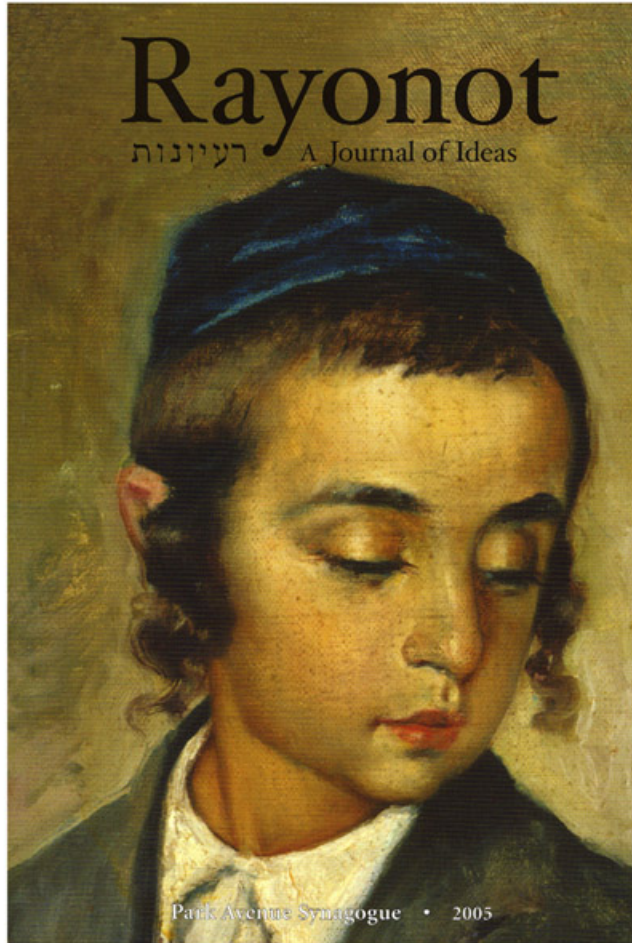


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Spoils of War

Elizabeth A. Sackler

"An informed democracy will behave in a responsible fashion."

THOMAS JEFFERSON

Sixteen million works of art were confiscated, stolen, and pillaged by the Nazis from Jewish families, collectors, and dealers during World War II.¹ This meticulously orchestrated program (with impeccable record-keeping) to assemble the world's greatest works of art was the first step toward the building of a new museum in Berlin to celebrate the power of the Third Reich and Aryan supremacy, and for the personal collections of high-ranking officials whose names we know too well. The paintings alone spanned more than three hundred years, including the greatest works of Rembrandt, Vermeer, Rubens, Manet, and Monet. The lists read like a history of art textbook, and the works of the then contemporary modern artists, Cezanne, Matisse, Klee, et al, were confiscated and outlawed as "degenerate art."²

After Hitler's defeat, the British and American allies established four Collecting Points in Germany where recovered art was inventoried and cared for in preparation for repatriation to owners or descendants, when possible, and, if not, then to their countries of origin.

By 1946, the largest and most secure facility was the Wiesbaden Collecting Point, in Wiesbaden, Germany, under the direction of Army Captain CE, Walter Farmer. That same year, in Washington, D.C., the newly opened National Gallery of Art's first administrator made a recommendation to the Army that the transfer of two hundred works of art "of the greatest impor-

¹Sol Chaneles, "The Great Betrayal," *Art and Antiques*, December 1987.

²Hector Feliciano, *The Lost Museum* (New York: HarperCollins, 1997) (the most comprehensive book, to date, on the subject of Nazi looting) and Nancy Yeide et al, "Historical Overview," *The AAM Guide to Provenance Research*, (2001), pp. 41-44.

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tance” be shipped from the Wiesbaden Collecting Point to the nascent museum under the guise of “safe keeping.”³ In addition to this obvious strategy to move masterpieces onto American soil and the walls of our national museum, the Army’s order to Director Farmer to do so was contrary to the allies’ agreed-upon goal of repatriation and restitution.

Farmer was outraged, but he followed orders and prepared the chosen masterpieces for shipment⁴ while, at the same time, he wrote “The Wiesbaden Manifesto,” which was signed by all of the one hundred and forty United States Army’s American Monuments, Fine Arts, and Archives Commission’s Specialist Officers working under him.

The Manifesto, submitted by Farmer to the United States Senate, read in part:

We are unanimously agreed that the transportation of those works of art [to Washington, D.C.] undertaken by the United States Army, upon direction from the highest national authority, establishes a precedent that is neither morally tenable nor trustworthy . . . No historical grievance will rankle so long, or be the cause of so much justified bitterness, as the removal, for any reason, of a part of a heritage of any nation, even if that heritage be interpreted as a prize of war . . . There are yet further obligations to common justice, decency, and the establishment of power of right, not might, among civilized nations.

The United States Senate, true to their responsibilities under our Constitution, discussed, deliberated, and ultimately agreed to reverse the order. On November 7, 1946, President Truman signed a bill returning the two hundred masterpieces to Germany and repatriation status.⁵

Thus, Walter Farmer and his learned staff had voiced their intolerance of the abandonment of moral behavior and had addressed questions of ownership and right: Who protects cultural patrimony vulnerable to the forces

³Walter Farmer, *the Bard Graduate Center for Studies Conference, “The Spoils of War: World War II and Its Aftermath: The Loss, Reappearance & Recovery of Cultural Property.”* January 1995.

⁴The shipment required transport via train from Wiesbaden to Le Havre, France, by ship from Le Havre to New York, and by train from New York to Washington, D.C., an arduous journey.

⁵Walter Farmer, *Bard Conference, op cit.*

of might? Who is responsible for the cultural objects of a nation, or art seized from individuals, during and after times of war? Who has the right to “take”?

As human beings we are faced with conflicting instincts of generosity/greed, love/hate, forgiveness/vindication, moral/amoral/immoral. How do we land on an ethical side of these dichotomies and maintain continuity of that behavior during our lives? You can’t take it with you, but in life we share the universal experience of the pain that accompanies the loss of something to which we have been attached or of someone we love. How do we cope with attachment and loss as individuals, as a community, as a society, or as a nation?

No voices have risen in united outrage to question why, in April 2003, the oil wells, but not museums, were protected by the United States military that planned the invasion of Baghdad. Irreplaceable treasures of human civilization, as well as the repositories themselves, were lost as a result.

American bombers leveled the National Library in Baghdad and handwritten documents from the royal courts of the Ottoman Empire were obliterated,⁶ along with the oldest surviving copy of the Koran. The National Museum of Iraq was demolished; the sole repository for global as well as cultural patrimony that had survived for more than 7,000 years, housing thousands of objects from ancient Mesopotamia,⁷ it was left without protection from looters. Artifacts from that museum have appeared on the art market. Who is accepting these objects to sell? Who is purchasing them?

The well-known international attorney and historian, Willie Kort, reminds us that a legitimate purchase of stolen property does not establish legitimate ownership. Almost without exception, the transfer of stolen property in a good faith purchase does not establish title under law. “We have to make sure that everybody involved in the purchase or sale of art accepts the principle that stolen works of art have no place on the market,”⁸ Kort has often repeated.

Last November the *New York Times* reported that irreplaceable artifacts from Afghanistan’s National Museum thought to have been destroyed are, in fact, safe and intact. More than 22,000 items were hidden sixteen years ago in

⁶*BBC News, April 14, 2003.*

⁷*The International Herald Tribune, April 21, 2003.*

⁸*Willie Kort, Bard Conference, op cit.*

secret vaults, thanks to the farsightedness of the museum's Director Omar Khan Massoudi who, in 1988, was a junior staff member. Packed away since "the Russian times," these treasures survived civil war, the rise of the Taliban in the 1990s, and American bombings in 2002. "More than 5,000 years of civilization at the heart of the silk road is intact, including a third-century glass vase depicting the lighthouse at Alexandria, one of the Seven Wonders of the World."⁹

It is true that Directors Omar Khan Massoudi and Walter Farmer and his courageous staff are unusual, as unusual as historians who write about the pillaging of the Americas. In a slim and important book, *The Conquest of America: How the Indian Nations Lost Their Continent*, Hans Koning tells us, "It was the looting of the Americas that paid for the Industrial Revolution,"¹⁰ and the gold and silver of the mines of South America that filled the coffers of the Church and European monarchs and now the World Bank. American museums, universities, libraries, and private individuals continue to be the victors of the spoils of war that have come to be called "Fine American Indian Art." These items, often lost or sold under duress, make "acquisitions" over the centuries, dubious at best.

The Smithsonian Institution engaged in a Cranial Study in 1868 to "prove" that American Indian people were inferior, hence inhuman. Soldiers and civilians were paid two dollars for children's skulls, five dollars for women's, and ten dollars for men's, resulting in mass murder and decapitation, and the unearthing of graves and decapitation of the dead. Tens of thousands of skulls were boiled, weighed, and shipped to Washington,¹¹ and they still sit today in sliding storage drawers and on shelves at the National Museum of Natural History,¹² descendants awaiting their return. Though this sor-

⁹Carlotta Gall, "Afghan Artifacts, Feared Lost, Are Discovered Safe in Storage," *New York Times*, November 18, 2004, A7.

¹⁰Hans Koning, *The Conquest of America: How the Indian Nations Lost Their Continent* (New York: Monthly Review Press, 1993).

¹¹Suzanne Harjo, *Introduction, Mending the Circle: Native American Repatriation Guide* (The American Indian Ritual Object Repatriation Foundation, 1996, or on-line at Repatriationfoundation.org.)

¹²The National Museum of Natural History and The National Museum of the American Indian have Repatriation policies independent of NAGPRA. Information is available on line at Repatriationfoundation.org.

did fact is only a piece of our national history, it is this haunting truth that has fueled ten years of lobbying by Native American leaders and activist lawyers for a human rights law.

The Native American Graves Protection and Repatriation Act (NAGPRA) was passed by Congress and signed by President George Bush on November 16, 1991.¹³ It requires institutions that have ever received federal funding to return human remains, associated grave goods, ceremonial material, and cultural patrimony to their tribes of origin. By 2004, most museum registrars and curators had consulted with lawyers, when needed, to fully understand and implement the law. Trustees are continuing to comply with both their fiduciary and legal responsibilities.

Though less than ten percent of the average museum's holdings fall under those categories, dealers and collectors worry about the care of items returned. But whether or not we understand cultures whose worldviews or forms of worship are different from (what is referred to as) the dominant culture, respect can be a powerful ally. Descendants know best how to bury or re-bury their grandparents' and great-grandparents' remains. Spiritual objects returned to ceremonial dances and others enshrined in mountainsides left to disintegrate in the natural elements are forms of prayer—prayer for the continuation of life and the preservation of life's cycle.

American museums' staffs and trustees have found that Native American representatives share historic information and request returns with great care and integrity. The respect-filled relationship between Native Peoples and non-native museums assists in our national healing.

As a Jewish woman, I shudder at the thought that my grandparents' bones might have been in a museum case or that a Torah from our Synagogue might be auctioned off as "Jewish Art" to hang on someone's living room wall. The aesthetic beauty of any object of religious or spiritual life does not an artwork make.

Unfortunately, not much progress has been made in the fifty years since the theft of fine art during World War II. Nearly 100,000 works of art that were listed in Nazi inventories as confiscated are still missing.¹⁴ However, in

¹³PUBLIC LAW 101-611, 101st Congress, Nov. 16, 1990 [HR5237].

¹⁴Greg Bradsher www.archives.gov/research_room/holocasut_era_assts/research_plunder/documenting_nazi_plunder_of_european_art.html

the last decade, the American media have reported widely about Nazi looted art surfacing in exhibitions and on the market, subsequent claims made by descendants of the victims of the Holocaust, and legal battles that have ensued. American museums are now very cautious when booking traveling exhibitions, especially from Europe—provenance is reviewed with care. In 1999, the American Association of Museums (AAM) established guidelines addressing issues of the Nazi-era looting. The American Association of Museum Directors (AAMD) is promoting identification and research by museum personnel of art that was created before 1946 and acquired by any museum after 1932, art that changed ownership between 1932 and 1946, and art that might have been in continental Europe between 1932 and 1946.¹⁵ The Louvre holds, in trust, scores of masterpieces waiting for claimants. Even when displayed, that art bears its special accession number on the public label.

Humankind has all too often been moved to participate in unimaginable cruelty. While the world is now technologically smaller than ever before, at the same time we are still worlds apart and perhaps always will be. International conflict reaches new crescendos with each passing month, but when my country initiates aggression abroad, suppression at home, ethnic profiling and torture of those who are “suspect,” I can easily recall the angry hisses and spits “Jew!” and that, as we know, was just the beginning.

¹⁵The AAM has established a provenance Web site including a database for unclaimed art by: artist's name, medium, title, and dimensions. Search: Nazi-Era Provenance Internet Portal [link] NEPIP. This Web site provides a searchable registry of objects that changed hands in continental Europe during the Nazi era (1933–1945) and are now in the collections of American museums.

Other related Web-sites include:

The Art Loss Register (www.artloss.com)

Interpol-Stolen Works of Art (www.interpol.int/Public/WorkOfArt/Default.asp)

Commission for Art Recovery (www.comartrecovery.org)

Holocaust-Era Assets: Record and Research at the National Archives and Records Administration (www.archives.gov/researchroom/holocausteraassets/index.html)

I would like to thank Judith F. Kolkart, Assistant Curator, Department of European Painting and Sculpture, Brooklyn Museum, Brooklyn, New York, for Web-site information.

Is it possible, any longer, for those who believe in the richness of art, the importance of cultural patrimony, the protection and rights of children, the respect for people of all religions and of our own private rights—all American ideals—to awaken, arise, and demand their restoration as we remember personal responsibilities?

Walter Farmer died in the late 1990s, his voice silenced by the natural hands of time, but the Wiesbaden Manifesto remains exemplary in moral and ethical standards for people and nations—a warning to be wary of adherence to the power of might. It reminds us that, especially in times of conflict, we have obligations to common justice and decency and, by the Manifesto's very existence, to act with integrity in all matters. ■



“Rainbow Dance.”

Photograph by Marcia Keegan from her book, *Pueblo People*