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## CULTURAL PLUNDER AND RESTITUTION AND HUMAN IDENTITY

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### ABSTRACT

On October, 15, 2015, Ori Z. Soltes, co-founder of the Holocaust Art Restitution Project, delivered a talk entitled “Cultural Plunder and Restitution and Human Identity” at the 22nd Belle R. & Joseph H. Braun Memorial Symposium on Art Restitution, Preservation of Cultural Heritage, and Human Right to Identity. A transcript of that presentation, adapted for print, appears here.

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## CULTURAL PLUNDER AND RESTITUTION AND HUMAN IDENTITY

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I want to start by shifting the discussion of art restitution, which has so often resided in legal contexts, toward consideration within a cultural context—but without eliminating the legal framework. I'm also going to emphasize moral and ethical matters because cases are too often decided purely on legal merits without regard to moral or ethical considerations. For example, if I bought a stolen object in good faith, but from someone who stole it, when the person from whom it was stolen comes to claim the object from me, s/he may have not a legal chance of getting it from me because I didn't steal it—I purchased it—but his/her moral rights may be a different matter. The moral and the cultural can interweave as much as the legal and the moral can and have over history—certainly this is true in the matter of the plunder of art by the Nazis and its restitution to those from whom it was plundered.

Culture, as a broad idea, is one of those aspects of what we are as humans that distinguishes us from other species. We do things that others cannot. We can elaborate very complicated verbal languages and their concomitants in nonverbal terms. We can turn those languages, by a long and ultimately somewhat arbitrary process, into writing systems. We can produce music. We can produce dance. And, of course, we can produce and have produced visual art practically as far back as we can trace ourselves as a species. It's one of the things that makes us distinct and makes us unique. You might say that culture is endemic and inherent to general human identity, and particularized within particular cultures—whether it is associated with nation states or whether it is specific to racial, ethnic, religious, or whatever other kind of adjectival application one attaches to the noun “identity.”

There was a fellow by the name of Lucius Mummius. Nowadays nobody remembers who he was; there's no reason why anyone should—except perhaps in this sort of narrative. Lucius Mummius was a Roman general, and in 146 BCE, in the aftermath of his victory at the battle of Corinth, he sent back to Rome an enormous number of Greek sculptures. The fourth-century writer, Eutropius, tongue-in-cheek, reported that if any statues broke on the way back to Rome, the insurance company with which Lucius contracted was required to replace any damaged statues with statues of equal . . . *weight*. Not value. What Eutropius recognized, of course, was that Lucius Mummius had not the faintest idea of the aesthetic or any other kind of cultural value of the works that he was bringing back to Rome.

He understood that to possess works of art signifies that you're not merely a warrior—or worse, a barbarian—but that you are a cultured and civilized individual. This is the impression that he wanted to make on those who would come to know him, visit his villa, and so on. It was important to have statuary, but it didn't really matter how good it was or who made it because all of that would have gone over his head. The notion of plundering art as a signifier of one's identity—such as bringing art back from wars in order to show that one is a cultured, civilized individual, and

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not merely a warrior or barbarian—is something that can be traced back in history a longtime before Lucius Mummius, but he stands out because his is the first name that we possess of such a plunderer, together with the specific context in which he plundered, and why he did so.

This idea can most certainly also be followed down through history. For example, nineteen centuries or so later, Napoleon, the General-becoming-Emperor, brought back to France loads of plunder from Egypt and from Rome (including works that the Romans had themselves plundered from the Egyptians) and such objects ended up in public squares in Paris or in the Louvre. Napoleon's plunder offers one side of how he sought to elevate himself in the eyes of his contemporaries and posterity. For he also became a patron of art, fostering the artwork of Jacques-Louis David—in particular a wonderful painting showing Napoleon as Emperor, placing the crown of Empress on his wife's head. Both Napoleon's plundering and his patronage reflected the effort to demonstrate that he was something other than a man unaccomplished except in military matters. (This, even if we might recall that it was *his* soldiers who used the Sphinx for target practice. Clearly, his or their sense of the inherent value of cultural property was limited).

All of this becomes a kind of prelude for Hitler and the Nazis—which means that the Nazis didn't create entirely new ideas in the field of art plunder. This is consistent with other aspects of their enterprise. The idea of the yellow star, for instance, dates back to 1215, when the Church's Lateran Council required Jews to have some mark on their clothing that would distinguish them from their Christian neighbors. The mark was usually circular and it was usually, but not necessarily, yellow. So the yellow star wasn't an idea that the Nazis innovated; it was an idea that they picked up from history and "refined." They didn't invent the full-fledged concentration camps. These were already extant in France to help deal with the Spanish Republican refugee army coming over the Pyrenees after the Spanish Civil War. And obviously they didn't invent the idea of plundering art.

The idea of plunder as cultural affirmation of one's self is certainly something that was very important to the Nazis, but they weren't the first—nor was plunder their only expression of the idea that "art defines cultural and civilizational identity." One thinks, early in the regime's history, of Goering's discussion of what will constitute proper art and what will not in the new reality he and others are shaping, which statement was intended to articulate Nazi identity in a specific cultural manner.

What distinguished the Nazis from others as plunderers, most fundamentally, first of all, was the sheer volume of their activities: hundreds of thousands of objects. Second, the extraordinarily detailed and systematic manner in which they operated, including their documentation of what they were doing—which, ironically, proves to be a weapon in our hands for figuring out what was taken from where and whom. Finally—and this is what makes them most unusual—their plundering process began well before they were formally at war with anybody, because the Nazi party was at war with its own citizens from its inception (albeit those victims had been carefully deprived of citizenship before the plundering of their cultural and other property began).

The whole program of art plunder was part of a larger program of depriving groups, in particular the Jews, of their *identity*. In 1935, the initial spate of

Nuremberg Laws began to clarify what a Jew could be, do, or possess—particularly in artistic or cultural terms—in Germany. Germany was not yet at war, of course, but the Nazis were defining categories and participating in widespread detailed plunder from their own citizens—but the victims were no longer considered citizens. Hitler never broke a law. What he did was change the laws as necessary, or abandon the laws as needed. If we could interview him, he would say, “My people never stole, they purchased.” In the early going, they did indeed purchase, at a fraction of their value, whatever things they wanted—with a gun to the owner's head. One can easily enough imagine one form or another of this dialogue: “Do you want to sell to me this painting or do you want your brains on that canvas?” “I think I’ll sell it to you for the twenty-five cents that you’re offering.”

And in any case, from the Nazi perspective, they were not depriving Jews as citizens of their possessions—they were extracting possessions from those who didn’t have a right to have possessions because they were not citizens. And by 1940, when the war was already a bit more than a year on, the same principles would apply well beyond Germany to Jews (and others) in the growing array of occupied territories.

Another way the Nazis deprived Jews of their cultural identity was the classification of artwork associated with Jewish culture as degenerate art. The notion of what constituted degenerate art also included much of modern art: cubist works of Picasso and Braque where faces are all out of whack; or intensely colored paintings, like Matisse’s Fauvist work. But *anything* having to do with Jews was deemed degenerate. Even works by otherwise admired artists could fall into this category—a Rembrandt painting like “The Jewish Bride” would be considered degenerate simply because of the subject matter. So, too, a painting like Klimt’s “Lady in Gold.” The lady was Adele Bloch-Bauer and she was Jewish, at least by ethnicity; her converted family was certainly understood to be Jewish by Nazi standards. So when the Nazis appropriated the painting, they re-named “The Portrait of Adele Bloch-Bauer” as “Lady in Gold,” eliminating the name that offered a distinct Jewish connection.

Art and culture served a very appropriate function in propagandistic ways, as well. Depriving Jews of their *cultural* identities was (to repeat) part of the larger picture of depriving them of their *identities—period*—as a prelude to depriving them of their *lives*. At the same time the Nazis made very clever use, under Goebbels’ direction, of different entities that served as a propagandistic device in the apparently opposite direction. The establishment of the Jüdischer Kulturbund over several years made it possible for Jews to have their own orchestras to serve their own audiences—while in general Jews were not allowed to go to concerts of any other sort, and the Jewish members of the various and sundry orchestras across Germany had been removed from them. Now, however, they could form their own ensembles, because it served a purpose: “You see: Hitler *loves* the Jews. He gives them their own cultural opportunities.”

More notorious and more cynical than the KuBu (as the Kulturbund was known), was the culture at *Theresienstadt*, or Terezin, the infamous way station to Auschwitz. There, not only was art and music produced, it was encouraged both because it served the Nazi purposes with respect to keeping their clientele (i.e., victims) calmer, and because it served their propaganda purposes. So when the Swiss Red Cross would come to Terezin, there would be music and there would be

visual art; there would be newly painted benches in park-like areas and everyone had a nice winter coat—these stank of mothballs, but somehow the Swiss Red Cross didn't seem to notice such things. It was like a Hollywood stage set, because, out back, people were being put onto freight trains with Auschwitz as their destination, while out in front of the “sets,” they were sitting in parks. They were sitting in pseudo-café where they had scrip that they could use to buy coffee and hot chocolate. Ultimately, the Nazis even made a film: *THE FÜHRER GIVES THE JEWS A CITY*. So art and culture, in the context of the systematic Nazi program of cultural identity and general identity deprivation could also be twisted 180 degrees and the illusion that these people were making culture under enjoyable conditions and that it was being promoted and approved by the Nazi hierarchy could serve propagandistic purposes.

This brings me back to the plunder part of this narrative—which is really the main topic both of this conference and of what one talks about when one addresses the relationship among the Nazis, their victims, and art. One of Hitler's colleagues, Alfred Rosenberg, had served as one of his key ideologues, contriving the pseudo-science that claimed to define the distinguishing attributes of Aryans, Jews, Roma, Slavs, and other groups. Physiological categories—hair, eyes, ears, nose, and mouth—were, in turn, understood to be connected to mental, emotional and psychological features. This same Alfred Rosenberg became the mastermind of the systematic process of plundering cultural property once the Nazis began to overrun parts of Europe.

A previous speaker at this conference referenced Rosenberg's organization: the *Einsatzstab Reichsleiter Rosenberg* (“ERR”), which by 1941 was running on a kind of parallel track with the German armies. Where the army went, so too would the ERR. Sometimes the ERR was there before the armies, (but usually afterwards), with systematic plunder as its purpose. Some art was taken to be destroyed. For the most part, Jewish ceremonial objects were simply destroyed or melted down if they were made of substances that could be of use (like silver or gold). Other objects might be traded. For example, a member of the ERR might gather in a Matisse—known to be detested by the Führer—but he knew that Hitler wanted a Hercules Seghers landscape, and might trade the Matisse for the Seghers. Or it might be traded for arms, or simply sold on the feverishly active art market in order to raise funds to procure arms. For by the end of 1943 and into 1944, the German armies were starting to run more on fumes than on fuel, and they need armaments. You can get armaments by buying them. You buy them by having money and one of the ways you can have money is that you have art that can be sold: if *you* don't like that Matisse, others do and are willing to pay for it. So it becomes a win-win situation—except, of course, for the victim from whom the Matisse was plundered in the first place . . .

Much of the art was kept, however. The German museums, like all museums, had gaps in their collections that they were eager to have filled. The plundering process offered a perfect opportunity for them to try to fill in those holes. There were also Nazi higher-ups who were interested in culture and art, eager to build their personal collections—for Lucius Mummius-like reasons, or simply because they loved art. For example, Goering's hunting lodge—which he expanded into a substantial mansion outside Berlin—came to be piled high with work. His artistic tastes were far more Catholic than those of the Führer. There is, of course, some irony here:

parts of the collection that Goering was amassing would have been kept out of sight when the Führer visited lest he disapprove of the collection.

Then there was Hitler himself, one of whose ambitions was to create the largest art museum in the world in his home town of Linz, Austria. In one particular photograph, Hitler can be seen looking dotingly at the architectural miniature provided by Albert Speer, his key architect, created to give him a sense of what the completely reconfigured town was going to look like. The museum was to be the centerpiece—packed with the kind of art approved by the Führer—typically landscapes done by northern painters of the eighteenth and nineteenth centuries, (painters like Hercules Seghers), or images of young, energetic people with rosy cheeks, hopefully blonde hair (or not *too* dark), and light eyes (certainly, with no sense of irony whatsoever, not the sort of dark eyes and black hair possessed by Hitler).

There was an exception to the wholesale destruction of Judaica, too. Hitler set out to create a large museum of the deceased Jewish civilization in the Jewish quarter of Prague. This museum was to be located in the Jewish Quarter's half dozen or so synagogues and its cemetery that goes back 900 years. What struck me the most when I first visited the Prague museum in 1976 was that all the labels were still in the past tense: "This is what the Jews did. This is what the Jews used to do," as if they were no longer there. This was during the Soviet period when there were not many Jews in Prague (or few admitting to their Judaism, and certainly not involved in the Hitler-initiated museum that the Soviet regime had maintained).

To accomplish these museum projects and to fill in the collection holes in German museums and to satisfy the needs and the tastes of the Nazi brass all the way up to the Führer—all this required an enormous web of individuals willing to cooperate. Different means were used. For example, the filling out of property census forms, so that the Nazi authorities could have a good idea of what was available for acquisition, was required in a number of key communities that the Nazis swallowed up. After the Anschluss, in Vienna, anyone with any kind of Jewish connection—and *that*, as you know, meant a single grandparent who had been Jewish, or a marriage to a Jew or something of that ilk—was required to fill out these forms. My colleague, Marc Masurovsky, and I studied several thousand of them and two things struck me about them. Everyone who filled out one of them owned some fourth- or fifth- or sixth-rate Austrian artist whose work was on his or her living room or dining room wall. They were so *Austrian*—they were more Viennese than the Viennese—and so they couldn't imagine what was happening to them: that the forms they were filling out were really death certificates yielding one-way tickets to Auschwitz. They just saw it as: "When we are told to fill out forms we fill out forms." I found forms filled out in Istanbul, in New York, in London, and we often don't possess enough details regarding those who filled them out to determine whether they did so because of concern for relatives remaining in Vienna or just because, as good Viennese, they followed the instructions of the authorities.

The other thing that struck me was that virtually every form I read evinced the ownership of some real estate, whether a one-fifth share in an apartment, or five factories and three apartment buildings, or something in between. You don't invest in real estate if you think you're going to have to leave anytime fast because that's not something you can liquidate easily. Clearly, this was a community that saw itself

intimately interwoven with the larger community of Vienna. It was a community in which antisemitism had always been rife, even at the end of the 19th and beginning of the 20th centuries: the very period when Klimt was being patronized by a very successful Jewish family like the Bloch-Bauers.

The situation had certain nuances to it: the Bloch-Bauers had certainly distanced themselves from Judaism. Others, like the composer and conductor, Gustav Mahler, altogether converted out of Judaism—not for religious convictions, but because a century and more after Emancipation, one could only go so far unless one were Catholic in his field of enterprise. So Mahler converted in order to become the head of the Wiener Staats Oper. Both the highly assimilated, secularized Bloch-Bauers and the newly Catholic Mahler (and many other Jews), were intensely involved in the cultural world of Vienna, even as antisemitism was rife—an antisemitism that they just kind of took in stride. So when Hitler arrived and when even more extreme views were being demonstrated, most of them had no sense that what was happening was starting to happen.

But to return to plundering, and that enormous web that, to repeat, was necessary to make possible the enormous volume of depredations for which the ERR was mostly responsible. It required the collaboration of *respectable* members of the art community: museum directors, gallerists, and dealers. This included the art historian father of the subsequent director of the Belvedere—who is the fellow with whom Schoenberg and Burris dueled with respect to that “Lady in Gold” so many years later, eventually wrestling the painting back from the Austrians into the hands of Maria Altman, the Bloch-Bauer heir.

Where, on the other hand, did all of the cultural property that did not end up in the hands of Hitler, Goebbels and other Nazis and German and Austrian museums end up going? There was a 1943 London declaration that was intended to limit the ability of improperly acquired art to go places, but it could still go; it could be sold and it could be traded, and it *was sold and traded*, because there were Switzerland, Spain, Sweden, and Portugal—neutral nations through which it could be moved, in which no questions were asked. No questions asked, indeed, until the end of the 1990s. As neutrals, then, they served a very important purpose for the Nazis. The Swiss may have had mainly to do with gold, money, and things that one stashes in banks, but all these neutrals assisted in getting works of art out of Europe so that funds could come into the Nazi coffers.

Out to where, exactly? Most obviously, where the art market was going like nobody’s business, in New York. In South America as well, but New York was, as it still is, the center. Art being purchased without anybody asking questions about where a painting came from, where a sculpture came from—its provenance, i.e., ownership history—or under what circumstances. No one asked about provenance because to ask was to risk the answer one didn’t want to hear. There were people like Hildebrandt Gurlitt, who suddenly became famous a year or two ago because his aged son, Cornelius, turned out to be hoarding hundreds and hundreds and hundreds of paintings that had come through him. Gurlitt was himself half Jewish, but managed to be the primary art thief on behalf of the Führer. (Talk of nuanced situations!) Gurlitt had a web of connections throughout Europe: a web of people willing to cooperate, to help him get what he wanted for the Führer (or for himself) or

to help others get what they wanted, or to tell him or them where what he wanted could be obtained.

The war ended and a Trilateral (American, British, and French) Commission, and several Collecting Points forming a network of locations for displaced art (parallel, in a way, to the camps for displaced persons), as “Monuments Men” types started to realize how vast the volume of *things* hoarded by the Nazis was and how nearly insoluble the problem of how to get it back whence it came was going to be. The George Clooney movie doesn’t give one quite the sense of this problem, but the group that was working as “Monuments Men” was far too small and employed for far too short a period of time in order for them to accomplish everything that needed to be accomplished. For the most part, they had to satisfy themselves with *repatriation* as opposed to *restitution*. I want to make a distinction in this context between those two terms. They tried to make sure that this stuff went back to France, Hungary, Yugoslavia—whatever the country of origin—and left it to those respective countries to see that it got to the museums, families, individuals from which it originally came. Sometimes it did, but more often it did not.

In studying documents in the archives, one of the things that I came across was the form that a captain from the U.S. Military in Munich had filled out when he handed over some paintings, having the consignee sign off saying that they had been given back to him. There was no identity verification to make sure that the person receiving the paintings was who he said he was. The U.S. military was clearly most concerned with being absolved of the responsibility of seeking art returned to *somebody* and removed from its own jurisdiction. On the other hand, where there *was* an interest in getting it right, identifying certainly the legitimate consignee might be difficult. Say, for example, that the survivor is a daughter who has taken on her husband’s last name and doesn’t realize that the property census forms are under her father’s—her maiden—name, not her married name so that there is no apparent connection between her claim and the original form identifying her family as the owner of the artwork. Or the survivor is a relative, but without the same last name as the one who filled out the original form. Faced with hundreds of thousands of objects, figuring out exactly where anything originally came from and where it should go must have been a daunting challenge.

Our government was not interested in pushing the issue and its details—its nuances—too far at the time. Things could easily slip, and many did, into an abyss of silence, which was also (forgive the mixture of metaphors) a valley of amnesia. The Cold War was heating up. (And forgive the oxymoron). We were worrying about living communists, rather than dead Nazis—or perhaps, better put: current, active communists rather than former, inactive Nazis. You may have heard of “Operation Paperclip,” which was a policy of the State Department allowing someone who was likely to be of help or of use to us against the Soviets—recently our allies, now our enemies—to leapfrog over all the usual State Department procedures required in order for one to become a citizen of this country. Their pasts were expunged. In such an atmosphere, in which we were willing to take on former Nazis who were active in Hitler’s regime because we felt that they could be of some use to us against the Soviets, we were not exactly likely to spend an excess of time or mental energy furthering the research into cultural property.

Frankly, survivors were not overly interested in this matter at that moment either. They usually didn't want to relive the most horrific years of their families' lives. They wanted to move on, to find *new* lives. It was only after enough time had elapsed that some began to think and wonder what happened to those paintings that were on their grandfather's wall . . . Now, thirty, forty, or fifty years later and there is a gradual reemergence of interest. One can chart, in retrospect, certain flashpoints in the re-awakening, recollection, *speaking-against-the-silence* process.

The Holocaust, *per se*, reached the mental radar screens of Americans and Europeans when it began reaching our television screens in 1961 as the Eichmann trial in Jerusalem was televised in parts of Europe and the United States every day. Add to that the crisis of spring, 1967, when it appeared that Israel was going to be destroyed by its Arab neighbors. That didn't happen, but at the outset it appeared that a virtual genocide of Jews was about to take place a mere generation after the Holocaust. The American Jewish community in particular suddenly thought: "Déjà vu all over again; a few million Jews are going to be massacred and the world doesn't want to do anything." So an interest in that crisis connected with interest in the Holocaust.

Further: in 1977, President Carter did not have a particularly strong relationship with the Jewish community—in part because he was ahead of the curve with respect to concern for the Palestinians in the ongoing Middle East morass. Someone suggested the idea of a federally-supported Holocaust Memorial or Museum as a part of the means of improving that relationship, but it took about fourteen or fifteen years for the appointed commission to produce what ultimately ended up as the U.S. Holocaust Memorial Museum. By then we'd passed through the 1980s, where the Soviet Union was slowly collapsing—opening up hoped-for possibilities with respect to the hoards of cultural and other property taken by the Red Trophy Squads as reparations from the Germans. These squads had not been interested in knowing from whom the Germans got the objects that were taken back to Moscow and Leningrad (i.e., St. Petersburg). The plunder of the plunderers resulted in loads of art stashed in the basement of the Hermitage that would take years to be revealed. Even now we don't know all of what is there.

But by the 1980s, to repeat, the Soviet Union was falling apart—and also, Holocaust survivors were aging and dying. So by the time the Holocaust Museum opened in the early 1990s the issue of Nazi-plundered art was starting to come to focus as a consequence of this progression of issues and events. By 1991, previously unexaminable O.S.S. documents were declassified, so the archives became a more useful kind of instrument for pursuing this course of interest. And then, in part as a direct consequence of this availability, Lynn H. Nicholas's 1993 book, *RAPE OF EUROPA*, was made possible, and it offered a spectacular, seminal overview of the whole era of Nazi plundering of art and culture. Two years later, Hector Feliciano's book *THE LOST MUSEUM* came out—first in French, then in English—in which he focused on a handful of specifically French Jewish families renowned as collectors, including Paul Rosenberg (no relation to Alfred), who was a gallerist, dealer, and promoter of artists like Matisse, Braque, and Picasso.

There are a handful of cases that help illustrate the diversity of the types of situations that emerged over the next two decades. The first one: Goodman/Searle (focused on a Degas on long-term loan to the Art Institute of Chicago). The issue

there was, “I, Daniel Searle, paid good money for this. I bought it in good faith. Why should I have to return it (to the heirs of Fritz Guttman)?” This raised the legal (versus moral) question of faulty title/real title: does it pass? He spent over a million dollars to try and get the issue thrown out of court, more than the \$850,000 he had paid for the work from a reputable gallery, a decade earlier. When it was appraised by two different galleries at the time of the restitution hearing, the art market had gone up. Yet he got two different appraisals: one was \$280,000 and one was \$380,000. So apparently he got cheated by his reputable gallery a decade earlier. In the end Goodman and Searle agreed to divide the stunted value—barely covering Simon Goodman's legal costs and giving Daniel Searle a tax write-up that no doubt barely occupied space on his tax return. At the Art Institute where the work remains, there's a plaque that talks about its provenance.

A second case, two years later, involved a Matisse (depicted in Feliciano's book as still missing) that had been in the collections of Paul Rosenberg and ended up in the Seattle Art Museum (“SAM”). My colleague Marc Masurovsky and I worked on this project for SAM. Rosenberg, who survived until 1958, had been looking for his stolen paintings until his dying day, consistently placing this painting on lists with a dozen others that were in a particular group that he'd clearly never gotten back. Never gotten back and perhaps resold, that is, since he was a dealer, after all; when he *did* get works of art back he would often resell them. Most famously, he walked into the office of Bührle, an armaments manufacture whose art collection came in part thanks to the Nazis, in Zurich—and identified four paintings that had been stolen from him by Nazi agents. The Swiss court awarded Rosenberg the four paintings from Bührle, in 1948. Rosenberg then turned around and sold them back to Bührle. We had to demonstrate that this hadn't happened with the Matisse. And the painting in question was an “Odalisque”; there are a number of works with similar names by Matisse, so we had to show that the pointing in question was indeed *the painting in question*.

What I found most interesting—disturbing might be a more appropriate term—is that when Knoedler & Co. sold it to Ginny Bloedel back in 1955 or 1956, there was no way they could *not* have known that it was plundered by the Nazis. It would have been difficult for them not to know, in fact, that it was Paul Rosenberg's painting because he was looking for his lost art everywhere and the art world was much smaller then than it is now, and he was very well known within that world. Knoedler's correspondence with Ginny Bloedel showed deliberate attempts to obfuscate the work's provenance record. The gallery threatened me with a lawsuit if I asserted this in my report to SAM. I thought I could win, but who has the time and money? So I deleted that conclusion in my final report. More precisely, I whited it out: it looks like it's been redacted, censored in the Soviet style—but SAM sued Knoedler. They settled out of court and Knoedler said that SAM could take from its collections something to compensate the museum for the loss of its Matisse. Knoedler has recently closed down because of another scandal having to do with ethics and morality and forgeries not having to do, in this case, with plunder.

There was the case of Dina Gottliebova-Babbitt, a sixteen or seventeen-year-old young woman in Auschwitz, who was really skilled as an artist. Dr. Mengele wanted her to draw portraits of his victims—excuse me, his patients—because photographs wouldn't effectively convey the emotion and flesh-tones that he wanted expressed.

More than a dozen portraits survived. Decades later, Dina was a grandmother living in California—a retired animator for Disney. The issues that we are discussing were coming up again and she realized that the portraits were at Auschwitz and she wanted them. So she went to the Auschwitz Museum and said, “Those are mine. I want them.” Of course, they said no. The Director asserted that, if there’s an owner it would be Mengele, because he was the one who commissioned them: he paid for them. That is to say, “You’re alive and not dead. Your life was your salary.”

There was the issue of the two Schiele paintings—the “Wally” and the “Dead City III” that were in the collections of the Leopold Museum of Vienna. They were on loan for an exhibition at MOMA and when they were about to go back to Vienna, two families stepped in and said that those paintings belonged to them. They said that they could prove that they had been in touch with Leopold just after the war and had asked him to keep his eye out for these works. So Leopold knew that they belonged to these families and yet he purchased them when he had the chance, and here they were in his collection.

This was not an issue of ownership in the case of MOMA. It was the issue of “what do I do with art that comes in for temporary exhibition as opposed to art that I’m buying for my collection that has an insufficient provenance or about which I have some suspicion that it might be plundered art?” It took over a decade for the case of the “Wally” to be resolved, (“Dead City III” was returned much more quickly to Leopold, based on legal technicalities). The legal lynchpin of keeping “Wally” in incarceration during that more than decade was the idea that it was imported into the country without immunization against seizure in the event that something like this came up—a legal issue, not moral or cultural.

There was a case involving a putative work from the Schloss Collection, allegedly located in the Carnegie Museum in Pittsburgh: a—supposed—Rembrandt. The museum responded to the claim that it was a Nazi-plundered Rembrandt from the Schloss family in an odd—wrong—manner. They immediately took it off exhibition, put it in storage, and wouldn’t let anyone look at it. It made them look culpable. Eventually, they got several Rembrandt experts in and analyzed the brush strokes. It turns out not to be the Rembrandt in question (unlike the SAM Matisse, which was the Matisse in question!) but a copy of the Rembrandt either by someone in Rembrandt’s school or an 18th or 19th century painter. In this case it turns out there was no case. The Rembrandt that the Schloss Collection lost is still out there somewhere or destroyed.

I would end by turning to the current case in Norman, Oklahoma. Leon Meyer, a French woman, has been trying to get back a painting—a small Pissarro, “La Bergere”—from the Fred Jones Jr. Museum of Art at the University Oklahoma, that had belonged to her father, Raoul Meyer. It’s an odd case because everybody in the state from the governor down to babies in their diapers believe it should go back to her. Yet the museum has stood fast. It turns out the museum did no provenance research on the work or on thirty or forty other paintings that they’d received from the same source: a Jewish family that had bought them all, over the years, from the same gallery, and ended up gifting them to the museum. No one was doing provenance research. A curator in Indianapolis happened to stumble across some material and contacted the museum 10 years ago saying that there might be a provenance problem with Pissarro’s “La Bergere,” and that it should be looked into.

The museum chose not to do that. It turns out they've never done any provenance work on any of their collection, including any of those thirty or forty paintings that I just referenced.

This leads me to a final series of comments that brings us full circle. I saw a speech given by a student at the University of Oklahoma on YouTube five or six months ago. He is the president of an organization at the university focused on Holocaust remembrance and the speech was about a bill that was before the state legislature that would require the museum to do provenance research on all of its collection. What struck me was that behind him at the State House was a bronze statue of an Indian. I thought as I watched and listened: "that has got to be a Cherokee because that's who took up residence in Oklahoma back in 1838 when the Trail of Tears forced them from Georgia and then east to Oklahoma." There was nothing in Oklahoma when they got there. They were forced away from Georgia because the land was rich, and there was word that gold had been discovered in those eastern hills. The whites wanted it, so they conveniently worked up a reason for dispossessing this indigenous group of its lands. I thought "now *there's* an irony! This image—which symbolizes an earlier genocide, an earlier dispossession of culture and of life and of property in front of which this student is giving a very eloquent speech in support of this bill . . ."—it made me think of the fact that my colleagues and I had gone up against the French government for the third time in this past year.

The Conseil des Ventes is the branch of the French government that deals with auction houses. Two major auction houses, Drouot and EVE, had been auctioning on three different occasions Katsinas ("Rainmakers from the Gods"): important sacred Hopi objects. On behalf of the Hopi, who did not have the wherewithal to understand how to deal with this, we fought to have them removed from the auction block. The first time, we were shot down on strictly technical grounds. It wasn't clear that we had legitimate title to function in a legal capacity on behalf of the tribe, and, as far as French law is concerned, the chief of the tribe can only speak in his own right and not on behalf of the tribe even though he's the chief of the tribe. We went through a lot of details to get in all the documentation that made us the legal representative of the Hopi. Then the issue, the second time around, was that the French don't really acknowledge them as a sovereign people. Apropos of the 1970 International Legal Conventions or the 1983 additions to that legislation, the French, albeit signatories, have chosen not to recognize the indigenous American tribes/nations.

So the year offers a kind of cultural identity/plundered cultural property perfect storm, with three things coming together at the same time. There is the YouTube video devoted to the issue of the Pissarro in Norman, Oklahoma claimed by a French woman, with the Cherokee Image behind the speaker that recalls a nineteenth-century genocide, and we're fighting on behalf of the Hopi, next door to Oklahoma, against the French whose auction houses are harboring—and therefore aiding and abetting the traffic in—plundered cultural artifacts.

Meanwhile, of all things, an article came out at around the same time about how upset the French are because there are a handful of four or five objects that had long been in the hands of a private family that are part of the French royal patrimony that are now on the auction block. The group of objects included a notebook and doodads that go back to the 16th century and the French op-ed article suggests strongly that the government intervene to prevent these items from being auctioned

off and going out of the country. While France is in the middle of doing this with their objects, they don't acknowledge the cultural, sacred, or religious legitimacy of the Katsinas to a group that they don't acknowledge as having its own identity or therefore rights to patrimony.

A wide web of issues and ideas is provoked by the discussion of Nazi-plundered cultural property. I began by saying it's about individuals (like Lucius Mummius), nations (like the Greeks, Romans, French or Germans), and humanity. The implications include the patrimony of indigenous peoples and certainly, also, the theft of European antiquities. For example, the Metropolitan Museum of Art has finally arrived at an understanding in the matter of plundered antiquities, but when it first started and the Met's director, Phillippe de Montebello announced that the museum was going to give back the renowned Euphronios vase and some other objects to Italy, he didn't say that the reason was that it was the right thing to do. It was because they wanted to "make our Italian friends happy." Translation: "We want them to continue lending objects to the Met." They weren't giving things back because they had a sense that they *belong* to the Italians. So our museums are still bastions of cultural property, of cultural identity, and, therefore, we might assume, of moral rectitude, but not always overly concerned about the relationship between cultural preservation and moral behavior. They still have some distance to cover, but then we all do, as human beings. That's how it goes. Thank you all very much.