Art and cultural property have held a special significance for humankind for centuries. Collectors derive pleasure from the art or cultural property’s aesthetic and emotive value. Creators see the art or cultural property as an expression of their thoughts, feelings, creativity and personality, as well as a means of income. Finally, states and communities perceive such works as a documentation of their heritage, history, and legacy. In granting artists moral rights, and protecting art and cultural property from theft and destruction, we are preserving the value these actors place on these works.

Three panels of distinguished experts will aim to identify the ways in which the international legal discourse has, and has not, contributed to this endeavor through resale royalty rights, protection and preservation mechanisms enumerated in international agreements and national legislation, and restitution and repatriation practices, among others. We hope you will join the discussion.

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PANEL 1: RESALE ROYALTY RIGHTS: A COMPARATIVE DISCUSSION ON INCREASED MORAL RIGHTS FOR ARTISTS IN AMERICA (1:15-2:30PM)

After the United States became a party to the Berne Convention, it had to implement moral rights in its copyright law to comply with the treaty. These rights are granted to the author of a copyrighted work and can include the right to attribute, the right to integrity, or the right to prohibit distortion or mutilation of a work. So far, the U.S. has established far fewer of these rights than other countries. This panel will consider the case for U.S. moral rights in light of the current discussion over extending them to include resale royalty rights. This right would allow visual artists to obtain royalties on subsequent resale of their works. A recent report by the Copyright Office, and subsequent bills in Congress, have led to increased dialogue about these rights and whether the U.S. should join the other countries that already implement them.

SPEAKERS:

Kevin Amer, Counsel for Policy and International Affairs, United States Copyright Office

Irina Tarsis, Esq., Founder and Director, Center for Art Law; Chair, Cultural Heritage and the Arts Interest Group, American Society of International Law

Lisa L. Jones, Director, Silver and Decorative Arts, Costumes, Textiles and Fashion, Sloans & Kenyon Auctioneers and Appraisers

MODERATOR:

Peter Jaszi, Professor of Law, Washington College of Law, American University
PANEL 2: THE LOOTING PROBLEM AND MECHANISMS FOR ITS PREVENTION
(3:10-4:25PM)

In adopting the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, States acknowledge that it is their responsibility to ensure that the physical remnants of history are protected from harm and preserved for future generations. To achieve this goal, this instrument calls on States to avoid the unexcused targeting of cultural sites during armed conflict and to prohibit, among other things, the theft, pillage, misappropriation, and vandalism of cultural property. The necessity protecting cultural heritage cannot be overstated, especially, but not exclusively, in the context of periods of conflict and political instability, where a state’s cultural heritage is particularly vulnerable to destruction and looting. This panel will discuss the problem of looting, highlight the factors that facilitate such conduct, and attempt to formulate preventative solutions. Panelists will focus on how States in general, and the U.S. in particular, can combat the looting problem, how buyers can ensure that the international antiquities market does not encourage such behavior, and how the criminal prosecution of theft and looting of cultural property can help to deter potential looters around the world.

SPEAKERS:

L. Eden Burgess, Attorney at Law, Cultural Heritage Partners PLLC
Leila A. Amineddoleh, Partner at Galluzzo & Amineddoleh, LLP; Adjunct Professor at Fordham University School of Law; Executive Director of the Lawyers’ Committee for Cultural Heritage Preservation
Bonnie Magness-Gardiner, Program Manager, FBI Art Theft Program

MODERATOR:

Robert Goldman, []
Panel 3: Restoring What Was Lost: Issues with Restitution and Repatriation
(4:35-6:00PM)

While preventative mechanisms that address looting combats one aspect of the problem, the question remains as to what to do about objects that have already been looted. States and private owners understandably wish to regain possession of these works. To tackle this issue, States agreed following WWII to implement mechanisms to restore art looted during the Nazi-era to its rightful owners. To combat the international trade in looted cultural property, UNESCO adopted the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which requires States Parties to return to the State of origin stolen cultural property, and assist other States Parties in situations where pillage of archaeological and ethnological objects jeopardize the national patrimony. This panel will critically assess restitution and repatriation mechanisms, focusing on how owners of Nazi-looted art have attempted to regain possession through dispute resolution, and how the U.S. has attempted to implement the 1970 UNESCO Convention domestically through the Convention on Cultural Property Implementation Act. The panel will further highlight additional issues that arise when dealing with art and antiquities with unknown, or questionable provenance, focusing on how fakes and forgeries play a role. The panel will finally propose initiatives that can help combat these issues.

Speakers:

Frank K. Lord, IV, Esq., Partner, Herrick, Feinstein, LLP
Gary Vikan
Jane C. Milosch, Director, Provenance Research Initiative, Office of the Under Secretary for History, Art and Culture, Smithsonian Institution
Colette Loll, Founder and Director of Art Fraud Insights, LLC

Moderator:

Joshua Kaufman, []