Highlights of the Cardozo Law School Symposium - *Reform of U.S. Cultural Property Policy: Accountability, Transparency, and Legal Certainty*

An overflow audience of over 250 people filled the Benjamin Cardozo Law School auditorium at the April 10, 2014 symposium sponsored by the Arts and Entertainment Law Journal (AELJ) and the Committee for Cultural Policy, a New York based policy non-profit. The audience included art historians, archeologists, art collectors, lawyers and law enforcement, and representative of major U.S. museums.

Pamela Grutman of the AELJ introduced the symposium by quoting professor David Rudenstein of Cardozo Law School in 2001:"The remarkable thing about this topic...is that the interested communities in this broad field have deep suspicions of each other and don't necessarily engage in collegial dialogue with one another." She noted that Cardozo had done much to facilitate engagement by all stakeholders on cultural policy issues since that time, and that publication by the AELJ of the White Paper authored by William Pearlstein of the Committee for Cultural Policy, *A Proposal to Reform US Law and Policy Related to the International Exchange of Cultural Property*, which contained five different proposals for reform, was an important step toward in the discussion of cultural property policy.

William Pearlstein opened the program, outlining the positions of various parties on the transfer of art: cultural nationalists that believe that artifact-rich nations have the right to nationalize all cultural objects within their borders, in or out of the ground; archeologists who hold that an object has no meaning or value unless it retains its archaeological context, free marketers who feel that preservation of art and artifacts is paramount and whoever is willing to pay the most for an object deserves to own it, and finally, museums which research, conserve, contextualize, educate and and exhibit art for the public benefit, and rely on the continuing circulation of art and donations from the public to remain vital cultural institutions.

> ***"When Congress passed the Convention on Cultural Property Implementation Act in 1983, the internationalists thought they had won. The US would not hand a blank check to foreign nations ...[restrictions would be] limited to "culturally significant" archeological materials and non-redundant ethnological materials** ."* **William Pearlstein**.

Pearlstein pointed to the passage of the U.S.'s UNESCO-implementing legislation, the Convention on Cultural Property Implementation Act of 1983 (CCPIA), as a middle path that protected archaeological resources while at the same time, preserving a global flow of art and ideas.

He described how current state of legal uncertainty has developed and how that lack of security threatens the ability of museums and art collectors to participate in the global art trade. Pearlstein noted that it is now possible for an importer, art collector or institution to be in compliance with CCPIA, and at the same time to be in violation of criminal laws with harsh penalties. Increasingly, he said, U.S. federal authorities are implementing an *ad hoc* anti-trade policy in which the legal tool of civil forfeiture is used to seize objects that are assumed to be "stolen" without proof of the circumstances under which U.S. courts have been willing to accept that a foreign nation's patrimony law makes an object "stolen" under US law.

> ***"...import restrictions ought to function as a selective filter--limited, focused and finite. Instead they have become blanket embargoes on everything old. Worse, the State Department routinely restricts imports of materials that are privately owned and freely traded in countries like Italy and China. State's anti-American bias is unjustifiable... Civil forfeiture has become a third theory of liablity. Seizure of an object can result in forfeiture and repatriation based on an alleged breach of foreign law, without any proof of critical facts, foreign law or the merits of the claim."*** **William Pearlstein**

Finally, Pearlstein gave the audience an example of State Department bias in practice: it proposes to return to Iraq Jewish archives confiscated by Sadaam's police. Pearlstein asked, is that the right thing to do? Is this where we want to be as a nation?

Panel 1. The first panel considered the conflict between the CCPIA and the National Stolen Property Act, a U.S. criminal law. Panelists were attorneys Andrew Adler, Evan Barr and Michael McCullough and former Senior Special Agent US Customs Service and Department of Homeland Security James McAndrew.

Moderator Jeanne Schroeder of Cardozo Law School asked, "Do we really have a problem?" Attorney and former prosecutor Evan Barr said, "No." The concerns in the White Paper were an overreaction; the criminal cases involving the NSPA could be counted on one hand. In most of the forfeiture cases, there is another U.S. based offense, a customs importation violation or other violation alongside the NSPA violation. He said it is no surprise that enforcement is ramped up in response to foreign countries' requests to seize objects.

> **"*Prosecutors for the most part have exercised discretion in going after only those cases that have the most egregious fact patterns. I do not see a criminal case in which there really is a gray area where the cultural property that is crossing the borders is not subject to a National Stolen Property Act claim."* Evan Barr**

Attorney Andrew Adler countered that the White Paper makes a compelling case that there are serious problems resulting from the conflict between the NSPA and the CCPIA, noting that under the NSPA an item can be stolen simply because a foreign nation's patrimony law gives ownership to the nation, whereas the CCPIA deals with items that are stolen in the traditional sense, from a person or institution, or archaeological site. He saw a bigger conflict in the idea of repose, since the CCPIA sets out a safe harbor for objects that have been in the US for many years or have been published or exhibited. There is no safe harbor under the NSPA and no end to the possibility of a claim from a source country.

> ***"The Cultural Property Implementation Act sets out a safe harbor. If an object is been in this country for X number of years and has been displayed and publicized for a certain period of time then we are going to say that object is okay... under the National Stolen Property Act there is a statute of limitation of five years but because that statute criminalizes possession, it's [still] a crime."* Andrew Adler**

Former U.S. Customs Special Agent James McAndrew compared what is supposed to happen during the import process to the current situation, in which there are endless delays, unlimited demands for documentation, and frequent administrative seizures.

> **"*We talk about the law, McClain and Schultz, civil and criminal and how there are not that many criminal actions out there, but there are thousands of civil actions happening under the radar screen.*" James McAndrew**

McAndrew said, "What the foreign countries prefer is to go back to the Customs or Homeland Security agent, and say listen, is there anything on the customs documentation that is not correct? It could even be correct but just vague... some minutiae that takes the burden of proof off of the potential claimant country to prove their case and lays it right in the lap of the importer." McAndrew said that administrative seizures never go before a federal prosecutor or touch the Department of Justice, which was unfortunate, because these legal professionals were fairer in their application of the law.

Attorney Michael McCullough agreed that current importation procedures were completely unworkable. "The answer from Customs is, "You prove to us that this object is not stolen, or we are going to seize it," he said, "and they seize it. And then it goes through an administrative forfeiture proceeding. Unless you are willing to pay $100,000-$200,000 to start going through that process, there is no use in contesting it."

McCullough said, however, that the greatest difficulty posed by having two statutes covering cultural property was in determining whether art was properly owned or whether there was a possibility of a government claim for it. Because U.S. courts have created different standards for applying the NSPA in different cases – and because the validity of a foreign law is not determined until after a lengthy and expensive trial, the NSPA should be amended to state how it should be applied. In the case of the Cambodian statue that was in private ownership in Europe for thirty-plus years, and then imported by Sotheby's, he said:

> ***"...the U.S. government went and asked the Cambodian government, do you have an ownership statute, and the Cambodian government said, "Sure, we do" and went out and found one. And what they found was something in the colonial laws of Indochina that somehow applied to this site or these objects and that seemed to be the basis for the stolen property claim in the United States...We need some provisions in [the NSPA] to tell you how to apply [it]... Because if, as in the Cambodian sculpture case, really smart lawyers can't figure this out... probably they spent about $1 million to try and get the piece back and they failed."***
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> ***"The CPIA is a statute that is well defined, its intentions are known, and how you comply with it is relatively simple to figure out."*** **Michael McCullough**

When asked, what would he advise clients, Evan Barr responded, "Hire a very good Customs lawyer," and continued, "Bad facts, look out." He thought that purely innocent people are not going to be caught up in the law. Andrew Adler disagreed and stated that as a principle of American law, "I think from a legislative perspective, when as a matter of fact you can comply with the CPIA and you can import something lawfully under the CPIA and have that same object subject to action by the federal government, possibly even criminal action, it might be unlikely but it is certainly possible, that's a problem." Michael McCullough noted that without clear guidance, no one could know what was lawful and what was not, pointing to a 2006 Miami case in which the court did not look to the 1983 Egyptian law used in the Schultz case but went back to a 19th century Egyptian statute.

There was further discussion on the likelihood of cases being brought against long-term owners of artwork, in which Barr pointed out that the fears that source countries would simply empty out the Metropolitan Museum and the Museum of Fine Arts Boston had been unfounded – nothing like this had happened. McCullough countered that the forfeiture action against the Ka Nefer Nefer mask at the St. Louis Museum of Art, which had been in that collection for more than 20 years, was exactly the kind of case that museums were worried about. James McAndrew said that his conclusion, after decades of working with source countries and Interpol on art cases, was that decisions by source countries were arbitrary.

> ***"It is not like the pieces sitting at the Met and other museums you were mentioning are not at risk – they are at risk – the Italian government can decide tomorrow that the piece they passed over ten years ago, they want it now, and that will shift the burden back on you... In theory, all the collections are out there if they had the resources and time. The countries could claim whatever they want; they just choose not to."*** **James McAndrew**

Finally, in discussing the need for reform, McCullough recommended that people who collect, museums, and auction houses, get some legislative effort together to clarify what the rules are; he said that people are scared, and it is unfair not to have rules to follow. Barr suggested the possibility of dialog with the Department of Justice, as well as Homeland Security to get internal guidelines and consider certain factors before they bring an action.

> ***"It is not going to be enforceable... you can't come in and argue it to the judge and complain that they didn't follow their internal protocols. My experience with... memoranda that are issued to prosecutors is that they at least get the individual prosecutor thinking about the right issues.*****"** **Evan Barr**

Panel 2 on *Neutral interpretation and fair administration of the CCPIA* included panelists Mark Feldman, James Fitzpatrick, Lucille Roussin, and Marc Wilson. Moderator Arthur Houghton asked Mark

Feldman to provide background on the CCPIA and to answer the question, "Thirty-two years after it was enacted, does the CCPIA still serve the public benefit? Even if the law is really good, a balanced, fair law, does the administration of the CCPIA follow the Act -- and does it serve the public benefit?"

Feldman, who was a State Department representative at both the 1970 UNESCO Convention and from State to Congress during the drafting of the 1983 Convention on Cultural Property Implementation Act (CCPIA), noted that his longer statement on background had been published on the website of the Committee for Cultural Policy, www.committeeforculturalpolicy.org, but stated:

> ***"One value remains the same, however, that there is an overriding US interest in helping nations to curb the pillage of archeological sites for the purpose of preserving the common heritage of mankind. There is interest in the legislation that we preserve not only the objects but also the archaeological sites. We also have a strong national interest in international trade and exchange of ancient art for the purpose of education and preservation – and particularly education... We decided in 1970 – as a government – that an interest in preservation and culture is not sustainable if it depends on traffic in plundered art. We decided to try to negotiate targeted, balanced measures to halt the destruction and pillage. Has it done any good? It would be good to have an international study to try and determine whether these measures are having a beneficial effect."*** **Mark Feldman**

Feldman also affirmed that the U.S. position was that there should be no "blank check" for source governments simply to enact laws and have the US enforce them, stating that the CCPIA called for a concerted international effort and negotiating a case specific collective response. He said there was an important national interest in following the law and implementing the CCPIA in accordance with the requirements laid down by Congress.

Attorney James Fitzpatrick said that the administration of the CCPIA has gone completely off track. First, he said, the centerpiece of the legislation was concerted action and the U.S. has failed to work together with other countries to respond to specific problems of looting. Instead it has unilaterally halted the trade in virtually the entirety of a country's art and artifacts with every agreement. In addition, implementing and continuing restrictions depends upon efficacy and on the art source country undertaking self-help measures to protect its own patrimony; China is the most egregious example of a country with a huge and expanding domestic market in the same objects that are denied to U.S. collectors.

Fitzpatrick stated that import restrictions were required by Congress to be consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes. He said that in reality, this provision has been honored not only in the breach, but in the disregard, saying that it was "directly orthogonal to the idea of shutting down trade and having a blanket embargo, forever." Finally, he noted:

> ***"From the beginning, this law has essentially been administered with a stacked deck. You have great power in the staff of the Cultural Property Advisory Committee (CPAC) and in the entire history, you have not had a single staff person from the dealer, or auction, or museum community. The entire input has been from the archeological constituency.*** **James Fitzpatrick**

The moderator asked about the sworn statement by a former chairman of CPAC that the committee staff deliberately misled Congress when staff recommended imposing specific trade restrictions on coins when the committee had not done so. Fitzpatrick responded that the CPAC operated under extreme conditions of secrecy and that one would think we were dealing with the future of Western civilization being suddenly threatened by germ warfare, not the trade in art.

Professor Lucille Roussin of Cardozo Law School strongly disagreed with the statement that Committee staff had not reported to Congress. She stated that CPAC was not a completely closed kangaroo court and that the public must submit statements to comment but that they are invited to go to Washington to attend an open meeting. She felt that the legislation had been effective:

> ***"In my opinion as an archaeologist, because I am a PhD archaeologist, the legislation has been effective. There will never be a time when we can stop looting. Can we stop theft here in United States completely? No, we can't stop murder here completely either. We will never completely stop looting. But the CPIA has had a strong influence on the decline of looting. Also, no place does it state anywhere that the trade in antiquities within a country should be forbidden*****."***
> **Lucille Roussin**

Professor Roussin argued for an alternative to the art trade in which museums exchanged art and noted that exchanges had been agreed upon with Italy. She felt that the burden should be on the art dealers to be sure that an object had not been looted before selling it. She said, "As an archaeologist, things that are pulled out of the ground without archaeological excavation are orphans in history. We will never know anything more about that object than its existence." On being asked whether the CCPIA should be expanded to include ethnological material that is not from a preindustrial society, she responded, "No, not necessarily. But there are objects of cultural importance in other countries that are not strictly speaking antiquities. They are old, they are not ancient and they are in danger of pillage as well. I can cite many of the later objects from Guatemala or Mexico, which are now protected."

Marc Wilson, former director of the Nelson Atkins Museum, said he had no problem with the CCPIA and that no one could possibly be in favor of looting. He asked how it could be good government, however, not to pay attention to the legislative intent or the actual words in the law, and said that to do so created enormous cynicism about both the law and what the law was trying to protect. He said that CPAC is "almost a kangaroo court," and that "To say the administration of CPAC is a stacked deck is very polite."

Wilson said that he had been intimately involved on the museum side with the signing of an agreement with China under the CCPIA. He said that contrary to U.S. law, the agreement was initiated by the U.S. State Department and drafted in English first. It was only then entered into discussion with the Chinese Ministry for Foreign Affairs and its existence as a document caught the administration for cultural heritage in China by surprise. Wilson noted that morality and ethics are sometimes thought to trump the law of regulations, but asked, with reference to the agreement under the CCPIA with China, "at what point does a source nation undermine its moral legitimacy by disregarding the principles and pillaging itself?"

> ***"It is important to understand what are some of the benefits to our nation in particular, to the American mandate, of having works of art of other cultures and other times. We are not a monoculture...We are the diaspora of the world, in one place... It is critical that we get beyond the notion of these works of art as simply being inspiring, which they are, or emotionally overwhelming. In a country that is the diaspora it is important to see what the rest of the world has produced at the highest possible level. If you do not have that, you lose one of the ways of building respect... That is very important for the American glue."*** **Marc Wilson**

Discussion continued with an exchange between Roussin and Wilson in which Roussin clarified that archeology was not the only way to understand an object, but that aesthetic values would be enhanced if we knew the context in which they were used. Wilson agreed, but said that today the most common and repetitive objects, like $10 Roman oil lamps were treated the same way as the greatest artworks; he said a hangnail gets the same kind of legal treatment as a heart attack. Fitzpatrick pointed out that with respect to hangnails and heart attacks, the CCPIA says objects must be culturally significant, but embargoes are on all objects because of the notion that all objects are archaeologically significant.

Asked whether the panelists had comments on the subjects discussed earlier, Mark Feldman made a comment on the earlier panel question of whether there is a conflict between the UNESCO Convention scheme and the National Stolen Property Act and that national patrimony laws convey a title that is enforceable under the penal laws of the United States.

> ***"This idea is fundamentally... inconsistent with the policy judgment made by the US government that lay behind the Convention... Together with the State Department's administration of the statute, which contrary to the representations made in writing to the Congress, involve comprehensive import controls on archeology when a request is made, and***

> ***the Customs enforcement of a criminal theory which did not exist when we were doing this negotiation and which would have changed the entire conversation nationally and internationally... I have to stay with the conclusion of the Pearlstein paper, which is that the balance that existed in 1970 has been replaced by a new balance, a new regime, with a different set of values which has the potential at least of providing a blank check to any country that wants to do a national patrimony law.***
> ***That's a fact, in my opinion. The issue is, is it the right way to go? And who should make that decision? As a professor of constitutional law, I think that's a decision that should be made by the Congress, but it has not been made by Congress. But to get the Congress to address this is quite another matter indeed."*** **Mark Feldman**

Asked what reforms are necessary, if the State Department has indeed gone off the rails, Feldman replied that he had tried through an ABA committee to have a review of the procedural aspects of the State Department's administration of the statute but that it was blocked by the archeological constituency on the ABA committee. He said that without getting a committee of Congress to get the State Department to say what they were doing it would be hard to get a definitive judgment on compliance with the law. Fitzpatrick added that it was essential for the museum community to re-enter the field. In order to get the Department of State back on track, the museum community must be a central figure in any reform efforts.

Panel 3 involved the role of museums and collectors, the AAMD 1970 rule, and the prospect for a web-based database to quiet title for objects without provenance. Panelists were law professor Jennifer Kreder, attorney Ronald Spencer, and former Nelson Atkins Museum director Marc Wilson.

Moderator Gary Vikan, former director of the Walters Art Museum in Baltimore, began with a description of his first experience as a member of the Cultural Policy Advisory Committee (CPAC), where six people were sufficient to vote to include objects of an ethnographic nature with a street value under $30 in an agreement with Bolivia, and his concern that the voices of art dealers and collecting museums were not heard there. He described how as director of the Walters, he encouraged placing all prospective acquisitions on the Association of Art Museum Directors (AAMD) registry, noting that there are in excess of 500 objects from the Walters now listed. He also recalled the choosing of a bright line date of 1970 for acquisitions during the creation of the 2008 guidelines adopted by the AAMD:

> ***"My own impression was that 1970 was adopted by the museum community first and foremost for public relations purposes. We were in a position of great embarrassment. Two, we took a moral high ground. Three, we forgot about law."*** **Gary Vikan**

Ronald Spencer began his comments with an examination of the most recent AAMD guidelines, issued in January 2013, and noted that the guidelines completely failed to identify the state of the current law – and in fact explicitly said that the analysis in the guidelines was not required by the law, without any reasons given for the divergence.

> ***"I wondered, what's going on here? We have a Congress that passed laws. We have an Executive who administer the laws. And yet the AAMD decided they were going to do something that goes beyond those. Well they can do that I suppose, on a vote of their members, but it seems to me that they owe the art world and community an explanation of why they did it."*** **Ronald Spencer**

Spencer then examined the safe harbor rules which exclude items that have been published, exhibited, ore simply been in the United States for a certain number of years from the CPIA, and wondered: why didn't the museums look at them, and if they did, what did they say when they were talking about amending the AAMD guidelines? Why, he asked, did the museums leave the field? And answering his own question, said he thought it was because the Fred Schultz case "scared the bejesus out of them."

Marc Wilson responded that he was part of the AAMD group that first proposed the guidelines, and that Schultz was not scary, but that Schultz "may have played into some of our minds." He saw the adoption of the guidelines as a self-imposed ethical statement.

> ***"First of all there was self-interest. It is not good for museums to be part of an industry that had any part in pillaging. Why 1970? In the end it was arbitrary. Well, it is the date of the adoption of UNESCO treaty. I argued if you're going to have a bright line, that it should be 1983 because that coincides with U.S. law. If you are going to have an arbitrary bright line then you have the option of the CPIA. What drove the adoption of 1970 instead of 1983 was a desire to satisfy our European colleagues, European archaeologists, some museum people. The other pressure came from the AIA and the pounding that museums in general were getting, perfectly innocent most of them, because of the misbehavior going on at the Getty... So we were all... tarred unfairly in the press, which seems to have an unlimited appetite for sensationalism and mayhem."*** **Marc Wilson**

Wilson then described the unintended consequence of adopting the 1970 rule for acquisitions: what he described as dissolving the relationship that is the foundation for the American museum system. Wilson said that museums not only could no longer buy the artworks from all the peoples who contributed to the making of American culture, but the bonds between collectors and museums were broken. Collectors are now rejected by the museums, and trustees that gave objects or money to support the care of objects and keep the doors of the museums open are alienated and very upset.

Law professor Jennifer Kreder saw the adoption of the AAMD guidelines both as progress and as museums becoming more legalistic. She was generally pleased that museums had adopted standards for acquisition. She drew comparisons to both Holocaust claims and to the Theft of Major Artworks statute, which applies only to thefts from museums in the U.S. Kreder also compared dealing in unprovenanced antiquities to trafficking in Nazi looted art.

> ***"I see museums as tools for education, not as tools for acquisition. And in the context of Nazi looted art, it was a large debate over the acquisition and those same public policy arguments were made, and one of the things that I responded in regard to that was that as our public institutions should not act as pillars of society."***

> ***"Plenty of people are disappointed. They hoped that they would donate certain things but I don't think they have been deprived of property rights. I happen to teach Property, these are the courses I teach as a law professor. And one of the things that students learn on day one week one is that property rights exist so long as government recognizes property rights. That's what characterizes the bundle of sticks that people recognize as property rights. That sort of change happens all the time. Think of zoning and how that works. People can do what they plan to do. Their investment expectations don't always pan out to be as good as they hoped. If I think about what was legal one day and then not legal and then legal again, I think about prohibition. Here we are with marijuana being legalized, I mean, things change. That's a normal part of the system."*** **Jennifer Kreder**

While Kreder saw transparency as a key element in the new relationship between museums and collectors and the public, she did not feel that a database allowing claims to be made was a workable idea because it would only work for uniquely identifiable objects.

> ***I know that there are plenty of legitimate collectors whose hearts are in the right place and who want the public to benefit from their collections, but that's not all that's out there and we all know that and at some point a line has to be drawn in the sand. At what point to do we say that people are on notice that there is a problem with the market? And there is a problem with the market... There would be two legal issues. One is, what is legally acquired? I think that the definition is too broad. I think when it comes to who should be on notice, the concept of due diligence should be stronger. And then, where is the conscious avoidance versus the good faith purchaser? Again, I think that to defer to presuming that everyone in the market is acting in good faith is going too far.*** **Jennifer Kreder**

Ronald Spencer also foresaw problems with a registry – that collectors would be unwilling to make private collections public for reasons of inheritance, taxes, insurance and more. He saw great difficulty in immunizing a collector from either federal action or claims from a source country.

"I think a better way to achieve what many of us here want to achieve is to one – get the museums to stand up, and two- get the 1983 legislation made exclusive, thus in effect taking the National Stolen Property Act out of the equation. If we want legislation, that's the legislation we would want – and I don't think we are going to get it." **Ronald Spencer**

Marc Wilson suggested that if U.S. museums would not accept items as donations, then U.S. collections would be sold to other countries, now becoming as developed as the U.S. The problem he anticipated was when U.S. museums, having disappointed their collectors, were squeezed not by archaeologists or overseas museums but "by the cash register, when the donors are no longer there to help with funding."

Asked what museums should do, Ronald Spencer said they should read the AAMD guidelines very carefully, and read the Cultural Property Implementation Act very carefully, and the National Stolen Property Act, and then read the AAMD guidelines again. They should push for a little bit of change to the guidelines.

SPENCER: Under the guidelines today, museums are able to acquire pieces today if they choose to, and they should.
VIKAN: So they should just do it?
SPENCER: Do it.

Spencer described a question asked by Philippe de Montebello years ago regarding a theoretical unprovenanced artwork that he might acquire for the Metropolitan that would otherwise go to Dubai or the Far East and be hidden in a bank vault for a hundred years. Kreder said that he would also have a duty to protect the purse of the museum from a possible claim. Spencer recalled a statement by Andre Emmerich that source countries are now coming to the U.S. asking for pieces that the source countries destroyed.

Marc Wilson earlier described the folly of signing of an agreement between the U.S. and China to halt the importation of all art from China from the Tang period and before. He noted that US collectors and museums are shut out of a huge market backed by the Chinese government that dwarfs all other markets worldwide. He said, "The Yuan Ming Yuan [Summer Palace] was destroyed and looted by French and British troops in 1860. Every Chinese child has been taught that this was the most heinous crime and an act of unspeakable barbarity. Today, 80% of what was left is back in China. Not one of those items went back as the result of an intergovernment negotiation. They have all by been brought back by Chinese or in one case given voluntarily." In response to Emmerich's statement, Wilson noted that during the Cultural Revolution, China "shredded" whole Tibetan institutions like the Densatil monastery. "Bits and pieces of it were scattered and brought out by refugees and now China has the chutzpah, an old Chinese word, to say we'd like to have these back. I am sorry. You need to pay for these incredible acts of unspeakable barbarity."

Wilson said that he had rejected many pieces in the past because he thought they were looted, but that despite the changes on perspective and attitude today, the fact is that whether looted or not, the documentation simply no longer exists for the majority of artworks in circulation. He felt that there was nothing wrong with the standards today, but that it made no sense to try to apply them to a time when there were different standards for normative behavior, and no longer any evidence to base acceptance or rejection upon. Wilson felt that the Japanese model for a licit market was very intelligent and asked if there were any reason why the rest of the world could not behave intelligently.

In response to the final question of what would be the best way forward, Wilson said that the fundamental changes needed were very difficult because they were political suicide for political regimes in source countries.

"I don't think that tunnel looting is the biggest problem. Right now the biggest problem is howitzers. The biggest problems are barrel bombs blasting the hell out of Aleppo." **Marc Wilson**

Spencer said that good change always comes from education. Things do change, but they change with education and with thought, such as the discussion at the symposium. Kreder looked to rules, saying that it is wrong now, to acquire things that were stolen, and it was wrong then.

A reception followed the close of the symposium.