

Holocaust Art Looting and Restitution Symposium – 23 June, Palazzo Turati, Milan  
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Art Market Perspective 2011: How Christie's Rises to the Challenge of Looted Art

Hello, my name is Monica Dugot. I'm International Director of Restitution at Christie's, coordinating our work on Nazi-era restitution issues globally. I am privileged to have worked in the restitution field from the start of the renewed interest in the subject in the mid-nineteen nineties, first at the New York State Banking Department's Holocaust Claims Processing Office for eight years and now at Christie's for the past seven years.

I join with Marc Porter in welcoming you and am pleased to be able to address you today about issues of Holocaust-era art looting and restitution. I would also like to thank the Union Internationale des Avocats, our speakers and our Italian colleagues for this new opportunity.

Today I will draw on Christie's experience in addressing the challenge presented by the continuing circulation of looted art in the market and to present some of the lessons that Christie's has learned over recent years.

**Jaffé**

This Guardi on our invitation is a good place to start. Christie's sold this painting after the French Ministry of Foreign Affairs restituted it from the Musée des Augustins, Toulouse to the heirs of John and Anna Jaffé in 2005. But peeling back the layers of the provenance history of this work draws together beauty and sorrow in equal measure.

The Jaffés had been a part of the English community on the French Riviera from the late nineteenth century. And, they built a diverse and impressive art collection. John Jaffé passed away in 1933 and Anna in 1942 believing their legacy was safe, but this was not to be the case. The pro-Nazi Vichy regime in the South of France was quick to follow the lead of the Nazi occupiers in the North in seizing and selling off Jewish collections. And this became the fate for the Jaffé collection in 1943: the Nazi office

of 'Jewish affairs' decreed that the collection must be sold and the proceeds from this forced sale were certainly never received by Anna's three nephews.

[S] And here we see the Guardi again, in quite a different context. Innocuous enough in appearance, this slide, in fact, shows one of the albums presented to Adolf Hitler himself of paintings that his henchmen had acquired for his grandiose project, the planned Linz museum. [S] Other works from the Jaffé collection met a similar end. These two Teniers, from the Jaffé collection, were also acquired by the Nazis. The third went to private hands.

At the end of the war, the Western Allies recovered the Guardi and one of the Teniers and returned them to France, where they entered French museum collections, the Guardi in Toulouse and the Teniers at the Louvre. It was not for another sixty years that the Jaffé family managed to overturn the 1943 sale and recover these two works from the French museums.

Christie's 2005 sale of the painting on behalf of the Jaffé heirs, however, was not the end of the story. One of the Jaffé heirs, Alain Monteagle, approached us with the second Teniers also in mind. Christie's had sold it, provenance unknown, in 1996. We were therefore able to establish the location of the work, and with the goodwill of all involved, we recovered it for the Jaffé heirs.

### **Context: Restitution & the art market**

To put our work into context, let me provide some additional background.

[S] The pernicious and widespread looting of cultural and personal property during the years of the Nazi-era and Second World War is unmatched in history. Nazi ideology and policy sought not only to eradicate Jewish culture and the presence of Jews in Germany, Axis and occupied countries. To remove the influence of Jews and others on German culture, the Reich also acted to dispossess enemies of the state and to purge its museums and institutions of 'degenerate' art. Nazi officials believed would undermine the moral fibre of Germany. Jews were not the only victims. National and regional museums in occupied countries were overrun and looted. Monuments and

places of historical interest were destroyed or damaged. The Red Army, too, seized trophy art. Soldiers and civilians on all sides also stole or pocketed 'souvenirs'.

[S] Italy too suffered immense cultural losses during the war, both before and after 1943. Not only in the destruction of churches and synagogues, monuments and works of art but through the Nazi command's greed. Nazi agents were buying works in Italy and these paintings were all acquired for the Linz museum. As you'll know, priceless paintings from the museum in Naples found their way from Monte Cassino to Hermann Göring's collection, Danae by Titian famously. Also, Boston's Museum of Fine Arts has just restituted a valuable embroidery – a wartime loss of undetermined cause – to the Museo Diocesano Tridentino in Trent, which is celebrating the return with an exhibition starting this coming weekend.

We know also of a number of private Italian collections looted. These losses appear in both the Allies reports immediately post-war and in subsequent publications. But there has been little published on losses from private Italian Jewish collections. We do know however of community losses. For example, the library of the Jewish Community in Rome confiscated by the ERR in 1943 and taken to Germany.

While the focus has lain more with the looting post-1943, there is a new interest in the earlier losses of the Italian Jewish collectors. Jews in Italy suffered significant persecution from as early as 1938, when anti-Semitic laws, expulsion and confiscation orders were enforced. As Dr. Ilaria Pavan has written about and will touch on in her presentation, a raft of 'aryanisation' measures was instigated, leading to the loss of businesses and property by Italian Jews. And surely this dispossession must extend to art too.

### **Christie's**

At Christie's, we accept the responsibility to not knowingly sell looted or stolen art or cultural objects and to take positive steps to help ensure that looted or stolen works do not pass through our hands. Christie's approach has included publishing guidelines on dealing with looted art issues and claims when they arise, hosting panel discussions and talking about this issue and our efforts, just as I am doing today.

In our approach, Christie's strives to work within the intent of the 1998 Washington Principles and the more recent Terezin Declaration, through our research, our transparency and our engagement in dispute resolution, and also as an active stakeholder in this field.

There is no regulatory body that directly oversees our work in the restitution area, but independently we take our responsibility towards our clients, claimants and collectors incredibly seriously. Yes, there certainly is a level of self-protection in this work. Christie's reputation and commercial success are one and the same. Clear and untainted provenance is at a premium in our salerooms. Increasingly, we are being asked to demonstrate our due diligence to sellers, buyers and interested parties increasingly attuned to issues concerning title and spoliation. But moreover, in an art market that is often criticised for lack of transparency or accountability, we need to build and maintain trust and act with integrity.

### **Difficulties for Nazi-era restitution**

Restituting works of art to the original owners has gathered considerable support, momentum and success over the last decade, fifteen years. But it is not without considerable challenges, too, in identifying and tracing looted works of art.

First and foremost, historical research back over the decades is extremely difficult and time-consuming. This is especially the case when trying to untangle events during a time of war, occupation, turmoil and displacement.

Tracing artworks is especially challenging. Attributions change, particularly for Old Master works – some several times over the years, which makes them particularly hard to study. Works on paper are even worse. Art historical significance and fashions change – for example, Egon Schiele's work was often derided during his life and his patrons were few. But now even his sketches change hands frequently and for significant sums. Even authoritative catalogue raisonnés can be inaccurate on the subject of provenance. Sales records, even if they do exist, may be incomplete. Works of art may pass through many hands or down through families without all of the names associated with the work being included in the provenance. Ownership documentation is often sparse, understandably particularly for claimants.

Where difficulties and dilemmas arise in our claims resolution work, they tend to share common stumbling blocks. For example, when claims are vague or less than proven to a reasonable degree; when one party is not willing to engage but we are forced to retain a work pending resolution; or when there are unrealistic expectations about our ability to trace works sold many years ago.

Beyond that, there is no international, uniform or binding legislation for handling or arbitrating claims. Essentially, while respecting and working within laws on stolen works of art and international principles, we must set our own internal standards for handling restitution issues consistent with international guidelines.

### **In practice**

[S] Central to our approach is the identification of any problematic provenance in the works consigned to us for sale. We do this by scrutinizing the known provenance of almost every lot to raise ‘red flags’ if there is a problem. This approach means we are looking for sensitive names or gaps in provenance, for markings and stamps that might suggest a problem.

We do this sort of work by checking against specialized sources of information and databases on looted art. Such resources have become increasingly comprehensive and available and our research has often been successful as technology, availability of material and growing interest in the topic has helped us to identify looted art.

However, there is still much more to uncover and to coordinate. New archives and databases are often independent initiatives that make more information accessible or make information more easily accessible yet, at the same time, they increase the number of steps our research team must take in examining an item’s suitability for sale. We applaud the recent work of the many national archives, the Jewish Claims Conference, Holocaust museums and the Commission for Looted Art in Europe for their efforts to bring several archival sources together under one umbrella, the International Research Portal. But there is still a need for greater partnership, even to revisit some of the initial hopes and aspirations of the 1998 Washington conference. For example, we can still only hope for the eventual creation of a single, centralised, comprehensive and freely-accessible database of looted objects.

Christie's is fortunate to have built up over the years good and open relationships with the claimant community which also helps in our research. We are pleased, for example, to work with the Goodman family, the heirs of collector Fritz and Louise Gutmann (who have continued the quest to recover the family collection) and also the heirs and legal and research team for Jacques Goudstikker's collection. From both we receive guidance on the status of any Goudstikker or Gutmann item that comes through our doors. We are likewise pleased that the Jaffe and Gentili di Guisepe families, along with many others, are so ready to share their information with us.

### **Guidelines/Best practice**

[S] At Christie's we now follow our own guidelines – publicly available on our website -- which set out a framework making clear the expectations and responsibilities of all concerned. Christie's Guidelines are based on four overarching principles: fairness, practicality, consistency and transparency. In being even-handed towards both current holder and claimant, our aim is to assist in the development of a factual record and to bring about productive and open dialogue when an issue is identified and to help claimants and claim recipients to make better and more prompt decisions based on an accurate assessment of the historical circumstances that gave rise to any particular claim.

Under this process, when an issue is identified, we research further to see whether or not the object was spoliated and whether or not there is a potential claim to it. Or indeed, competing claims to it, which we have seen. Where there is significant cause for concern, we withdraw the object in question from sale, discuss the situation with the consignor and hold on to the work until there is a satisfactory solution or until the object is cleared. When we are satisfied that there is no claim or when an object is then offered for sale following its restitution, we strive to publish as full an account of its history as possible, often including newly uncovered information in our catalogues.

[S] In general, successful settlements often include a sale of the claimed object and a division of the proceeds or could also involve an object remaining with the current holder. Where the original owner is a private individual, a dialogue often results in restitution, some monetary compensation or the sale going forwards. Where the

original owner is a government or museum, a deal often results in the object being returned. Each case we handle must necessarily be judged on its own merits but we are influenced by the bigger picture of unprecedented loss during the Nazi-era and WWII, much of that loss being tied to racial and ethnic persecution.

### **Alsberg**

[S] This painting by Girolamo Rizzo da Santacroce, for example, came in to Christie's via our Milan office and from Italian consignors in 2006. We identified it as having been part of the estate sale of a Jewish lawyer, Max Alsberg, which took place in Berlin in 1934. The context to this sale was, in fact, much sadder than first glance suggested. Max Alsberg, who had been a prominent and successful lawyer who had the job he loved taken away from him following the Nazi's early 'cleansing' of Jews from the professions in Germany as early as 1933. Although he and his young family emigrated to Switzerland, as his daughter told us, he felt that without his profession, life was not worth living anymore. He committed suicide a few short months after going into exile. The family was then forced to sell their collection. However, our consignors – who had no idea of this early history – were sympathetic and responsive to the Alsberg family and a compromise led to a settlement. It is worth noting here that this painting was not extremely valuable – it sold for just over £23,000 – but the settlement was hugely important to Max Alsberg's daughter. Credit also goes to the consignors (who were not wealthy art collectors at all but individuals selling one of the few items of value in their family's possession) in being open to hearing what the claimant had to say.

### **Christie's Position**

[S] As a commercial organization, Christie's is different in our approach from museums, collectors and claimants. To illustrate:

We are the most visible part of the art market. The auction process brings unrestituted works of art to light giving original owners an opportunity to make a claim and allowing us to address the problem.

We are not the owners of contested works.

We do not judge or adjudicate claims. Rather we seek to bring together the parties involved to find just and fair resolutions. Our role is as informed intermediary and guide, not as an advocate for one side or the other.

We can suggest ways of resolving claims pragmatically without the need for the parties to go to court.

While legal questions around jurisdiction and time limitations do feature in the claims we handle, they are not the sole criteria for resolving claims. We can assess and explore the cases presented, participating in an informed dialogue between claimant and current holder based on historical information, legal, ethical and moral foundations as well as commercial realities.

This also means that spoliation can be widely defined. The cases we handle deal not only with direct confiscation or forced sale, but also subtler indirect loss and flight assets. For example, we have helped identify works of art lost by the Dusseldorf dealer Max Stern. Stern was forced out of his profession by the Nazis, barred from trading because he was Jewish and compelled to sell paintings to liquidate his business, often at sums far below the true value. We have also explored issues concerning the involuntary sale of works by Jewish émigrés in countries outside the direct power of the Nazis. Many collectors, for example, fled to Switzerland, a frequent market for paintings sold to fund further flight or the start of new lives for exiles.

[S] Because of the diversity of our auction portfolio, we do not see only the high-profile contested works that might be on display in museums or loaned to exhibitions, but a very wide range of objects, many of modest financial value. We are just as involved in resolving claims for such moderate as well as high value artworks. These majolica dishes, for example, were recently returned through Christie's and the efforts of the Art Loss Register to the Gotha Kunstsammlungen. We have also been involved in the return of works to other museums in Germany and in Russia in recent years.

Christie's publishes catalogues – both in print and online – and circulates them widely. We try to be as clear as we can be about the objects we intend to auction and their provenance, meaning that if there is a claim, we are hopefully made aware of it in

good time to address and resolve it or to withdraw the work from sale.

We do not receive a fee for our restitution work from claimant, consignor or buyer. We might receive a commission or fee for a subsequent sale but never a fee for our work in bringing about a claim resolution.

Yes, we have a duty of confidentiality to our clients and will not disclose, identify details or other private information unless they agree. Many see our duty of confidentiality as a bar to pursuing claims. But conversely, it means that we can bring people together indirectly with Christie's as an intermediary when dialogue simply would not be possible otherwise.

We are also in a unique position to provide a valuable service to parties in need. From our experience, Christie's has developed a skilled and dedicated restitution and research team, and with access to a wider network of researchers and other advisory talent. Our day-to-day, hands-on approach to claim resolution means that we are involved in more claims at any one time than any probably any other entity. To put that in context, we have been involved – or are involved in – around sixty claims over the last 5 years.

### **Gentili di Guiseppe**

[S] We count as a success those situations when mutual empathy and compromise play a large part. For example, this painting *Virgin and Child with Saint Francis and Saint Jerome* by Giovan Maria di Bartolomeo Bacci di Belforte, known as Rocco Zoppo. It was appraised by a colleague during a routine pre-consignment visit to a client's house. However, the visit was made less than routine when the specialist recognised it as having once been in the collection of Federico Gentili di Giuseppe.

Gentili, who was of Jewish descent, had been an Italian businessman and representative of the Italian Finance Ministry living in Paris. He had amassed a sizeable and impressive collection of Old Master Paintings and had been honoured with both the Legion d'Honneur and Gran Croce del Regnod'Italia. He died in April 1940, shortly before the fall of France. His sons fled France for the US and in their absence, the art collection was auctioned off by a court-appointed administrator. A number of the

Gentili works ended up in the collection of Herman Göring. And although the estate received the sale proceeds, the art collection was lost.

In 1999, after a lengthy legal battle, the French Court of Appeal finally overturned the validity of the 1941 sale, ruling that the sons had fled to escape persecution and had had no control over the auction. This court decision paved the way for the restitution of a number of paintings by the Louvre and also from other museums in Germany and the US. And the family continues in its work to locate and recover other lost paintings.

In the case of the Rocco Zoppo, we were able to move swiftly and explain the situation and background to the then-current holder. We were then able to act as a bridge between the consignor and the Gentili family and successfully concluded a settlement agreement. In fact, the painting has just been offered by Christie's in Paris, a few short weeks after its discovery.

### **Big Picture**

The flow of restitution continues and will continue to play a central role in the art market and at Christie's.

As part of the bigger picture, there may also be some crossover with other cultural property issues as the art-market increasingly recognises and is asked to respond to the strong cultural and symbolic resonance of objects lost in other ways. For those peoples who have been stripped or robbed of a heritage – through war, conflict, theft or a regime's policy – restitution offers an important touchstone.

The art-market's challenge is to respond sensitively and to act as a brake to the continued circulation of stolen art. It is in all our interests to do so and to engage – as we are doing today – in open conversation about how we can combine and cooperate most effectively. The question of how to deal with looted art lies not solely in the courtrooms but in the willingness of those in the art world to address these issues forthrightly.

Primo Levi said:

‘Human memory is a marvellous but fallacious instrument. The memories which lie within us are not carved in stone; not only do they tend to become erased as the years go by, but often they change, or even increase by incorporating extraneous features’.

And so it is in the art world where objects have value that can increase or decrease as they attract or lose cultural, historical or personal significance. So often in the art world we weigh artworks either as commodities largely dislocated from their provenance or cultural signifiers carrying the legacy of the past. And, it is the same for Holocaust-era claimants who see not only the multi-million dollar Picasso or the symbols of nationhood, but these claimants might also see a grandparent's favourite painting or sculpture or book or the homes of their own childhood recreated. In this context, artworks are imbued with so much more than monetary or even cultural value. Claimed works are often emotions and lost lives made tangible.

Every day, the art that comes through our doors comes with a hundred different stories. And it is the art market's duty to remember that.

Thank you.

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