

Restitution About-Face: Max Stern, the return of Nazi-Looted art and Düsseldorf's double game

SARA ANGEL
(York University)

In April 2014, advocates for Nazi-era art restitution had reason to celebrate. Düsseldorf's Stadtmuseum returned *Self-Portrait of the Artist* by Wilhelm von Schadow to the estate of Max Stern, its former owner.¹ As well, the Stadtmuseum announced plans to produce an exhibition about Max Stern, who had been one of the city's most renowned Jewish art dealers before he was forced to sell over 300 paintings under Nazi orders.²

However, this positive turn of events was short-lived. Just three years later, in November 2017, one of the year's most disturbing art-world events happened when the city of Düsseldorf abruptly canceled the show.³ This paper explores Düsseldorf Mayor Thomas Geisel's controversial termination of the Stadtmuseum exhibition – followed by his decision to reinstate the show on Stern; how Düsseldorf went from an enlightened view of Nazi-era restitution to a reversed stance on the issue, and the problems that continue today to be connected with the research and restitutions of Stern's paintings in Germany.

Few names are as important in Canadian art history as Max Stern. At his Montreal-based Dominion Gallery, Stern represented Canada's biggest artists in the post-Second World War years, including Emily Carr and Jean-Paul Riopelle as well as such international talents as sculptors Henri Moore and August Rodin. Born in 1904 just outside Düsseldorf, where he lived as a child and young man, Stern fled Germany after the Nazis took away his right to work for one simple reason: he was Jewish.⁴

Stern settled in Montreal, Canada where he thought he would have

¹ Sara Angel, "The Secret Life of Max Stern", *The Walrus* (October 15, 2014).

² Ibid.

³ Catherine Hickley, "Düsseldorf abruptly cancels exhibition about Jewish dealer Max Stern", *The Art Newspaper* (November 17, 2017).

⁴ Max Stern, unpublished autobiography, ca. 1982. Max Stern fonds. National Gallery of Canada, series-sound and video recordings: audiocassette box 52. Also see the Dominion Gallery fonds, the National Gallery of Canada. The Dominion Gallery supported thirty-two Canadian artists including Emily Carr (1871-1945), Jacques Godefroy

nothing to do with Germany again. But now, 40 years after his death, his name is at the centre of international attention due to the deficiencies in Düsseldorf's handling of Nazi-era art restitution. This situation began five years ago, in April 2014, at the restitution ceremony for *Self-Portrait of the Artist*. The Stadtmuseum's director Dr. Susanne Anna announced that her museum would organize an exhibition to acknowledge Stern's importance to the city of Düsseldorf.⁵

As Dr. Anna explained at the restitution ceremony, the Third Reich had erased Max Stern's history, as well as the histories of all the city's Jews. An exhibition on Stern was necessary, said Dr. Anna, as a reminder that during the Holocaust "art was only one thing stolen by the Nazis. They took everything – rugs, bicycles, cars, carpets, candlesticks and books – turning Germany into a garage sale of Jewish goods to finance the war."⁶

What Dr. Anna left out of her speech were details of the highly difficult process that Stern's heirs faced in reclaiming *Self-Portrait of the Artist* – a process that took five years in a city known for its conservative values; one that continues to have reverberations today; and one that shines light on the story of Max Stern and anti-Semitism in Düsseldorf.

Max Stern grew up in Düsseldorf at the Galerie Stern, founded by his father Julius. He inherited his father's business in 1934, but ran the esteemed art dealership for one year only because in January 1933 Adolf Hitler had been appointed chancellor of Germany.⁷ With the spread of anti-Semitism and Nazi law, Stern, as a Jew, was declared unsuitable to promote German culture. In November 1937, as Nazism and Gestapo orders engulfed Düsseldorf, Stern was told he could no longer run his family's business. Under duress Stern liquidated his gallery's inventory – more than 300 paintings listed at fire-sale prices in a forced auction.⁸

The proceeding was held at Cologne's Third Reich-approved auction house Lempertz, a business still open today, and one that is infamous for having trafficked non-Aryan property to Hermann Goering, Hitler's deputy and most avaricious looter. Stern never saw a penny from the 1937 forced

de Tonnancour (1917-2005), Paul-Emile Borduas (1905-1960), John Lyman (1886-1967), Stanley Cosgrove (1911-2002) and E.J. Hughes (1913-2007).

⁵ Sara Angel, "The Secret Life of Max Stern".

⁶ Ibid.

⁷ Philip Dombowsky, *Dr. Max Stern and the Dominion Gallery a Selection from the Archives*. (Ottawa: National Gallery of Canada, 2003), 6.

⁸ Catherine Mary MacKenzie, *Auktion 392: Reclaiming the Galerie Stern, Düsseldorf* (Montreal: Concordia University, 2006).

sale; its proceeds were ransomed to obtain an exit visa for his mother to leave Germany.⁹

Stern escaped Germany and rebuilt his life in Canada. Yet for the next 40 years, he never spoke of the Lempertz forced auction and what had been stolen from him. This fact only came to light after his death in 1987. Not until then did his beneficiaries learn about the 1937 Lempertz catalogue which listed the contents of the forced sale.¹⁰ The catalogue was brought to the Stern estate's attention by Lucian Simmons, the head of restitution and provenance research at Sotheby's New York.¹¹

Stern's beneficiaries – Montreal's Concordia and McGill Universities and the Hebrew University in Jerusalem – then established the Max Stern Art Restitution Project in 2002 to break Max Stern's silence and recover what he had lost in Nazi Europe.¹²

Since its inception, the Max Stern Art Restitution Project has quickly become one of the world's most important voices on Nazi-looted art-recovery. Because it restitutes art that ranges in value, including pieces worth little on today's market, the work of the Max Stern Art Restitution Project counters a notion often fed by the media that money rather than moral rectitude is at the heart of Holocaust-era art restitution.

The project has reclaimed an average of one work a year since its launch (to date, 18 paintings) and it has also established groundbreaking precedents. For instance, in 2008, the Max Stern Art Restitution Project recovered *The Girl from the Sabine Mountains* by Franz Xaver Winterhalter. The painting resurfaced at a Rhode Island auction house 60 years after it was sold to a high-ranking member of Hitler's storm troopers at the 1937 Lempertz forced auction, where Stern was forced to liquidate his inventory.¹³

The case involved a milestone ruling by U.S. District Chief Justice Mary Lissi, who stated that "Stern's relinquishment of his property was anything but voluntary". Lissi's ruling was historic. Not only – for the first time – was the forced sale of art deemed tantamount to theft, but a recogni-

⁹ Sara Angel, "The Secret Life of Max Stern".

¹⁰ Mathias Lempertz, *Die Bestände der Galerie-Stern-Düsseldorf*, (Cologne: Mathias Lempertz, 1937).

¹¹ Sara Angel, "The Secret Life of Max Stern".

¹² Willi Korte, "Max Stern Lifetime Chronology" *Max Stern Art Restitution Project*, Concordia University.

¹³ Nicholas M. O'Donnell, *A Tragic Fate: Law and Ethics in the Battle Over Nazi-Looted Art* (Chicago: Ankerwycke, 2017).

tion was made that the majority of European Jews had lost their artworks through Nazi coercion rather than outright property confiscation.¹⁴

In Germany, however, Judge Lissi's pro-restitution ruling was at odds with the country's conservative factions. Following the 2008 landmark case, Henrik Hanstein, the current owner of Lempertz, had the auction house go on record stating that the case held no legal ground in his country.¹⁵

This background helps explain why the 2014 restitution of the von Schadow portrait took five long years and why its aftermath has been so fraught with controversy.

An early Director of the Düsseldorf Academy, von Schadow shaped one of Europe's most famous art schools – the alma mater of Joseph Beuys, Gerhard Richter, and Andreas Gursky – so while his self-portrait didn't have tremendous monetary value; its meaning is priceless to the city of Düsseldorf.

The Stern estate located the self-portrait at the Stadtmuseum after finding it in an old copy of the catalogue for the 1976 exhibition "The Hudson and the Rhine". The show, held at the Düsseldorf Kunstmuseum, focused on American artists who had attended von Schadow's academy and included the self-portrait on loan.¹⁶ Although the Stadtmuseum's director Susanne Anna was sympathetic to seeing the return of the von Schadow self-portrait, the matter was not one for her to decide because the work was municipal property.

Not only did Düsseldorf decide to fight the claim of the Stern heirs, it was the city's right to do so. Germany has no laws outlining how to deal with restitution claims. Moreover, the country's civil code states that property cannot be reclaimed more than 30 years after it was lost or stolen. This means that the door shut in 1975 to restituting the self-portrait through the German courts.¹⁷

While Germany is among 44 countries that voluntarily signed the

14 Edward Fitzpatrick, "Dispute over painting rooted in Nazi Germany" *Rhode Island News* (October 12, 2008). Also see "The Max Stern Estate" in Nicholas M. O'Donnel. *A Tragic Fate: Law and Ethics in the Battle Over Nazi-Looted Art*.

15 Sara Angel, "Germany Still has Problematic Approach Towards Nazi-Era Art Restitution" *Globe and Mail* (February 15, 2019).

16 Kunstmuseum Düsseldorf. *The Hudson and the Rhine Die amerikanische Malerkolonie in Düsseldorf* (Düsseldorf; Kunstmuseum Düsseldorf, 1976).

17 Sara Angel, "Germany Still has Problematic Approach Towards Nazi-Era Art Restitution".

Washington Principles of 1998, committing itself to the restitution of art stolen by the Nazis or sold under duress, the pact is legally non-binding.¹⁸ To fight the Stern estate's claim for *Self-Portrait of the Artist*, Düsseldorf's city council hired Ludwig von Pufendorf.¹⁹

It was 2010 and Pufendorf was one of Germany's most outspoken critics of art restitution after the Berlin state senate had agreed to restitute *Berlin Street Scene* by Ernst Ludwig Kirchner from the city's Bruecke Museum four years earlier. In 2006, Kirchner's Expressionist masterpiece *Berlin Street Scene* was restituted by Anita Halpin, a granddaughter of the Jewish-German art collectors Alfred and Tekla Hess.²⁰ Halpin claimed the painting after a lengthy process in which she proved that under anti-Semitic persecution, her grandparents saw *Berlin Street Scene* (along with approximately 4 000 other works) looted by the Nazis.²¹ Still, Pufendorf disputed the decision, arguing that the situation had "nothing to do with moral restitution" but rather that it was about "a process of commercialization".²² His thoughts were quickly picked up by others, including the newspaper *Frankfurter Allgemeine Zeitung*, which published a story titled "They Say Holocaust and Mean Money".²³

The uproar escalated further when in the fall of 2006, Halpin sold *Berlin Street Scene* at Christie's New York for \$38.1 million. Bernd Schultz, then the Director of the Berlin auction house Villa Grisebach, called the Kirchner restitution a betrayal of the German nation orchestrated by "crafty, unscrupulous restitution lawyers in the U.S. and Germany".²⁴

In the fall of 2013, however, the conversation about Nazi-era art restitution changed course. The German publication *Focus* broke the story of the greatest art find of the 21st century: More than 1 400 pieces, estimated to be worth more than €1 billion, had been discovered the previous year in

18 Nicholas M. O'Donnell, "The Washington Conference and its Ethical Parallels", in *A Tragic Fate: Law and Ethics in the Battle Over Nazi-Looted Art* (Chicago: Ankerwycke, 2017).

19 Ibid.

20 Gunnar Schnabel and Monika Tatzkow, *The Story of Street Scene: Restitution of Nazi Looted Art Case and Controversy*. (Berlin: Proprietas-Verlag, 2008)

21 Ibid.

22 Stephanie Ringel, *Der Tagesspiegel* (August 19, 2006). As quoted in Gunnar Schnabel and Monika Tatzkow, *The Story of Street Scene: Restitution of Nazi Looted Art Case and Controversy*.

23 Bernd Schultz, "They Say Holocaust and Mean Money", *Frankfurter Allgemeine Zeitung*, January 19, 2007.

24 Ibid.

the Munich apartment of Cornelius Gurlitt, the son of Nazi curator Hildebrand Gurlitt.²⁵

In the wake of the Gurlitt announcement, another fact quickly came to light: namely, Hildebrand Gurlitt (the father of Cornelius), along with other Nazis, had easily re-established his life in Düsseldorf after the Second World War. In fact, in 1948 Cornelius Gurlitt became Director of the Düsseldorf Kunstverein, the city's art association for the Rhineland and Westphalia. Sixty-three years later, in 2011, his son Cornelius Gurlitt sold *The Lion Tamer*, a work by Max Beckmann, at Lempertz – the very place where Max Stern had held his forced sale in 1937. The Beckmann painting had been part of Gurlitt's hoard of hidden works.²⁶

Suddenly the provocative debate that Pufendorf and others had ignited in response to *Berlin Street Scene* seemed far less relevant than the new questions that the media brought to the surface, including: *Where did the paintings in Gurlitt's apartment come from? How much other Nazi-looted art remained hidden and unrestituted? And how complicit was the contemporary art trade in masking the crimes committed during the Third Reich?*

In 2014, against this backdrop of the Gurlitt find, the municipality of Düsseldorf, then under the leadership of Mayor Dirk Elbers, was persuaded to return the von Schadow portrait to the estate of Max Stern. It was five years after the first claim for *Self-Portrait of the Artist* had been made. Düsseldorf was on solid ground in its legal claim to keep *Self-Portrait of the Artist*. However, its officials decided against holding onto stolen property just because the law entitled them to do so. The city was morally convinced that it had an ethical responsibility to reconstitute the painting.²⁷

This is how, along with the restitution for *Self-Portrait of the Artist* in April 2014, plans began for the exhibition about Max Stern. The museum show, whose working title was *From Düsseldorf to Montreal*, was planned to open at the Düsseldorf Stadtmuseum in February 2018, before travelling to the Haifa Museum of Art and then to Montreal's McCord Museum. Its focus was to teach the story of Max Stern, the anti-Semitic persecution

25 Melissa Eddy, Alison Smale, Patricia Cohen and Randy Kennedy, "German Officials Provide Details on Looted Art", *New York Times* (November 5, 2013).

26 Patricia Cohen, "Documents Reveal How Looted Nazi Art Was Restored to Dealer", *New York Times* (November 6, 2013).

27 Sara Angel, "The Secret Life of Max Stern".

that forced him to leave his native Germany, and how his heirs created the Montreal-based Max Stern Art Restitution Project.²⁸

To curate the exhibition, the Stadtmuseum director Dr. Susanne Anna recruited the world's leading Stern experts: the National Gallery of Canada archivist Philip Dombowsky, who catalogued all of Stern's papers for the institution, as well as the Montreal professor Dr. Catherine Mackenzie, who in 2009 had curated an exhibition on the Lempertz sale in which Stern liquidated his assets. The team worked on the show for three years. Their vision for the exhibition, however, would not come to pass.²⁹

Not long after the restitution of von Schadow's *Self-Portrait of the Artist*, Thomas Geisel defeated Dirk Elbers to become Düsseldorf's Mayor. Then, in July 2017, Geisel came under pressure when the Max Stern Art Restitution Project initiated a claim to recover the painting *Sicilian Landscape* (1861) by Andreas Achenbach, a work registered as missing with Interpol and listed on the German lostart.de database as one of Stern's stolen works.

The piece was spotted in an Achenbach exhibition that originated in the German city of Baden-Baden in 2016, featuring works belonging to the private collector Wolfgang Peiffer. Peiffer retained Pufendorf, who disputed the Stern estate's claim to the painting and told *The Art Newspaper*: "My client will not allow this painting to continue to be listed on the lostart.de database and will seek recourse in court to uphold his rights."³⁰

Pufendorf then launched a series of complaints against the Stern Restitution Project, directed toward the Canadian embassy in Germany, the Holocaust Claims Processing Office in New York, and the city of Düsseldorf. On 8 October 2017, Pufendorf wrote a letter that was heavily critical of the Stern project, its work and its mandate.³¹

The next day, Dr. Anna, Director of the Stadtmuseum, received verbal notification from the city council that the exhibition was cancelled. Düsseldorf issued a statement explaining that it was pulling the plug on the landmark show because of "restitution claims in connection to Max

28 Sara Angel, "Backlash as Max Stern exhibit dubbed 'Too Canadian' for Düsseldorf" *Macleans* (February 14, 2018).

29 Ibid.

30 Catherine Hickley, "Düsseldorf museum pulls painting from show after Nazi loot claim" *The Art Newspaper* (July 11, 2017).

31 Sara Angel, "Restoration Drama" *The Globe and Mail* (November 24, 2017).

Stern”.³² Geisel’s decision reflected the fact that German sentiments against Nazi-era looted art claims continue to run high, bolstered by the fact that (unlike Austria, the second-highest looter of Jewish art during the Third Reich) Germany has no law to facilitate the recovery of plundered culture. It was not until 2013 that Germany set up an Advisory Commission for restitution cases, 15 years after Austria established its Council for Art Restitution. As a result, Germany is lagging behind: Austria has heard approximately 350 cases to date, Germany has reviewed a mere fifteen.³³

What Mayor Geisel did not anticipate was the extensive consternation that the exhibition’s cancellation attracted internationally. At best, the Mayor’s decision was considered an inappropriate overstepping of political boundaries; at worst, it drew accusations of anti-Semitism. “Ownership claims should be a goal and incentive, not a hindrance, to this important exhibition”, said Tel Aviv University professor Hanna Scolnicov. Speaking on behalf of the German culture minister, Monika Grütters, Hagen Philipp Wolf condemned Düsseldorf’s termination of the Stern exhibition, calling the decision “beyond regrettable” and adding that “exhibitions aimed at confronting Nazi wrongs are more necessary than ever at the current time”.³⁴

The negative media attention intensified when Mayor Geisel commented that another reason for the show’s termination was the dominant role played by the Canadian curators Dr. Mackenzie and Mr. Dombowsky, whose participation he claimed made the exhibition too “one-sided” and not German enough.³⁵ This very statement overlooked the fact that there are no scholars on Stern in Germany because when the country forced him to flee, he took his life, possessions, and papers to Canada, which became a stronghold for study on him.

Geisel’s decision was particularly controversial because it coincided with the start of a show on the Gurlitt case which opened in November 2017 in Bonn. The exhibition, held in a federal museum, told the story of Nazi

32 Sara Angel, “Ronald Lauder Takes Germany To Task Over Lack of Action on Art Restitution” *ARTnews* (February 2, 2018).

33 Sara Angel, “Germany Still has Problematic Approach Towards Nazi-Era Art Restitution”.

34 Sara Angel, “Ronald Lauder Takes Germany To Task Over Lack of Action on Art Restitution”.

35 Sara Angel, “Backlash as Max Stern exhibit dubbed ‘Too Canadian’ for Düsseldorf”.

victims and how they lost their artworks, as well as the country's pledge to see works in the Gurlitt hoard rightfully returned to their owners.

The international media outrage against Düsseldorf continued throughout December 2017. Then just as the year came to the close, Mayor Geisel made another surprising move: he reversed his decision and announced that the Stern exhibition was back on the calendar, with a new opening date of 2020.³⁶ However, Geisel explained that the vision for the exhibition would be "modified" and that it would involve a new, yet-unnamed curator. It is hard to imagine that the situation could become more ominous. But it did.

In February 2019 in Düsseldorf, Mayor Geisel hosted an international symposium on Max Stern to lay the groundwork for his newly conceived exhibition on the city's native son. The one-day conference featured historians, provenance specialists and art-world professionals from New York, London, Paris and Berlin. Yet, in protest against Geisel's mishandling of the Stern exhibition, all the experts on Stern's life (a small group of scholars based in Ottawa, Montreal and Munich) refused to participate in the city's event.

I didn't receive an invitation to be a participant, likely because of critical articles that I had written on Düsseldorf. Instead, I attended the conference as a member of the general public. That's when it became clear to me (and all others in attendance at the symposium) that Geisel's so-called "modified" exhibition plans would stay far away from the topic of the restitution of Nazi-looted art. In the brochure for the conference, which included a biography of Stern's life, no mention was made that the 1937 auction of Galerie assets at Lempertz was a forced sale.³⁷

More revealing, however, was the fact that as the exhibition leader Mayor Geisel replaced the pro-restitution Dr. Susanne Anna with Dr. Dieter Vorsteher, the former Deputy President of the German Historical Museum in Berlin, who gave one of the conference's first presentations. For anti-restitution attendees who were at the symposium – including Lempertz's owner Henrik Hanstein, and Ludwig Pufendorf – the selection of Dieter Vorsteher as the new curator was a popular choice.³⁸

³⁶ Brigit Katz, "After Heavy Criticism, German City's Exhibition on Jewish Art Dealer Is Back On", *SmithsonianMag* (November 28, 2017).

³⁷ Sara Angel, "Germany Still has Problematic Approach Towards Nazi-Era Art Restitution".

³⁸ *Ibid.*

In 2009, Dieter Vorsteher advocated against the restitution of more than 12 500 posters (by such artists as Edvard Munch, Gustav Klimt and Toulouse-Lautrec) owned by the Jewish art lover Dr. Hans Josef Sachs. The Sachs collection was stolen in 1938 under the order of Nazi propaganda minister Joseph Goebbels.³⁹

In 2005, Dr. Sachs's heirs discovered the works in the vaults of the German Historical Museum. Only after extensive government appeals was the property returned to Sachs's son Peter, although not until 2013 – eight years after the claim was made – and against the protests of Vorsteher, who called the restitution “a real pity”.

Geisel opened his symposium last February by urging those who boycotted the conference – namely Canada's Catherine Mackenzie and Philip Dombowsky, as well as three Stern scholars based at Munich's Central Institute for Art History – to collaborate on Düsseldorf's 2020 exhibition. This, however, this will not happen until Düsseldorf acknowledges that Germany's definition of stolen art is far too limited and until the city recognizes that the 1937 Lempertz auction where Stern lost his property was in no way voluntary.

Until a change is made on this front, Germany remains in an untenable position – as Ronald Lauder, the President of the World Jewish Congress, puts it, “promising much” on the subject of Nazi-looted art, but so far doing “the bare minimum to solve this problem”.⁴⁰ In conclusion, Düsseldorf is playing a double game. Walking a political tightrope, the city's 2020 exhibition on Max Stern will most certainly spotlight his persecution by the Third Reich, but like the conference held just months ago, it will stay far away from acknowledging that the 1937 forced auction was any kind of theft.

In doing so, the city will allow Germany's anti-restitution cultural leaders, such as Ludwig Pufendorf and Henrik Hanstein, to control the agenda and to congratulate Dieter Vorsteher on creating an exhibition that simultaneously acknowledges the Holocaust but stays far away from compensating its victims.

³⁹ Catherine Hickey, “Berlin Court Rules in Favor of Heir in Nazi-Looted Poster Suit”, *Bloomberg* (February 10, 2009).

⁴⁰ Sara Angel, “Ronald Lauder Takes Germany To Task Over Lack of Action on Art Restitution”