

‘Jewish Cultural Reconstruction Reconsidered: Should the Jewish Religious Objects Distributed Around the World After WWII be Returned to Europe?’¹

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As part of the massive art looting that accompanied the Holocaust, Nazi authorities collected enormous quantities of Jewish religious and cultural objects which, after the conclusion of the war, lacked identifiable owners. Having been cut adrift by the Nazis, this “heirless” Jewish cultural property was discovered by Allied Forces and removed from Europe for its own protection. Turned over to an organization called Jewish Cultural Reconstruction (JCR) and distributed to many of the now well-known Jewish museums of America and Israel, these objects were placed in the care of non-European institutions in order to serve surviving Jewish communities and keep the objects protected from still-hostile governments and individuals. Now, sixty years after these objects left Europe, it seems reasonable to pose the question of where they rightfully belong.

Introduction

As an initial issue, this paper will examine whether JCR had authority to pass on legal title to these objects, and whether institutions accepting the objects from JCR did so on the basis of temporary custody, or whether they understood the items to have been presented as permanent gifts.

Secondly, given the nature of the objects, this paper will examine whether restitution requires repatriation to countries of origin. Unlike other cases involving the displacement of cultural property, these items are not necessarily associated with the

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governments or states of the geo-political areas in which they were created. “Jewish cultural property,” is identified with a nationhood of people who are linked more by religion and ethnicity, than by country of origin. Restitution of these objects would not have to mean repatriation to their country of origin as long as they are benefiting the identifiable group of people who claim them as their cultural patrimony.

Background

The objects the Allies found after the Holocaust were Jewish ceremonial objects, also called Judaica. These objects are finely crafted metal and textiles that are used either to decorate *Torah* scrolls or as part of ritual observances associated with holidays, the Sabbath, and other lifecycle events. For observant Jews, Judaica has always been embraced more than other types of artwork, as it does not conflict with the commandment prohibiting graven images. There is, in fact, a concept in Judaism known as *hiddur mitzvah*, literally, “beautifying the commandment,” that encourages an aesthetic dimension to the rigid religious practices required by Judaism. While Jews might be required, for example, to sanctify the Sabbath by saying a blessing over a cup of wine, there is no commandment describing the cup. It could be simple or ornate. With no religious requirement dictating or limiting the form that ceremonial objects could take, artistic freedom was expressed over the centuries through the creation of Judaica.

Artistic development of Jewish ritual objects varied with the countries in which Jews lived. Although Jewish religious beliefs remain universal no matter where the Jewish community is located, the customs and traditions of how that belief is expressed change from one part of the world to another. So too, ritual objects used in those practices reflect their geographical cultural influences. Thus, Heirless Judaica found in

Europe following the War, while expressions of Jewish religious practices common to Jews around the world, were also deeply tied to the artistic traditions of the countries in which they were created and to the unique Jewish communities that used them.

Therefore, while important to all Jews, these objects do uniquely characterize the Jewish communities of Europe and are interconnected to the history and traditions of the societies in which they were created. Jewish cultural property, therefore, typically has both a national and international character.

The Formation of Jewish Cultural Reconstruction

At the end of World War II, Allied Forces discovered huge storehouses of looted Jewish books and ritual objects that had fared better than many of their original owners. Faced with an overwhelming amount of material, the American military shipped the items to the Offenbach Archival Depot in the U.S. zone of occupation in Germany, to be sorted and, if possible, repatriated from this collecting point.² Under the direction of Dr. Bernard Heller, millions of books were crated and returned to their countries of origin, following normal post-War practice. Nevertheless, by the summer of 1946, Offenbach still held 500,000 books, 1,000 Torah scrolls, and 17,000 ceremonial objects for which “no claims [had] been received . . . and no identification of prior ownership [could] be reasonably established.”³

Though the concept of heirless property was not new, the circumstances of World War II required a fresh way of looking at the governing principles. Ordinarily, heirless property would revert to the state from which it came, but since it was, in this instance, a state that had perpetrated the crimes that led to the destruction of the property owners, it

² Nicholas, Lynn. The Rape of Europa. New York: Alfred A. Knopf, Inc., 1994. p. 432-434.

³ “Plunder and Restitution: Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report.” December 2000, Chapter 6.

was not a palatable idea to repatriate Jewish cultural objects to countries that had lost their Jewish communities to state terror in such a violent and deliberate way. Many European countries also did not initially welcome surviving Jews returning home from the camps. Rather than return heirless Jewish cultural objects to European governments, the United States Military Government transferred custody to a private organization through the use of Law No. 59 for the restitution of identifiable property. Concerning “heirless” cultural property, Part III, Article X states,

A successor organization to be appointed by Military Government, shall, instead of the State, be entitled to the entire estate of any persecuted person in the case provided Neither the State nor any of its subdivisions nor a political self-governing body will be appointed as successor organization.⁴

Under this law, the successor organization would represent the collective category to which the victims belonged, and act on their behalf.

JCR grew out of the Commission on European Jewish Cultural Reconstruction that was established in 1945 to coordinate identification and restitution of Jewish cultural property. The Commission, led by Salo Baron of Columbia University, recognized by 1946 that only a collective effort by Jewish organizations could effectively redistribute heirless property.⁵ Therefore, in April 1947, JCR was established by seven organizations including World Jewish Congress, American Jewish Committee, Hebrew University of Jerusalem, and Synagogue Council of America.

In 1949, JCR decided on an allocation policy for the remaining heirless material: forty percent to Israel, forty percent to the United States and Western Hemisphere, and twenty percent to other countries. This allocation stemmed from the strong sentiment of

⁴ Military Government – Germany United States Area of Control, Law No. 59, Restitution of Identifiable Property.

⁵ Zweig, Ronald W. *German Repatriations and the Jewish World: A History of the Claims Conference*. Portland: Frank Cass Publishers, 2007.

all involved that heirless items needed to be removed from Europe and taken to countries that could provide for their care and protection. As Jerome Michael, a Columbia University professor involved with JCR stated, the bulk of the cultural items should be removed from Europe, because with the “annihilation of millions of European Jews, including most of their religious leaders, scholars and teachers, and of the dispersion of the survivors, Europe is no longer, and it is very unlikely that it can again become, a center of Jewish spiritual and cultural activity.”⁶

Debates Within JCR

The circumstances under which JCR was created, that is, by U.S. law during the immediate post-War period, and the mission with which it was charged, fulfilling the Allies’ commitment to restitution of looted cultural objects, support the view that the organization had legal authority to transfer custody of the objects to recipient institutions. Nevertheless, members of JCR disagreed over how and to whom to disperse the materials. Much of the record of JCR internal debates concerns the large number of heirless books. One suggestion was to create a library in Copenhagen in order to keep some of the materials in Europe. The Danish government was supportive of this suggestion, but no follow-through was ever made.⁷ As the majority of members of JCR were living in the United States, suggestions focusing on bringing the objects out of Europe and into the United States, at least for distribution, received more weight.

These debates sharpened the tension between legal title on the one hand and cultural connections on the other. Robert Waite’s article highlights the choice:

⁶ Robert Waite. “Returning Jewish cultural property: The handling of books looted by the Nazis in the American Zone of Occupation, 1945 to 1952.” *Libraries & Culture*. Austin: Summer 2002. Vol.37, Iss. 3; p. 213.

⁷ Robert Waite. “Returning Jewish cultural property: The handling of books looted by the Nazis in the American Zone of Occupation, 1945 to 1952.”

The Jewish communities scattered throughout Europe certainly had legitimate claims to many of the objects, Michael acknowledged, and he called for the return of the cultural items to the rightful owners. Simply shipping objects and books looted from a community in a specific city back to that city, when most of the former citizens either had been killed or had emigrated, would, he wrote, be “most unwise and unfair . . . unwise because the almost certain result would be their dissipation, and unfair because the interests of the much larger number of members of the old communities who now live abroad and of the Jewish people would be sacrificed on the altar of legal title.”

JCR and by extension, the United States Government, were consciously taking cultural objects away from where they legally belonged under traditional restitution principles, and distributing them to organizations in other countries. There is no doubt that this was done with noble intentions: JCR viewed these objects as belonging to the “Jewish community” generally, and was trying to determine where the majority of that community was located so that the objects could benefit those people. If JCR truly believed that there would never again be vibrant Jewish life in Europe, as the writings by Jerome Michael express, then it is understandable why they would not want to let those objects remain in Europe.

Understanding the motivation of the JCR to protect the objects and remove them from the hostile environment of post-War Europe still begs the question of whether they intended to keep the objects out of Europe for posterity, or just temporarily to see if the Jewish communities in Europe would ever rebuild themselves. According to Waite’s article, supplements to the agreement that gave the items over to JCR specified that properties were being turned over “on a custody basis only” and instructed JCR and recipient institutions to “seek the rightful owners, and deliver them to properly identified

claimants.”⁸ Although there was a prescribed time limit for how long JCR was required to search for owners, this reservation makes it questionable that JCR could pass title to institutional recipients. In the United States, title generally cannot be passed by anyone other than the legal owner. Given these circumstances, it appears that JCR lacked the right to convey title to the museums and institutions to which it distributed heirless property.

Institutional Recipients of Objects from JCR

JCR asked institutions receiving heirless books or objects to demarcate them in a special way to draw attention to their identity as JCR objects. JCR wanted to ensure that the objects would forever tell the story of what happened to their previous owners. In response, many libraries, including the Library of Congress which received 5,708 Jewish books, inserted bookplates to mark the special provenance of the edition. These bookplates would ensure, according to a letter from Hannah Arendt to the Harvard library, that “present and future readers may be reminded of those who once cherished them before they became victims of the great Jewish catastrophe,” and that it would allow future scholars “to retrace the history and the whereabouts of the great cultural treasures of European Jewry.”⁹

JCR objects also formed the foundation of many important Jewish Museum collections in the United States. Yeshiva University Museum received more than 150 items from JCR, and the Jewish Museum of New York not only received a significant number of objects, but hosted JCR in its building where day-to-day operations were run.

⁸ Robert Waite. “Returning Jewish cultural property: The handling of books looted by the Nazis in the American Zone of Occupation, 1945 to 1952.”

⁹ Andrew S. Holbrook. “Harvard Holocaust Books to Remain on Widener Shelves.” *The Harvard Crimson*, January 19, 2001.

Additionally, the director of New York's Jewish Museum, Stephen Kayser, and the curator of the Jewish Museum, Guido Schoenberger, were also involved with redistribution of ceremonial objects.¹⁰

Given the role that JCR objects played in establishing Judaica collections in the United States, it is no wonder that these objects have taken on yet a third identity by virtue of their émigré status in the United States: they represent the new life that Holocaust survivors and other Jewish refugees began and created after leaving Europe. America, by virtue of accepting more than 120,000 Holocaust survivors through its doors following the War, has a cultural claim to objects that represent the immigrants who have begun new lives in America and helped to shape the development of the country over the past sixty years.

One can further understand why Jewish museums of North America and other countries that received JCR objects would consider them to be part of their permanent collections by looking at the history of cultural objects of the Jewish community of Danzig. The story of this Jewish community is virtually unique, and stands as an example of what the Jewish communities would have wanted.

Prior to World War II, the Jewish community of Danzig maintained one of the few Jewish museums extant in Europe. It also had several synagogues, and Jews of the city were well integrated into society at large. The rise of the Nazi party inspired many Jews to emigrate from Danzig, and by 1938, only 4,500 Jews out of an original 10,448 remained. Leadership of the Jewish community realized the danger faced by the remaining Jews was increasing and looked for a way to finance the emigration of all Jews from Danzig as there were about 1,500 who could not finance their own departure. The

¹⁰ Grace Grossman. Jewish Museums of the World. Westport: Hugh Lauter Levin Associates, Inc., 2003.

community decided to dissolve itself and use the proceeds to pay for the emigration of its community members. It sold its communal property and shipped all cultural objects from its synagogues and museum to the Jewish Museum in New York (an off-shoot of the Jewish Theological Seminary) accompanied by a letter stipulating that if there was no Jewish community in Danzig to care for the objects in fifteen years, that the Jewish Museum could keep the objects and use them to educate and inspire the world.¹¹ These objects remain today in the care of the Jewish Museum.

European Jewish Communities Today

The story of Danzig supports the notion that European Jewish communities wanted their objects to be taken out of Europe, if there were to be no viable European Jewish communities. At the same time, no one could have predicted the gradual reemergence of Jewish religious and cultural life in Europe after the Holocaust. Though there was no Jewish community in Danzig to which the objects could be returned fifteen years after they were sent to New York, there has been a steady revival of Jewish communities throughout much of Europe since that time which includes the construction of new Jewish museums and the building and restoration of synagogues. Grace Grossman's recent catalogue of Jewish museums around the world lists over 125 in Europe as of 2003 when the book was published. Although they range in size and ambition, some of the museums, such as the Jewish Museums of Vienna and Berlin, lead the field in terms of innovative exhibitions, creative storage solutions, and depth of collection.

¹¹ Vivian B. Mann. "Jewish Ceremonial Art and Private Property," from The Spoils of War, Elizabeth Simpson, ed. New York: Harry N. Abrams, Inc., 1997.

Another major transition that has taken place in Europe in more recent decades has been within Jewish communities of Eastern Europe which have been trying to reestablish themselves and identify their cultural heritage since the collapse of the former Soviet Union. Jewish cultural institutions are being revived in the East, and are looking to reclaim their legacy. Major state libraries are now trying to protect the multiethnic cultural heritage of their nations, and Hebraica collections are at last of interest to many states and are in the process of being identified. According to a 2002 article in *Prologue Magazine*, published by the National Archives, “There is rising resentment against Western Jewish leaders for preventing restitution of cultural treasures to the countries of origin and dispersing European Jewish treasures to different parts of the world.”¹² In this way, the original internal JCR debate – whether cultural property issues should be solved on a national or trans-national basis – is being replayed decades later with national voices chiming in more loudly than before.

In the case of these Eastern European communities that are just being allowed to rediscover their Jewish roots and heritage, it seems imperative that they have possession of objects that were taken out of Europe in the aftermath of World War II. Not only would those objects reconnect them to the people and traditions of which they are spiritual if not biological descendants, but it would help them to shape a modern European Jewish identity. The return of Jewish cultural objects to those national communities would not only create a powerful context for the objects themselves, but would serve the communities in a deep and meaningful way.

Emerging Questions about JCR objects

¹² Patricia Kennedy Grimsted. “Spoils of War Returned: U.S. Restitution of Nazi-Looted Cultural Treasures to the USSR, 1945 - 1959, Part 3.” *Prologue*, Fall 2002, Vol. 34, No. 3.

Having mastered an enormous and overwhelming task of sorting the books and objects at the Offenbach Archival Depot, people like Dr. Heller, who devoted energy and thought to restitution of Jewish cultural materials, are to be commended for their overall efficiency and success. It was, however, impossible to embark on such a project without making some mistakes in the process of the sorting and distribution of materials.

In one case, five crates of Hebrew manuscripts with identified provenance from Belarus, Ukraine, and the Baltic countries, were removed illegally from Offenbach, sent to Jerusalem, and never returned to the countries of origin, despite protests from U.S. authorities. A 1947 U.S. Army memorandum notes, "The material referred to is known to contain identifiable restitutable matter of great value, including a number of items belonging to Russian museums and libraries."¹³ Despite American knowledge of the irregularities, all of the manuscripts remained in Jerusalem. This kind of mistake reminds us that no process is perfect, and one should be open-minded to corrections that may need to be made, even all these years after the fact.

In 2001, after the U.S. Presidential Advisory Commission on Holocaust Assets issued its report, several articles appeared in newspapers suggesting that perhaps European countries were not alone in having exploited the assets of Holocaust victims. Articles pointed out that heirless books and cultural items of Jewish victims were collecting dust in libraries of prominent universities such as Harvard and Yale as well as the Library of Congress, and no efforts were being made to locate the original owners of this property or their heirs.¹⁴ The libraries responded that they were not storing "ill-

¹³ Patricia Kennedy Grimsted. "Spoils of War Returned: U.S. Restitution of Nazi-Looted Cultural Treasures to the USSR, 1945 - 1959, Part 3." Fall 2002, Vol. 34, No. 3.

¹⁴ G.M.E. Schoff and Charles W.H. "Holocaust Commission Tracks Recovered Books." American Libraries, March 2001, Vol. 32, Issue 3, p. 13.

gotten booty,” that they “received them only after exhaustive searches failed to find the owners, and that they have always pledged to return the books if anyone claimed them.”¹⁵

Although the libraries quoted in these articles claim that they would be happy to return any books for which they receive viable claims, they did not feel the need to publicize their collections beyond what they had done. Likewise, none of the museums with JCR objects have listed them on the American Association of Museums Nazi-Era Research Internet Portal. If all these items were given to the institutions in trust with the stipulation that they would be returned to anyone who made a legitimate claim, then it seems the museums should be treating these objects the way AAM asks its member museums to treat other artwork from that era. The initial AAM procedures for providing information on the internet portal, in fact, established Judaica as a priority for museums.¹⁶ As AAM recommends, “When faced with the possibility that an object in a museum’s custody might have been unlawfully appropriated as part of the abhorrent practices of the Nazi regime, the museum’s responsibility to practice ethical stewardship is paramount. Museums should develop and implement policies and practices that address this issue in accordance with these guidelines.”¹⁷ According to AAM recommendations, each museum should “Identify all objects in its collection that were created before 1946 and that it acquired after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates” as well as “make currently available object and provenance (history

¹⁵ David Abel. “Holocaust Victims’ Books Packed Up in U.S. Libraries.” *Boston Globe*, February 1, 2001.

¹⁶ <http://www.aam-us.org/museumresources/prov/procedures.cfm>

¹⁷ Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era. http://www.aam-us.org/museumresources/ethics/nazi_guidelines.cfm.

of ownership) information about covered objects accessible.”¹⁸ Since these objects were looted and transferred during the Holocaust era, there seems to be no question that they should be posted on AAM’s Internet portal.

Conclusion

Robert Waite ends his article with the statement:

The transfer of the remaining books to the Jewish Cultural Reconstruction, Inc., was a fair and thoughtful resolution, one that ensured that the texts and cultural items stolen by the Nazis from Jewish libraries and collections throughout occupied Europe, centers of Judaism that had been wiped out by the Nazis, would continue to serve their intended purpose. The new centers of Jewish life and learning in the United States and Israel, the communities they served, and some Jewish libraries were the benefactors of this operation.¹⁹

It certainly made sense to transfer heirless books and cultural property to JCR immediately following the War. It was sensitive of the United States and others to be mindful that returning heirless Jewish objects to state governments of Europe would be distasteful to the world Jewish community, and JCR acted with the intention to preserve Jewish heritage and keep it accessible to surviving Jewish communities. Additionally, people who worked at Offenbach were given tight deadlines and distributed most identifiable objects in a short period of time. Given the initial success of the workers at Offenbach and JCR, it would be sad to diminish their accomplishments by not continuing to review what would be best today for Jewish cultural objects and world Jewry. JCR’s intentions were to preserve Jewish objects to further Jewish culture outside Europe; the objects may now better serve the revitalized, if smaller, national Jewish communities in Europe.

¹⁸ AAM Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era. <http://www.aam-us.org/museumresources/prov/procedures.cfm>.

¹⁹ Robert Waite. “Returning Jewish cultural property: The handling of books looted by the Nazis in the American Zone of Occupation, 1945 to 1952.”

There certainly seems to be a compelling argument to return at least some of the objects to the communities from which they came. In America, Israel and elsewhere, these objects do serve a Jewish population and speak to the survivors who have settled in these countries to begin new lives and their descendents. In the context of Europe, though, these objects make an even stronger statement about the dead, the departed and those remaining. They testify to the former existence of a world that was interrupted, and can be the link that will tie the memory of the past to the creation of modern European Jewish national identities in the future.

Bibliography

Abel, David. "Holocaust Victims' Books Packed Up in U.S. Libraries." Boston Globe, February 1, 2001.

American Association of Museums Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era.

American Association of Museums Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era.

Grimsted, Patricia Kennedy. "Spoils of War Returned: U.S. Restitution of Nazi-Looted Cultural Treasures to the USSR, 1945 - 1959, Part 3." *Prologue*, Fall 2002, Vol. 34, No. 3.

Grossman, Grace. Jewish Museums of the World. Westport: Hugh Lauter Levin Associates, Inc., 2003.

Manor, Dalia. Art in Zion: The Genesis of Modern National Art in Jewish Palestine. London: RoutledgeCurzon, 2005.

Military Government – Germany United States Area of Control, Law No. 59, Restitution of Identifiable Property, Part III, Article X.

Nicholas, Lynn. The Rape of Europa. New York: Alfred A. Knopf, Inc., 1994.

"Plunder and Restitution: Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report," December 2000.

Rodan, Steve. "Dubrovnik's Question: Does a Synagogue Need Jews?" *Jerusalem Post Service*, November 13, 1998.

Simpson, Elizabeth, ed. The Spoils of War. New York: Harry N. Abrams, Inc., 1997.

Waite, Robert. "Returning Jewish cultural property: The handling of books looted by the Nazis in the American Zone of Occupation, 1945 to 1952." Libraries & Culture. Austin: Summer 2002. Vol.37, Iss. 3; p. 213.

Zweig, Ronald W. German Repatriations and the Jewish World: A History of the Claims Conference. Portland: Frank Cass Publishers, 2007.