

OPENING REMARKS BY GIDEON TAYLOR*

Why now? I believe that this is a unique moment in time as we reexamine the question of how we, as a society, address looted art and cultural property. It affects property that is now in both public and private hands. It is in some ways the meeting point of history, morality, justice, as well as legislation, civil litigation, law enforcement, alternative dispute resolution, and broader policy issues. The areas we will discuss today are very different, yet each one lies at the intersection of art, culture, law, and society.

As we will hear, there are several developments that are coming together to make this a particularly relevant subject for the legal and general community. Today, a new set of Best Practices¹ on Holocaust-era art and cultural property, led by the United States, is gaining increased support from countries worldwide. Claims for restitution are growing in number, governments and institutions are opening up archives, and the issue of looted antiquities and art is dramatically affecting the museum world. Similarly, new regulations governing Native American cultural property are leading to significant changes in how institutions treat these items, with a growing movement toward returning cultural objects and human remains to tribes. And there has been increased engagement from law enforcement in the effort to secure the return of looted art. Internationally, countries have been developing legal as well as consensus-based processes. Yet, there is limited progress in many areas, and meaningful challenges remain.

The speakers, moderators, and hundreds of participants joining us both in person and remotely—including judges, practitioners, academics, students, experts, representatives of museums and auction houses, journalists,

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These remarks were made during the Symposium titled *Remedies for Looted Art and Cultural Property—Civil, Criminal or Consensual?* hosted by the *Fordham Law Review* on February 28, 2025, at Fordham University School of Law. The text of these remarks has been footnoted and lightly edited.

1. See *Best Practices for the Washington Conference Principles on Nazi-Confiscated Art*, U.S. DEP'T OF STATE (Mar. 5, 2024), <https://www.state.gov/office-of-the-special-envoy-for-holocaust-issues/best-practices-for-the-washington-conference-principles-on-nazi-confiscated-art> [https://perma.cc/7N5T-CFWP].

members of the law enforcement community, and other people interested in the field—are a testament to the significance of this issue at this time.

As the Best Practices point out, looted art and cultural property include not only paintings and other visual and decorative art but also sacred scrolls, religious and ceremonial objects, libraries, manuscripts, archives, musical instruments, and so much more.² The scope is broad.

Why does art and cultural property matter? It speaks to who we are and who we want to be. It reflects our perceptions of ourselves and how we want to be seen. It can be an object of beauty. Yet it can also be functional—sometimes serving as a part of a religious or cultural ceremony. It can bring us closer to people who are no longer with us and to memories that were lost. It can represent the heart of a family, the heritage of a community, and the soul of a people. It can tell us where we come from and who we are. It tells a story.

In 2021, a beautiful leather-bound book containing burial records from the nineteenth century went up for auction at a New York auction house.³ It was being sold by a private individual. But the book had once belonged to the Jewish community in the town of Oradea in today's Romania.⁴ A page of the book written in elegant handwriting lists the names of those who had passed away. One of the names inscribed is Tova Esther, the daughter of Leah, who passed away on the fifth day of the Hebrew month of Kislev.

Who was Tova Esther? Is this page the last fragment available that tells us where she lived and where she died? How did this precious book that once lived in a synagogue in a small town in Transylvania reach New York in 2021? Is this page the only remnant that tells her story?

What other paintings, books, and ritual objects that tell the story of a family or represent the history of a people remain behind closed doors? Today, we live in a world where the distortion of history is widespread—a world where a common understanding of the past stands on a less and less stable foundation. The ever-shifting perceptions of facts lead some to term it a “post-truth world.”⁵ It is more important than ever that these items teach us

2. *See id.*

3. *Auction 10, July 28, 2021: Ledger of the Chevra Kadisha of Tomashvar. 1781-1829*, WORLD JEWISH RESTITUTION ORG., <https://wjro.org.il/wp-content/uploads/2021/07/bidspirit-auction-chevra-kadish-ledger-of-tomashvar.pdf> [<https://perma.cc/W77B-UY7V>] (last visited Aug. 27, 2025) (uploading a screenshot of the auction of the ledger on bidspirit, an online auction portal); *see also Auction House Halts Sale of Sacred Artifacts Taken Illegally During Holocaust After Urgent International Requests*, WORLD JEWISH RESTITUTION ORG., <https://wjro.org.il/auction-house-halts-sale-of-sacred-artifacts-taken-illegally-during-holocaust-after-urgent-international-requests/> [<https://perma.cc/D4UW-ZB5Y>] (last visited Aug. 11, 2025).

4. Press Release, U.S. Dep't of State, United States Seizes Funeral Scrolls and Manuscripts Taken from Pre-Holocaust Jewish Communities in Eastern Europe (July 22, 2021), <https://www.justice.gov/usao-edny/pr/united-states-seizes-funeral-scrolls-and-manuscripts-taken-pre-holocaust-jewish> [<https://perma.cc/8N9H-A54W>].

5. *See, e.g., Post-Truth*, CAMBRIDGE DICTIONARY, <https://dictionary.cambridge.org/dictionary/english/post-truth> [<https://perma.cc/5ECH-PY4S>] (last visited Sep. 26, 2025); *Word of the Year 2016*, OXFORD LANGUAGES, <https://languages.oup.com/word-of-the-year/2016/> [<https://perma.cc/QDV9-RUXS>] (last visited Sep. 26, 2025).

their stories and their histories and serve as a constant in an increasingly fluid world.

As we grapple with the subject of this symposium, “Remedies for Looted Art and Cultural Property—Civil, Criminal or Consensual?,” we may find more questions than answers. While there is no one single answer to these challenging and multifaceted questions, there are a few themes to consider.

Firstly, historical context matters. We need to look at dark chapters of human history with deep sensitivity and understanding. We need to develop rules and processes and find mechanisms that understand and consider that history.

Secondly, this is not just about well-known items of great financial value. Our attention tends to be drawn to high-profile cases of artwork by luminaries hanging in storied museums across the world—art that certainly carries tremendous symbolic value. But it is also about items that may be of little financial value yet carry immeasurable historical meaning to families and communities. For every renowned masterpiece that was taken, there are also hundreds of lesser-known works and religious items that were similarly looted. They came from great cities, from small towns, and from tiny villages. Some were created by people whose famous names roll off our tongues, and others by anonymous craft workers toiling in obscurity.

Thirdly, this is not simply a legal issue. We sit today in a law school, but this is about far more than law. It is about history; it is about family and community; it is about tradition; and it is about religion, culture, and society. The majesty of the law can do many things, but it is not always so well equipped to find justice in this field. Technical defenses may be appropriate in routine litigation, but we are not dealing with normal commercial matters.

Fourthly, this is not a national issue—it is a global one. It affects countries, nations, peoples, communities, and individuals across the world both in terms of where looted art and cultural property come from, and where it is today.

Fifthly, at the core of addressing looted art and cultural property is transparency. Provenance research is slow and expensive. But it is not just good practice, it is the foundation of the proper management of art and cultural property in our world today. And in an art world that sometimes operates out of the public eye, we need transparency regarding archives and transaction records to ensure that history is known.

Sixthly, this is not just about the physical items themselves. It is also about what the objects can tell us about the people who created them and the people to whom they belonged. Physical objects can serve as a lens through which we can explore the past. They can be tools to teach us about people and communities.

Finally, this is a moment in time that calls for us to be bold—to reexamine our preconceptions and assumptions and to not be afraid of change. In an area where information is not always clear, and where all the facts may be unknown and shrouded in history, we may need to take new approaches. We may need to reconsider our assumptions as to an object’s origin, its rightful owner, or the appropriate place where it belongs.

That beautiful leather-bound book is not just a collector's item. It also reflects the memory of Tova Esther, the daughter of Leah, who passed away on the fifth day of the month of Kislev. What happens to that book, ultimately, must honor her memory.

Today is not just about the restitution of property. It is also about the restitution of history.