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The Gurlitt Trove: Its Past, Present and Future

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Background

Even before his rise to power, Adolf Hitler had planned the systematic looting of Europe’s finest works. Art has historically been a physical representation of a culture’s values, and for Hitler, the looting and destruction of prized works from both foreign countries and private collections was meant to erase the history of those who he despised. Hitler’s immense power and ever-expanding empire during the war allowed him the ability to ravage the top-tiered collections of France, Poland, Germany, Austria, and the Netherlands, among others. Many museum officials and The Monuments Men, a task force dedicated to protecting and restituted art in conflict areas during World War II, concealed collections of museums that Hitler had not yet devastated and attempted to discover the location of Hitler’s storehouses. However, the damage was already completed; the majority of Europe’s most significant works, including Leonardo Da Vinci’s Lady with an Ermine, Raphael’s Portrait of a Young Man, and the Ghent Altarpiece, were stolen and destined for Hitler’s magnum opus, the Führermuseum in Linz, Hitler’s hometown.


Shortly after the conclusion of the war, restitution efforts began. Once the Monuments Men disbanded in 1946, it was up to governments and special interest groups to generate the logistics of restitution laws and cases. Much has been written on the subject. Works that contribute to documenting restitution efforts shortly after the war include Jonathan Petropoulos’ The Faustian Bargain: The Art
World in Nazi Germany (Oxford University Press 2000), Robert M Edsel’s The Monuments Men: Allied Heroes, Nazi Thieves, and the Greatest Treasure Hunt in History (Center Street 2010) and Saving Italy: The Race to Rescue a Nation’s Treasures from the Nazis (W.W. Norton & Company 2014), and Lynn H. Nicholas’ The Rape of Europa: The Fate of Europe’s Treasures in the Third Reich and the Second World War (Vintage 1995). Works on restitution efforts post-1950 are much more scarce. Titles include Jonathan Petropoulos & John K. Roth’s Gray Zones (Berghahn Books 2005) and Martin Dean, Constantin Goschler & Philip Ther’s Robbery and Restitution (Berghahn Books 2008).

My work will keep these sources in mind as I explore how the restitution of art is handled in the 21st century. My thesis aims to synthesize information from the relatively newly unearthed Gurlitt Trove and give external context to restitution process and outcome as it moves from a private collection to a public museum.
The Fall of Modern Art

While it is well known that Hitler systematically looted Europe of its greatest treasures in order to fill his estates and proposed Fuhrermuseum, less is known about his negative reaction to modern art. Beginning in his rise to power in 1933, Hitler did everything in his power to eradicate modern works and artists he deemed “Degenerate” from the third Reich. These works, oftentimes created by Jewish artists, were criticized for either their anti-military or communist sentiments, objectionable content, or elevation races Hitler deemed inferior. More importantly, however, it allowed Hitler to censor anything that would conflict with his own feelings and beliefs. While he began by purging public collections of these works, he shortly thereafter moved on to confiscating them from private collections both at home and abroad.

In 1929, the Nazi party garnered enough votes in the Thuringian elections to claim seats in the provincial cabinet.¹ Although Bauhaus and other progressive artists had mostly stopped producing works in the Weimar after their contracts had been nullified in 1925 by a right-winged majority government, Dr. Wilhelm Frick, the newly minted Thuringian Minister of Interior and Education and former director of political police in Munich, believed that this movement needed to be further purged from existence in the Republic.² Being an ardent anti-Semite and believing that modern art was influenced by “Judeo-Bolshevist” ideals, he spearheaded a campaign not only to eliminate the influence of Bauhaus but also of all forms of Degenerate art. He further deaccessioned seventy works by Klee, Dix, Kandinsky, Nolde, Marc, and others from the

Frick would be appointed Hitler’s national Minister of the Interior in 1933.
² Ibid 8-9
Schloss Museum and attempted to control the output of all forms of art through censorship.\(^3\) Germans regarded this as “provincial excess” and he was removed from his post in April 1931.\(^4\) Little did they know, however, that this was the beginning of the end for the representation of modern art in Nazi controlled Germany.

On April 7, 1933, a mere ten weeks after being appointed Chancellor, Adolf Hitler implemented “the re-establishment of the professional civil service” which legalized the firing of any government employee, including museum workers, university professors, and publicly employed artists, who upset the National Socialists. For those not employed in the public sector, Joseph Goebbels, the newly appointed Minister of Propaganda and Public Enlightenment, established the Reichskulturkaammer (Reich Chamber of Culture), an organization that regulated those connected to the art world in any fashion.\(^5\) Membership was mandated for all those who wanted practice the arts in Germany, and those who were unaffiliated with the organization were barred from producing, marketing, and exhibiting their works, holding arts related professions, and even creating art within the Republic.\(^6\) Among those automatically excluded from membership were Jews, Communists, and those whose artistic endeavors did not conform to the Nazi ideals of proper art.\(^7\) Fearing further persecution, many artists, both within and outside of the automatically excluded groups, fled in a mass exodus.\(^8\)

The vehement opposition to “Degenerate art” was not a new phenomenon in the Weimar Republic. Max Landau labeled all modern art “pathological” in his book *Entartung* (Degeneracy), and critics would incorporate this term in reviews both in North America and

\(^{3}\) Ibid 9
\(^{4}\) Ibid
\(^{5}\) Ibid
\(^{6}\) Ibid
\(^{7}\) Ibid
\(^{8}\) Ibid 13
Europe multiple times before it took on a more sinister meaning. In 1909, Kaiser Wilhelm fired Hugo von Tschudi, the director of the Nationalgalerie, for purchasing Impressionist paintings.\(^9\)

In the years prior to 1914, there was a schism between conservative artists and forward thinking, modern artists that manifested itself in a series of protests and counter protests. While it did indeed become political for a short period, it was ultimately dismissed as something that should remain in the realm of opinion rather than in the law.\(^10\)

During the aftermath of World War I, modern artists gained more acceptance than ever before. The liberalism of the post-war Weimar Republic allowed for museums to display modern exhibitions at an unprecedented rate.\(^11\) Berlin’s Nationalgalerie opened a wing devoted to modern art in 1919, and, although it was criticized widely by both the left and right, it set a precedent for other museums to followed suit.\(^12\) By the late 1920s, almost every major museum in the country displayed modern art in some form or another.\(^13\)

When Hitler rose to power, it took him four years to succinctly define what would be considered acceptable art for the Third Reich.\(^14\) Ultimately, what was deemed acceptable was the art Hitler believed to be aesthetically pleasing and culturally uplifting and Nazi propaganda.\(^15\) With such subjective criteria, however, even his top-ranking officials could not initially discern what was acceptable. Albert Speer, tasked with decorating Joseph Goebbels estate, wrote:

I borrowed a few watercolors by Nolde from… the director of the Berlin Nationalgalerie. Goebbels and his wife were delighted with the paintings- until

\(^9\) Ibid 7  
\(^10\) Ibid  
\(^11\) Ibid 7  
\(^12\) Ibid 7-18  
\(^13\) Ibid 8  
\(^14\) Ibid 10  
\(^15\) Ibid

However, even in times of acceptance there was opposition. A group of German “philosophers” used racist rhetoric to denounce not only modern art but also classical works.
Hitler came to inspect, and expressed his severe disapproval. Then the minister summoned me immediately. “The pictures have to go at once; they’re simply impossible.”

What followed was a complete purging of “Degenerate” art. Anything that had previously slipped past the government was shut down immediately. Galleries dealing in modern art were closed, artists like Paul Klee were relieved of their academic posts, and Hitler began staging poorly composed Degenerate art shows meant to mock the artists. All this hatred culminated in a 1937 exhibition of Degenerate art from collections owned by the Reich at Hitler’s newly rebuilt Temple of Art.

(Fig. 1) He enlisted Adolf Ziegler, a mediocre German artist, to curate the show. Conscientious museum directors, alerted of the proposed exhibition, rushed to secure their “Degenerate” works. They rushed to return loaned works (particularly those from private collections), hid anything they could in storage or in bank vaults, and created far-fetched excuses on why the works could not be shown. Other museum officials, corrupted by greed, gladly deaccessioned works and further facilitated looting, or looted themselves, from both state collections in order secretly or not so secretly market them abroad. Many modern masterpieces were seized during the two weeks it took Ziegler to produce a list of works for the exhibition.

He systematically raided state museums and confiscated 68 paintings, 7 sculptures, and 33

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16 Ibid 11
17 Ibid 17
Many of the works that were saved from Hitler’s hands at this point in time were later sold due to a 1938 decree that declared that the government would not compensate museums for confiscated art.
18 Ibid
graphic works from the Nationalgalerie, 1,202 from Essen’s Folkwang Museum, 1302 from Hamburg, 47 works from Karlsruhe, and sixteen works from the Bavarian State Collection. On July 21, the exhibition opened in a run-down building previously used to store plaster casts. Hundreds of confiscated “Degenerate” works by 113 artists were crammed along the walls alongside mocking graffiti. Ziegler gave a rousing speech where he condemned museum directors who had promoted such “examples of decadence”. Schlemmer and Kirchner utilized “barbaric methods of representation”; Anti-Military works by Dix and Grosz were labeled as, “art as a tool of Marxist propaganda against military service”, expressionist sculpture promoted “the systematic eradication of every last trace of racial consciousness” due to its depictions of people of color, Abstract and Constructivist works were called “total madness”, and an entire room was dedicated to “a representative selection from the endless supply of Jewish trash that no words can adequately describe.”. The catalogue, which art historian Lynn H. Nicholas labeled, “a badly printed and confused booklet”, was filled with Hitler’s own perverse quotes on “Degenerate” art.

Over two million adults viewed the show before it closed on November 30. Some visited in order to see their beloved artists’ work for one final time, but the majority were influenced by Hitler’s rhetoric and came to mock the “Degenerate” works. A few weeks later, “total purification” went into full effect. Museum officials began safeguarding their collections from the incompetent deaccessioning committee. In all, 16,000 works would be removed from public collections across the country.

19 Ibid 18
20 Ibid 21
21 Ibid
22 Ibid 23
23 Ibid 22
24 Ibid 23
After the “purification”, the Nazi Party needed to create a strategic plan to deal with the modern art it had amassed from German collections. Thousands of works sat insured in a warehouse in the Copernicusstrasse.\textsuperscript{25} Goering recognized the potential monetary value of their haul and sent his agent to pull paintings by Cezanne, Munch, Marc, and Van Gogh from the Nationalgalerie that would have value abroad.\textsuperscript{26} He personally purchased them for RM 165,000 and resold them for RM 500,000 to Franz Koenigs in Amsterdam.\textsuperscript{27} He would use the profits in order to purchase Old Masters for his own personal collection.

After the “total purification” of the museums, Hitler would form a Commission for the Exploitation of Degenerate Art and enlist four prominent gallerists to market the works abroad on his behalf. These men, Karl Buchholz, Ferdinand Möller, Bernhard Bomer, and Hildebrand Gurlitt, were all fervent supporters of modern arts and intimately acquainted with modern art and those who produced it. These men could purchase anything they desired from the storehouses as long as they paid in foreign currency or items that would be deemed valuable by Hitler.\textsuperscript{28} These men would resell them for much higher prices abroad, a fact that they would neglect to mention to the Commission. When Hitler’s systematic looting of Jewish collections was carried out (mostly after Kristallnacht in November 1938), the confiscated works would see an identical fate.

In 1938, Hitler and Goebbels arranged a public auction to try to increase revenue from the confiscated art. Goebbels, along with Swiss auction house representative and crony, Theodore Fischer, chose 126 works by Braque, van Gogh, Klee, Matisse, and thirty-four others

\textsuperscript{25} Ibid
\textsuperscript{26} Ibid
\textsuperscript{27} Ibid 25
\textsuperscript{28} Ibid 24
from the depositories to be auctioned off in Switzerland the following June.\textsuperscript{29} On June 30, 1939, the auction commenced in Lucerne. Many buyers, believing that the money would go to fund the Nazi Regime, abstained from bidding.\textsuperscript{30} American Joseph Pulitzer attended with two prominent New York dealers and purchased van Gogh’s \textit{Self-Portrait} among other pieces for rock bottom prices and almost immediately resold them to museums like the Metropolitan Museum of Art and the Museum of Modern Art.\textsuperscript{31} One Belgian conglomerate left with no fewer than 10 works.\textsuperscript{32} Pulitzer justified his bidding by noting that he “…Bought-- defiantly! The real motive in buy[ing] was to preserve the art!”\textsuperscript{33} At the end of the night, 28 lots remained unsold and only about SFr 500,000 would be earned.\textsuperscript{34} None of the proceeds would go to the museums from which the works were confiscated but would fund the Nazi Party instead.

Of the four dealers tasked with marketing Degenerate art abroad, Hildebrand Gurlitt is the most interesting figure. He was born Sept 15, 1895 in Hamburg to Cornelius Gurlitt, a well regarded architectural historian, and Marie Gurlitt nee Gerlach. He was raised in a devout Protestant family.\textsuperscript{35} His grandfather, Louis Gurlitt, was a noted landscape painter, and his grandmother, Elisabeth Lewald, was a Jewish woman.\textsuperscript{36} When applied to Nuremberg laws, Hildebrand was a quarter Jewish; however, with strong connections and good will from those

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\textsuperscript{29} Ibid 25
\textsuperscript{30} Ibid 4
\textsuperscript{31} Ibid 27
\textsuperscript{32} Ibid 5
\textsuperscript{33} Ibid 4
\textsuperscript{34} Ibid 5
\textsuperscript{35} Dwight McKay. \textit{Translation of Sworn Statement Written by Dr. Hildebrand Gurlitt}. June 20, 1945. i
with power, authorities could claim marital infidelity and restore the status into an almost full Aryan.\textsuperscript{37}

Gurlitt enlisted in the military at 19 in 1914 and served as an officer of the infantry until 1918.\textsuperscript{38} Upon his retirement from the military after being wounded three times, he studied the History of Art at the Technical High School in Dresden.\textsuperscript{39} He would subsequently become an art reporter for the Vossische Zeitung and other liberal leaning newspapers, write historical essays and books, and travel on behalf of the Frankfurter Zeitung to New York and Italy.\textsuperscript{40} After he completed his doctorate in the History of Art in 1925, he was appointed the first director of the City Art Gallery in Zwickau. His penchant for showing modern art garnered him the enmity of the Nazi Party, and he was dismissed from his post in 1930.\textsuperscript{41} He and his wife, Helene Gurlitt nee Hanke, then were employed by the Peoples High School.\textsuperscript{42} He later would teach at the Academy of Applied Art in Dresden, publish a book on Kathe Kollwitz, and write columns debating Nazi-art for the Vossiche and Frankfurter Zeitung.\textsuperscript{43} A year later (1931), he would be appointed director of the the Kunstverein, where he arranged exhibitions and lectures on modern art.\textsuperscript{44} By his own account, he was dismissed in 1933 for anti-Nazi feelings after sawing off a flagpole so the swastika flag could not be flown.\textsuperscript{45} A year after his dismissal from Kunstverein, he opened a gallery that dealt modern art in Hamburg. He alleged that it became “rendezvous place for the free-thinking Hamburg” and he continued to curate shows on “Degenerate” art.\textsuperscript{46} After

\textsuperscript{37} McKay, \textit{Translation of Sworn Statement i}
\textsuperscript{38} Ibid
\textsuperscript{39} Ibid
\textsuperscript{40} Ibid
\textsuperscript{41} Ibid
\textsuperscript{42} Ibid
\textsuperscript{43} Ibid ii
\textsuperscript{44} Ibid
\textsuperscript{45} Ibid
\textsuperscript{46} Ibid
the commencement of the War, he was unable to curate those types of show and could not keep his gallery open due to bomb scares and Nazi terror.  

In 1942, he moved to his mother’s home in Dresden after his home and gallery were allegedly destroyed. Dr. Hermann Voss, the director of the Museum in Dresden and Hitler’s personal art museum, the Fuhrermuseum, enlisted Gurlitt to help purchase paintings in Paris for Hitler’s personal collection. Between 1941 and 1944, Gurlitt would go on 10 purchasing trips and acquire 200 paintings in France for Hitler’s anticipated Fuhrermuseum In his postwar statement to the Monuments Men, Gurlitt ensured them that the purchases in Paris were legitimate and perfectly normal.

He alleged that he had no contact with those superior to Voss and noted “Any force whatsoever was not used. If Dr. Voss thought the pictures to (sic) expensive, he did not buy them.”. Although he knew that “Jewish art treasures” were seized by the law, Gurlitt was adamant that he had never seen them, although he was aware that the German ambassador used a Baroque writing desk from the Rothschild collection and that a series of 18th century French works from the same collection hung on the wall of the German embassy. He tried further to mitigate his involvement by noting that he only obtained works that were offered voluntarily to him. In addition, he alleged that he never visited the Jeu de Paume, tried to avoid Goering’s head art attendant, Bruno Lohse, at all costs, and implied that if he saw any looted works, he would immediately notify his supervisor.

In his article Art Historians and Nazi Plunder, however, Jonathan Petropoulos noted that top art historians were aware of the

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47 Ibid 1  
48 Ibid  
49 Ibid  
50 Ibid 6  
51 Ibid 5  
52 Ibid  
53 Ibid  
54 Ibid
rampant looting of Europe’s treasures but turned a blind eye since they believed that it was done “humanely”.\textsuperscript{55}

Although his testimony made him out to be a savior, his personal fortune argued otherwise. In 1934, he was earning RM 10,000-12,000 annually.\textsuperscript{56} During the war his income quadrupled to RM 40,000-50,000.\textsuperscript{57} Gurlitt received a four percent commission on everything he purchased for the Fuhrermuseum in Linz.\textsuperscript{58} His most expensive purchase, a set of four tapestries of Beauvais, earned him RM 88,000 on a RM 2.2 million purchase.\textsuperscript{59} In 1943, seven years since his first reported income and in the midst of his purchasing trips to France, his salary rose twenty-fold to RM 200,000.\textsuperscript{60} If he did indeed only purchased 200 works in Paris, then the remaining income must have come from some dealings that he was not so willing to disclose in his deposition. At this period he also had RM 200,000 in bonds, RM 200,000 in cash in a savings account, and his collection of paintings with a pre-war value of RM 50,000-80,000, an extraordinarily large sum for the time.\textsuperscript{61}

On April 14, 1945, Americans moved forward into Aschbach, a town of a few hundred residents who had hung white sheets from their windows in surrender.\textsuperscript{62} The residents who were listed included Karl Haberstock, Hitler’s personal art dealer, who resided in Baron von Pöllnitz’s, a Nazi member’s, castle. The Monuments Men investigated the castle on May 16, 1945, and found that Gurlitt, Haberstock, and the Baron and his son were present. When they searched the premises, they found “one large upstairs room with 34 boxes, 2 packages with rugs, 8 packages with books belonging to Mr. H. Gurlitt”, “Two downstairs rooms with about 250

\textsuperscript{56} McKay. \textit{Translation of Sworn Statement} 6
\textsuperscript{57} Ibid 6
\textsuperscript{58} Ibid 7
\textsuperscript{59} Ibid
\textsuperscript{60} Ibid 6
\textsuperscript{61}Ibid
paintings from the Museum in Bamberg”, “100 additional boxes from Museum of Bamberg (sic) and 13 belonging to General von Fütterer from the German embassy in Budapest, 6 trunks and boxes from Prince Ruess zur Lippe”, “one downstairs room [that] contain[ed] further 13 boxes belonging to Mr. Gurlitt”, “50 boxes paintings (sic), art objects and sculptured figures from the famous museum in Kassel”, and a “Full room filled with boxes, art objects and the records of Mr. Haberstock”. Haberstock was unable to furnish an inventory of his collection and both his and Gurlitt’s troves were immediately labeled questionable. All the work was seized at held at an American held collecting point. Immediately works by Liebermann, an oil painting, two pastels, and nine drawings were restituted to the Musee de Nuremberg from Gurlitt’s private collection. In a statement written under the supervision of Dwight Mckay, 1st Lt. Inf. on June 8-10,1945, Gurlitt alleged that all the works found in the castle at Aschbach were the entirety of his rightful, personal collection and did not include any works purged from museums or private collectors. On December 13, 1950, Gurlitt annotated a list of the works found at Aschbach and noted that they came from three sources: his parents’ personal collection in Dresden (obtained prior to 1933), his personal collection he had amassed over the years (he alleged that he purchased most works directly from the artists), and works from the estate of his late sister. Manfred Pahl-Rugenstein, a noted Art Historian and German Publisher, also signed an affidavit stating that these methods of acquisition were legitimate and corroborated Gurlitt’s story. On January 25, 1951, Gurlitt’s collection, which included 117 paintings, 19 drawings, and 72

63 Monuments Men Foundation. Excerpt (sic) from “Daily Reports”. May 16, 1945. 1
64 Ibid 2
65. Rose Valland. Achats De Gurlitt En France. 1945
66 McKay. Translation of Sworn Statement 3,5
Voss and Gurlitt created an unrealized plan where they would transport the paintings from the Dresden Gallery and the Museum in Wiesbaden to Mainfranken for safekeeping. Gurlitt was adamant that none of these works were present at the castle in Aschbach.
decorative objects were returned to Gurlitt. Only two pieces, a Chagall and a Picasso, were withheld by the Allies for further investigation but were returned to him when Gurlitt produced a letter from Karl Ballmer of Lugano who stated that he had gifted him the works in 1943.

Gurlitt continued to deal modern works until his untimely death in a car accident in 1956. Upon his death, his wife, who subsequently bequeathed it to her son, Cornelius, inherited his collection. Until 2013, when news of the resurfacing of Hildebrand Gurlitt’s was released, not much was known about the man. It was discovered that Cornelius was one of two children of Hildebrand and was born in 1932 in Hamburg. He lived the life of a recluse and never held a job, owned property (his Schwabing apartment was still listed in the name of his deceased mother), or collected benefits from the government. What he did have was a strong connection with the collection. He made it his life’s work to protect his father’s collection and told interviewers that the paintings were his only friends. When the works were taken from him, Gurlitt wondered aloud why the police could not have waited until he was dead until they took his works since they would have obtained the collection of the heirless recluse regardless.

Months after being confiscated, Gurlitt stated, “I’ve really missed the painting-- I notice that now” and was adamant that he would not bequeath them to any museum or restitute select pieces to their rightful owners (a position he would later begrudgingly change). “When I’m dead, they can do with them what they want” he was heard saying, but until then, all he wanted was peace and quiet with his

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70Ibid
In Gurlitt’s inventory, however, stated that the Picasso was purchased from the artist in 1942 and the Chagall was the possession of his late sister.
73Philip Oltermann. “The Mysterious Munich Recluse…”
74Özlem Gezer. “Interview with a Phantom…”
paintings\textsuperscript{75}. Cornelius Gurlitt, most certainly overwhelmed with the stress from dealing with this ordeal, passed away on May 6, 2014 at the age of 81.
The Raid and the Responses

On November 5, 2013, Germany’s *Focus Magazine* reported that German officials had located and seized almost 1,280 works of art by artists such as: Pablo Picasso, Marc Chagall, Auguste Renoir, Gustave Courbet, Henri Matisse, and Henri de Toulouse-Lautrec, Franz Marc, Emil Nolde, August Macke, Max Beckmann, Oskar Kokoschka, Karl Schmidt-Rottluff and Ernst-Ludwig Kirchner, Canaletto, and Albrecht Dürer, in a 2012 raid of a Munich apartment with an unnamed owner.\(^{76}\) Sources close to the project, however, leaked to *Focus* that the owner was none other than Cornelius Gurlitt. The significance of the name did not escape German officials nor those who work in the field of looted art: Cornelius’ father, Hildebrand Gurlitt, had been a well-known accomplice to Hitler’s systematic looting of art throughout the Second World War. The connection was undeniable; the trove had a particularly heavy focus on modern works of art and 19th century paintings, two of Hildebrand’s areas of both work and interest.

Within hours of the announcement, the world was abuzz with speculation over the legitimacy of this trove. The founder of the Holocaust Art Restitution Project, Marc Masurovsky, noted that, “Some of the works seized in the apartment appear to resemble the titles of works that were in the custody of American and German investigators sent to safeguard cultural treasures in the late 1940s.”\(^{77}\) He noted that Hildebrand Gurlitt had been had been detained for questioning about his collection in 1950, and 115 pieces that were seized as evidence were returned to him after finding that they had been acquired through legitimate means.\(^{78}\) However, evidence shows

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76 The total would be raised to 1,406 after officials discovered 126 additional modernist masterpieces at the Salzburg residence of the apartment’s owner in February 2014.


78 Ibid
that Hildebrand falsely alleged that the documentation of his collection and a large portion of the collection, itself, was destroyed in the bombing of Dresden in 1945, a story his widow corroborated in 1966.\textsuperscript{79}

In September of 2010, customs officials on a train from Zurich to Munich stopped the seventy-eight year old Cornelius Gurlitt for a routine check. Gurlitt, who officials say appeared nervous, was found carrying €9,000, one thousand fewer than the amount that needs to be declared to officials upon crossing borders.\textsuperscript{80} Upon further questioning, Gurlitt revealed that he had sold a painting to Bernhard Kornfeld, a prominent gallery owner in Bern, a statement that Kornfeld vehemently denied.\textsuperscript{81} Extensive checks carried out brought to light many other oddities including the fact that Gurlitt lived in Schwabing, not Salzburg like he stated, and that he was not registered with the police, which is mandatory in Germany, the tax authorities, and the social services.\textsuperscript{82} He collected no pension and had no health insurance; he was, for all intents and purposes, an invisible man.

In February of 2012, seventeen months after the initial questioning on the train, officials carried out a raid on his apartment. Expecting to find illicit bank accounts, officials instead found what was initially described as “well over 1000 pieces of art” in a tiny, non-descript apartment.\textsuperscript{83} Over the next four days, a team of thirty wrapped, packed, and removed all the works from his apartment.\textsuperscript{84} Gurlitt, with his idiosyncratic ways, called the removal “gruesome” and horrible” and seemed distraught enough to warrant a visit from a counselor, who he immediately

\textsuperscript{79} Ibid
\textsuperscript{80} Spiegel Staff. “Phantom Collector: The Mystery of the Munich Nazi Art Trove.” SPIEGEL ONLINE, November 11, 2013.
\textsuperscript{81} Ibid
\textsuperscript{82} Allan Hall. “£1bn Haul of Art Treasures Seized by Nazis Found in Squalid Munich Flat: 1,500 Works by Masters such as Picasso, Renoir and Matisse Hidden behind Tins of Noodles, Fruit and Beans.” Mail Online, November 3, 2013.
\textsuperscript{83} Spiegel Staff. “Constitutional Expressionism: Legal Questions Overwhelm Art Find.” SPIEGEL ONLINE, November 18, 2013.
\textsuperscript{84} Ibid
dismissed.\textsuperscript{85} In a democratic country where privacy is paramount, the unwarranted confiscation of goods is highly controversial. Without conclusive proof that a substantial amount of the works were looted, this confiscation was seen as highly unnecessary and a violation of Gurlitt’s rights.

By November 18th, the Bavarian justice ministry released their preliminary research on the trove and divided the collection into three categories: the works that were labeled “Degenerate” and were intended for sale abroad (380); works seized by the Nazi regime from Jewish owners and/or works that had a strong possibility of being unjustly taken and warranted investigation (580); and works that Hildebrand had either inherited or purchased prior to the commencement of World War II (446).\textsuperscript{86}

Although the German government was moving forward with delving into the provenance of the trove, it was met with criticism from restitution experts and alleged heirs alike. Shortly after the announcement, Anne Sinclair, wife of Dominique Strauss-Kahn and granddaughter of dealer Paul Rosenberg, staked claim to a Matisse that she remembered hanging on the walls of her grandfather’s Paris apartment.\textsuperscript{87} By November 8, the tight-lipped authorities announced that they found evidence that Nazis stole Sinclair’s Matisse of a sitting woman from a French bank vault.\textsuperscript{88} Although the true provenance of the work was realized in under a week, Sinclair believes it could have resolved much earlier had authorities contacted her after the initial finding of the trove.\textsuperscript{89}

On November 8, 2013, Dr. Michael Hulton, the great-nephew of renowned Jewish art collector Alfred Flechtheim, came forward and acknowledged that the government had not

\textsuperscript{85} Ibid
\textsuperscript{86} Ibid
\textsuperscript{87} David Gardner. “British Doctor Launches Legal Fight for Art in Looted Nazi Trove.”
\textsuperscript{88} Nick Enoch. “How U.S. Military Quizzed German Dealer of £1bn Nazi Art Loot Just After the War... but Then Let Him Go (Along with the Odd Chagall and Matisse),” November 8, 2013.
\textsuperscript{89} David Gardner. “British Doctor Launches Legal Fight for Art in Looted Nazi Trove.”
contacted him either, although he had reached an agreement with Gurlitt two years prior over the return of Max Beckmann’s *The Lion Tamer* that Gurlitt sold for €720,000. He and another heir of Flechtheim then announced that they had a desire to investigate the works further independently.

Their reasoning for not announcing the trove until twenty months after the initial discovery, the government alleged, was to keep false claims from arising so quickly. Their reasoning was not unsound, however, by November 18, 2013, roughly 100 attorneys filed claims to the first twenty-five artworks released from the trove. Both Sinclair and Hulton were known to be legitimate heirs of prominent dealers who were working diligently to regain and had successfully regained works from their respective collections. Winfried Bausback, the Bavarian justice minister, agreed with the heirs. When asked if she believed the case was handled correctly, she responded, “There is no doubt that everyone involved on the federal and state level should have tackled this challenge with more urgency and resources right from the start.”

Ruediger Mahlo of the Conference on Jewish Material Claims against Germany accused those handling the case of “what amounts morally to the concealing of stolen goods.”

On November 18, 2013, Foreign Minister Guido Westerwelle warned of the damage the case could have on German respect in regards to repatriation. “We should not underestimate the sensitivity of this subject in the world,” he said. "We must be careful that we do not squander

90 Ibid
91 Spiegel Staff. “Constitutional Expressionism: Legal Questions Overwhelm Art Find.”
trust that has been built up over many decades."95 Not everyone, however, believed that
Germany even had this reputation regarding restitution. Nana Dix, the granddaughter of
“Degenerate” artist Otto Dix, called the news of the trove “scandalous” and noted that,
“Germany, generally speaking, has never really addressed the issue of works of art seized by the
Nazis. It should have done that much earlier, soon after the war.”96 The staff of Der Spiegel, the
newspaper covering the story, criticized the government’s lack of planning and process for
handling this case.97

In addition to remaining tight-lipped, Germany seemed to be hindering the case by
refusing to create a database and hire a sufficient amount of additional staff. From the
emergence of the find, experts have believed that most of the paintings are recorded in either
auction or exhibition catalogues and that the rightful owners are identifiable.98 However, the
government initially refused to create a central, searchable database open to the public. Anne
Webber, from the Commission for Looted Art in Europe, called the response “troubling” and
noted that, “there are hundreds of families around the world urgently wanting to know if any of
the works belong to them.”99 The Conference on Jewish Material Claims shortly thereafter
released a similar statement saying that publishing a comprehensive list of works is the first and
essential step in the restitution process.100 Christoph Zuschlag, of the Holocaust Art Restitution
Project, noted that releasing a list would benefit the German authorities- experts could determine

95 Ibid
96 Francesca Infante. “Haul of Toulouse Latrec Paintings Kept by Nazi Hoarder Cornelius Gurlitt Released by
German Authorities.” Mail Online, November 26, 2016.
97 Spiegel Staff. “Constitutional Expressionism: Legal Questions Overwhelm Art Find.”
98 Allan Hall. “£1bn Haul of Art Treasures Seized by Nazis Found in Squalid Munich Flat: 1,500 Works by Masters
such as Picasso, Renoir and Matisse Hidden behind Tins of Noodles, Fruit and Beans.” Mail Online, November 3,
2013.
100 Ibid
more quickly whether Gurlitt was the rightful heir to the works.\textsuperscript{101} While it released a list of twenty-five of the most important works the day after the initial public release, the authorities eventually succumbed to external pressures and created an open access database several months later.

In the twenty months prior to the announcement of the trove, officials only utilized the expertise of one art historian, Mieke Hoffmann from the “Degenerate Art” Research Center at the Freie University of Berlin. When probed about this decision, a government spokesperson said, “We have to find a legally correct way of proceeding,” prompting many skeptics to question if they had even formulated a plan. Insider sources noted “Hoffmann is hopelessly overwhelmed with the research into the provenance of all 1,406 works of art. She has only delved to a limited extent into the stories behind nearly 500 of the paintings.”\textsuperscript{102} By deliberately withholding access from art historians while simultaneously inundating another, the government was making a conscious choice of their reputation over the concerns of the legitimate owners of the looted works.

Germany’s willingness to cooperate with Gurlitt was also seen by some as distasteful and unjust. Even after it was proven that at least two of the works in the trove were looted, Westerwelle maintained that this case needed to be treated with the utmost respect due to the fact that, “In many cases, we're not dealing with art looted by the Nazis...We must therefore act on the assumption Mr. Gurlitt is lawfully in possession of this property.”\textsuperscript{103} Justice Minister Bausback went as far as suggesting coming to “an amicable settlement with Gurlitt.”\textsuperscript{104} In late

\textsuperscript{101} Nick Enoch. “How U.S. Military Quizzed German Dealer of £1bn Nazi Art Loot Just After the War…”

\textsuperscript{102} Spiegel Staff. “Phantom Collector: The Mystery of the Munich Nazi Art Trove.”

\textsuperscript{103} Michael Sontheimer. “Gurlitt Works: A Herculean Task in Identifying Provenance.”

\textsuperscript{104} Francesca Infante. “Haul of Toulouse Latrec Paintings Kept by Nazi Hoarder Cornelius Gurlitt Released by German Authorities.”
November 2013, 310 of Gurlitt’s artworks were found to be legitimately his and were returned to him. In response to this, Ronald Lauder, the president of the World Jewish Congress, accused authorities of wanting to clear themselves of the issue as quickly as possible and demanded a change in the restitution laws of Nazi looted goods.\textsuperscript{105}

The Bequest

Upon Gurlitt’s death at the age of 81 on May 6, 2014, a new hurdle arose in the case. Gurlitt, who remained unmarried and childless at the time of his death, had named the Kunstmuseum Bern in Switzerland as, “his unrestricted and unfettered sole heir.” Museum officials were stunned at the announcement since Gurlitt had almost no connection with the relatively unknown museum. While they were “surprised and delighted” by Gurlitt’s bequest, they also immediately noted that the trove "brings with it a considerable burden of responsibility and a wealth of questions of the most difficult and sensitive kind, and questions in particular of a legal and ethical nature.”

Immediately, people began to question why a little known museum received such a large, controversial bequest. Initially, no one could draw any connection between Gurlitt and the small museum. However, after a six month long investigation, Art and Antiques Magazine published an article that would logically explain Gurlitt’s motives. Cornelius was no stranger to either Switzerland or the city of Bern. After the war, Hildebrand continued to deal art widely in Switzerland and even sold, or purchased for his personal collection, twenty-four works shown in a 1953 exhibition entitled, “German Art: Masterworks of the Twentieth Century” at the Kunstmuseum Luzern. Cornelius accompanied his father on multiple of these trips throughout the 1950s. Aside from accompanying his father on business trips, Cornelius also visited his favorite uncle, Willibald Gurlitt, who became a professor at the University of Bern after being

107 Ibid
ousted from his former post by the Nazi regime.\textsuperscript{109} After inheriting the trove, Cornelius frequently sold to the prominent Swiss gallerist Eberhard Kornfeld.\textsuperscript{110} Kornfeld had strong ties to the Kunstmuseum Bern and acted as an advisor on exhibitions, fund-raiser, and lobbyist for the museum on numerous occasions.\textsuperscript{111} When asked if he facilitated the bequest to the Kunstmuseum Bern, Kornfeld replied, “I might have had something to do with it, yes”.\textsuperscript{112}

Aside from his standing ties to Bern, Gurlitt was reluctant to leave his collection in Germany. An anonymous German museum official believed that Gurlitt had become bitter at the German authorities. He noted that, “They made his last few years miserable” “Here is this old recluse suddenly in the public glare as a tax evader and secret owner of art supposedly stolen by the Nazis. His collection taken from him until its provenance can be determined and he never sees it again. It’s easy to understand why he chose Bern over any German institution.”.\textsuperscript{113}

On November 24, 2014, after six months of deliberation, the Kunstmuseum Bern agreed to accept the works willed to them from the trove. The chairman of the museum’s Board of Trustees, Christoph Schäublin, emphasized that he did not want to risk his museum’s reputation, ensured that the museum would adhere to the 1998 Washington Principles, and was adamant that “no looted art work [would] enter the Kunstmuseum.”\textsuperscript{114}

The Kunstmuseum ensured that certain stipulations would remain in place, however. German taxpayers would foot the bill for the provenance research and the task force would continue its work.\textsuperscript{115} Grütters justified the expense by explaining that, “this has to do with

\begin{thebibliography}{9}
\bibitem{109} Ibid
\bibitem{110} Ibid
\bibitem{111} Kornfeld admitted to purchasing four German expressionist drawings from Cornelius Gurlitt in 1990.
\bibitem{112} Ibid
\bibitem{113} Ibid
\bibitem{115} Stefan Dege. “Gurlitt Collection Goes to Bern - but Then What?” Deutsche Welle, November 28, 2014.
\end{thebibliography}
Germany’s special obligation towards victims of the Nazi regime.”\textsuperscript{116} If it is impossible to identify whether or not the work was looted, it is up to the Kunstmuseum Bern to decide whether or not to take the work.\textsuperscript{117} If there are inconclusive results or the absence of an heir by 2020, the museum must make the decision whether to accept the work.\textsuperscript{118} If it choose not to by 2020, it will no longer have the right to acquire the works.\textsuperscript{119} As a goodwill gesture, however, the Kunstmuseum Bern stated that it would give priority to loan requests from museums that previously owned the works before the Nazi crusade against degenerate art and will grant these requests as long as the condition of the work allows it.\textsuperscript{120} Four days after their decision to accept the trove, the museum director Matthias Frehner acknowledged that the museum could, in good conscience, “... take two sets of works whose provenance has been confirmed.”\textsuperscript{121}

Monika Grütters, Germany’s Minister of Culture, was pleased with their decision and stated that it was “a milestone in our attempts to come to terms with our history.”\textsuperscript{122} Chris Marinello, the attorney for the Rosenberg’s heirs in their restitution case against Gurlitt, favored this decision over the “bleak alternative”, where they would have to go through numerous probate courts while Gurlitt’s relatives fought for their perceived share.\textsuperscript{123}

Others, however, had concerns over the possibility of mismanagement of the restitution of the trove. Weeks prior to the Kunstmuseum’s acceptance of the gift, Ronald Lauder warned them, “If this museum gets involved with this inheritance, it will open Pandora’s box and unleash an avalanche of lawsuits- possibly from German museums, but certainly from

\begin{flushright}
\textsuperscript{116} Ibid
\textsuperscript{117} Stefan Dege. “Gurlitt Collection Goes to Bern - but Then What?”
\textsuperscript{118} Ibid
\textsuperscript{119} Ibid
\textsuperscript{120} Ibid
\textsuperscript{121} Ibid
\textsuperscript{122} Kate Connolly and Philip Oltermann. “Swiss Museum Accepts Part of Nazi Art Trove with “Sorrow.”” \textit{The Guardian}, November 24, 2014,
\textsuperscript{123} Ibid
\end{flushright}
descendants of the Jewish owners”

Three days after the museum accepted the trove, however, Lauder changed his tune, but reiterated the idea that, “[The] Museum has itself has the responsibility to see that everything that comes to them is in fact clean, so to speak. And if that is done, and both sides... agree that the pieces... are OK and clean from anything, we then have the best of all worlds.”

On November 21, 2014, Uta Werner, Cornelius Gurlitt’s cousin, decided to formally challenge the bequest days before the museum was set to legally accept the trove. While the family had previously created a five-point plan on how they would handle the works if the museum were to reject the gift, there had been no discussion of challenging the bequest until a 48-page report commissioned by the family from Helmut Hausner, a noted lawyer and psychiatrist at the Center for Psychiatry in Cham, Bavaria, questioned Gurlitt’s mental status when creating the new will. Using documents and letters from Gurlitt’s estate, Hausner concluded that Gurlitt allegedly suffered from paranoia, which invalidates his will.

On November 18, 2014, the Board of Trustees at the Kunstmuseum Bern was informed of the appeal

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In October of 2015, Jewish groups were disappointed about the possibility of an exhibition of the works at the Bundeskunsthalle museum in Bonn at the end of 2016. Gruetters assured them that all works shown would be, “exhibited with the aim of transparency” and hoped that it would give clues that helped further the restitution process.


127 The Kunstmuseum Bern announced that it would make a formal decision On Monday November 21, 2014. The prior Friday, Uta Werner applied for a certificate of inheritance at the Munich court handling the estate on behalf of herself and other various family members. The museum was aware of the decision. Ibid

128 Ibid

Hausner came to this conclusion by noting that Gurlitt is to have felt that, “he’s been hunted by the Nazis since the 1960s, believing that they wanted to steal the paintings he’d inherited from his father.”
but reiterated that it “will keep its activities in regard to the Gurlitt bequest to what is absolute necessary; in particular the planned research body will not commence its operations for the present.”

By March 27, 2015, a Munich court had rejected the inheritance claims of Werner and declared that the trove legally belonged to the Kunstmuseum Switzerland. The decision was reiterated in December of the same year after the court ordered official report corroborated the judge’s decision.

In his first interview after accepting the trove, Schäublin noted, “We work under the observation of the global public… We cannot afford to make any mistakes.” In this day and age, it is especially true. Switzerland has had longstanding issues with stolen art and restitution. During the war it had acted as a hub for the illegitimate sales of stolen art and this reputation continued until 1998 when it, along with 43 other countries, adopted the Washington Principles. These eleven, non-legally binding principles all pertained to the restitution of looted art in museum collections. Douglas Davidson, the United States’ Special Envoy for Holocaust Issues, Bureau of European and Eurasian affairs, noted in a symposium on looted art in 2014 that these principles have been overwhelming successful, citing that museums now vet their acquisitions prior to purchase and that hundreds of artworks have been returned to their rightful owners. However, others have offered dissenting opinions. While they all noted that the Washington Principles facilitated restitution, most believe that they have failed.

Eizenstat, the Clinton Administration’s Special Representative and Secretary of State for

130 Shea, Christopher D. “German Court Upholds Bequest of Gurlitt Collection to the Kunstmuseum Bern.” ArtsBeat, March 27, 2015.
132 Stefan Dege. “Gurlitt Collection Goes to Bern - but Then What?”
133 These principles were reaffirmed on June 30, 2009 in the Terezin Declaration.
Holocaust-Era Issues and organizer of the Washington Conference, noted “the momentum has slowed in the last decade. Many countries have not even begun provenance research,” while “others have substantially circumscribed the research, and others are not investigating acquisitions after the early 1950s, even though looted artworks have been in the art market for decades after that...”\(^{134}\) Holocaust scholar Jonathan Petropoulos reiterated these concerns at a symposium at Kenyon College and noted a “bleak picture of the current state of affairs” due “largely because museums have now turned to technical defense and highly aggressive tactics in dealing with claims and potential claims.\(^{135}\)

While Germany was previously praised for its restitution efforts, even they seem to be rapidly losing motivation. \(^{136}\) Anne Webber, co-chair of the Commission for Looted art in Europe, called the state of restitution in Germany “very problematic” and noted that “some museums that hold looted artworks are helpful and proactive, but others are passive and obstructionist.”\(^{137}\) She went on to note that, “there is a worrying lack of transparency which impedes the pace and possibility of restitution and defeats the purpose of the work... Restitutions are not published and those would provide a good indicator of how real progress is in Germany.”\(^{138}\)

Webber did, however, praise Germany for their appointment of Bernd Neumann, the federal culture minister who ensured that German museums focused on restitution and created a Bureau for Provenance Research, a €2 million a year fund for provenance projects in state run museums and also helped centralize restitution resources.\(^{139}\) However, Webber quickly changed

\(^{135}\) Ibid
\(^{136}\) Many of Germany’s top museums are state funded/ set fund for restitution
\(^{137}\) Ibid
\(^{138}\) Ibid
\(^{139}\) Ibid
her tune when certain facts arose. Many of the findings from the state funded report have
oftentimes not been published despite the obligation to do so and pressure from external sources.
She also expressed dismay at the fact that that there is one person currently researching several
thousand artworks in the Bavarian State Painting Collection, who says it takes her up to eighteen
months to research one work.\textsuperscript{140}

Besides the role of museums, restitution laws and guidelines in general often pose an
impediment to the claimant’s return of looted art. The non-binding nature of the Washington
Principles is the main hindrance to restitution. Without any legality, restitution of works of art is
merely a moral act, not one that needs to be followed explicitly. When one of the signatories
does not comply, there is no legal method of discipline. This particularly poses a problem for
Germany where the statute of limitations on looted art ended and new cases can no longer be
brought before the court. Secondly, while any looted art should be subject to restitution, in
Switzerland and Germany, both Degenerate art deaccessioned from state museums and works
sold under duress are not subject to the same guidelines and there is no obligation to restitute the
works.\textsuperscript{141} Finally, Switzerland has extremely unique laws over ownership of property. According
to Swiss law, the title of a purchaser acting in good faith supersedes that of the original owner.\textsuperscript{142}
In order to reclaim the property, the original owner must prove that there were suspicious
circumstances that should have made the purchaser doubt the seller’s right to market the work.\textsuperscript{143}

In a country where historian Thomas Buomberger says that, “ninety percent of the
museums here have not done their homework,” the Kunstmuseum Bern is trying to ensure that it

\textsuperscript{140} Ibid
\textsuperscript{141} Staff. “A Strange Bequest.”
\textsuperscript{143} Ibid
does not slip up. In addition to stating that it will not take any works without a clear provenance, it also secured a seven-figure donation to finance provenance research of the Gurlitt Trove. Furthermore, it has spent roughly $850,000, putting the museum just over $540,000 in the red, on legal and art historical provenance clarifications during the 2014 fiscal year.

Although at first glance this seems to be a more reasonable method of dealing with this trove of looted art, there remain issues with the restitution process. Petropoulos notes that Germany’s Advisory committee, “has no rules about procedure” and “… has no terms of reference.” “It publishes a few paragraphs about each decision it has made, it doesn’t explain the principles by which it reaches those decisions, and the decisions anyways have no consistency from one to the next.” Winfried Bausback, a signatory on the legal document allowing the Kunstmuseum Bern to take possession of the bequest, also criticized the lack of process and “legal hurdles” in the restitution process. He noted that, “We found a solution for Gurlitt, but there’s no legal mechanism to deal with any similar situations in the future.” He posed the question, “What happens if a new collection of looted art suddenly turns up?” In its current state without a set procedure or enforceable laws, his concern is justified. If another trove of this scale were uncovered, it would be back to square one for the German government.

\[144\] Stefan Dege. “Gurlitt Collection Goes to Bern - but Then What?”
\[145\] Ibid
\[146\] Staff “Nazi Art Collection Pushes Bern Museum into Red.” SWI Swissinfo.ch, May 22, 2015.
\[148\] Kate Connolly and Philip Oltermann. “Swiss Museum Accepts Part of Nazi Art Trove with ‘sorrow.’”
\[149\] Ibid
Looted Works

In mid January 2016, after two years of research and $2,000,000, the German Lost Art Foundation determined that it had identified the rightful owners of just five works of art in the Gurlitt trove, 499 had questionable provenance, 231 were purged from museums and identified as Degenerate, and that 276 pieces were legitimate property of the Gurlitt family.\textsuperscript{150} Ronald Lauder, president of the World Jewish Congress, and other Jewish groups almost immediately released a statement calling the results “meager and not satisfactory” and accused Germany of both wasting time and carrying work out without sufficient transparency.\textsuperscript{151} While Monika Grütters, the culture minister, conceded that the process was not as swift as intended due to language barriers and the sheer amount of time it takes to look into a body of work this large, it nonetheless served its purpose and made great strides in determining the originals of a significant portion of the collection.\textsuperscript{152} The Task Force will be replaced by a new agency, the German Lost Art Foundation, and will continue research at a much swifter pace.\textsuperscript{153} In this chapter, I aim to synthesize available information in order to create a comprehensive look at the looting and restitution of the five works that have been restituted or are in the process of being restituted thus far.

\textbf{The Friedmanns/Torrens}

When the Bavarian Public Prosecutor projected Max Liebermann’s \textit{Two Riders on the Beach} at the presentation announcing the discovery of the Gurlitt Trove, David Toren

\textsuperscript{152} Melissa Eddy. “Few Answers on True Owners of Art Found in Gurlitt Trove.”
\textsuperscript{153} Ibid
immediately recognized the work. Although he had not seen the work in over seventy years, he could still picture it hanging in his great uncle’s conservatory on the last day he stepped foot in his Great Uncle’s home.  

Prior to the war, Toren’s uncle, David Friedmann, enjoyed a life of luxury and the reputation of a prominent businessman in his native Breslau (now Wroclaw in Poland). His success as an industrialist afforded him not only a villa in Breslau but also an inherited hunting lodge, an estate in Grossberg, and an extensive collection of art that included works by artists such as: Courbet, Pissarro, Raffaelli, Rousseau, Thaulow, Oberländer, Lestikow, and Liebermann.

Due to his local prominence, Friedmann was subjected to escalating amounts of persecution at the hands of local authorities during the 1930s. Gradually, Toren’s estate was dismantled piece by piece by Nazi Officials until, in 1937, he was forced into his first major sale, his Grossberg estate.

Toren recalls that on November 10th, 1938, he sat in the conservatory at his Great Uncle’s house as his newly imprisoned father, a lawyer, was brought in to assist his Great Uncle with signing over the his the majority of his remaining property holdings, including his father-in-law’s hunting lodge, to the Nazi General, Ewald von Kleist, in order to raise the funds to survive.

While the paperwork was being signed inside Friedmann’s office, Toren recalls that he,

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156 Hannah Furness, “Painting Stolen by Nazis to Be Sold by Rightful Owner Who Saw It Being Seized from His Uncle’s Home 80 Years Ago.” The Telegraph, May 22, 2015.
157 “At the day after the Crystal night all Jewish men in Germany of the age of 17 to 75 were sent to the Buchenwald concentration camp, including my father for three weeks as punishment.” Susanne Lenz-Gleissner. “David Toren: ‘Why Wait so Long?’”
...sat in a little room where that painting Two Riders on the Beach was hanging. It was in a dark room with a lamp on the other side of the painting shining on the painting. And I looked at it for hours, because I had to wait. I always liked that painting because I like horses. And there were two horses. That's the last time I saw the painting.158

As the war progressed, scrutiny of Friedmann’s collection only intensified by local authorities. It was only in 1939 that the Nazi Party recognized the true value of Friedmann’s collection, however. A letter written in December of that year by Dr. Ernst Westram, a senior Nazi civil servant, entitled “Subject: The securing of Jewish-owned art” noted that, "A number of Jews, who due to their formerly acquired wealth, own not inconsiderable treasures, mainly pictures . . . pottery, silver and ivory miniatures, are still residing in my district, especially in the city of Breslau” and that “...A Jew, Friedmann, had an especially fine collection.”159

In March of 1941, Friedmann was forcibly evicted from his villa in Breslau and moved to a more humble residence on Akazienallee.160 He was stripped of anything of value, and, in 1942, he perished of natural causes. He left behind very little family- his only heir, his daughter,

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160 Sothebys. “Property Restituted to The Heirs of David Friedmann,”
Charlotte, died later that year in Auschwitz and Toren’s parents faced the same fate sometime after 1941.\textsuperscript{161}

Prior to the confiscation of \textit{Two Riders} (Fig. 2), Hildebrand Gurlitt had commissioned his high-ranking connections to notify him when works by select, Degenerate artists, including Max Liebermann, were available for purchase. Four months after Friedmann’s death, \textit{Two Riders} was acquired by Cornelius Müller Hofstede, director of the Silesian Museum in Breslau and Gurlitt’s business associate, for RM 1,600, well below the actual value of the work.\textsuperscript{162} Hofstede offered the work to Gurlitt in August of that same year, and Gurlitt purchased it for an undisclosed rate.\textsuperscript{163}

One week after the official announcement of the trove, Toren filed a claim with German prosecutors for the restitution of \textit{Two Riders on the Beach}. Toren received no official response, and, in May of 2014, he pursued legal action against Germany and Bavaria.\textsuperscript{164} The case was dismissed under the “Foreign Sovereign Immunity Act,” which makes a state immune to most lawsuits.\textsuperscript{165} The only upside, he noted in an October 2014 interview, was that the Bern Museum sent him a letter stating that if it accepted the estate, it would accept the

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\item\textsuperscript{161} Susanne Lenz-Gleissner. “David Toren: ‘Why Wait so Long?’”
\item\textsuperscript{162} Ynet News Staff. “Probe into Nazis and Jewish Art Exposes ‘Dealer to the Fuhrer.’” \textit{Ynet News: Israel News}, December 26, 2013.
\item\textsuperscript{163} Sothebys. “Property Restituted to The Heirs of David Friedmann”
\item\textsuperscript{164} Susanne Lenz-Gleissner. “David Toren: ‘Why Wait so Long?’”
\item\textsuperscript{165} Ibid
\end{itemize}
\end{flushleft}

Fig. 2
opinion of the Task Force and return the painting to Toren. However, he did not have to wait much longer; the work was returned to Toren in May of 2015, a year and a half after his first claim and well over two years after the discovery of the trove. Toren and his nieces sold the work at Sotheby’s in June 24, 2015, where it sold for £1.9 million on a £500,000 estimate.

**The Rosenbergs**

The issues Toren faced while fighting for restitution for his work were not unique to his case. The Rosenberg family was fighting for the return of Matisse’s 1921 *Seated Woman* (Fig. 3), also known *Woman with a Fan*, from the Gurlitt trove.

Paul Rosenberg was perhaps the most influential dealer of modern art in pre-war Paris, and used his position to form both personal and professional relationships with artists such as Braque, Leger, Matisse (in 1936), and Picasso. Sensing the impending war, he began quietly moving his collection out of mainland Europe to the UK, United States, Australia, and other South American countries and ceased acquiring new works for his collection in France. Although he had prepared for the worst well in advance, over 400 works of fine art from his Paris gallery that were stored in a bank vault and a house in Bordeaux were seized during the Nazi’s 1940 invasion.

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166 Ibid
169 Hannah Furness, “Painting Stolen by Nazis to Be Sold by Rightful Owner…”
of France. By this point, the Rosenberg family had been out of the country for almost a year on visas issued by the Portuguese Consul-General in Bordeaux.

Paul Rosenberg’s family began almost immediately locating the whereabouts of their looted collection. Although Rosenberg was able to start anew in Manhattan’s Upper East Side with the inventory he shipped out of France prior to the invasion, he never stopped searching for his missing works. It was Rosenberg’s son, Alexandre, that first made headway in 1944 when he discovered a German train car full of his father’s paintings by Picasso, Braque, Cézanne, and Renoir in Paris. Since then, three generations of Rosenbergs have been involved in tracking down the remainder of the family’s collection, piece by piece, including another Matisse from the Henie Onstad Arts Center in Norway that was returned to the family in 2014.

Providing adequate documentation for restitution claims has not been an issue for the Rosenberg family, and the quality of the works in Rosenberg’s collection has made much of their collection relatively easy to locate. Almost immediately after the work was showcased at the unveiling, televised conference, Elaine Rosenberg, Paul Rosenberg’s daughter-in-law, recognized the work and petitioned the German officials for its return. Chris Marinello, who runs Art Recovery International and has been providing assistance in handling the return of the Rosenberg’s collection, combed through nearly 250,000 documents, letters, and photographs in Paul Rosenberg’s private, meticulously maintained archive and was able to locate documents that legitimized the Rosenberg family’s claim- inventory cards listing the Matisse as item 1721

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170 Ibid
171 Ibid
172 Ibid
173 Tom Mashberg. “Norwegian Museum to Return Matisse Looted From French Art Dealer by the Nazis.” ArtsBeat, March 21, 2014. This case was exceptional as the Henie Onstad Arts Center restituted the work without questions once proper documentation was provided.
and a 1946 declaration to the French government that mentioned that the Matisse was still missing. His work would soon be stymied, though. When he attempted to press the leading German researcher, she told him that, “Provenance research can’t be rushed” and numerous phone calls and emails to those working on the case would prove fruitless.

After contacting the judge in Augsburg who had jurisdiction over the case with the evidence, Marinello never received a response. Weeks later, he decided to contact Gurlitt directly through the post. Promising negotiations were halted in March 2014, however, when Gurlitt abruptly fired his lawyer and ended talks of restitution. Two months later, Gurlitt died and left his collection to the Kunstmuseum Bern, and the Rosenberg family then needed to negotiate with both the German task force and the museum itself. By mid-June of 2014, it became the first work whose provenance had been verified. Ingeborg Berggreen-Merkel, leader of the Schwabing Task Force, stated that, "Although we were not able to document with absolute certainty the circumstance through which Hildebrand Gurlitt came into possession of the work, the task force nevertheless has come to the conclusion that the work is Nazi-looted art that legally belongs to the Paul Rosenberg collection."

Marinello travelled to Germany to retrieve the work on the behalf of the Rosenberg family in May 2015, a year and a half after he first submitted evidence and the request for restitution. Although he expressed gratitude for the assistance of the German authorities, Bern Museum, and Gurlitt himself, he noted that the restitution of artworks could have been handled

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175 The Rosenberg family is fortunate that he was able to flee Paris before the Nazis marched in and was able to get out much of the gallery documentation … For people fleeing for their lives, if they even got out at all, the last thing on their minds was to collect receipts.” Melissa Eddy. “Matisse From Gurlitt Collection Is Returned to Jewish Art Dealer’s Heirs.” *The New York Times*, May 15, 2015.
176 Ibid
177 Ibid
178 Ibid
better. Specifically, he cited the fact that his clients were not informed of the discovery in spite of the fact that they have been key players in multiple prominent restitution cases, the lack of transparency in the whole process, and the lack of funds allocated to the task force.

While the Rosenberg family was successfully reunited with *Seated Woman*, they are still searching for sixty works from Paul Rosenberg’s collection. That, however, is a job for Marinello, Paul’s daughter-in-law, Elaine, and his three granddaughters.

**The Hinrichsens**

For the past seventy years, Irene Lawford-Hinrichsen and her family have been tracing the remainder of her father and grandfather’s looted estates. Her grandfather, Henri Hinrichsen, owned the music publisher CF Peters and was a benefactor to the city of Leipzig before the confiscation of his estate and his imprisonment and death in Auschwitz. The Hinrichsen family has had modest success in regaining control of their estate in recent years, including the family house in Leipzig which was returned in October 2014, several books from the State and University Library Bremen in 1993, and a relief by Bertel Thorvaldsen in 2002; however, a drawing by Carl Spitzweg entitled *The
Musician Pair (Fig. 4) had been deemed untraceable until its existence was discovered in Gurlitt’s collection.\textsuperscript{185}

Hinrichsen was a connoisseur of both German art and music. While his collection included works by Menzel, Thomas, Spitzweg, Stieler, Oeser, Klinger, and Leibl, it was his relationship to prominent composers like Mahler and Grieg that would elevate him to the uppermost echelons of the German art scene.\textsuperscript{186} His luck would change, however, when a prominent Nazi leader decimated his office and its contents (including his priceless collection of sheet music) on Kristallnacht in 1938.\textsuperscript{187} It was subsequently sold to a party member for a fraction of its true value.\textsuperscript{188}

Three weeks prior to fleeing to Brussels January 27, 1940, with only a single suitcase, Hinrichsen sold Gurlitt the remainder of his collection-the Spitzweg for RM 300, a painting by Moritz von Schwind, and a Pissarro for RM 4,000 that Gurlitt would sell for double one week later.\textsuperscript{189} His wife died in German-occupied Brussels when denied insulin, and Henrichsen himself perished in the gassing chambers of Auschwitz in 1942 after being unjustly arrested for the sole purpose of filling a quota.\textsuperscript{190} Five of his children, grandchildren and in-laws also perished in concentration camps.\textsuperscript{191} In 1946, six of Hinrichsen’s works were restituted to his sons, Max, Lawford-Hinrichsen’s father, and Walter.\textsuperscript{192}

\begin{flushleft}
\textsuperscript{185} Ibid.


\textsuperscript{186} Ibid.

\textsuperscript{187} Ibid.

\textsuperscript{188} Ibid.


\textsuperscript{190} Ibid.

\textsuperscript{191} Ibid.

\textsuperscript{192} Lost Art Internet Database. “Provenienzforschung Zur NS-Raubkunst - Hinrichsen, Henri,”
\end{flushleft}
In 1966, his sons sent a letter inquiring about the whereabouts of four pictures by Pissarro and three German artists, one of whom could have Spitzweg, from their father’s collection. Helene Gurlitt, Hildebrand’s widow, responded:

Dear Sirs!

Regarding your inquiry from December 5, 1966, which according to the enclosed envelope was received on January 1, 1967, I can only tell you that all business records and inventories of our company were incinerated on February 13, 1945 — during the major attack on Dresden, where we had moved to from Hamburg.

My husband died on November 9, 1956 in Düsseldorf. The art gallery Dr. H. Gurlitt hasn’t opened since 1945.

Sincerely,

Helene Gurlitt

No further correspondence between the two parties was ever recorded although the Hinrichsens were aware of the spurious nature of Helene’s claims.

Validating the family’s claim to the Spitzweg drawing proved to be rather simple. Prior to Hitler’s reign, Henri Hinrichsen composed a chronicle in which he detailed his daily thoughts and feelings. In chapter 7, Hinrichsen wrote, “my special preference was always painting, and in particular there are almost exclusively German masters, whose works are the pride of my living spaces particularly an adorable Spitzweg (that) pleased me again and again.” While this reference seemed to only acknowledge the existence of a Spitzweg in Hinrichsen’s collection, it was the inscription on the back of the work that gave them the grounds on which to base their claim.

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194 Matthias Thibaut. “Raubkunst-Erben: Der Lange Weg Zum Spitzweg.”
195 In a personal testimony to the Monuments Men in 1945, Cornelius Gurlitt noted rather unconvincingly that his gallery had burned down in 1942 in Hamburg not 1945 in Dresden, as Helene stated.
196 Ibid. His Chronicle only survived due to his eldest son’s, Max, escape to England in 1937. Lawford-Hinrichsen would come into possession of the Chronicle upon her father’s passing.
197 Ibid.
claim. Although it is unknown if Hinrichsen or Gurlitt added the inscription, which read, “From the collection Privy Hinrichsen, Leipzig,” it was deemed sufficient evidence for the Task Force, and it returned the work to Hinrichsen’s granddaughter, Martha, in either late 2014 or early 2015.197

Lawford-Hinrichsen argues that the reason she has been fighting for the restitution of her family’s work is on principle alone. She notes that, "everything belonged to my grandfather, it was up to him to decide what was to be done with it, and this right has been stolen” and that "it is the responsibility of Germany to establish justice."198

**The Mysterious Heiress**

The fourth work to be identified was done so in an extremely concealed manner. In February 2014, one of the two hundred and fifty works found in Gurlitt’s Salzburg home, Camille Pissarro’s *The Seine seen from the Pont-Neuf (1902)* (also known as *Paris Cathedral and The Seine seen from the Pont-Neuf, the Louvre in the Background*) (Fig. 5), was listed as *View of Paris (1902)* in the Jeu de Paume database of stolen art.199 Shortly after the discovery, Matthias Frenher, director of the Kunstmuseum Bern, noted that the resemblance had not escaped the museum’s eyes and promised “we will do our utmost to arrange for a swift restitution.”200

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197 Ibid.
198 Ibid.
200 The work was identified as stolen shortly after the release, only came to news in Nov 2014.
After a year of provenance research by the Schwabing Task Force, it confirmed with absolute certainty that the work as Nazi loot and were ready to move forward with the restitution process.\textsuperscript{201} In a document drafted on February 11, 2015, the Task Force gave their reasoning for deeming the work looted. It noted that the work was seized on October 31, 1942 and was deemed lost in April 1945. \textsuperscript{202}

As of April 2015, Culture Minister, Monika Gruetters, in a move that only validated critics’ concerns about the lack of transparency in the process, declined to name the rightful heirs of the looted work. She did disclose, however, that, “[…] they were in contact with the heiress of the former owner” and wanted to make the restitution as quickly as possible.\textsuperscript{203}

**The Wolffsons/Cohens**

The final work to be identified thus far as looted by the Task Force is Adolph Von Menzel’s *Church in Hofgastein* (also known as Interior of a Gothic Church) (Fig. 6). Prior to being sold under duress by Elsa Cohen in 1938 to finance her family’s 1939 flight to the United states, the work belonged to Cohen’s father, Albert Martin Wolffson, a respected Jewish collector in Hamburg.\textsuperscript{204} Gurlitt Sr. purchased the drawing (as a group of 10) from Cohen for RM

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\textsuperscript{202} “Hinweise Zum Nachstehenden Bericht - Report_Pissarro Schlussbericht Für Website.pdf.”


150, a price that the Task Force notes is incongruous to the true value of a Menzel drawing at the
time of sale.205 Gurlitt would also come into possession of three different combinations of works
from the Wolffson collection, but the works it included have either not been identified as looted
or are no longer in the collection.206

Unlike the other restituted works, Cohen herself offered the works to Hildebrand Gurlitt
and received compensation for the works. Under German law, the sale of works, whether sold
under duress or not, are not eligible for restitution. However, they are considered looted under
the Washington Principles, an official yet oftentimes unenforced set of guidelines on determining
the status and proper restitution procedure on a work of art.

205 Ibid.
December 15, 2015.
Current Status

Since the decision to allow the Kunstmuseum Bern to accept the Gurlitt Trove, the Task Force has remained mostly silent on their process and progress. In March 2016, however, it noted it had opened a coordination office at the Lost Art Databank in Magdeburg.\(^{207}\) This ancillary office will be responsible for researching the provenance of 184 suspicious works in the collection.\(^{208}\)

On April 5, 2016, the directors of the Bundeskunsthalle in Bonn and the Kunstmuseum Bern announced that it would mount exhibitions focusing on Gurlitt’s trove simultaneously next year.\(^{209}\) With these exhibitions, it aims to “show the extensive range of works to a broad public, accompanied by a historical-scientific contextualization.”\(^{210}\) The Bonn exhibition will focus further on provenance research and aims to discover further clues about paintings with questionable provenance.\(^{211}\) Jewish groups have not commented on the matter since the reveal. However, these plans were postponed on April 21, 2016 when Uta Warner’s lawsuit was reinstated. The Upper Regional Court in Munich expects to meet on the matter in late September of 2016, but until then, the remainder of the collection will remain in the custody of the administrators of Gurlitt’s estate.

On April 8, 2016, The German Lost Art Foundation announced that it was opening access to 600 photographs from albums of Hildebrand Gurlitt’s art gallery between 1936-41 for future research.\(^{212}\) Surprisingly, however, it has not digitized the photographs and access to them is by appointment only at Germany’s Federal archives. It hopes to make thousands of documents from Cornelius Gurlitt’s estate available for research purposes sometime in May.\(^{213}\)

\(^{207}\) Kate Connolly. “German and Swiss Galleries to Display Gurlitt’s Nazi-Era Treasure Trove.” \textit{The Guardian}, April 5, 2016.
\(^{208}\) \textit{Ibid.}
\(^{209}\) \textit{Ibid.}
\(^{210}\) \textit{Ibid.}
\(^{211}\) \textit{Ibid.}
\(^{213}\) \textit{Ibid.}
The next milestone for the Gurlitt Trove will be either when provenance research is completed. Once the Kunstmuseum Bern has the necessary information, it will have some difficult decisions to make in regards to heirless looted art. Will it reject them in and obey their vow of not letting looted works into the museum and donate them to a Jewish group or accept them with the understanding that the works will never be restituted to their proper owners? Only time will tell. One thing we can be sure of, however, is that regardless of their decision, it will be extensively reported on when the time comes.
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Current Status:


Image List:

Fig. 1 - Degenerate Art Show
   Photographer Unknown
   1937

Fig. 2 - Two Riders on a Beach
   Max Liebermann
   1901
   Oil on Canvas

Fig. 3 - Seated Woman (portion)
   Henri Matisse
   1921
   Oil on Canvas

Fig. 4 - The Musician Pair
   Carl Spitzweg
   Date unknown
   Etching

Fig. 5 - The Seine seen from the Pont-Neuf
   Camille Pissarro
   1902
   Oil on Canvas

Fig. 6 - Church in Hofgastein
   Adolf Von Menzel
   1874
   Drawing