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Panel: Resolving the conflict between the Convention on Cultural Property Implementation Act (CCPIA) and U.S. criminal law

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Panel: Resolving the conflict between the Convention on Cultural Property Implementation Act (CCPIA) and U.S. criminal law

Posted on April 10, 2014

In today's panel concerning the reform of U.S. cultural property policy, panelists discussed whether there is a conflict between the Convention on Cultural Property Implementation Act ("CPIA") and the National Stolen Property Act ("NSPA") and whether it creates a problem. The general consensus of the panel was that while there exists tension between the two acts, there is no actual conflict between the CPIA and U.S. criminal laws, which can actually coexist. The panelists pointed to the fact that criminal cases do exist in the context of cultural property, but in most of the forfeiture cases there is another U.S. based offense included other than the NSPA line of cases. Panelist Andrew Adler discussed three of the main sources of tension between the two acts including: the disparity in the definition of the word "stolen," the issue with repose, and a technical conflict with the burden of proof. From another perspective, panelist Michael McCullough stated that the most complicated area of concern is whether potential buyers risk criminal exposure when purchasing a piece due in part to a lack of clarity in the NSPA .

Another interesting point briefly discussed by the panel is the suggestion that the real underlying conflict stems from the international cooperation that has changed over the past 30 years. Moderator Jeanne Schroeder stated that the real conflict seems to exist between Congress circa 1983, when the CPIA was enacted, and the internationalist world today. Despite the fact that the panelists did not come to an agreement as to how this could be handled in the future, they all seemed to support the proposition that the CPIA and U.S. criminal laws do not conflict with one another.