property came into force with the Hague Convention of 1954 and then with the additional protocols passed in 1977.

By this time, the legal position of looted art had effectively changed. According to the Inter-Allied Declaration against Acts of Dispossession committed in Territories under Enemy Occupation or Control, issued in London on 5 January 1943, the Allied governments reserved all their rights ‘to declare invalid any transfers of, or dealings with’ looted artworks and other property, ‘whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected. However, almost all European countries have in place laws that impose a time-limit on the legal right of owners of stolen goods to apply for their restitution. This varies from country to country – according to Section 935 of the German Civil Law Code, for instance, it is 30 years, while the UK Limitation Act of 1939 prescribes a limit of only six years. It is also subject to a number of provisos, principally, in most countries, that the current owner acquired the object in good faith, and that (as in the UK Act for example) that the current owner has not attempted any fraudulent concealment of the original title. Only two countries in Europe do not have such legislation: Poland, because of the sheer scale of the spoliation to which Polish collections were subjected during the war, and Greece, because of the Elgin Marbles.

In essence, therefore, it is very difficult for former owners to obtain legal redress against the misappropriation of their possessions during a war that ended as long ago as 1945. The case of Maria Altmann’s successful lawsuit against the Austrian government for the return of Gustav Klimt’s portrait of her aunt, Adele Bloch-Bauer, on the basis of the terms of a previously ignored but legally binding last will and testament, was a rare exception. Why did it take so long, and why has interest in the recovery of looted art revived so forcefully since the early 1990s? The catalyst was undoubtedly the fall of Communism in Eastern Europe in 1989-90. This opened up Eastern European archives for investigation, allowing many missing works to be traced. More particularly it unleashed a vast number of claims for the restitution of property in East Germany in particular that had been seized from its owners by the Communists after 1949. As court cases grew in number, compensation actions for loss and damage caused by the Nazi regime were launched, particularly by former slave

labourers. In the USA, and to some extent elsewhere as well, historical memory of the Holocaust moved to the mainstream of the national culture, with memorial museums being founded in many cities, and increased attention in the mass media, reaching perhaps a high point with Steven Spielberg's film *Schindler's List*. Perhaps too in a wider sense, the disappearance of communism as the negative image against which western democracy defined itself led to Nazism serving as something of a substitute, particularly in view of the increased sensitivity of multicultural societies to the threat of racism at a time when immigration was becoming a key political issue. In consequence the 1990s saw the renewal of war crimes trials in a number of countries, although they few in number and not uniformly successful.

Thus the art world reawakened to the problem of looted art in the 1990s after decades of treating it as a low priority. In December 1998, the new tone was set by the Washington Conference on Holocaust-Era Assets, hosted by the US Department of State with over 40 national governments and numerous NGO's invited. The conference built on the experience of the previous year's international conference set up to deal with the question of Nazi gold, including gold taken from the dental fillings of extermination camp victims, much of which had found its way into the vaults of Swiss banks by the end of the war. The 1998 conference demanded the identification of all art confiscated by the Nazis, with a view to restoring it to its former owners on moral grounds even if they were not entitled to it legally. The commitments made by the Washington Conference were followed up by similar agreements made by art gallery and museum directors.. There have been resolutions by international bodies such as the Council of Europe to similar effect. In this climate, the chances of claimants successfully securing the return of looted art had dramatically increased.

With all these factors operating since the late 1990s in favour of the return of looted art, many expected museums and galleries in the UK and elsewhere to be inundated with claims. But this has not happened. I've already mentioned some of the reasons why, most notably the cost and difficulty of filing lawsuits, especially in view of the lapse of time and the existence of statutes of limitation on the period within which claims can be made, and the murder by the Nazis of potential claimants, their families and their heirs. Organizations like the Commission for Looted Art in Europe have limited resources, and research is difficult, costly and time-consuming. In many cases the trail has gone cold, and evidence is almost by definition hard to obtain, since the cases in which the evidence is clear were in many cases settled in the immediate aftermath of the war. Many of the artworks involved are relatively obscure and poorly documented. In view of all these factors, only a small fraction of the artworks identified by museums and other bodies as of uncertain provenance during the years 1933 to 1945 have actually attracted claims. The Spoliation Advisory Panel set up in 2000 by the Department of Culture, Media and Sport, has dealt with precisely one case a year since then, though the steady trickle of claims shows no sign of drying up.

Yet if these new developments have given cause for optimism, others have not. In the Balkan Wars that followed the disintegration of Yugoslavia at the beginning of the 1990s, Serbian forces deliberately shelled the public library in Sarajevo in an attempt to obliterate the cultural and historical memory of Bosnia, while Croatian gunners knocked down the historic and symbolic bridge at Mostar and vandalized Serbian Orthodox churches in the places they conquered. Worse

was to come in the Second Gulf War that began in 2003. Here the motivation was not cultural genocide but private gain, allied to military indifference. As the reporter Robert Fisk noted:

I was among the first to enter the looted Baghdad archaeological museum, crunching my way through piles of smashed Babylonian pots and broken Greek statues. I watched the Islamic library of Baghdad consumed by fire – 14th and 15th century Korans embraced by flames so bright that it hurt my eyes to look into the inferno. And I have spent days trudging through the looters' pits and tunnels of Sumeria, vast cities dug up, their precious remains smashed open – thousands upon thousands of magnificent clay jars, their necks as graceful as a heron's, all broken open for gold or hurled to one side as the hunters burrowed ever deeper for ever older treasures.

This was looting on a vast scale. As Fisk reports: 'Of 4,000 artefacts discovered by 2005 from the 15,000 objects looted from the Baghdad Museum two years earlier, a thousand were found in the United States...and 600 in Italy', many of them pillaged by order from private collectors and their agents. Greed, he noted, had been globalized. It is hard to resist the comparison with 1945, when the careful preparations made by the MFAA ensured that European cultural heritage was largely preserved and its looted assets returned to their rightful owners.

What is the future of preservation and restitution, then? Firstly, it's clear that while there is now a mass of international legislation in place to preserve cultural artefacts from looting and destruction in time of war, it is still very difficult to enforce it effectively. International intervention in conflicts like the Balkan Wars of the 1990s is obviously difficult to organize and slow to implement. By the time it takes place, it may be too late. And if it takes the form of punitive bombardment it may make things worse; even the NATO missiles that hit Belgrade did not all hit their intended military targets. In the case of Iraq, however, and similar cases if they occur in the future, it is vital to learn the lessons of the Second World War and put effective arrangements in place in advance to rescue and restore cultural objects and prevent looting. Missile technology can at least to some extent be used to avoid hitting museums and monuments. Such arrangements were not made in Iraq in 2003; they need to be considered in the event of any future conflict.

The issue of restitution is a more difficult one. Here there is clearly a clash between any nation's need to preserve and display its own cultural heritage, and the global community's need to learn about other cultures through universal museums like the Met or the British Museum. The way forward is surely to accept the general principle of the universal museum, but to make exceptions where an object is of overwhelming cultural and historical importance to the nation from which it has been, whether legally or illicitly, removed.

In the cases with which it has dealt, for example, the Spoliation Advisory Panel has recommended the return of a 12-century missal written in Beneventan miniscule script from the British Library to the Cathedral Chapter Library at Benevento, near Naples. and successfully prompted legislation in the form of the Holocaust (Return of Cultural Objects) Act, passed earlier this year, to allow this to happen, on the grounds of the missal's cultural significance to Benevento. In another case the Panel rejected the argument of the Burrell Collection in Glasgow that removing a cultural object from it would damage the collection's integrity, on the grounds that the claim for restitution put in by the family from which the object had been stolen by the Gestapo was morally superior. I can't therefore

accept the arguments put forward recently by Norman Rosenthal that this principle is wrong, or that claimants who sell the artworks restored to them for large sums of money are somehow acting immorally; if it's theirs by moral right, then it's their moral right to do what they like with it.

In the process of righting the wrongs of the past, it is clearly not possible to achieve anything like adequate restitution on a global scale. The major thrust of the restitution effort has been directed towards reparation for the crimes committed by the Nazis between 1933 and 1945, not least because the survivors and their immediate heirs are still among us. As Michael Marrus remarks in his recent study of the subject, 'the Holocaust restitution campaign arose in highly unusual circumstances, unlikely to be replicated and unlikely therefore to affect other campaigns for justice for historic wrongs.' In the end, as he says, 'restitution is more about the present than about the past: it speaks to the survivors who are still among us...to the society at large for which such issues may be said to matter...and to a world in which injustice and wrongdoing are still too common – but for which, at the very least, we should have mechanisms available, when the carnage ends, to seek some measure of justice.'