

Restitutions Committee

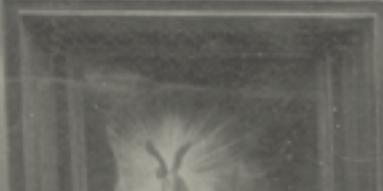
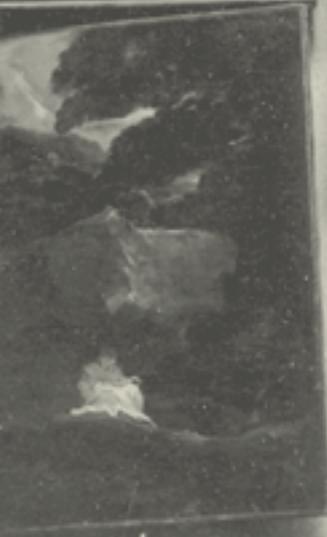


Programme | International Symposium

# Fair and just solutions?

Alternatives to litigation in Nazi-looted art disputes:  
**status quo and new developments**

27 November 2012 | Peace Palace | The Hague



# Foreword



Fourteen years after the signing of the Washington Principles, the call for fair and just solutions for ownership claims to Nazi-looted art is still highly topical. Today, on the occasion of the tenth anniversary of the Dutch Restitutions Committee, we would like to evaluate the status quo of dispute resolution in Nazi-looted art cases in and beyond the countries that have installed advisory committees.

We welcome our colleagues from four other European advisory committees, the US Special Envoy for Holocaust Issues, scholars, experts, representatives of claimants, museums and the art trade, and interested others. Our aim is to provide attendees with a forum in which to establish the current state of affairs and share their thoughts about the right way to move forward. We should like to thank all the speakers and panel members for their time and contributions, and all those taking part for their interest.



**Willibrord Davids**, chair

**Evelien Campfens**, director (organisation)

# A Word on the Programme

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

Washington Conference Principles on Nazi-Confiscated Art, 3 December 1998, no. VIII

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Everyone attending this symposium undoubtedly shares the conviction that claims for the restitution of Nazi-looted art should be taken seriously. However, this has not always been generally accepted. It became common ground after the methods and scale of the looting by the Nazi regime became widely known, and after it was realised that thousands of those works of art were still held in national collections of 'heirless' art – often without the justification of a proper search for the original dispossessed owners in the post-war era. Publications by historians and others played a key role in this process. The adoption of the Washington Principles in 1998 codified the principle that claims on Nazi-looted art should be taken seriously.

## Steps by National Governments

In the years that followed, a number of national governments took rigorous steps to investigate their collections of 'heirless' art, and adopted measures making it easier for dispossessed owners to come forward with claims to works of art in state collections. Standards for these claims often set aside the normal limitation periods. Today, the governments who created these mechanisms might claim that their responsibilities regarding supposedly heirless art collections have been met, in as far these measures offer claimants realistic possibilities for a 'fair and just' procedure and solution. It should perhaps be added that this specific responsibility for 'heirless' art collections was also based on a less than perfect post-war restitution effort.

## Third-Party Claims

The measures taken by national governments notwithstanding, it is impossible to maintain in 2012 that Nazi-looted art claims are no longer an issue. It is clear that questions as to the legal status of works of art with a Nazi history remain unsolved outside the realm of (heirless) art collections in the custody of national governments. Emotional public debates and long-fought cases testify to this. Disputes of this type come within the scope of the normal national laws. It might be argued that the outcome of these disputes should be determined by assessing the possessor's legal title. In reality, however, a work of art may remain tainted in spite of a good legal title. This could make it impossible to sell it or allow it to go on loan in other countries. In other words, aside from the question of morality, there might be a practical need to find solutions based on norms other than strict legal ones. The extent to which the regular judiciary can still look at these claims is a matter of national jurisdiction. During the day we will hear different views on this point from different legal angles.

Returning to the Washington Principles, how could claims like these, not covered by specific national standards that can bring them within the scope of national panels, be resolved? What is the meaning of a 'fair and just solution' in these cases? The Washington Principles state that a fair and just solution may vary 'according to the facts and circumstances surrounding a specific case'. This raises many questions, some of which we will address today.

### **What is fair and just?**

Claims to state-owned property (e.g. the 'heirless' art collections) are generally assessed differently from claims to works of art in other collections. Can it be said, therefore, that a fair and just solution depends on the status of the present possessor, or on his or her good faith? Furthermore, the Washington Principles refer to 'confiscated art'. Should this be taken as a restriction, meaning that not every loss is covered, but only those that can be regarded as a confiscation? And what is the role of independent and neutral investigation into the facts in this regard? Research might reveal that what appears at first sight to be a voluntary sale was actually a forced sale, and vice versa.

### **Time limitations and the relation to other spoliated art**

What role should the issue of time play in the assessment of a fair and just solution? This question touches on philosophical aspects (restorative justice) as well as more pragmatic matters. Should a limitation period apply, as it does in other ownership claims and, if so, what might a valid criterion be?

### **Special status of Nazi-looted art**

Another, rather basic, question is in what sense Nazi-looted art claims differ from other claims regarding spoliated art. If there is a fundamental difference, what is its essence? Or could the standard for Nazi-looted art claims be useful for other claims on spoliated art as well?

### **How to get there?**

The Washington Principles (no. XI) describe alternative dispute resolution (ADR) mechanisms as an instrument for resolving ownership issues. Is this also true of disputes involving parties other than governments, or are regular courts the most appropriate venues for these? Alternative mechanisms have been developed, for example by some of the panels present here today, that can also hand down opinions (binding or not) on claims to works of art outside national collections. Mediated settlements with the help of auction houses, the Art Loss Register or the ICOM mediation initiative can serve as examples of the obvious need in the art market for alternatives to litigation in this area. Can one, however, also discern procedural elements that are of key importance in search of a fair and just solution? And, given the fact that many of these disputes are international in character, is there a need for more international coordination at this level, or for an independent international organisation to advise or carry out research?

These thoughts underpinned the guidelines for today's programme. We have tried to focus on issues that are common to participants from many different countries and different legal and historical backgrounds, and endeavoured to take the responses to the questionnaire (introduced in an earlier stage) into account. We hope to take the discussion on some of these points a step further, even though one day is not enough to explore all these matters in depth or to do justice to all the relevant points of view.

**Evelien Campfens**



# Programme

Moderator: *Chazia Mourali*

## Foyer

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8.15 - 9.00 Registration and coffee

## Academy Hall

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Opening: Welcome and intro speech

9.00 Welcome by **Willibrord Davids** (Chair of the Dutch Restitutions Committee)

A word on the programme by **Evelien Campfens** (Director of the Dutch Restitutions Committee)

9.15 Official opening by **Jet Bussemaker** (Dutch Minister of Culture, Education and Science)

9.30 Intro speech by **Norman Palmer**, CBE QC (Barrister; Visiting Professor of Law at King's College London; Expert Advisor to the Spoliation Advisory Panel, United Kingdom), 'Alternatives to litigation in Nazi-looted art cases: status quo and new developments'

10.00 Coffee break

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Part I: Existing situation alternative dispute resolution: Europe and the USA

10.30 Interview session with the chairs of the five European advisory committees (Austria, France, Germany, the Netherlands and the UK), 'A comparison of the situation in the respective countries'

Participants:

**Eva Blimlinger** (Vice Chair of the Beirat of the Kommission für Provenienzforschung, Austria)

**Willibrord Davids** (Chair of the Restitutions Committee, The Netherlands)

**Sir Donnell Deeny** (Chair of the Spoliation Advisory Panel, United Kingdom)

**Michel Jeannotot** (Chair of the Commission d'indemnisation des victimes de spoliations, France)

**Jutta Limbach** (Chair of the Beratende Kommission, Germany)

11.30 **Douglas Davidson** (Special Envoy for Holocaust Issues, Washington DC, USA), 'Nazi-looted art disputes, status quo and new developments in the USA'

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Part II: **Academic papers**

- 11.50 **Marc-André Renold** (Professor of Art and Cultural Heritage Law at the University of Geneva, Switzerland), *'A comparative analysis of international practice and trends'*
- 12.20 Lunch
- 13.30 **Matthias Weller** (Professor of Civil Law, Comparative Law and Private International Law, EBS Law School, Wiesbaden, Germany), *'Key elements of fair and just solutions'*
- 14.00 **Wouter Veraart** (Professor of Legal Philosophy, VU University Amsterdam, the Netherlands), *'Between justice and legal closure. Looted art claims and the passage of time'*
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Part III: **The parties concerned**

- 14.20 – 17.00\* Panel discussion amongst stakeholders and experts (\*incl. tea break of 30 minutes and questions audience), *'Exploration of the main themes of the day, divided in five subsessions'*

**a. The special status of Nazi-looted art**

Is there a fundamental difference between disputes regarding Nazi-looted art and disputes regarding other spoliated art? If so, what is the basis for this distinction?

**b. The concept of 'fair and just'**

What circumstances are key to a 'fair and just' decision? Can it be said that this depends on the status of the current possessor?

**c. Factual research**

Is independent factual research key to reaching a fair and just solution? If so, what exactly is needed in this regard, and can it be left to 'the market'?

**d. Time limitation**

How long should this go on? Is time limitation part of a fair and just solution or a hindrance to it?

**e. How to get there?**

Is there a need for an independent international panel to advise or do research? If so, what should the basic tasks of such an organization be? Should they be limited to independent research, or should binding advice, mediation or clearance also be part of it?

*Discussion chaired by:*

**Rob Polak** (art and law expert, former partner at De Brauw Blackstone Westbroek, the Netherlands)

*Panel members and subsessions:*

**Taco Dibbits** (Director of Collections, Rijksmuseum Amsterdam), a + d

**Monica Dugot** (Senior Vice President, International Director of Restitution, Christie's), c + e

**Rudi Ekkart** (Director of the Netherlands Institute for Art History; former head of the Origins Unknown Agency, Chair of the Committee supervising the Investigation of Dutch Museum Acquisitions since 1933), c + d

**Wesley A. Fisher** (Director of research, Conference on Jewish Material Claims Against Germany), b + e

**Corinne Hershkovitch** (Partner at Borghese Associés, Paris, France), b + e

**Willem Jan Hoogsteder** (Hoogsteder & Hoogsteder Old Master Paintings, The Hague, the Netherlands), b + d

**Lawrence Kaye** (Partner at Herrick, Feinstein LLP; Co-Chair Art Law Group New York, USA), a + d

**Stephen J. Knerly, Jr.** (Partner at Hahn Loeser & Parks LLP; Co-Chair Non-Profit Institutions Practice Group, Cleveland, USA), c + e

**Marc Masurovsky** (Co-founder/Director of Research of the Holocaust Art Restitution Project, Washington DC, USA), a + c

**Isabel Pfeiffer-Poensgen** (Secretary General of the Kulturstiftung der Länder, Berlin, Germany), b + e

**Lucian Simmons** (Senior Vice President, Provenance and Restitution, Sotheby's), a + b

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Part IV: **Concluding remarks**

- 17.00 **Nico Schrijver** (Professor of International Law at Leiden University and a member of the Senate of the Dutch house of parliament),  
**Norman Palmer**, CBE QC (Barrister; Visiting Professor of Law at King's College London; Expert Advisor to the Spoliation Advisory Panel, United Kingdom) and  
**Evelien Campfens** (Director of the Dutch Restitutions Committee)
- 17.30 Closing by **Willibrord Davids** (Chair of the Dutch Restitutions Committee)

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17.45 – 20.00 **Reception (drinks and snacks)  
in the Entrance Hall of the Peace Palace**

Chamber music by the Concertgebouw string trio, an ensemble founded by Caroline Strumphler, Guus Jeukendrup and Julia Tom, three string players of the world renowned Royal Concertgebouw Orchestra based in Amsterdam.

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# Speakers and participants

## *Welcome and intro speech*

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### **Jet Bussemaker** (Dutch Minister of Education, Culture and Science)

Jet Bussemaker was appointed Minister of Education, Culture and Science in the Cabinet Rutte-Asscher on 5 November 2012.



### **Willibrord Davids**

Willibrord Davids (1938) was appointed chairman of the Dutch Restitutions Committee in 2009. He was president - previously justice and vice-president - of the Supreme Court of the Netherlands, retired in 2008. He was also a junior civil-law notary; senior lecturer at the University of Groningen; judge at and, later, vice-president of the District Court in Assen, and president of the Benelux Court of Justice. He was also chairman of the Dutch Committee to Investigate Decision-Making concerning Iraq.



### **Evelien Campfens**

Evelien Campfens is director of the Dutch Restitutions Committee. Since the establishment of the Committee in 2002, she has headed the research team and oversees the co-ordination of cases and preparation of the (advisory) opinions. She previously worked as a lawyer for the Dutch Inspectorate of Cultural Heritage and the Origins Unknown Agency, where she was involved with restitution issues and claims on works of art in the NK-collection of recuperated art. She has represented the Restitutions Committee on many occasions in the Netherlands and abroad and is a (co-)author of several publications on restitution. She has studied Dutch law with a specialisation in International Public Law at the University of Amsterdam.



### **Norman Palmer** CBE QC

Professor Norman Palmer is a barrister practising at 3 Stone Buildings, Lincoln's Inn, London. He specializes in the fields of cultural objects, personal property, commercial law and dispute resolution, including the mediation of disputes over cultural objects. His clients include governments, local authorities, cultural institutions, religious bodies, indigenous communities, museum curators, art collectors, art dealers, transporters and insurers. Palmer has appeared or advised as counsel in numerous cases involving cultural objects and high-value chattels in

general. He has participated in some major cases that were resolved by alternative dispute resolution and has also acted as an expert witness in various cases. Official appointments held by Norman Palmer include standing counsel to the National Gallery of Australia (from 2001), principal academic adviser to the Institute of Art and Law (from 1995) and expert adviser to the Spoliation Advisory Panel (from 2000). Over the past decade he has chaired the Treasure Valuation Committee (2001 to 2011), the Illicit Trade Advisory Panel (2000 to 2005) and the Ministerial Working Group on Human Remains in Museum Collections (2001 to 2003). He is a Visiting Professor of Law at King's College London (from 2007), the Professor Emeritus of the Law of Art and Cultural Property at University College London (from 2002; formerly the Professor of Commercial Law at UCL from 1991 to 2002) and an Adjunct Professor of Law at the University of Tasmania (from 2008). Palmer has written and edited or co-edited some of the principal practitioner works within his field and founded the quarterly periodical *Art Antiquity and Law* (published by the Institute of Art and Law), which he continues to edit with Ruth Redmond-Cooper. He holds degrees from the Universities of Oxford and Geneva (*docteur honoris causa*) and is a Fellow of the Society of Antiquaries. In 2006 he was appointed Commander of the Order of the British Empire (CBE) for services to art and to law. In 2009 he was appointed Honorary Queen's Counsel (QC) in recognition of his contribution to cultural law and policy and to scholarship and practice in the field of personal property law.

### *Existing situation alternative dispute resolution: Europe and the USA*

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#### **Eva Blimlinger**

Eva Blimlinger was appointed vice-chair of the Kunstrückgabebeirat and Research Coordinator of the Commission of Provenance Research in 2008. From 1998 to 2003 she was Research Coordinator of the Austrian Historical Commission with the mandate to investigate the whole complex of expropriations in Austria during the Nazi era and restitution and/or compensation after 1945. From 2004 to 2011, she was Project Management Director for Arts & Research Funding at the University of Applied Arts in Vienna. Since 2011, Blimlinger is Rector of the Academy of fine Arts Vienna. She is also the co-editor of the 49-volume edition *Veröffentlichung der Historikerkommission*; co-editor of the *Schriftenreihe der Kommission für Provenienzforschung*.



#### **Hon. Sir Donnell J. Deeny**

Sir Donnell has been a member of the UK Spoliation Advisory Panel since its establishment in 2000 and was appointed Acting Chairman in 2011 and Chairman in 2012. Sir Donnell was called to the Bar in 1974 and took silk in 1989. Public appointments held include Chairman of the Arts Council of Northern Ireland between 1993 and 1998 (Member 1991-93). He also served as Chairman of Opera Northern Ireland between 1988 and 1992 and was a Trustee of the Ulster Museum between 1983 and 1985. Sir Donnell was the founding Chairman of the Ireland Chair of Poetry Trust and is President of the Ulster Architectural Heritage Society. Sir Donnell is a High Court judge of the Supreme Court of Judicature in Northern Ireland.



## **Michel Jeannoutot**

Michel Jeannoutot has been Chairman of the CIVS since 10 September 2011. From 1972 to 1983, he was Juvenile Judge, Investigating Judge, Penalty Enforcement Judge and Vice-President at Reims High Court. From 1980 to 1981, he was Seconded to the government of the Province of Québec. From 1983 to 1986, Jeannoutot was Appellate Judge at Reims Court of Appeal, Presiding Judge of the Assize Court, Counsellor of the Social Law Chamber and Magistrate delegated to infrastructures. In 1986 he was appointed Vice-President of Bobigny High Court. From 1989 tot 1992 he was Seconded to the Ministry of Finance, Department of Domestic Trade (head of the Office of Trade Regulations and Legislation), after which he became Technical Advisor in the office of the Attorney General. From 1993 to 1998, Jeannoutot was appointed as President of the Chamber of Versailles Court of Appeal (President of a social law chamber), followed from 1998 to 2001 by an appointment as First President of Bastia Court of Appeal. From 2001 tot 2005, he was First President of Chambéry Court of Appeal, after which he was appointed Appellate Judge at the Cour de Cassation seconded to perform the duties of First President of Dijon Court of Appeal until 2009. Jeannoutot studied law at Besançon and Clermont-Ferrand, was Trainee Inspector at the National Tax School and attended the French National School for the Judiciary.

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## **Jutta Limbach**

Jutta Limbach is Chair of the Beratende Kommission im Zusammenhang mit der Rückgabe NS-verfolgungsbedingt entzogener Kulturgüter, insbesondere aus jüdischem Besitz (Advisory Commission on the return of cultural property seized as a result of Nazi persecution, especially Jewish property) since its constitution in 2003. She studied law in Berlin and Freiburg. She passed the first and the second state law examination in 1958 and 1962. From 1963 to 1966 she worked as a research assistant at the law school of the Free University Berlin and achieved her doctorate with a thesis in legal sociology. In 1971 she completed her habilitation, necessary for full professorship, which was funded by the German Research Foundation (Deutsche Forschungsgemeinschaft). In the same year, she was appointed chair in law at the Free University Berlin and remained there as professor for civil law, commercial law and legal sociology until 1989. In 1989, Limbach became Senator of Justice of the City State of Berlin. In March 1994, she was elected Judge and Vice President and in September 1994 President of the Federal Constitutional Court. She retired from this office in 2002 and was from 17 January 2002 to March 2008 elected President of the Goethe-Institut. In 2005 and 2006 she was a member of the Group of Wise Persons who had to develop strategies how to manage the workload of the European Court of Human Rights. In 2007 she was a member of the Group of Intellectuals for Intercultural Dialogue set up at the initiative of the European Commission.



## **Douglas A. Davidson**

Douglas Davidson became Special Envoy for Holocaust Issues in April 2010. He is responsible for developing and implementing U.S. policy pertaining to the return of Holocaust-era assets to their rightful owners, compensation for wrongs committed during the Holocaust, and Holocaust remembrance. From 2004 to 2008 Davidson was Head of the Organization for Security and Cooperation in Europe's (OSCE) Mission to Bosnia and Herzegovina. Immediately prior to that, Davidson

was Deputy U.S. Representative to the OSCE in Vienna. His other overseas diplomatic assignments have included Kosovo (also on detail to the OSCE) in the immediate aftermath of its most recent conflict; Zagreb and Belgrade from the end of the war in former Yugoslavia to the eve of the NATO bombing campaign against Serbia; and Peshawar in the early nineteen-eighties during the Soviet-Afghan war. From late 1989 until early 1993 he was an Assistant Press Secretary for Foreign Affairs at the White House.

## Academic papers

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### Marc-André Renold

Marc-André Renold, Dr. iur., LL.M., studied at the Universities of Geneva and Basel in Switzerland and at Yale University in the USA. He is Professor of art and cultural heritage law at the University of Geneva and the Director of its Art-Law Centre. As of March 2012 he is the holder of the UNESCO Chair in the International protection of cultural heritage at the University of Geneva.

He is also Attorney-at-law, Member of the Geneva Bar and is of counsel to a major Swiss-German law firm; his areas of practice are among others art and cultural heritage law, intellectual property and public and private international law.

Marc-André Renold has been Visiting Professor at the Faculté Jean Monnet of the University of Paris Sud (2006-2007) and at the University of Lausanne (2008-2009). He has also lectured at the Hague Academy of International Law (Spring 2008) and the Institute for Mediterranean Heritage in Slovenia (summers of 2009 and 2010). He has been guest lecturer at the University Jean Moulin in Lyon, the Graduate Institute of International Studies in Geneva, as well as the Duke-Geneva Institute in Transnational Law.

He is the author or co-author of several publications in the field of international and comparative art and cultural heritage law and has been, since its inception, an editor of the “Studies in Art Law” series (20 volumes published to date). He is the co-editor and co-author of *Culture, Art and Law: Swiss and International Law* (2009), the leading Swiss handbook written in German on the law of art and culture. Marc-André Renold is married and the father of three children.



### Matthias Weller

Matthias Weller holds the chair for civil law, civil procedure and private international law at the EBS Law School of the EBS University for Economics and Law ([www.ebs.edu](http://www.ebs.edu)), Wiesbaden, Germany, and he is one of the two Chairmen of the German Institute of Art and Law (*Institut für Kunst und Recht IFKUR e.V.*) at Heidelberg, Germany ([www.ifkur.de](http://www.ifkur.de)). In this latter function he has co-organized and hosted, since 2007, the annual Heidelberg Art Law Conference ([www.heidelberger-kunstrechtstag.de](http://www.heidelberger-kunstrechtstag.de)). He has been invited worldwide to numerous conferences on art and cultural property law (Vanderbilt, Harvard, Institute of Art and Law London, Restitutiecommissie Den Haag, Hague Academy of International Law, Pecz University, German Attorney’s Conference Munich, University of Zurich). In 2011, he completed his post-doc senior fellowship at the Institute of Foreign and Private International and Commercial Law at the University of Heidelberg by submitting a thesis in contract law on “Personal Performance” and a presentation to the High Faculty of Law at the University of Heidelberg on civil appeal proceedings. He received the degree of a doctor iur. habil. (*Habilitation*). The same year he received the call for the chair he is currently holding. His research includes, *inter alia*, all aspects of international and European civil

litigation and dispute resolution. He specifically focuses on litigation and dispute resolution about art and cultural property.

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### **Wouter Veraart**

Wouter Veraart is professor of legal philosophy at VU University Amsterdam and chair of the Ethical Commission of the Stichting Volkenkundige Collectie Nederland, the foundation of ethnographic collections in the Netherlands. His research is focused on redress and restitution after periods of injustice. In 2011 he published, together with Laurens Winkel, *The Post-War Restitution of Property Rights in Europe, Comparative Perspectives*, with special attention to the Dutch Goudstikker-case and the Austrian Alma Werfel-Mahler case. An article based on his inaugural lecture in 2009 has been published in 2012 in Bas van Stokkom et al., *Public Forgiveness in Post-Conflict Contexts* in the transitional justice series of Intersentia. This article deals with the tensions between forgetting, remembering and forgiving and the tasks of the legal order when confronted with historic injustice.

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### *The parties concerned*

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### **Taco Dibbits**

Taco Dibbits is Director of Collections at the Amsterdam Rijksmuseum since June 2008. In 2002, he became curator of 17th-century painting. In 2006 he was appointed head of the department of Fine and Decorative Arts. In this capacity he has led a team of curators of paintings, sculpture, applied art and Asiatic art at the Rijksmuseum. He was instrumental in acquiring Jan Steen's remarkable Burgomaster of Delft, and was closely involved in the successful Rembrandt-Caravaggio exhibition of 2006. Since he began working at the Rijksmuseum, Dibbits has played an important role in developing the layout of the New Rijksmuseum. Taco Dibbits is also a contributing author to the books *Dutch Drawings of the Seventeenth Century in the Rijksmuseum, Amsterdam: Artists Born Between 1580 and 1600* (1997) and *Rembrandt - Caravaggio* (2006). He studied art history at Amsterdam VU University.



### **Monica Dugot**

Monica Dugot is Senior Vice President, International Director of Restitution at Christie's, coordinating restitution issues globally from her New York base in the Chairman's Office. Ms. Dugot and her global team work with specialist departments and with the art law group to investigate provenance between 1933 and 1945; to identify possibly spoliated but unrestituted objects; and to help in resolving restitution claims for works consigned for sale. Prior to joining Christie's, Ms. Dugot served for almost eight years as Deputy Director of the New York State Banking Department's Holocaust Claims Processing Office, where she coordinated the Art Claims branch of the HCPO's work and assisted owners and heirs in seeking to recover art collections that were lost or looted during the Nazi era. She has represented New York State on art restitution matters at many venues including the 1998 Washington Forum on Holocaust-Era Assets and the International Conference on Holocaust Era Looted Cultural Assets in Vilnius, Lithuania. Ms. Dugot is on the Advisory Board of Claremont McKenna College's Center for Human Rights Leadership, and the Society of American Friends of the

Jewish Community Vienna. She is currently a member of the Art law Commission of the Union Internationale des Avocats (UIA). She also served as a member of the NYC Bar Association's Art Law Committee.

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### **Rudi Ekkart**

Rudi E.O. Ekkart studied art history at Leiden University and obtained his doctorate at the University of Amsterdam in 1997. From 1970 to 1973 he worked as assistant and from 1973 to 1978 as curator in the employment of the Academic History Museum in Leiden. From 1978 to 1987 he was employed as curator by the National Museum Meermanno-Westreenianum in The Hague. In 1987 he was appointed as deputy director and in 1990 as director of the Netherlands Institute for Art History. Since 2004, he has also worked as professor at the University of Utrecht. Besides his principal positions, he has held numerous board positions in the world of art history and museums. Since 1997 he has been, among other things, chairman of the successive monitoring committees involved in investigating artworks still under the jurisdiction of the Dutch government that had fallen into German hands by robbery and forced sale during World War II. Since 1970, he has published numerous books, catalogues and articles in the field of university history, book history and typography and especially the history of Dutch painting and drawing, with special attention for portraiture.

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### **Wesley A. Fisher**

Wesley A. Fisher is Director of Research, Conference on Jewish Material Claims Against Germany. Dr. Fisher is responsible for the Claims Conference/WJRO Looted Art and Jewish Cultural Property Initiative (see <http://www.claimscon.org/art>). He has created projects to make the records of the Einsatzstab Reichsleiter Rosenberg (ERR), the largest of the Nazi agencies confiscating Jewish cultural property, accessible and searchable; produced a worldwide *Descriptive Catalogue of Looted Judaica*; run discussions and negotiations with relevant governmental and non-governmental agencies; and assisted the Czech Republic with the organization of the Holocaust-Era Assets Conference held in Prague in 2009. Previously a senior member of the founding staff of the United States Holocaust Memorial Museum in Washington, D.C., he was Deputy Director of the Washington Conference on Holocaust-Era Assets in 1998 and, at the request of then Deputy Treasury Secretary Stuart Eizenstat, assisted the Government of Lithuania and the Council of Europe with the organization of the Vilnius International Forum on Holocaust-Era Looted Cultural Assets in 2000. From the 1970's to the early 1990's he was the administrator of virtually all scholarly exchanges, joint research and conferences between the United States and the former Soviet Union in the humanities and social sciences, including in art history. For many years a professor at Columbia University, Dr. Fisher holds a B.A. degree from Harvard University and a Ph.D. from Columbia University.



### **Corinne Hershkovitch**

Corinne Hershkovitch is a lawyer, member of the Paris Bar and partner of the law firm Borghese Associés. She is specialised in art law and deals with provenance, appraisal, attribution, authenticity, ownership and title in art works, cross border movement of art, tracery and recovery of lost art or misappropriated art and cultural heritage. She has been involved in many cases concerning looted art since 1996. She has lectured art law at the Institut National du Patrimoine, Paris and the Université Jean Moulin, Lyon. She is registered on the WIPO Arbitration and Mediation Center's lists of Arbitrators and experts, specialised in art law (Geneva), and member of the Association Art et Droit (Lyon).



### **Willem Jan Hoogsteder**

Willem Jan Hoogsteder has been director and owner of Art Dealers Hoogsteder & Hoogsteder since 1989. The company in The Hague sold paintings to 45 museums worldwide and organised loans for exhibitions to over 100 museums. Willem Jan studied Art History at Utrecht University and at the Courtauld Institute of Art in London. He obtained his doctoral degree (drs) in 1987. Willem Jan Hoogsteder is boardmember of Museum Bredius.



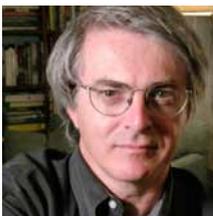
### **Lawrence Kaye**

Lawrence M. Kaye, a member of the law firm of Herrick, Feinstein, LLP, and Co-Chair of the Firm's Art Law Group, is engaged in the practice of all facets of art law and represents a wide range of domestic and international clients. He is noted, in particular, for his representation of foreign governments, victims of the Holocaust, families of renowned artists and other claimants in connection with the recovery of stolen art and antiquities. He was a lead attorney in the landmark case of *Federal Republic of Germany v. Elicofon*, in which two masterpieces by Dürer, stolen at the end of the Second World War, were recovered and returned to the Weimar Art Museum. Among other notable matters, Larry and his colleagues have successfully represented the heir of the noted pre-war Dutch dealer, Jacques Goudstikker; the heirs of the famed Russian artist, Kazimir Malevich, and the heirs of Lea Bondi Jeray. Mr. Kaye writes and lectures extensively on the repatriation of cultural property, international art litigation and complex art transactions.



### **Stephen J. Knerly, Jr.**

Stephen Knerly is partner at Hahn Loeser & Parks LLP, Cleveland, Ohio USA; co-chair of the Non-Profit Institutions Practice Group and from 1993 through 2008, Managing Partner and Chief Executive Officer of the firm. Legal counsel to the Association of Art Museum Directors (AAMD) and, in that capacity, an invited speaker at the Prague Conference on Holocaust Era Assets and numerous appearances before the Cultural Property Advisory Committee of the United States. 2006-2012, Speaker/panelist, ALI-ABA Museum Law Conference. Representation of museums, universities and collectors on various matters, including Nazi looted art issues. Arbitrator, American Arbitration Association, International Centre for Dispute Resolution and International Chamber of Commerce. Listed in the 2007-12 editions of *The Best Lawyers in America* for Non-Profit/Charities Law. Bowdoin College, A.B. 1972; Fletcher School of Law & Diplomacy, A.M. 1973; Case Western Reserve University, J.D. 1976.



### **Marc Masurovsky**

Marc Masurovsky is a historian based in Washington, DC, specializing on issues related to the plunder of cultural assets between 1933 and 1945, the impact of Nazi/Fascist-sponsored thefts of cultural assets on postwar art markets and the problematic of restitution of those looted cultural objects. He co-founded the Holocaust Art Restitution Project (HARP) in 1997. He has researched the question of assets looted during the Holocaust and World War II since 1980 and has worked as an expert historian on a class-action lawsuit for Jewish claimants seeking restitution of lost accounts and other liquid assets from Swiss banks. As a consultant and historian for the Department of Justice's Office of Special Investigations, he researched alleged Nazi war criminals living in the U.S and studied post-war relations between former Nazi officials and Allied intelligence agencies. He oversees a database of art looted in German-occupied France and chairs the Working Group on Nazi-confiscated art of the Advisory Board to the European Shoah Legacy Institute (ESLI). Mr. Masurovsky earned his M.A. in Modern European History from American University in Washington, D.C.



### **Isabel Pfeiffer-Poensgen**

Isabel Pfeiffer-Poensgen is secretary general of the Kulturstiftung der Länder (the cultural foundation of the German federal states) since 2004. The Foundation is supported by the sixteen federal states, with an annual budget allocated to funding acquisitions of nationally important artworks and cultural property for German public institutions (museums, archives and libraries). Besides that she is the chairwoman of the board of trustees of the Peter und Irene Ludwig Stiftung (an arts foundation set up by the German industrialists and important art collectors Peter and Irene Ludwig) and a member of the board of trustees of several eminent cultural and academic institutions in Germany, e.g. the Universitätsrat Heidelberg (the advisory board of Heidelberg university), the Sparkassen-Kulturfonds (a cultural foundation of the German savings banks), the Deutsch-Französischen Kulturrat (the Franco-German cultural council), the Akademie Schloss Solitude (the academy of arts at Schloss Solitude near Stuttgart), the Kulturstiftung des Bundes (the German Federal Cultural Foundation funded by the State Ministry of Culture and Media Affairs) and the Stiftung Genshagen (a foundation set up to promote Franco-German cultural relations). Isabel Pfeiffer-Poensgen studied art history and history at Aachen university and read law at the universities of Bonn, Lausanne and Freiburg.



### **Rob Polak**

Rob Polak has been practising as an art lawyer since 1990 and was a partner with the law firm De Brauw Blackstone Westbroek until July 2012. His practice included museums, art institutions, churches, artists and private individuals and involved disputes on title and cultural property issues. Mr. Polak has been involved in many high-profile restitution cases both in the Netherlands and abroad. He regularly publishes on cultural property matters. In addition to his art law practice, Mr. Polak had a broad commercial litigation practice. In 2005, Dutch Parliament appointed him to the position of Counsel to Parliament (Parlementair advocaat), in which position he advised the Dutch Parliament on a wide range of legislative and litigious matters. Mr. Polak holds law degrees from the University of Amsterdam and Columbia University in New York. He currently works as an independent advisor and writer.



### **Lucian Simmons**

Lucian Simmons (Senior Vice President; Worldwide Head of Sotheby's Restitution Department) is the most senior auction professional dedicated to assisting those affected by restitution issues in the art world. In recent years, he has personally overseen Sotheby's sales of three restituted works by Gustav Klimt - all of which met or exceeded their pre-sale expectations at auction. In addition to speaking at international conferences and colloquia on restitution art, Mr. Simmons has given evidence to the Select Committee on Culture, Media and Sport of the House of Commons, London, 2000, and to the Committee of Legal Affairs and the Internal Market of the European Parliament, Brussels, 2003. Mr. Simmons, qualified as both a barrister and a solicitor, has 20 years' legal experience and was a partner in the London City firm of Barlow, Lyde and Gilbert prior to joining Sotheby's in 1995. As a specialist in art law he has worked extensively in the field of looted art, and speaks and writes regularly on the subject.

### *Concluding remarks*

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### **Nico Schrijver**

Nico Schrijver is Professor of International Law and Academic Director of the Grotius Centre for International Legal Studies, Leiden University and a member of the Senate of the Dutch house of parliament. In the Senate he is the Labour Party's spokesperson on Foreign Affairs, Development Co-operation, Agriculture and Immigration and serves as the vice-chair of the Senate Committee on European Affairs. Schrijver is a member of the Royal Netherlands Academy of Arts and Sciences and the chairperson of its Section on Legal Sciences. During 2010-2012 he serves as the President of the worldwide International Law Association. Furthermore, he is a member and vice-chair of the UN Committee on Economic, Social and Cultural Rights, member of the Permanent Court of Arbitration and associate member of the Institut de droit international. Among many other publications Nico Schrijver is the author of *Sovereignty over Natural Resources. Balancing rights and duties* (Cambridge: CUP, 1997), *The Evolution of Sustainable Development in International Law* (Leiden: Brill, 2008; and *Development without Destruction. The UN and Global Resource Management* (Bloomington: IUP, 2010; with the 2012 award of the Academic Council United Nations System for the best recent book on UN issues).

### *Moderator*

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### **Chazia Mourali** (independent moderator and presenter)

Chazia Mourali works as an independent moderator, anchor woman, communication trainer and columnist for a variety of clients, both in a national and international context. After her study in French language and literature at Utrecht University (Cum laude), she specialized as editor, anchor woman and independent interviewer (for example, Salman Rushdie and Fay Weldon). After a career as TV anchor woman, Chazia has returned to her roots in journalism.







## General information

The symposium *Fair and Just Solutions? Alternatives to litigation in Nazi-looted art disputes, status quo and new developments* was planned and organised by the secretariat of the Restitutions Committee. The day was managed by B.E.N.G! event management, Bussum, the Netherlands.

The symposium sessions have been videotaped and will be available online in due course, together with photos taken during the symposium. Trends and results based on the completed questionnaires, both before and after the symposium, will be published online as well. Please keep an eye on the website of the Restitutions Committee for more information.

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