**“70 YEARS AND COUNTING: THE FINAL OPPORTUNITY?”**

**NATIONAL GALLERY, LONDON, 12 SEPTEMBER 2017**

**NOTE OF PROCEEDINGS**

**Welcome: Dr Gabriele Finaldi, Director, National Gallery**

1. Dr Finaldi opened the Conference. He reminded delegates that questions of ownership of cultural property are of interest not just to those attending the Conference but to the general public at large. Dr Finaldi said that the search for lost works of art and cultural property cuts across frontiers. Even though very little looted art made it to the United Kingdom following the Second World War, that gave no excuse for complacency.
2. Museums throughout the United Kingdom have been undertaking research for works with gaps in provenance from 1933-45. Because of its small size, the National Gallery was a pioneer in this research, and, in 1999, the Gallery published in *The Art Newspaper* a list of all the paintings in its collection without provenance during that period. This list has been updated since, and is published on the Gallery’s website.
3. In 1998 a working group on Holocaust spoliation was established by UK museum directors, and the group continues to meet to this day. Of the comparatively few claims brought to the UK’s Spoliation Advisory Panel, UK museums have unequivocally abided by the Panel’s recommendations.
4. Dr Finaldi said that the Conference would hear about the challenges which continue.

**Sponsor: David Lewis, Co-Chair, Commission for Looted Art in Europe**

1. Mr Lewis was delighted to introduce the Commission for Looted Art in Europe (CLAE) as a principal sponsor of today’s Conference. Co-founded with Anne Webber in 1999 following the 1998 Washington Conference, CLAE has become the leading non-profit making body in the sector, negotiating policies and representing families internationally in tracing and recovering looted art taken by the Nazis and their collaborators between 1933-45 and which has remained unidentified and unrecovered. In order to implement the fifth Washington Principle, in 2001 CLAE also set up a central registry of looted cultural property providing information and research from 49 countries and a database of over 25,000 looted artworks. Over the last 18 years, CLAE has achieved the restitution of over 3,500 objects for families and their heirs and descendants on a worldwide basis.
2. Mr Lewis said it was very appropriate for this Conference to be hosted by the United Kingdom, at the National Gallery in London, as the British Government has led the way in its handling of claims for looted art and continues to do so. Of the looted works which made their way to Britain after the war, a high proportion came to rest in UK public institutions. The British Government’s announcement that it intends to extend indefinitely the UK claims process and the ability of UK national museums to restitute looted art where recommended by the Spoliation Advisory Panel, is wholeheartedly welcomed by CLAE.
3. The way in which the UK treats spoliation claims has been an example of best practice. Anyone who lost possession of a cultural object between 1933-45 or their heirs may bring a claim forward without restriction, and that Is best practice. By the nature of the history, full documentation of the loss is rarely available, and this is recognised and taken into account by the Panel. Cases have to be dealt with on moral and ethical grounds, and this too is best practice. It is unacceptable that matters such as statutes of limitation or other legal restraints continue to impede restitution. Nor should the subjective importance of a particular object to a museum or other institution be taken into account when determining a just remedy. The sole criterion of a just remedy should be the evidence and the balance of probability that the loss was due to the circumstances of the Nazi era. If that is the view of the Panel or decision-making body in whichever country in which a claim is being considered, the object should be returned without further qualification.
4. The process must be transparent. It is unacceptable for there still to be delays and obstacles on the grounds of administrative complexity or cost. These are national issues and the wealth of the countries involved means that proper financing of provenance research and expert staff should not be a problem. It should be an obligation of each government to fund provenance research and for public institutions to carry out research to an agreed national and international standard with regular publication of findings and agreed timelines for responses to requests for information and to claims.
5. Mr Lewis said CLAE is often asked why had it taken so long – over 70 years – for this matter to be addressed. Until the 1990s and beyond, access to much documentation and evidence was restricted, and there was no legal redress. The result was that a vast number of looted works of art remained unreturned. The 44 governments who attended the Washington Conference in 1999 began to consider the issue and the Washington Principles agreed there have formed the basis of best practice ever since. But it is a sombre fact that in a high proportion of those countries, little progress has been made since. This Conference must address the reasons for this and consider how this can be remedied.
6. War loot did not start at the end of the 18th century nor end with the Second World War. But war loot is normally for the victor and not the vanquished. Nazi looting was a war crime, and it is extraordinary that we are still having to urge the identification and restitution of so many objects looted by Nazi Germany and its collaborators. The importance of the looted objects to the families and their heirs cannot be underestimated. They are often the only physical remnant of families and lives destroyed, and it must be for the heirs only to decide the future of restituted objects. The restitution itself however is the priority, and an obligation on the part of the governments whose museums and public institutions have found themselves as temporary custodians.
7. The Conference title implies we may be close to a final opportunity to emerge from this appalling period of modern history with some pride that justice with compassion is seen to be done. He hoped for positive and concrete outcomes to the Conference, and further such meetings to monitor progress.

**Keynote address: John Glen MP, Minister for the Arts, Heritage and Tourism**

1. The Minister began by referring to Sir Alan Moses’ speech at dinner the previous evening: that this was about art and justice, and the issue of Nazi looted art touched all of us across nations.
2. Mr Glen thanked the CLAE for its sponsorship. He said that, for many years, the CLAE had fought for restitution of Nazi Looted art work, and had offered support and expert advice to the families of those wronged.
3. The Conference theme was “70 years and counting: the final opportunity?”. Time is increasingly of the essence. Twenty per cent of Europe’s cultural treasures were plundered by Nazi Germany. Over 100,000 of looted works remain untraced, and so we must ramp up our efforts to find them. We must identify and return this remaining lost art, especially as the body of living original owners diminishes. There is a need to act now.
4. Mr Glen referred to the 1954 Hague Convention. The UK did not ratify it at first, but following the signing of the Second Protocol in 1999, the UK government decided to do so. The Minister was delighted to announce that, subject to UNESCO approval, the UK government will formally ratify the Convention and accede to its two protocols, and it will come into force in December 2017. Mr Glen said that the 1954 Hague Convention marks a significant advance in the UK’s ability to prevent future destruction.
5. The 1998 Washington Conference lasted three days, and 11 non-binding principles were agreed. The first of these principles is that art confiscated and not returned should be identified. Much of the momentum since 1998 has slowed, so it was right that this Conference based discussion on the Washington themes to measure progress, and consider how we should accelerate progress.
6. The Minister noted that very little looted cultural property found its way to the UK. In 1998, a working group of UK national museum directors was established, and they drew up a statement of principles and proposed actions regarding the questionable provenance of objects now held in our national museum collections. Since then those museums and galleries have prioritised this research, all of which is available on a publicly-accessible database contributed to by 47 museums and maintained by Arts Council England and the Collections Trust.
7. In 2000, the UK government set up its own claims resolution process and established the Spoliation Advisory Panel. Since then, the Panel has advised on 20 claims. Claims processes can prove difficult, but they do not have to be. For example, in 2007 three drawings in the possession of the Courtauld Gallery became the subject of a claim from the heirs of Dr Feldman from whom they were seized in Czechoslovakia in 1939. His former housekeeper testified. The claim was agreed, and Panel recommended their return. Dr Feldman’s family was so delighted by the outcome that they left one of the three drawings in the Courtauld. The Minister said that this was an example of a perfect outcome for all.
8. In early years, even where the Panel recommended restitution, there were legal restrictions in place that prevented restitution of works from certain national collections. In those cases, the only remedial options available to the Panel were either to recommend compensation or an ex gratia payment. In 2009, the UK government changed the law to remove those restrictions through the Holocaust (Return of Cultural Objects) Act, and now 17 national collections can return objects lost during the Nazi-era where the Secretary of State agrees with the Panel’s recommendations. The 2009 Act included a sunset clause which meant that, after 11 November 2019, the Act would lapse. Many items from the relevant period still have incomplete provenances, and so some families are still unaware of the existence of looted objects. Claimants are unlikely to recover looted art through the courts, and the Spoliation Advisory Panel process is a last resort. In the circumstances, the Minister said that the 2009 Act would be extended indefinitely.
9. Mr Glen said that, since the 1998 Washington Conference, there had been numerous international gatherings on spoliation and the return of cultural property looted by the Nazis. It would be easy for this Conference to become simply another set of lukewarm promises. The Minister encouraged the Conference to resolve to make more meaningful progress. He encouraged the Conference to be remembered as a major turning point in making it easier for families to identify and recover stolen art so that it isn’t too late. He said that today’s final session would serve this purpose. A Conference action plan would be drawn up and published, and the UK would work hard to implement it. The Minister said that, although we cannot change inequities of the past, we can work together to rectify them. He enjoined the Conference not to fail the families.

**Session 1: Lost Art – Experience of claimants and institutions**

**Chair: Sir Paul Jenkins KCB, QC, Former Head of the UK Government Legal**

**Department**

**Panel: Dr Antonia Boström, Keeper of Sculpture, Metalwork, Ceramics & Glass,**

**Victoria and Albert Museum, London**

**Dr Imke Gielen, Lawyer, von Trott zu Solz Lammek, Berlin**

**Simon Goodman, Author of The Orpheus Clock**

**Anne Webber, Co-Chair, Commission for Looted Art in Europe**

***The Panel will consider how effective the existing claims processes are for works of art in both public and private collections, the difficulties of making claims in countries that do not have national claims processes or a commitment to return and the role that governments, panels and researchers already play or could play in the provision of justice. It will look at the usefulness of existing provenance research and its publication, consider the challenges faced by claimants in locating missing works of art and accessing records, and explore the contribution and response of museums, art experts and the art trade.***

1. Sir Paul Jenkins began by saying that extending the operation of the 2009 Act indefinitely was one of the recommendations in his recent review of the Spoliation Advisory Panel, and he was pleased that the Government was following that.
2. Anne Webber said that that the experience of claimants still depends on where looted art has come to rest. Transparency and accountability, the watchwords of justice, remain to a great degree absent in her experience. Of the 44 countries which participated in the Washington Conference, only five had established national claims processes, and differences between their mandates, terms of reference and rules of procedure has led to different definitions of loss and what constitutes a just outcome which can lead to contradictory decisions for the same case in different countries. She said it was highly unusual in normal systems of justice for the possessor of a stolen object to determine the merit of a claim for it, but in looted art cases this was the norm.
3. In Holland and the UK, claims for works in museums are made through the national panels, whereas even In France, Germany and Austria which have national panels, claims are usually made directly to the museum in question. The absence of written procedural guidelines for these claims results in a claimant having to enter into a process without any timeline, transparent framework, clarity about what records and information will be accessible, disclosed, shared, or required, and no explicit parameters for claim determination or outcome. Ms Webber proposed that to ensure justice and avoid this unpredictability of both process and outcome the five panels create a written framework for best practice to help establish shared international norms for claims handling.
4. Other issues have arisen. Appeals are either not available or can only occur if both parties agree. Circumstances of loss and terms such as “forced sale” have no common definition. Standards of proof vary. There is increasing talk by museums and panels of whether the legal heirs should have the right to restitution two or three generations since the loss, which would result in the introduction of limitation through the back door, through no fault of the claimants. The rules of the Dutch panel allow the interest of a museum to override an otherwise successful claimant’s established right to restitution. There is no publication by any country of annual claims, their numbers and outcomes, which is essential. Ms Webber called for the five panels to create international guidelines also for privately owned works of art, and offer themselves as mediators in such claims.
5. Sir Paul said he saw a number of inconsistencies emerging: inconsistencies in process, inconsistencies in information provision, and inconsistencies in criteria. Dr Boström said that discrepancies in national responses was a major issue. Simon Goodman said that, speaking from his own experience, claims for works in the Dutch national collections are easier to handle but private ones far more complicated – there is a need to use the Dutch Restitution Committee as arbitrator, but there is no right of appeal from them so no room for reconsideration. He lost a case there despite the fact he spent four years preparing for it.
6. Dr Imke Gielen said that different countries sometimes called for different procedures, but the criteria in Germany were based upon rules imposed on them by the British and Americans in 1948. She found it difficult to understand why British and American museums did not apply the law of the military government imposed upon Germany.
7. Sir Paul noted that in the UK private claims can be handled by the Spoliation Advisory Panel, and said that there needs to be something closer to a standard model so that other countries who decide to do something are not reinventing the wheel.
8. Ms Webber said that anything that promotes consistency and clarity would help. She cited as an example of information provision, the British system where museums make their records available to claimants, and provide a point of contact, and the panel publishes full reports. In other countries claimants are disadvantaged by not being able to locate or access records. The widespread failure to undertake or publish provenance research also means that claimants remain heavily reliant on finding looted art themselves.
9. Dr Boström said that freedom of information requests were one possibility, but even the V&A struggled with provenance research and smaller museums do not have the same access to resources. Consistent standards must be an aim across all museums.
10. Sir Paul was struck by how smaller museums really struggled with research capability.
11. Dr Gielen raised the issue of countries where no formal claims processes are in place, or where a country had not signed up to the Washington Conference Principles. She offered two examples: Russia and Poland. Russia does have laws allowing restitution for Jewish lost art. But as a first step, claimants must convince their own government to assist in the process and then only claims concerning governments of former enemy and occupied states can be considered; former Allied states are not mentioned, and so that gap has to be filled. To date, Dr Gielen said that no objects have been returned.
12. There were Nazi victims in other countries too, said Dr Gielen. Countries like Serbia had not signed up to the Washington Principles. Its national museum is now closed. Czech restitution law is limited to direct descendants. Italy and countries in South America have not signed up to the Washington Principles either, and the Holocaust Special Envoys have work to do here. The US idea of a claims process is taking the matter to court, not an idea of the Washington Conference.
13. Sir Paul said that the process of ratification for the Washington Principles was a slow one, compounded in part by the fact that the Principles were becoming more difficult to give effect to as time goes on, and often too late for the families who suffered.
14. Ms Webber said much of this was due to the failure at the Washington Conference to create an organisation to monitor implementation of the Principles. Many countries use the Principles for their own purposes. As noted by Dr Gielen, Czech restitution law excludes legal heirs if they are not direct descendants, and this is at variance with inheritance rights in the Czech civil code and leads to people with valid claims being unjustly excluded. There was, however, a flow in the other direction, in that works of art taken in the Nazi era from countries such as Poland or Italy that do not restitute, are regularly returned e.g. the Cleveland Museum recently returned a Roman head to Italy. Ms Webber said that there needs to be a *quid pro quo* and this should be formally agreed at government level so that countries can only recover if they also agree to restitute.
15. Dr Boström said that one parallel used by the Getty Museum in returning looted pieces was that Italy should promise to reciprocate by sending items on loan as a *quid pro quo*. Ms Webber said that reciprocity is the role of governments and part of cultural diplomacy and added that the national panels could take on an important influential role with their governments in view of their remit, expertise and status. Sir Paul again thought this might something within the province of the Holocaust Special Envoys.
16. Simon Goodman, who is a direct descendent of Dutch victims of Nazi spoliation, said that he had looked at Russia as a possible destination for his grandfather’s possessions but he had not found a thing. His focus had been centred in the five countries who do have procedures in place in accordance with the Washington Principles, and the US. In his experience, each case can take up to five years to complete, and this can be a complicated process even in countries where a process is in place.
17. Sir Paul asked whether the national panels should be championing a wider, uniform approach. He noted that the UK Panel had a narrow remit under its terms of reference, but if it had power and the resources to do so it could be an effective voice in this arena.
18. Mr Goodman asked why, after so many years, is so much artwork still missing? He thought there were several reasons. For example, his family lost everything, including documents and family records. There was a reluctance to talk about these events of the past. Nazi records only became available from 1995 when Allied governments released wartime documents. And in 2000, Mr Goodman managed to secure the first major German inventory of his grandparent’s Dutch home, room-by-room.
19. There were also other issues. Mr Goodman said that the art world works against claimants. Attributions change, as do titles of paintings. Sometimes looking for a particular work is like looking for a needle in a haystack. Transactions in Switzerland remain a problem, as a lot of spoliated works are fenced or funnelled through there. Many artists do not have a catalogue raisonné, and he did not think that an international database would prove helpful as the subject matter was too vast as the Nazis traded anything of value. In the days before the Washington Principles, his father sent a list of missing works to Interpol. His father went back to Germany looking for them, knocking on doors. The process and procedure was too painful for his father, and he failed to get any works back. Others also had experience of few restitutions. The Ghent altarpiece went back to Ghent. Works were sent to their country of origin and into national collections by the Monuments Men with the expectation that the countries of origin would return them to their original owners, but often this did not happen. It is only in the last 20 years since the Washington Conference that many victims have found there is any point in trying to make a claim for restitution. But the claims position is so complicated in some countries that the process could go on for another 20 to 50 years.
20. Problems often lie with the museums, some of which only start to investigate provenance when enquiries are made. The big auction houses now take a different, more collaborative approach, but that was not always the case. Restitutions claims are not an easy task. There are a few hardy claimants from collective families who together have banged heads against a wall. To date, Mr Goodman has managed to retrieve about 30% of his family’s collection. In his experience, the more he researches, the more he learns that works remain missing.
21. Ms Webber said that, in a survey conducted 18 months ago, claimants’ representatives were asked how many works had been found when actively searched for. On average only 5% of missing works had been found, with 95% remaining missing. She said that museums must identify works with gaps in provenance between 1933-1945. Most museums still do not undertake research and nor do they publish their collections, or only partially, so lost works in public collections remain very difficult to find. Even where museums do identify suspect or definitively looted works, they may not make any attempt to find the rightful heirs.
22. Dr Boström asked whether government-funded researchers could do more to identify gaps in provenance. She offered the example of the claim for two Meissen figures in the V&A Budge collection, which led to another piece being identified. Dr Boström asked whether museums are cataloguing and publishing their collections fast enough? The answer was no, and that resources needed to be tripled. When Dr Boström worked for the Getty, it was evident they had deep pockets. Three quarters of its work was provenance research, but there was a time lag between identifying gaps in provenance and publishing catalogues. This type of provenance research was quite different research, relying largely on archival resources requiring a particular German specialism in historical documents. Dr Boström believed that there had to be resources available at the national or federal level. A provenance researcher would shortly be appointed at the V&A. Picture libraries also needed more resource.
23. Sir Paul said that some clear thoughts were emerging which could lead to a number of recommendations.
24. Two speakers gave their thoughts from the floor. A representative of the Polish delegation said that her government had set up a special unit in the responsible ministry dedicated to Poland’s looted art from the Second World War. In this unit’s database they have more than 60,000 fully documented works, and she estimated that over 500,000 works looted from Poland were still missing. A claimant suggested that claimants should get together at conferences such as these to pool their knowledge and talk about the kind of problems they faced. He asked, for example, how could there not be a forced sale with Nazi occupation, and pointed out that often it was impossible for victims to gather documentation for the future when they were about to be sent to Auschwitz.
25. Sir Eric Pickles also made a number of points from the floor. He said that a number of countries had appointed special envoys to deal with these issues, and that he would try to coordinate a response to the recommendations of the Conference among the wider questions of property restitution and pensions. He had been surprised to learn that a number of Nazis became art dealers, and that some looted artworks had been hidden in plain sight. He said the number one priority of all envoys is to see the return of looted property. They had already made tentative steps, and had even found looted art in Israel. He pledged that, whatever recommendations the Conference came up with, he would take them to the next meeting of envoys to move them forward.
26. Dr Gielen said that it was her wish that museums would just publish everything online. Ms Webber said publication was indispensable and not impossible to do. The starting point was to identify gaps in provenance and then put works with those gaps online. It was not necessary to wait until all research was undertaken before publishing, as some countries do, which delays possible claims even further, sometimes for a matter of years. The UK took the first approach, as did the US. The British Museum, for example, had, by 2000, published information on thousands of items held in its collections. More light needs to be shed on the framework of decision making used by countries and museums. Each country should publish an annual report showing what research and publication is undertaken each year, which objects are being returned, and which are not, and on what grounds. The European Parliament had recently contacted her to ask for this information, and had assumed it must exist. She said it is essential that there be knowledge of what is taking place, and that there must be transparency throughout.

**Session 2: National claims processes**

**Chair: Sir Donnell Deeny, Chair UK Spoliation Advisory Panel**

**Panel: Professor Jan Bank, Member, Restitutions Committee, The Netherlands**

**Dr Reinhard Binder-Krieglstein, Alternate Member, Art Restitution**

**Advisory Board, Austria**

**Jean-Pierre Bady, Member, Deliberative Panel, CIVS**

**Professor Reinhard Rürup, Deputy Chair, Advisory Commission,**

**Germany**

***The Panel will consider the national processes in place across Europe for resolving claims and will look at their success, impartiality and effectiveness. It will look at the emergence of different rulings on the same case in different countries, whether the wishes of museums to keep works of art should be taken into account and the existing barriers to progress. The Panel will consider a wide range of questions including the following. Is there greater scope for information sharing and collaboration between the committees and how should the issue of claims and the passage of time be resolved? Is time limitation part of a fair and just solution and should claimants of the second and third generations or unrelated heirs have lesser rights to recover lost works of art? This session will also report on discussions from the previous day between the committees of the UK, Austria, France, Germany and The Netherlands.***

1. Each panel gave a brief update on developments in their jurisdictions since the last conference at The Hague in 2012.
2. Professor Bank explained the recent Dutch change in policy, which stemmed from a decision in 2012 to change the rules of the Restitution Committee. The Committee was assigned two tasks. The first: to advise the Dutch Ministry of Culture regarding claims for artefacts involuntary lost and which were directly related to the Nazi regime and now in possession of the Dutch state. The second: to issue a binding opinion between an original owner and a current possessor other than the Dutch state. From 2012, all items forming part of the Dutch national art collection are to be dealt with through a “reasonableness and fairness” approach, so there is one national policy for all works of art. On the figures, there have been 145 recommendations by the Committee to 2016, 71 in the claimants’ favour (or 49% of claims), with 58 (39%) rejected and 18 (12%) partly allowed. Of the 71 recommendations in favour of claimants, 455 concerned items of cultural value.
3. The Dutch Committee also investigates disputes about items of cultural value in state collections, issuing a binding opinion within the ambit of Article 7:900 of Dutch Civil Code. Twelve such binding opinions were issued between 2008 to 2016. In eight cases, restitution was recommended, mainly to heirs of former Jewish owners, and second and third generations.
4. The concepts of “reasonableness and fairness” were introduced by the Dutch government, which decided to change the Committee’s rules and give even weight to all aspects of a claim, including the artistic value of the work of art for the respondent museum. The Committee also considers whether the museum acquired the work in good faith, and a new law was also introduced for protection of cultural heritage: if a work is determined to be of special cultural value to Holland, then a special report is prepared for the Minister of Culture.
5. Dr Reinhard Binder-Krieglstein provided an update on developments in Austria. The Austrian Art Restitution Advisory Board was established in 1998 by enactment of the Art Restitution Act. The Act applies to all works of art in Austrian Federal Museums which were looted by the Nazis. The Board determines claims for works in federal museums and federal collections, and has no jurisdiction for private collections. The Art Restitution Act empowers the responsible Minister to transfer works of art to claimants in certain circumstances, but it does not create any basis for legal claims. A looted object found in a federal museum is subsequently returned to the legal heirs, no matter if they are family members or not.
6. Provenance researchers identify gaps in provenance, and it is for the Board to consider the legal aspects. The Board’s decisions are not legal acts; they are only recommendations.
7. So far, the Board has made 333 recommendations, and 22 since The Hague conference. In 56 cases restitution was rejected, including that of the Klimt case. Provenance research is still ongoing. The creation of a single database was seen as challenging and ineffective and having many smaller technical tools, which were linked, would be more efficient. The Bureau of the Austrian Commission for Provenance Research can be contacted for any technical questions: provenienzforschung@bda.gv.at
8. Jean-Pierre Bady presents the progress made by France regarding the compensation and restitution of artworks, since the Hague Conference of December 2014. He recalls that the Commission for the Compensation of Victims of Spoliations (CIVS), which was established in 1999, is charged with examining individual claims presented by the victims or their heirs for compensation for losses due to the spoliation of assets resulting from the anti-Semitic legislation passed during the Occupation, both by the occupant and by the Vichy authorities. Of the 30,000 case files submitted to the CIVS, more than 3,000 concern cultural property. Compensation for this cultural property amounts to €35 million. Thus, among other things, the CIVS deals with the compensation of cultural objects and artworks, but it also plays a mediating role and may recommend restitutions.
9. In particular, it also participates in the MNR working group. The MNR, "Musées Nationaux Récupération", are works that were recovered in Germany and which have been returned to France because there was some evidence to suggest they came from there. Most of them were quickly returned to their owners despoiled by the Nazis while others were placed under the authority of the Ministry of Foreign Affairs, who entrusted the management, but not the ownership of those works, to the Musées Nationaux Directorate. In 2013, the Minister of Culture and Communication set up a working group chaired by Ms France Legueltel, reporting judge at the CIVS. The group is composed of museum curators, members of the Archives department of the Ministry of Foreign Affairs and the National Archives, CIVS staff, a member of the Fondation pour la Mémoire de la Shoah (Foundation for the Memory of the Holocaust) as well as a researcher from the Institut National d’Histoire de l’Art (INHA, National Institute of Art History). Its task is to examine each MNR and to research its provenance. This working group is making progress through studying auction catalogues, which have now been digitized by the Institut National d’Histoire de l’Art (INHA), as well as economic and financial records relating to trade with the enemy, and through the systematic examination of the various marks and inscriptions contained therein. Of the 2,143 MNR works, 111 have been returned, including 12 through the CIVS.
10. The CIVS has also taken steps to advance the issue of restitutions of looted artworks. The Commission has created a specific department dedicated to cultural property; it has signed an agreement with the Jewish Genealogical Society; it has established a partnership with the Conseil des Ventes Volontaires (Voluntary Sales Council), including the creation of a "Vademecum"; it has signed an Agreement with Germany to examine the looted items of the Gurlitt collection (10 July 2015); it has established a Partnership Agreement with the Ministry of Foreign Affairs and International Development (2015). While an increasing awareness in political circles and a growth in public interest can be mentioned, the work is not yet complete and there is still much to be done. In particular, there is a need for better coordination among the various institutions responsible, in order to speed up the restitutions, both on a national and international level.
11. Professor Reinhard Rürup explained that, in Germany, material losses are regulated by Allied and German laws after 1956, though some are now elapsed. Since 1998, the German federal government had made efforts to identify looted works but the search is decentralised. Since 1999 all German museums have been required to review their collections for looted art, to publish the results and to seek contact with previous owners of looted works to seek fair and just solutions. Any gaps in documentation leads to a presumption in favour of the displaced owner.
12. Professor Rürup said the Advisory Committee was established in 2003. Its recommendations are not legally binding, but they carry great political weight. The German “Lost Art” database contains records of 165,000 items. From 1998 to 2008, more than 12,000 items from public collections were restituted. Provenance research must continue, and museums want certainty. The provenance research window starts from 30 January 1933, and in the very early years from then items could be transferred abroad. Some went through the international art market, and found their way back to Germany. Others benefitted from low prices, and this is something that the Advisory Committee may take into consideration.
13. Sir Donnell Deeny said that, unlike some other European countries, the UK does not have tens of thousands of works of art of dubious provenance. Only 20 claims have been made for items within UK national collections. Fourteen of those claims resulted in recommendations for restitution or compensation. All of the Spoliation Advisory Panel’s recommendations have been accepted by the Secretary of State for Digital, Culture, Media and Sport and the relevant museum or gallery. The Panel’s Reports are publicly available on the DCMS website. At present there are no claims before the Panel, which is a little surprising given more and more UK public collections are putting their inventories online.
14. Sir Donnell said that there were a number of areas of consensus from the meeting of the representatives of the five nations the previous day:

(i) The UK government had announced the removal of the 2019 sunset clause in the Holocaust (Return of Cultural Objects) Act 2009, to bring the UK into line with the other four nations, meaning there will be no deadline to the Panel’s deliberations. There is still work to be done, so it is right that there should be no deadline. The new US legislation (the Holocaust Era Art Recovery Act of 2016) does, however, have a sunset clause of 2027.

(ii) The Washington Principles are not confined to Nazi persecution, and nor are the Panel’s terms of reference. In Holland, if a claimant is Jewish then the burden of proof is on the state to justify retention of the work if any documentation is incomplete.

(iii) All five countries have rules on limitation or prescription. These can and do act as a bar to legal claims. But those rules do not apply to the five panels, and so they are not bound by them.

(iv) It may be time to look again at the law of limitation in the UK, at least to consider whether or not very limited exceptions might be expanded to include objects lost during the Nazi era in accordance with the Panel’s terms of reference. That would enable claimants to bring an action at law if they could prove ownership, and a defendant would have to show that they or the chain of title through which they purchased, were bona fide purchasers without notice of spoliation.

(v) Does being related remain relevant? In France, yes. In the UK and Holland, this is something that the panels can take into account.

(vi) So far as the sharing of information is concerned, should the five nations create a mega-database of lost or looted artworks? On one view, such a database might be impractical given the European directive on data processing. But the panels are keen to expand bilateral links. A working party would be formed, and meet within 6 months to explore improved IT links, co-operation, and some permanent secretariat or liaison would facilitate this process.

(vii) In the next two to three years, another conference is planned to check progress – perhaps in Vienna or Paris?

1. A number of points were made from the floor. The attorney for the family of Professor Curt Glaser said that both Germany and Holland had found that Professor Glaser was a victim of the Nazis but whereas the UK accepted that persecution had taken place, the Spoliation Advisory Panel found that the claim was morally weak. He found this confusing and incomprehensible. Sir Paul Jenkins had said in his 2015 report that, when spoliation is proven, a work should be returned. Sir Donnell referred the attorney to the Panel’s report on the DCMS website, which sets out its reasoning in this connection.
2. Another point was raised from the floor as to whether the Washington Principles are sufficient, or whether a European Directive was needed. Sir Donnell said that Ms Webber had already mentioned that the European Parliament may be taking an interest on that point. Professor Bank thought it would be useful if there was a European directive in place. Dr Binder-Krieglstein said that, when the Washington Principles were being drafted, it was thought that if they were binding then few people would sign to them. He thought a European directive would be a move in the right direction, but said that soft law often gives the best practice for law. There was also the fact that there were more countries at the Washington Conference than in Europe, and direct European legislation would exclude US and possibly now the UK. Many states had signed up to the Washington Principles.
3. Professor Bank said that nearly all of his panel’s recommendations were approved by the Dutch Minister of Culture. They were looking at several thousand cases of restitution, and he did not see how having binding principles would change things. Professor Rürup said that a directive would take a lot of time and the result probably would be very uncertain. If the five countries could work together to provide guidance and leadership to other nations then that could lead to better outcomes overall.
4. One further observation was made from the floor: that fact that claims were not being made was not surprising in wake of the genocide committed during the war. A fair and just solution cannot depend on people having lists of works of art. He felt that there should be more discussion about the status of artworks not claimed where there was a question about provenance. He also felt that there must be some effort to deal with genealogy, which was a worldwide problem and so it made sense to co-operate.
5. Dr Binder-Krieglstein said that, in Austria, they had taken the initiative and that not one object in any museum did not belong there: each and every object had been dealt with, and orphan works had been sold with the proceeds going to a fund set up in favour of the victims of the Nazis.

**Session 3: Unlocking the archives: accessibility and disclosure**

**Chair: Richard Aronowitz-Mercer, Head of Restitution, Sotheby's Europe**

**Panel: Christian Fuhrmeister, Project Leader, Research Department,**

**Zentralinstitut für Künstgeschichte, Munich**

**Kristian Jensen, Head of Collections and Curation, British Library**

**Johannes Nathan, Nathan Fine Art GmbH, Potsdam, International Art**

**Market Studies Federation**

**Margaret Soething, Member of the Research Staff, Stedelijk Museum, Amsterdam**

***The Panel will look at what progress has been made in undertaking and publishing provenance research and in identifying and providing access to museum, art trade, archival and other records. It will discuss the information that is already publicly available and whether its publication is effective, timely and clear, the records that remain inaccessible and what more can be done to publish both works of art and essential records. The Panel will consider what barriers exist to information sharing and accessibility and how these might be overcome.***

1. Richard Aronowitz-Mercer introduced the third session by providing a broad overview of what had happened in provenance research since 1998, and what the fallout was in terms of the availability of information. He said that provenance research has been referred to regularly throughout the session. The research is extremely laborious and time-consuming. It is a details-oriented field. The success of most provenance research work rests upon the availability of primary sources, such as textual, photographic and physical evidence (like marks, stamps on works, etc).
2. Johannes Nathan said that, when preparing for the Conference, he was thinking about more general problems that hinder provenance research. He is a descendent of a German art dealer family which had to emigrate to Switzerland in 1936. His grandfather had a work permit for Switzerland. He is regularly consulted on works that passed through his family business. Their archive is rather slim due to several relocations. He looks at the problem from both the victim and dealer side, and acknowledged that it was particularly difficult for the victim when all the records were lost. He has researched the art market and its history thoroughly, and is working on an art market dictionary for Europe and America. He had been considering this issue for 20 or 25 years. He has seen that it is easier to make research progress on valuable works, but on the whole progress is been very slow. As we all know, there are still thousands of objects unresearched, and descendants who don’t even know their family were victims.
3. Dr Nathan said that there are very few incentives for private collectors and small museums to research their collection. He suggested a novel approach: compulsory insurance. Although title insurance is available today, premiums are very high. If such insurance was universal, premiums would be low. He proposed that we introduce such insurance as this would open a way forward for claimants and provide security for today’s owners; on this basis, a dedicated international agency could set up a database and deal with claims. That would be an open and transparent process.
4. There was a recommendation for an EU-wide digitisation effort to open up archives, dealer records and museum records. Funding was an issue, and the creation of a funding network was suggested. Questions were also asked about incentivising dealers, and drawing in those countries which have thus far been reluctant to engage. It was suggested that there should also be a time period after which dealer records can be shared. Guidelines on producing archives for inspection were suggested, or perhaps each country should outline how their respective dealers and/or museums store and share provenance issues and information.
5. Christian Fuhrmeister thought that there was a tension between discretion and confidentiality on the one hand, and information and transparency on the other. In the modern world where information is a commodity it is subject to capitalist principles. Should there be a cost for access to archives? Mr Fuhrmeister said that clearly we are facing a huge task in undertaking provenance research. Notably, he said, the German Lost Art Foundation steers clear of provenance research. It calls itself a “conflict partner”, and provides only advice and funding. There are a number of private databases available to assist with provenance research: the Art Loss Register database, Artory, WPI Wildenstein, and ArtChain to name a few. Archives should be made publicly available, but transparency has a price. So far as art dealer archives go, currently there is no funding to develop these to open them up publicly, so that leads to no ready access, and therefore no research, and no restitution. It was recommended that a person at each museum should have responsibility for provenance research.
6. Margaret Soething outlined her approach at the Stedelijk Museum. She has researched the provenance of collections following government requests on two occasions. The second was very ambitious, and her findings are fully accessible online. Everyone knows the importance of research; research undertaken for one’s own benefit can help many others. In museums, archival material is not always held where you would expect: it can be in financial departments (e.g. receipts) rather than in a register or in exhibition files. Ms Soething wrote an article on the history of the Stedelijk during occupation, and how a vault was built to shelter the museum’s works and those of private collectors. She met with Rijksmuseum colleagues, and she belongs to a German provenance research group which holds meetings and has a website. Ms Soething said that digitisation projects don’t always capture all the information that a provenance researcher might find useful. She said that, separately, there should be one central hub where one can find a directory for provenance searching tools.
7. Kristian Jensen said that a large part of the British Library’s collection doesn’t look like art. There are some 170 million items in the collection. The Library has a large collection of museum items, and so it identifies objects that are (a) most likely to be suspect, and (b) most likely to be traced. They publicised on their website their high value objects from specific collections with no known provenance. There is no provenance for e.g. four million books printed before 1945.
8. Library catalogues are not open to search engines, so these should be brought into a more open environment. Even so, websites such as the Collections Trust do not return very high Google rankings, but next generation catalogues will do this. There are increasing possibilities for doing searches across databases, so there is therefore no need to have one mega database.
9. Mr Jensen said that there is a need to make these systems open to the casual researcher who doesn’t know their way round online systems. There is more to be done for the amateurs. Bringing databases together is not a good idea, but federalised searches could be.
10. Mr Nathan said the question whether dealers could freely open their archives isn’t just one of goodwill, but whether data protection rules allowed it. One investigation concluded that for the period 1933 to 1945 it might be fine to open up these archives to researchers.
11. A question from the floor suggested the problem was very similar to genealogy: the same issues arose, and yet there were companies that scanned thousands of records and digitised them, with teams that tidied them up. How is it that we can get it done for genealogy, but not art? Something seemed to be missing, and that was cooperation. But Mr Nathan’s point on insurance is good because it will incentivise transparency, which means those transparent markets will fare better and see greater confidence.
12. A further comment from the floor noted that the EU had exempted Holocaust-related archives from data protection, and that the International Holocaust Remembrance Alliance (the IHRA), works in this area. As one of the IHRA projects is looking at just this, there may be a recommendation that Holocaust-related matters should not be inaccessible from e.g. 2020. One of the IHRA’s projects is also looking at property matters too.
13. Mr Fuhrmeister thought provenance should be government funded, because the work is very time consuming and not always fruitful. Another model for insurance would be for governments to purchase works currently without provenance in order to take them off the market, and then take the time to thoroughly research the provenance, and once any provenance gaps are filled, sell or return the work. Someone from the floor suggested that the concept that Mr Fuhrmeister was proposing cannot be legislated because if the ownership of a work cannot be agreed then the government cannot purchase it. Another said that the focus of resources should be on Ms Webber’s recommendation, that is international standards, with a greater focus on transparency. Someone else from the floor made a further comment that there had been a concerted effort to digitise suspect works, but given museums and others are all buying from the same sources, shouldn’t researchers have access to their corporate archives too? That could shed a lot of light on the market at the time. Mr Jensen noted that most financial archives are not in a format that can be easily shared, and making those archives available would be incredibly costly and burdensome.

**Session 4: Private Collections**

**Chair: Pierre Valentin, Constantine Cannon, Partner, Art & Cultural Property**

**Panel: Monica Dugot, International Director of Restitution, Christie’s**

**Martin Levy, H. Blairman & Sons Ltd, art dealer and member of the UK Spoliation Advisory Panel**

**Katrin Stoll, Managing Partner, Neumeister Auction House, Munich**

**Isabel von Klitzing, Provenance research and art consulting**

***The Panel will consider the issue of looted works in private collections including how private collectors can protect themselves from buying looted art, where they can go for advice and how they can be encouraged to research their collections and reach equitable solutions. The Panel will also discuss the difficulties for claimants in finding works in private collections and how they might seek to recover them, and explore the role of national claims processes and others in providing guidance and fair and just solutions.***

1. Pierre Valentin introduced the fourth session. The Washington Conference recognised privacy as a legitimate concern. A key question was therefore how to reconcile calls for transparency with this. Confidentiality is always a key consideration and the last thing clients want is publicity.
2. Martin Levy said that provenance research is much more than establishing whether a work was taken by the Nazis. The individuality of artworks is taken as given, but decorative arts can be seen as less high profile and not individual. So, what solutions can we apply to them? Mr Levy described how he had happened upon the *Raubkunst* exhibition in Hamburg in 2014, which included a chilling accumulation of domestic silver, all of which had once belonged to Holocaust victims. The Hamburg museum used its exhibition to highlight objects of uncertain provenance. Auction houses should be encouraged to include the listing of provenance chains in sale catalogues.
3. Isabel von Klitzing spoke in terms of a practical approach. Carrying out provenance research could be a huge commitment, time and money wise, but it was important to recognise that there were a number of different solutions available, depending on the type of case and client. Cases often involve two innocent parties – a victim and good faith purchaser. In many cases no or very little provenance can be found and it was important to have comprehensive databases. Some private collections have developed their own guidelines for addressing these issues.
4. Katrin Stoll mentioned an important development that had occurred in 2013 when a number of annotated sales catalogues had been discovered in a cellar of Weinmüller’s auction house in Germany. The documents have since been digitised and the contents transcribed, and in 2014 they were included on the Lost Art Database. More than 150,000 individual items of information about these artworks are now available for research and for use in current or future restitution proceedings.
5. Monica Dugot said that the issues being discussed here had formed an integral part of Christie’s business over the past two decades. The objective was to provide fair and just solutions, but ones which were amicable and avoiding litigation. Christie’s facilitates dialogue between the claimant and the consignor. It would be helpful to have a universal set of criteria for assessing a claim and with recourse to an outside mediator. Clarity on terms and framework would be very valuable in removing ambiguity and thereby less frightening for owners if there is no room for interpretation.
6. It was perhaps time to take stock of the Washington Principles and whether they were still relevant to today’s world with more claims than ever being brought. A more articulate and detailed set of principles may be required and the possibility of agreeing a common definition of spoliation should be considered. For example, the definition of what constitutes a forced sale is not always clear and current owners are frightened that what they have will be claimed at some time. Clarity for everyone is important. New ways should also be explored to incentivise current holders of lost objects towards restitution. Governments should also be encouraged to develop/increase efforts in this area. As time goes by, values increase and family attachment increases, making it harder to return items. New approaches to encourage current owners to engage in the process might be to offer financial initiatives, tax breaks, compensation or title insurance.
7. Martin Levy said that where objects come to market with a gap in the provenance, that is a major problem and the art trade should be encouraged to promote the importance of provenance to its members. Proposals to clarify and educate dealers would therefore be helpful. Mr Levy encouraged organisations like the International Federation of Art Dealers to follow this discussion closely and put forward solutions, particularly the dealing market (which differs from the auction market). However, everyone needs to be aware of the amount of work required for this. On the dealing side, in transacting, provenance history is central to discussions. Despite what is said about the difficulty in accessing archives, we have made progress. Collectors too are more relaxed about disclosing prices and are more willing to allow access to archives. When an item comes to market there should be a notification that provenance is an issue, it helps raise the profile and there is enormous value in being very upfront about this.
8. The Panel then discussed what motivates private collectors to undertake provenance. This could be for many reasons including moral reasons, reputational/legacy concerns, that they wish to dispose of the work, lending or for inheritance reasons.
9. A question from the floor was directed at Katrin Stoll. Certain behaviours in the commercial sector are now regarded as unacceptable: do you think your excellent act of courage can be rolled out to dealers? Ms Stoll commented that she faced suspicion and criticism from clients, but learned a lot. She considers that the Washington Conference established sufficient follow up/measures for success. Perhaps we should do this ourselves?
10. An audience member asked “Are the resolutions between claimants and owners always bilateral, or is there any arbitration/mediation?” Monica Dugot responded that, for the most part, Christie’s do this themselves and have not turned to mediation. Whilst accepting that there is a place for external mediation, there must be an agreed process and relaxed standards for families without documents where information has been destroyed. Of course, lawyers will be out of reach for many.
11. A further question to Monica Dugot was “On transparency, we have done a great deal of research and trace it back to auction houses, but the response from auction houses is very often ‘we’ll try to help’ but often they do not. So we often help our clients sue auction houses to get this. Monica, do you think legislation is needed?” Ms Dugot commented that greater transparency plus more constructive dialogue was a better solution for all.
12. The Panel agreed the following recommendations:
13. Martin Levy would like to see the market beyond and including auction houses look into having a form of words on documentation re lack of provenance between 1933-1945 in a way that increases knowledge within the market. Following on from this, Pierre Valentin listed training as the second recommendation, to explore how this would all be achieved.
14. Monica Dugot proposed that we review the Washington Principles in the light of 20 years’ experience gained and from a procedural perspective. We should establish working groups to consider different aspects.
15. Katrin Stoll proposed the establishment of a non-museum-related research infrastructure. This would be independent and nationwide.

## **Session 5: The Way Forward**

## “Unfinished Business”

Tony Baumgartner, Deputy Chair UK Spoliation Advisory Panel

1. Some of you may have seen that I have been feverishly note taking throughout the conference today to summarise the agreed outcomes and recommendations in this final Session, which deals with the way forward. I hope that I have accurately captured the discussion in what I think – and I that hope you will agree – has been a stimulating and thought-provoking day. And I thought it only fitting – and an accurate statement of the true position – to also refer to today’s final session as “unfinished business”, two words which are used repeatedly throughout Simon Goodman’s book “The Orpheus Clock”. Although it is evident from our four sessions today that much progress has been made since the Washington Conference Principles were agreed by 44 countries in 1998, and the Terezín Declaration was approved by 46 in 2009, there is still much work to be done. As our conference title makes clear, it is 70 years and counting.
2. Two Washington Conference Principles continue to stand out – Principles 8 and 9, the first of which covers works whose owners have already been identified, and the second those works which appear to be orphaned. They are, of course, that:

“*If the pre-War owners of art that is found to have been confiscated by the Nazis and not subsequently restituted, or their heirs, can be identified, steps should be taken expeditiously to achieve a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case*”,

and

“*If the pre-War owners of art that is found to have been confiscated by the Nazis, or their heirs, cannot be identified, steps should be taken expeditiously to achieve a just and fair solution.*”

1. I think it is fair to say that those two principles embody much of what we have discussed here today, and will drive most of what we have agreed in terms of outcomes for the way forward. The Washington Conference Principles must remain our guiding light. But they are also living principles which ought to be reconsidered in light of the experience of the past 20 years. And we must do more to put them into effect so that they live as intended.

***Session 1: Lost Art – Experience of Claimants and Institutions***

1. Our First Session, chaired by Sir Paul Jenkins, covered the experience of claimants and institutions in dealing with art during the Nazi-era. We had already learned prior to today that HM Government had signalled its intention to bring the United Kingdom into line with our four European counterparts by removing the 2019 sunset clause from the Holocaust (Return of Cultural Objects) Act 2009, thus making its provisions operative indefinitely.
2. Anne Webber of the Commission for Looted Art in Europe made many valid and cogent points. One of her overarching themes was transparency. She suggested a written framework of best practice, prepared between the five panels, so that those claimants and countries which have no formal established process can look to that for guidance – for best practice – in dealing with claims for Nazi-era looted art. Perhaps that best practice can also address the difference between us in approaches to common terms such as “loss” and “forced sale”, a point taken up in our last session.
3. Another point raised was publication of information about those claims which already have been dealt with, and their outcomes. We heard many statistics today, and so the information seems readily available. But perhaps, as panels, we need to make the finer details of that progress more readily accessible so that all those who are interested in the work we are doing can see the progress we are making, and, more importantly, to see where we are not making progress at all.
4. There also remains the issues of private collections, and the separate challenges they raise. It was agreed that the panels should offer some international guidelines (again, best practice) for privately owned works of art so that the wheel is not reinvented, and possibly the panels should offer ourselves as mediators in those cases. Sir Donnell Deeny has already mentioned the provision in the United Kingdom Panel’s terms of reference by which claims for cultural objects in private collections can be referred to and determined by the Panel, and from my own private conversations I am constantly surprised just how little known it is.
5. As Sir Paul said, there are inconsistencies in approach across the five nations: inconsistencies in the process applied, inconsistencies in information provided (from both public and private institutions), and inconsistencies in the criteria used to determine claims. The Dutch approach, as I understand it, gives equal prominence to the importance of a work in an institution’s collection, whereas the United Kingdom does not take account of that at all in reaching its recommendations for a just and fair solution. Dr Imke Gielen made the very fair suggestion that perhaps the rest of us should follow the German position, given at least one of the four other nations (the British) imposed that upon Germany as military law in 1948.
6. So, our immediate focus as panels will be on the three inconsistencies, and to see what can be done to unify processes, improve access to information, and to develop common criteria. That work will also inform the best practice guidance I spoke of.
7. We need, too, to look at why the signatories to the Washington Conference Principles and Terezín Declaration, outside of the five nations represented today and possibly the United States, have not made better progress in implementing their terms. We also need to ask why some countries limit the class of claimants to direct descendants, and not the otherwise lawful heirs. There is a role here for the Holocaust special envoys, and Sir Eric Pickles, own our United Kingdom special envoy, has agreed to take up the mantle with his counterparts to see what can be done.
8. And, lastly, we need to encourage both public and private collections to take up Anne Webber’s call to “Publish! Publish! Publish!”.
9. Sir Alan Moses, one of our two United Kingdom Panel chairs, had privately made the point to me about incentives on current holders of artworks: namely, what is the incentive – apart from reputational damage – for public and private collections to engage in the restitution of Nazi-era looted artworks? Some of our later sessions made a number of useful suggestions here. Should we consider making the offer of different incentives – tax breaks, monetary compensation, or perhaps even compulsory title insurance? Or should we consider adopting the approach which the Clinton administration took with the Swiss to open up their banking system where they held unclaimed funds in bank accounts dormant since at least the end of the Second World War? The latter might be taking a sledgehammer to crack a nut, but given we are almost 20 years on from the Washington Conference, perhaps it’s not one that we should seriously discount for the moment.

***Session 2: National claims processes***

1. Our other Panel chair, Sir Donnell Deeny, led the Second Session on national claims processes, and identified a number of areas of consensus that the representatives of the five nations discussed yesterday.
2. First, and as I have already mentioned, HM Government has announced its intention to remove the 2009 Act’s 2019 sunset clause to bring the United Kingdom into line with our European counterparts here today, who have no deadline to their own deliberations. I note in passing that the legislative means by which the Americans have sought to tackle part of the problem – the Holocaust Expropriated Art Recovery Act of 2016, which came into force on 16 December 2016, does contain a sunset clause, bringing that Act to an end on 31 December 2026 (effectively 1 January 2027). We will see, no doubt, whether there will be moves to remove that sunset clause as the years draw on.
3. Second, we recognised that the Washington Conference Principles are not confined to owners who suffered Nazi-persecution. Special measures have been put in place in some countries (Holland was offered as an example) when the burden of proof is shifted to the respondent state where documentation is incomplete. But the Washington Conference Principles apply equally to those who were not persecuted by the Nazis.
4. Third, we identified all five nations represented today have domestic legal rules of limitation or prescription which bar claims at law. Those rules are not applied by the five panels, however.
5. Fourth, it may be time to look again at the law of limitation in the United Kingdom at least to consider whether some limited exceptions might be added to include objects lost during the Nazi-era but in accordance with the United Kingdom Panel’s terms. That might enable a claimant to bring an action if the claimant can prove he or she was the owner or their heir, leaving the defendant only to show that the acquirer was a bona fide purchaser for value.
6. Fifth, we considered the question of lineage and genealogy. Does being related remain relevant? In France, the answer is yes. In the United Kingdom and Holland, it is something that the panels can take into account.
7. Sixth – the sharing of information – should the five nations seek to create a mega-database? The immediate reaction was that this would be impractical given current European law on data processing, but we also heard that a carve-out for Holocaust-era data may be on the cards if it is not in force already. Kristian Jensen also mentioned that, as technology improves and databases become openly searchable, having a single database may not be an end-all solution.
8. The five nations are keen to expand bilateral links. A working party will be formed, and it will meet within the next six months to explore such things as improved IT links and ways of co-operating moving forward, and perhaps putting a permanent secretariat or liaison in place to facilitate the working group.
9. Last, and in two or three years, another conference is planned in Vienna or Paris to take stock of progress on all of the points I’ve covered today.

***Session 3: Unlocking the Archives – Accessibility and Disclosure***

1. Our Third Session, called “Unlocking the Archives”, dealt with accessibility and disclosure, and was chaired by Richard Aronowitz-Mercer of Sotheby’s. There was an insightful discourse on the progress that has been made in undertaking and publishing provenance research. The key recommendations here were as follows:
2. First, there should be an EU-wide drive to digitise dealer records and other archives, perhaps as a joint initiative between dealers and government.
3. Second, each country should identify, provide and properly resource a dedicated provenance researcher at home with the requisite knowledge and expertise to undertake training internally, domestically and internationally.
4. Third, guidance should extend to educating cataloguers across the country on what constitutes valuable information to prospective researchers.
5. Fourth, there should be one central source of information for provenance research in each country, which could serve as a one stop-shop for claimants and be especially valuable to casual researchers and all those interested in the field.
6. Last, there should be consistency of standards in the presentation of provenance research. This could be done by the profession of provenance researchers themselves, with the aid and assistance of other stakeholders.

***Session 4: Private Collections***

1. Our final session on private collections was chaired by Pierre Valentine. It brought together some extremely useful recommendations for the way forward, some of which tied in with what we had covered in earlier sessions.
2. Clearly, with private collections there are issues with privacy as the Terezín Declaration acknowledges. Confidentiality is also a potential issue, as the last thing that many private collectors want is publicity.
3. As Monica Dugot pointedly asked us, “Where to from here?” Knowing what we now know from our shared experience over the past 20 years, is it time to revisit the Washington Principles? For example, we now know that the use of the word “confiscation” in the Principles doesn’t accurately describe each situation. And as I’ve ready mentioned, we need to consider common definitions of spoliation. What is a “loss”, what is a “forced sale”?
4. Martin Levy pointed out that education in the art dealing market remained problematic: if things come to market with a gap in provenance, that is a problem, and if the trade remain unaware of importance of provenance (especially during the Nazi-era), how can they see the enormous value in being upfront with this particular issue? The recommendation here should also focus on a tailored training course for professionals, both in-house and in smaller museums.
5. Funding remains a perennial issue, not only for provenance research.
6. In all, the overarching recommendation was that we need to look again at the Washington Conference Principles, but with the benefit of 20 years hindsight and with all that we have learned and the resources we now have available. It is also time to re-look at the Principles from a procedural front. We should create working groups to do this, and get started on it now. As Monica said, the issues are not going away, and we owe it to the survivors and their heirs to do it now.
7. Ladies and gentlemen, our intention is to publish a note of these agreed outcomes and recommendations, and shortly we will make that note available on the gov.uk website ([www.gov.uk/government/groups/spoliation-advisory-panel](http://www.gov.uk/government/groups/spoliation-advisory-panel)). As I’ve mentioned, today the panels have agreed to put together a working party to address the idea of greater collaboration between the five of us, and the intention is that we will meet again in conference in two-three years’ time to consider the progress that we have made from today, and no doubt to identify new problems that have arisen since and ways of dealing with them.
8. Your task, as our conference attendees, is to hold us to account to those agreed outcomes and recommendations when we next meet again. And I and all my colleagues today look forward to the challenge. There is much unfinished business, and still much more work to be done.
9. It remains for me only to thank you, our conference attendees, for your interest and attendance.

**Department for Digital, Culture, Media and Sport**

2018