

PROVENANCE: A LEGAL AND ETHICAL NARRATIVE?

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Provenance: “The full history and ownership of an item from the time of its discovery or creation to the present day, through which authenticity and ownership are determined.”

International Council of Museums, *Code of Ethics* (2006)

Art historical role

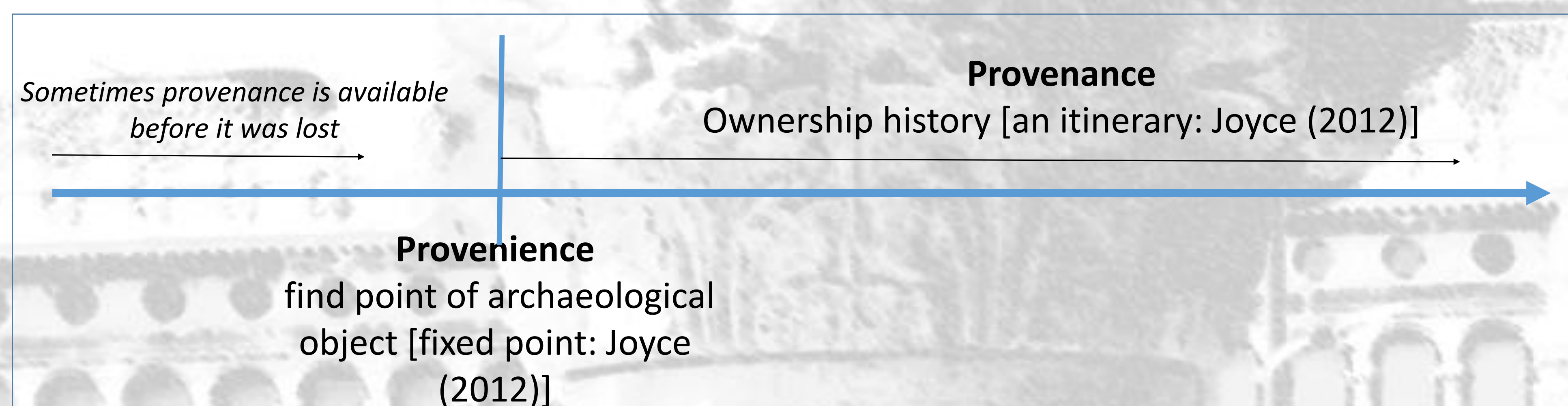
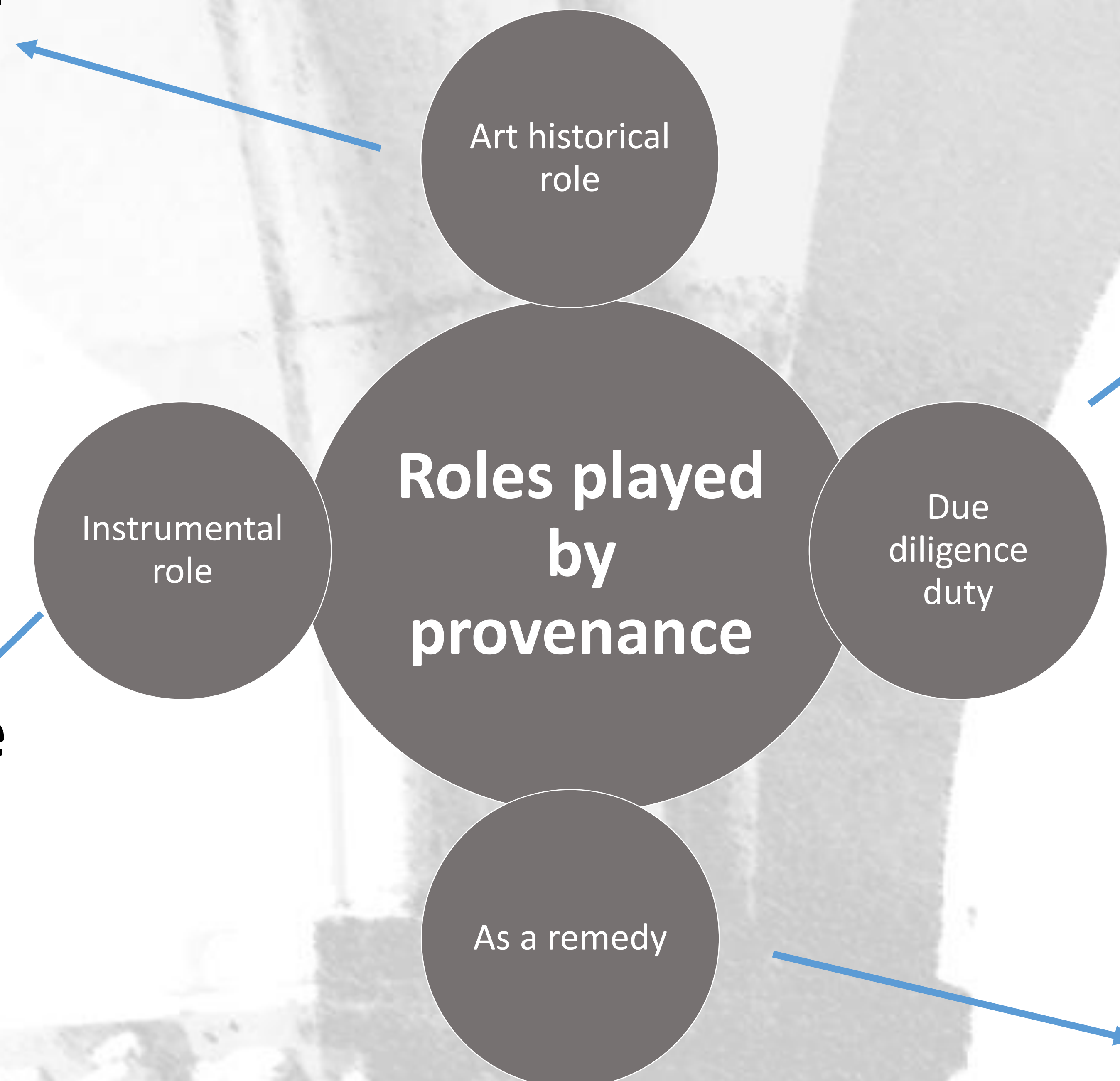
Link with a particular owner: eponymous collections e.g. Portland vase.

Appreciating the origins of the object

Instrumental role

An aid to determining authenticity and quality: effect on the financial value

Unearthing the ‘social life’ of the object: Appadurai (1986)



Provenance and due diligence

Legal obligations

Dealing in Cultural Objects (Offences) 2003
Iraq (United Nations Sanctions) Order 2003
Export Control (Syria Sanctions) (Amendment) Order 2014
General criminal offences e.g. theft and handling stolen goods

Ethical obligations: acquisition

undertake due diligence “establishing “the full history of the item since discovery or production.” (ICOM Code, 2.3)
Museums should reject objects with “Dubious provenance” (MA Code, 5.0)
Exception: repositories of last resort (ICOM Code 2.11 and 3.4) or to ‘save’ objects urgently (MA Acquisitions Guidance, Appendix H)

Ethical obligations: existing collections

Display of unprovenanced objects – whether of “questionable origin” or “lacking provenance” can condone or contribute to the illicit trade in cultural property (ICOM 4.5)
Nazi Era cultural objects: Washington Conference Principles on Nazi-Confiscated Art 1998 and National Museum Directors Conference, *Statement of Principles and Proposed Actions* 1998
Are viewers ‘tainted’? by an unearthed provenance? Baroness Deech (2009)

Provenance as a remedy

Display of an account of the object’s history

- ⌘ As part of a settlement (Schiele litigation in USA)
- ⌘ As a recommendation of the Spoliation Advisory Panel (UK)
- ⌘ Acting as an ethical narrative
- ⌘ To end the ‘taint’



Egon Schiele, *A Portrait of Wally*



Jan Griffier, *View of Hampton Court Palace* © Tate Board

“The painting formerly belonged to a Jewish banker who was shot by the Nazis in Dusseldorf in 1937. In 1939, his children escaped to England and his wife fled to Belgium. In hiding in Brussels during World War II, she was obliged to sell this and other paintings in order to survive. In 1944 she was taken to a concentration camp at Malines. After liberation she was able to join her remaining family in Britain in 1946.”

Tate Gallery

References

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- National Museum Directors Conference, *Statement of Principles and Proposed Actions* 1998
- OED (2007) *Oxford English Dictionary* (3rd edn 2007)
- Rosemary A Joyce, ‘From Place to Place: Provenience, Provenance and Archaeology’ in Feigenbaum and Reist (eds), *Provenance: An Alternate History of Art* (Getty Publications 2012)
- Tate Gallery, *View of Hampton Court Palace*, [available at: <http://www.tate.org.uk/art/artworks/griffier-view-of-hampton-court-palace-t00408>]
- USA v *Portrait of Wally*, *A Painting by Egon Schiele (in rem)* 99 Civ 9940 (LAP) Stipulation and Order of Settlement and Discontinuance [available at: <http://portraitofwally.com>]
- Washington Conference Principles on Nazi-Confiscated Art 1998