

**Art Restitution in Hungary:
A Comparative Case Study of the
Sarospatak Books and the Herzog Collection**

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*“Cultural treasures, as simple people, suffered.
No matter what side they were on,
they are always victims of war.”*

Former Hungarian Ambassador to Russia, Arpad Szekely¹
in an interview before leaving to retrieve
the Sarospatak books from Russia

The restitution of cultural treasures lost during World War II is an issue that remained unresolved for many rightful owners in the decades following the war. After the brief period of massive restitution conducted by the Allies following World War II, little restitution could be pursued in the states of the Eastern Bloc until the fall of communism. Cultural treasures and valuables sat in storerooms and libraries, and in some cases hung on walls in famous museums, where their mysterious provenance went unacknowledged and uninvestigated. Then with the opening of the East, there emerged anew what had existed immediately following World War II, “this new conviction about the importance of cultural property and the corresponding determination to reverse the tide of spoliation.”²

¹ Sophia Kishkovsky, "War's Spoils: Hungarian Treasure Goes Home," *The New York Times*, February 24, 2006,

² Michael R. Marrus, *Some Measure of Justice: The Holocaust Era Restitution Campaign of the 1990s* (Madison: University of Wisconsin Press, 2009), p. 37.

In 1993, a group of experts visiting a library in Russia discovered a collection of priceless Hungarian books. By 2006 those same books were on display in the Hungarian National Museum in Budapest and were later returned to their home in Sarospatak, Hungary. On the walls of other state museums in Budapest hung another set of cultural treasures that had also disappeared from their owners' possession in the looting of the Second World War. Like the books, these paintings had been the subject of claims and negotiations for over ten years. Yet, to this day, these pieces remain in the museums in which they have hung for over sixty years. How is it that twenty years after these items first became the subject of negotiations, the books now sit safely in the Sarospatak library, while the paintings still hang in the Hungarian state museums?

Matters of art restitution have always been a complicated mix of history, politics, economics, emotions, and law. This paper will attempt to compare the successful restitution of the Hungarian Sarospatak books back to Hungary from Russia and the unsuccessful restitution efforts pursued by the Herzog descendants to obtain artwork from the Herzog art collection held in Hungary. A comparative case study will reveal the trials and tribulations of restitution in Hungary and Russia, the various political and economic factors, the internal and external actors in the cases, and finally, how the cases have managed to become intertwined in a complex combination of culture, war, and law.

Background

An examination of the complex issue of Holocaust-era art restitution must begin with a brief overview of the looting and cultural destruction conducted by the Nazis immediately prior to and during World War II. Hitler sought to strip Europe of its art by destroying “degenerate” art and reclaiming masterpieces for his “Fuhermuseum” in Linz.³ The looting of cultural

³ Robert M. Edsel and Bret Witter, *Monuments Men* (2009; repr., London: Arrow Books, the Random House Group, 2010), p. 12-13.

treasures in times of war is hardly something new, as Dr. Jeanette Greenfield writes, “[t]he act of plundering in time of war is ancient, timeless, and pandemic.”⁴ However, the Nazi looting was unprecedented in its scale and thoroughness, in large part because “the Nazis used art instrumentally as a part of their larger political and ideological project. Their policies with respect to art are inextricably linked to efforts to seize power within Germany, to conquer the European continent, and to execute their genocidal program.”⁵

According to Dr. Jonathan Petropoulos, the Nazis seized six types of art: 1) art they considered degenerate, 2) art that belonged to German and Austrian Jews, 3) art belonging to Jews outside the Reich, 4) art belonging to non-Jews living outside Germany, 5) property belonging to religious organizations, and 6) property of the state, primarily property belonging to states in the East.⁶ He estimates that in terms of fine art, “the Nazis looted approximately one hundred and fifty thousand art objects in Western Europe and about a half million works in Eastern Europe,” but he states that he “would underscore the imprecise and even speculative nature of these estimates....There is still much research to be done.”⁷ The scale of Nazi looting totaled an unprecedented \$20 billion in current values.⁸ The Western Allies attempted to mitigate some of the looting by creating a section within the Western Allied armed forces called the Monuments, Fine Arts, and Archives (MFAA) unit. These 350 men and women from thirteen allied nations were sent into battlefields, salt cellars, castles, museums, and churches throughout Europe to protect and recover the cultural treasures of the continent.⁹ In response to a war in

⁴ Dr. Greenfield quoted in Marrus, p. 36.

⁵ Jonathan Petropoulos, "Art Looting during the Third Reich: An Overview with Recommendations for Further Research," in *Proceedings of the Washington Conference on Holocaust-Era Assets Nazi-Confiscated Art Issues Chapter 4*, ed. J.D. Bindenagel (Washington D.C.: U.S. Department of State, 1999), p.443, <http://fcit.usf.edu/HOLOCAUST/resource/assets/heac4.pdf> (accessed December 18, 2010).

⁶ *Ibid.*, pp. 444-445.

⁷ *Ibid.*, p. 446.

⁸ Marrus, p. 36.

⁹ Edsel.

which the looting of cultural treasures was unmatched, the Allies too developed an unprecedented mission; the implementation of the MFAA marked “the first time an army fought a war while comprehensively attempting to mitigate cultural damage.”¹⁰

After defeating the Germans, the Allies were left with the monumental task of recovering and restituting the billions of dollars worth of art scattered throughout Europe. Restitution of this artwork was an evident and enormous problem. Under General Dwight D. Eisenhower’s orders, the art and national treasures were to be collected.¹¹ As Michael Marrus explains,

[F]or eventual repatriation and restitution. Thanks to the commitment of government and individuals, restitution was considerable following the end of hostilities. Despite immense practical difficulties, lack of cooperation among the Allies, and occasionally outright theft, much was returned. Petropoulos estimates that between 1945 and 1950 the Americans and the British restituted 2.5 million cultural objects, including 468,000 paintings, drawings, and sculptures.¹²

There are two factors that must be noted in regards to these restitution figures. First, despite these impressive statistics, restitution was obviously not thorough, nor could it have been. As will be explained below, there was a large exception to the cooperative restitution attempts of the Allies: the Soviet Union. In addition to the Soviet Union’s refusal to participate in the Western restitution efforts, the Nazi looting of Jewish art collections meant that, “much that was lost was not returned because original owners, and often their heirs as well, had disappeared in the Nazi Holocaust – or the few who had survived were scattered, demoralized, and too busy reconstituting their lives to hunt for what had been taken away.”¹³ The final factor that must be made clear, in regards to the Allied restitution efforts, is the fact that the Allies did not retribute

¹⁰ Ibid., p. 2.

¹¹ Marrus, p. 38.

¹² Ibid.

¹³ Ibid.

art back to its individual owners, nor did they ever intend to; art was returned to the government of the country of origin.¹⁴

The Herzog Collection

The hundreds of thousands of pieces looted during the war did not and do not provoke equal restitution demands. As Marrus writes, “at least part of the drama of art restitution derives from that small set of cases of extraordinary and subsequently deemed extremely valuable stolen works collected in the 1920s and 1930s by a relatively small but significant number of astute Jewish collectors in the major cities of Europe.”¹⁵ The first case under examination involves one of these significant collections, the art collection of the wealthy Jewish Hungarian banker, Baron Mor Lipot Herzog (the Herzog Collection).

Before World War II, Budapest was home to many European masterpieces, but “[t]he majority, about seventy to eighty percent, belonged to famous Jewish art collectors and their families.”¹⁶ The Herzog collection was kept in the family home on Andrassy Boulevard, and it included paintings by Renoir, Monet, Lucas Cranach the Elder, Gustave Courbet, El Greco, the Hungarian painter Mihaly Munkacsy, and many others.¹⁷ Altogether, the collection totaled around 2,500 pieces including paintings, sculptures, furniture, and other items.¹⁸

In 1934, Baron Herzog died, leaving the collection to his daughter, Erzsebet Herzog Weiss de Csepel, and two sons, Istvan and Andras Herzog.¹⁹ Hungary, as a German ally, enacted its own Jewish laws, and in April of 1944 the government issued a decree requiring that all Jews

¹⁴ Ibid.

¹⁵ Marrus, p. 42.

¹⁶ Agnes Peresztegi, "Restitution or Renationalization: The Herzog and Hatvany Cases in Hungary" (paper presented in Berlin, December 11, 2008), Commission for Art Recovery, p. 2, <http://www.commartrecovery.org/cases/hungary> (accessed December 11, 2010).

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Committee on Banking and Financial Services: Statement of Martha Nierenberg, *Full Committee Hearing on Restitution of Holocaust Assets*, 106th Cong., 2nd sess. (February 10, 2000), <http://financialservices.house.gov/banking/21000nie.shtml> (accessed December 10, 2010).

report their luxury items, including artwork, to the government.²⁰ Agnes Peresztegi, a lawyer and European Director of the Commission for Art Recovery writes:

When the Hungarian government began to systematically catalogue and seize the valuables of Hungarian Jews, Denes Csanky, the government commissioner responsible for taking possession of art, who was also the director of the Museum of Fine Arts, proudly asserted that ‘[t]he Mór Herzog collection contains treasures the artistic value of which exceeds that of any similar collection in the country. If the state now takes over these treasures, the Museum of Fine Arts will become a collection ranking just behind Madrid.’²¹

By this point, Andras Herzog had died in a Hungarian forced labor brigade, but the remaining family members hid the Herzog collection in the cellar of one of the Herzog family’s industrial factories. As Erzsebet’s daughter Martha Nierenberg testified, “[d]espite my parents’ efforts to prevent the looting of their art, the Nazis found the hiding place and took the art to the Majestic Hotel, Eichmann’s headquarters, for his inspection. Eichmann shipped much of the looted Herzog collection to Germany.”²²

The testimony above is correct, but a detailed account of what happened to the artwork following the German invasion of Hungary is a little more complex and has provoked debate among historians. It is believed that Eichmann’s *Sondereinsatzkommando* seized the Herzog collection after it was found in the factory cellar, and when the Germans began to leave Hungary, “[t]he *Sondereinsatzkommando* ...carried off the bulk of the art treasures loaded on military goods-trains,” and “it was Germans who sent this cargo to Germany or Austria. It is known that the art was the last shipment sent out by the Nazis... later found in freight cars which had been sidetracked – as a result of the chaos that reigned at the end of the war.”²³ During this chaos, it

²⁰ Peresztegi, p. 3.

²¹ Ibid.

²² Nierenberg Statement.

²³ Heritage Revealed, *Catalogue of Art Objects from Hungarian Private Collections*, ed. Piotr Balakin (Moscow: Rudomino, 2003), p. 44, <http://www.libfl.ru/restitution/catalogs/catalog2.pdf> (accessed December 18, 2010).

must be noted that in addition to the Nazi thefts, local Hungarians and the invading Soviets looted a number of works as well.²⁴

Erzsebet Herzog Weiss de Csepel and her family fled Hungary for the West in May of 1944.²⁵ For forty-five years, the family was unaware of the fate of the Herzog artwork. After the fall of communism in Hungary, Herzog family members returned to find that pieces of the family's art were "being openly exhibited as the 'Herzog Collection' in two museums in Budapest -- the Museum of Fine Arts and the National Museum."²⁶ Erzsebet's daughter Martha Nierenberg testified to the fact that the Americans returned the portions they had recovered of the Herzog collection to the state of Hungary in 1946 and 1947, and that "[t]he Hungarian museums then received the paintings but only for the express purpose of safeguarding them until their owners could be identified and located."²⁷

While a number of items in the Herzog collection were restituted to the state of Hungary and now hang on the walls of the national museums, "the fate of the greater part of the private collections remained obscure for a long time."²⁸ This history and fate of the Herzog collection was obscured because of the fact that, while at least a few pieces were returned to Hungary, a number of pieces also traveled to the Soviet Union, where they remain in the State Hermitage Museum, the Pushkin Museum, and in present-day Nizhny Novgorod, Russia (then Gorky).

Historians still debate how Hungarian-owned paintings reached Russia, but the two commonly held beliefs are 1) the Soviet Army took them directly from Budapest and 2) the Nazis sent them to Germany where they were then recovered by the Soviets and taken to Russia.

²⁴ *De Csepel v. Republic of Hungary*, 1:10-cv-01261 (D.D.C. July 27, 2010) (Compl. ¶¶ 54, 66).

²⁵ Nierenberg Statement.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Ekaterina Genieva, "The Fate of Hungarian Art Collections," preface to *Catalogue of Art Objects from Hungarian Private Collections*, by Heritage Revealed, ed. Piotr Balakin (Moscow: Rudomino, 2003), p.12, <http://www.libfl.ru/restitution/catalogs/catalog2.pdf> (accessed December 18, 2010).

The Herzog collection is believed to fall under the second theory. It has been confirmed that the Soviet 49th Army was never in Hungary, and instead “arrived in Gorky from Germany with the treasures in the autumn of 1945”²⁹ as evidenced by the statement of a retired officer of the 49th Army, Major M. Chernyshev who testified:

Some division or unit (I do not know exactly which one.) reported to the Army Headquarters that a crate packed with paintings and sculptures had been found in the neighborhood of their encampment. The Army was situated in Germany. Then the Army Headquarters ordered the capture of this abandoned property that apparently had been looted by the Nazis and packed for evacuation. Thus, the Army came into possession of this property and took it to Gorky, since all that happened right before the Army’s return to Gorky.³⁰

The art was later transferred within Gorky in the 1950s, and Herzog pieces now hang in the Pushkin State Museum of Fine Arts and the Nizhny Novgorod State Art Museum.³¹

The Sarospatak Books

The paintings from Hungary did not travel to Gorky alone; they were accompanied by 900 books, including a portion of the Sarospatak Reformed College library.³² These books and their theft and restitution are the second case study to be examined. Given the relative obscurity of the details of the Sarospatak case, this case study owes much to the comprehensive work of Patricia Kennedy Grimsted and Konstantin Akinsha’s “The Sarospatak Case: Rare Books Return to Hungary from Nizhnii Novgorod – A New Precedent for Russian Cultural Restitution?”

The Reformed College and its library were founded in 1531 in the northeastern Hungarian town of Sarospatak and soon became home to collections of Hungarian nobility, making it one of the most valuable libraries in Hungary.³³ A priceless selection of materials was

²⁹ Ibid., pp. 14,16.

³⁰ Ibid., pp. 16, 18.

³¹ Heritage Revealed.

³² Genieva, “The Fate,” p. 28.

³³ Patricia Kennedy Grimsted and Konstantin Akinsha, "The Sarospatak Case: Rare Books Return to Hungary from Nizhni Novgorod A New Precedent for Russian Cultural Restitution?" *Art Antiquity and Law* XI, no. 3 (September 2006), p.216, <http://www.iisg.nl/archives-and-restitution/akinsha-grimsted.pdf> (accessed December 10, 2010).

taken to Budapest for safekeeping in September of 1938, first to the National Museum and then to the Hungarian Commercial Bank in Pest and the First National Savings Bank in Pest.³⁴ The same debate described above applies to studies of how the Sarospatak books reached Russia; Hungarian historians maintain that a Soviet army detachment took the books in February of 1945, while the Russians claim that they were stolen by German troops and the Soviets then took them to Gorky after finding them in an “abandoned railway carriage near Berlin.”³⁵ It is estimated that the Soviets “seized 11.5 million books, of which 4.5 million may have survived.”³⁶ As in the Herzog case, under communism the location of the stolen Sarospatak books was unknown to the rightful owners. Their identity and value was originally unknown in the Soviet Union where they were lost among millions of trophy books. They were kept in the Gorky Fine Arts Museum until 1960 when they were transferred to the Gorky Regional Scientific Library.³⁷ The books remained in a secret storeroom and

[N]ot a soul in the library knew of their existence at all but the three staff members, who had taken part in their delivery. The books were finally ‘revealed’ 50 years later, in 1994, after the Ministry of Culture of the Russian Federation had given an order to open up “special” storeroom in cultural institutions. By that time even the experts working in the Library for many years could not say what were these books and how they had found their way in a “special” storeroom [sic]. Only one woman who had been involved in the delivery in 1960 was still alive to identify the books.³⁸

It was not until 1993 that the Sarospatak books were discovered when Grigori Kozlov and Konstantin Akinsha met with art historian and museum curator Petr Balakin in Nizhny

³⁴ Hungarian National Museum, "Take the Scripture and Turn its Leaves - The Collection of Books Removed from the Sárospatak Reformed College' Grand Library and Restituted by Russia," Museum.hu: The Homepage Of Hungarian Museums, http://www.muzeumok.hu/museum/temporary_en.php?IDT=4356&ID=55 (accessed December 10, 2010).

³⁵ Ibid.

³⁶ Kishkovsky, “War’s Spoils.”

³⁷ Ekaterina Genieva, "The Trophy Collection of Books from Sarospatak in Cultural Context of the New Millennium" (paper presented at the 68th International Federation of Library Associations Council and General Conference, Glasgow, August 18-24, 2002), IFLANET, 2, <http://archive.ifla.org/IV/ifla68/papers/133-089e.pdf> (accessed December 10, 2010).

³⁸ Ibid., p. 3.

Novgorod.³⁹ He informed them that a delivery of foreign books had been made to the museum after the war and showed them one he had in his private library; they identified the mark of the Sarospatak Collegium on it.⁴⁰ As described by Akinsha and Grimsted, Kozlov and Akinsha traveled to Moscow where they advised the Ambassador of Hungary to the Russian Federation of the possibility that the Sarospatak books might be in the Gorky Regional Scientific Library. The Ambassador, Akinsha, and Kozlov soon met with the director of the regional library where “Ambassador Nanovski [Hungarian Ambassador to the Russian Federation] inquired if it were true that some books from Sarospatak were kept in the library....the director answered that such information was totally false and that no books from Hungary were, or ever had been, in the custody of her library.”⁴¹ The three left the meeting, but soon after Kozlov and Akinsha had left the library they were approached by a librarian, who had also been present at the meeting:

She was very distraught and emotional: she told them that the director of the library was lying and that she did not want to be an accomplice in this lie. She gave Akinsha and Kozlov a small recent local publication with an article about the manuscript books and incunabula in the library.... It specifically mentioned two Mainz imprints...both of which were known to have been held in Sarospatak.⁴²

The two experts informed Nanovski, and a second meeting was held the next day; again, the director denied the presence of the books, but this time she was shown the publication.⁴³ The director and a City Department of Culture representative left the room but he soon returned to inform them that they could see the books in the library later that day, and “the secret of the disappeared collection was revealed.”⁴⁴

³⁹ Grimsted and Akinsha, p. 24.

⁴⁰ Ibid.

Note: Balakin had not stolen his book from the Sarospatak collection, he had purchased it from a second-hand book store, further showing that the value of the Sarospatak books was unknown in the Soviet Union.

⁴¹ Grimsted and Akinsha, p. 225.

⁴² Ibid.

⁴³ Ibid., p. 226.

⁴⁴ Ibid.

Russian “Trophy Art”

The Herzog paintings that remain in Hungary were taken by the Nazis as part of their wartime theft and most were restituted by the Allies to the state; however, the Sarospatak books and a portion of the Herzog collection were taken to Russia by the Red Army. As stated above, the Soviet Union was extremely uncooperative in the Allied restitution efforts. During the German invasion, the Soviet Union suffered epic cultural losses at the hands of the Nazis. As the Germans moved eastward they conducted a campaign of looting and destruction in addition to their military battles.⁴⁵ Already in 1943, the Soviet Union began composing lists of what had been lost and damaged in the U.S.S.R. as well as lists of “so-called ‘eventual equivalents,’ which Soviet officials wanted to receive after the war as ‘restitution in kind,’ to compensate for the cultural losses of the U.S.S.R.”⁴⁶

As Akinsha explains, establishing lists of what had been lost in the U.S.S.R. proved extremely difficult, and the Bureau of Experts assigned to the task shifted its focus to the equivalent lists instead.⁴⁷ These equivalents included artwork from both museums and private collections in the Axis countries, and they became the operating lists for five to six different types of trophy brigades sent to Soviet-occupied territories to capture the works.⁴⁸ Soviet looting quickly diverged from the listed items as finding and sorting out the specific art proved “virtually impossible.... the trophy experts started to load entire collections on trains heading for the Soviet Union.”⁴⁹

⁴⁵ Michael J. Kurtz, *Nazi Contraband: American Policy on the Return of European Cultural Treasures 1945-1955* (New York: Garland Publishing, Inc., 1985), pp. 41-46.

⁴⁶ Konstantin Akinsha, “Stalin’s Decrees and Soviet Trophy Brigades: Compensation, Restitution in Kind, or “Trophies” of War?” *International Journal of Cultural Property* 17, no. 2 (2010): p. 195.

⁴⁷ Akinsha, “Stalin’s Decrees,” 199.

⁴⁸ *Ibid.*, pp. 199, 202.

⁴⁹ *Ibid.*, p. 203.

Once the Russians reached Germany, they responded in kind to the German acts of destruction in Russia and “[b]etween mid-December 1945 and April 1946, the Russians emptied the cellars and storerooms of museums in Berlin’s Soviet Sector.... Events such as these occurred throughout the Soviet Zone for the next several years. An estimated 900,000 works of art were carried off to Russia.... Most of this treasure was either German or belonged to countries other than Russia.”⁵⁰

During the Allied occupation of Germany, the U.S. held the position that works of art could not be removed as reparations, especially given that the Soviet Union would not produce documentation of Soviet damages or of the art they had taken from the Soviet Occupation zone in Germany.⁵¹ In addition, the Soviets had no basis in international law for claiming compensation. As is evident in documents reproduced in an article by Akinsha, by February of 1946 the Soviets were no longer concerned with “eventual equivalents.”⁵² As they argued in one of the first meetings of the Working Group,⁵³ they did not need to account for property removed from the occupation zone because “[s]uch property and property taken by troops, especially the Red Army, is without doubt military trophies and cannot be used for replacement; it is useless to make a list for such property.”⁵⁴ Akinsha determines that after the war ended, “Soviet authorities replaced the initial conception of restitution in kind...by the total removal of cultural property from the occupied territory of Germany and Western Poland and partial removal from such countries as Hungary.”⁵⁵

Restitution Efforts Begin

⁵⁰ Kurtz, p. 232.

⁵¹ Akinsha, “Stalin’s Decrees,” p. 209.

⁵² Ibid., p. 207.

⁵³ “Working Group” refers to the quadripartite Special Working Group within the Allied Control Council Reparations, Deliveries and Restitution Directorate. – Akinsha, “Stalin’s Decrees,” 207.

⁵⁴ Ibid., p. 207.

⁵⁵ Ibid., 212.

What makes this comparative case study fascinating is how the actors, artwork, circumstances, and chronology overlap and yet lead to extremely different outcomes. As described above, both cases derive from the same basic starting point of art looted during wartime and the subsequent displacement of that art. During the Cold War, restitution efforts were limited in the Eastern Bloc. In the Soviet Union, the government returned art to certain countries, like the German Democratic Republic, for political purposes; “the Soviet government's policy in this area was dictated not by a desire to restore historical justice but by the Soviet leadership's wish to embarrass West Germany.”⁵⁶ Besides these political gestures within the Bloc, there was little effort to return items as “[t]he Russians felt they had suffered far more than other nations and had made the greatest contributions to the defeat of Germany. They felt no need to discover and return property that belonged to foreign nationals.”⁵⁷

In the case of the Sarospatak books, the Hungarian government was not even sure the books still existed. The Herzog heirs were unable to establish where the many pieces of their collection were and were unable to submit claims. However, as depicted above, soon after the end of communism in both countries, the Sarospatak books were located in Russia, and the Herzog heirs were able to visit Hungary and found several of their paintings in state museums. Almost immediately after these discoveries were made, restitution efforts began.

Sarospatak Restitution Efforts

A general cultural restitution agreement was made between Hungary and Russia in November of 1992.⁵⁸ The restitution efforts in the 1990s can be followed through a series of

⁵⁶ Victor Yasmann, "Russia: Moscow Grapples With Question of 'Trophy Art' Restitution," *RadioFreeEurope RadioLiberty* (Online), July 1, 2005, <http://www.rferl.org/content/article/1059620.html> (accessed December 10, 2010).

⁵⁷ Kurtz, pp. 232-233.

⁵⁸ Patricia Kennedy Grimsted, "'Trophy' Archives and Non-Restitution," *Problems of Post-Communism* 45, no. 3 (May-June 1998): <http://web.ebscohost.com.ezproxy.cul.columbia.edu/ehost/detail?vid=1&hid=113&sid=3848ed49-d308-4eb7-b186-4fba3fbb107%40sessionmgr104&bda ta=JnNpdGU9ZWhvc3QtbGl2ZSZZY29wZT1>

articles in the international newsletter, *Spoils of War*, which was created in 1995 to report on stolen cultural artifacts and various restitution efforts. One of the contributors and editors was Istvan Fodor, then the director of the Hungarian National Museum. His and other experts' yearly updates on the status of the return of the Sarospatak books to Hungary provide a chronological depiction of the negotiations. On June 28-29, 1995, the Hungarian and Russian Restitution Committee met to discuss issues of restitution between the two countries, and on November 1-4 a group of senior librarians visited Nizhny Novgorod and identified the majority of the Sarospatak books and incunabula that had been taken from Hungary.⁵⁹ In the following year, “[t]he Hungarian Minister of Culture asked [Russian] Minister Sidorov to return these books and incunabula in 1996 as this year marks the millecentenary of the settling of Hungarians and the millennium of the beginning of the education in Hungary [sic].”⁶⁰

Unfortunately, the following year marked the development of a massive roadblock to any restitution from the Russian state. In 1997, despite a presidential veto from President Boris Yeltsin, the Russian State Duma overrode the veto and adopted the “Federal Law on Cultural Valuables Displaced to the U.S.S.R. as a Result of the Second World War and Located on the Territory of the Russian Federation,” which became a federal law in 1998. This act nationalized, under Russian law, the Soviet theft of cultural valuables, as it covers all artwork and cultural artifacts taken to the Soviet Union during and immediately after World War II. It enshrines in law the Soviet refusal to participate in Allied restitution, and one of its stated goals is “to establish the necessary legal bases for bringing about the treatment of said cultural valuables as partial compensation for the damage caused to cultural property of the Russian Federation as a

zaXRI#db=a9h&AN=654283 (accessed December 10, 2010).

⁵⁹ Istvan Fodor, “Hungary,” *Spoils of War* 1 (December 1995): p.20, <http://www.lostart.de/cae/servlet/contentblob/6730/publicationFile/218/Spoils%20of%20War%201.pdf> (accessed December 18, 2010).

⁶⁰ Maria Mihaly, “Hungary,” *Spoils of War* 2 (July 1996): p.27, <http://www.lostart.de/cae/servlet/contentblob/9618/publicationFile/219/Spoils%20of%20War%202.pdf> (accessed December 18, 2010).

result of the plunder and destruction of its cultural valuables by Germany and its military allies during the Second World War.”⁶¹

Article 6 of the law states that “[a]ll displaced cultural valuables transferred to the USSR in realization of its right to compensatory restitution and located on the territory of the Russian Federation, with the exception of those specified in Articles 7 and 8 of the present Federal Law, are the property of the Russian Federation and are of federal ownership.”⁶² In the case of the Sarospatak books, Article 8 is the most salient point of the law. Article 8 identifies three types of cultural valuables that are not covered under Article 6. Type 2 includes all cultural valuables “that were the property of religious organizations or private charitable institutions and that were used exclusively for religious or charitable purposes and did not serve the interests of militarism and/or Nazism (or Fascism).”⁶³ Under Article 8, the Sarospatak books are not federally owned because they were property of the Reformed College of Sarospatak, a religious institution.⁶⁴

Therefore, although a number of Hungarian claims were unjustly blocked by the law,⁶⁵ the Sarospatak books were still available for claims from the Hungarian state. The law also outlines the claims process, stating that claims on cultural valuables covered in Article 8 “can be made by the Government of the claimant State only to the Government of the Russian Federation,” and that the “transfer to a claimant State of a displaced cultural valuable of unique character, having especially important historical, artistic, scientific, or other cultural significance,

⁶¹ Konstantin Akinsha and Patricia Kennedy Grimsted, trans. "Federal Law on Cultural Valuables Displaced to the USSR as a Result of the Second World War and Located on the Territory of the Russian Federation - Federal Law N 64-FZ of 15 April 1998," With the amendments of Federal Law No. 70-FZ of 25 May 2000 and Federal Law No. 122-FZ of 22 August 2004, Article 155, <http://www.comartrecovery.org/sites/default/files/docs/resources/russianlawspkgka.pdf> (accessed March 17, 2011).

⁶² Akinsha, "Federal Law."

⁶³ Ibid.

⁶⁴ Genieva, "The Trophy Collection," p. 3.

⁶⁵ Jozsef Geher, "Hungarian Considerations Regarding the Russian Law on Cultural Property," *Spoils of War* 4 (August 1997): 29-31, <http://www.lostart.de/cae/servlet/contentblob/9622/publicationFile/221/Spoils%20of%20War%204.pdf> (accessed December 18, 2010).

shall be carried out on the basis of a Federal Law.”⁶⁶ This means that the Russian Federation must adopt a federal law for these claims, without which there can be no transfer of the items.

In the same year, the Hungarian-Russian Restitution Committee met and after Hungarian experts were allowed to examine the Sarospatak books, “[t]he Hungarian party requested the books from the Sárospatak library to be returned as soon as possible to the original owner. The Russian party promised to take the necessary steps concerning this matter. The Russian party gave a brief overview of the law on artworks which was passed by the Russian parliament.”⁶⁷

The return process advanced slowly for several years. The Hungarians submitted documents from the Allied Control Committee and the Hungarian government from 1946 that showed that the Government of Hungary had agreed to return all Soviet goods that were in Hungary.⁶⁸ The official claims process began when Hungary submitted a formal claim to the books through diplomatic channels on March 12, 2002, and in September:

[A]n expert commission under the Russian Ministry of Culture declared the Sarospatak books to be of [sic] ‘of unique character, having especially important historical, artistic and scholarly significance.’ ...However, the declaration ‘of unique character’ would mean further delay in the process, because in accordance with the 1998/2000 Law, a special federal law was required for return of the such originals to their country of origin.⁶⁹

The following year “the Russian side made the first serious indication of a possible return of the Sarospatak library.”⁷⁰ Prime Minister Kasianov of the Russian Federation visited Hungary and when Prime Minister Peter Medgyessy brought up the issue of the Sarospatak books, the

⁶⁶ Akinsha, “Federal Law.”

⁶⁷ Istvan Fodor, "Hungary," *Spoils of War* 4 (August 1997): p.78, <http://www.lostart.de/cae/servlet/contentblob/9622/ \publicationFile/221/ Spoils%20of%20War%204.pdf> (accessed December 18, 2010).

⁶⁸ Istvan Fodor, "Hungary," *Spoils of War* 5 (June 1998): <http://www.lostart.de/cae/servlet/contentblob/9622/ publicationFile/221/ Spoils%20of%20War%204.pdf> (accessed December 18, 2010).

⁶⁹ Grimsted and Akinsha, p. 235.

⁷⁰ *Ibid.*, p. 236.

Russian prime minister responded that any exchange would have to involve a mutual exchange of goods, meaning any art the Hungarians had taken from the U.S.S.R. during the war.⁷¹

In 2005, the Russian Ministry of Culture issued an order approving the return of the books, but specified that Hungary must adopt legislation providing for the “unconditional return” of Russian cultural treasures to the Russian Federation from Hungary.⁷² In accordance with this order, Hungary enacted a resolution on this matter on April 18, 2005. Following the Hungarian legislation, a Russian federal law permitting the return of the books entered the Duma on July 1, 2005, and while opposition was expressed by the right and the left, the majority supported the return of the books. By January 20, the law had received final approval by 345 deputies with 53 against it.⁷³ The law was approved by the upper house on January 25, 2006, and President Putin signed the proposal into law on February 2, 2006.⁷⁴ On February 19, 2006, Hungarian Ambassador Arpad Szekely flew to Russia to collect the books and return them to Hungary.⁷⁵

In total, Russia returned 146 books to Hungary in 2006, which actually included more than 1,300 titles.⁷⁶ Among the books were several unique items including the oldest item, a manuscript parchment *Theologica Scholastica* from Vienna, dated 1404; 22 incunabula, including four bibles: one illustrated and printed in Nuremberg in 1483, two from Basel printed in 1491 and 1498, and a Venice edition from 1498; a copy of the Vizsoly Bible, which represents the first Hungarian translation by Gaspar Karolyi (1589-1590); and “[p]rinted tracts presenting disputes from the Protestant Reformation include one by Martin Luther (Basel, 1546), signed by the

⁷¹ Ibid., p. 237.

⁷² Ibid.

⁷³ Ibid., p. 241.

⁷⁴ Ibid., p. 242.

⁷⁵ Ibid.

⁷⁶ Ibid., p. 219.

author.”⁷⁷ After a ceremony and exhibition in Budapest, the books were returned to Sarospatak in June of 2006 in time for the college’s 475th anniversary.⁷⁸

The Herzog Restitution Efforts

While the Hungarian government’s restitution efforts were focused on reclaiming the Sarospatak books from Russia, the government was also focused on denying restitution claims for Holocaust loot made against Hungary. In Hungary, restitution efforts were supposed to be regulated by the Paris Peace Treaty of 1947. However, under communism the restitution requirements of the Treaty were soundly ignored. In 1993, the Hungarian Constitutional Court faced a case in which, “[t]he petitioners sought determination of an unconstitutional omission on the part of successive governments in their failure to discharge their obligations under the Paris Peace Treaty of 1947.”⁷⁹ The court took note of the requirements of Article 27(1) of the Treaty which states:

Hungary assumed the responsibility for restoring the possessions, legal rights and interests, or, if the restoration were impossible, the payment of appropriate compensation, to the Jewish people affected by the confiscations. Article 27(2) provided that when no heir or beneficiary came forward within six months or no other claims were submitted, any such unclaimed assets were to be transferred by the Hungarian Government, in effect, to the Fund.⁸⁰

The decision states, “[t]he Constitutional Court holds that an unconstitutional situation has arisen due to Hungary’s failure to comply with the provisions of art. 27(2) of the Paris Peace Treaty. Accordingly, the Constitutional Court requests Parliament to undertake the necessary steps for the implementation of the said provisions of the Peace Treaty by 31 December 1993.”⁸¹ The Constitutional Court ruled that the Hungarian government had failed to uphold the requirements

⁷⁷ Ibid., pp. 219-220.

⁷⁸ Ibid., p. 216.

⁷⁹ Laszlo Solyom and Georg Brunner, *Constitutional Judiciary in a New Democracy: The Hungarian Constitutional Court*, ed. Allan Tatham, trans. Pal Sonnevend (Ann Arbor: University of Michigan Press, 2000), p. 267.

⁸⁰ Ibid.

⁸¹ Ibid., p. 269.

of the Treaty. Would this mean restitution efforts on behalf of the Herzog collection in Hungary would be successful?

Although Hungary enacted a compensation law for property losses and was considered something of a success story in this area, this law “was not designed to cover cultural property because of the complications connected to the valuation of artworks.”⁸² After identifying the Herzog pieces on public display in 1989, the Herzog heirs began active restitution negotiations with the Hungarian government “over the fate of as many as 2,000 pieces of Herzog’s collection.”⁸³ Erzsebet Herzog Weiss de Csepel successfully obtained seven artworks before her death in 1992; however, all the paintings were “attributed to unknown artists. The identifiable masterworks remained in the Museum of Fine Arts and the Hungarian National Gallery.”⁸⁴

Erzsebet’s daughter, Martha Nierenberg, continued the negotiations and in 1996 “an agreement was reached with the Hungarian Minister of Education and Culture to appoint a ‘Committee of Experts’ to determine the legal ownership of the artworks.”⁸⁵ The twenty artworks were reviewed, and the Committee determined that they were all the property of Baron Herzog’s surviving children.⁸⁶ The Hungarian government refused to settle the issue and created a new Committee of Experts.⁸⁷

In 1998, Hungary attended the Washington Conference on Holocaust-Era Assets. As a participant, Hungary endorsed eleven principles regarding Nazi-looted art, including identifying art that has not been restituted, opening archives and records to researchers, taking steps expeditiously to achieve just solutions in cases where heirs can be identified, and giving

⁸² Konstantin Akinsha, "Convoluting Legal Battles," *ARTnews*, January 2007, p.118.

⁸³ Budapest Sun, "Art Loans Threatened," *Budapest Sun*, September 28, 2006, <http://www.budapestsun.com> (accessed December 10, 2010).

⁸⁴ Peresztegi, p. 3.

⁸⁵ *Ibid.*, pp. 3-4.

⁸⁶ *Ibid.*, p. 4.

⁸⁷ *Ibid.*

consideration to “unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era.”⁸⁸ The Conference recognized that participating states had differing legal systems and that countries would have to act “within the context of their own laws.”⁸⁹ At the Conference, Hungary’s delegation was not only a participant, but openly recognized the criticism directed at its government over the issue of “the Hungarian museums’ approach towards some of their acquisitions during the early years of the Communist era,” stating, “[m]useums keep works of art – among others former property of Holocaust victims.”⁹⁰ The Delegation stated that the government “is fully committed to the restitution or compensation of Holocaust victims concerning cultural assets,” and that a commissioner would be designated to manage the complex task.⁹¹

Despite this promise, negotiations with the Herzog family ceased. In 1999, Martha Nierenberg resorted to litigation to fight for ownership of twelve paintings worth \$10-20 million.⁹² During this first lawsuit, one painting was returned to the family, but the government objected to the claims on the other eleven paintings.⁹³ The court ruled that ten of the eleven paintings should be returned to Nierenberg and,

[O]rdered the main defendant, the state-run Museum of Fine Arts, to deliver the paintings within 15 days and pay [Forint] 7,500,000. The secondary defendant, the Hungarian National Gallery, should also return the paintings in its care within 15 days and pay Ft 350,000 in court costs jointly with the tertiary defendant, the Treasury Assets Directorate.⁹⁴

⁸⁸ U.S. Department of State, Washington Conference Principles on Nazi-Confiscated Art, Released in connection with the Washington Conference on Holocaust-Era Assets, Washington DC, December 3, 1998, http://www.state.gov/www/regions/eur/981203_heac_art_princ.html (accessed April 15, 2011).

⁸⁹ Ibid.

⁹⁰ Hungary, "Delegation Statement," in *Proceedings of the Washington Conference on Holocaust-Era Assets Delegation Statements Chapter 3*, ed. J.D. Bindenagel (Washington D.C.: U.S. Department of State, 1999), p. 273, <http://fcit.usf.edu/HOLOCAUST/resource/assets/heac3.pdf> (accessed December 18, 2010).

⁹¹ Ibid.

⁹² Reuters, "Hungary Sued for Artworks," *The New York Times*, October 6, 1999, <http://nytimes.com> (accessed December 10, 2010).

⁹³ Akinsha, "Convoluting Legal Battles," p. 119.

⁹⁴ Absolut Media Kft., "Herzog Heiress Wins Artifact Case Against State," *Hungary AM* (Budapest), October 24, 2000, <http://www.bbj.hu> (accessed December 10, 2010).

The state immediately appealed the case to the Hungarian Supreme Court.⁹⁵ It was reported that the government lawyers argued that “the oils are protected heritage and cannot be taken out of the country. They also say the state has first option to buy the paintings,” and that “[t]he heirs received compensation under a U.S.-Hungarian agreement signed in 1973.”⁹⁶ The state won its appeal when the Hungarian Supreme Court overturned the decision in 2002.⁹⁷ The lawsuit was resumed in 2004 in the Budapest Municipal Court,⁹⁸ and in November of 2005, the court ruled that the Hungarian state must return only one of the eleven paintings while the other ten were to remain in the state museums.⁹⁹ This legal back and forth continued with new trials “each more legalistic and narrow than the one before.”¹⁰⁰ But in 2008, a Hungarian appellate court ruled for the government; “[i]t found that the government had acquired the art through ‘prescription,’ the principle that by possessing the property for long enough it had gained ownership of it.”¹⁰¹ This was the fifth and final Hungarian ruling in the case.

Despite the drawn-out and contentious legal proceedings involving the Herzog collection, in June of 2009, Hungary participated in the Prague Holocaust Era Assets Conference. At this conference Hungary affirmed in the Terezin Declaration, amongst other things, its support of the Washington Principles, and pledged to:

[F]acilitate just and fair solutions with regard to Nazi-confiscated and looted art, and to make certain that claims to recover such art are resolved expeditiously and based on the facts and merits of the claims and all the relevant documents

⁹⁵ Access-Hungary Kft., "State, Museums Appeal in Herzog Lawsuit," *Hungary Around the Clock* (Budapest), November 2, 2000, <http://www.hatc.hu> (accessed December 10, 2010).

⁹⁶ Ibid.

⁹⁷ Absolut Media Kft., "Herzog Lawsuit Resumes," *Hungary AM* (Budapest), May 25, 2004, <http://www.bbj.hu> (accessed December 10, 2010).

⁹⁸ Ibid.

⁹⁹ MTI - Magyar Távírási Iroda Zrt., "State to Return El Greco Painting from Herzog Collection to Heir," *MTI Daily Bulletin* (Budapest), November 17, 2005, <http://www.mti.hu> (accessed December 10, 2010).

¹⁰⁰ Peter Applebome, "Footprints of Holocaust in a Battle for Lost Art," *New York Times*, January 13, 2008, <http://nytimes.com> (accessed December 10, 2010).

¹⁰¹ Ibid.

submitted by all parties. Governments should consider all relevant issues when applying various legal provisions that may impede the restitution of art and cultural property, in order to achieve just and fair solutions, as well as alternative dispute resolution, where appropriate under law.¹⁰²

Although both the Washington Principles and the Terezin Declaration are non-binding agreements, the drawn-out legal proceedings in Hungary and refusal to negotiate have shown the state's lack of genuine commitment to the spirit of the principles expressed in these agreements.

Restitution Factors

The Sarospatak and the Herzog cases developed almost simultaneously. It may strike one as odd that the Hungarian government diligently and persistently pursued its legal claims on the books in Russia while at the same time determinedly fighting similar claims at home. A closer examination of certain economic and political factors and the role of external and internal actors reveals distinct differences between the cases and explains, but does not justify, the hypocrisy of the Hungarian government.

Politics

Hungarian domestic politics have had an impact on the restitution efforts of both the Sarospatak and the Herzog cases. Restitution of the Sarospatak books was at first delayed by the efforts of nationalist politicians within Russia and their support for the Cultural Valuables law, and later because of the actions of nationalist politicians in Hungary. The Cultural Valuables law was passed despite Yeltsin's presidential veto because of the strong beliefs of nationalist politicians in Russia. This is best represented by Deputy Chairman for the Committee on Culture for the Russian Duma, Nikolai Gubenko. Gubenko is the former Soviet Minister of Culture and a current Communist Party of the Russian Federation member. He was a strong supporter of the Russian Cultural Assets Law and an outspoken critic of restitution. Gubenko objected to

¹⁰² Terezin Declaration on Holocaust Era Assets and Related Issues, Prague Holocaust Assets Conference. June 30, 2009. <http://www.eu2009.cz/en/news-and-documents/news/terezin-declaration-26304/> (accessed April 15, 2011).

restitution stating that “[u]ncompensated transfer would not only show contempt for Russia’s state interests, but for the memory of the millions of our compatriots who perished in the Great Patriotic War.”¹⁰³ However, even in the face of nationalist objections like Gubenko’s, the law permitting the return of the Sarospatak books was approved in the Duma because of the majority’s support for return.¹⁰⁴

Just as Gubenko’s nationalism resulted in attempts within Russia to prevent restitution, it appears that the leanings of domestic Hungarian politicians also affected the Sarospatak case. In 1998, Viktor Orban of the center-right, conservative party Fidesz was elected Prime Minister. Orban’s government had nationalist leanings to the extent that his policies “raised concerns among some observers that Hungary...was succumbing to a new wave of nationalism.”¹⁰⁵ Orban’s nationalist tendencies did not endear him to the Russian government. Grimsted and Akinsha write that a Russian governmental newspaper “severely criticised Prime Minister Orban’s nationalist Government,” and reported that during Orban’s term in office the restitution working group did not meet¹⁰⁶ and that “[t]he fundamental improvement in this question [of the return of the books] took shape only when the social-liberal government came to power in Budapest.”¹⁰⁷

The official Hungarian request for the books was filed in March of 2002, when Orban was still prime minister. However, the positive response from the Russian government and the

¹⁰³ Jamey Gambrell, "Russian Trophy Art Still in Flux," *Art in America* 91, no. 5 (May 2003): p. 49, <http://ezproxy.cul.columbia.edu/login?url=http://proquest.umi.com.ezproxy.cul.columbia.edu/pqdweb?did=338506221&sid=1&Fmt=3&clientId=15403&RQT=309&VName=PQD> (accessed December 10, 2010).

¹⁰⁴ Grimsted and Akinsha, p. 238.

¹⁰⁵ F. Stephen Larrabee, *NATO's Eastern Agenda in a New Strategic Era*, MR-1744-AF (Santa Monica: RAND, 2003), p.16, http://www.rand.org/pubs/monograph_reports/MR1744/index.html (accessed December 4, 2010).

¹⁰⁶ Grimsted and Akinsha, p.238, reports that the working group did not meet from April 1999 on throughout Orban’s term, but the *Spoils of War* newsletter (vol. 7 p. 49) reports that the Hungarian and Russian restitution committees did not have a meeting in 1998 either.

¹⁰⁷ Fedor Luk’ianov and Anatolii Shapovalov, ‘Zakon dlia kollektcii’, Fedor Luk’ianov and Anatolii Shapovalov, ‘Zakon dlia kollektcii’, *Rossiiskaia gazeta*, no. 93, 5 May 2005 quoted in Grimsted and Akinsha, p. 238.

commencement of restitution proceedings began that fall only after Fidesz had been defeated by a coalition of the Hungarian Socialist Party (MSZP) and the Alliance of Free Democrats (SZDSZ) who selected a much less nationalistic prime minister, Peter Medgyessy.¹⁰⁸

In another example of Russian political timing, “[i]n early 2005, President Putin assured the Hungarian Prime Minister Ferenc Gyurcsany [MSZP] that the books would be returned,”¹⁰⁹ and Putin’s promise was fulfilled when the books were returned to Hungary in February of 2006, just prior to the early April parliamentary elections. Grimsted argues that the Sarospatak case “shows the extent to which restitution ‘gestures of goodwill’ are tied into broader political goals,” as she explains that the Russian return of the books in the midst of the Hungarian elections was designed “potentially to be used by MSZP...in their fight against nationalist Fidesz.”¹¹⁰ The timing of the restitution of the Sarospatak books appears to have been intended to punish the nationalist conservative government by denying them the return of cultural treasures and to reward the socialist government, perhaps even enough to sway the elections.

Domestic Hungarian politics also appear to have had an effect on the restitution efforts of the Herzog family. In Martha Nierenberg’s testimony before Congress on Restitution of Holocaust Assets, she explained that in 1996 her meetings with the Hungarian Minister of Education and Culture resulted in the creation of the “Committee of Experts,” which after a long period ruled in her favor on the question of ownership, and that “[b]ased on the Experts Committee’s findings, we made a friendly proposal to resolve all issues.”¹¹¹ However, the government she made this agreement with was Gyula Horn’s MSZP, soon to be defeated by Orban’s Fidesz in 1998. Nierenberg testifies that after the agreement had been made:

¹⁰⁸ Larrabee, p. 16.

¹⁰⁹ Grimsted and Akinsha, p. 237.

¹¹⁰ Ibid., p. 244.

¹¹¹ Nierenberg Statement.

Unfortunately, then a new government came into power and was unwilling to continue this process. They apparently believed they could not support anything done by the prior government. The new government suggested we start the negotiation and Experts Committee process over from the beginning. The new government expressed no interest in negotiating on the basis of the proposal we had made.¹¹²

After several years of negotiations, Nierenberg launched her first lawsuit under the Orban government.

Economics

Politics played a role in both the Herzog and Sarospatak cases, but as will also be demonstrated, the monetary value of the art at stake plays a key role in restitution disputes, as does the expense of lengthy legal proceedings. In the Sarospatak case, the description of the claims proceedings above does not include the economic agreements that accompanied the return of the books. In fact, because of these economic agreements, the Russian return of the Sarospatak books cannot even be labeled restitution; the Russian government, in effect, sold the Sarospatak books back to Hungary for a fee. The Russian government did not return the books simply because the Hungarian government asked for them or only because of the political leverage they offered. The Russian Cultural Valuables law is clear on the matter of “reimbursement.” Article 18, subsection 4 states, “[t]he transfer of a claimed displaced cultural valuable to the claimant State shall be subject to reimbursement by said State of the expenses for its identification, expert appraisal, storage, and restoration, as well as for its transfer (transportation costs, etc.).”¹¹³ True restitution would not include such financial exchanges.

As Grimsted and Akinsha document, the Sarospatak books were not exempt from these so-called reimbursement charges. The Hungarian government agreed to pay a “storage” fee of

¹¹² Ibid.

¹¹³ Akinsha, “Federal Law.”

\$443,000,¹¹⁴ as well as a charge of “approximately \$25,000 for production of digitised copies of the original books before they left Nizhny Novgorod.”¹¹⁵ In addition to paying the fees agreed to by both governments, “[o]n the eve of Putin’s visit to Budapest, the Hungarian Government promised to finance restoration of the Orthodox Cathedral of the Dormition in Budapest.... The official website of the Russian Orthodox Church announced the ‘friendly gesture in response to the return of the Sarospatak Library to Hungary.’”¹¹⁶ The return of the Sarospatak books was only allowed once the Hungarian government agreed to pay these fees; in effect, the Hungarian government bought back property that was rightfully theirs.

Grimsted and Akinsha argue that the evidence above demonstrates that “[c]learly Russian institutions holding cultural ‘trophy’ have an economic interest in the acts of restitution...as a source of potential revenue or ‘exchange’ for their own institution.”¹¹⁷ This is certainly true, but this argument is somewhat exaggerated given the fact that although the Russians are, in effect, holding cultural property for ransom, and all items the Russians have returned have required a steep price, the government has actually returned very few items. It is evident that the cultural valuables held under the Russian law are potential sources of revenue, but the low volume of returns Russia has engaged in and the extremely narrow definition of items that are even eligible for claims severely limits the idea of restitution as a money-making venture for the Russian government. In addition, while there is no legality, there may be some legitimacy to the charges levied by the Russian government. A common problem in restitution cases is the cost of provenance research. Provenance research can be costly,¹¹⁸ and in addition to storage and

¹¹⁴ Grimsted and Akinsha, p. 243.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid., p. 245.

¹¹⁸ The Director of the Detroit Institute of Art quoted in Dinah Spritzer, "Last Chance for Holocaust Restitution?" *JTA Jewish & Israel News*, June 30, 2009, <http://jta.org/news/article/2009/06/30/1006242/last-chance-for-holocaust-restitution> (accessed December 11, 2010).

maintenance concerns, the fees charged by the Russian government may represent a legitimate need by these various institutions.

Like the Sarospatak books, the value of the Herzog collection and the costs associated with its restitution efforts must also be examined. The Herzog collection was considered extremely valuable even before the war when the British National Gallery Director offered one million pounds for it.¹¹⁹ The current value of the paintings is evident in the most recent lawsuit filed concerning the pieces in Hungary, in which the Herzog plaintiffs request “restitution of the Herzog Collection, or compensation for their interest in the Herzog Collection, which interest is valued in excess of \$100 million.”¹²⁰ Not only are the artworks themselves valuable, but since they currently are on display in several museums, the plaintiffs charge that “Hungary and the Museums are engaged in commercial activity and receive thousands of dollars in revenues each year from U.S. visitors to the Museums and from the sale of books and publications featuring images of the artworks from the Herzog Collection,” and they request an order “directing the Defendants to disgorge any profits earned by Defendants from their unlawful possession of the Herzog Collection.”¹²¹ It is reasonable to conclude that the monetary loss to be incurred by the state of Hungary in both the value of the assets and lost revenue if it restitutes the artwork has discouraged them from doing so.

Monetary gain certainly proved to be a benefit to the Russian state in the return of the Sarospatak books. However, this same gain was a financial loss for Hungary, and yet the Hungarian state is unwilling to sustain an additional financial loss in order to retribute the Herzog works. It is understandable that the Hungarian government was willing to pay for the return of the Sarospatak books because by doing so it received a valuable part of its cultural heritage in

¹¹⁹ Heritage Revealed, 42.

¹²⁰ *De Csepel v. Republic of Hungary*, 1:10-cv-01261 (D.D.C. July 27, 2010) (Compl. ¶ 128).

¹²¹ *Ibid.*

return, and if it restitutes the Herzog paintings it will receive nothing but goodwill. However, the cost and benefit balance of the Hungarian government may be reaching its tipping point.

Unlike all the prior lawsuits held in Hungarian courts, the new lawsuit has been filed in the U.S., and “[e]xperience with lawsuits filed in the United States has shown that litigation is not the most productive avenue for reaching fair and appropriate solutions with regard to artwork looted during the Nazi era. First, it is very costly. Attorney’s fees can easily exceed the monetary value of the works involved.”¹²² The Hungarian government seems to be aware of the financial costs involved in fighting this lawsuit. In November 2010, it was reported that “[t]he government's 2011 budget draft earmarks 1.02 billion forints (3.7 million euros) for legal fees and restitution related to a lawsuit filed by the heirs of the Hungarian art collector Mor Lipot Herzog.... a foreign attorney's office will be picked in a public procurement procedure to represent Hungary in the case.”¹²³ If the lawsuit is dismissed or Hungary wins at trial, this investment could outweigh the cost of losing \$100 million dollars worth of art, but if they lose, the cost of the legal proceedings will only compound the government’s losses. Financial losses may have deterred the Hungarian state from restitution in the past, but fighting restitution may not be the wisest financial decision now.

Individual Actors

As evidenced by the risk taken by the librarian who followed Akinsha and Kozlov out of the meeting in Nizhny Novgorod to show them proof of the existence of the Sarospatak books, in the Sarospatak case, it seems that certain individuals in the Russian facilities were as eager to help reconstitute the Sarospatak books as the Hungarians were. A very intriguing role was played by

¹²² Monica S. Dugot, "The Holocaust Claims Processing Office," in *Holocaust Restitution: Perspectives on the Litigation and Its Legacy*, ed. Michael J. Bazyler and Roger P. Alford (New York: New York University Press, 2006), p. 275.

¹²³ MTI - Magyar Távírási Iroda Zrt., "Hungary Earmarks a Billion Forints for Herzog Case," *MTI Intraday News* (Budapest), November 20, 2010, <http://www.mti.hu> (accessed December 10, 2010).

Ekaterina Genieva, the Director General of the All-Russian Library for Foreign Literature in Moscow. Grimsted refers to her as a “heroine in the long drawn-out negotiations for the return of the early religious books.” Genieva appealed to the Open Society Institute “to sponsor publication of a scholarly catalogue of the collection,”¹²⁴ which they did in 1997. In 2002, as head of the Russian delegation, she presented a paper at the 68th International Federation of Library Associations Council and General Conference entitled “The Trophy Collection of Books from Sarospatak in Cultural Context of the New Millennium.” In it she supports the Russian efforts at restitution and the return of books in general and gives insight into her support for the restitution:¹²⁵

An opportunity to return a collection is at the same time an opportunity to comprehend what has happened to it, and every reasonable human being should take interest in it. In other words, displacement of book collections in space, even violent and barbaric, is in itself an essential fact of culture. To neglect it and pretend that it has no significance is to impoverish human culture, while, on the contrary, to record and comprehend this fact means to enrich culture.¹²⁶

Genieva was also a supporter of efforts to publicize the existence of Herzog works in Russia. She contributed an essay, “The Fate of Hungarian Art Collections,” to the 2003 *Catalogue of Art Objects from Hungarian Private Collections* as part of the American-Russian project “Heritage Revealed,” which intends to make public information about the cultural heritage of Holocaust victims.¹²⁷ Genieva’s essay includes information about the theft of the Herzog collection, and the catalog contains information on four of the Herzog paintings.

Among the works catalogued are Bicci di Lorenzo’s Angels and Saints and Francisco Goya’s Carnival, both of which appeared in the 1995 exhibit “Twice Saved” held at the Pushkin Museum of Fine Arts in Moscow. Overseeing this exhibition was Irina Antonova, Director of the

¹²⁴ Grimsted and Akinsha, p. 233.

¹²⁵ Genieva, “The Trophy Collection,” p. 4.

¹²⁶ Ibid.

¹²⁷ Heritage Revealed.

Pushkin Museum since 1961. During her tenure as director, Antonova has become the embodiment of Russian secrecy concerning looted art and resistance to restitution. As described in the *New York Times*, “in the last decade she has also become known as the unyielding guardian of the Pushkin’s other treasure trove, works of art taken from a vanquished Nazi Germany and brought to what was then the Soviet Union as war reparation.”¹²⁸ For decades, Antonova denied the presence of certain works in the Pushkin’s holdings,¹²⁹ but in 1995, during the “Twice Saved” exhibit, she reversed her official opinion, instead describing the Russian looting as follows: “the world should be grateful that Stalin’s confiscation squads had ‘saved’ the art from the ruins of Berlin in 1945, handing it over to Russian museum workers who then ‘saved’ it again through painstaking restorations work.”¹³⁰ Antonova is still Director of the Pushkin and maintains a stalwart position against restitution, insisting “that there are no claims against the Pushkin for the return of ‘looted’ works.”¹³¹ This is technically true simply because as described above, claims are not filed against individual museums in Russia, but against the state.¹³² In fact, the Pushkin collection does contain several disputed pieces from the Herzog collection.¹³³

Antonova’s denials regarding the Pushkin’s holdings and her resistance to returning art from Russia are rather predictable given her position and history and represent the resistance of some experts to restitution claims. That such a prominent Russian librarian as Genieva would be so publicly supportive of a contentious restitution issue is surprising, but even more surprising is

¹²⁸ Celestine Bohlen, "Riding Out the Storms In a Moscow Museum; Pushkin’s Director Remains a Quiet Force," *The New York Times*, December 3, 2002, <http://nytimes.com> (accessed March 17, 2011).

¹²⁹ Bohlen.

¹³⁰ Helen Womack, "Russia Displays Masterpieces Seized from Nazi Germany," *The Ottawa Citizen*, February 28, 1995, <http://ezproxy.cul.columbia.edu/login?url=http://search.proquest.com/?url=http://search.proquest.com/docview/239892114?accountid=10226> (accessed March 17, 2011).

¹³¹ Bohlen.

¹³² Ibid.

¹³³ Ibid.

the conspicuous lack of discussion of the Herzog restitution case in Hungary amongst experts. In the newsletters *Spoils of War* Istvan Fodor, director of the Hungarian National Museum, diligently reported on the Hungarian restitution efforts with Russia and Ukraine, the presence of Herzog works in the Soviet Union, and the negotiations concerning the Sarospatak books (which would make their first Hungarian public appearance in his museum), yet from 1995 to 2003 he never mentioned the Herzog restitution case occurring in Hungary at the very same time. While Martha Nierenberg was attempting to conduct negotiations with the Hungarian government, Fodor commented on Hungarian Jewish property held in Russia, arguing that “[t]he Russian government is in fact continuing the atrocities perpetrated by the Holocaust by refusing to return the property of the former victims.”¹³⁴ Of course, this very same argument could have been made against the Hungarian government. One could argue that perhaps Fodor was unaware of the controversy and restitution claims surrounding the Herzog works in Hungary, but given his position as director of a state museum and his devotion to the issue of looted art, as evidenced by his position as editor of *Spoils of War*, the hypocrisy of his statement is astonishing. Fodor may, of course, have been under pressure as a state employee to avoid commenting on the issue. Genieva and Fodor both certainly publicized the issue of looted art and restitution efforts, but while Genieva supported the surrender of works from her country, Fodor only covered the restitution of art to his country.

External Actors

In a comparative case study, one cannot overlook the context of these restitution cases. Both claims began in the early 1990s, during the tumultuous transitions in both Hungary and the former Soviet Union. In this time period, external actors, primarily international organizations

¹³⁴ Istvan Fodor, "Hungarian Publications on the Spoils of War," *Spoils of War 4*, p. 53.

such as the European Union (EU) and NATO and their member states, began to have more influence over post-communist states as they sought to return to the West.

Russia's disregard for Western norms concerning restitution was decidedly blatant: "[a]mong the commitments Russia was required to make to join the Council of Europe in January 1996 was the specific intent: xi. to negotiate claims for the return of cultural property to other European countries on an ad hoc basis...xiv. to settle rapidly all issues related to the return of property claimed by Council of Europe member states, in particular the archives transferred to Moscow in 1945."¹³⁵ However, the following year, Russia sent its cultural valuables law to the Duma, which soon blocked most of these restitution negotiations.

Russia's disrespect for Western efforts to ensure restitution is hardly surprising, but what about a country like Hungary, which had a greater desire to join Western institutions and was highly motivated by the great incentives offered? In the early 1990s, the Hungarian Jewish community and external Jewish institutions were able to pressure the Hungarian government into adjusting the laws regarding property restitution and compensation for Holocaust victims in large part because, "[w]ith Hungary seeking NATO involvement – not to mention heavy Western economic aid – more sensitive and pragmatic Hungarian government thinking came to bear."¹³⁶ Although it appeared Hungary was modifying its policies to appease the West, in an interview in *Magyar Nemzet*, Istvan Szent-Ivanyi, Hungarian Secretary of State at the Ministry of Foreign Affairs, denied this influence of external actors on the issue of restitution. When asked if the restitution efforts were "connected with the efforts for the European integration," Szent-Ivanyi responded with "Mr. Sepsey former state secretary for compensation, is mistaken in saying that we are doing it under foreign pressure. This is not true. There is no foreign pressure but if we

¹³⁵ Council of Europe Parliamentary Assembly, Opinion no. 193 (1996): "On Russia's request for membership of the Council of Europe," adopted by the Assembly on January 25, 1996, quoted in Grimsted, "Trophy" archives."

¹³⁶ Richard Z. Chesnoff, *Pack of Thieves* (New York: Doubleday, 1999), p. 206.

settle this issue it will create a positive reaction and have a favourable influence on Hungary's image."¹³⁷

In her testimony in 2000, Nierenberg stated that she hoped "that a country clearly wishing to be a part of the West – Hungary is a member of NATO and is seeking membership in the European Union – would deal with the merits of claims such as mine for recovery of Holocaust Art."¹³⁸ She goes on to state that "Hungary's position is remarkable in that it differs from that taken by many other European countries which have faced the issue of returning looted Holocaust art."¹³⁹ To support this statement she refers to German restitution and the clause in Article 8 of the Russian law allowing for restitution claims by victims of the Holocaust. However, her statement about Hungary's position differing from many other European countries wasn't exactly true at the time she entered into her first negotiations.

Throughout the 1990s, many Western European states had restitution problems. It was not until 1995 that the French government recognized French participation in the persecution of French Jews and established a committee to review restitution, and even then, for the French Commission, "[a]rtworks are not a priority."¹⁴⁰ In the Netherlands, the Dutch government settled all its restitution claims in the 1950s and all unclaimed art went to the Dutch National Collection.¹⁴¹ The Dutch policy on restitution was not changed until 2001,¹⁴² when a newspaper article revealed how the Dutch government "had kept more than 4,000 artworks that had been stolen by the Nazis from their Jewish owners."¹⁴³ In Austria, it wasn't until 2006 that the Austrian government finally agreed to submit to arbitration regarding six Klimt paintings from

¹³⁷ Edit Zsigovits, Interview with Istvan Szent-Ivanyi "Picture on the Wall, Gold in the Treasury," *Magyar Nemzet* (Budapest), September 18, 1996.

¹³⁸ Nierenberg Statement.

¹³⁹ Ibid.

¹⁴⁰ Marilyn Henry, "Not a Priority," *ARTnews*, January 2007, p. 122.

¹⁴¹ Hella Rottenberg, "Repairing Injustice," *ARTnews*, January 2007, p. 120.

¹⁴² Ibid., p. 121.

¹⁴³ Ibid., p.120.

the Bloch-Bauer collection, but this only occurred following the landmark decision in the U.S. Supreme Court case *Republic of Austria v. Altmann*.¹⁴⁴ The Austrian government was severely criticized by its citizens both for losing the paintings and for spending so much on legal fees instead of negotiating. The restitution issues of these other states show that prominent members of the European Union were slow to address restitution issues.

It is also a misconception that entry into Western organizations depended on resolving restitution matters; this was true only to a degree for NATO membership, and not at all for EU membership. Andrew Baker, director of International Affairs for the American Jewish Committee, commented on the issue stating, “[b]ack in the late 1990s, NATO membership was a driving motivation for countries in Eastern Europe, who were told by the U.S. government that how they treated their Jews will be a key factor in their admission.”¹⁴⁵ In comparison, the EU “did not make any demands for restitution. In fact, the European Union lifted a requirement for restitution that would have blocked Poland's 2004 admission to the 27-country union.”¹⁴⁶

While the European Union could have used conditionality to solve the issue of restitution in Hungary, because so many of its member states had not solved their own restitution problems, the issue was not pressed. The inability and lack of desire of Western institutions to address restitution has complicated the issue and delayed proceedings in both the Herzog and Sarospatak cases and will be sure to do so in any future case.

Overlap

The Sarospatak and Herzog cases appear to be two distinct instances of art restitution in which the former ended with successful restitution and the latter met with defeat in Hungary and is now being pursued elsewhere. However, the two cases overlap in a further complicating

¹⁴⁴ Sophie Lillie, "The Klimt Austria Kept," *ARTnews*, January 2007, p. 125.

¹⁴⁵ Spritzer.

¹⁴⁶ *Ibid.*

factor. As noted in the background, the Sarospatak books arrived in Russia with a number of Herzog collection pieces. The history of restitution efforts on these pieces further reveals the hypocrisy of the Hungarian government.

In 1996, Hungarian art historians identified a number of items taken from Herzog's collection at the Grabar Institute for Restoration in Moscow.¹⁴⁷ In his interview in the same year, Istvan Szent-Ivanyi was questioned about whether the Hungarian compensation plan included compensation for valuables taken to the Soviet Union. Szent-Ivanyi replied that at this time, the Hungarian compensation plan did not include restituting actual items, such as houses or paintings, to individuals and added, "[t]his is a delicate question....We have for years been fighting for the treasures of art confiscated from the Hatvany and Herzog families. They represent such a value that separate negotiations are required. The two families decided to reclaim the treasures for themselves. We need to discuss it."¹⁴⁸

The following year the Russian law compounded complications between the Hungarian government and the Herzog heirs. Under Article 8, subsection 3, the Herzog artwork in Russia is eligible for restitution claims because they are "[c]ultural valuables that belonged to individuals who were deprived of these valuables because of their active struggle against Nazism (or Fascism)...and/or because of their race, religion, or national affiliation."¹⁴⁹ However, Article 18, subsection 1 states that "[c]laims regarding displaced cultural valuables...can be made by the Government of the claimant State only to the Government of the Russian Federation; claims of physical and juridical persons, municipal agencies, societal and other organizations and

¹⁴⁷ Zsolt Banhegyi, "Bibliographia Hungarica: Review in Brief," review of *The "Sacco di Budapest" and Depredation of Hungary 1938-1949*, by Laszlo Mravik, *Budapest Review of Books*, 1998, p. 8, <http://www.ceeol.com> (accessed December 10, 2010).

¹⁴⁸ Zsigovits.

¹⁴⁹ Akinsha, "Federal Law."

associations are not subject to consideration.”¹⁵⁰ This meant that for the Herzog heirs to begin claims proceedings for the artwork, they would have to be represented by the Hungarian state.

The Hungarian government willingly and “actively sought the return of Russian Trophy art until the Russian government asked whether Hungary would commit to the return of repatriated art to the rightful owners. At that point Hungary lost interest and ceased to pursue the claims of its Holocaust victims.”¹⁵¹ Grimsted attributes this change of heart on behalf of the Hungarian government to the simultaneous pursuit of the Herzog and Sarospatak restitution claims. She explains:

[A]t the beginning of the 1990s, official Budapest did not distinguish between public and private property confiscated during the Second World War. However, numerous legal cases against Hungarian museums still holding art works confiscated during the Holocaust or nationalised after the Communist takeover established private ownership and advanced serious well-publicised claims that were not being recognised by State institutions.¹⁵²

Because of the fight for restitution of the Herzog works within Hungary, the Hungarian government came to the realization that any claims it pursued for Herzog artwork in Russia would require both aid from the Herzog family in terms of ownership documentation and would then require that any art returned from Russia be given to the family.

It had taken the Hungarian government over a decade to negotiate the restitution of the Sarospatak books, and it had cost them not only time but fees of \$468,000 plus the costs of their goodwill gesture in reconstructing an Orthodox church. Again, the costs and benefits of pursuing Herzog restitution must have seemed evident. Not only would Hungary endure a long legal process and have to pay exorbitant fees, but the government would not even receive the art in the

¹⁵⁰ Ibid.

¹⁵¹ Peresztegi, p. 2.

¹⁵² Grimsted and Akinsha, p. 248.

end; it would have to turn the art over to the very individuals it had denied artwork from Hungary's own museums.¹⁵³

The Herzog heirs attempted legal proceedings in Russian courts, despite the need for government representation, and were defeated.¹⁵⁴ There is little hope for most restitution cases in Russia, as evidenced by the comments of a Russian Ministry of Culture official on the ability of claimants to provide the required ownership documentation to Russian courts: "In most cases we expect the items to belong to the Russian state for ever."¹⁵⁵

Restitution Today

With the Sarospatak case settled, where does art restitution in Hungary stand today? In 2007, prior to the last Hungarian ruling, a well-known Hungarian art dealer was quoted as saying, "[i]t will end in Hungary as it did in Austria and the Netherlands.... The government will be forced to give up everything. They could reach a settlement with the claimants, but no one is ready to take responsibility for such a step."¹⁵⁶ The dealer was wrong then, but will he be wrong again?

After the numerous lawsuits in Hungary, on July 27, 2010, a claim was filed in the United States District Court for the District of Columbia. The Defendants are listed as the Republic of Hungary, The Hungarian National Gallery, the Museum of Fine Arts, the Museum of Applied Arts, and the Budapest University of Technology and Economics. The Plaintiffs are David de Csepel, Angela Maria Herzog, and Julia Alice Herzog. De Csepel is the great-grandson of Mor Lipot Herzog.¹⁵⁷ As in the case against Austria, the Herzog heirs have turned to U.S.

¹⁵³ Grimsted and Akinsha's description of this "double standard" is particularly informative, 248.

¹⁵⁴ Mark Franchetti, "Russia Offers Net Treasure Hunt for Red Army Booty," *Sunday Times* (London), February 9, 2003, <http://www.thesundaytimes.co.uk/sto/> (accessed December 10, 2010).

¹⁵⁵ Ibid.

¹⁵⁶ Akinsha, "Convoluting Legal Battles," p. 118.

¹⁵⁷ *De Csepel v. Republic of Hungary*, 1:10-cv-01261 (D.D.C.. July 27, 2010).

courts for a solution, and now the legal proceedings have reached their third generation of plaintiffs. The Herzog works in Russia are, in a way, included in the lawsuit in a claim that the “[p]laintiffs are entitled to a declaratory judgment declaring them to be the owners of the Herzog Collection and directing Defendants to return to them any works from the Herzog Collection that are now, or which may later come to be, in their possession.”¹⁵⁸ If this claim is awarded to the heirs, Hungary will probably never pursue restitution of Herzog works from Russia, especially given the fact that the Hungarian prime minister is, once again, Viktor Orbán, who denied the earlier Herzog negotiation attempts.

As the budget line mentioned earlier suggests, the Hungarian government is preparing its legal team and has filed a motion to dismiss, claiming that the plaintiffs are governed by a 1973 American-Hungarian claims settlement, that the U.S. court lacks subject matter jurisdiction in the case, that the statute of limitations has run out on filing the case in the U.S., and that the claims are barred by principles of international comity, and other technical bases.¹⁵⁹ All of this is disputed by the plaintiffs.

In January of 2008, during the litigation in Hungary regarding the Herzog collection, the U.S. Commission on Security and Cooperation in Europe sent a letter to the Hungarian Minister of Foreign Affairs in which it addressed the assertion that the statute of limitations had lapsed regarding some of Martha Nierenberg’s claims. The letter stated:

The record clearly demonstrates that Martha Nierenberg and her mother before her have been seeking a full return of their family’s stolen artwork for more than 50 years. Is it truly your personal view and the view of your government that Ms. Nierenberg’s family should have expected a good-faith resolution of this matter *from the totalitarian communist regime*? If so, in precisely what year could one have expected legal justice from the People’s Republic of Hungary?...Why would

¹⁵⁸ *De Csepel v. Republic of Hungary*, 1:10-cv-01261 (D.D.C.. July 27, 2010) (Compl. ¶ 124).

¹⁵⁹ *De Csepel v. Republic of Hungary*, 1:10-cv-01261 (D.D.C.. July 27, 2010) (Motion to Dismiss by the Republic of Hungary et al.)

the Hungarian Government insist on retaining custody of artwork stolen by the Nazis, when it could return it to the rightful owner?¹⁶⁰

Hungary has taken its place among the democracies of Europe, and it has fought successfully for the return of valuable cultural property. In doing so, it has also been victim to the unfair and unjust Russian system of ransom instead of restitution. However, by engaging in drawn-out litigation, the Hungarian government has gone from victim to victimizer and is not honoring the principles of the Washington Conference and Terezin Declaration, nor is it recognizing that wrongs have been committed.

Conclusion

The outcomes of the Sarospatak and Herzog cases have proven to be the result of a complex combination of political and economic factors and the contributions of internal and external actors. The Hungarian government was willing to patiently negotiate for over a decade and pay a hefty ransom to facilitate the return of national treasures. Yet despite the similar circumstances of World War II-era looting and the loss of cultural valuables, the Hungarian government has steadfastly refused to return the Herzog artwork.

What is most striking about this case study is the clinical and legal handling of the cases. As Agnes Peresztegi writes, “Not once...during the nine years of court proceedings in the Nierenberg lawsuit for the Herzog art was there an admission that a wrong had occurred. Suffering under the Holocaust was never mentioned, nor was the issue of righting historical wrongs ever discussed in any of the looted art litigation.”¹⁶¹

¹⁶⁰ The Commission on Security and Cooperation in Europe (Hon. Hillary Clinton, Chairman). The Commission on Security and Cooperation in Europe (Hon. Hillary Clinton, Chairman) to Minister of Foreign Affairs Kinga Goncz, January 8, 2008 Hungary on Trial. http://www.hungarylootedart.com/?page_id=36. (Accessed April 15, 2011).

¹⁶¹ Peresztegi, p. 6.

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