

Justice for the Holocaust Victims

by Michael Curtis



The quality of justice is sometimes strained and sometimes delayed. On July 21, 2017 some form of justice occurred when the heirs of a prominent German Jewish banking family, the Bleichroder family, recovered a 16th century painting that had been stolen 80 years earlier by the Nazi regime and bought by Hermann Goering who added it to his collection of more than 1,000 paintings. The painting was part of a considerable collection stolen from the family by Nazis and sold at auction in 1938.

“I belong to the race of those” wrote the Jewish literary critic Bernard Lazarre, the early advocate of the innocence of the falsely accused Alfred Dreyfus, “who were the first to introduce the idea of justice in the world.” That idea has only partially been rendered to those people and their descendants whose property was illegally seized by the Nazi regime in countries that perpetrated or collaborated in the

Holocaust, and who since the end of World War II have expressed little willingness to resolve injustice.

It was heartening to hear the remarks of Prince William after his visit to Poland with his wife Catherine, Duchess of Cambridge, on July 18, 2017 to the concentration camp of Stutthof with its gas chamber about 20 miles from Gdansk, formerly Danzig, and to the local museum with its forbidding pile of hundreds of shoes of victims. William, like his father Prince Charles before him, made the point that the lessons of the Holocaust are in danger of being forgotten. He repeated the message that all of us have an overwhelming responsibility to make sure that we learn the lessons of the Holocaust and that the horror of what happened is never forgotten and never repeated.

These remarks, made in Poland, are particularly telling because that country has failed to fulfill its responsibility to the Holocaust victims by not enacting legislation providing for restitution and setting up procedures to resolve claims by people whose property was stolen. According to an official report of January 2017, Poland is the only member of the EU not to have passed comprehensive private property restitution legislation in the post-Communist era.

The brutal truth is that there can never be full restoration of the losses suffered during the Holocaust or Shoah. At best, for psychological as much as for financial reasons, integral to the lessons to be learned, countries should be promoting the issue of restitution or compensation for the assets taken in the Shoah era. In reality, justice has been painfully slow. However, in recent years, there is a growing understanding that justice requires some form of restitution for the mainly Jewish victims. Restitution of property and possessions is a question of human rights, not simply a Jewish issue. Policy in modern democracies may not be based on international law but it is appropriate to consider it a moral responsibility to rectify injustice.

It is shameful that only a small fraction of the vast amount of private and communal property belonging to individual Jews and Jewish organizations illegally seized by the German Nazi regime and collaborators has been returned to their rightful owners. The value of the stolen goods is incalculable. Stuart Eizenstat, Special Advisor to the U.S. Secretary of State for Holocaust Issues, has estimated that the value of Jewish assets in Europe in 1939 was about \$15 billion which today would probably be ten times larger.

Perhaps things are really changing. In 1998 the International Commission on Holocaust era insurance claims (ICHEIC) was set up. At the same time in June 1998 39 countries discussed the return of stolen art to their rightful owners, and the U.S. State Department hosted conferences on the subject. Most recently, in June 2017, 71 members of the European Parliament from more than 20 EU states issued a joint statement pledged to increase support for the return of stolen and looted property. This statement is a significant step in meeting the obligation of the Terezin Declaration, affirmed at the site of a former Nazi concentration camp.

This Declaration, although non binding, is crucial to the resolution of the restitution issue. It stemmed from the conference on Holocaust era assets held in Prague on June 26-30, 2009 attended by representatives from 47 countries. It recommended greater effort for the restitution of communal and individual property belonging to the victims of the Holocaust and other victims. The program includes wrongful property seizures, confiscations and sales under duress; a just and fair solution regarding restoration of cultural property, Jewish communal and religious property; or compensation. It recommended that the 47 states consider implementing national programs to address the issue of property confiscated by Nazis and Fascists.

The Declaration dealt with other issues in addition to property, especially acknowledging the importance of

education and remembrance about the Shoah and other Nazi crimes. It pointed out that eye witnesses of the Shoah were dying out, and that commemoration ceremonies, research and remembrance, and discussion of Shoah in the curriculum of schools should be encouraged.

Already, following the Terezin Declaration, the European Shoah Legacy Institute based in Prague was established in January 2010 to monitor progress on and oversee the return of Jewish art and property, Judaica and Jewish cultural assets, taken by the Nazi regime during the Holocaust. It is supposed to be a vehicle or catalyst for those groups already concerned with Holocaust issues. Ambitiously, it seeks international solutions to the restitution problem.

However, the practical response has been minimal. The Claims Conference on Jewish Material Claims announced on September 11, 2014 that the majority of the countries had done "little or nothing" to implement the agreements. Most states have failed to comply with the Terezin Declaration. The U.S. has played an important role in getting contributions from companies and countries paying the victims and their families. However, at least 12 states, especially Poland and Baltic states where most of the six million Jews were murdered, and logically have the largest proportion of heirless property, have not enacted suggested legislation. Even some Western European nations have only partly complied with the Terezin Declaration.

Much of the discussion of restitution has focused on stolen art and the confiscation of hundreds of thousands of art objects owned by Jews. Logically, they can and should be traced because of the requirement of provenance and official deeds regarding them. Much of it is in private hands. But some of that stolen art is present in countless respectable places, including the Metropolitan Museum in New York, the Hermitage in St. Petersburg, and the Pushkin Museum in Moscow.

The restitution of stolen art presents a splendid opportunity for cooperation between President Donald Trump and President Vladimir Putin as well as on the restitution of other stolen property. Together, they might concentrate on social justice for the victims of the Shoah and share Elective Affinities, a more worthy endeavor than sinking in the swamp of alleged election manipulation.