

The post-Holocaust Development of Legal Remedies as a Learning Process

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The Role of Museums and Institutions in Holocaust Remedies

Noya Erez

This article is an essay written in the course of the post-Holocaust Remedies-Summer School 2023 and deals with the unique role of museums in the context of looted art.



Remark

This paper was written by Noya Erez, a student of the project-related international Summer School organized by the Chair of Public Law and International Law (Prof. Dr. Thilo Marauhn) in 2023 as part of the project funded by the Foundation Remembrance, Responsibility and Future (EVZ) and the Federal Ministry of Finance (BMF) on “The post-Holocaust Development of Legal Remedies as a Learning Process” (“post-Holocaust Remedies” project). The work and results of the Summer School participant are reproduced here almost unedited, which is why there may be deviations in the citation style, for example.







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A. Introduction

The role of museums and institutions in Holocaust remedies is a complex and multifaceted topic that involves historical, legal, ethical, and educational dimensions. Holocaust remedies refer to the compensation and restitution efforts aimed at addressing the financial, psychological, and symbolic losses suffered by survivors and their families during and after the Holocaust.¹ Museums and institutions play a crucial role in facilitating and documenting these efforts. Moreover, the Holocaust museums help the victims in retrieving their art, which was looted during World War II. In the following paper, I will discuss the issues regarding looted art and the museums' importance regarding it. Furthermore, I will present the leading Holocaust remembrance and research institute "Yad Vashem" and its worldwide significance.

I. Looted Art

The topic of looted art that was taken from Jews during World War II is still complicated and divisive today. Many of the items that the Nazis stole from Jewish households, including countless works of art, have still not been returned to the owners or successors of these families. The looted artwork is often referred to as "the last prisoners of the war".² This unresolved issue highlights the Holocaust's lasting effects and the ongoing fight for justice and accountability. The recovery of stolen art presents moral and legal concerns for museums, individual collectors, and governments, and it can be challenging to trace provenance and establish lawful ownership. Administrative roadblocks, statutes of limitations, and disagreements over cultural property obstruct efforts to redress these historical injustices as well. Nevertheless, the issue of looted art serves as an important reminder of the need to confront the past, commemorate the victims, and fight for a proper settlement that ensures stolen art is returned to its rightful owners or preserved as a memorial to the Holocaust's continuing impact.³

Regulating Holocaust-looted art involves navigating an intricate framework of both international guidelines and domestic laws, all aimed at rectifying the theft of artworks from Jewish families during the Holocaust era. On an international scale, the foundational guidelines established by the 1998 Washington Principles and the 2009 Terezin Declaration encourage nations to uncover and return art unlawfully seized by the Nazis to their rightful owners or their heirs.⁴ Furthermore, the 1998 U.S. Holocaust Victims Redress Act mandates American institutions to disclose and actively work towards returning such artworks.⁵ Numerous states have also instituted their own legislation and policies, concentrating on aspects such as provenance research, publicizing looted art, and streamlining the claims process. Nevertheless, the process of restitution remains intricate and contentious due to challenges related to jurisdiction, the complexities of provenance research, and competing ownership claims. These complexities underscore the ongoing struggle to provide closure and justice to the victims

¹ Woolford/Wolejszo, 2006.

² Henson, 2002.

³ Henebry, 2003.

⁴ U.S. Department of State, Washington Conference Principles on Nazi-Confiscated Art; U.S. Department of State, 2009 Terezin Declaration on Holocaust Era.

⁵ Holocaust Victims Redress Act 1998.



and their descendants.⁶ Art museums can influence Holocaust remedies in various ways, primarily by addressing the issue of looted art and cultural property that was seized or stolen during the Holocaust. The restitution of looted artworks and cultural artifacts is a critical aspect of remedy efforts.

1. Identification and Restitution

Art museums can play a pivotal role in identifying artworks and cultural objects in their collections that were unlawfully taken from Holocaust victims or their heirs during World War II. This identification process often involves extensive research into provenance and collaboration with experts in this field. When looted art is identified in museum collections, institutions can take steps to restore these items to the rightful owners or their heirs. This may involve negotiations, legal processes, or voluntary returns.

2. Documentation and Provenance Research

Art museums have resources and expertise in cataloging and researching their collections. They can dedicate efforts to conducting thorough provenance research to determine the history of ownership of artworks in their possession. This research can help uncover the wartime history of art acquisitions, including purchases from Jewish collectors who were forced to sell their artworks under duress or dispossession.

3. Collaboration with Heirs and Stakeholders

Art museums can actively work with the heirs and descendants of Holocaust victims to facilitate discussions and negotiations regarding the restitution of artworks. This may involve working closely with legal experts, mediation organizations, and relevant governmental bodies. Some museums have established dedicated offices or liaisons to handle restitution claims and communicate transparently and respectfully with claimants.

4. Policy and Guidelines

Museums can adopt and adhere to ethical guidelines and international principles related to the restitution of looted art. These guidelines provide a framework for museums to assess claims, engage in restitution discussions, and make informed decisions. Art museums can also contribute to the development of best practices for addressing issues of Nazi-confiscated art and cultural property. For example, New York State Law requires every museum to label looted art presented in its exhibitions. That act was revolutionary in the world and aimed to highlight the moral dilemmas of the Nazi-Looted Art issues.⁷

II. The Roles of Museums in Documenting and Researching

The Holocaust documentation is greatly assisted by museums, which act as important custodians of historical memory. They provide an effective platform for preserving the testimonies of survivors by displaying artifacts, photographs, and personal items that bear witness to the crimes committed during

⁶ The Central Registry of Information on Looted Cultural Property 1933-1945, 2023; Hickley, 2023.

⁷ Khan, 2022.



this terrible period in history through well-chosen exhibits. Museums emphasize the value of never forgetting while also educating visitors about the atrocities of the Holocaust and fostering empathy and understanding. They serve to establish the truth and refute Holocaust denial and revisionism. Additionally, to ensure that future generations learn from the past and strive for a more just and tolerant society, museums work in conjunction with academics, historians, and survivors to continuously advance our knowledge of this tragedy.⁸

III. The Role of Yad Vashem

Yad Vashem, one of the most important Holocaust Remembrance centers worldwide, plays a significant role in Holocaust remedies.⁹ As the World Holocaust Remembrance Center is located in Jerusalem, Israel, Yad Vashem holds a special place in Holocaust memory and remedies through its multifaceted efforts related to documentation, education, commemoration, and advocacy. Yad Vashem's commitment to preserving the memory of the Holocaust, recognizing acts of moral courage, and advocating for the rights of survivors exemplifies the institution's enduring significance in Holocaust remedies and global Holocaust remembrance. Some of the unique aspects of Yad Vashem are:

1. Recognition of "Righteous Among the Nations"

The "Righteous Among the Nations" program, which recognizes non-Jews who put themselves in danger to save Jews during the Holocaust, is also run by Yad Vashem. The honoring of these people brings attention to deeds of bravery and moral integrity in the face of grave danger. Even though it has nothing to do with remedies, this presentation highlights how important it is to recognize those who fought against the atrocities.¹⁰

2. Documentation and Archiving

Yad Vashem is renowned for its extensive collection of Holocaust-related documents, including survivor testimonies, photographs, diaries, and other primary sources. This documentation serves as a valuable resource for scholars, researchers, and families seeking information about their relatives. Moreover, the institution's Archives Division is dedicated to collecting, preserving, and digitizing these records to ensure they are accessible to survivors and their descendants.¹¹

3. Support for Holocaust Survivors

Yad Vashem provides support to Holocaust survivors and their families. This includes assisting survivors in documenting their experiences and helping them access remedies and social services. The institution plays a role in advocating for the rights and welfare of survivors, often working in collaboration with governmental and non-governmental organizations.¹²

⁸ Oztig, 2022.

⁹ Oren/Shani, 2012.

¹⁰ Consulate General of Israel to New England; cf. the Yad Vashem Website.

¹¹ Cf. the Yad Vashem Website.

¹² See the Yad Vashem Website.



B. Conclusion

The role of museums and institutions in Holocaust remedies is undeniably multifaceted, encompassing different dimensions. The concept of Holocaust remedies is a vital component in addressing the profound losses endured by survivors and their families during and after the Holocaust. Museums play a pivotal role in facilitating and documenting these remedies efforts, particularly in the context of looted art and cultural property. Art museums, as custodians of cultural heritage, have a unique role to play in Holocaust remedies, from identifying and returning looted artworks to conducting thorough provenance research and collaborating with heirs and stakeholders. The adoption of ethical guidelines and international principles further underscores their commitment to addressing this historical injustice and contributing to a broader reparation effort. Museums also serve as vital repositories of Holocaust documentation, providing a platform for preserving survivors' testimonies and educating the public about the atrocities committed during this period. Museums and institutions, in concert with organizations like Yad Vashem, contribute significantly to the ongoing pursuit of justice, recognition, and education related to the Holocaust. Their collective efforts underscore the importance of never forgetting the past and striving for a more just and tolerant world.



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Project “The post-Holocaust Development of Legal Remedies as a Learning Process (Post-Holocaust Remedies)”

The research project “The post-Holocaust Development of Legal Remedies as a Learning Process (Post-Holocaust Remedies)” is carried out by the Chair for Public Law and International Law, Justus Liebig University (JLU) Giessen in cooperation with scholars from Reichmann University in Herzliya/Israel and the Instituto Colombo-Alemán para la Paz (CAPAZ) in Bogotá/Colombia. The project, conducted by Prof. Dr. Thilo Marauhn and Dr. Ayşe-Martina Böhringer, began in late summer 2022 and is dedicated to the in-depth analysis of compensation law in connection with the Holocaust and the legal framework that has been developed since 1945 for dealing with the consequences of Nazi crimes.

The project, funded by the Foundation Remembrance, Responsibility and Future (EVZ) and the Federal Ministry of Finance (BMF) from August 2022 until June 2024 as part of the Education Agenda NS-Injustice, focuses on the critical analysis of the development of political and legal instruments in dealing with the consequences of the Nazi atrocities. The following questions, among others, are addressed: After the atrocities of the Holocaust, what lessons can be learned from the compensation law measures taken to date? Which instruments are suitable for legal remedies? An important main feature of this project is the international summer school, which offered students from Israel, Colombia and Germany the opportunity to take an in-depth look at the legal process of addressing Nazi crimes. The program covered two weeks each at Reichmann University in Herzliya, Israel and JLU Giessen and included a variety of courses and excursions to relevant institutions to ensure a practice-oriented perspective. The summer school took place from 18.08.2023 to 14.09.2023. This unique way of teaching the subject of this project should also inspire future generations to engage in research-based learning, practice-oriented knowledge transfer and academic responsibility.

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Contact

Justus Liebig University Giessen
Chair for Public Law and International Law
Licher Strasse 76
D-35394 Giessen/Germany
E-Mail: intlaw@recht.uni-giessen.de

<https://holocaust-remedies.com>
https://www.instagram.com/holocaust_remedies/

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