

LEX Scholarship Question
January, 2014

Susannah Tom is a decorated American veteran of the Iraq war; she collects paintings from all over the world depicting mothers and children. While a soldier in post-invasion Iraq in 2004, Susannah purchased a small portrait of a reclining Kurdish mother and child from an art dealer in Baghdad named Abdul-Majid Al-Baghdadi. Knowing a bit about art, Susannah asked Mr. Al-Baghdadi how he had come to own the painting, clearly of Kurdish origin; Al-Baghdadi told her that his mother had been a Kurd and that the painting was actually a painting by his father of himself and his mother when he was a baby. Susannah believed at the time that the art dealer had title to the portrait and was entitled to sell it, and she purchased it from him for approximately \$500 United States Dollars and brought it back to the United States with her.

In actuality, however, the story of how Mr. Al-Baghdadi acquired the painting was much different. From at least February 23, 1988 to September 6, 1988, Iraqi strongman Saddam Hussein's regime carried out the "Anfal" (Arabic for "spoils") campaign against the large Kurdish population in northern Iraq. The purpose of the campaign was ostensibly to reassert Iraqi control over the area; however, the real goal seemed to be to permanently eliminate the "Kurdish problem." The campaign consisted of eight stages of assault, where up to 200,000 Iraqi troops attacked the area, rounded up civilians, and razed villages. Once rounded up, the civilians were divided into two groups: men from ages of about 13 to 70 and women, children, and elderly men. The younger men were then shot and buried in mass graves. The women, children, and elderly were taken to relocation camps where conditions were deplorable. In a few areas, especially areas that put up even a little resistance, everyone was killed. This campaign is now known as the Kurdish Genocide by the rest of the world, and was one of the war crimes for which Saddam Hussein was eventually hanged. Mr. Al-Baghdadi's father Bashshar was a soldier involved in the Anfal, and he took the painting which Susannah bought from a Kurdish home as he rounded up the women and children of the family who owned the painting and killed the father. Only one of the children of that family survived; a daughter named Adan.

Now Adan, the grown daughter of the Kurdish family that was robbed, murdered, and dispossessed by Bashshar Al-Baghdadi, has moved to the United States and become an American citizen. She has tracked down the painting, and wants it returned to her. She insists that Susannah has no right to the painting because it was stolen from Adan's family during an illegal genocide; Adan is suing for *replevin* (the return of the painting) in an American court.

Please write an essay assessing the likelihood of success for Adan; assume for purposes of this essay that 1) only American law would apply here, and that 2) the American court involved has already determined that **there are no statutes of limitations** that would bar this suit.