

EVENTS AND CONFERENCES

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*From the Past to Present: Overview
of the International Focus
on the Frontier Issues
of Cultural Heritage Law***
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The International Symposium on Frontier Issues of Cultural Heritage Law hosted by Renmin University of China (RUC) on 24-25 October 2019, attracted 60-odd scholars from over 20 universities in seven countries.

Discussion Concerning the Disputes in Law
on the Return of Cultural Property Taken
during the Colonial Control or Foreign Invasion

Discussion on this theme revolves around four topics. Participants reached consensus on the following issues:

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Legitimacy of Return of Cultural Property Looted During Wars or Colonization

Participants formed the common recognition that the plunder of cultural objects and artworks during wars or colonization violated international law and moral principles, which justified the return of looted cultural property both legally and morally. Prof. Ana Filipa Vrdoljak, UNESCO Chair on International Law and Cultural Heritage at the University of Technology Sydney (Australia), proposed three rationales for restitution of cultural objects, including the principle of territoriality and the link between people, land, and cultural objects; humanitarian intervention and the reversal or amelioration of discriminatory and genocidal practices; and necessities of establishing a new order enabling self-determination and reconciliation. Prof. Matthieu Poumarède from Toulouse 1 Capitole University (UTC) (France) demonstrated that the works of art despoiled during the Second World War and listed in the “Musées nationaux recuperation” directory should be deemed as properties held by a public person awaiting their rightful owner rather than traditional public property. Prof. Sophie Vigneron from University of Kent (UK) examined the laws and policies on the repatriation of human remains in both France and Britain within the interdisciplinary theory of “Authorized Heritage Discourse” (AHD).

Limits of the Restitution of Cultural Property

Legal obstacles for the return of cultural property were warmly discussed. Prof. Piotr Stec from the University of Opole (Poland) asserted that the return of cultural property should be carried out based on the existence of records proving identifiable and measurable loss within the civil or administrative jurisdiction. There should also be ways for the “Representative for the Deceased” to claim compensation when the nature of the wrongs was extremely vile or despicable, despite the absence of either an identifiable victim or identifiable loss. Prof. Florent Garnier from UTC probed into the legal barriers for the return of colonial cultural property based on the case study of a report submitted to the French President on the restitution of African cultural heritage and proposed the idea and autonomous legal status of “shared cultural property”. Prof. Hsu Yao-Ming from Taiwan Cheng-Chi University illustrated the interaction and equilibrium between the international trade rules within the World Trade Organization and the cultural heritage conventions.

Responses of National Law to the Return of Cultural Property Looted During Wars or Colonization

The efforts of some countries to solve the problem of the return of looted cultural property were discussed. Dr. Alicja Jagielska-Burduk, UNESCO Chair on Cultural Property Law at the University of Opole, suggested a cultural heritage loss-respon-

sive law paradigm in law interpretation and comparative studies, concluding that CHL-responsive law originates from the history of the countries' cultural patrimonies and relevant legal structure. Dr. Bi Jingwei, assistant professor from Macau University of Science and Technology (China), illustrated the influence of the *Gurlitt* case on the reform of the prescriptive period in the restitution of cultural property in Germany.

Role of “Soft Law” and Various Approaches in Promoting the Return of Cultural Property Looted During Wars or Colonialization

It has been recognized that so-called “soft law” rules, consisting of the advocacy of international moral principles and declarations, as well as the ADR approaches, play an important role in promoting the return of looted cultural property. Taking the recovery of the *Zhaoling Two Steeds* as an example, Prof. Li Weifang from East China University of Political Science and Law argued that “soft law” could make up for the limitations of the current legal norms. Li Yuxue, researcher from Chongqing Academy of Social Sciences (China), illustrated the positive significance of the “2009 Draft UNESCO Declaration of Principles Relating to Cultural Objects Displaced in Connection with the Second World War” for China in the recovery of lost cultural objects during the Second World War. Huang Wei, associate professor from Wuhan University (China), advocated the special mechanism of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (ICPRCP). Both Yu Meng, postdoctoral fellow from the China University of Political Science and Law, and Li Yuan, Ph.D. candidate from RUC, valued the approach of negotiation as well as litigation.

New Development Trend of Cultural Heritage Law in China and France

Discussions concerning the “New Development Trend of Cultural Heritage Law in China and France” focused on the three topics as follows.

Role of the Mechanism of Intellectual Property Rights in Cultural and Biological Protection

Discussion on the second day began with the topic of the relationship between intellectual property rights and the protection of culture and biodiversity. Prof. Alexandra Mendoza-Caminade from UTC illustrated the articulation of the protection of biodiversity with intellectual property rights, taking latest EU and French legislations as examples. Hsieh Yinling, adjunct professor from Shanghai University of

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International Business and Economics, advocated the promotion of the inheritance of intangible cultural heritage through the coordination of the Intangible Cultural Heritage Law and the existing intellectual property system.

Legal Response and Innovation of Cultural Heritage Protection under Sustainable Development Goals and in the Context of Urbanization

Innovation of the cultural heritage law in both China and France to promote the goals of sustainable development in the context of increasing urbanization also gave rise to extensive discussion. Awi Mona (Tsai Chihwei), associate professor from Taiwan Dong Hwa University, explained how to integrate the concept of the preservation of indigenous culture and cultural heritage with the amendment of Taiwan's Cultural Assets Preservation Law in 2016 and under the Sustainable Development Goals (SDGs). Through explaining the concept of "utilization of cultural heritage" under SDGs and reviewing the new French Code of Cultural Heritage (FCCH), Hu Shanchen, postdoctoral fellow from Tsinghua University, proposed to offer greater autonomy to local governments and encourage public participation in China. Prof. Pierre-Alain Collot from Champollion National University Institute (France) explored the evolution of the legal system related to a variety of protected space in FCCH and analysed the competitive relationship between heritage protection and local urban planning.

Financial Guarantee for Cultural Heritage Protection

Financial guarantees for the protection of cultural heritage was vigorously discussed. Zhang Rui, Ph.D. candidate from RUC and lecturer of Ningxia University, and Chen Szu-Ting, associate professor from Taiwan Cheng Kung University, respectively analysed the possible approaches to construct the legal system for a public trust for cultural heritage in both the Chinese mainland and Taiwan. Chang Xin, lecturer from Northwest University of Political Science and Law (China), advocated the compulsory insurance of immovable cultural property in China. Izabel Vicente Izidoro Da Nóbrega, Ph.D. candidate from Federal University of Paraíba (Brazil), compared the role played by the Court of the Auditor in cultural heritage protection in France and in Brazil.