

Shaping the Dutch Due Diligence Standard:

How societal and technological developments influenced the due diligence standard of the Dutch art market from 1990 onwards.

Student Name: Jasper de Kort

Student Number: 630343

Supervisor: Dr J.J. Euwe

Master History
Specialization Global History and International Relations
Erasmus School of History, Culture and Communication
Erasmus University Rotterdam

Master's Thesis
June 24th, 2024

Abstract

This thesis offers a historical and analytic perspective on the influence of societal and technological developments on the Dutch art market from the 1990s onwards. Its aim is to link the past developments regarding Nazi-looted art and stolen art databases to the challenges of the present and offer a more insightful analysis for future research into the Dutch art market, its due diligence standard and as well as offer insight into the current problem of looted colonial art. In the 1990s, the strictly legal paradigm of dealing with Nazi-looted art was no longer considered sufficient. The post-war idea of “moving on” became morally and socially unacceptable and (inter)national agreements were made to come to a “just and fair” solution regarding Nazi-looted art and its restitution. In the Netherlands, this resulted in two projects regarding museum acquisitions to undo past wrongs, which, aided by technological developments saw an increased focus on provenance research by museums and the emergence of (inter)national provenance research networks. Other art market participants, such as dealers, operated and still operate at a much further distance from the public. There are two issues facing this part of the Dutch art market: a lack of transparency and an absence of concise legislation regarding due diligence and provenance research. Possible solutions would include the creation of a legal due diligence standard and improving transparency with a system of checks and balances. Technological developments, such as online trade registers and stolen art databases, can be greatly effective in improving both legislation on and transparency of the Dutch art market. The age of the internet, which has been fully integrated in our society, facilitates many ways of sharing information, allows us to look up if an artwork might be stolen, enable the creation of online registers and can be used by responsible (law enforcement) agencies to track art market participants. To this day, however, these developments are hindered by database fragmentation and inaccessibility.

Keywords: *Provenance Research, Due Diligence, Stolen Art Databases, Nazi-Looted Art, Dutch Art Market.*

Table of Contents

<i>Abstract</i>	2
1. Introduction	4
1.1. Research Question	7
1.2. Due Diligence	9
1.2.1. Concepts and History	9
1.2.2. Literature Review.....	11
1.3. Stolen Art Databases	17
1.3.1. Concepts and History	17
1.3.2. Literature Review	21
1.4. The Dutch Art Market from 1990 onwards	25
1.4.1. Literature Review.....	25
1.5. Sources and Methods	27
1.6. Innovative Aspects	29
2. Dutch society, its art market and the influence of Nazi-looted art	30
2.1. During and directly after the Second World War	30
2.2. The 1960s: a changing perspective	32
2.3. The 1990s: memory change	32
2.4. Museums	35
2.4.1. Project 1: Museum Acquisitions (1940-1948)	35
2.4.2. Project 2: Museum Acquisitions after 1933	39
2.4.3. Provenance research and Museums	43
2.5. Art dealers, art fairs, galleries, and collectors	46
2.5.1. European Art Market Regulation	48
2.5.2. Dutch Laws pertaining to the Art Market.....	50
2.5.3. Self-Regulation	54
2.5.4. Art Market Critique on Regulation	55
3. Technological Developments and the Dutch Art Market	57
3.1. How databases came to be	57
3.2. Databases in the Netherlands	59
3.3. Lacunae and Problems	65
3.4. Mainstream Media and Online Art Trade	71
4. Conclusion	73
<i>Bibliography</i>	77
Primary Sources	77
Literature	84

1. Introduction

Art is as old as humanity itself. It is a constantly evolving creative phenomenon with an ever-changing meaning. Art forms an important part of heritage and is meant to be appreciated, even when controversial.¹ Art can provide a sense of national identity and belonging and can represent the world around us. For many, it constitutes the highest standard of human achievement and creativity.² The downside, however, comes in the form of art crime.

The art market is known to have facilitated legally questionable deals for centuries.³ It is a market of high stakes, anonymity and confidentiality, with individuals seeking to launder money, evade taxes or conduct other illicit activities using artworks of substantial value. This combined with weak oversight, frequent manipulation of the ownership history of artworks, forgery and fraud, makes the art market a haven for criminals.⁴ Art crime has a global impact, and many believe that the impact of art theft is beyond measure.⁵ It is estimated that the global art crime industry represents a cost of more than six billion US dollars each year.⁶ Research by the United States Department of Justice puts art crime fourth on the list of criminal trades with the highest turnover.⁷ Every year, thousands of art related crimes are reported to their designated authorities, with many more art offences not reported at all.⁸ A 2021 assessment of crimes against cultural property by Interpol states that the illegal trafficking of cultural property is often connected to other forms of organised crime such as money laundering and terrorist financing.⁹ Kees Wieringa, Dutch academy of music graduate,

¹ Zachary Isrow, "Defining Art and its Future," *Journal of Arts & Humanities*, 6, no. 6 (June 2017): 84.

² Janet Ulph, "Exercising Due Diligence in Art Transactions," *Art Antiquity and Law* 3, no. 1 (March 1998): 323.

³ Gregory Day, "Explaining the Art Market's Thefts, Frauds, and Forgeries (And Why the Art Market Does Not Seem to Care)," *Vanderbilt Journal of Entertainment & Technology Law* 16, no. 3 (Spring 2014): 469.

⁴ Noah Charney, "Introduction," in *Art Crime: Terrorists, tomb raiders, forgers and thieves*, ed. Noah Charney (New York: Palgrave, 2016), 2-8.

⁵ Christa Roodt and Bernadine Benson, "Databases for stolen art: Progress, prospects and limitations," *South African Crime Quarterly* 52, no. 5 (July 2015): 6.

⁶ The actual amount is dependent on the agency reporting and the calculation method. The figure cited above was reported in 2013. Tom Derbyshire, "Police Chiefs Call for a New Theft Database," *Antiques Trade Gazette*, November 27, 2013, <https://www.antiquestradegazette.com/news/2013/police-chiefs-call-for-new-theft-database/>.

⁷ Noah Charney, Paul Denton, John Kleberg, "Protecting Cultural Heritage from Art Theft: International Challenge, Local Opportunity," *FBI Law Enforcement Bulletin*, March 1, 2012, <https://leb.fbi.gov/articles/featured-articles/protecting-cultural-heritage-from-art-theft-international-challenge-local-opportunity>. Art crime is fourth on the list of criminal trades with the highest turnover behind arms trade, drug trafficking and terrorist activity.

⁸ Susan J. Douglas and Melanie Hayes, "Access to loss: copyleft and the protection of visual information," *Art Antiquity & Law* 21, no. 2 (2016): 101-116.

⁹ Interpol, "Assessing Crimes Against Cultural Property 2021: Survey of Interpol Member Countries," *Interpol*, October 2022.

pianist, composer, programme maker and director of several museums, links art to illegal international arms trade as well.¹⁰

Over the years, (inter)national organisations, law enforcement agencies and professional organisations linked to the art world have combined their forces to reduce the illegal trafficking and trade of stolen art and antiquities, including artworks looted by the Nazis, with the goal to protect cultural heritage.¹¹ Among these organisations that focus on managing and preventing art crimes are national law enforcement agencies such as the Federal Bureau of Investigations (FBI) and the Italian Comando Carabinieri Tutela Patrimonio Culturale (Carabinieri T.P.C.), but also Europol, INTERPOL, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Council of Museums (ICOM), the International Foundation for Art Research (IFAR), the International Association of Dealers in Ancient Art (IADAA) and the Association of International Antiquities Dealers (AIAD). From 2010 onwards, the Dutch police has had their own art-related crime squad as well.¹²

Many of these organisations share a focus on the importance of due diligence research when acquiring or selling a work of art. According to ICOM, due diligence encompasses “all the required endeavours to establish the facts of a case before deciding a course of action, particularly in identifying the source and history of an item offered for acquisition or use before acquiring it.”¹³ In short, carrying out due diligence is doing the research necessary when acquiring or vending a work of art to make sure the artwork is not stolen, fake or forged. Digital databases holding information regarding stolen artworks have become an important aspect in doing due diligence from the 1990s onwards because of the further development of the internet. The societal developments and moral obligations surrounding Nazi-looted art have had an impact on due diligence as well.

The international standard of due diligence research is historically set forth by multiple international (non)-governmental organisations as well as national laws and regulations. The 1954 The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the 1995

¹⁰ Kees Wieringa, *Inshallah: Museumdirecteur in Qatar* (Hilversum: Water, 2021).

¹¹ Douglas and Hayes, “Access to loss,” 101-116.

¹² Noah Charney, “Interviews with Ruth Godthelp of the Dutch Art Squad,” *The Journal of Art Crime* 23, no. 1 (2020): 99.

¹³ “Code of Ethics,” International Council of Museums (ICOM), accessed March 3, 2023, <https://icom.museum/en/resources/standards-guidelines/code-of-ethics/>.

UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects have set the international legislative standard for due diligence.¹⁴ On top of that, laws have been implemented in for instance the United States and European Union, such as the United States Property Implementation Act of 1983 and the 1993 European Commission Directive and Regulation Regarding Cultural Property in the European Union.¹⁵ The 2014 Directive of the European Parliament and of the Council on the return of cultural objects unlawfully removed from the territory of a Member State is another example of such regulation.¹⁶ Recently, there have been additions to European law regarding money-laundering through the art market.¹⁷ Because of these additions doing due diligence has become even more important as can be seen by its inclusion on the websites or in the codes of ethics of UNESCO, ICOM, IFAR, IADAA and AIAD.¹⁸

Because of the above regulations, doing due diligence research to check if an artwork has been stolen has become more important in the Netherlands as well. This thesis examines the impact of societal developments regarding Nazi-looted art, a subset of art crime, and technological developments in the form of online databases for stolen art on the standard of due diligence in the Dutch art market from the 1990s to the present day. Since the 1990s stolen art databases have become technologically advanced and plentiful because of the development of the internet. Additionally, there has been a societal shift surrounding Nazi-looted art from silence surrounding the issue to a moral and ethical dilemma in need of rectification. As a result, Dutch museums have had to research their collections on two

¹⁴ “1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict”, UNESCO, accessed March 4, 2023, <https://en.unesco.org/protecting-heritage/convention-and-protocols/1954-convention>. “The UNESCO 1970 Convention,” UNESCO, accessed December 5, 2022, <https://en.unesco.org/fightrafficking/1970>. “UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome, 1995),” UNIDROIT, accessed December 7, 2022, <https://www.unidroit.org/instruments/cultural-property/1995-convention/status/>.

¹⁵ Mary McKenna, “Problematic Provenance: Toward a Coherent United States Policy on the International Trade in Cultural Property,” *University of Pennsylvania Journal of International Law* 12, no. 83 (spring 1991): 94. “Directive 1993/7 - Return of cultural objects unlawfully removed from the territory of a Member State,” EU Monitor, accessed March 9, 2023, <https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vitgbghrp4tk>.

¹⁶ “Directive 2014/60 - Return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast),” EU Monitor, accessed March 9, 2023, <https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vjkm96aw06z9>.

¹⁷ “Directive 2018/843 - Amendment of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing,” EU Monitor, accessed January 16, 2024.

¹⁸ “International Code of Ethics for Dealers in Cultural Property,” UNESCO, accessed March 3, 2023, <https://unesdoc.unesco.org/ark:/48223/pf0000121320>. ICOM, “Code of Ethics.” “IFAR’s Provenance Guide,” International Foundation for Art Research (IFAR), accessed March 3, 2023, https://www.ifar.org/provenance_guide.php. “Code of Ethics and Practice,” International Association of Dealers in Ancient art (IADAA), accessed March 3, 2023, <https://iadaa.org/about-us/>. “Code of Conduct,” Association of International Antiquities Dealers (AIAD), accessed March 3, 2023, <http://aiad.org.uk/about-us/code-of-conduct/>.

different occasions to check if works of art in their catalogue were looted during the Nazi era. Museums agreed to this research to avoid societal backlash, since the topic was much discussed in national politics and media. Thus, a response by the art market was deemed necessary.

The same societal trend around rectification of past wrongs is currently visible around the restitution of art looted during colonial times. On July 5th, 2023, the Dutch Rijksmuseum announced the decision of Dutch Secretary of State for Culture and Media Gunay Uslu to return six looted colonial objects to Sri Lanka after a successful pilot project hosted by the Dutch Ministry of Education, Culture and Science (OCW). Researchers of the Rijksmuseum worked in tandem with researchers in Sri Lanka to bring this project to a satisfying conclusion for all partners.¹⁹ A better understanding on the influence of Nazi era looted art will help us take on the future issues surrounding art looted in colonial times as well as stolen art in general. Up until now, many institutions have tried to push aside the problem of restitution of looted colonial art, which has a possibility to change once the art world starts to experience backlash like it did with looted art from the Nazi-era.

1.1. Research Question

Because of the societal pertinence of the topic of due diligence over the last thirty years and its current relevance surrounding looted colonial art it is important to understand, from a historical perspective, how different developments influence the standard of due diligence research. To deepen the scope, the decision was made to focus on societal and technological developments and limit the research to one country because of differences in laws between countries. Revived focus on Nazi-looted artworks, has had a major impact on the Dutch art market since the 1990s. The growth, access and digitalisation of stolen art databases and enhanced (cross-border) communication, have also played a major role in the art market from that moment onwards. In answering the question “**How have societal and technological developments influenced the due diligence standard in the Dutch art market from 1990 onwards?**” the goal is to deepen historical research surrounding due diligence.

To answer the research question, the main body has been split into two sub-questions, one regarding the societal developments surrounding Nazi-looted art, and one surrounding

¹⁹ “Rijksmuseum to Return Colonial Objects From its Collection for the First Time: Six Colonial Objects will Return to Sri Lanka,” The Rijksmuseum, July 5, 2023, <https://www.rijksmuseum.nl/en/press/press-releases/rijksmuseum-to-return-colonial-objects-from-its-collection-for-the-first-time>.

the technological developments, focussing on stolen art databases and enhanced forms of art market communication. These sub-questions are preceded by the literature review as well as concepts and history of both due diligence and stolen art databases to be able to make clear what is meant by due diligence and stolen art databases before answering the sub-questions. Many of these concepts are required to understand the literature written on both subjects. The sub-questions aim to answer if a clear norm of due diligence research is possible and available in the Netherlands. Part of the norm includes the possible differences between public institutions (museums) and individuals (dealers and collectors). The first sub-question, **“How did societal pressures regarding looted Nazi era art influence the Dutch art market from 1990 onwards?”**, answers the first part of the main research question by focussing on the way Nazi-looted art was perceived and addressed in the Netherlands since the end of the Second World War. After a short introduction of the societal pressures surrounding these artworks the 1940s until 1990, the focus shifts towards the 1990s and the (inter)national debate that started during that decade on what to do with art looted during the Nazi era.

To understand this debate, the first focus will be on the publication of independent researcher Lynn H. Nicholas’ *The Rape of Europa* in 1994 and the Washington principles. Nicholas’ publication, based on the research of archival sources, about Nazi plunder and looted art from occupied countries, created a shockwave that put the issue of Nazi-looted art firmly on the international agenda.²⁰ The Washington principles regarding research and restitution of artworks looted during the Nazi era were in part a result of Nicholas’ publication. In 1998, 44 states, including the Netherlands, and 13 intergovernmental organisations agreed on these eleven principles.²¹ They subsequently influenced the research into the origins and history of artworks in the Dutch art market. This influence is explained by looking at the 1998 and 2009 museum acquisitions projects, financed by the Dutch government, in which Dutch museums had to research their collections to identify Nazi-looted art.²² After delving into museums, the focus will shift to the influence of the societal pressures surrounding Nazi-looted art on art dealers, collectors, fairs and galleries to encompass the entire Dutch art market and conclude with the overall influence of Nazi-looted

²⁰ Lynn H. Nicholas, *The Rape of Europa: The Fate of Europe’s Treasures in the Third Reich and World War II* (New York: Knopf, 1994).

²¹ “Washington Conference Principles on Nazi-Confiscated Art,” United States Department of State, accessed March 15, 2023, <https://web.archive.org/web/20170426113213/https://www.state.gov/p/eur/rt/hlcst/270431.htm>.

²² “Waarom het onderzoek,” Museale Verwervingen vanaf 1933, accessed October 2, 2023, <https://www.musealeverwervingen.nl/nl/38/over-het-onderzoek/waarom-het-onderzoek/>.

art on the Dutch standard of due diligence. This is done by analysing European Union directives, as well as Dutch criminal and civil law, to discover if a clear standard for due diligence research exists.

The second sub-question, “**How did stolen art databases and their increased possibilities influence the Dutch art market from 1990?**”, answers the second part of the main research question by looking at how the digitalisation, accessibility and exponential growth of stolen art databases influenced the Dutch art market from the 1990s onwards and by extension the Dutch standard of due diligence. The topic of stolen art databases is introduced by looking at the development of these databases from the first, analogue, database to what they are now. Next a closer look is taken at connection between stolen art databases and Nazi-looted art as well as Dutch databases. Lastly, the usability and possible problems of stolen art databases are looked at by analysing access, comprehensiveness, paywalls, and fragmentation of said databases. By answering these sub-questions, the main research question is answered, and a coherent conclusion is reached.

1.2. Due Diligence

1.2.1. Concepts and History

To explain due diligence, it is necessary to look at the art market framework surrounding the term itself. This framework consists of the terms such as provenance, authenticity, title, good faith, ownership and restitution. Stolen art databases also became of importance to due diligence and will be discussed further in paragraph 1.3. The first term that needs to be discussed is provenance. The provenance guide of the International Foundation for Art Research (IFAR) highlights the importance of provenance research when doing due diligence where due diligence means taking the reasonable steps to avoid legal liability or committing an illegal act. Doing due diligence research in the art market involves provenance research. Provenance refers to the documented history of an artwork. This documented history includes information about the creation of the artwork, the previous owners and changes that the artwork may have undergone.²³ Provenance research is considered complete when there is a record of all previous owners’ names, dates of ownership, methods of transference and location where the work was kept from the day the work left the artists’ studio to the present day.²⁴ However, creating a full provenance is oftentimes impossible, because records often

²³ IFAR, “Provenance Guide.”

²⁴ IFAR, “Provenance Guide.”

get lost through time. It is therefore more common for a provenance to have gaps than to be complete.²⁵ Due diligence thus encompasses more than just provenance research. However, provenance is important in determining the second term to be discussed: authenticity. Clear provenance can support a work's authenticity but can also be a sign of the work being forged. Forgeries are often accompanied by a clear, but made up, provenance.²⁶

Completing provenance on a work of art leads to a complete chain of legal title, the third important term for due diligence. However, having a clear chain of title does not necessarily make a work authentic (and thus more valuable).²⁷ Legal title is the "full and absolute legal and equitable ownership of property unencumbered by any interest in or to the property by any other person in the world".²⁸ This means that even though one person may have possession of an artwork, it might legally belong to someone else. It is possible for one person to possess the artwork while the artwork is legally owned by somebody else. Only the person holding the legal title to an artwork can sell that artwork.

The lack of legal title has created many so-called title disputes over the years. Looted Nazi era art is a segment of the market in which these title disputes have arisen over the last eighty years. It is often difficult to trace chain of title with certainty. This increases the chance of a dispute between a previous owner or their heirs and the current owner of an artwork.²⁹ When an artwork is considered stolen or improperly traded, as was the case with Nazi-looted art, it has the possibility to be restituted to the previous owner or heirs of that owner. Restitution can only happen when an unlawful or invalid transfer of title is proven. Theft, expropriation, illegal trafficking and sale under duress are all considered an unlawful or invalid transfer.³⁰ In recent days, investing in a share of an artwork has become popular, but this too has resulted in title disputes. Dealers have for instance sold the same share of an artwork to different people.³¹ When those people then decided to sell their share, they found

²⁵ IFAR, "Provenance Guide."

²⁶ Olivia Sladen, "Faking History: How Provenance Forgery is Conning the Art World," *Journal of Art Crime* 3, no. 1 (Spring 2010): 41-52.

²⁷ Richard A. Posner and William M. Landes, "The Economics of Legal Disputes Over the Ownership of Works of Art and Other Collectibles," *Coase-Sandor Institute for Law & Economics Working Paper*, no. 40 (1996), 1-2.

²⁸ Ronald D. Spencer, "Art Law on Legal Title and Buyer Due Diligence, in the face of "red flags," who is responsible," *Spencer's Art Law Journal* (February 12, 2014).

²⁹ Deborah DePorter Hoover, "Title Disputes in the Art Market: An Emerging Duty of Care for Art Merchants," *George Washington Law Review* 51, no. 3 (March 1983): 443.

³⁰ Victoria Reed, "Art Restitution," Oxford Bibliographies, January 2023, accessed June 16, 2024, <https://www.oxfordbibliographies.com/display/document/obo-9780199920105/obo-9780199920105-0173.xml#:~:text=Art%20restitution%20is%20the%20return,a%20sale%20made%20under%20duress.>

³¹ Joanna Bialynicka-Birula, "Investment in Art – Specificity, Risks, and Rates of Return" *14th International Conference on Finance and Banking (ICFB)*, (October 2013): 1,

themselves caught in legal battle regarding title. Making sure the person, company or organisation bought from holds legal title is therefore important in doing due diligence research.

Due diligence research is often considered sufficient when “good faith” can be established. Good faith is the last term that needs to be discussed and is described as honest dealing and depending on the exact setting, may include a honest belief or purpose, faithful performance of duties, observance of fair dealing standards or absence of fraudulent intent.³² According to the International Association of Dealers in Ancient Art (IADAA), “buying an art piece in good faith means doing everything necessary to the best of one’s ability, to make sure the transaction is legal, and the work has no legally questionable past”.³³ To claim good faith, members of the IADAA must also verify the identity and address of new vendors and record their details. Moreover, they must pay careful attention in the cases where the asking prices does not match market value and when required to pay with cash. If there is no reputable reason to pay with cash, paying by cheque or another method providing an audit trail is encouraged.³⁴

Some jurisdictions grant title to the good faith purchaser after a certain period has passed. In Switzerland and France, a purchaser can rely on good faith when due diligence has been exercised before acquiring the artwork. In the United Kingdom good faith is based on the purchaser’s honesty.³⁵ In the Netherlands, the person, institution, or organisation acquiring the work of art must prove that they are acting in good faith. If this cannot be proven the purchaser is liable in the court of law.³⁶ The terms explained above are detrimental to understanding academic research done around the topic of art market due diligence.

1.2.2. Literature Review

Research on art market due diligence found its bearing in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, which was a peacetime follow-up to the 1954 The Hague Convention

https://www.researchgate.net/publication/261071062_Investment_in_Art_-_Specificity_Risks_and_Rates_of_Return.

³² Deborah A. DeMott, “Artful Good Faith: An Essay on Law, Custom, and Intermediaries in Art Markets,” *Duke Law Journal* 62, no. 3 (2012): 627.

³³ IADAA, “Code of Ethics and Practice.”

³⁴ IADAA, “Code of Ethics and Practice.”

³⁵ Nina M. Neuhaus and Sophie Balay, “Databases on Lost and Stolen Art: Is Consulting a Database and Inherent Requirement of Good Faith,” *Art Antiquity and Law* 19, no. 2 (July 2014): 169.

³⁶ Inge Naves and Sjo Hoogcarspel, “Art Law in The Netherlands,” *Brinkhof Lexology*, March 8, 2019, <https://www.lexology.com/library/detail.aspx?g=f38485d2-4908-44de-b6ad-1519a9832a54>.

for the Protection of Cultural Property in the Event of Armed Conflict.³⁷ The goal of the 1970 convention, currently ratified by 143 states, was to establish inventories, export certificates, set up controls, approve traders, educate, and apply criminal or administrative sanctions when needed to avoid the stealing and illegal trade of artworks. States participating in the convention, such as the Netherlands, had to “introduce export certificates and prohibit the exportation of cultural property unless accompanied by certificate” (article 6), had to take “necessary measures to prevent museums and similar institutions from acquiring cultural property that has been illegally exported” (article 7) and antique dealers had to maintain registers (article 10).” Before that, museums were not used to asking questions about the provenance of their acquisitions and gifts.³⁸

The 1970 UNESCO convention formed the base intergovernmental agreement for protecting cultural heritage in peace time, but also had some deficiencies. As of the present day, the convention has enlisted 143 countries in a network of inter-state cooperation. The convention also changed public attitudes to cultural heritage protection.³⁹ The stipulations of article 6 led many museums to research provenance more extensively. Examples are the British museum in 1998 and the J. Paul Getty Museum in 2006.⁴⁰ Because of these commitments and more exhaustive provenance research, it has become increasingly more difficult to fabricate fake provenances of artworks.⁴¹ The convention also led to national legislation and the development of workshops on the issue of protecting cultural heritage. The United States implemented the *Convention on Cultural Property Implementation act* in 1983 and the European Union the *1993 EC Directive and Regulation Regarding Cultural Property*.⁴² Other countries, such as Japan, the Netherlands, Switzerland, and the United Kingdom have passed similar national legislation as well.⁴³ In the United States, especially archaeologists and anthropologist pushed for national legislation regarding cultural heritage against dealers in order to protect cultural heritage from illicit activity. The 1970 convention

³⁷ UNESCO, “1954 Convention.” UNESCO, “1970 Convention.”

³⁸ Victoria Reed, “Due Diligence, Provenance Research, and the Acquisition Process at the Museum of Fine Arts, Boston,” *DePaul Journal of Art, Technology & Intellectual Property Law* 23, no. 2 (Spring 2013), 365-366.

³⁹ Lyndel V. Prott, “Strengths and Weaknesses of the 1970 Convention: An Evaluation 40 years after its adoption,” *Second Meeting of States Parties to the 1970 Convention* (May 2012): 3.

⁴⁰ Neil Brodie, “The effect of an artefact’s provenance on its saleability,” *Culture without Context* no. 19 (2006): 4-6.

⁴¹ Prott, “Strengths,” 3.

⁴² McKenna, “Problematic Provenance.” EU Monitor, “Directive 1993.”

⁴³ To research such legislation, consult the UNESCO Database of National Cultural Heritage Laws at <https://en.unesco.org/culnatlaws/list>. Currently the database includes 2300 national cultural heritage laws from 180 countries.

has also impacted the above-mentioned codes of ethics of organisations such as ICOM and IFAR.

The convention also had its weaknesses, which are mentioned by honorary professor of heritage law at the University of Queensland Lyndel V. Prott in her 2012 evaluation of the 1970 UNESCO Convention. According to Prott, the main problem of the convention is its effectiveness, as it is often limited by national law. Because of differences of opinion between countries, the convention does not offer a time limitation on stolen art claims. Another issue is the multi-interpretability of the term “good faith”. A last misfortune was the slow adoption and the embedding in national law of the convention by multiple states.⁴⁴ Moreover, both the convention and national legislation were not able to stop the increase of illegal trafficking of cultural objects either. As late as 1991 Penn Carey Law School graduate Mary McKenna focuses on the increase in illegal trafficking of cultural property in the United States and calls for a coherent US policy on the international trade in cultural property. This shift proposed by McKenna eventually occurred in the 1990s.⁴⁵

As UNESCO recognised the deficiencies of the 1970 convention brought up by academics it started to cooperate with the International Institute for the Unification of Private Law (UNIDROIT), after a proposal to elevate the 1970 convention was made by cultural heritage experts.⁴⁶ In 1995, this led to the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, which addressed issues in private law, such as good faith, conflicting national laws, which national laws to use when addressing cultural heritage issues and other differences between jurisdictions.⁴⁷ Due diligence is also partly defined in article 4 of the UNIDROIT convention as the “prerequisite for the payment of reasonable and fair compensation in the case of the return of a stolen cultural object”. The definition of due diligence was written down to include the “circumstances of the acquisitions, the character of the parties, the price paid, the consultation of a register of stolen cultural objects and any other relevant and accessible information, and the consultation of an expert’s advice”.⁴⁸

However, the UNIDROIT convention still contained deficiencies. According to Golden Gate University graduate and attorney Monique Olivier, UNIDROIT fails to create a balance between the various interests of art source and art importing countries, which could

⁴⁴ Prott, “Strenghts,” 4-5.

⁴⁵ McKenna, “Problematic Provenance,” 94.

⁴⁶ Prott, “Strenghts,” 5.

⁴⁷ UNIDROIT, “UNIDROIT Convention.” on Stolen or Illegally Exported Cultural Objects (Rome, 1995),” UNIDROIT, accessed December 7, <https://www.unidroit.org/instruments/cultural-property/1995-convention/status/>.

⁴⁸ UNIDROIT, “UNIDROIT Convention.”

result in countries not signing the agreement.⁴⁹ Ultimately, only 54 states signed versus the 143 that have ratified the 1970 convention.⁵⁰ However, both the research about the 1970 UNESCO convention and the 1995 UNIDROIT convention helped in the growth of research about due diligence itself. At the end of the 1990s the term due diligence became more mainstream in academic research and questions were being asked about the possibility for a clear standard of due diligence to exist. In 1998 this led Law School graduate, attorney and editor, Laura McFarland Taylor to call the due diligence standard “especially unhelpful”.⁵¹ According to her, there are different due diligence standards in courts all over the world. Where some courts apply these standards only to the current owner, other courts apply them to both the current owner and the good-faith purchaser. A good-faith purchaser being the acquiree of an artwork that can prove the exercising of good faith. As a solution, McFarland Taylor proposed the adoption of an internationally recognized standard of due diligence in reporting lost or stolen artworks utilizing the internet while again deeming the UNIDROIT convention a failure.⁵²

Yet, the UNIDROIT convention did have many positive effects. In her 2013 publication, provenance researcher, art historian and Curator of Provenance at the Museum of Fine Art, Boston Victoria Reed notes how, in the 1980s and early 1990s, it was routine to ask few if any questions when purchasing art objects, especially frequently looted antiquities. Turning a blind eye was common practice in the twentieth century for curatorial staff and museum administrations alike.⁵³ Currently, however, ignorance is not an excuse anymore, according to Reed. She claims that part of the reason can be found in the recent developments in the focus on looted art from WWII, but that the main reason is the adaptation of due diligence standards by international art organisations like UNESCO, ICOM, IFAR, IADAA, AIAD, but also the American Alliance of Museums (AAM) and the Association of Art Museum Directors (AAMD).⁵⁴

⁴⁹ Monique Olivier, “The UNIDROIT Convention: Attempting to Regulate the International Trade and Traffic of Cultural Property,” *Golden Gate University Law Review* 26, no. 3 (January 1996): 665.

⁵⁰ UNIDROIT, “UNIDROIT Convention.”

⁵¹ Laura McFarland Taylor, “Tracking Stolen Artworks on the Internet: A New Standard for Due Diligence,” *Journal of Computer & Information Law* 16, no. 4 (Summer 1998): 939-940.

⁵² McFarland Taylor, “A New Standard,” 939-940.

⁵³ Reed, “Provenance Research,” 366.

⁵⁴ Reed, “Provenance Research,” 366.

1.2.2.1. Due diligence and Nazi-Looted art

The focus on looted art from the Nazi-occupation mentioned by Reed found traction with the publication of *The Rape of Europa* by independent researcher Lynn H. Nicholas.⁵⁵ The publication of this book in 1994 resulted in an international debate about how to deal with cultural heritage crimes committed by the Nazis before and during the Second World War. Following Nicholas' publication, the international community agreed upon eleven principles in 1998, which were dubbed the Washington Principle. After two symposia in 1995 and 1997, the conference decided on these non-binding principles.⁵⁶ These principles were designed with the goal to resolve issues related to art confiscated and looted by the Nazi's before and during the Second World War. All participating countries, including the Netherlands, were given sovereignty to find solutions within their own legal system. The principles called for identification of stolen art not yet restituted, open and accessible archives, careful attention to gaps in provenance and seeking contact with next of kin of victims. The Washington principles on art looted by Nazi-Germany led to an increase focus on due diligence in the art market. This can for instance be seen in the 1999 UNESCO International Code of Ethics for Dealers in Cultural property and international art associations like the International Foundation for Art Research (IFAR) and The International Association of Dealers in Ancient Art (IADAA).

In the UNESCO code of ethics, the first two articles pertain to due diligence. This code of ethics was the result of members of the trade in cultural property acknowledging the worldwide concern over the traffic in stolen, illegally alienated, clandestinely excavated and illegally exported cultural property. The first article states that "professional traders in cultural property will not import, export or transfer the ownership of this property when they have reasonable cause to believe it has been stolen, illegally alienated, clandestinely excavated or illegally exported".⁵⁷ The second article states that "a trader who is acting as agent for the seller is not deemed to guarantee title to the property, provided that he makes known to the buyer the full name and address of the seller. A trader who is himself the seller is deemed to guarantee to the buyer the title to the goods".⁵⁸ IFAR highlights the importance of provenance research regarding due diligence in their provenance guide published in

⁵⁵ Nicholas, *The Rape of Europa*.

⁵⁶ United States Department of State, "Washington Principles."

⁵⁷ UNESCO, "Code of Ethics for Dealers."

⁵⁸ UNESCO, "Code of Ethics for Dealers."

2009.⁵⁹ Since 2015, IADAA requires members to make purchases in good faith and establish to the best of their ability that objects were not stolen before purchase or sale, require a vendor to provide their name and address and to sign and date a form identifying the item for sale, and confirming that it is the unencumbered property of the vendor that they are authorised to sell.⁶⁰

Members of IADAA must also pay careful attention in cases where the asking price does not match market value and when required to pay with cash. If there is no reputable reason to pay with cash, paying by cheque or another method providing an audit trail is encouraged.⁶¹ The Association of International Antiquities Dealers (AIAD) notes in their code of conduct the requirement for members to establish provenance to a “reasonably achievable extent” with a full and accurate description.⁶² If this description is found to be incorrect, members are obliged to offer a refund. Members of the International Confederation of Art Dealers (CINOA) must take “all the necessary measures to detect stolen objects and refer, among others, to registers that are published to this effect and to use these judiciously”.⁶³ Stolen art databases are among these registers, as will be discussed in paragraph 1.3.

Since the 1990s, new laws were agreed upon all over the world, such as the 2014 Directive of the European Parliament and of the Council on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State.⁶⁴ In the above-mentioned codes of conduct and recent laws, a degree of consensus has been reached on what a due diligence standard entails. It focuses on finding out the information necessary to make sure an artwork is not stolen, looted, or illegally exported. Research on due diligence has developed over the years because of the critical analyses on the 1970 UNESCO and 1995 UNIDROIT conventions, the influence of the Nicholas’ *The Rape of Europa* and the Washington Principles. The focus on Nazi-Looted art over the last thirty years has led to an increase focus on due diligence across the entire art market. Lately, the term “enhanced due diligence” has gained popularity. This is due diligence that includes the investigation of legal title.⁶⁵ It has

⁵⁹ IFAR, “Provenance Guide.”

⁶⁰ IADAA, “Code of Ethics and Practice.”

⁶¹ IADAA, “Code of Ethics and Practice.”

⁶² AIAD, “Code of Conduct.”

⁶³ “CINOA Code of Ethics and Charter,” Confédération Internationale des Négociants en Œuvres d’Art/International Confederation of Art and Antiques Dealers’ Associations (CINOA), accessed March 8, 2023, https://www.obs-traffic.museum/sites/default/files/ressources/files/CINOA_Code_Ethics.pdf.

⁶⁴ EU Monitor, “Directive 2014/60.”

⁶⁵ “Red Flags List (2017),” Responsible Art Market (RAM), accessed December 6, 2022, http://responsibleartmarket.org/wp/wp-content/uploads/2017/01/RED-FLAG-LISTS_web.pdf.

become more important with the societal and art market awareness surrounding looted art from the Nazi era.

Thus, when examining art transactions and doing due diligence, it is first and foremost important to recognise red flags. These red flags can be a requirement to pay in cash, a sale price far below market value, a lack of previous information about the work or possibly forged information. It is also important to look at legislation pertaining to the sale of art and restitution. This legislation still differs all over the world. Some courts still apply due diligence standards to the current owner, others to both the current owner and the previous owner(s). Moreover, laws regarding restitution of stolen artworks are also different in various parts of the world. Apart from that, it is important to research and note the name and address of both buyer and seller. Creating a paper trail is advised to show good faith and in case of possible disputes arising after the sale, such as a title dispute or authenticity dispute. Lastly, there is the importance of doing the best possible provenance research to create the best possible picture of all owners' names, dates of ownership, methods of transference and location of the work from its creation to the present. Getting to this information requires some serious detective work but is all part of doing due diligence. Stolen art databases can be an important tool too when doing due diligence research.⁶⁶

1.3. Stolen Art Databases

1.3.1. Concepts and History

Just as with the term due diligence, it is important to know exactly what is meant by databases for stolen art. Art collectors, museums, art fairs, investors, law enforcement agencies and others interested can, research, pay a fee and/or sign up for stolen art databases to submit stolen artworks or find out whether an artwork they are acquiring or researching has been stolen. No database is exhaustive, which means that there is no database that lists all stolen works of art.⁶⁷ This is partly because not all thefts are reported, due to the sheer number of stolen artworks and because of a lack of specific (visual) information about stolen artworks.⁶⁸ Since the 1990s, stolen art databases have been used extensively by law enforcement agencies to share information linked to criminal activities by checking

⁶⁶ Anna Kisluk, "Stolen Art and "Due Diligence"," *Curator: The Museum Journal* 41, no. 3 (May 2010): 164.

⁶⁷ Alexandra Taylor, "The "violent crime" of a misconstrued Art Loss Database," *The Art of Value*, June 26, 2019, <https://theartofvalue.blog/2019/06/26/the-violent-crime-of-a-misconstrued-art-loss-database/>.

⁶⁸ Douglas and Hayes, "Access to loss," 101-116.

photographs, exchanging pictures, and exchanging information about stolen works of art.⁶⁹ Pictures and descriptions of artworks make every object identifiable and serve investigators in theft cases. To coherently answer the main research question, it is important to look at how stolen art databases developed. Their development is linked to their current usefulness.

In 1969, the Carabinieri Command for the Protection of Cultural Heritage (Carabinieri T.P.C.), tasked with solving crimes related to or involving cultural heritage was set up in Italy.⁷⁰ Italy ranks number one on UNESCO's list of Cultural World Heritage Sites, which explains their early setting up of Carabinieri T.P.C.⁷¹ Since then, many countries have set up art squads of their own, including the Netherlands, but the Italian squad still serves as a benchmark for art squads all over the world, with 300 people under its wing and fifteen branches across Italy.⁷²

In 1969, Carabinieri T.P.C. was the first unit to systematically gather information about looted and stolen art during peacetime. In chapter 3 a closer look will be taken at wartime collection and cataloguing of information. Up until 1980, Carabinieri T.P.C used paper files stored in filing cabinets. In 1980, this physical data was digitalised in text, because of the limited memory of computers. For the same reason pictures were only added in subsequent versions. The database developed into a database with more than 3,290,000 objects. In 2004, the database was anchored into Italian law as an integral part in solving art crime. Because of subsequent funding and innovation, it is now possible to do advanced photo recognition, also incorporating the subsection of the internet called the darknet. This section of the internet hosts many websites on which illegal or illicit goods, such as stolen art, can be bought or sold. Through the app iTPC Carabinieri, people can also take pictures of art pieces and compare them to the database.⁷³

The United States Federal Bureau of Investigation (FBI) initiated in keeping files on stolen artworks in 1979.⁷⁴ It all started with just a small amount black and white pictures with descriptions, which were digitalised and put into a database in 2007. This National Stolen Art

⁶⁹ Douglas and Hayes, "Access to loss," 101-116.

⁷⁰ Giovanni Nistri, The Experience of the Italian Cultural Heritage Protection Unit," in *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property*, ed. Stefano Manacorda and Duncan Chappell (New York: Springer, 2011), 183.

⁷¹ "Italy," UNESCO, accessed March 5, 2023, <https://whc.unesco.org/en/statesparties/it>.

⁷² Nistri, "Cultural Heritage Protection," 184.

⁷³ Nistri, "Cultural Heritage Protection," 184.

⁷⁴ Nick Keppler, "How the FBI's National Stolen Art File Reunites Lost Works with Their Rightful Owner," *Mental Floss*, June 15, 2021, <https://www.mentalfloss.com/article/646877/fbi-national-stolen-art-file-database-locates-lost-works>.

File (NSAF) grew from just a few entries to over 5500 currently.⁷⁵ The NSAF can be accessed for free through the NSAF website or app by anyone interested. Interpol developed its Stolen Works of Art database after 1995. Later, in 1999, the database became available for all member countries through a computer program. The Interpol Stolen Works of Art database includes descriptions using OBJECT-ID, a way of categorisation developed by the Getty Information Institute and supported by UNESCO and the International Council of Museums (ICOM), and photographs.⁷⁶ In October of 2008, the database listed data of 32,573 objects. Currently it lists over 52,000.⁷⁷ Interpol's database is accessible after application. In addition to databases controlled by law enforcement agencies, there are commercial databases and databases related to specific time periods as well.

The International Foundation for Art Research (IFAR), created in 1969 to compile information about stolen art, established an art theft archive in 1976 and began publishing a "Stolen Art Alert" with the same goal as the previously mentioned law enforcement databases: to deter international art theft.⁷⁸ This art theft archive was consolidated into the Art Loss Register (ALR) in 1990. ALR's shareholders were major businesses from the insurance industry and art market. Initially a not-for profit organisation, the ALR turned into a for-profit company to make money in helping art market participants in doing due diligence research.⁷⁹ From that time onwards the database was digitalised and grew. In 1992, the database contained only 20.000 entries: now it has over 700.000.⁸⁰

Commercial databases like The Art Loss Register (ALR) but also ArtClaim require a fee and provide services related to identifying and recovering stolen, missing, or looted artworks.⁸¹ On ArtClaim, clients can only view data related to personal, specific enquiries. Therefore, ArtClaim is a 'closed managed' database which means that no other information than the information asked for is released to the public. ALR has a similar system, in which only images linked to individual registrations can be viewed in the database.⁸² Access to

⁷⁵ FBI National Stolen Art File, "Homepage."

⁷⁶ Robin Thornes, Peter Dorrell and Henry Lie, *Introduction to Object ID: Guidelines for Making Records that Describe Art, Antiques, and Antiquities* (Los Angeles: Getty Information Institute, 1999), 1.

⁷⁷ "Homepage," Interpol's Stolen Works of Art Database, accessed December 22, 2022, <https://www.interpol.int/Crimes/Cultural-heritage-crime/Stolen-Works-of-Art-Database>.

⁷⁸ Bonnie Burnham and Franklin Feldman, "An art theft archive: Principles and realization," *Connecticut Law Review* 10 no. 3, (Spring 1978), 705-707.

⁷⁹ Patrick J. O'Keefe, "The Use of Databases to Combat Theft of Cultural Heritage Material," *Art Antiquity & Law* 2, no. 4 (March 1997): 357.

⁸⁰ Simon Houpt, *Museum of the Missing: A History of Art Theft* (New York City: Sterling, 2006), 8.

⁸¹ "Homepage," Art Loss Register (ALR), accessed December 22, 2022, <https://www.artloss.com>.

⁸² Douglas and Hayes, "Access to loss," 101-116.

stolen art databases is thus often limited to individual enquiries and authorised, paying users. This makes searching the entire database at once impossible.

Stolen art databases were invented as a possible solution to the problem of stolen art, which could not be prevented by traditional forms of law enforcement. The databases mentioned above, are just a few examples, but many of the currently existing databases started with filing cabinets and grew exponentially because of the internet or were created when cataloguing became easier because of the internet. While some databases are free of charge, some cost money or require a sign-up or admission, while some are small, some are big, and while some are period-specific and country-specific, some have no specific boundary and are international. These databases are used all over the world. For instance, Interpol's Stolen Work of Art Database is used by the Belgian Police art division (ARTIST) and the Dutch Art Crime Team to help solve national cases.⁸³

1.3.1.1. Second World War Databases

Recently, there has been a trend to make databases or parts of them open source and create more of them. These databases, mostly related to Nazi-looted art, contain data on works of art stolen, looted or confiscated during the German Occupation of Europe, and include provenance information. Examples are the database Looted Art WWII Belgium and the French Mission for the Research and Restitution of Cultural Property Spoliated between 1933 and 1945. Both databases have been set up in 2022 and were the result of national laws relating to dealing with art confiscated by Nazi occupiers.⁸⁴ The use of databases has also found its way in codes of ethics of art market organisations.

Members of the International Confederation of Art Dealers (CINOA) must take "all the necessary measures to detect stolen objects and refer, among others, to registers that are published to this effect and to use these judiciously."⁸⁵ UNIDROIT also called for the use of art registers in doing due diligence research.⁸⁶ Stolen art databases are among these registers. Considering the various codes of ethics of reputable museums and trade associations,

⁸³ Interpol's Stolen Works of Art Database, "Homepage."

⁸⁴ "Research Databases," The Claims Conference on Jewish Material Claims Against Germany (Claims Conference) and the World Jewish Restitution Organization (WJRO), accessed March 9, 2023, <https://art.claimscon.org/resources/overview-of-worldwide-looted-art-and-provenance-research-databases/#International-Databases>. "Laws, Policies and Guidelines: Comparative Art Law relating to Nazi-Confiscated Art March 2019", Looted Art: Central Registry of Information on Looted Cultural Property 1933-1945, accessed March 9, 2023, <https://www.lootedart.com/TJMA6F416801>.

⁸⁵ CINOA, "Code of Ethics."

⁸⁶ UNIDROIT, "UNIDROIT Convention."

consulting stolen art databases is seemingly becoming a standard market practice. Over the last thirty years, databases for stolen art, their advantages and their flaws have been studied extensively.

1.3.2. Literature Review

Academic research on the global art market has shown for more than a century that art theft was too great of a problem to be prevented by traditional forms of law enforcement. In 1978, Chairman of IFAR's Law Advisory board Franklin Feldman and American art historian Bonnie Burnham proposed the creation of an archive consisting of index cards from which information could be transmitted to whoever required it.⁸⁷ According to them, this would aid in the recognition of stolen artworks and make it near impossible to sell or transport stolen works of art. However, they also recognised potential problems with such an archive, such as the creation of rules surrounding it and the required international collaboration. The possibility of stolen art databases aiding in due diligence research was recognised during the first International Symposium on the International Sale of Works of Art in 1985.⁸⁸

However, to this day, the debate around the usefulness of Stolen Art Databases is still ongoing. According to General Counsel and Director of Recoveries at the Art Loss Register (ALR) James Ratcliffe, stolen art databases are a key tool to research provenance.⁸⁹ They are a cost-efficient, fast, and easy way of investigating legal title. He adds to this by saying that consulting a database can be the deciding factor in proving good faith during court procedures. But contrary to what Ratcliffe states, stolen art databases also have limitations. These limitations were already mentioned by specialist in the law and procedures for recovery of looted heritage and advisor to international organisations, governments and private parties Patrick J. O'Keefe in 1997. O'Keefe also believes that stolen art databases could be very effective in combating art theft, but he also sees many problems. According to O'Keefe, many of these problems relate to "vagaries of human effort".⁹⁰ By this O'Keefe means the amount of effort individuals are willing to put in when doing due diligence

⁸⁷ Burnham and Feldman, "An art theft archive," 705-707.

⁸⁸ A.M. Garro, "The Recovery of Stolen Art Objects from Bona Fide Purchasers," in *International Sale of Works of Art, Proceedings of the first International Symposium on the International Sale of Works of Art* (1985), 504.

⁸⁹ James Ratcliffe, "Recovering Stolen Artworks: A Practical Approach," in *The Palgrave Handbook on Art Crime*, ed. S. Hufnagel and S. Chapell (London: Palgrave Macmillan, 2019), 237-251.

⁹⁰ O'Keefe, "The Use of Databases," 357.

research. The less effort that needs to be put in; the more useful databases are. In 1997, he saw some space for technological development, in imaging, for instance.

Examples of technological developments are Object ID and more recently 3D modelling. Object ID, a standard of documentation for cultural goods, was created by the Getty Information Institute, popularized by organisations like Interpol, the FBI and UNESCO, and now resides under the wing of ICOM.⁹¹ In 1997, Object ID became the international recognised way of documenting and recording cultural goods.⁹² The difficulty would turn out to be to persuading collectors and administrators to make record of items stolen to make identification possible. 3D modelling makes artworks easier to recognise using only a few pictures for different angles to create a 3D image. The digital data models worked on by Independent art historian Babette Claassen and student of Artificial Intelligence Jeroen Borst in 2023 can help in provenance research in the form of digital databases. They propose the use of AI and 3D modelling to identify objects more easily.⁹³ Databases including 3D modelling would more easily show the subtle differences between artworks, and AI could make it easier to search and catalogue items. However, most problem still lie in the human domain.

One problem O’Keefe saw, is the difficulty in gaining access to databases. For instance, many police databases are not available for research. INTERPOL made their database available to the public on August 9th, 2009, but a request for access is still required.⁹⁴ On top of that, databases are also fragmented. An interconnected system of databases would make it easier for researchers to find answers.⁹⁵ According to O’Keefe, this would also greatly increase the willingness of individuals to use them.⁹⁶ There are so many databases that it is impossible to scan them all when doing due diligence research. Owners have trouble finding whether a work they own has been stolen or not and good-faith purchasers do not know where to look because of the number of databases available.⁹⁷ Moreover, there is quite some overlap between databases.⁹⁸ Sterling Professor of Law at Yale

⁹¹ “Object ID,” ICOM, accessed March 18, 2023, <https://icom.museum/en/resources/standards-guidelines/objectid/>.

⁹² ICOM, “Object ID.”

⁹³ Babette Claassen and Jeroen Borst, “Linked Art Provenance,” accessed March 2, 2023, <http://www.victordeboer.com/wp-content/uploads/2019/09/LAP-Final-version-23-07.pdf>.

⁹⁴ Christa Roodt, “Stolen Art Databases and Due Diligence,” in *6th International Conference of Experts on the Return of Cultural Property* (Gyeongju-si, Republic of Korea, 17-19 Oct 2016), 215.

⁹⁵ O’Keefe, “The Use of Databases,” 361.

⁹⁶ O’Keefe, “The Use of Databases,” 361.

⁹⁷ McFarland Taylor, “A New Standard,” 939.

⁹⁸ Mia Tomijima, “Competing or Complementing: Art Loss Databases Proliferate,” *Center for art law*, December 5, 2019, <https://itsartlaw.org/2019/12/05/competing-or-complementing-art-loss-databases-proliferate/>.

Law School and Professor at the Yale School of Management Alan Schwartz and Alfred McCormack Professor of Law and Director of the Center for Contract and Economic Organization at Columbia University Robert E. Scott added to this in 2011 by saying that databases work best when owners report thefts to the police, add the stolen items to a database to advertise their loss, “publicise searches” and check sale catalogues of notable art and antiquities, and - in some cases - hire professional researchers to get to the bottom of the artworks provenance.⁹⁹

According to University of Glasgow Senior Lecturer at the School of Culture & Creative Arts Christa Roodt and Associate Professor at the University of South Africa Department of Police Practice Bernadine Benson, law enforcement agencies do need the databases to be successful in conducting investigations.¹⁰⁰ Additionally, these agencies need a complete and comprehensive national inventory of museum holdings as well.¹⁰¹ As of the publication in 2015 and to this day, not every country has been able to do this. Roodt adds to this that databases of stolen art enhance the traceability of art and cultural objects globally.¹⁰² However, this does not mean that an item with a dubious past will be automatically blocked when it appears in a database.¹⁰³ There is some overlap between databases, and some are country-specific, but Interpol’s database, for instance, requires high-definition images of artworks that are oftentimes not available.¹⁰⁴ Many art collectors use the Art Loss Register, but even this database is not exhaustive. For instance, objects looted from an unknown location will not show up and traffickers use this fact to drive up the price of the item. Criminals, too, can obtain a certificate from the ALR stating that the item is not in the system.¹⁰⁵

⁹⁹ Alan Schwartz and Robert E. Scott, “Rethinking the Laws of Good Faith Purchase,” *Columbia Law Review* 111, no. 6 (October 2011): 1364.

¹⁰⁰ Roodt and Benson, “Progress,” 6.

¹⁰¹ Roodt, “Stolen Art Databases,” 215.

¹⁰² Roodt, “Stolen Art Databases,” 215.

¹⁰³ Roodt, “Stolen Art Databases,” 215.

¹⁰⁴ “Stolen works of art databases for law enforcement agencies at European level,” Netcher, November 17, 2020, <https://netcher.eu/project-news/stolen-works-of-art-databases-for-law-enforcement-agencies-at-european-level/>.

¹⁰⁵ Alexandra Tremayne-Pengelly, “Every Art Collector Needs This Database. But Is it Being Manipulated by Thieves?,” *Observer*, September 27, 2022, <https://observer.com/2022/09/every-art-collector-needs-this-database-but-is-it-being-manipulated-by-thieves/>.

1.3.2.1. An all-encompassing database

Many of the problems identified by O’Keefe and others are still there to this day. However, there is a consensus that databases are helpful. Recently, in 2016, Roodt suggested the creation of a global platform for the circulation of cultural objects. This would, according to her, improve traceability of stolen, trafficked, and forged art.¹⁰⁶ To achieve this, national inventories of cultural property are of the utmost importance. Without them, it is almost impossible to trace stolen items. Roodt adds to this that it is not legally required in every state to run checks in databases when buying or selling art.¹⁰⁷ Moreover, not every state is willing to set up or help maintain databases, causing stolen items to slip through. On top of that, due diligence legislation is not the same in all parts of the world. Some nations have no laws aimed at meeting international due diligence standards and practices.¹⁰⁸ In the United States, for instance, neither federal nor international law obligates the purchaser of art to consult a stolen art database. As a solution, Roodt calls on the private sector to set up a database or maintain it, even across borders.¹⁰⁹

Even though stolen art databases have become much more technologically advanced and standardised, the problems with the “vagaries of human effort” persist. For many years, there has been a call to create one coherent, all-encompassing database to make it easier and more efficient to do provenance research. So far, only the opposite has been achieved. As a result of the Washington Principles of 1998, Nazi confiscated art had to be easy to identify. Therefore, many national databases of stolen and looted art have been created, such as the database Looted Art WWII Belgium and the French Mission for the Research and Restitution of Cultural Property Spoliated between 1933 and 1945. Both databases were set up in 2022 and were the result of national laws relating to art confiscated by Nazi occupiers.¹¹⁰ Stolen art databases will be analysed further in chapter 3, but first it is important to zoom in to the Dutch art Market.

¹⁰⁶ Roodt, “Stolen Art Databases,” 218-219.

¹⁰⁷ Roodt, “Stolen Art Databases,” 218.

¹⁰⁸ Roodt, “Stolen Art Databases,” 217.

¹⁰⁹ Roodt, “Stolen Art Databases,” 218.

¹¹⁰ Looted Art, “Research Databases.”; Looted Art, “Laws, Policies and Guidelines.”

1.4. The Dutch Art Market from 1990 onwards

1.4.1. Literature Review

The Dutch art market has been the object of study as well for researchers studying due diligence, Dutch law, restitution and good faith. There is a clear trend in the current academic debate about the Dutch art market. The focus, from the 1990s onwards, is on researching and the restitution of art looted by the Nazis during the Second World War. This research is grounded in a moral duty and societal shame of the way Nazi-looted art had been dealt with before. About the impact of stolen art databases on the Dutch art market nothing has been specifically written. In academic research on the Dutch art market, there is also a focus on the insufficiency of the current system, especially Dutch law regarding restitution, due diligence and stolen art, and the way art dealers continue to operate.

In a 2017 article ‘Nazi-Looted Art: A Note in Favour of Clear Standards and Neutral Procedures’, Evelien Campfens, a lawyer specialised in international culture and heritage law, particularly illegal trade and looted art, focusses on the lack of standards in Dutch law surrounding restitution claims on stolen or looted art.¹¹¹ Campfens highlights the existence of well-established international consultation about Nazi-Looted Art and its restitution.¹¹² Moreover, in the interstate arena a protected status is attributed to cultural objects. Those objects must be returned to the state they were taken from. However, in practice this is not always the case, especially not in claims of cultural objects at the private (non-state) level. According to Campfens, the “just and fair” rule set up by the 1998 Washington Principles is evolving: the focus is no longer primarily on claims of Jewish Holocaust victims or their heirs, and claims are not limited to art confiscated by the Nazis anymore, as it was in 1998.¹¹³ The “just and fair” rule is more often proposed on all looted or stolen art claims.

In the case of cultural objects looted by the Nazis, moral aspects played and still play a major role. However, these moral considerations currently cannot be applied to any other claims because they were specifically set up around the treatment of Jews during and after the Second World War.¹¹⁴ Therefore, Campfens argues for a clear, consistent, and transparent standard when dealing with all claims on cultural objects, to ensure that all cases are treated equally, and the outcomes are just and fair.¹¹⁵ Campfens calls for the creation of a

¹¹¹ Evelien Campfens, “Nazi-Looted Art: A Note in Favour of Clear Standards and Neutral Procedures,” *Art Antiquity and Law* 22, no. 4 (December 2017): 315-346.

¹¹² Campfens, “A Note in Favour,” 316.

¹¹³ Campfens, “A Note in Favour,” 316.

¹¹⁴ Campfens, “A Note in Favour,” 316.

¹¹⁵ Campfens, “A Note in Favour,” 343.

organisation or a permanent body, one that aims for a solution to all claims, not just Nazi-looting related claims, that is neutral and transparent to deal with all claims on cultural property. Campfens leaves open whether referral of cases to this body should be voluntary or semi-obligatory.¹¹⁶ Auction houses and art fairs could, for instance, be required to refer disputes and referral could be in the code of conduct of museums and art dealer associations.¹¹⁷

In their 2020 publication, Advisor of the Dutch police Art & Antiquities Crime Unit Roos Hoek and legal philosopher and business ethicist at New York University Bart Jansen focus on Dutch law and art dealers in their article ‘Laws Please! A Legal Chronicle of the Lack of Due Diligence in the Dutch Art Market’.¹¹⁸ They provide an overview of the current legal norms surrounding the Dutch art Market and observe state that some norms are in place, mainly in Dutch criminal law. According to Hoek and Jansen the current norms and regulations need to be improved upon. Art traders should have minimum, objective standards of due diligence research to avoid shady dealings and help remove the excuses of ignorance that allow these dealings.¹¹⁹

The researchers also point out that under Dutch law a “person handling stolen, embezzled or other (cultural) property obtained through criminal activity” is often not responsible for the offence but may be criminally liable for their handling of the stolen goods. This is even the case when there is no knowledge of the work having been stolen. This is called *schuldheling* (Art. 417bis of the Dutch Criminal Code) and can be translated to ‘handling with fault’. When there is reasonable suspicion that a person handling the stolen artwork could have known about its criminal past, they can be found guilty.¹²⁰

Hoek and Jansen also point out self-regulation by (inter)national associations like the prestigious *Koninklijke Vereeniging van Handelaren in Oude Kunst* (KVHOK, the Royal Association of Ancient Art Dealers), the International Confederation of Art Dealers (CINOA) and the International Association of Dealers in Ancient Art (IADAA) to be insufficient.¹²¹ Self-regulation does not have the same force as legislative regulation.¹²² Clear minimum requirements for due diligence research would also remove possible legal insecurity and

¹¹⁶ Campfens, “A Note in Favour,” 344.

¹¹⁷ Campfens, “A Note in Favour,” 344.

¹¹⁸ Roos Hoek and Bart Jansen, “Laws Please! A Legal Chronicle of the Lack of Due Diligence in the Dutch Art Market,” *Journal of art Crime* 23 (Spring 2020): 3-16.

¹¹⁹ Hoek and Jansen, “Laws Please!,” 3.

¹²⁰ Hoek and Jansen, “Laws Please!,” 13.

¹²¹ Hoek and Jansen, “Laws Please!,” 15.

¹²² Hoek and Jansen, “Laws Please!,” 15.

subjective interpretations by the judiciary.¹²³ According to Hoek and Jansen, provenance research should play an integral role in determining these requirements, because this is how stolen cultural goods can be identified.¹²⁴ Towards the end of their article, the authors mention that the EU has been proposing an improvement in the legal position of the original owner and the importance of provenance in due diligence. According to Hoek and Jansen it is expected that the EU will place increasing pressure on its member states to implement legal measures to support the original owner in the future.¹²⁵

The status of the debate is that there has been some legal change, but not quite enough to speak of a sufficient due diligence standard. The “just and fair” rule is not extended to the entire art market, laws need to be improved upon and self-regulation poses disadvantages. Chapter 2 digs deeper into the Dutch art market and the changes it underwent during and after the Second World War. By looking at the role art played to the Nazis, the effects of Nazi-occupation on the Netherlands and its art market as well as the perspective of Dutch society on the war and Nazi-looted art from the 1940s until 1990. The first three paragraphs form the groundwork to explain the societal shift that happened during the 1990s regarding the memory of the Second World War and Nazi-looted art in specific as well as the changes in the Dutch art market that resulted from that shift. The last two paragraphs focus on element of the Dutch art market. Paragraph four in museums and paragraph five on art dealers, art fairs, galleries, and collectors.

1.5. Sources and Methods

To answer the question of how societal and technological developments influenced the Dutch art market from the 1990s onwards, this thesis makes use of both primary and secondary sources. Scholarly literature on due diligence, stolen art databases and the art market in general form the groundwork for this research. The literature review above has painted a picture about the current standing of the academic debate, as well as the impact it has had on the history of due diligence, stolen art databases and the (overlapping) research in both fields.

Keeping an eye on the existing literature, this thesis makes use of primary sources such as newspaper articles, Dutch law, committee reports and oral history to analyse the standard of due diligence in the Dutch art market. The focus of these primary sources is

¹²³ Hoek and Jansen, “Laws Please!,” 15.

¹²⁴ Hoek and Jansen, “Laws Please!,” 3.

¹²⁵ Hoek and Jansen, “Laws Please!,” 6-7.

societal and technological development from the 1990s onwards. Both newspaper articles and committee reports provide a better understanding of the societal developments around restitution of Nazi era looted art. Both are also used to identify and analyse the waves of increased research in the history of ownership, custody and location of artworks: provenance research. Political and media attention surrounding the topic of Nazi-looted art has led to the instatement of commissions to investigate the issues surrounding its identification and restitution.

Reports of these commissions then led to recommendations for - in this case - the Dutch art market and Dutch law. As a result of these recommendations, action on behalf of the art market was required to show that they are taking the recommendations seriously. Dutch law is used to gauge how the legal sphere has developed and is still developing because of developments surrounding Nazi-looted art and stolen art databases. Dutch law is also used to identify and establish a clearer timeline surrounding due diligence in the Dutch art market. Court cases are based on these laws and can be used to further deepen the analysis into the development of the due diligence standard and the public opinion about looted Nazi era art. Court cases provide insight in the consequences of not properly doing provenance research or conducting due diligence research. High profile cases also cause much embarrassment to the defendant, like museums, individual collectors or dealers.

Oral history is used to examine the impact of both societal and technological developments as well as the reason of this impact. Is the standard of due diligence impacted by the societal development around restitution of Nazi era looted art because of legal obligations or because of moral or ethical reasons? By speaking to representatives of the Rijksmuseum and the *Rijksdienst voor het Cultureel Erfgoed* (Cultural Heritage Agency, RCE) in The Hague it is possible to uncover differences in opinion, although subjective, or a way of working. The interviews are conducted with representative of both the Rijksmuseum and RCE. The interviewee from the Rijksmuseum is a full-time provenance researcher on a permanent contract while the interviewees from the RCE are researchers and advisors on the topic of Cultural Goods and the Second World War. They have the knowledge about the 1990s and are directly involved in provenance research, research on Nazi-looted art and research art linked to the Second World War. Interviewees are asked how they feel the societal developments surrounding Nazi-looted art and technological developments such as databases and cross-border communication have affected the Dutch art market. These resources provide the analysis of invaluable information on how the Dutch art market was influenced by societal developments and technological developments.

1.6. Innovative Aspects

Analysis of these sources and a more in-depth understanding of the Dutch due diligence standard will contribute to the debate of how the Dutch art market is going to tackle the quickly arising issues surrounding looted colonial art and offer a different perspective on the Dutch art market in general. From the Second World War onwards the topic of Nazi-era looted art has played a role in Dutch society but has developed increasingly over the last decades. This development has had major consequences on the Dutch art market. It has created several waves of research, most notably by museums that have led to an increased focus on due diligence.

The main analysis concerns the extent to which the standard of due diligence can be and is influenced by both societal and technological developments from the 1990s onwards offering a novel way of looking at the subject of due diligence. The analysis links the current Dutch standard of due diligence to the past by looking at the influence of societal pressures surrounding Nazi-looted art and technological developments surrounding stolen art databases. The thesis is also linked to the future by offering a historical perspective on due diligence in the Dutch art market that can be used to analyse the problems surrounding looted colonial art.

The research also offers a deeper understanding of the effect of stolen art on society, how technological developments have been used in the art market and offers insight in the Dutch norm of due diligence. This thesis further develops the research on art markets by looking at the past and present impact of societal and technological developments on the Dutch art market, which is often considered to be closed-off. Although there is a substantial number of studies on due diligence and on stolen art databases, this thesis offers a new perspective on both topics. As the historiography has shown, this thesis is embedded in the current academic debates and research on the Dutch art market, due diligence, stolen art databases, and restitution.

2. Dutch society, its art market and the influence of Nazi-looted art

2.1. During and directly after the Second World War.

Before and during the Second World War, Hitler redefined the role of art in Germany and all occupied states including the Netherlands. The National Socialist regime promoted art that was considered beautiful, decent, and fitting to the standards of the National Socialist party and National Socialist ideology. Art that did not meet these predetermined standards was deemed “degenerate”: Entartete Kunst.¹²⁶ The fate of artworks in the Second World War was based on how well it matched with the standards of National Socialist ideology. As a result of German policies, art considered degenerate was removed from museums, galleries, and private collections and subsequently either destroyed or sold abroad.¹²⁷ Like all Jewish possessions, art was systematically expropriated and looted in accordance with the goals of the National Socialist regime. Homes and galleries were looted before and during the war. This looting of Jewish possessions is the reason for almost all restitution claims today.

In the Netherlands, the most well-known example of this is the sale of the Goudstikker Gallery in Amsterdam. Edouard Goudstikker, a prominent Jewish art dealer, fled the Netherlands in 1940, but would die on route to England. Subsequently his gallery was sold by Goudstikker employees to Alois Miedl, an agent of Reichsmarschall Hermann Göring, commander of the Luftwaffe, and Hitler’s chosen successor as leader of the Third Reich.¹²⁸ Just like Hitler and many high ranking officials in the National Socialist hierarchy, such as Holocaust architect Heinrich Himmler, Göring was an avid collector of art.¹²⁹ Miedl ran the Goudstikker gallery all throughout the war, exporting works to Germany and selling works, mostly to German buyers visiting Amsterdam.¹³⁰ After the war, over 300 of Goudstikker’s paintings were repatriated to the Netherlands.¹³¹ They became part of the Netherlands Art Property Collection (NK collection), which currently holds all works of art looted, purchased under duress or otherwise begotten by the German occupiers in the

¹²⁶ Mary-Margaret Goggin, “‘Decent’ vs. ‘Degenerate’ Art: The National Socialist Case,” *Art Journal* 50, no. 4 (1991): 85, <https://doi.org/10.2307/777328>.

¹²⁷ Nicholas, *The Rape of Europa*.

¹²⁸ “Galerie Goudstikker: Biography,” National Gallery of Art, accessed September 26, 2023, <https://www.nga.gov/collection/provenance-info.24103.html#biography>.

¹²⁹ Jonathan Petropoulos, “Not a Case of ‘Art for Art’s Sake’: The Collecting Practices of the Nazi Elite,” *German Politics & Society*, no. 32 (1994): 107–24.

¹³⁰ National Gallery of Art, “Biography.”

¹³¹ National Gallery of Art, “Biography.”

Netherlands not yet restituted or sold at auction in the years directly following the war.¹³² The aim of the repatriation was restitution.

How the Netherlands have dealt with this collection and Nazi-looted art has largely been based on the generational memory of the Second World War, which was also mentioned in the interview conducted with a Rijksmuseum provenance researcher in Amsterdam.¹³³ Up until the early 1960s, Dutch society wanted to move on: the memory of the war was too fresh, and many events were not talked about at all.¹³⁴ On top of that, only a marginal attention was paid to the specificity of the treatment of Jews during the war.¹³⁵ The focus lay on the Dutch resistance and collective heroism and martyrdom of the Dutch people, with the “hunger winter” of 1944-1945 only strengthening this frame of mind.¹³⁶ Even though the Netherlands Art Property Foundation (SNK) was set up right after the war to retribute the works of art to their rightful owners, many artworks were not restituted due to difficult legal procedures, stringent requirements as to proof of ownership, and the lengthy processes involved.¹³⁷ In the report of the Museum Acquisitions project, analysed later on in this chapter, it was later stated that the measures taken by the SNK and the Dutch government after the war were not sufficient to undo the material damages done during the war.¹³⁸

One of these complicated arrangements was made with Goudstikker’s widow Desirée Goudstikker - Von Halban, which resulted in the Dutch government keeping most of the Goudstikker pictures.¹³⁹ In 1950 the SNK was disbanded, and the Ministry of Finance took over its activities. Between 1949 and 1953 auctions were organised for some of the works that could not be returned, while the remainder became part of the art collection of the Dutch state (*NK Collectie/Collectie Nederland*)¹⁴⁰ An auction was consistent with the consensus in

¹³² “Cultuurgooederen Tweede Wereldoorlog,” Rijksdienst voor Cultureel Erfgoed, accessed September 26, 2023, <https://wo2.collectienederland.nl/search>.

¹³³ Rijksmuseum Provenance Researcher, in discussion with the author, Amsterdam, the Netherlands, May 4, 2023.

¹³⁴ Elias van der Plicht, “Institutionele wandaden en de zoektocht naar rechtsherstel,” accessed September 26, 2023, <https://www.tweedewereldoorlog.nl/onderzoekuitgelicht/omgaan-met-historisch-onrecht/institutionele-wandaden-en-de-zoektocht-naar-rechtsherstel/>.

¹³⁵ Pieter Lagrou, “Victims of Genocide and National Memory: Belgium, France and the Netherlands 1945-1965,” *Past & Present*, no. 154 (1997): 184, <http://www.jstor.org/stable/651120>.

¹³⁶ Lagrou, “National Memory,” 208.

¹³⁷ “Inventaris van het archief van de Stichting Nederlands Kunstbezit (SNK) en haar taakvoorganger/taakopvolgers (2.08.42), (1930) 1945-1951 (1983), Nationaal Archief, accessed April 11, 2023, <https://www.nationaalarchief.nl/onderzoeken/archief/2.08.42>.

¹³⁸ Eelke Muller, “aanleiding voor het onderzoek,” *Museale Verwervingen vanaf 1933*, December 1999, <https://www.musealeverwervingen.nl/1538/rapport-museale-verwervingen-1940-1948/aanleiding-voor-het-onderzoek/>.

¹³⁹ Nation Gallery of Art, “Biography.”

¹⁴⁰ Marjolein de Cocq, “Individu op tweede plan bij terughalen roofkunst nazi’s,” *Provinciale Zeeuwse Courant*, November 28, 2002.

Dutch society at that moment.¹⁴¹ Enough had been done according to the Dutch government and society. As stated earlier, Dutch society focused on the future and wanted to move on. Auctioning off works of art was a means of replenishing the State treasury and furthering the reconstruction of a war-torn nation. This view would only become problematic in the 1990s.

2.2. The 1960s: a changing perspective.

The consensus model of the post-war years was challenged in the 1960s. A discussion emerged about the long-term effects of the war on Dutch Society, which, according to Belgian Professor of History Pieter Lagrou led to a crisis in Dutch politics and memory.¹⁴² Resistance veterans and camp survivors banded together in associations to claim recognition and compensation. In 1972 this claim was officially legalised in the Victims of Persecution Benefits Act (Wet uitkeringen vervolgingslachtoffers 1940-1945).¹⁴³ The trauma was first recognised, and a means of compensation established. This discussion would reach new heights in the 1990s.

2.3. The 1990s: memory change.

The 1990s saw a clear shift. Dealing with Nazi-looted art on a strictly legal paradigm was no longer seen as sufficient.¹⁴⁴ Up until then, cases of Nazi-looted art and its restitution had been strictly based on statutes of limitation, burden of proof and other legal requirements. As a result of the discussions that evolved from the 1960s onwards, this old paradigm became increasingly morally unacceptable.¹⁴⁵ The fact that governments, media, and public opinion seemed to be untouched by the atrocities committed on the Jewish people just after the war, was increasingly seen as ongoing antisemitism.¹⁴⁶ According to Lagrou, this denial of justice had to be remedied retrospectively. After the war the Dutch government should have done more to make known the possibility of restitution, looked deeper into owner(s) or heir(s),

¹⁴¹ Eelke Muller and Helen Schretlen, *Betwist Bezit: De Stichting Nederlands Kunstbezit en de teruggave van roofkunst na 1945* (Zwolle: Waanders, 2002).

¹⁴² Lagrou, "National Memory," 208.

¹⁴³ "Wet uitkeringen vervolgingslachtoffers 1940-1945," Wettenbank, accessed September 27, 2023, <https://wetten.overheid.nl/BWBR0002844/2023-07-01>.

¹⁴⁴ Tabitha I. Oost, "Restitution Policies on Nazi-Looted Art in the Netherlands and the United Kingdom: A Change from a Legal to a Moral Paradigm?" *International Journal of Cultural Property*, no. 25 (2018): 141, doi:10.1017/S0940739118000103.

¹⁴⁵ Oost, "Restitution Policies," 141.

¹⁴⁶ Lagrou, "National Memory," 184.

lighten the burden of proof required for restitution and simplify the procedure itself.¹⁴⁷ The traditional legalist paradigm with its statutes of limitation became insufficient.

In 1994, while the paradigm was shifting to one of morality, Lynn H. Nicholas published *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War*. Nicholas, born in the United States and educated in the US, Spain, and the UK has since received the *Légion d'Honneur* in France, *Amicus Poloniae* in Poland, and the National Book Critics Circle Award. *The Rape of Europa* created a shockwave in the artworld and academia, and ultimately the world in general, of which the recommendations Nicholas received are a hallmark. It formed a clear link between Nazi-looted art, the feelings about it in society, and the art world. The shockwave can thus be partly attributed to the shift towards a paradigm of morality but to Nicholas' use of a vast volume of archival material as well.¹⁴⁸ In her book, Nicholas explains the fate of artwork during the Second World War with a background on the origins and essence of Nazism. Nicholas explains that the new worldview and social order that Adolf Hitler envisioned relied heavily on the sphere of art and culture.

In the 1990s, the time was ripe for a coherent policy to come to terms with the effects of Nazi-looting. Next to Nicholas' bestseller, Wesley A. Fisher and the 1995 Swiss banking scandal around Jewish assets only add to the influx of publications, research and court cases. The Swiss banking scandal led to a worldwide renewal of research into Jewish assets and looted property.¹⁴⁹ As Director of Research at the World Jewish Restitution Organisation (WJRO), the Executive Board of the Jewish Digital Cultural Recovery Project Foundation and the Conference on Jewish Claims against Germany (Claims Conference), Fisher has specialised in cultural property and looted art. The organisations of which he is a part fight for provenance research about and restitution of Jewish-owned art and cultural property lost and plundered during the Second World War. His ideas about the enlargement of provenance information, instituting a claim process in all countries, and his aim to create a general structure of laws and regulations regarding Nazi-looted art, have resulted in the 1998 Washington principles and the 2009 Terezín Declaration.¹⁵⁰

¹⁴⁷ Jeroen Euwe, *De Nederlandse Kunstmarkt 1940-1945* (Amsterdam: Boom, 2007).

¹⁴⁸ Lynn H. Nicholas, *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and World War II* (New York: Knopf, 1994).

¹⁴⁹ "Cultuurgoederen WOII (1933-1945) – geschiedenis Nederlands restitutiebeleid," Rijksdienst voor het Cultureel Erfgoed, accessed September 29, 2023, [https://kennis.cultureelerfgoed.nl/index.php/Cultuurgoederen_WOII_\(1933-1945\)_-geschiedenis_Nederlands_restitutiebeleid](https://kennis.cultureelerfgoed.nl/index.php/Cultuurgoederen_WOII_(1933-1945)_-geschiedenis_Nederlands_restitutiebeleid).

¹⁵⁰ "Terezín Declaration," World Jewish Restitution Organization (WJRO), accessed September 29, 2023, https://wjro.org.il/wp-content/uploads/2019/06/terezin_declaration.pdf.

The eleven principles that resulted from the Washington Conference on Holocaust-Era Assets of 1998 called for identification of stolen and not yet restituted art, open and accessible archives, careful attention to gaps in provenance and seeking contact with next of kin of victims.¹⁵¹ The ethical aspect of these Washington Principles, although they were non-binding, very much matched the moral dilemma that prevailed in Dutch society at the time. It showed that the traditional legalist paradigm with its statutes of limitation, did no longer serve its purpose.¹⁵² According to the Washington Principles such an attitude barred a “just and fair solution.”¹⁵³ This resulted in several initiatives in the Netherlands. In 1998, a year-long project called “museum acquisitions (1940-1948)” was set up, Bureau Origins Unknown (*Bureau Herkomst Gezocht*, BHG) and the Ekkart commission were established and in November 2001 the Dutch government founded the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (*Restitutiecommissie*, RC).¹⁵⁴

In conjunction with the attention to restitution, provenance research on works of art looted during the Second World War also received heightened attention both because of the Swiss banking scandal and the adoption of the Washington Principles. After a 1997 pilot study by art historian Rudi Ekkart, the BHG started doing provenance research on the works of art part of the NK collection in 1998.¹⁵⁵ The Ekkart commission was tasked with supporting the provenance research of artworks stolen or looted during the war and now part of the NK collection and advising the minister of Education, Culture and Science on policy solutions. The Restitution Commission, the *Bureau Herkomst Gezocht* and the Ekkart commission started working in tandem.¹⁵⁶ The process can be illustrated with the case involving three paintings (NK 1415, NK 1675, and NK 2296). After doing provenance research on all three objects, the BHG initiated contact with the heirs of Hugo F. Kaufmann and communicated the high likelihood of the three works being involuntarily sold during the war.¹⁵⁷

¹⁵¹ United States Department of State, “Washington Principles.”

¹⁵² Oost, “Restitution Policies,” 143.

¹⁵³ United States Department of State, “Washington Principles.”

¹⁵⁴ Oost, “Restitution Policies,” 146.

¹⁵⁵ “Herkomstonderzoek cultuurgoederen 1933-1945,” Rijksdienst voor het Cultureel Erfgoed, accessed September 30, 2023, <https://www.cultureelerfgoed.nl/onderwerpen/cultuurgoederen-wo2-1933-1945/herkomstonderzoek>.

¹⁵⁶ Rijksdienst voor het Cultureel Erfgoed, “Herkomstonderzoek.”

¹⁵⁷ “Advies inzake het verzoek tot teruggave van drie schilderijen uit het bezit van Hugo F. Kaufmann,” Restitutiecommissie, accessed September 30, 2023, <https://www.restitutiecommissie.nl/advies/kaufmann/>.

The BHG traced the potential whereabouts of NK 1415, *Rivierlandschap met windmolens en schepen* (River landscape with windmills and ships) all the way back to 1918.¹⁵⁸ After being sold in 1918 in Mainz, Germany, the painting came to Amsterdam and moved from a collection in Amsterdam to an Amsterdam art dealer and eventually to the private collection of Kaufmann. In 1941, it was sold by an art dealer in The Hague to Dr. Hans Posse, the special representative appointed by Hitler to expand the collection of the future Führermuseum in Linz, Austria. In 1945 the painting was returned to the Dutch Government and adopted into the NK collection. As a result of the communication by the BHG, the heirs made a request for restitution, which was granted in 2008 by the RC and with the support of the Ekkart commission.¹⁵⁹ Of the NK collection, 470 objects have now been restituted.¹⁶⁰

2.4. Museums

2.4.1. Project 1: Museum Acquisitions (1940-1948)

Neither the NK collection nor the 13,671 works of art still missing encompass the scope of Nazi looting. Nazi-looted works of art can be everywhere. They might even have ended up in museum collections. To research this, a 1998 government-funded project called “Museum Acquisitions (1940-1948)” was started.¹⁶¹ The goal of the project was to check if acquisitions made by museums during and right after the war contained art that owners had been forced to surrender.¹⁶² This includes looting, coercion, or improper influence by the Nazi regime. To that end the Committee on Museum Acquisitions created a guideline on how to deal with objects of a dubious past, particularly referring to objects that changed hands between 1940 and 1948. This guideline had to be followed for both the existing collection held as well as for all future acquisitions. It was an extension of the ICOM-Code of Professional Ethics (1987).¹⁶³ The ICOM-Code states under article 3.1 that objects to be acquired must have

¹⁵⁸ “Rieverlandschap met windmolens en schepen (NK1415),” Rijksdienst voor het Cultureel Erfgoed: Cultuuroederen Tweede Wereldoorlog, accessed September 30, 2023, <https://wo2.collectienederland.nl/doc/nk/NK1415>.

¹⁵⁹ Restitutiecommissie, “Kaufmann.”

¹⁶⁰ “Doorzoek alle objecten,” Rijksdienst voor het Cultureel Erfgoed: Cultuuroederen Tweede Wereldoorlog,” accessed September 30, 2023, <https://wo2.collectienederland.nl>.

¹⁶¹ Eelke Muller, “Aanleiding voor het onderzoek.”

¹⁶² Museale Verwervingen vanaf 1933, “Waarom het onderzoek.”

¹⁶³ “Guideline on museum acquisitions,” Commissie Museale Verwervingen 1940-1948, December 1999, <https://www.musealeverwervingen.nl/1546/rapport-museale-verwervingen-1940-1948/guideline-on-museum-acquisitions-1940-1948/>.

evidence of a valid legal title and under article 3.2 that if valid legal title is not proven to a satisfactory degree, a museum should not acquire the artwork.¹⁶⁴

All objects acquired in the Netherlands held by the museums participating in the project had to be investigated with a focus on artworks acquired between 1940 and 1948.¹⁶⁵ These time limitations were set up to make the research easier to conduct. The results of this provenance research had to be documented for interested parties to access. If a work was of a dubious past, the museum had to do everything in their power to obtain as much relevant information as possible, both about the artwork and the possible owner, to establish good faith acquisition. For artworks that still had an unclear provenance, a report had to be made and sent to the Cultural Heritage Inspectorate. If the investigation concluded that an object had a dubious or unlawful past, the museum had to come to a reasonable and fair solution about ownership rights. The same principles had to be followed when acquiring new artworks after 1998. These guidelines included ambiguous terms, as we have seen in the introduction. When is it decided that “as much as possible” is achieved, what is a “reasonable and fair solution” and when is good faith established?

The answer to the question of what constitutes a reasonable and fair solution is partly answered by societal developments happening in the 1990s, which are also set forth in the guideline on Museum Acquisitions (1940-1948). It is clearly stated that if a claim is made it is possible that, in strict legal terms, the claim has lapsed and has no possibility of success. However, to meet the agreed upon standards of decency and moral integrity, this strict legal boundary can be deviated from. The goal was to restore rights previously violated and not yet restored in the past by the SNK. The answer to “as much as possible” is twofold. In the report of the project, it was stated that some museums published extensive reports with detailed descriptions of artworks while others just submitted short statements or just a list of museum acquisitions during that period.¹⁶⁶ Some museums did not have the financial means to research their collections.¹⁶⁷ Museums that acquired many artworks during that period often

¹⁶⁴ Rapport Museale Verwervingen, “Guideline.”

¹⁶⁵ Eelke Muller, “begrenzing van het onderzoek,” Museale Verwervingen vanaf 1933, December 1999, <https://www.musealeverwervingen.nl/1552/rapport-museale-verwervingen-1940-1948/begrenzing-van-het-onderzoek/>.

¹⁶⁶ Eelke Muller, “participatie van de musea,” Museale Verwervingen vanaf 1933, December 1999, <https://www.musealeverwervingen.nl/1560/rapport-museale-verwervingen-1940-1948/participatie-van-de-musea/>.

¹⁶⁷ Eelke Muller, “uitvoering van het onderzoek,” Museale Verwervingen vanaf 1933, December 1999, <https://www.musealeverwervingen.nl/1562/rapport-museale-verwervingen-1940-1948/uitvoering-van-het-onderzoek/>.

resorted to first perform preliminary research and only do further research when a possible problematic past of an artwork surfaced.¹⁶⁸

On the other hand, there was the lack of archival material and information.¹⁶⁹ Many of the participating museums did not carefully archive information, some archives were lost during the war, and some were simply thrown out. Museums also had trouble finding the relevant information and just a handful of museums found out that archival materials pertaining to the war had been deliberately discarded. Moreover, many artworks belonging to Jewish collections were added to the museum's inventory with faked provenance to make sure it was not looted by the occupiers, with the original documents hidden, destroyed, or altered.¹⁷⁰ This further complicated restitution. The conclusion of the project stated that in some cases, after careful research and consideration, museums decided to start a search for the heirs of people that in the war owned these works of art. In many more cases no dubious past was uncovered, or the provenance could not be recovered due to lack of archival materials.¹⁷¹ Museums were also encouraged to continue working on the project after its conclusion and use the guidelines to research all works that would be acquired in the future.

It is valuable to look deeper into some of the museums participating in the museum acquisition project. The Van Abbemuseum in Eindhoven, located close to my birthplace of Valkenswaard in the south of the Netherlands, participated in the project and concluded that no further provenance research was needed as there were no leads that any works in the Museum collection had a dubious past.¹⁷² However, previous director of the Van Abbemuseum, Edy de Wilde, purchased the work "*Lezende vrouw*" (a woman reading) by the hand of Dutch painter Jan Sluijters (1881-1957) for 600 Dutch guilders in 1951.¹⁷³ Somewhere after its creation in 1911 the painting became part of the collection of the Jewish couple Maurits van Son sr. and Caroline Fortuin. Maurits and Caroline had to leave their collection behind in Hilversum when they and their five children had to suddenly flee to Great Britain in 1940. In 1942, their collection was confiscated and brought to the German

¹⁶⁸ Muller, "Uitvoering."

¹⁶⁹ Eelke Muller, "Lacunes in het archiefmateriaal," *Museale Verwervingen vanaf 1933*, December 1999, <https://www.musealeverwervingen.nl/1564/rapport-museale-verwervingen-1940-1948/lacunes-in-het-archiefmateriaal/>.

¹⁷⁰ Muller, "Lacunes in het archiefmateriaal."

¹⁷¹ Eelke Muller, "Conclusie," *Museale Verwervingen vanaf 1933*, <https://www.musealeverwervingen.nl/1586/rapport-museale-verwervingen-1940-1948/conclusie/>.

¹⁷² Eelke Muller, "Rapportage van de musea," *Museale Verwervingen vanaf 1933*, December 1999, <https://www.musealeverwervingen.nl/1610/over-het-onderzoek/onderzoek-1940-1948/van-abbemuseum-stedelijk/?id=1602>.

¹⁷³ Redactie, "Mogelijk nieuwe roofkunst in Van Abbemuseum," *Joods Onafhankelijk Nieuws*, November 1, 2021, <https://jonet.nl/mogelijk-nieuwe-roofkunst-in-van-abbemuseum/>.

looting bank Lippman Rosenthal & Co branch Sarphatistraat, after which the artwork vanished. After liberation the Son family returned to their house, which they found empty.

The provenance of *Lezende vrouw* had a gap in its provenance right in the middle of the war, which should have sparked interest during the first museum acquisitions project, even though the work was not acquired between 1940 and 1948. This did not happen, however. *Lezende vrouw* was not the only work with a dubious past in the collection of the Van Abbemuseum at that time. Another work, *Blick auf Murnau mit Kirche* (view of Murnau with church) by the famous Russian painter Wassily Kandinsky (1866-1944) was also acquired by the museum in 1951, for 11,500 guilders.¹⁷⁴ It was bought by De Wilde from the art dealer Légit in The Hague. On an old inventory card, it was stated that the work used to be part of the collection of A. Kaufmann. Due to the Jewish name and the fact that all similar works of Wassily Kandinsky were considered degenerate art, the museum could have concluded that this work too could have a dubious past. As turned out later, the work belonged to the collection of Johanna Margareta Stern-Lippmann and her husband Siebert Samuel Stern, who passed away in Berlin in 1935. Margareta was a German émigré that settled in Amsterdam in 1938. She was deported by the Germans and murdered in Auschwitz in 1944. She was seventy years old.

The Rijksmuseum in Amsterdam hired an independent researcher to do the provenance research for the 1998 project. The museum's conclusion is in part reasonably extensive because of that. It meant there was more capital and more time to spend on provenance research. Between 1940 and 1948 around 3,559 items were added to the inventory of the Rijksmuseum. The Rijksmuseum also did a general stocktake and only researched further when there was reason to believe an object was acquired under dubious circumstances.¹⁷⁵ Research was conducted by examining annals, inventory books and the museum's own archive. This archive included bookkeeping. The Rijksmuseum uncovered six cases, five of which had already been settled right after the war. The sixth, a drawing by Dutch painter Theophile de Bock (1851-1904) was deemed to have a problematic past. The independent researcher also concluded that attention had to be paid in the future to acquisitions from 'suspect' firms, post-war acquisitions and possibly altered documentation to protect works from the German occupational force.¹⁷⁶ Other leading museums in the

¹⁷⁴ Arjen Ribbens, "Eindhoven geeft schilderij Kandinsky terug aan erven Joodse vrouw," *NRC*, September 15, 2022, <https://www.nrc.nl/nieuws/2022/09/15/eindhoven-geeft-schilderij-kandinsky-terug-aan-erven-joodse-vrouw-2-a4142025>.

¹⁷⁵ Muller, "Reportage van de musea."

¹⁷⁶ Muller, "Reportage van de musea."

Netherlands such as the Mauritshuis in The Hague discovered no dubious acquisitions or were established after 1948.¹⁷⁷

In 2000, two years after the Washington Principles were drawn up, they were again endorsed during the *International Forum on Holocaust-Era Looted Cultural Assets* in the Latvian capital of Vilnius. Seven years later, on June 30, 2009, forty-six states came together at a third *Holocaust Assets Era Conference* in Prague. This conference was held to look back at what had been done and to resubmit to the Washington Principles of more than a decade earlier as well as address the still ongoing issue of confiscated property and restitution. On the topic of Nazi-confiscated and looted art, three agreements were made.¹⁷⁸ The first was the reaffirmation of the Washington Principles. The second was the agreement to focus even more on provenance research, using public and private archives as well as the internet. Provenance research was to be done on all works of art acquired after 1933, the year Hitler came to power. The third was the reaffirmation to the just and fair solution, a solution not strictly based on the law, but a solution with a certain morality.¹⁷⁹

2.4.2. Project 2: Museum Acquisitions after 1933

In 2009, the same year as this Terezín Declaration the Dutch government-funded Museum Acquisitions project was re-instituted. With the non-binding but morally agreed upon fact of doing provenance research on all works of art acquired after 1933, the Museum Acquisitions (1940-1948) project was no longer seen as sufficient.¹⁸⁰ Look for instance at the works auctioned off by the SNK between 1949 and 1954 or the works of art that were found after the war and sold by auction houses.¹⁸¹ An all-encompassing study had to be done of all eligible artworks acquired after 1933. In all, 162 Dutch museums participated in this project, all of them researching their own collections. The almost four hundred museums not participating in the project, had no way to do provenance research on their objects because they did not have easily recognisable characteristics or all the pieces in the collection were created after 1945.¹⁸² The project ‘Museum Acquisitions after 1933’ was overseen by a

¹⁷⁷ Muller, “Reportage van de musea.”

¹⁷⁸ “Terezín Declaration,” Ministry of Foreign Affairs of the Czech Republic, June 30, 2009, 1-8, https://mzv.gov.cz/jnp/en/foreign_relations/terezin_declaration/index.html#:~:text=Terezín%20Declaration&text=The%20three%2Dday%20conference%20took,of%20the%20war%20in%20Ukraine.

¹⁷⁹ Museale Verwervingen vanaf 1933, “Waarom het onderzoek”

¹⁸⁰ Museale Verwervingen vanaf 1933, “Waarom het onderzoek”

¹⁸¹ Rudi Ekkart and Helen Schretlen, *Publicatie Museale Verwervingen vanaf 1933* (Amsterdam: Museumvereniging, 2014), 5.

¹⁸² Ekkart and Schretlen, *Publicatie*, 6.

commission led by Ekkart and included members with special knowledge of the subject or law.¹⁸³

Just as with the Museum Acquisitions 1940-1948 project, the task of research lay with the participating museums.¹⁸⁴ However, because of the time span many thousands of objects had to be researched. To be able to make this happen, a project bureau was set up to support museums. The project bureau had several tasks.¹⁸⁵ The first was to support museum staff in doing provenance research. The second task was to judge the quality of the research done and of the reports handed in by museums. The third task was to do specialized provenance research in archives outside the museums. Many of the participating museums did not have the in-house knowledge required for this kind of provenance research. Different museums used different tactics to research their collections. Some museums had an extensive digital inventory with provenance, while others did not have any provenance information at all. Some museums even had to revert to speaking with (former) colleagues to find out the history of a specific work of art.¹⁸⁶ All museums followed predisposed selection criteria and ICOMs Ethical Code for Museums which includes the *Due Diligence* principle (par. 2.3). This principle meant that the entire history, from the object's creation or discovery up until the present day, had to be established.¹⁸⁷

The criteria were based on time periods, object type and types of sources to be used when doing research. Four time periods were selected.¹⁸⁸ The first period was from 1933 to 1940. The acquisitions during this period could have been looted, confiscated, or forcibly sold in Nazi-Germany or Nazi-occupied Austria before the war. The second period was from 1940 to 1948, but research was only necessary for works not yet researched in the previous project or when new information came to light. The third period was from 1948 to 1954. In this period many works without a clear provenance circulated the art market and auctions took place for works that the previous owners could not be found of. After 1954 auctions like these hardly ever occurred.¹⁸⁹ The last period is from 1954 to the present. Museums were asked to research works of which a clear wartime provenance could be established. These were all objects with recognizable characteristics and all Jewish ritual objects acquired after 1933 and made before 1945. Museums were also asked to focus on objects bought from

¹⁸³ Ekkart and Schretlen, *Publicatie*, 48.

¹⁸⁴ Ekkart and Schretlen, *Publicatie*, 10.

¹⁸⁵ Ekkart and Schretlen, *Publicatie*, 5-6.

¹⁸⁶ Ekkart and Schretlen, *Publicatie*, 6.

¹⁸⁷ Ekkart and Schretlen, *Publicatie*, 22.

¹⁸⁸ Ekkart and Schretlen, *Publicatie*, 24.

¹⁸⁹ De Cocq, "Individu op tweede plan."

Germany after 1933, Austria after 1938 or from 1948-1954 from SNK auctions.¹⁹⁰ All works lent to museums, except those from the previously researched NK-collection also had to be researched.¹⁹¹ The sources needed to be researched were annals, the registry of acquisitions, (digital) inventory cards and relevant archival correspondence.

To find more parts of the provenance, paintings were often researched using sources outside the museum such as the Dutch Institute for Art History (RKD).¹⁹² When an artwork did not have a clear wartime provenance it was oftentimes impossible to know if an artwork was confiscated by, looted by, or forcibly sold to the Nazi regime. Incomplete provenance is very common in the art market. Art dealers and auction houses did often not disclose information about where they had acquired the artwork.¹⁹³ This often meant that the name of the art dealer or auction house was the only piece of information a museum had about the provenance of an artwork. If that firm or person had a controversial reputation during the war, there was reason to assume a possible suspect past.¹⁹⁴

To ensure the research was done as well as possible the *Museumvereniging* (Association of Museums) organized symposia, museum tours, and other activities.¹⁹⁵ The symposia were held to exchange experiences about the difficult topic of provenance research and had one main goal: to get museum directors and provenance researchers in contact with each other.¹⁹⁶ A total of three *Herkomst Helder* (Provenance Clear) symposia were held. They consisted of lectures by experts like Rudi Ekkart on the topics of provenance research, restitution, and media attention surrounding Nazi-looted art as well as workshops on how to do provenance research. The three symposia were attended by respectively 80, 72, and 70 participants.¹⁹⁷ In 2011 the project commission organised tours at the RKD and the Jewish Historical Museum for provenance researchers and during the Museum congresses of 2012 and 2013 workshops were held on the topics of research and restitution.

Apart from that the members of the project team attended international conferences and congresses.¹⁹⁸ Art historian, provenance researcher and committee member of *Museale Verwervingen vanaf 1933*, Helen Schretlen, attended the *Holocaust Era Assets Conference* (2009) in Prague and was member of the *Looted Art* workgroup. The Prague conference

¹⁹⁰ Ekkart and Schretlen, *Publicatie*, 24.

¹⁹¹ Ekkart and Schretlen, *Publicatie*, 26.

¹⁹² Ekkart and Schretlen, *Publicatie*, 6.

¹⁹³ Ekkart and Schretlen, *Publicatie*, 7.

¹⁹⁴ Ekkart and Schretlen, *Publicatie*, 8.

¹⁹⁵ Ekkart and Schretlen, *Publicatie*, 36

¹⁹⁶ Ekkart and Schretlen, *Publicatie*, 36.

¹⁹⁷ Ekkart and Schretlen, *Publicatie*, 36.

¹⁹⁸ Ekkart and Schretlen, *Publicatie*, 36.

resulted in the Terezín declaration mentioned earlier. Schretlen also attended the conference *Museums and Restitution* (2010) in Manchester and the entire project team attended the *World War II Provenance Research Seminar* (2011) in Washington DC. After Schretlen visited the *Institut für Museumsforschung* in Berlin in 2010, the project team joined the AfP, the international provenance network in which researchers can ask questions and comment on other provenance researchers.¹⁹⁹ Members of the project team also participated in provenance research trainings.

The results of the museums' research were published on the website of the *Museumvereniging* on October 29, 2013.²⁰⁰ In all, 139 objects in 41 museums were marked as having a problematic provenance. In 61 of these cases the original owner could be traced, in the other 78 that was not yet possible. Of these 78 it is not known if they were looted, confiscated, or forcibly sold at all. Presenting these result, Ekkart emphasised the fact that research never stops. With new information, new truths can be uncovered. A work previously marked as non-dubious could suddenly become suspect and the other way around.²⁰¹ The official end date of the project was December 31st, 2018.²⁰² Even though the project finished in 2018, provenance research is part of '*verantwoord collectiebeheer*' (responsible collection management) (art. 2.3 of the Ethical Code for Museums).²⁰³ From 2022 the Dutch Heritage Agency (*Rijksdienst voor het Cultureel Erfgoed* (RCE)) forms the first point of contact for the Dutch art market about restitution policy, its procedures and provenance research. Provenance researchers can also ask for help and advice from the RCE.²⁰⁴

In the previously mentioned case of Kandinsky's *Blick auf Murnau mit Kirche* new information came to light.²⁰⁵ Already during the museum acquisitions project it was found to have a dubious past. After careful considerations by the Restitution Commission, the heirs' request for restitution was denied twice in 2018 based on a lack of evidence of the work not being sold before or after occupation.²⁰⁶ However, in 2022, the request was accepted after

¹⁹⁹ Ekkart and Schretlen, *Publicatie*, 36.

²⁰⁰ Ekkart and Schretlen, *Publicatie*, 10.

²⁰¹ Ekkart and Schretlen, *Publicatie*, 77.

²⁰² "Herkomstonderzoek," Kennisbank, Museumvereniging, <https://www.museumvereniging.nl/museale-verwervingen>.

²⁰³ "Ethische Code voor Musea," International Council of Museums Nederland, accessed June 20, 2024, [https://www.ethischecodevoormusea.nl/Ethische%20Code%20voor%20Musea_2006%20\(ECM%20huisstijl\)%20DEF.pdf](https://www.ethischecodevoormusea.nl/Ethische%20Code%20voor%20Musea_2006%20(ECM%20huisstijl)%20DEF.pdf)

²⁰⁴ Museumvereniging, "Herkomstonderzoek."

²⁰⁵ Ekkart and Schretlen, *Publicatie*, 45.

²⁰⁶ "Bindend advies inzake het geschil over teruggave van het schilderij *Blick auf Murnau mit Kirche*, door Wassily Kandinsky thans in bezit van de Gemeente Eindhoven," Restitutiecommissie, January 29, 2018, <https://www.restitutiecommissie.nl/advies/blick-auf-murnau-mit-kirche-door-wassily-kandinsky/>; "Bindend advies over schilderij 'Blick auf Murnau mit Kirche' van Wassily Kandinsky," Restitutiecommissie,

new evidence. The Restitution Commission deemed it implausible the artwork was ever part of A. Kaufmann's collection because the Kaufmann family had left the Netherlands before occupation while Légat acquired the work after the war. Instead, the heirs of Johanna Margareta Stern-Lippmann and her husband Siebert Samuel Stern were able to prove, through a 1966 postcard of the painting, that the work at one time was part of the collection of art dealer Myrtil Frank. Frank's wife wrote "This was our Kandinsky" on the postcard.²⁰⁷ It was already clear that Frank played a part in or attempted to buy and sell other works belonging to the Sterns. This, combined with the fact that the Sterns thought they still owned the work up until taxation in 1952, resulted in restitution.²⁰⁸

The dubious past of Jan Sluijters' *Lezende vrouw* was also uncovered during the project Museum Acquisitions after 1933, but the painting was not added to the report made by the Van Abbemuseum. Director of the Van Abbemuseum, Charles Esche, contacted the only living son of Maurits van Son sr. and Caroline Fortuin in 2018 about the dubious past of the work and told him to write a request for restitution.²⁰⁹ The Restitution Commission still must look at this case.²¹⁰ Museum Mauritshuis did not uncover any works with a dubious past, while the Rijksmuseum added nine more works to the list of works that was made during the first museum acquisitions project.²¹¹ In an interview with a provenance researcher of the Rijksmuseum we talked about how provenance had evolved over the years after the Washington Principles.

2.4.3. Provenance research and Museums

The provenance researcher mentioned that the evolution of provenance research largely had to do with the way society looked at the Holocaust, the Second World War and Nazi-looted art. Museums are public institutions and therefore morally bound to the public. Since the public perception of the Holocaust, the Second World War and the looting of art changed, the Rijksmuseum had to change too, according to the interviewee.²¹² The museum could no

March 15, 2018, <https://www.restitutiecommissie.nl/nieuws/bindend-advies-over-schilderij-blick-auf-murnau-mit-kerche-van-wassily-kandinsky-2/>.

²⁰⁷ "Bindend advies inzake Stern-Lippmann / Gemeente Eindhoven II", Restitutiecommissie, September 15, 2022, <https://www.restitutiecommissie.nl/advies/stern-lippmann-gem-eindhoven-ii/>.

²⁰⁸ Restitutiecommissie, "Stern-Lippman."

²⁰⁹ Stichting Landelijk Joods Netwerk, "'Van Abbemuseum schoffeert Joodse erven van mogelijke roofkunst'", *Jonet.nl*, January 25, 2022, <https://jonet.nl/van-abbemuseum-schoffeert-joodse-erven-van-mogelijke-roofkunst/>.

²¹⁰ Stichting Landelijk Joods Netwerk, "'Van Abbemuseum schoffeert'."

²¹¹ Ekkart and Schretlen, *Publicatie*, 43.

²¹² Rijksmuseum, Interview with Provenance Researcher.

longer deny it or would face public backlash for not doing enough to resolve wrongs done in the past. As a result the Rijksmuseum employed five full-time provenance researchers that supported the conservators who are tasked with doing provenance research and started working on looking through the entire collection, which in the case of the Rijksmuseum was an immense task due to the large amount - about 80,000 - works in its collection that needed to be researched.²¹³ The question did arise on how far to go and what doing due diligence entailed. What was enough?

To answer that question, the Rijksmuseum employs an internationally agreed upon method to catalogue every item in a similar way using easily accessible and uniform documents.²¹⁴ In these documents with standard questions it was easy to see and understand what was checked and what was not. For instance, a question would be which art dealer had been in the possession of the work. All the information known, including dates could be added to the document. If that art dealer would later turn out to have sold works of a dubious past, the museum could easily look through all the documents holding that art dealers' name and conclude if there were gaps in the provenance during the war. All the details known about the painting, collectors that owned it, internal sources (inventory, correspondence, and transaction information) were added to the document as well. This resulted in one cohesive document for every item in the possession of the museum which could easily be accessed, added to, and opened for research again.²¹⁵ All information found later, could be easily added to the document as well, painting a clearer and clearer picture of a works history. From 2012 to 2020, the Rijksmuseum researched 14,000 of the 80,000 objects, including all paintings.²¹⁶ By 2020 the museum had found 113 objects with a dubious past, including 18 paintings.²¹⁷

The museum took to heart that in the case of Nazi-looted art, only full certainty was ever enough, however long it may take. To this extent, the provenance researcher also mentioned the importance of networks and accessibility of information.²¹⁸ The next chapter will focus more on this accessibility of information because of technological developments from the 1990s onwards. (International) networks of provenance researchers, museums, and institutions, partly the result of developments in communication, gave access to more information, more insights and a broader (international) view on provenance research. One

²¹³ "Provenance Research Museum Acquisitions after 1933," The Rijksmuseum, <https://www.rijksmuseum.nl/en/research/our-research/overarching/provenance-research-acquisitions-after-1933>.

²¹⁴ Rijksmuseum, Interview with Provenance Researcher.

²¹⁵ Rijksmuseum, Interview with Provenance Researcher.

²¹⁶ The Rijksmuseum, "Provenance Research Museum Acquisitions."

²¹⁷ The Rijksmuseum, "Provenance Research Museum Acquisitions."

²¹⁸ Rijksmuseum, Interview with Provenance Researcher.

of these networks is the Arbeitskreis. The Arbeitskreis' mission is to connect researchers, experts working in public and private institutions and art dealers with the goal to research the provenance of cultural assets. The focus is on objects related to Nazi persecution, objects seized in the Soviet occupation zone and more recently colonial collections.²¹⁹ The Arbeitskreis has more than 445 members from the Netherlands, Germany, Italy, Great Britain, Israel, Austria, Switzerland, France, and the United States.²²⁰

The Arbeitskreis also strives for more full-time positions for provenance researchers in public and private institutions.²²¹ Currently it is common practice to employ provenance researchers on short term contracts (and often part-time) with government or third-party funding.²²² This hinders the sustainability and quality of provenance research, long term documentation, communication, and results of research.²²³ To this, the Rijksmuseum is an outlier with five permanent researchers. The importance of that was also mentioned during the interview. For the Rijksmuseum it is important to keep knowledge about research and the collection within the institution. Full-time provenance researchers are more efficient and more knowledgeable, particularly of the museum's collection.²²⁴ Apart from that, having a permanent contract leads to continuity which then leads to a certain institutional memory. It also results in better international communication and research results.

Twenty-five years after the Washington Principles were declared, provenance research has become an integral part of both Dutch and international museum work, archives, libraries, and the art market in general. Spurred by the morality of making good on post-war wrongs, provenance research has dramatically increased knowledge about the history of collections and institutions, has helped to understand better the processes of authentication, attribution of value and deepened the definition of what cultural property is. Dutch projects on Nazi-looted, confiscated and forcibly sold art, like the museum acquisitions projects of 1998 and 2009 have boosted the way museums do their due diligence research when acquiring new works of art. Artworks with a dubious past, especially a Nazi-past, have increasingly become morally unacceptable which calls for better due diligence research to avoid societal backlash. (International) cooperation has created platforms making it both easier and more efficient to

²¹⁹ "Mission Statement," Arbeitskreis Provenienzforschung, accessed October 10, 2023, <https://www.arbeitskreis-provenienzforschung.org/en/mission-statement/>.

²²⁰ "Press Release: 5th International Provenance Research Day 2023," Arbeitskreis Provenienzforschung, April 5, 2023, <https://www.arbeitskreis-provenienzforschung.org/en/press-release-5th-international-provenance-research-day-2023-researching-origin-in-museums-libraries-and-archives/>.

²²¹ Arbeitskreis Provenienzforschung, "Mission Statement."

²²² Arbeitskreis Provenienzforschung, "Mission Statement."

²²³ Arbeitskreis Provenienzforschung, "Mission Statement."

²²⁴ Rijksmuseum, Interview with Provenance Researcher.

do provenance research on artworks to be acquired or sold. A large part of this increase in efficiency is the result of technological advancements made from the 1990s onwards, which will be talked about in chapter 3. First, it is important to look at the Dutch art market outside of museums.

2.5. Art dealers, art fairs, galleries, and collectors

Museums do not constitute the entire Dutch art market. Dealers, fairs, galleries, and collectors play a major role as well. The previous section discussed how museums are public institutions and therefore morally bound to the public. Acquiring, selling or displaying stolen or looted art can cause societal backlash. Art dealers, art fairs, galleries and collectors, on the other hand, operate at a further distance from the public. That, however, does not mean that there have been no changes in doing due diligence since the 1990s. Change is just coming at a slower pace. Bert Kreuk, a Dutch top collector, and author of ‘Art Flipper’, called out the art world in 2017 as a place where gallery owners and art advisors manipulate and cheat their customers to fill their pockets. A world where collectors submit to unwritten rules, ‘meaningless, empty phrases, and shady dealings.’²²⁵

At the same time, law enforcement is scrambling. The 2012 Dutch police report *Kunst- en Antiekgerelateerde Criminaliteit* (Art and Antiquities-related crime) by Eva Willems-Hirsh offers an insight into the Dutch art market, with specific focus on art dealers. It is a national threat assessment of art market crime.²²⁶ The goal of the report is to gain insight in the nature, scope, culprits, societal implications and future developments in art and antiquities-related crime. A second focus is on how to deal with this kind of crime.²²⁷ The first point Willems-Hirsh and Spijker make is that the market for stolen art is diverse.²²⁸ Artworks are sometimes altered in such a way that they cannot be easily recognised as stolen, and artworks can be used as trade goods in criminal transactions (e.g. drug transactions). The entire art market is vulnerable. Criminals have not much issue in gaining a foothold in the art and antiquities trade. The trade in art often happens through dealers, auction houses and

²²⁵ Mathijs Smit, “Topverzamelaar rekent af met onfrisse kunsthandel,” *RTL Nieuws*, October 15, 2017, <https://www.rtlnieuws.nl/economie/business/artikel/23181/topverzamelaar-rekent-af-met-onfrisse-kunsthandel>.

²²⁶ Eva Willems-Hirsch, “Kunst- en antiek-gerelateerde criminaliteit: verslag van een onderzoek voor het Nationaal dreigingsbeeld 2012,” *Nationale Politie*, April 2012, 4, <https://www.politie.nl/binaries/content/assets/politie/onderwerpen/nationaal-dreigingsbeeld/2012/ndb-kunst-en-antiek.pdf>.

²²⁷ Willems-Hirsch, “Nationaal dreigingsbeleid,” 4.

²²⁸ Willems-Hirsch, “Nationaal dreigingsbeleid,” 4.

middlemen, making the process long, complicated, and unclear.²²⁹ Of art dealers, it is mostly the middle to higher level art dealers and big auction houses like Christies and Sotheby's that diligently research the provenance of artworks to be acquired or sold.²³⁰

The main issue with the art market is the long chain of persons or cooperatives involved in a specific transaction.²³¹ It often happens that a work is sold through different art dealers, auction houses and middlemen, sometimes made unrecognizable as a stolen work or accompanied by a fake provenance.²³² For instance, five years after the theft, a stolen painting could be auctioned off at auction house A. This auction house does not keep records on the seller. The work could then be sold to an art dealer for amount X, that art dealer subsequently trades the artwork with another work with art dealer Y, subsequently the work is sold through a middleman to person Z, who then puts it up for auction at auction house B. This example highlights a logistical chain common in the art market. Combined with the lack of registration and the common practice of trading works between dealers, this makes the art market opaque.

Some art dealers are in the police registers as traders of stolen goods, but most seem to encounter stolen works by accident.²³³ The police report also mentions the importance of provenance. Chain of title and certificates of authenticity are also mentioned in the police report. The logistical chain is much easier to unravel when a clear provenance and chain of title are traded with the artwork. The inclusion of documents is very dependent on the dealers, however. Some include it, some include it with a cost attached and some do not include it at all.²³⁴ Article 437 of Dutch criminal law states that purchasing registers must be kept up by GRUTHOK-dealers. GRUTHOK-dealers are dealers that trade in objects that are often stolen, and include watchmakers, gold-and silver smiths and bike dealers. Nowadays, art dealers are also considered GRUTHOK-dealers.²³⁵

Police data shows that between 2006 and 2011 there have been hardly any checks of these purchasing registers.²³⁶ Researchers found that between 2006 and 2011 only nineteen of the art dealers in the Netherlands had their registers randomly checked by police. Of those nineteen art dealers only two had a complete register, while five had an incomplete register,

²²⁹ Willems-Hirsch, "Nationaal dreigingsbeleid," 5.

²³⁰ Willems-Hirsch, "Nationaal dreigingsbeleid," 20.

²³¹ Willems-Hirsch, "Nationaal dreigingsbeleid," 21.

²³² Willems-Hirsch, "Nationaal dreigingsbeleid," 21.

²³³ Willems-Hirsch, "Nationaal dreigingsbeleid," 22.

²³⁴ Willems-Hirsch, "Nationaal dreigingsbeleid," 22-23.

²³⁵ D. van de Mheen, "Inleiding," in *Helingspraktijken onder de loep: impressies van helingcircuits in Nederland*, ed. D. van de Mheen and P. Gruter (Den Haag: Boom Juridische Uitgevers, 2007), 16.

²³⁶ Willems-Hirsch, "Nationaal dreigingsbeleid," 23.

eleven no register at all and of one art dealer it was unclear if a register existed.²³⁷ The art dealers with no or incomplete trade registers did not receive any reprimands. From this research the Dutch police concluded that art dealers show poor compliance to the legal requirements of having a purchasing register and that the investigative authority, in this case mayors, did not impose appropriate measures and sanctions to change that.²³⁸

Criminals, criminal art dealers as well as legitimate art dealers are up to date on legislative changes and loopholes in the law while police and the justice department lack expertise on the art world.²³⁹ This lack of expertise shows in the manner of which stolen objects are described in the statement of theft. Terms as ‘painting/multicolored’ and ‘painting/rectangular’ and the lack of photographs made by the owners prevent a work from being registered. The lack of expertise goes hand in hand with the low level of supervision, investigation, and prosecution. Recently there have been multiple legal initiatives by the European Union (EU) to better regulate the entire European art market. These initiatives have the goal to create a transparent, responsible, and ethical European art market.²⁴⁰ It has been on the EU’s security agenda since 2015 to further prevent the illicit trafficking of cultural goods as well as to prevent financing of terrorism and organised crime through art transactions.²⁴¹

2.5.1. European Art Market Regulation

The European Parliament and European Council proposed a licensing system for the import of non-EU cultural goods (Regulation 2019/880) that went into force on June 27th, 2019.²⁴² Under this system, the legal responsibility of proving licit export rests with the person in possession of the artwork.²⁴³ Under regulation 2019/880, the authorities of EU member states decide whether a license should be given or not. Cultural goods with a value of more than €18,000 and more than 200 years old require an ‘importer statement’ that declares that the goods were exported in accordance with the laws and regulations of the exporting country and a standardised document with a description of the goods detailed enough for authorities to link the goods to the goods described on the form. The centralised electronic licensing

²³⁷ Willems-Hirsch, “Nationaal dreigingsbeleid,” 23-24.

²³⁸ Willems-Hirsch, “Nationaal dreigingsbeleid,” 23.

²³⁹ Willems-Hirsch, “Nationaal dreigingsbeleid,” 37.

²⁴⁰ Hoek and Jansen, “Laws Please!,” 6.

²⁴¹ Hoek and Jansen, “Laws Please!,” 6.

²⁴² “Art. 15 - Regulation 2019/880 - The introduction and the import of cultural goods,” EU Monitor, accessed October 20, 2023, https://www.eumonitor.eu/9353000/1/j4nvk6yhcbpeywk_j9vvik7m1c3gyxp/vkz686pvmzbw.

²⁴³ Hoek and Jansen, “Laws Please!,” 7.

system is not yet established and expected to be live in 2025.²⁴⁴ Article 3 has been functioning since December 28th, 2020, stating that goods exported in breach of the laws and regulations of the exporting country, cannot be imported to any EU member state.²⁴⁵

Another type of regulation is established through the EU's Anti-Money Laundering Directives (AML Directives). On May 30th, 2018, the EU introduced the Fifth EU Anti-Money Laundering Directive (5AMLD).²⁴⁶ Under this directive member states are obliged to take measures to 'identify, understand, and limit business relationships and transactions' that have a risk of, or are associated with money laundering and terrorism financing. The European art trade is considered at risk of money laundering and terrorism financing, which means 5AMLD is applied to it. It applies to art dealers, auction houses, galleries, and art storage facilities such as freeports in art transactions of €10,000 or more.²⁴⁷ Freeports are government assigned economic zones where custom rules, such as taxes, do not apply until goods leave that zone. AML regulations have been implemented into Dutch national law through the *Wet ter voorkoming van witwassen en financieren van terrorisme* (the Dutch anti-money laundering and counter-terrorism financing act; Wwft).²⁴⁸

The AML Directives have several obligations at their cores. The first is conducting customer due diligence ('*know your customer*'). The identity of the client and the 'ultimate beneficial owner' must be established to make sure they are not connected to the facilitation of money laundering or financing of terrorism. The second is to establish the purpose and the intended nature of the business relationship or transaction. High risk scenarios which require further due diligence research because of their unregulated aspects can be transactions through a non-EU middleman, an artwork stored at a freeport or and artwork purchased with bitcoin. On April 21st, 2020, the *Eerste Kamer* (Dutch Senate) implemented 5AMLD by amending and implementing the regulations into the Wwft.²⁴⁹

²⁴⁴ The law will come into effect on June 28th, 2025.

²⁴⁵ "Art. 16(2) (a-b) - Regulation 2019/880 - The introduction and the import of cultural goods," EU Monitor, accessed October 20, 2023, https://www.eumonitor.eu/9353000/1/j4nkv6yhcbpeywk_j9vvik7m1c3gyxp/vkz686pvmzbw.

²⁴⁶ EU Monitor, "Directive 2018/843."

²⁴⁷ Ron Korver, *Money laundering and tax evasion risks in free ports* (Brussels: European Parliamentary Research Service (EPRS), PE 627.114, October 2018, 5.; EU Monitor, "Art. 2(1)(c)(i)(j) – Directive 2018/843."

²⁴⁸ Hoek and Jansen, "Laws Please!," 8.

²⁴⁹ "Implementatiewet wijziging vierde anti-witwasrichtlijn," Eerste Kamer der Staten Generaal, accessed December 12, 2024, https://www.eerstekamer.nl/wetsvoorstel/35245_implementatiewet_wijziging.

On January 17th, 2019, the European Parliament also passed a resolution pertaining to the cross-border restitution claims of cultural goods looted in armed conflicts and wars.²⁵⁰ This resolution proposed to improve the legal framework surrounding cross-border restitution in the fields of civil procedure and private (international) law. After the passing of this resolution the European Commission asked for the harmonisation of provenance research and incorporate some of the 1995 UNIDROIT principles.²⁵¹ Principles like the clarification of due diligence in relation to good faith; the obligation by art market actors to maintain records of documentation and transaction registers; the identification of common principles to establish ownership and/or title and making both the art market and potential buyers (for example first-time collectors) aware of the importance of provenance research.²⁵² All these EU initiatives present a significant improvement in responsibilities regarding due diligence. Roos Hoek and Bart Jansen delved further into the legal boundaries surrounding due diligence the Dutch art market is bound to. They paid specific attention to provenance research.²⁵³

2.5.2. Dutch Laws pertaining to the Art Market

Under Dutch civil law, the person holding an asset is presumed to be its owner.²⁵⁴ This is unless the asset was acquired from someone that did not have to right of disposition. In the case of acquiring a stolen artwork, the person dispositioning said stolen artwork, is not legally allowed to sell the asset because the artwork does not belong to said person. In other words, that person does not hold legal title. However, a transfer of a stolen artwork is still valid, when the acquiring party acted in good faith.²⁵⁵ If the person requiring the work of art can rely on good faith depends on the fulfilment of the obligation to conduct sufficient research, to a reasonable degree, given de circumstances.²⁵⁶ Under Dutch law, good faith is presumed to be present, the absence of it must be proven.²⁵⁷ A stolen piece of art can be claimed back from the current possessor by the original owner within a period of three years, these three

²⁵⁰ “European Parliament Resolution of 17 January 2019 on cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars (2017/2023(INI)),” European Parliament, accessed December 17, 2023, https://www.europarl.europa.eu/doceo/document/TA-8-2019-0037_EN.html.

²⁵¹ European Parliament, “Resolution of 17 January 2019.”

²⁵² Hoek and Jansen, “Laws Please!,” 8.

²⁵³ Hoek and Jansen, “Laws Please!,” 8.

²⁵⁴ “Art. 3:119(1) Possession includes the legal presumption of an entitlement,” Dutch Civil Code, <http://www.dutchcivillaw.com/legislation/dcctitle33055.htm>.

²⁵⁵ “Art. 3:86(1) Lack of power of disposition,” Dutch Civil Code, <http://www.dutchcivillaw.com/legislation/dcctitle33044.htm>.

²⁵⁶ “Art. 3:11 “Good Faith”,” Dutch Civil Code, <http://www.dutchcivillaw.com/legislation/dcctitle3301.htm#011>.

²⁵⁷ “Art. 3:118(3) Possession in good faith, Dutch Civil Code, <http://www.dutchcivillaw.com/legislation/dcctitle33055.htm>.

years starting from the moment the artwork is stolen, whether the original owner knows of the theft or not.²⁵⁸

The original owner must prove the absence of good faith to bring about successful restitution within three years.²⁵⁹ Which is very different from the way Nazi-looted art is dealt with. On all looted or stolen artworks, except that of Nazi-looted artworks, legal perimeters still apply, and the “just and fair” rule is not sufficiently applied. The good faith buyer is protected from a restitution claim when the acquirer is a natural person acting as consumer; the seller’s business is the public trading of similar objects; the seller is acting in the normal course of his business and in an appropriate business premises (for instance selling the work from art trader’s gallery and not at an abandoned industrial complex).²⁶⁰ The buyer is not protected from a restitution claim within the three years when buying from a general marketplace or at auction.²⁶¹ After three years the person buying can become its legal owner, unless the artwork is marked as ‘protected cultural property’ by the Dutch state, another EU member, or a member state part of the 1970 UNESCO convention in which the three-year rule stated in Dutch law does not apply.²⁶² If good faith is upheld in these cases, the buyer can request compensation after restitution of the artwork.²⁶³

There is no minimum threshold of due diligence to rely on good faith when dealing with ‘regular’ (not legally protected) cultural goods.²⁶⁴ When dealing with legally protected cultural goods, good faith cannot be established by exclaiming trust alone.²⁶⁵ Attention must be given to certain due diligence requirements such as provenance; export information; information about the parties involved; information about the transaction value of the artwork; the consultation of reasonably accessible registers of cultural property (e.g. the Art Loss Register); any other information and all other steps a reasonable person should have

²⁵⁸ Hoek and Jansen, “Laws Please!,” 8.

²⁵⁹ Dutch Civil Code, “Art. 3:118(3).”

²⁶⁰ “Art. 3:86(3) Lack of power of disposition,” Dutch Civil Code, <http://www.dutchcivillaw.com/legislation/dcctitle33044.htm>.

²⁶¹ Dutch Civil Code, “Art. 3:86(3).”

²⁶² “EU Monitor, “Directive 2014/60.”; “Section 6.7. Claim for Return,” Heritage Act 2016, Rijksdienst voor het Cultureel Erfgoed (RCE), accessed January 29, 2024,

<https://english.cultureelerfgoed.nl/publications/publications/2016/01/01/heritage-act-2016>; Section 4.22.

Prohibition on removal from the Netherlands without consent,” Heritage Act 2016, Rijksdienst voor het Cultureel Erfgoed (RCE), accessed January 29, 2024,

<https://english.cultureelerfgoed.nl/publications/publications/2016/01/01/heritage-act-2016>; “Art. 3:86b

Protection of cultural heritage under the 1970 UNESCO-Convention,” Dutch Civil Code,

<http://www.dutchcivillaw.com/legislation/dcctitle33044.htm>.

²⁶³ Dutch Civil Code, “Art. 3:86b.”

²⁶⁴ Hoek and Jansen, “Laws Please!,” 9.

²⁶⁵ “UNESCO 1970 Convention”, Information and Heritage Inspectorate: Ministry of Education, Culture and Science, accessed January 14, 2024, <https://english.inspectie-oe.nl/cultural-goods/legal-basis/1970-unesco-convention>.

taken.²⁶⁶ In the Netherlands, professional parties, such as dealers and auction houses, have further due diligence requirements.²⁶⁷ These businesses must verify the identity of the seller; demand black-on-white proof of the seller that they have the right to disposition; maintain a register of the provenance, names of sellers, prices and descriptions and consult the stolen cultural property registers.²⁶⁸ Which, as stated above, does not always happen.

According to Hoek and Jansen, Dutch public law provides the main legal framework to combat illegal cultural property trade.²⁶⁹ The *Wet ter voorkoming van witwassen en financieren van terrorisme* and the 2016 *Erfgoedwet* (Heritage Act), encompassing the implementation of the 1970 UNESCO Convention Act in 2009, are all located under public law. Within public law, criminal law provides comes closest to setting legal requirements for due diligence and provenance research.²⁷⁰ The Dutch Criminal Code includes an offence known as *schuldheiling* ('handling with fault' as supposed to 'handling with intent').²⁷¹ This means that a person handling stolen goods is not responsible for the theft itself but might be held accountable for possessing or handling the stolen good even when the person has no knowledge of the good being stolen. Handling with intent means that the person knew the good was stolen. In case of a stolen artwork, guilt is determined by proving if the person handling the stolen work could have had 'reasonable suspicion' the work was stolen. It is assessed if the person buying has committed 'significant or gross negligence' or not when buying the artwork. A person must prove the absence of 'reasonable suspicion' to claim good faith.

Examples of what can be considered gross negligence are a non-market-based purchase price, a lack of valid information and the absence of any provenance research. Up to this day clear standards have not been established, however. There is no clear standard of due diligence against which a person buying a stolen work of art can be held criminally liable. This also means that a person does not have a standard set of rules to comply by to know they are criminally liable or not. There is also no clear standard of good faith in Dutch law. Quite a few of examples exist of Dutch art dealers being called to criminal court. A recent, and still ongoing, example is that of the well-established Dutch dealer in religious artefacts and

²⁶⁶ "Art. 3:87a Observance of the necessary diligence (prudence) at the acquisition of a cultural object," Dutch Civil Code, <http://www.dutchcivillaw.com/legislation/dctitle33044.htm>.

²⁶⁷ Hoek and Jansen, "Laws Please!," 9-10.

²⁶⁸ Dutch Civil Code, "Art. 3:87a."

²⁶⁹ Hoek and Jansen, "Laws Please!," 13.

²⁷⁰ Hoek and Jansen, "Laws Please!," 9.

²⁷¹ "Art. 417bis," Dutch Criminal Code, Wettenbank, accessed January 9, 2024, <https://wetten.overheid.nl/BWBR0001854/2024-01-01/0>.

member of the VHOK and the Art Loss Register, Fluminalis.²⁷² Fluminalis, located in Horsen in the province of Gelderland, offered up two altar pieces for sale on their website in November 2017. These pieces were subsequently discovered by the Italian Carabinieri T.P.C. and recognised as potentially stolen from the Abbey of Santa Maria in Silvis, in the Italian province of Pordenone.²⁷³

The Abbey of Santa Maria had reported a theft to police in 2002.²⁷⁴ On December 18th, 2017, Dutch police, at the request of Interpol Rome, seized the works from Flumenalis on the grounds of finding out if the two altar pieces were indeed the ones stolen from the Abbey in Sesto al Reghena.²⁷⁵ Flumenalis subsequently claimed to hold legal title and to have dealt in good faith when acquiring the two altar pieces.²⁷⁶ A counterargument was made by the Dutch *Openbaar Ministerie* (Public Prosecution Service; PRS), namely that Flumenalis could not have dealt in good faith since the two works were listed on Interpol's Stolen Works of Art database.²⁷⁷ If conclusive evidence arises that the two altar pieces were indeed stolen from the abbey, as is now believed, and Flumenalis is prosecuted, it must be assessed if sufficient research was conducted before the purchase of the artworks. Any future prosecution could be very important in establishing a clear threshold of a reasonable level of due diligence.

According to Hoek and Jansen, much more needs to be done to develop the law relating to a threshold of due diligence research.²⁷⁸ Some regulation is already in place that could serve as requirements to reach the threshold. For instance, it is required under Article 437(1)(a) of the Dutch Criminal Code for people trading second hand goods, with second hand goods including artworks, to maintain a register of purchasing.²⁷⁹ In this register the art dealer is obliged to describe every artwork acquired, including the date of transaction, clear description of the artwork, price and the name and address of the person the artwork was

²⁷² Hoek and Jansen, "Laws Please!," 13.

²⁷³ "ECLI:NL:RBGEL:2019:758," Rechtbank Gelderland, 15 February 2019, February 25, 2019, <https://uitspraken.rechtspraak.nl/resultaat?zoekterm=ECLI:NL:RBGEL:2019:758&inhoudsindicatie=zt0&publicatiestatus=ps1&sort=Relevance>.

²⁷⁴ Kelsie Smith, "Ice Recovers 19th century painting stolen from Italian Monastery," *CNN*, September 3, 2020, accessed December 6, 2023, <https://edition.cnn.com/2020/09/03/us/19th-century-italian-painting-recovered-trnd/index.html>.

²⁷⁵ Hoek and Jansen, "Laws Please!," 14.

²⁷⁶ Rechtbank Gelderland, "ECLI:NL:RBGEL:2019:758."

²⁷⁷ Hoek and Jansen, "Laws Please!," 14.

²⁷⁸ Hoek and Jansen, "Laws Please!," 14.

²⁷⁹ "Art. 437(1)," Dutch Criminal Code, Wettenbank, accessed December 21, 2024, <https://wetten.overheid.nl/BWBR0001854/2024-01-01/0>.

²⁷⁹ Hoek and Jansen, "Laws Please!," 13.

required from.²⁸⁰ In 2011, this register was digitalised but is still only accessible to art dealers, other traders and law enforcement. In the *Digitaal Opkopers Register* (Digital Buyers Register, DOR), art dealers and other traders can record their goods in a personal account.²⁸¹ Pictures can be included. The DOR can be linked to other databases and police systems. In the DOR, art dealers can check if a work is stolen and request additional information relevant to the artwork in question for the dealer to check. If a match is made, police will be automatically notified.²⁸²

The current legal system in the Netherlands is set up in a way that provenance research is necessary relative to the amount of doubt. According to Hoek and Jansen, this could, in extreme cases, mean that no research has been done when there is no doubt. A bad faith trader could then always point out they had no reason to doubt and no need to do research.²⁸³ However, even when there was no reason to doubt and no need to do research, the trader still must prove in court, when a claim is made, there was no reason for doubt and that not doing any research was justified. Not having clear rules on provenance research does hinder possible persecution because of uncertainty. Having clear standards for provenance research and due diligence research would make persecution and restitution easier.

2.5.3. Self-Regulation

The gaps in legislation and enforcement, the enhanced value, irreplaceability and uniqueness of artworks, and an art market culture that is characterised by opacity and social complexity, makes it the perfect place to commit (property) crime. Consciously or unconsciously, buyers and sellers of artworks often fail to adequately research the parties involved in a transaction and the provenance history of the artwork traded.²⁸⁴ Much of the Dutch art market is still self-regulated. Self-regulation does not have the same force as government regulation as is also stated by Hoek and Jansen.²⁸⁵ Under self-regulation, violation of a norm or guideline, for instance the guidelines for the 64 members of the KVHOK, does not constitute a criminal

²⁸⁰ Dutch Criminal Code, “Art. 437(1).”

²⁸¹ “Digitaal Opkopers Register (DOR)”, Centrum voor Criminaliteitspreventie en Veiligheid (CVV), accessed January 16, 2024, <https://hetccv.nl/themas/high-impact-crimes/heling/digitaal-opkopers-register-dor/>.

²⁸² CCV, “Digitaal Opkopers Register.”

²⁸³ Hoek and Jansen, “Laws Please!,” 11.

²⁸⁴ “Art transaction due diligence toolkit,” Responsible Art Market (RAM), accessed December 6, 2022. <http://responsibleartmarket.org/guidelines/art-transaction-due-diligence-toolkit/>.

²⁸⁵ Hoek and Jansen, “Laws Please!,” 15.

act.²⁸⁶ However, violation of norms within an association could lead to evaluation of an art dealers' membership. If the requirements to hold a membership are no longer met, a dealer could also be expelled. For art dealers, membership of an art dealers' association, is often equated to expert knowledge and good reputation. These assurances could also be hollowed out and undermined by for instance close personal relationships within the association or a lack of national regulation.²⁸⁷

2.5.4. Art Market Critique on Regulation

Various art market organisations critiqued proposed regulations. EU regulation 2019/880 is claimed to have a 'widespread negative financial and administrative impact on the trade.'²⁸⁸ The International Confederation of Art Dealers (CINOA) complained about the added costs and paperwork and the International Association of Dealers in Ancient Art (IADAA) claimed the new rules were 'not necessary, based on a false premise, inappropriate, ill-thought out and potentially damaging for the trade.'²⁸⁹ Similarly, after implementation in 2020, 5AMLD has also received strong criticism from art dealers and art market representatives. Vincent Geerling, chairman of the IADAA, asked the question which American would want to participate in The European Fine Art Fair Maastricht (TEFAF) with such demands.²⁹⁰ It is worth pointing out the difficulty in noticing why an art dealer would not want to appear transparent. On top of that it would benefit art dealers when clients are confident of good faith when buying an artwork.

Research is key, but the art market still has a hard time in coming to terms with that. For instance, it is believed that about twenty percent of all works of art in the art market are either fakes or forgeries.²⁹¹ Fakes are works altered to appear to be from a famous artist. This can be accomplished by adding a fake signature for instance. Forgeries are complete artworks

²⁸⁶ Hoek and Jansen, "Laws Please!" 15; "leden," Koninklijke Vereniging van Handelaren in Oude Kunst in Nederland (Koninklijke VHOK), accessed December 30, 2023, <https://kvhok.nl/leden>.

²⁸⁷ Hoek and Jansen, "Laws Please!" 15.

²⁸⁸ Martin Bailey, "Art dealers slam proposed European Union licence regulations," *The Art Newspaper*, June 15, 2018, <https://www.theartnewspaper.com/2018/06/15/art-dealers-slam-proposed-european-union-licence-regulations>.

²⁸⁹ Bailey, "Art dealers."

²⁹⁰ Arjen Ribbens, "Kunstkopers haken af door EU-regels tegen witwassen," *NRC Handelsblad*, April 16, 2018, <https://www.nrc.nl/nieuws/2018/04/16/kunstkopers-haken-af-door-eu-regels-tegen-witwassen-a1599688>; "Reactie kunsthandel bevreedt, drama is niet nodig," *NRC Handelsblad*, April 19, 2018, <https://www.nrc.nl/nieuws/2018/04/19/antiwitwasrichtlijn-reactie-kunsthandel-bevreedt-drama-is-niet-nodig-a1600018>.

²⁹¹ Ard Huiberts and Sander Kooistra, *Valse kunst: hoe de kunst koper bedrogen wordt* (Utrecht: Veen, 2003).

made to look like they were made by a specific artist.²⁹² Most of these works remain in circulation. Research into fakes and forgeries is seldomly done because of a loss of monetary value when a fake or forgery is discovered and lack of expert knowledge to separate real from fake.²⁹³ Traditionally the art market has been regarded as somewhat, but over the years there has been a slight movement for greater transparency, with legal and commercial imperatives requiring confidentiality in certain circumstances.²⁹⁴ According to the Head of Art and Law Studies at the Sotheby's Institute in London Tom Christopherson, this transparency is mainly the result of EU initiatives. Old and long-established practices and procedures have met with greater distrust. At the same time customer expectation has shifted and online activity has developed. Nowadays, fewer buyers are willing to accept 'sold as seen' conditions without additional guarantees or protections.²⁹⁵ This degree of transparency allows for heightened due diligence and a greater degree of comfort for the buyer.

Even though there are no set standards of due diligence in Dutch law, anti-money laundering legislation, 'know your customer', and the failure to do adequate research can have significant legal implications. This is especially true for Nazi-looted art. However, a degree of confidentiality (in the art world often called discretion) is key for the art world to survive and operate.²⁹⁶ Much more than museums, auction houses and dealers must protect clients and their business from competitors, a dealer must be able to monetize their market research and knowledge and a profit margin must remain.²⁹⁷ However, commercial, legal, and ethical pressures surrounding agency, individual privacy and confidentiality causes practitioners to 'thread an increasingly thin line between disclosure and discretion and requiring an ever-greater awareness of relevant legal requirements at home and abroad.'²⁹⁸ This is why the art market reacted so heavily on new the legal requirements surrounding anti-money laundering and registration. The next chapter will focus on the impact of technological developments, especially stolen art databases, on the Dutch art market from the 1990s onwards.

²⁹² Hannah Marks, "Distinction between 'Fake' and 'Forgery': Issues with Technical Definitions and Their Application in the Legal Realm vs. Art World," Accessed June 20, 2024, https://www.academia.edu/32543389/Distinction_between_Fake_and_Forgery_Issues_with_Technical_Definitions_and_Their_Application_in_the_Legal_Realm_vs_Art_World?sm=b.

²⁹³ Willems-Hirsch, "Nationaal dreigingsbeleid," 14.

²⁹⁴ Tom Christopherson, "Art Law and the Art Market: Disclosure or Discretion," *Sotheby's Institute of Art*, October 2, 2017, <https://www.sothebysinstitute.com/news-and-events/news/art-law-and-the-art-market-disclosure-or-discretion>.

²⁹⁵ Christopherson, "Disclosure or discretion."

²⁹⁶ Christopherson, "Disclosure or discretion."

²⁹⁷ Christopherson, "Disclosure or discretion."

²⁹⁸ Christopherson, "Disclosure or discretion."

3. Technological Developments and the Dutch Art Market.

3.1. How databases came to be.

This chapter delves deeper into the history of databases. It starts by the earliest attempts by United States commissions to protect cultural materials from enemy attacks during wartime. These early attempts were the precursor to the creation of databases by law enforcement agencies for use during peacetime, commercial databases like ALR and ArtClaim and databases pertaining solely to Nazi-looted art. After explaining wartime databases during and directly after the Second World war and the importance of the internet in technological developments since the 1990s, this chapter will look further into Dutch stolen art databases. To achieve this other technological developments such as the future of databases, cross-border communication, contemporary media and the online art trade as well as the differences between databases and the lacunae and problems arising with databases, such as ALR and ArtClaim, are analysed.

The looting of art by the Nazis was observed by the allies during the war. Many national governments set up organisations aimed at the analysis of intelligence data around looted and stolen art to minimize the effect of the National Socialist ideology regarding cultural objects. Neutral countries sought to safeguard their treasures during wartime. This resulted in both academic and governmental organisations addressing the issues of protecting works of art. Examples of such organisations were the 1941 Committee for the Conservation of Cultural Resources (CCCR) set up by the US National Resources Planning Board, the 1943 Roberts Commission set up by President Roosevelt and the 1944 Vaucher commission.²⁹⁹

The main goal of the CCCR was to “strategize the protection” of cultural materials from enemy attack.³⁰⁰ Officers of the Roberts commission cooperated with the United States War Department. Its main goals were protecting cultural treasures, gathering information about possible damages to those treasures and the compilation of data on property taken by the Axis powers. The end-goal was to encourage restitution of those works appropriated.³⁰¹

²⁹⁹ “Records of the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas [Roberts Commission] (RG 239),” The National Archives, accessed December 20, 2023, <https://www.archives.gov/research/foreign-policy/related-records/rg-239>.

³⁰⁰ “Archives of the Committee For the Conservation of Cultural Resources for Southern California Collections (MS. 638),” Online Archive of California, accessed December 20, 2023, <https://oac.cdlib.org/findaid/ark:/13030/c8mw2jmh/>.

³⁰¹ National Archives, “Roberts Commission.”

The Roberts commission supported the Monuments, Fine Arts and Archives section (MFAA). These “Monuments men”, among them historians, artists and conservation experts worked alongside the allies and secured artworks that came into allied hands and made sure to keep them safe and where possible, return them to their rightful owners. The Vaucher commission aimed at creating a database in London that contained all information about art, transferring it to microfilm and distributing it around Europe.³⁰² All commissions were disbanded and the end or just after the war.

The examples given above were the first attempts at making databases that were specifically intended to aid the recovery of stolen or otherwise misappropriated art. How the Netherlands have dealt with the problem of and are still dealing with the aftereffects of Nazi-looted art was analysed in chapter 2. This chapter will focus on how technological developments such as the Internet, online archives, online art trade and stolen art databases contributed to or hinder more thorough and more efficient ways of doing provenance and due diligence research.

Before the age of the Internet, databases like that of Carabinieri T.P.C. were composed of hundreds of thousands of inventory cards. These paper cards were stored in filing cabinets. Information held by the Roberts and Vaucher commission was all transferred to microfilm.³⁰³ In 1980, the physical database of the Carabinieri was computerized in text because of the low memory of computers. Pictures were added in subsequent versions.³⁰⁴ The database developed into a database with more than 3,290,000 objects. In 2004, the database was anchored into Italian law as an integral part in solving art crime. Because of subsequent funding it is now possible to do advanced photo recognition, also incorporating the subsection of the internet called the darknet. Through the app iTPC Carabinieri, people can take pictures of art pieces and compare them to the database.³⁰⁵ All but two records of the Roberts commission can now also be found online through the website of the US National Archive.³⁰⁶

The complete digitalisation of archives was made possible by the Internet. The Internet took over the world in the 1990s. In 1993 the Internet only handled one percent of

³⁰² “Commission for the Protection and Restitution of Cultural Material [Vaucher Commission] (T 209/5/1),” The National Archives,” accessed December 26, 2023, <https://discovery.nationalarchives.gov.uk/details/r/C11645559>.

³⁰³ The National Archives, “Vaucher Commission.”; The National Archives, “Roberts Commission.”

³⁰⁴ Nistri, “Cultural Heritage Protection,” 184.

³⁰⁵ Nistri, “Cultural Heritage Protection,” 184.

³⁰⁶ The National Archives, “Roberts Commission.”

information flowing through two-way telecommunications networks, fifty-one percent in 2000 and ninety-seven percent in 2007, and still the internet continues to grow.³⁰⁷ Due to the internet boom, many stolen art databases experienced the same development as the database of the Carabinieri. In 1979, The FBI's Stolen Art File was created. Initially, it only held a couple of black and white pictures. Now there are just over 5500 entries, all digitalised and available when doing provenance research. Interpol's Stolen Works of Art databases was created in 1999 and now holds over 52,000 entries available through a computer program for all Interpol's member countries. Apart from these law enforcement databases, governments also started to digitalise government archives of Nazi-looted art during the 1990s while the technological developments surrounding the Internet also led to the creation of commercial stolen art databases like the Art Loss Register (ALR).

3.2. Databases in the Netherlands

The Dutch government created part of these databases with museums and dealers having access to many more because of international cooperation, enhanced digital communication and the Internet. The website of the Dutch Cultural Heritage Agency (*Rijksdienst voor het Cultureel Erfgoed*, RCE), part of the Ministry of Education, Culture and Science, hosts four free to access databases.³⁰⁸ The first was made by the previously mentioned Netherlands Art Property Foundation (*Stichting Nederlands Kunstbezit*, SNK) and holds 13,670 pictures of internal declaration forms. The complete archives of the SNK can also be reserved through the website of the Dutch National Archive. The archive is called Looted Jewish Property, 1940-1945 (*Geroofd Joods bezit, 1940-1945*) and is free to access for everyone.³⁰⁹ These declarations forms were made for the artworks that went missing during the Second World War and hold information on the type of work, the title of the work, the dimensions, dates, artist, and any other provenance information known. Even though the SNK was set up right after the war to reconstitute the works of art to their rightful owners, many artworks were not

³⁰⁷ Martin Hilbert and Priscila López, "The World's Technological Capacity to Store, Communicate, and Compute Information," *Science* 332 (2011): 60-65.

³⁰⁸ RCE, "Cultuurogoederen Tweede Wereldoorlog."

³⁰⁹ Nationaal Archief, "Geroofd Joods bezit," accessed June 21, 2024, <https://www.nationaalarchief.nl/onderzoeken/zoekhulpen/geroofd-joods-bezit-1940-1945#collapse-137874>.

restituted due to difficult legal procedures, stringent requirements as to proof of ownership, insufficient cataloguing, and the lengthy processes involved.³¹⁰

Take for instance a painting presumably painted by Rembrandt called *Doop van den Kamerling* (The baptism of the Eunuch).³¹¹ Not much information is given in the declaration form dated October 23, 1945. The dimensions of the panel are stated as 64 by 55 centimetres. The original owners, Arnold van Buuren and Leo Nardus, are also mentioned. The work was confiscated by the German looting bank Lippman Rosenthal & Co Sarphatistraat and auctioned off by Simon Jacobus Mak van Waay, known to have dealings with the Nazis, on June 26, 1943.³¹² It was bought by C.W.L. Zwaal from Amsterdam and declared missing by H. van Buuren on October 12, 1945.

The second database offered on the website of the RCE holds all works part of the NK collection, the works returned to the Netherlands after the Second World War that are not yet restituted and were not auctioned off by the SNK. Many of the works are accompanied by a photograph and all provenances known from before the war.³¹³ The sources of the provenance are also mentioned. The third database holds all works of the NK collection that have been restituted. This database currently holds a total of 452 artworks and is growing with every successful restitution.³¹⁴ The final database holds 172 items that were uncovered to have a dubious past during the Museum Acquisition project mentioned in the last chapter.³¹⁵ These objects are also accessible through the website of the project.³¹⁶

The Netherlands is also the home country of the Dutch Institute of Art History (RKD-*Nederlands Instituut voor Kunstgeschiedenis*). Opened in 1932 as the Government Office for Art Historical Documentation (*Rijksbureau voor Kunsthistorische Documentatie*), the RKD through adding collections, grew to one of the most important documentation- and research

³¹⁰ “Inventaris van het archief van de Stichting Nederlands Kunstbezit (SNK) en haar taakvoorganger/taakopvolgers (2.08.42), (1930) 1945-1951 (1983)”, Nationaal Archief, accessed April 11, 2023.

³¹¹ “Doop van een Kamerling (15235)”, Rijksdienst voor Cultureel Erfgoed, accessed November 1, 2023, <https://wo2.collectienederland.nl/doc/snk/15235>.

³¹² “Het voorbije Joodse Dordrecht: De broers Mak van Waay en hun gespleten houding tegenover Joden,” *Stolpersteine Dordrecht*, accessed November 29, 2023, https://stolpersteine-dordrecht.nl/het_vorbije_joodse_dordrecht_familie_mak.html.

³¹³ RCE, “Cultuurgoederen Tweede Wereldoorlog.”

³¹⁴ RCE, “Cultuurgoederen Tweede Wereldoorlog.”

³¹⁵ RCE, “Cultuurgoederen Tweede Wereldoorlog.”

³¹⁶ “Objecten”, *Museale Verwervingen vanaf 1933*, accessed October 28, 2023, <https://www.musealeverwervingen.nl/46/objecten/>.

institutes in the world.³¹⁷ As an independent organisation, it currently holds the biggest art historical books library from the Middle Ages to the present. The RKD's collections are still owned by the Dutch state. The main goal of the RKD is collecting, managing, making available and presenting archival, documentary and library material about Dutch art in an international context.³¹⁸ All this is done to advance art market research. The RKD operates with and forms a support structure for museums, universities, auction houses, galleries, art dealers and other institutions when doing due diligence research.

The RKD holds a lot of information and knowledge on the Dutch art market. It maintains eight databases, under the umbrella RKDexplore, with millions of records that can all be accessed for free from anywhere in the world and are regularly added to and brought up to date.³¹⁹ These databases are RKDartists, RDKimages, RKDportraits, RKDtechnical, RKDlibrary, RKDarchives, RKDcollections and RKDexcerpts.³²⁰ Each database can also be searched individually. For instance, RKDartists currently holds 385.528 entries on Dutch and foreign artists, including important dates, locations they worked from, their signatures and the kind of art they made.³²¹ RDKimages holds 267.238 pictures of artworks including the name of the artist, attribution, kind of artwork, what is portrayed, place of signature, dates, and parts of provenance.³²² RKDportraits, a portrait database, holds the same information as RKD images, but does include information on the sitter, if known.³²³ The vast amount of information held by the RKD was important in helping the project commission on Museum Acquisitions to deepen provenance research and supporting museums in doing that research. Lately the RKD has been developing Labels on Art and Marks on Art.³²⁴ Labels on Art resides under RKDexcerpts. Both databases shed new light on the back of paintings, which often give clues about the artist and the previous whereabouts of a work. The databases hold a wide array of pictures of marks made by artists and labels used by art dealers, collectors, museums, galleries, exhibitions, and auctions houses.

³¹⁷ "Organisatie," RKD Nederlands Instituut Voor Kunstgeschiedenis, accessed October 25, 2023, <https://rkd.nl/nl/over-het-rkd/organisatie>.

³¹⁸ RKD, "Organisatie."

³¹⁹ "RKD Explore," RKD Nederlands Instituut Voor Kunstgeschiedenis, accessed October 25, 2023, <https://rkd.nl/nl/collecties/explore>.

³²⁰ RKD, "RKD Explore."

³²¹ RKD, "RKD Artists," accessed October 25, 2023, <https://rkd.nl/nl/explore/artists>.

³²² RKD, "RKD Images," accessed October 25, 2023, <https://rkd.nl/nl/explore/images>.

³²³ RKD, "RKD Portraits," accessed October 25, 2023, <https://rkd.nl/nl/explore/portraits>.

³²⁴ RKD, "RKD Excerpts," accessed October 25, 2023, <https://rkd.nl/nl/explore/excerpts>.

Over the years many more databases have been developed. The Dutch Institution for War Documentation (*Nederlands Instituut voor Oorlogsdocumentatie*, NIOD) is currently crowdsourcing greater access to the archives of the *Einsatzstab Reichsleiter Rosenberg* (ERR), a Nazi-looting institution that systematically looted cultural objects from German occupied zones and brought them back to Germany.³²⁵ In the Netherlands they were responsible for inventorying and looting homes of Jewish inhabitants. The archives consist of lists of homes affected and items looted.³²⁶ The archives give greater insight into what was looted from who, where it was looted from and when it was looted. This is largely the result of the societal developments regarding Nazi-looted art mentioned in the previous chapter and the influx of ways of cataloguing, communication and information-gathering and information-sharing. In the interview with the Rijksmuseum the provenance researcher mentioned the importance of knowledge about the dealings of auction houses and art dealers during the war, and how that information has led to the discovery of works with a dubious past during the Museum Acquisition project.³²⁷ Lately, some archives of collectors and dealers have also been inventoried, making it easier to do provenance research.³²⁸

On October 6th, 2023, the Wildenstein Plattner Institute announced the publishing of the Michel and Irma van Gelder Papers.³²⁹ The not-for-profit institute based in New York City dedicates itself to the study of art history. Its main goal is cataloguing, making accessible and digitalizing archival material that can support critical field research by academics and provenance researchers.³³⁰ The Michel and Irma van Gelder Papers, dating from 1898 to 1971, document the history of the collection and activities as art dealer of Michel van Gelder and his wife Irma. Michel and Irma were Dutch collectors based in Uccle, Belgium and had a large collection of Old Master paintings. Their archives consist of inventories of paintings, correspondence, invoices, and photographs of artworks owned but also address books, business records and receipts.³³¹

³²⁵ “De papieren getuigen van roof en ontrechting,” NIOD Instituut voor Oorlogs-, Holocaust- en Genocidestudies, accessed November 26, 2023, <https://www.niod.nl/nl/projecten/de-papieren-getuigen-van-roof-en-ontrechting>.

³²⁶ NIOD, “De papieren getuigen van roof en ontrechting.”

³²⁷ Rijksmuseum, Interview with Provenance Researcher.

³²⁸ Rijksmuseum, Interview with Provenance Researcher.

³²⁹ “Michel and Irma van Gelder Papers 1898-1971 (bulk 1900-1959),” Wildenstein Plattner Institute, accessed November 2, 2023, <https://digitalprojects.wpi.art/archive/collections/detail?id=584102-michel-and-irma-van-gelder-papers>.

³³⁰ Wildenstein Plattner Institute. “Michel and Irma van Gelder Papers.”

³³¹ Wildenstein Plattner Institute. “Michel and Irma van Gelder Papers.”

Another important archival source, both for the heirs of previously mentioned Jacques Goudstikker and provenance researchers, is a notebook bound in black leather that belonged to the Jewish-Dutch art dealer Jacques Goudstikker. The contents of the notebook have been published by the Amsterdam City Archive and hold information on all artworks in possession of Jacques at the time of his flight from the Netherlands after the bombardment of Rotterdam on May 14th, 1940.³³² Jacques passed away on-route to England on May 16th, as a result from a fall on the cargo ship Bodegraven. Dr. A Sternheim, the Jewish accountant, tasked with maintaining Jacques' collection had died of a heart attack a little more than a week earlier.³³³ During the war, 1113 works of art made their way to German *Reichsmarschall* and avid art collector Herman Göring and his agent and art dealer Alois Miedl through the hands of attorney Arie ten Broek.³³⁴ After the war, the black leather-strapped notebook was the only information the heirs had on what had belonged to Jacques Goudstikker and proved important in the resulting legal battle between the Goudstikker heirs and the Dutch state for restitution.³³⁵

In an interview with two employees of the RCE, both expert advisors on Second World War Cultural Goods, it became clear that much has happened surrounding databases from the 1990s onwards, but a lot of work is still to be done.³³⁶ The creation of databases sparked a new wave of research, more and more sources are digitalized and become easier to access.³³⁷ New information is found constantly, which makes research both easier and harder. Easier in the sense that there is more access to information, harder in the sense that research can be obsolete or must be redone after a short time has passed.³³⁸ According to the RCE the development of stolen art databases does not happen synchronically in all countries and is mostly focused on Nazi-looted art for now, while there are ideas to extend it further.³³⁹ The RCE has extended a helping hand to the Dutch to museums by creating a source list for museums to research when doing provenance research and a concise provenance portal on how to do provenance research which are both regularly updated and available online.³⁴⁰ Other art market participants have access to this portal too.

³³² "Inventarissen," Stadsarchief Amsterdam, <https://archieff.amsterdam/inventarissen/details/1341/>.

³³³ "Rapportage Restitutiecommissie 1.15," Restitutiecommissie, accessed November 5, 2023, <https://zoek.officielebekendmakingen.nl/kst-25839-38-b2.pdf>.

³³⁴ Restitutiecommissie, "Rapportage 1.15."

³³⁵ Restitutiecommissie, "Rapportage 1.15."

³³⁶ RCE, "Interview Researchers/Advisors Cultural Goods and Second World War."

³³⁷ RCE, "Interview Researchers/Advisors Cultural Goods and Second World War."

³³⁸ RCE, "Interview Researchers/Advisors Cultural Goods and Second World War."

³³⁹ RCE, "Interview Researchers/Advisors Cultural Goods and Second World War."

³⁴⁰ RCE, "Interview Researchers/Advisors Cultural Goods and Second World War."

Currently, the RCE is working on linking different databases together with the goal to create one database.³⁴¹ According to the interviewees that end goal seems quite far away for now due to uneven development in different countries, different ways of cataloguing in different countries and databases, but also privacy concerns. Currently there are links to click everywhere to yet another database, which makes it hard for art market participants to know when enough research has been done and good faith can be established.³⁴² The RCE is also helping to create the JDCRP (Jewish Digital Recovery Project).³⁴³ By first focusing on Dutch sources regarding Nazi-looted cultural property, researching the NK collection again, focusing on privacy concerns and making the Dutch databases as good as can be, the goal is to integrate all Dutch research on Nazi-looted art in the JDCRP.³⁴⁴ JDCRP is a ‘cross-searchable digital platform for archival documentation, research, and education on the looting of Jewish-owned cultural property by the Nazis, their allies, and collaborators’.³⁴⁵

It becomes clear that the societal development surrounding Nazi-looted art has led the creation of a large number of open-source databases, online archives, specialized websites, and research-networks on Nazi looted art with the help of technological developments from the 1990s onwards. The Washington Principles formed the basis and the standard for the Nazi-looted art databases we see today. The goal of the identification of looted art, open and accessible records and archives, and a central registry was collecting and sharing information to bring about restitution. The principles were a direct result of societal changes regarding Nazi looted art, the Second World War, and the increased morality in which the Holocaust and Nazi-looting is dealt with. Many of the over forty countries that participated in the 1998 Washington Conference on Holocaust-Era Assets, have since created databases of artworks looted, stolen or that otherwise went missing from 1933 until 1945.³⁴⁶ The Dutch archive called Looted Jewish Property, 1940-1945 is just one example. Belgium has the Looted Art WWII Belgium database, which gives an overview of art looted from Belgium during the

³⁴¹ RCE, “Interview Researchers/Advisors Cultural Goods and Second World War.”

³⁴² RCE, “Interview Researchers/Advisors Cultural Goods and Second World War.”

³⁴³ RCE, “Interview Researchers/Advisors Cultural Goods and Second World War.”

³⁴⁴ RCE, “Interview Researchers/Advisors Cultural Goods and Second World War.”

³⁴⁵ “Homepage,” Jewish Digital Cultural Recovery Project (JDCRP), accessed January 21, 2024, <https://jdcrp.org/>.

³⁴⁶ “Cultuurgoederen WOII (1933-1945) - bronnen, archieven en literatuur,” Rijksdienst voor het Cultureel Erfgoed, accessed December 27, 2023, [https://kennis.cultureelerfgoed.nl/index.php/Cultuurgoederen_WOII_\(1933-1945\)_-_herkomstonderzoek_bronnenlijst](https://kennis.cultureelerfgoed.nl/index.php/Cultuurgoederen_WOII_(1933-1945)_-_herkomstonderzoek_bronnenlijst).

Second World War.³⁴⁷ Austria, Poland, the United Kingdom, and Germany are just a few more countries with such databases easily accessible from anywhere in the world.³⁴⁸

Currently, all information regarding Nazi-looted art, such as research programmes, web resources, national laws, policies, and guidelines of countries that participated in the Washington Conference, lawsuits, events, and media coverage are together at lootedart.com.³⁴⁹ This website currently forms the unofficial central registry of all information on looted cultural property from 1933 to 1945 and somewhat fulfils the sixth Washington Principle.³⁵⁰ Created by then Under Secretary of State for Economic, Business, and Agricultural Affairs and host of the Washington Conference, Stuart E. Eizenstat, the sixth principle call for the centralisation of information regarding Nazi looting and contemporary efforts to research and resolve outstanding issues.³⁵¹ The goal is that JDCRP will take over the function of central registry officially after completion.³⁵²

3.3. Lacunae and Problems

Nazi-looted art is but a small part of stolen art, however. Colonial art has recently come the forefront and art crime is a problem in the Netherlands too. Recently, databases have been set up for looted colonial art and more attention has been paid to it by the media and the art world. In the case of art crime, this has only been registered since 2009 in the Netherlands.³⁵³ Dutch police have some catching up to do. In the Netherlands alone four million worth of cultural goods was stolen in 2009, nine million in 2010, and 18 million in 2011.³⁵⁴ Between 2001 and 2008, Dutch police paid almost no attention to art crime at all.³⁵⁵ The Art- and Antique crime division of the Dutch National Police corps was re-created in 2009.³⁵⁶ Before 2001 a similar division existed. With the disbanding of this first division in 2001, much information and knowledge about Dutch art crime was lost.³⁵⁷

³⁴⁷ RCE, “Bronnen, archieven en literatuur.”

³⁴⁸ RCE, “Bronnen, archieven en literatuur.”

³⁴⁹ “Overview,” Lootedart.com, accessed November 30, 2023, <https://www.lootedart.com/about>.

³⁵⁰ Lootedart, “Overview,”

³⁵¹ Lootedart, “Overview,”

³⁵² RCE, “Interview Researchers/Advisors Cultural Goods and Second World War.”

³⁵³ Willems-Hirsch, “Nationaal dreigingsbeleid,” 4

³⁵⁴ Willems-Hirsch, “Nationaal dreigingsbeleid,” 6.

³⁵⁵ Willems-Hirsch, “Nationaal dreigingsbeleid,” 4.

³⁵⁶ Willems-Hirsch, “Nationaal dreigingsbeleid,” 10.

³⁵⁷ Willems-Hirsch, “Nationaal dreigingsbeleid,” 10.

A national database containing stolen art and antique objects was also created in 2009.³⁵⁸ This database is only searchable by the police, however. This makes it impossible for those active on the Dutch art market to make use of this database. However, the DOR (Digital Buyers Register) mentioned in the last chapter can be linked to other databases and police systems and can provide a tool for art market participants. However, limited access is a problem with many stolen art databases not pertaining to Nazi-looted art.³⁵⁹ The database of the Dutch police is not unique in that sense. Police databases on stolen art, such as those of the Carabinieri T.P.C., the FBI and Interpol have existed for many decades. The Interpol database is only accessible through application. Apart from the police databases, commercial for-profit databases such as the Art Loss Register (ALR) and Artclaim exist. The ALR is currently one of the biggest stolen art databases on earth.

There has been a great increase in the number of databases and information stored in those databases, both pertaining to Nazi-looted art and stolen art in general. The databases have become more technologically advanced because of developments in computing power, online storage capabilities and international communication. This technological development is still happening today, although, arguably with a heightened focus on Nazi-looted art and art crime related to World War II.³⁶⁰ Defining characteristics of Nazi-looted art databases is that they are open-source, plentiful, easily accessible, created, funded, or otherwise supported by governments, the result of international communication and cooperation and created with a sense of righting past wrongs committed against the Jews.³⁶¹ The second Washington Principle states that all “relevant records and archives should be open and accessible to researchers, in accordance with the guidelines of the International Council on Archives.”³⁶² It would also be morally questionable to monetize Nazi-looted databases.

This does, however, further deepen the divide between stolen art Nazi-looted art databases and general stolen art databases, with general stolen art databases being either police/government databases or commercial databases. General stolen art databases developed before Nazi-looted art databases, and their basis is different. The main goal of both

³⁵⁸ Willems-Hirsch, “Nationaal dreigingsbeleid.” 10.

³⁵⁹ Roodt, “Stolen Art Databases and Due Diligence.”

³⁶⁰ Rijksmuseum, “Interview with Provenance Researcher”; RCE, “Interview Researchers/Advisors Cultural Goods and Second World War.”

³⁶¹ Rijksmuseum, “Interview with Provenance Researcher”; RCE, “Interview Researchers/Advisors Cultural Goods and Second World War.”

³⁶² United States Department of State, “Washington Principles.”

police databases and commercial databases is to deter and solve (inter)national art crime.³⁶³ For commercial databases another goal is to make a profit. The main goal of Nazi-looted art databases is to undo past moral wrongdoings. The International Foundation for Art Research' (IFAR) stolen art database was briefly touched upon before but forms the basis for the most-used commercial database in existence today, the Art Loss Register (ALR). The IFAR made its first "Stolen Art Alert" section of the IFAR journal in 1976 with the main goal to deter art crime, identify and recover stolen works of art and reduce trade in stolen art.³⁶⁴ This "Stolen Art Alert" was consolidated into the ALR in 1990.³⁶⁵ In subsequent years it was turned from a not-for-profit company into a for-profit company. In 1992 the database had only 20.000 entries.³⁶⁶ Currently it has 700.000.³⁶⁷ The Interpol Database is also available through the ALR. IFAR still provides a list of historical archives, art historical resources, ways to research auction records and stolen art databases.³⁶⁸

After paying a one-time fee, or paying for a membership, art collectors, museums, art fairs, investors, insurers, and law enforcement agencies can search the database.³⁶⁹ The fee for a single search is €80, -, the subscription for a maximum of ten searches a year is €500, for a maximum of 25 searches €900, - and a maximum of fifty searches €1,650, -. For auction houses, fees are based on the number of lots that need to be researched; For art fairs, fees are based on the number of items that need to be researched.³⁷⁰ Auction houses and fairs that specialise in less easily identifiable items, such as coins or books are charged higher rates because researching them is more difficult. Any item that can be uniquely identified can be registered in the database when paying a fee of €17,50 per item.³⁷¹ Works that are not stolen are logged in the ALR positive database, works stolen in the ALR.³⁷² The ALR points out on its website that the positive database appeals to collections that are not regularly checked or

³⁶³ Art Loss Register, "Homepage."

³⁶⁴ Arts and Records Committee, "International Foundation for Art Research (IFAR) & the Art Loss Register," accessed January 15, 2024, [https://www.imua.org/Files/reports/International_Foundation_for_Art_Research\(IFAR\)&the_Art_Loss_Register.html](https://www.imua.org/Files/reports/International_Foundation_for_Art_Research(IFAR)&the_Art_Loss_Register.html).

³⁶⁵ Burnham and Feldman, "An art theft archive," 705-707.

³⁶⁶ Houpt, *Museum of the Missing*, 8.

³⁶⁷ Art Loss Register, "Homepage."

³⁶⁸ O'Keefe, "The Use of Databases," 357.

³⁶⁹ "Our clients," FAQs, The Art Loss Register, accessed December 1, 2023, <https://www.artloss.com/faqs/>.

³⁷⁰ "How much does a search cost? Can I buy a subscription or are there discounts in bulk?," FAQs, The Art Loss Register, accessed December 1, 2023, <https://www.artloss.com/faqs/>.

³⁷¹ "What are the fees to register lost and stolen items? What is the 'Location Fee' and 'Recovery Fee?," FAQs, The Art Loss Register, accessed December 1, 2023, <https://www.artloss.com/faqs/>.

³⁷² "Register," The Art Loss Register, accessed December 2, 2023, <https://www.artloss.com/register/#:~:text=Any%20uniquely%20identifiable%20item%20can,a%20loss%20or%20a%20theft.>

updated, when the owner of lender has partial interest in an object, or when items are entrusted to third parties.³⁷³

The ALR currently carries out 400,000 checks on items on the market on behalf of auction houses, law enforcement agencies, museums, dealers, banks, lenders, lawyers, art advisors, pawnbrokers, and private collectors.³⁷⁴ Many of the most important auction houses and art fairs are subscribed to the ALR. This includes well known auction houses such as Christie's and Sotheby's and fairs such as Art Basel, TEFAF Maastricht, and PAN Amsterdam.³⁷⁵ The ALR website does however state that what is researched in auction house catalogues and on art fairs varies, even when those auction houses or art fairs are subscribed.³⁷⁶ The way research is done, also varies. Auction house catalogues are checked against the ALR database. Further research is only done when the database check causes issues to arise, or the items checked shows apparent errors in provenance.³⁷⁷ There is the option to get an official ALR certificate too, which can be formulated after the initial database check as well as further provenance research and checks of other databases.³⁷⁸ Six different Nazi-looted art databases are checked during this process. However, this certificate, which adds extra cost, does not guarantee an item is not stolen or looted.³⁷⁹ The ALR mentions on its website that no database of stolen art can be complete, but that an ALR certificate is an important defence and demonstration of due diligence and good faith.³⁸⁰ ALR adds to this that a person buying should always ask the owner with further supporting evidence and documentation for their due diligence research.³⁸¹

Another database, sharing similarities to the ALR, is ArtClaim or International Claim. The main function of its database, although off-line at the time of writing, is to catalogue lost, stolen, and at-risk objects of cultural property.³⁸² Once a client, which in International Claim's case is mostly law enforcement agencies but can also be individuals, registers an

³⁷³ The Art Loss Register, "Register."

³⁷⁴ The Art Loss Register, "Register."

³⁷⁵ "List of Art Fairs at which the Art Loss Register conducts searches," The Art Loss Register, accessed December 2, 2023, <https://www.artloss.com/art-fairs-subscribers/>. "Current ALR auction house subscribers," The Art Loss Register, accessed December 2, 2023, <https://www.artloss.com/auction-house-subscribers/>.

³⁷⁶ The Art Loss Register, "List of Art Fairs.,"; The Art Loss Register, "Current ALR auction house."

³⁷⁷ "What is the difference between an ALR Certificate and an Art Loss Register 'check' at an auction house or art fair?," Search, The Art Loss Register, accessed December 3, 2023, <https://www.artloss.com/search/>.

³⁷⁸ The Art Loss Register, "What is the difference."

³⁷⁹ "What guarantee does an ALR Certificate offer?," Search, The Art Loss Register, accessed December 3, 2023, <https://www.artloss.com/search/>.

³⁸⁰ The Art Loss Register, "What guarantee."

³⁸¹ The Art Loss Register, "What is the difference."

³⁸² "What we do", The Claim Database, accessed December 4, 2023, <https://www.internationalclaim.com/about-us>.

object in the database they will be alerted when any matches occur. By registering, a client submits their claim on an object, showing the art market participants that a title dispute must be resolved before an object can change hands.³⁸³ Just as with ALR, the database is checked by auction houses, dealers, collectors, insurers, and lawyers as part of their due diligence research. Art Recovery International, a partner company of International Claim, can be contacted after a hit in the database. This company can then help the client in recovering the stolen work of art or resolve a title dispute.³⁸⁴ Unlike on the website of the ALR, prices are not shared. The ALR also has a recovery team, consisting of lawyers and experts on cultural objects, who can help anyone that requests assistance in their claim on an item. This usually costs 20% off the net benefit of a claim. These services are free of charge for law enforcement agencies, nation states and “certain other when appropriate”.³⁸⁵

The art market is booming business, with the total value of transactions in 2022 being 67.8 billion dollars, companies like ALR, ArtClaim and Art Recovery International have found a place in that market to help with doing due diligence research at a financial cost.³⁸⁶ Doing due diligence research has become more and more common since the end of the Second World War, but there is still much to win. According to a 2012 report of the Dutch police, the Dutch art market is vulnerable. Specialised databases like ALR and ArtClaim are mainly used by dealers in the mid or high-end of the art market as well as the bigger auction houses like Christie’s and Sotheby’s.³⁸⁷ Many works of art are never recognised or discovered as stolen or not offered up for sale. The items not offered up for sale, often reside in the criminal underground. They are then used to trade for drugs, weapons, or other valuable items.³⁸⁸ Partly because of that, stolen art databases are not all-encompassing. Database research and the ALR certificate are ways to prove good faith more easily after an art transaction or in a court case, but they can offer no permanent guarantee if a work is stolen or not.

³⁸³ “Registering your claim,” The Claim Database, accessed December 4, 2023, <https://www.internationalclaim.com/register>.

³⁸⁴ “Recovery and Dispute Resolution,” The Claim Database, accessed December 4, 2023, <https://www.internationalclaim.com/recover/>.

³⁸⁵ “What does the ALR charge for registration?,” The Art Loss Register, accessed December 4, 2023, <https://www.artloss.com/recover/>.

³⁸⁶ Art Basel, “The global art market grew to \$67.8 billion in 2022, exceeding pre-pandemic level | Art Basel,” *Art Basel*, April 4, 2023, <https://www.artbasel.com/news/key-findings-art-market-report-2023?lang=fr>.

³⁸⁷ Willems-Hirsch, “Nationaal dreigingsbeleid.” 20.

³⁸⁸ Willems-Hirsch, “Nationaal dreigingsbeleid.” 7.

When asking the RCE about the influence of the ALR and ArtClaim on the debate surrounding Nazi-looted art and stolen art in general, the answer was clear. ALR and ArtClaim added a great financial cost to doing research for art market participants.³⁸⁹ The data the ALR and ArtClaim use are from open-source databases. They just make it easier by putting more information together, at a financial cost. Instead, the RCE advocates for other technological solutions for the difficulties surrounding due diligence in art transactions, such as a possible app created by the Dutch government listing links and sources for doing provenance research and clear signs to look out for in art transactions. According to them there should also be a greater focus by art dealers, galleries and auction houses on customer and artwork registration and guarantees, such as a five-year guarantee of auction houses, to make art transactions more transparent.³⁹⁰ Permanent guarantees are close to impossible according to the interviewees because of the constant discovery and digitalisation of more information.³⁹¹

Technological developments and art databases also had their influence on the Dutch art market and art dealer collectives. Members of the International Association of Dealers in Ancient Art (IADAA) and the International Confederation of Art Dealers (CINOA) must do database research when performing an art transaction. In CINOA's code of ethics, of which the Dutch KVHOK is a sister organisation, it is stated that "the [art] professional shall take all measures necessary to detect stolen objects, and refer, among other resources, to the registers and the databases that are published for this effect and to use them judiciously." "All measures necessary" is however not specified, just as due diligence norms are not specified in law. In case of a transaction involving a stolen artwork, it is still up to the buyer to prove good faith and the judiciary, often lacking expertise, to decide if good faith can be proven. Consulting the ALR is stated in Italian law, but not yet in Dutch law.³⁹² However, with the importance of stolen art databases in doing provenance research, and provenance research being a requirement to disprove gross-negligence, consulting stolen art databases does help tremendously in proving dealings in good faith.³⁹³ Technological developments also made possible the Digital Buyers Register (DOR) and the building of a centralised electronic system for import licences that will come into effect in the EU in 2025.

³⁸⁹ RCE, "Interview Researchers/Advisors Cultural Goods and Second World War."

³⁹⁰ RCE, "Interview Researchers/Advisors Cultural Goods and Second World War."

³⁹¹ RCE, "Interview Researchers/Advisors Cultural Goods and Second World War."

³⁹² Hoek and Jansen, "Laws Please!," 11.

³⁹³ "ECLI:NL:PHR:2003:AF5702," Supreme Court of the Netherlands, May 13, 2003, <https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:PHR:2003:AF5702>.

3.4. Mainstream Media and Online Art Trade

The RCE also pointed to the influence of popular and mainstream media on stolen art. While media, also much more accessible because of technological developments, sheds a light on the art market, it mainly highlights the negative aspects of the art market.³⁹⁴ This is the case with the discovery of the painting ‘vissersboten voor de kust’ (fishing vessels close to shore) by the famous The Hague painter Hendrik Willem Mesdag on the wall of the room of former *Kamervoorzitter* (former Chairman of the Dutch House of Representatives) Vera Bergkamp as Nazi-looted art.³⁹⁵ Media focus on stolen art because of the news value, and to create a shock effect, but it does not necessarily heighten the quality of due diligence research.³⁹⁶ The increased and easier availability of news does however create a fear of societal backlash for art market participants when dealing with potentially stolen art and art in general, resulting in more alertness when doing provenance research.³⁹⁷ Moreover, media plays a major role in restitution of stolen art by making it stay a topic of interest, as mentioned by interviewees at the RCE.³⁹⁸

A last result of technological developments on the art market that needs to be discussed is online art trade. Over the last ten years the percentage of art collectors buying art online increased from 38% to 78%.³⁹⁹ Online art sales had a total of almost eleven billion dollars in 2022 and continues to grow. This was also made possible through the Internet. The online art market is growing next to the traditional, physical art market, only further spurred by the COVID-19 pandemic.⁴⁰⁰ Online, illegally acquired cultural goods can easily and anonymously be traded. The pace and anonymity prevalent in the online art market makes it even more difficult for law enforcement to combat the illicit trade of cultural property.⁴⁰¹ Criminal and amateur dealers can hide behind their carefully constructed online identity

³⁹⁴ RCE, “Interview Researchers/Advisors Cultural Goods and Second World War.”

³⁹⁵ Agnes de Goede, “Onderzoek naar door nazi’s geroofde kunst in Eerste en Tweede Kamer,” *RTL Nieuws*, May 23, 2022, <https://www.rtlnieuws.nl/nieuws/politiek/artikel/5309977/foute-nazi-kunst-de-tweede-kamer-groot-onderzoek-gestart>.

³⁹⁶ RCE, “Interview Researchers/Advisors Cultural Goods and Second World War.”

³⁹⁷ RCE, “Interview Researchers/Advisors Cultural Goods and Second World War.”

³⁹⁸ RCE, “Interview Researchers/Advisors Cultural Goods and Second World War.”

³⁹⁹ Laura Chesters, “Online art buying continues but record growth eases after lockdown boom,” *Antiques Trade Gazette*, May 11, 2023, <https://www.antiquetrade gazette.com/news/2023/online-art-buying-continues-but-record-growth-eases-after-lockdown-boom/>.

⁴⁰⁰ Hoek and Jansen, “Laws Please!,” 6; Chesters, “Online art buying.”

⁴⁰¹ Hoek and Jansen, “Laws Please!,” 6.

without needing to have business registration in the Dutch trade register, a physical building to trade in, or a membership of an art dealer organisation like KVHOK.⁴⁰²

Professional dealers, who have all the above, have more stringent due diligence obligations because of it. The existing, but already insufficient laws regarding due diligence were made for art dealers having a physical business, not for a fast-paced, online market where an already lagging police force has almost no time to respond or research transactions. International online trade also creates complexity regarding legal jurisdiction and need for more enhanced international law enforcement cooperation through for instance Interpol.⁴⁰³ In 2018, the Art and Antiquities Crime Unit of the Dutch police organised a ‘cyber patrol week’. It was a week where law enforcement officers, academics, and other experts from 21 countries searched the internet for stolen and fake cultural goods.⁴⁰⁴ From the data collected during the week it was concluded that 69 percent of dubious transactions were happening online through websites like Catawiki and eBay.⁴⁰⁵ The EU and the Dutch national government have not yet been able to close the judicial problems surrounding the traditional art market but already have to deal with the new, online, market.

⁴⁰² Hoek and Jansen, “Laws Please!,” 6.

⁴⁰³ Hoek and Jansen, “Laws Please!,” 6.

⁴⁰⁴ “Over 18000 items seized and 59 arrests made in operation targeting cultural goods,” Europol, July 29, 2019, accessed January 16, 2024, <https://www.europol.europa.eu/media-press/newsroom/news/over-18-000-items-seized-and-59-arrests-made-in-operation-targeting-cultural-goods#:~:text=In%20total%2C%2059%20individuals%20were,metal%20detectors%20were%20also%20seized.>

⁴⁰⁵ Hoek and Jansen, “Laws Please!,” 6.

4. Conclusion

This thesis, building on existing literature, has offered a different historical and analytic perspective on the influence of societal and technological developments on the Dutch art market from the 1990s onwards. By looking at the societal influences of Nazi-looted art and technological development such as stolen art databases and cross-border communication it has answered the question **“How have societal and technological developments influenced the due diligence standard in the Dutch art market from 1990 onwards?”** The main research question was split into two sub-questions.

The first sub-question: **How did societal pressures regarding looted Nazi era art influence the Dutch art market from 1990 onwards?”,** looked at the way Dutch society, and the Dutch art market have dealt with the issue of Nazi-looted art and how it affected the Dutch art market and Dutch law. Societal consensus, as pointed out in previous literature, played an important role in how Dutch society viewed Nazi-looted art. Up until the early 1960s, there was a common theme in Dutch government and society to move on, to forget about the war and to focus on rebuilding the country. This consensus changed during the 1960s, where parts of Dutch society started to focus on the long-term effects of the Second World War. Camp survivors started associating to claim recognition and compensation. This culminated in the 1990s, where the strictly legal paradigm of dealing with Nazi-looted art was no longer seen as sufficient. The traditional legalist paradigm with its statutes of limitation became insufficient, as could also be supported by previous literature. The idea of just moving on became morally unacceptable. This was only spurred by the publication of Nicholas’ book *The Rape of Europa* on Nazi-looting in the Third Reich, which became an international bestseller because of the shift towards the moral obligation to solve past wrong. This shift led to the creation of the Washington Principles in 1998 to come to a ‘just and fair’ solution regarding Nazi-looted art and its restitution.

To reach a ‘just and fair’ solution, a new wave of provenance research commenced on the artworks that were retrieved and repatriated to the Netherlands after the Second World War and that were not yet restituted or auctioned off, known as the NK collection. In the 1990s, the first wave of research done by the *Stichting Nederlands Kunstbezit* (SNK) just after the war was deemed insufficient and even unethical by academics and Dutch society because many artworks were not restituted due to difficult legal procedures, stringent requirements as to proof of ownership, and the lengthy processes involved. The subsequent

steps taken were government-funded programs to do provenance research on museum collections for Nazi-looted art. Museums themselves were tasked with the research under guidance of the committee of museum acquisitions. The first project, Museum Acquisitions (1940-1948) that started in 1998 and provided some results was quickly deemed insufficient as well, mainly because of the small scope. In the second project, Museum Acquisitions from 1933, museums were tasked with researching the provenances of all artworks acquired after 1933. A project bureau supported museums in doing research, symposia were held to bring museums together and workshops were given on how to do provenance research. Members of the committee attended international conferences to gain knowledge as well.

The Rijksmuseum is still researching their collection to this day. During the interview, the provenance researched mentioned the increased level of provenance research because of public perception. The Rijksmuseum could no longer deny the possibility of Nazi-looted artworks in their collections or not do enough to resolve the wrongs done in the past without facing backlash. Many museums are public institutions and therefore bound to the public. The Rijksmuseum now employs five full-time provenance researchers, follows internationally agreed upon ways of cataloguing this research and have created forms with standards questions that can be easily accessed and added to when new information is found. Museums have taken a giant leap when it comes to provenance research because of the way Nazi-looted art had to be dealt with.

The rest of the art market, art dealers, collectors, fairs, galleries, and auction houses operate at a much further distance from the public than museums. They are thus less bound to the public, more exclusive and more commercial. This does however not mean that this part of the art market is still as opaque as it was thirty years ago, but it is still called a world of shady dealings and meaningless, empty phrases. The issues the Dutch art market faces and that were not sufficiently resolved by societal influences surrounding Nazi-looted art, are threefold: a lack of concise legislation regarding due diligence and provenance research, ineffective law enforcement and a lack of transparency in the art market. As pointed out in the literature as well, these problems are not easy to solve, but this thesis has analysed some possible solutions. The first is the creation of standards of due diligence and provenance research in national legislation, clear information, like the provenance guide of the RCE, on how to live up to this legislation by governments as well as improving transparency through careful registration of business dealings, careful checks of these dealings by a competent and knowledgeable agency and repercussions when laws are not abided by. Self-regulation by

(inter)national associations like KVHOK proved to not be enough to lessen the problem of stolen art.

The second sub-question: “**How did stolen art databases and their increased possibilities influence the Dutch art market from 1990?**”, looked at the influence of technological developments, mainly stolen art database, on the Dutch art market from the 1990s onwards. The development of the Internet offers many new ways of sharing information, the possibility to check if an artwork might be stolen, the possibility to create online registers and can also be used to check up on art market participants by competent and knowledgably (law enforcement) agencies from a distance. Even though a multitude of stolen art databases exist, the fragmentations of those databases remain a problem. Previous research has shown them to be too fragmented and too dependent on the “vageries of human effort” as mentioned by O’Keefe. This is the amount of effort required to research them. Some are not available to the public, some require applications, and some are hidden behind paywalls. Commercial databases like The Art Loss Register (ALR), using mostly open-source information and services, currently form the easiest way to do due diligence and provenance research, but at a financial cost. Databases on Nazi-looted art, on the other hand, are easily accessible and open-source. Use of all kinds of databases has increased manyfold over the last thirty years, partly because of the increased importance of handling in good faith and the using of stolen art databases making it easier to prove good faith in the court of law. However, stolen art databases are still far too fragmented and thus not ideal.

The way forward is creating laws regarding due diligence. Considering the ever-growing online art market laws will have to be created and updated with a clear standard on what is expected from art market participants when doing due diligence and provenance research. The goal would be to create a clear standard of due diligence and provenance research, that currently does not exist. Consolidating stolen art databases could be a helpful step but must be researched further. The Jewish Digital Cultural Recovery Project (JDCRP) is currently trying to bring together information regarding Nazi-looted art and the goal of institutions like the Rijksdienst voor het Cultureel Erfgoed (RCE) is to further broaden the scope towards the entire art market in the future. The goal, if technological developments allow it later, would be to create one all-encompassing database that includes all works of art known, including stolen art, that is easily accessible. However, this would require a large degree of international cooperation and more research. Another, more nuanced and reachable

option would be the creation of an online application holding links to many different databases, which should also be researched further.

This thesis has analysed societal developments surrounding Nazi-looted art and technological developments, such as stolen art databases, from the 1990s onwards to better understand the Dutch art market as it is today. A serious deficit is the difficulty of meeting art market participants outside of museums and the RCE, such as art dealers and collectors. Interviewing them would have offered a deeper and more analytical insight in how the art market they operate in was influenced by societal developments surrounding Nazi-looted art, the development and use of stolen art databases in art transactions and how that changed over the last thirty years. Research using these sources would offer a clearer perspective on the Dutch art market outside of museums. Even when a clear standard of due diligence and provenance research does not exist in Dutch law, this research has shown that the amount of due diligence done has increased its standard over the last thirty years because societal developments surrounding Nazi-looted art, developments in European and Dutch law and technological developments, such as stolen art databases and trade registers.

The research also adds to the worldwide debate that is currently unfolding surrounding colonial looted art. The way Nazi-looted art was dealt with, although different in scope to colonial looted art, mainly because many of the items of colonial art were looted much earlier in time compared to Nazi-looted art and the impossibility to find heirs, creates a basis of understanding on how the issue of colonial looted art could be dealt with. In many ways this process is like the Committee for Museum Acquisitions and Restitution Commission in recommending the return of Nazi-looted art to their rightful owners. More research into the due diligence standard, the Dutch art market, its practices, law enforcement, the influence of mainstream and social media, and new technological developments such as Artificial Intelligence and 3D modelling could add to the research of both due diligence and stolen art databases.

Bibliography

Primary Sources

Arbeitskreis Provenienzforschung. "Mission Statement". Accessed October 10, 2023. <https://www.arbeitskreis-provenienzforschung.org/en/mission-statement/>.

Arbeitskreis Provenienzforschung. "Press Release: 5th International Provenance Research Day 2023." April 5, 2023. <https://www.arbeitskreis-provenienzforschung.org/en/press-release-5th-international-provenance-research-day-2023-researching-origin-in-museums-libraries-and-archives/>.

The Art Loss Register. "List of Art Fairs at which the Art Loss Register conducts searches." Accessed December 2, 2023. <https://www.artloss.com/art-fairs-subscribers/>.

The Art Loss Register. "Current ALR auction house subscribers." Accessed December 2, 2023. <https://www.artloss.com/auction-house-subscribers/>.

The Art Loss Register. "FAQs." Accessed December 1, 2023. <https://www.artloss.com/faqs/>.

The Art Loss Register. "Homepage." Accessed December 22, 2022. <https://www.artloss.com>.

The Art Loss Register. "Search." Accessed January 14, 2023. <https://www.artloss.com/search/>.

The Art Loss Register. "What does the ALR charge for registration?." Accessed December 4, 2023, <https://www.artloss.com/recover/>.

The Art Loss Register. "Register." Accessed December 2, 2023. <https://www.artloss.com/register/#:~:text=Any%20uniquely%20identifiable%20item%20can,a%20loss%20or%20a%20theft>.

Arts and Records Committee. "International Foundation for Art Research (IFAR) & the Art Loss Register." Accessed January 15, 2024. [https://www.imua.org/Files/reports/International_Foundation_for_Art_Research\(IFAR\)&the_Art_Loss_Register.html](https://www.imua.org/Files/reports/International_Foundation_for_Art_Research(IFAR)&the_Art_Loss_Register.html).

Association of International Antiquities Dealers (AIAD). "Code of Conduct." Accessed March 3, 2023. <http://aiad.org.uk/about-us/code-of-conduct/>.

The Central Registry of Information on Looted Cultural Property 1933-1945. "Laws, Policies and Guidelines: Comparative Art Law relating to Nazi-Confiscated Art March 2019." Accessed March 9, 2023. <https://www.lootedart.com/TJMA6F416801>.

Centrum voor Criminaliteitspreventie en Veiligheid (CVV). "Digitaal Opkopers Register (DOR)". Accessed January 16, 2024. <https://hetccv.nl/themas/high-impact-crimes/heling/digitaal-opkopers-register-dor/>.

The Claim Database. “What we do.” Accessed December 4, 2023.
<https://www.internationalclaim.com/about-us>.

The Claim Database. “Recovery and Dispute Resolution.” Accessed December 4, 2023,
<https://www.internationalclaim.com/recover>.

The Claim Database. “Registering your claim.” Accessed December 4, 2023.
<https://www.internationalclaim.com/register>.

The Claims Conference on Jewish Material Claims Against Germany (Claims Conference) and the World Jewish Restitution Organization (WJRO). “Research Databases.” Accessed March 9, 2023, <https://art.claimscon.org/resources/overview-of-worldwide-looted-art-and-provenance-research-databases/#International-Databases>.

Confédération Internationale des Négociants en Œuvres d’Art/International Confederation of Art and Antiques Dealers’ Associations (CINOA). “CINOA Code of Ethics and Charter.” Accessed March 8, 2023. https://www.obs-traffic.museum/sites/default/files/ressources/files/CINOA_Code_Ethics.pdf.

Commissie Museale Verwervingen 1940-1948. “Guideline on museum acquisitions 1940-1948.” December 1999. <https://www.musealeverwervingen.nl/1546/rapport-museale-verwervingen-1940-1948/guideline-on-museum-acquisitions-1940-1948/>.

Dutch Civil Code. Book 3. Art. 3.1-3.326. “Property Law in General.”
<http://www.dutchcivillaw.com/legislation/indexb33.htm>.

Eerste Kamer der Staten-Generaal. “Implementatiewet wijziging vierde anti-witwasrichtlijn.” Accessed December 12, 2024.
https://www.eerstekamer.nl/wetsvoorstel/35245_implementatiewet_wijziging.

Ekkart Rudi, and Helen Schretlen. “Publicatie Museale Verwervingen vanaf 1933.”
Museumvereniging, 2014. 1-103.

EU Monitor. “Directive 1993/7 - Return of cultural objects unlawfully removed from the territory of a Member State.” Accessed March 9, 2023,
<https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vitgbghrp4tk>.

EU Monitor. “Directive 2014/60 - Return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast).” Accessed March 9, 2023.
<https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vjkm96aw06z9>.

EU Monitor. “Directive 2018/843 - Amendment of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.” Accessed January 16, 2024.
<https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vkpd65xt47yu>.

EU Monitor, “Regulation 2019/880 - The introduction and the import of cultural goods.” Accessed October 20, 2023.
https://www.eumonitor.eu/9353000/1/j4nkv6yhcbpeywk_j9vvik7m1c3gyxp/vkz686pvmbzw.

European Parliament. “European Parliament Resolution of 17 January 2019 on cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars (2017/2023(INI)).” Accessed, December 17, 2023. https://www.europarl.europa.eu/doceo/document/TA-8-2019-0037_EN.html.

Europol. “Over 18000 items seized and 59 arrests made in operation targeting cultural goods.” July 29, 2019. Accessed January 16, 2024. <https://www.europol.europa.eu/media-press/newsroom/news/over-18-000-items-seized-and-59-arrests-made-in-operation-targeting-cultural-goods#:~:text=In%20total%2C%2059%20individuals%20were,metal%20detectors%20were%20also%20seized.>

Federal Bureau of Investigations (FBI). “Homepage.” Accessed January 25, 2023. <https://www.fbi.gov/investigate/violent-crime/art-theft/national-stolen-art-file>.

Information and Heritage Inspectorate: Ministry of Education, Culture and Science. “UNESCO 1970 Convention.” Accessed January 14, 2024. <https://english.inspectie-oe.nl/cultural-goods/legal-basis/1970-unesco-convention>.

International Foundation for Art Research (IFAR). “IFAR’s Provenance Guide.” Accessed March 3, 2023. https://www.ifar.org/provenance_guide.php.

International Association of Dealers in Ancient art (IADAA). “Code of Ethics and Practice.” Accessed March 3, 2023. <https://iadaa.org/about-us/>.

International Council of Museums (ICOM). “Code of Ethics.” Accessed March 3, 2023. <https://icom.museum/en/resources/standards-guidelines/code-of-ethics/>.

International Council of Museums (ICOM). “Object ID.” Accessed March 18, 2023. <https://icom.museum/en/resources/standards-guidelines/objectid/>.

International Council of Museums Nederland (ICOM Nederland). “Ethische Code voor Musea.” Accessed June 20, 2024. [https://www.ethischecodevoormusea.nl/Ethische%20Code%20voor%20Musea_2006%20\(ECM%20huisstijl\)%20DEF.pdf](https://www.ethischecodevoormusea.nl/Ethische%20Code%20voor%20Musea_2006%20(ECM%20huisstijl)%20DEF.pdf).

Interpol. “Assessing Crimes Against Cultural Property 2021: Survey of Interpol Member Countries.” *Interpol*, October 2022.

Interpol’s Stolen Works of Art Database. “Homepage.” Accessed December 22, 2022. <https://www.interpol.int/Crimes/Cultural-heritage-crime/Stolen-Works-of-Art-Database>.

Jewish Digital Cultural Recovery Project (JDCRP). “Homepage.” Accessed January 21, 2024. <https://jdcrp.org/>.

Looted Art: Central Registry of Information on Looted Cultural Property 1933-1945. “Laws, Policies and Guidelines: Comparative Art Law relating to Nazi Confiscated Art March 2019.” Accessed March 9, 2023. <https://www.lootedart.com/TJMA6F416801>.

Lootedart.com. “Overview.” Accessed November 30, 2023. <https://www.lootedart.com/about>.

Ministry of Foreign Affairs of the Czech Republic. “Terezín Declaration.” June 30, 2009. 1-8. https://mzv.gov.cz/jnp/en/foreign_relations/terezin_declaration/index.html#:~:text=Terezín%20Declaration&text=The%20three%2Dday%20conference%20took,of%20the%20war%20in%20Ukraine.

Muller, Eelke. Museale Verwervingen vanaf 1933. “Aanleiding voor het onderzoek.” December 1999. <https://www.musealeverwervingen.nl/1538/rapport-museale-verwervingen-1940-1948/aanleiding-voor-het-onderzoek/>.

Muller, Eelke. Museale Verwervingen vanaf 1933. “Begrenzing van het onderzoek.” December 1999. <https://www.musealeverwervingen.nl/1552/rapport-museale-verwervingen-1940-1948/begrenzing-van-het-onderzoek/>.

Muller, Eelke. Museale Verwervingen vanaf 1933. “Conclusie.” December 1999. <https://www.musealeverwervingen.nl/1586/rapport-museale-verwervingen-1940-1948/conclusie/>.

Muller, Eelke. Museale Verwervingen vanaf 1933. “Lacunes in het archiefmateriaal.” December 1999. <https://www.musealeverwervingen.nl/1564/rapport-museale-verwervingen-1940-1948/lacunes-in-het-archiefmateriaal/>.

Muller, Eelke. Museale Verwervingen vanaf 1933. “Participatie van de musea.” December 1999. <https://www.musealeverwervingen.nl/1560/rapport-museale-verwervingen-1940-1948/participatie-van-de-musea/>.

Muller, Eelke. Museale Verwervingen vanaf 1933. “Rapportage van de musea.” December 1999. <https://www.musealeverwervingen.nl/1610/over-het-onderzoek/onderzoek-1940-1948/van-abbemuseum-stedelijk/?id=1602>.

Muller, Eelke. Museale Verwervingen vanaf 1933. “Uitvoering van het onderzoek.” December 1999. <https://www.musealeverwervingen.nl/1562/rapport-museale-verwervingen-1940-1948/uitvoering-van-het-onderzoek/>.

Museale Verwervingen vanaf 1933. “Objecten.” Accessed October 28, 2023. <https://www.musealeverwervingen.nl/46/objecten/>.

Museale Verwervingen vanaf 1933. “Waarom het onderzoek.” Accessed October 2, 2023. <https://www.musealeverwervingen.nl/nl/38/over-het-onderzoek/waarom-het-onderzoek/>.

Nationaal Archief. “Geroofd Joods bezit.” Accessed June 21, 2024. <https://www.nationaalarchief.nl/onderzoeken/zoekhulpen/geroofd-joods-bezit-1940-1945#collapse-137874>.

Nationaal Archief. “Inventaris van het archief van de Stichting Nederlands Kunstbezit (SNK) en haar taakvoorganger/taakopvolgers (2.08.42), (1930) 1945-1951 (1983)”. Accessed April 11, 2023, <https://www.nationaalarchief.nl/onderzoeken/archief/2.08.42>.

The National Archives. “Commission for the Protection and Restitution of Cultural Material [Vaucher Commission] (T 209/5/1).” Accessed December 26, 2023. <https://discovery.nationalarchives.gov.uk/details/r/C11645559>.

The National Archives. “Records of the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas [Roberts Commission] (RG 239).” Accessed December 20, 2023. <https://www.archives.gov/research/foreign-policy/related-records/rg-239>.

National Gallery of Art. “Galerie Goudstikker: Biography.” Accessed September 26, 2023. <https://www.nga.gov/collection/provenance-info.24103.html#biography>.

Netcher. “Stolen works of art databases for law enforcement agencies at European level.” November 17, 2020. <https://netcher.eu/project-news/stolen-works-of-art-databases-for-law-enforcement-agencies-at-european-level/>.

NIOD Instituut voor Oorlogs-, Holocaust- en Genocidestudies. “De papieren getuigen van roof en ontrecting.” Accessed November 26, 2023. <https://www.niod.nl/nl/projecten/de-papieren-getuigen-van-roof-en-ontrecting>.

Online Archive of California. “Archives of the Committee For the Conservation of Cultural Resources for Southern California Collections (MS. 638).” Accessed December 20, 2023. <https://oac.cdlib.org/findaid/ark:/13030/c8mw2jmh/>.

Rechtbank Gelderland, 15 February 2019. “ECLI:NL:RBGEL:2019:758.” February 25, 2019. <https://uitspraken.rechtspraak.nl/resultaat?zoekterm=ECLI:NL:RBGEL:2019:758&inhoudsin-dicatie=zt0&publicatiestatus=ps1&sort=Relevance>.

Responsible Art Market (RAM). “Art transaction due diligence toolkit.” Accessed December 6, 2022. <http://responsibleartmarket.org/guidelines/art-transaction-due-diligence-toolkit/>.

Responsible Art Market (RAM). “Red Flags List (2017).” Accessed December 6, 2022. http://responsibleartmarket.org/wp/wp-content/uploads/2017/01/RED-FLAG-LISTS_web.pdf.

Restitutiecommissie. “Advies inzake het verzoek tot teruggave van drie schilderijen uit het bezit van Hugo F. Kaufmann.” Accessed, September 30, 2023. <https://www.restitutiecommissie.nl/advies/kaufmann/>.

Restitutiecommissie. “Bindend advies inzake het geschil over teruggave van het schilderij Blick auf Murnau mit Kirche, door Wassily Kandinsky thans in bezit van de Gemeente Eindhoven.” January 29, 2018. <https://www.restitutiecommissie.nl/advies/blick-auf-murnau-mit-kirche-door-wassily-kandinsky/>.

Restitutiecommissie. “Bindend advies inzake Stern-Lippmann / Gemeente Eindhoven II.” September 15, 2022. <https://www.restitutiecommissie.nl/advies/stern-lippmann-gem-eindhoven-ii/>.

Restitutiecommissie. “Bindend advies over schilderij ‘Blick auf Murnau mit Kirche’ van Wassily Kandinsky.” March 15, 2018. <https://www.restitutiecommissie.nl/nieuws/bindend-advies-over-schilderij-blick-auf-murnau-mit-kirche-van-wassily-kandinsky-2/>.

Restitutiecommissie. “Rapportage Restitutiecommissie 1.15.” Accessed November 5, 2023. <https://zoek.officielebekendmakingen.nl/kst-25839-38-b2.pdf>.

Rijksdienst voor het Cultureel Erfgoed (RCE). “Cultuurgoederen WOII (1933-1945) - bronnen, archieven en literatuur.” Accessed December 27, 2023. [https://kennis.cultureelerfgoed.nl/index.php/Cultuurgoederen_WOII_\(1933-1945\)_-_herkomstonderzoek_bronnenlijst](https://kennis.cultureelerfgoed.nl/index.php/Cultuurgoederen_WOII_(1933-1945)_-_herkomstonderzoek_bronnenlijst).

Rijksdienst voor het Cultureel Erfgoed (RCE). “Cultuurgoederen Tweede Wereldoorlog.” Accessed September 26, 2023. <https://wo2.collectienederland.nl/search>.

Rijksdienst voor het Cultureel Erfgoed (RCE): Cultuurgoederen Tweede Wereldoorlog. “Dooop van een Kamerling (15235).” Accessed November 1, 2023. <https://wo2.collectienederland.nl/doc/snk/15235>.

Rijksdienst voor het Cultureel Erfgoed (RCE): Cultuurgoederen Tweede Wereldoorlog. “Doorzoek alle objecten.” Accessed September 30, 2023. <https://wo2.collectienederland.nl>.

Rijksdienst voor het Cultureel Erfgoed (RCE): Cultuurgoederen Tweede Wereldoorlog. “Rivierlandschap met windmolens en schepen (NK1415).” Accessed September 30, 2023. <https://wo2.collectienederland.nl/doc/nk/NK1415>.

Rijksdienst voor het Cultureel Erfgoed (RCE). “Cultuurgoederen WOII (1933-1945) – geschiedenis Nederlands restitutiebeleid.” Accessed September 29, 2023, [https://kennis.cultureelerfgoed.nl/index.php/Cultuurgoederen_WOII_\(1933-1945\)_-_geschiedenis_Nederlands_restitutiebeleid](https://kennis.cultureelerfgoed.nl/index.php/Cultuurgoederen_WOII_(1933-1945)_-_geschiedenis_Nederlands_restitutiebeleid).

Rijksdienst voor het Cultureel Erfgoed (RCE). “Heritage Act 2016.” Accessed January 29, 2024. <https://english.cultureelerfgoed.nl/publications/publications/2016/01/01/heritage-act-2016>.

Rijksdienst voor het Cultureel Erfgoed (RCE). “Herkomstonderzoek cultuurgoederen 1933-1945.” Accessed September 30, 2023. <https://www.cultureelerfgoed.nl/onderwerpen/cultuurgoederen-wo2-1933-1945/herkomstonderzoek>.

The Rijksmuseum. “Provenance Research Museum Acquisitions after 1933.” <https://www.rijksmuseum.nl/en/research/our-research/overarching/provenance-research-acquisitions-after-1933>.

Rijksdienst voor het Cultureel Erfgoed (RCE). “Missie, Visie, Strategie 2020.” Accessed October 29, 2023. <https://www.cultureelerfgoed.nl/over-ons/publicaties/publicaties/2020/01/01/missie-visie-strategie-2020>.

The Rijksmuseum. “Rijksmuseum to Return Colonial Objects From its Collection for the First Time: Six Colonial Objects will Return to Sri Lanka.” Accessed July 5, 2023.

<https://www.rijksmuseum.nl/en/press/press-releases/rijksmuseum-to-return-colonial-objects-from-its-collection-for-the-first-time>.

RKD Nederlands Instituut Voor Kunstgeschiedenis. “Organisatie.” Accessed October 25, 2023. <https://rkd.nl/nl/over-het-rkd/organisatie>.

RKD Nederlands Instituut Voor Kunstgeschiedenis. “RKD Explore.” Accessed October 25, 2023. <https://rkd.nl/nl/collecties/explore>.

Stadsarchief Amsterdam. “Inventarissen.” Accessed October 14, 2023. <https://archieff.amsterdam/inventarissen/details/1341/>.

Supreme Court of the Netherlands. “ECLI:NL:PHR:2003:AF5702.” May 13, 2003. <https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:PHR:2003:AF5702>.

UNESCO. “International Code of Ethics for Dealers in Cultural Property.” Accessed March 3, 2023. <https://unesdoc.unesco.org/ark:/48223/pf0000121320>

UNESCO. “1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.” Accessed March 4, 2023. <https://en.unesco.org/protecting-heritage/convention-and-protocols/1954-convention>.

UNESCO. “The UNESCO 1970 Convention.” Accessed December 5, 2022. <https://en.unesco.org/fighttrafficking/1970>.

UNESCO. “Italy.” Accessed March 5, 2023. <https://whc.unesco.org/en/statesparties/it>.

UNIDROIT. “UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome, 1995).” Accessed December 7, 2022. <https://www.unidroit.org/instruments/cultural-property/1995-convention/status/>.

United States Department of State. “Washington Conference Principles on Nazi-Confiscated Art.” Accessed March 15, 2023. <https://web.archive.org/web/20170426113213/https://www.state.gov/p/eur/rt/hlcst/270431.htm>.

Koninklijke Vereniging van Handelaren in Oude Kunst in Nederland (Koninklijke VHOK). “Leden.” Accessed December 30, 2023. <https://kvhok.nl/leden>.

Wettenbank. “Art. 417bis/437 Dutch Criminal Code.” Accessed January 23, 2024. <https://wetten.overheid.nl/BWBR0001854/2024-01-01/0>.

Wettenbank. “Wet uitkeringen vervolgingslachtoffers 1940-1945.” Accessed September 27, 2023, <https://wetten.overheid.nl/BWBR0002844/2023-07-01>.

Wildenstein Plattner Institute. “Michel and Irma van Gelder Papers 1898-1971 (bulk 1900-1959).” Accessed November 2, 2023. <https://digitalprojects.wpi.art/archive/collections/detail?id=584102-michel-and-irma-van-gelder-papers>.

Willems-Hirsch, Eva. “Kunst- en antiek-gerelateerde criminaliteit: verslag van een onderzoek voor het Nationaal dreigingsbeeld 2012. *Nationale Politie*, April 2012. <https://www.politie.nl/binaries/content/assets/politie/onderwerpen/nationaal-dreigingsbeeld/2012/ndb-kunst-en-antiek.pdf>.

World Jewish Restitution Organization (WJRO). “Terezin Declaration.” Accessed September 29, 2023. https://wjro.org.il/wp-content/uploads/2019/06/terezin_declaration.pdf.

Literature

Art Basel. “The global art market grew to \$67.8 billion in 2022, exceeding pre-pandemic level.” *Art Basel*, April 4, 2023. <https://www.artbasel.com/news/key-findings-art-market-report-2023?lang=fr>.

Bailey, Martin. “Art dealers slam proposed European Union licence regulations,” *The Art Newspaper*, June 15, 2018. <https://www.theartnewspaper.com/2018/06/15/art-dealers-slam-proposed-european-union-licence-regulations>.

Bialynicka-Birula, Joanna. “Investment in Art - Specificity, Risks, and Rates of Return.” *14th International Conference on Finance and Banking (ICFB)*, (October 2013): 1-11, https://www.researchgate.net/publication/261071062_Investment_in_Art_-_Specificity_Risks_and_Rates_of_Return.

Brodie, Neil. “The effect of an artefact’s provenance on its saleability.” *Culture without Context* no. 19 (2006): 4-7.

Burnham, Bonnie, and Franklin Feldman. “An art theft archive: Principles and realization.” *Connecticut Law Review* 10, no. 3 (Spring 1978): 702-729.

Campfens, Evelien. “Nazi-Looted Art: A Note in Favour of Clear Standards and Neutral Procedures.” 22, no. 4 (December 2017): 315-346.

Charney, Noah. “Introduction.” in *Art Crime: Terrorists, tomb raiders, forgers and thieves*, edited by Noah Charney, 2-8. New York: Palgrave, 2016.

Charney, Noah. “Interviews with Ruth Godthelp of the Dutch Art Squad.” *The Journal of Art Crime* 23, no. 1 (2020): 99-100.

Charney, Noah, Paul Denton, John Kleberg. “Protecting Cultural Heritage from Art Theft: International Challenge, Local Opportunity.” *FBI Law Enforcement Bulletin*, March 1, 2012. <https://leb.fbi.gov/articles/featured-articles/protecting-cultural-heritage-from-art-theft-international-challenge-local-opportunity>.

Chesters, Laura. “Online art buying continues but record growth eases after lockdown boom.” *Antiques Trade Gazette*, May 11, 2023. <https://www.antiquetrade gazette.com/news/2023/online-art-buying-continues-but-record-growth-eases-after-lockdown-boom/>.

Christopherson, Tom. "Art Law and the Art Market: Disclosure or Discretion." *Sotheby's Institute of Art*, October 2, 2017. <https://www.sothebysinstitute.com/news-and-events/news/art-law-and-the-art-market-disclosure-or-discretion>.

Claassen, Babette and Jeroen Borst. "Linked Art Provenance." Accessed February 27, 2023. <http://www.victordeboer.com/wp-content/uploads/2019/09/LAP-Final-version-23-07.pdf>

Day, Gregory. "Explaining the Art Market's Thefts, Frauds, and Forgeries (And Why the Art Market Does Not Seem to Care)." *Vanderbilt Journal of Entertainment & Technology Law* 16, no. 3 (Spring 2014): 457-495.

De Cocq, Marjolein. "Individu op tweede plan bij terughalen roofkunst nazi's." *Provinciale Zeeuwse Courant*, November 28, 2002.

De Goede, Agnes. "Onderzoek naar door nazi's geroofde kunst in Eerste en Tweede Kamer." *RTL Nieuws*, May 23, 2022. <https://www.rtlnieuws.nl/nieuws/politiek/artikel/5309977/foute-nazi-kunst-de-tweede-kamer-groot-onderzoek-gestart>.

DeMott, Deborah A. "Artful Good Faith: An Essay on Law Custom, and Intermediaries in Art Markets." *Duke Law Journal* 62, no. 3 (2012): 607-643.

DePorter Hoover, Deborah. "Title Disputes in the Art Market: An Emerging Duty of Care for Art Merchants." *George Washington Law Review* 51, no. 3 (March 1983): 443-464.

Derbyshire, Tom. "Police Chiefs Call for a New Theft Database." *Antiques Trade Gazette*, November 27, 2013. <https://www.antiquestradegazette.com/news/2013/police-chiefs-call-for-new-theft-database/>.

Douglas, Susan J., and Melanie Hayes. "Access to loss: copleft and the protection of visual information." *Art Antiquity & Law* 21, no. 2 (2016): 101-116.

Ekkart, Rudi, and Eelke Muller. *Looted Art and Restitution*. Zwolle: Waanders, 2023.

Euwe, Jeroen. *De Nederlandse Kunstmarkt 1940-1945*. Amsterdam: Boom, 2007.

Garro, A.M. "The Recovery of Stolen Art Objects from Bona Fide Purchasers." in *International Sale of Works of Art, Proceedings of the first International Symposium on the International Sale of Works of Art* (1985): 504-520.

Goggin, Mary-Margaret. "'Decent' vs. 'Degenerate' Art: The National Socialist Case." *Art Journal* 50, no. 4 (1991): 85. <https://doi.org/10.2307/777328>.

Gorisse, D., M. Cord, M. Jordan, S. Philipp-Foliguet and F. Precioso. "3D Content-Based Retrieval in Artwork Databases," *2007 3DTV Conference, Kos, Greece* (2007): 1-4.

Hall, David L. "Stolen Cultural Property: A Due Diligence Primer." *Delaware Lawyer* (Fall 2017): 8-11.

Hilbert, Martin, and Priscila López. "The World's Technological Capacity to Store, Communicate, and Compute Information." *Science* 332 (2011): 60-65.

Huiberts, Ard and Sander Kooistra. *Valse kunst: hoe de kunst koper bedrogen wordt*. Utrecht: Veen, 2003.

Hoek, Roos, and Bart Jansen. "Laws Please! A Legal Chronicle of the Lack of Due Diligence in the Dutch Art Market." *Journal of art Crime* 23 (Spring 2020): 3-16.

Haupt, Simon. *Museum of the Missing: A History of Art Theft*. New York City: Sterling, 2006.

Isrow, Zachary. "Defining Art and its Future." *Journal of Arts & Humanities*, 6, no. 6 (June 2017): 84-94.

Keppler, Nick. "How the FBI's National Stolen Art File Reunites Lost Works with Their Rightful Owner." *Mental Floss*, June 15, 2021.
<https://www.mentalfloss.com/article/646877/fbi-national-stolen-art-file-database-locates-lost-works>.

Kind, Karl-Heinz, "The Role of INTERPOL in the Fight Against the Illicit Trafficking in Cultural Property." In *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property*, edited by Stefano Manacorda and Duncan Chappell, 175-182. New York: Springer, 2011.

Kisluk, Anna. "Stolen Art and "Due Diligence"." *Curator: The Museum Journal* 41, no. 3 (May 2010): 161-166.

Korver, Ron. *Money laundering and tax evasion risks in free ports*. Brussels: European Parliamentary Research Service (EPRS), 2018.

Lagrou, Pieter. "Victims of Genocide and National Memory: Belgium, France and the Netherlands 1945-1965." *Past & Present*, no. 154 (1997): 184.
<http://www.jstor.org/stable/651120>.

Levine, Jane A. "The Importance of Provenance Documentations in the Market for Ancient Art and Artifacts: The Future of the Market May Depend on Documenting the Past." *Journal of Art, Technology & Intellectual Property Law* 19, no. 2 (Spring 2009): 1-16.

Marks, Hannah. "Distinction between 'Fake' and 'Forgery': Issues with Technical Definitions and Their Application in the Legal Realm vs. Art World." Accessed June 20, 2024.
https://www.academia.edu/32543389/Distinction_between_Fake_and_Forgery_Issues_with_Technical_Definitions_and_Their_Application_in_the_Legal_Realm_vs_Art_World?sm=b.

Mather-Lees, Pandora. "The Problem with Due Diligence in the Art Market." *ArtRatio*, May 25, 2020. <https://www.artratio.co.uk/due-diligence-art-market>.

McFarland Taylor, Laura. "Tracking Stolen Artworks on the Internet: A New Standard for Due Diligence." *Journal of Computer & Information Law* 16, no. 4 (Summer 1998): 937-970.

McKenna, Mary. "Problematic Provenance: Toward a Coherent United States Policy on the International Trade in Cultural Property." *University of Pennsylvania Journal of International Law* 12, no. 83 (spring 1991): 83-124.

Muller, Eelke and Helen Schretlen. *Betwist Bezit: De Stichting Nederlands Kunstbezit en de teruggave van roofkunst na 1945*. Zwolle: Waanders, 2002.

Naves, Inge and Sjo Hoogcarspel. "Art Law in The Netherlands." *Brinkhof Lexology*, March 8, 2019. <https://www.lexology.com/library/detail.aspx?g=f38485d2-4908-44de-b6ad-1519a9832a54>.

Neuhaus, Nina M. and Sophie Balay. "Databases on Lost and Stolen Art: Is Consulting a Database an Inherent Requirement of Good Faith." *Art Antiquity and Law* 19, no. 2 (July 2014): 169-182.

Nicholas, Lynn H. *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and World War II*. New York: Knopf, 1994.

Nistri, Giovanni. "The Experience of the Italian Cultural Heritage Protection Unit." in *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property*, edited by Stefano Manacorda and Duncan Chappell, 183-192. New York: Springer, 2011.

Noce, Vincent. "Paris gallerists – found guilty of selling Picasso works stolen by handyman – receive suspended jail sentences." *The Art Newspaper*, November 22, 2022. <https://www.theartnewspaper.com/2022/11/22/french-court-hands-jail-sentences-to-paris-gallerists-found-guilty-of-dealing-in-picasso-works-stolen-by-handyman>.

O'Keefe, Patrick J. "The Use of Databases to Combat Theft of Cultural Heritage Material." *Art, Antiquity, and Law* 2, no. 4 (December 1997): 357-366.

Olivier, Monique. "The UNIDROIT Convention: Attempting to Regulate the International Trade and Traffic of Cultural Property." *Golden Gate University Law Review* 26, no. 3 (January 1996): 627-673.

Oost, Tabitha I. "Restitution Policies on Nazi-Looted Art in the Netherlands and the United Kingdom: A Change from a Legal to a Moral Paradigm?." *International Journal of Cultural Property*, no. 25 (2018): 139-178. doi:10.1017/S0940739118000103.

Palmer, Norman. "Casting a lamp on due diligence." *Art Antiquity and Law* 17, no. 2 (August 2012): 169-178.

Palmer, Norman. "Painting the Wayside Flower: Law, Ethics and Regulation in the Art and Antiquities Market: A common law perspective." in *In the Legal Labyrinth? Paths towards Cultural Property Protection*, edited by Susanne Schoen and Andrea Baresel-Brand, 355-382. Magdeburg: Koordinierungsstelle Magdeburg, 2007.

Petropoulos, Jonathan. "Not a Case of 'Art for Art's Sake': The Collecting Practices of the Nazi Elite." *German Politics & Society*, no. 32 (1994): 107-24.

Posner, Richard A., and William M. Landes. "The Economics of Legal Disputes Over the Ownership of Works of Art and Other Collectibles." *Coase-Sandor Institute for Law & Economics Working Paper*, no. 40 (1996): 1-50.

Preziosi, Tarquin. "Applying a Strict Discovery Rule to Art Stolen in the Past." *Hastings Law Journal* 49, no. 1 (November 1997): 225-252.

Prott, Lyndal V. "Strengths and Weaknesses of the 1970 Convention: An Evaluation 40 years after its adoption," *Second Meeting of States Parties to the 1970 Convention* (May 2012): 1-12.

Ratcliffe, James. "Recovering Stolen Artworks: A Practical Approach." in *The Palgrave Handbook on Art Crime*, edited by S. Hufnagel and S. Chapell, 237-251. London: Palgrave Macmillan, 2019.

Redactie. "Mogelijk nieuwe roofkunst in Van Abbemuseum." *Joods Onafhankelijk Nieuws*, November 1, 2021. <https://jonet.nl/mogelijk-nieuwe-roofkunst-in-van-abbemuseum/>.

Redactie. "Reactie kunsthandel bevreedt, drama is niet nodig," *NRC Handelsblad*, April 19, 2018, <https://www.nrc.nl/nieuws/2018/04/19/antiwitwasrichtlijn-reactie-kunsthandel-bevreedt-drama-is-niet-nodig-a1600018>.

Redmond-Cooper, Ruth. "Good Faith Acquisition of Stolen Art: De Preval v. Adrian Alan Ltd", *Art, Antiquity & Law* 2, no. 2 (March 1997): 55-62.

Reed, Victoria. "Art Restitution." Oxford Bibliographies, January 2023. Accessed June 16, 2024. <https://www.oxfordbibliographies.com/display/document/obo-9780199920105/obo-9780199920105-0173.xml#:~:text=Art%20restitution%20is%20the%20return,a%20sale%20made%20under%20duress>.

Reed, Victoria. "Due Diligence, Provenance Research, and the Acquisition Process at the Museum of Fine Arts, Boston." *DePaul Journal of Art, Technology & Intellectual Property Law* 23, no. 2 (spring 2013): 363-374.

Ribbens, Arjen. "Eindhoven geeft schilderij Kandinsky terug aan erven Joodse vrouw." *NRC*, September 15, 2022. <https://www.nrc.nl/nieuws/2022/09/15/eindhoven-geeft-schilderij-kandinsky-terug-aan-erven-joodse-vrouw-2-a4142025>.

Ribbens, Arjen. "Kunstkopers haken af door EU-regels tegen witwassen," *NRC Handelsblad*, April 16, 2018, <https://www.nrc.nl/nieuws/2018/04/16/kunstkopers-haken-af-door-eu-regels-tegen-witwassen-a1599688>.

Roodt, Christa, and Bernadine Benson. "Databases for stolen art: Progress, prospects and limitations." *South African Crime Quarterly* 52, no. 5 (July 2015): 5-14.

Roodt, Christa. "Stolen Art Databases and Due Diligence." in *6th International Conference of Experts on the Return of Cultural Property* (Gyeongju-si, Republic of Korea, 17-19 Oct 2016), 215-225.

Sanner, Mary Genevieve, “Settling Old Scores: Proposing Targeted Regulation to Mitigate the Problem of Looted Antiquities.” *Duke Law Journal* 72, no. 1 (2022): 235+

Schwartz, Alan, and Robert E. Scott. “Rethinking the Laws of Good Faith Purchase.” *Columbia Law Review* 111, no. 6 (October 2011): 1332-1384.

Sladen, Olivia. “Faking History: How Provenance Forgery is Conning the Art World.” *Journal of Art Crime* 3, no. 1 (Spring 2010): 41-52.

Smith, Kelsie. “Ice Recovers 19th century painting stolen from Italian Monastery.” *CNN*, September 3, 2020. Accessed December 6, 2023. <https://edition.cnn.com/2020/09/03/us/19th-century-italian-painting-recovered-trnd/index.html>.

Smit, Mathijs. “Topverzamelaar rekent af met onfrisse kunsthandel.” *RTL Nieuws*, October 15, 2017. <https://www.rtlnieuws.nl/economie/business/artikel/23181/topverzamelaar-rekent-af-met-onfrisse-kunsthandel>.

Spencer, Ronald D, “Art Law on Legal Title and Buyer Due Diligence, in the face of “red flags,” who is responsible.” *Spencer’s Art Law Journal* (February 12, 2014).

Standards and Guidelines, International Council of Museums (ICOM). “Code of Ethics.” Accessed March 3, 2023. <https://icom.museum/en/resources/standards-guidelines/code-of-ethics/>.

Stichting Landelijk Joods Netwerk. ““Van Abbemuseum schoffeert Joodse erven van mogelijke roofkunst’.” *Jonet.nl*. January 25, 2022. <https://jonet.nl/van-abbemuseum-schoffeert-joodse-erven-van-mogelijke-roofkunst/>.

Stolpersteine Dordrecht. “Het voorbije Joodse Dordrecht: De broers Mak van Waay en hun gespleten houding tegenover Joden.” Accessed November 29, 2023. https://stolpersteine-dordrecht.nl/het_voorbije_joodse_dordrecht_familie_mak.html.

Taylor, Alexandra. “The “violent crime” of a misconstrued Art Loss Database.” *The Art of Value*, June 26, 2019. <https://theartofvalue.blog/2019/06/26/the-violent-crime-of-a-misconstrued-art-loss-database/>.

Thaler, Richard H. *Misbehaving: The Making of Behavioral Economics*. London: W.W. Norton and Company, 2016.

Thornes, Robin, Peter Dorrell and Henry Lie. *Introduction to Object ID: Guidelines for Making Records that Describe Art, Antiques, and Antiquities*. Los Angeles: Getty Information Institute, 1999.

Tomijima, Mia. “Competing or Complementing: Art Los Databases Proliferate.” *Center for art law*, December 5, 2019. <https://itsartlaw.org/2019/12/05/competing-or-complementing-art-loss-databases-proliferate/>.

Tremayne-Pengelly, Alexandra. “Every Art Collector Needs This Database. But is it Being Manipulated by Thieves?.” *Observer*, September 27, 2022.

<https://observer.com/2022/09/every-art-collector-needs-this-database-but-is-it-being-manipulated-by-thieves/>.

Ulph, Janet. "Exercising Due Diligence in Art Transactions." *Art, Antiquity and Law* 3, no. 4 (December 1998): 323-344.

Van de Mheen, Dike and Paul Gruter, ed. *Helingspraktijken onder de loep: impressies van helingcircuits in Nederland*. Den Haag: Boom Juridische Uitgevers, 2007.

Van der Plicht, Elias. "Institutionele wandaden en de zoektocht naar rechtsherstel." Accessed September 26, 2023. <https://www.tweedewereldoorlog.nl/onderzoekuitgelicht/omgaan-met-historisch-onrecht/institutionele-wandaden-en-de-zoektocht-naar-rechtsherstel/>.

Vliet, Lars van, "Limitation Periods and Works of Art." In '*Sjef-Sache*', *Essays in honour of Prof. mr. dr. J.H.M. (Sjef) van Erp on the occasion of his retirement*, edited by B. Akkermans and A. Berlee, 235-248. The Hague: Eleven International Publishing, 2021.

Wieringa, Kees. *Inshallah: Museumdirecteur in Qatar*. Hilversum, Water, 2021.