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Art galleries and the spoils of war

Canada is behind other countries in making amends for Nazi looting

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Canadian art galleries, museums and collectors have yet to publicly take any steps to rectify a dark chapter in the acquisition of artworks. Only now are we learning the sad truth that the finest art collections, both public and private, around the world, are filled with artworks stolen from victims of the Holocaust. Canada is no exception. The return of these works to their rightful owners is an enormous moral, ethical and legal dilemma facing curators, galleries and private collectors.

How did these works end up in reputable collections? Before and during the Second World War, the Nazis methodically acquired one-fifth of the world's Western art. Both Hitler and Goering were ruthless in their agenda of acquiring art collections. Their aims were accomplished by the forced or distressed sale of art at low prices from pre-war victims of Hitler's Third Reich, or by the looting of the art from Holocaust victims.

Throughout the war and afterward, artwork was smuggled out of Europe through such neutral countries as Spain and Portugal, and cities such as Buenos Aires and Havana. It found its way to North American galleries, museums and private collections.

Some North American art dealers, primarily in New York, became known conduits for selling art of questionable origin. For each seller, however, there had to be a willing buyer. The galleries and collectors who acquired these works, either directly from art dealers or by charitable donation, were wilfully blind to the origin of the works.

What is this wilful blindness? When a building is purchased by or donated to an institution, a title search is a matter of course. Not so with a painting. Galleries found that the origin of the artwork, or even proof of good title, was not an issue that troubled them. Art is a billion-dollar international business that remains largely undocumented by paperwork. This is surprising, particularly since the argument that a good faith purchaser for value acquires good title does not wash when it comes to stolen property. The Canadian Criminal Code specifically makes it a crime to possess or deal in stolen goods, even if the transaction took place outside of Canada.

This situation has come to the forefront because of recent revelations of the role Swiss bankers played in hiding the funds of Holocaust victims, and the willingness of the Swiss to make amends. In Europe and the United States, museums and galleries are changing their acquisition and exhibition policies. They are publishing lists of paintings with questionable provenance in their collections in order to help rightful owners find lost paintings, and to find the true history of these paintings.

For example, the British Museum recently published a list of 350 art treasures in its galleries that are believed to have been stolen by the Nazis during the Second World War. Included are paintings by such artists as Renoir, Monet and Picasso that the museum believes may have belonged to Holocaust victims. In the last few weeks, the Museum of Modern Art and other major American museums have begun posting lists of paintings in their collections that have questionable prove-

nance between 1933 and 1945. Canadian galleries have yet to follow suit.

The Egon Schiele case was the first significant North American ownership dispute. In 1998, the Leopold collection from Vienna was loaned to the Museum of Modern Art in New York. Two American families who were heirs of Holocaust victims claimed ownership of paintings in the collection by the Austrian Expressionist Egon Schiele. When the show was over, the Manhattan District Attorney of New York prevented the return of the impugned paintings to Austria until the ownership claims had been litigated. This took more than two years.

This is only the beginning. Claims are rapidly surfacing. Since the fall of the Soviet Union, the unification of Germany and the declassification of Second World War documents in the United States, newly released information is allowing heirs to track down lost works and galleries to resolve unclear title.

The issue of reclamation of stolen art during the war is not restricted to Nazi looting, but extends to American soldiers who sought trophies and loot from the Germans, as well as Soviet soldiers whose booties are now displayed in museums in Moscow and St. Petersburg. A German state university, for example, has recently filed a suit in U.S. District Court in Boston demanding the return of seven miniature 16th-century paintings that were allegedly stolen from Germany by an American GI at the end of the Second World War.

Another important precedent was set last month in Europe when a German museum returned Leopold von Kalckreuth's 1898 triptych *The Three Stages of Life* to its rightful British owners. The recently formed Commission for Looted Art in Europe played a pivotal role in the return of the painting. The di-

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rector-general of Bavarian state collections eloquently stated, "For me it is quite clear that this picture does not belong to the gallery in a moral sense. I must apologize for this late decision, but I don't think it is too late ... I am glad justice has prevailed over so many acts of injury."

Also, last month, the Israel Museum achieved a good resolution when it restored ownership of a Pissarro to a Jewish family forced by the Nazis to sell it in 1935. It will be placed on public view in Israel even though it is now the property of a British resident.

The biggest challenge for families claiming artwork that is rightfully theirs is dealing with past memories. It is true that it is not possible to rectify the past. It is, however, possible to resolve these disputes to everyone's mutual satisfaction. Many rightful owners will be content with the recognition of proper attribution of the ownership to their lost heirs.

Alternatively, charitable donations for the public good can permit the victims' heirs to memorialize the victims. The alternative, litigation, is costly, time-consuming and adversarial.

Other countries have finally, if somewhat belatedly, taken steps to make amends for this shameful period of art history. When will Canadian galleries and museums join their European and American peers and publicly recognize their ethical responsibilities?