

SYLLABUS

Woodrow Wilson School
Spring Term, 2003

WWS 402h
Armed Conflict and the Protection of Cultural Property
Stephen Urice

Wednesdays, 7:00-9:50 p.m., Robertson Hall 006

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Introduction. Cultural property – works of art, library collections, monuments, archives, prime examples of ecclesiastical and secular architecture – suffer during times of armed conflict and war. Cultural property is lost or damaged from bombing, fires, vandalism, and plundering. Cultural property is also often displaced in the confusion of war, moved from one place to another through theft and official and unofficial efforts to confiscate valuable property from national and private collections.

Although philosophers, historians, and others have addressed this issue since antiquity, it was not until the middle of the 19th century that a nation took official action to address the situation. At the height of the American Civil War, Abraham Lincoln promulgated the Lieber Code, instructions for the Union army in how they were to conduct themselves. The Lieber Code explicitly addressed the protection of cultural property; it was not until 1907, however, that the issue became the subject of specific provisions of a major, multilateral, international treaty.

Notwithstanding existing treaties and other laws, World War II witnessed the greatest displacement and destruction of cultural property in history. Following the war, the United National Educational, Scientific, and Cultural Organization (UNESCO) convened its members in sessions that led to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (the “Convention”), which sought to strengthen protection for cultural property in light of recent experience. The United States signed but never ratified the

Convention. The United States is, however, a party to UNESCO's two other principal cultural property treaties: the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property and the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage.

With the recent destruction of significant cultural property in local conflicts in which the United States has been involved, the current threat of armed conflict in the Middle East, President Bush's decision last year that the United States' would rejoin UNESCO after a 19-year hiatus in membership, and the discovery in the United States of significant works that had been looted by the Nazis (and U.S. soldiers) during and after World War II, it is appropriate to consider whether the United States should now become a State Party to the Convention or take other policy action to protect cultural property during times of conflict.

This task force will develop recommendations to the State Department's Office of the Legal Advisor on the question should the United States change its position of nearly 50 years and now become a party to the 1954 Hague Convention. It also will develop recommendations on what other policy action the United States might take to safeguard its own and other nations' cultural property during times of war.

General Information. This task force will meet every Wednesday evening from 7:00 until 9:50 p.m. in Robertson Hall Room 006 beginning February 5, *except* March 19 (spring break). I anticipate being in my office at the Woodrow Wilson School on Mondays, Wednesdays, Thursdays, and Fridays and am available to meet with task force members on those days.

Readings. You will need to purchase only one book: Lynn Nicholas's, *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War* (Knopf, 1994) (Vintage Paperback 1995). *The Rape of Europa* is generally available in large bookstores and from on-line vendors such as Amazon.com.

The most detailed study of the Convention (Jiri Toman's *The Protection of Cultural Property in the Event of Armed Conflict* [UNESCO 1996]) will be on reserve; you will not need to acquire a copy.

Attached to this syllabus is your first reading assignment. Subsequent readings will be contained in a reading packet that I will distribute to you on the first day of class. I will add to that compendium during the semester to reflect our final schedule of guest lecturers and changes in the syllabus, if any. Accordingly, please acquire a three-ring binder and place your readings in that notebook to make subsequent insertions simple. And, since we will often return to earlier

readings in later sessions, bring the entire collection of readings with you to each session.

I have placed resource materials on reserve in the Woodrow Wilson School Library and will expect you to augment the specific reading assignments by familiarizing yourself with these reserve readings. I will review the reserve list with you in our first session

Research Paper and other matters. Your most important contribution to this task force will be your research paper and the oral presentation of its findings. I will distribute a list of paper topics at the first session and early in the semester I will meet with each of you to discuss your paper topic. It will be important to find a match between your interests and the policy issues we are considering and to assure that all significant aspects of those issues are addressed by the range of research projects undertaken. Your other important contribution will be in the quality of preparation for each session and your participation in discussion each week. I will, of course, have more to say about the research paper, the presentation, and other matters related to the task force when we meet.

Guest Lecturers. As indicated in the class schedule (below) we will have guest lecturers on several occasions. As each is confirmed, I will let you know and distribute an updated version of the syllabus, including any readings the lecturer asks you to have prepared. When possible I will try to arrange for you to meet with the lecturers either before or after class, especially when there is a match between your paper topic and the guest lecturer's expertise.

Meeting Schedule

Wednesday, February 5

Week 1: Introduction to the Issues. In this first session we will identify the problem that the Convention addresses: the protection of cultural property from destruction and plunder in times of war. We also will set up the question that this task force must consider: as a matter of United States foreign policy, should the United States become a State Party to the Convention? If so, would our becoming a signatory provide sufficient protection to this country's and other nations' cultural heritage in times of war? Whether the United States becomes a party to the Convention, are there other policy changes that would provide even greater protection than that afforded by the Convention? If so, what are these changes and what governmental body or non-governmental organization should carry responsibility for implementing these policies?

Reading assignments:

1. Jeanette Greenfield, "The Spoils of War" in Simpson, Ed., *The Spoils of War* (Abrams, 1997) pp. 34-38.
2. "Plunder, Reparations and Destruction" in Merryman & Elsen, *Law Ethics and the Visual Arts* (1998), pp. 1-68. (Consider carefully the several questions that Professors Merryman and Elsen pose in the "Comment" sections.)

Wednesday, February 12

Week 2: World War II: a case in point, Part I. The readings for this session and the next will describe the unprecedented efforts of the Third Reich to expunge cultural property it deemed "degenerate" and to seize cultural property from private (especially Jewish-owned) collections and public institutions in occupied nations. We will also discuss the efforts of the United States army following the war to return seized cultural property to rightful owners and the Russian army's largely successful efforts to seize cultural property from Germany as war reparations. These events shaped the approach to the protection of cultural property expressed in the Convention.

N.B. I will not be in Princeton on February 12, but the task force will meet. Duncan Alford, Social Science Reference Librarian, Law and European Union Specialist, Princeton University Library, will meet with you in Firestone Library. Mr. Alford will provide a survey of research resources that you will find useful in preparing your research paper. He also will give you a brief tour of Firestone to be certain you know where these resources are and how to access them. The session this week will begin at its regular time, 7:30 p.m., but conclude by 9:00 p.m.

Reading Assignments for February 12 and 19:

1. Lynn H. Nicholas, "World War II and the Displacement of Art and Cultural Property" in Simpson, Ed., *The Spoils of War* (Abrams, 1997), pp. 39-45.
2. Lawrence M. Kaye. "Laws in Force at the Dawn of World War II: International Conventions and National Law" in Simpson, Ed., *The Spoils of War* (Abrams, 1997), pp. 100-105.
3. Lynn Nicholas, *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War* (Knopf, 1994) (Vintage Paperback edition, 1995). The assigned readings are Chapters I through VII and Chapter IX.

Wednesday, February 19

Week 3: World War II: a case in point, Part II. Guest lecturer, Dr. Constance Lowenthal. Dr. Lowenthal is an art historian, internationally recognized for her expertise in stolen art. In 1997, she became the founding

director of the World Jewish Congress's Commission for Art Recovery (an organization established to facilitate the restitution of looted cultural property to holocaust survivors or their heirs). Now in a private consulting practice, Dr. Lowenthal specializes in issues relating to lost and misplaced cultural property from the World War II era. Dr. Lowenthal and I will lead a discussion on the assigned readings.

Reading Assignments:

1. See assignments listed for previous week.

Wednesday, February 26

Week 4: The Law. In this session we will first discuss the United States' legal system's approach to international treaty law and then review the antecedents to the Convention.

Reading Assignments:

1. Robert E. Dalton's "National Treaty Law and Practice: United States" in Leigh, Blakeslee and Ederington, Eds., *National Treaty Law and Practice*, Chapter 6.
2. Stanislaw E. Nahlik, "International Law and the Protection of Cultural Property in Armed Conflicts." 27 *Hasting Law Journal* 1069-1087 (1976).
3. Lieber Code, US War Department, General Orders, No. 100, April 24, 1863 (Reprinted in Leon Friedman, Ed., *The Law of War, A documentary History, Vol, I, 158-186 (1972)*).
4. Convention Respecting the Laws and Customs of War on Land (Hague, October 18, 1907), Articles 27 & 56
5. Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments, Washington, April 15, 1935 (Roerich Pact), League of Nations Treaty Series, Vol. CXVII, pp. 290-295

Wednesday, March 5

THIS SESSION WILL BEGIN AT 5:00 P.M. IN ROBERTSON HALL 006 (OUR NEW MEETING ROOM) AND WILL FOLLOW THIS SCHEDULE:

5:00-6:45: Discussion of previous week's (Week 4's) reading assignments

6:45-7:30: Jackie Druery will talk with the task force on research resources at Stokes Library

7:30-9:30: Discussion of the reading assignments listed below for Week 5; dinner will be served

Week 5: The Hague Convention of 1954, Part I. This session will focus on the text of the Convention and its first Protocol.

Reading Assignments:

1. The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict; First Protocol (1954).

Wednesday, March 12 (**DUE DATE FOR RESEARCH PAPER OUTLINE – SEE ASSIGNMENT BOX BELOW**)

Week 6: The Hague Convention of 1954, Part II. This session will focus on the Second Protocol (1999) and on recent issues and writings related to the Convention.

Reading Assignments:

1. Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (1999)
2. Jean-Marie Henckaerts, "New Rules for the Protection of Cultural Property in Armed Conflict." International Review of the Red Cross, No 835, pp. 593-620 (1999).
3. Etienne Clement, "Some Recent Practical Experience in the Implementation of the 1954 Hague Convention." 3 Int'l. J. Cult. Prop 11-25 (1994).
4. Keith W. Eirinberg, "The United States Reconsiders the 1954 Hague Convention." 3 Int'l J. Cult. Prop 27-35 (1994).

Wednesday, March 19

NO SESSION: SPRING BREAK

Wednesday, March 26 (**DUE DATE FOR DRAFT RESEARCH PAPER – SEE ASSIGNMENT BOX BELOW**)

THIS SESSION WILL MEET ON MONDAY, MARCH 31, 4:30-7:00 p.m.

Monday, March 31, 4:30-7:00 p.m.

Week 7: Motivating the United States: Protecting Iraq's Cultural Heritage during Armed Conflict and in the Aftermath. Guest Lecturer, Arthur Houghton. Arthur Houghton, a graduate of Harvard University and the American University of Beirut, has had separate and sequential careers in the U.S. Department of State, the J. Paul Getty Museum, White House Office of National

Drug Control Policy, and as president of a Washington-based consultancy firm. Mr. Houghton is both a student and practitioner of US policy toward the Middle East, and a scholar of the Hellenistic period in the Levant, Mesopotamia, and Persia. He is the author of more than thirty scholarly studies related to the production and circulation of money in the Hellenistic period. He serves as Vice President of the American Council for Cultural Policy, an organization established to provide information and policy views on US laws and regulations as they affect the importation and acquisition of cultural property by institutions and individuals.

Reading Assignments: **TBA**

Wednesday, April 2

Week 8: First Three Presentations By Task Force Members

Wednesday, April 9

Week 9: Final Three Presentations By Task Force Members

Wednesday, April 16

Week 10: Discussion of form of, and audience and dissemination plan for, the task force's final report

Wednesdays, April 23 and 30

Weeks 10 and 11: The task force will determine the content of the final report, its recommendations, and the plan to disseminate findings and recommendations.

ASSIGNMENT DUE DATES

Wednesday, March 12, in class: Outline or précis of research paper including the principal arguments you will make and the major resource materials on which you will be basing your research

Wednesday, March 26, prior to 2:00 p.m., Draft of research paper, delivered to Helene Wood, Robertson 326

Tuesday, May 6, prior to 2:00 p.m., Final Research Paper, delivered to Helene Wood Robertson 326

Tuesday, May 13, Final Research Paper to Linda Taylor in the undergraduate program office via email: ltaylor@princeton.edu