1. Course description

Millions of art objects changed hands illegally between 1933 and 1945 during acts of cultural plunder associated with genocide, mass slaughter, and wholesale acts of racial, political, religious, and ethnic persecution between 1933 and 1945, in clear violation of international covenants and agreements laid out at the turn of the 19th century by the global community. An unknown number of those displaced objects never returned to the rightful owners or their next of kin. This state of affairs has deeply affected the postwar international art market, national and international cultural heritage and exchange policies, and raising deep questions about due diligence and ethical practices in the management of private and public art collections as well as the buying and selling of art objects on the global art market.

Course objectives:

1/ to study and investigate the historical and forensic landscape of plunder and the recycling of stolen art objects;

2/ to examine and assess research and analytical methodologies aimed at recreating the ownership histories of displaced cultural objects;

3/ to review and evaluate the legal regimes that affect the return of looted art objects within the framework of existing national and international cultural policies;

4/ to gain a solid understanding of what a provenance is and how to properly read and interpret provenances.

2. Course Instructors

The Holocaust Art Restitution Project (“HARP”), a not-for-profit group based in Washington, DC, is dedicated to the identification and restitution of looted artworks requiring detailed research and analysis of public and private archives in North America. HARP has worked for 16 years on the restitution of artworks looted by the Nazi regime.

Marc Masurovsky is an historian, researcher, and advocate, specializing in the financial and economic underpinnings of the Holocaust and the Second World War. Born and raised in Paris,
France, Mr. Masurovsky holds a B.A. in Communications and Critical Cultural Studies from Antioch College and an M.A. in Modern European History from American University in Washington, DC, for which his thesis was on “Operation Safehaven.” He worked at the Office of Special Investigations of the US Department of Justice researching Byelorussian war criminals, locating primary source documents, and interviewing war crimes suspects in North America and Western Europe. As a result of his early work on the transfers of looted assets from the Third Reich to the safety (safehaven) of neutral and Allied nations, Marc Masurovsky advised the Senate Banking Committee in the mid-1990s on the involvement of Swiss banks in the Holocaust, then lent his expertise to plaintiffs’ counsels suing Swiss banks on behalf of Holocaust survivors. Since 1997, Marc Masurovsky has focused his attention on the fate of objects of art looted by the Nazis and their Fascist allies, and was a founder of the Holocaust Art Restitution Project (HARP). He played a major role in the January 1998 seizure of Egon Schiele’s “Portrait of Wally” and “Night City III” at the Museum of Modern Art of New York and was a director of research for the Clinton-era Presidential Advisory Commission on Holocaust Assets in the United States (PCHA). Since 2004, Marc Masurovsky has overseen the creation, development and expansion of a fully-searchable, public online database of art objects looted in German-occupied France that transited through the Jeu de Paume in Paris from 1940 to 1944. Marc Masurovsky is co-author of Le Festin du Reich: le pillage de la France, 1940-1944 (2006), and is currently at work on a book on cultural plunder during the Nazi era and its impact on the international art market.

**Ori Z. Soltes** is the President of the Holocaust Art Restitution Project. Ori Z. Soltes teaches at Georgetown University across a range of disciplines, from theology and art history to philosophy and political history. He is the former Director of the B’nai B’rith Klutznick National Jewish Museum in Washington, DC, where he curated exhibitions on a variety of subjects from archaeology to ethnography to contemporary art. Professor Soltes has taught, lectured and curated exhibitions across the country and internationally. He is the author of over 230 articles, exhibition catalogues, essays and books on a range of topics. Recent books include The Ashen Rainbow: The Arts and the Holocaust; Our Sacred Signs: How Jewish, Christian and Muslim Art Draw from the Same Source; Searching for Oneness: Mysticism in Judaism, Christianity and Islam; and Untangling the Web: A Thinking Person's Guide to Why the Middle East is a Mess and Always Has Been. Ori was also involved in providing the historical research and background in regard to Egon Schiele’s “Portrait of Wally” case, as well as the restitution of an “Odalisque”, a painting by Henri Matisse, to the Rosenberg family.

3. **Attendance**

6 sessions of 6 hours each are proposed. Attendance to all sessions is strongly encouraged, since they are interdependent with each other.

4. **Proposed Dates**
Sessions are proposed a 3 sets of 2 consecutive days, Thursday and Friday, scheduled from 9:00am to 3:00pm. Proposed session dates are as follows:

- April 16 & 17, 2015;
- April 23 & 24, 2015;
- April 30 & May 1, 2015.

5. Class participation

The class functions as a cross between a workshop and a seminar. To optimize learning and skill acquisition, attendants will be strongly encouraged to interact with one another and the instructor, exchange ideas and opinions, comment and critique, formulate proposals and suggestions, backed up by facts and reasonable arguments, in order for all of the participants to fully benefit from one another’s input and knowledge.

6. Reading assignments

Attendants will receive reading assignments as needed. These may include articles, book excerpts, and/or primary source documents. Most reading assignments will be supplied by e-mail.

7. Detailed Class Content

Session I: due diligence and provenance research: why are these ideas important and how do they affect "good title"?

- What is a provenance?
- Why is provenance research so important nowadays?
- What does provenance research entail?
- Why should lawyers and other professionals pay attention to the provenance of an artistic, cultural, or religious object?
- Some argue that a provenance can act as a legal document. Can a provenance be used to demonstrate who has ownership of a particular artistic, cultural, or religious object?
- Others argue that a provenance is a historical document. What does that mean in terms of understanding the ownership of an art object?
- Is there such a thing as a critical threshold of information that a provenance should contain?
- How is such a threshold determined?
- On what basis?
- Using what methods?
- To answer which questions?
Session II: duress and forced sales

The question of provenance research has come up in part because of disputes over legal ownership of artistic, cultural, or religious objects that changed hands in dubious ways after Adolf Hitler came to power in Germany on January 30, 1933.

We need to examine the various means of dispossession that the National Socialist regime applied as part of its overall program of marginalization and persecution of minorities in Germany, especially Jews, Gypsies, other religious minorities, and political opponents. The crux of the Nazi program of dispossession was aimed at the Jewish community of Germany and subsequently of all countries annexed and/or occupied by German troops and Nazi police and security agencies.

In this session, we will look at duress and forced sales—two sides to the same coin. Thousands of Jews living and working in Germany were subjected to duress imposed by the National Socialist regime and were forced to sell off their possessions, sometimes piecemeal, sometimes suddenly and in toto.

Many legal cases involving artistic objects hinge on how duress is interpreted and whether or not the items under contention were liquidated as a result of a forced sale.

- Context: the early years of the Third Reich
- Definition of duress and forced sales
- Characteristics of duress—economic vs. racial

Session III: Aryanizations

The linchpin of the National Socialist program of persecution of the Jews was the process known as aryanization. It is a simple idea: a business owned or controlled by a person of Jewish ancestry must be “aryanized” in order to be allowed to operate under the Nazi regime without fear of being closed and liquidated. That entails the physical, legal, and financial elimination of the so-called “Jewish interest” in the company or entity being subjected to an “aryanization” measure.

Aryanizations exacerbated and worsened the lot of persons of the Jewish faith living and working in Nazi Germany and, subsequently, in territories annexed and/or occupied by the Nazis.

We will examine how aryanizations affected the legal ownership of artistic, cultural, and religious objects.

Session IV: military plunder vs. internal plunder

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As the Nazis advanced through Europe, first through annexation (Austrian Anschluss of March 10, 1938), then through police actions (Czechoslovakia) and finally through war (Eastern Europe, Northern Europe, Western Europe, Southeastern Europe), the racially-motivated economic machinery of the Nazi government followed the movement of German troops and applied the principles of dispossession that the Nazis put into place in Germany in the 1930s. Whereas one can argue that the first phase of dispossession was an act of internal plunder (duress, forced sales, aryanizations by German authorities of German citizens), all acts of dispossession following 1938 and especially 1939 were seen as acts of external plunder in territories occupied by the Third Reich.

These acts of plunder were committed by members of the German military, various German police and security agencies, representatives of German ministries, and finally, by the local sympathizers of the Nazi regime in the occupied territories, also referred to as collaborators.

We will examine how these acts of external plunder in occupied and annexed territories influenced the legal ownership of artistic, cultural and religious objects.

Session V: the wartime art market: were all sales licit?
The idea of a licit sale or transfer of ownership during the period of Nazi occupation of territories outside the Reich has complicated the question as to whether title was transferred legally during that time period (1939-1945).

We will take a closer look at how the international art market operated in territories occupied by the Reich, the different kinds of transactions that occurred during the period of occupation and how these transactions determined the question of title even to this day.

Session VI: the problematic of postwar restitution.

Statutes of limitations, blanket settlements, escape clauses allowing for post-settlement restitutions, the Swiss problem.

At the end of WWII, the Allied powers had put into place a policy of restitution and reparations which was supposed to address property losses suffered by victims of the Nazis and their Axis sympathizers.

We will examine the different regimens put into place by the Allies to address racially, politically, religiously motivated property losses, the conditions under which such property could be returned to rightful owners or how rightful owners were compensated for such losses, and how these settlements can influence claims of legal ownership today.