

Repatriating War Spoils and Cultural Artifacts

Recently, German officials announced the discovery of a treasure trove of paintings and drawings, estimated to be worth more than \$1 billion, in the apartment of Cornelius Gurlitt.¹ The paintings, including some by Matisse, Picasso and Gauguin, were originally obtained by Cornelius's father Hildebrand Gurlitt who was a Nazi era dealer of "degenerate art." Currently Germany is trying to ascertain the original owners since much of the art obtained by the Nazis was confiscated from Jews in Germany and neighboring countries. The Gurlitt case is one of many examples of looted art to have come to light in recent decades.

Historically, looting has been considered the right of conquerors, as a means of supplementing the meager payments given to soldiers, and as a way to fund and glorify war. The Lieber Code of the United States adopted during the Civil War states: "If such works of art, libraries, collections, or instruments belonging to a hostile nation or government, can be removed without injury, the ruler of the conquering state or nation may order them to be seized and removed for the benefit of the said nation. The ultimate ownership is to be settled by the ensuing treaty of peace."² More recently, a Hague Convention stipulates that an occupying power should take measures to preserve cultural property in the absence of other authorities.³ Critics say that such provisions are difficult to maintain and could result in the same type of confiscation that occurred during World War II.

Looting has also been connected to aspects of archaeological work. From 1801 to 1802 British ambassador Thomas Bruce removed half of the remaining sculptures from the Parthenon, a famous temple in Greece. Britain refuses to return the sculptures claiming that under the museum's charter no parts of its collection may be returned, and that the sculptures have their own cultural significance for Britain. Another common argument is that such action would set a risky precedent since most museums own artworks that were obtained in a similar manner. Greece argues that the Marbles are of global significance and belong to the Parthenon as a global culture site as opposed to a national one.⁴

Numerous cultural artifacts are taken in the name of research from their original locations. Those who defend such actions point out that these artifacts have been rescued from further damage by their removal from the war zone or locations in which they were not being taken care of properly. Opponents point to the imperial legacy of such actions, since countries were robbed of their cultural heritage as a result of foreign archeological research.

Study Questions:

1. Does a collector who unknowingly bought looted art have a moral obligation to return the items?
2. Is it morally justifiably for the government to take stolen artwork from the collector, and if so should there be any compensation?
3. If a cultural artifact is of value to all of humanity, and its current owner is not taking proper care of it, should another entity (a nation, organization or even person) have the right to take this artifact from its current owners to protect it for all of us? Do we have a *duty* to do so?

¹<http://www.nytimes.com/2013/11/18/world/europe/a-private-life-amid-a-tainted-trove-of-art.html?hp&r=0>

²http://avalon.law.yale.edu/19th_century/lieber.asp

³<http://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=9F651FEFC1BDEDC9C12563CD0051CA7A>

⁴<http://www.nytimes.com/2009/06/24/arts/design/24abroad.html?adxnnl=1&pagewanted=all&adxnnlx=1385914119-1lwSq>