

# LA380-15 Art and Cultural Heritage Law

**20/21**

**Department**

School of Law

**Level**

Undergraduate Level 3

**Module leader**

Charlotte Woodhead

**Credit value**

15

**Module duration**

10 weeks

**Assessment**

60% coursework, 40% exam

**Study location**

University of Warwick main campus, Coventry

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## Description

### Introductory description

This module provides an opportunity for students to study the developing area of art and cultural heritage law and to engage with the legal and policy considerations involved in regulating objects, places and practices that have a cultural, historical, religious or artistic value to particular cultural communities, nations or to humankind.

[Module web page](#)

### Module aims

This module provides an opportunity for students to study the developing area of art and cultural heritage law and to engage with the legal and policy considerations involved in regulating objects, places and practices that have a cultural, historical, religious or artistic value to particular cultural communities, nations or to humankind.

Given the near universal concern for preserving and protecting cultural heritage there is a significant body of international law, soft law, policy documents, domestic legislation and codes of ethics.

Students will therefore gain a developed understanding of this varied material by interpreting, analysing and applying it to scenarios in a critical manner. The module incorporates both public international law elements and domestic law but has a comparative law aspect, for example in the contrasting ways in which different countries have addressed the repatriation of cultural heritage to countries of origin. This module therefore provides an exciting opportunity for students to develop their critical legal skills across a variety of different areas of law that deal with art and cultural heritage, but also to focus on the cultural, historical and political context of the issues relating to cultural heritage. This module will therefore make a direct and concrete contribution to the Law School's law in context ethos.

Furthermore, the module's content has a firm interdisciplinary foundation which will encourage students to acquire knowledge and engage in critical debate with the aid of materials derived from cultural policy, museum studies and anthropology. The module therefore further enhances the current Law and Humanities provision within the School and will provide more opportunities for students on the BA Law with Humanities programme to make links between their studies in humanities disciplines and law.

## **Outline syllabus**

This is an indicative module outline only to give an indication of the sort of topics that may be covered. Actual sessions held may differ.

### Definitional woes

- Tangible and intangible cultural heritage
- Cultural heritage or cultural property?
- Legal problems with defining 'art'
- Law's influence on definitions

### Value, identity and place

- Intrinsic or extrinsic value?
- Identity and personhood
- The link between place and cultural heritage
- The paradox of cultural property
- Decontextualised objects v the aesthetic object
- Legal protection of value

### International norms

- UNESCO, the Council of Europe and EU treatment of cultural heritage
- Cultural rights & human rights
- Protection in the event of armed conflict

## Key theories/grand narratives

- Internationalism versus nationalism (discussion of John Henry-Merryman and Francioni)
- Functionalist approach to cultural heritage (e.g. Loulanski)
- The universal museum (discussion of Cuno and Ahmad) -
- Introduction to repatriation - a political tool or restorative justice?

## Preservation and access to cultural heritage

- The 'Playing Darts with a Rembrandt' anomaly (more protection from harm for listed buildings and their fixtures than Old Masters)
- Conditional exemption scheme (taxation benefits)
- The illicit trade in art and cultural objects

## Repatriation and restitution

- Legal impediments to repatriation (UK)
- Inter-governmental efforts
- Nazi looted artworks: return and restitution - returning objects to their 'rightful owners'
- Non-litigious options & determining cases based on ethical precepts (e.g. Spoliation Advisory Panel and comparable European panels)

## Museum codes of ethics as a regulatory mechanism

- International and national codes (ICOM and Museums Association)
- The development of 'soft law'

## Commodifying cultural heritage and art

- Taxation
- Selling street art
- Artists' Resale rights

## **Learning outcomes**

By the end of the module, students should be able to:

- Demonstrate, in an informed and critical manner, a consolidated understanding of key academic, cultural and political arguments concerning the regulation of cultural heritage
- Construct and defend coherent and persuasive arguments about the legal and ethical implications of decisions involving cultural heritage
- Critically analyse and apply relevant scholarly materials and primary sources to real and hypothetical situations

- Undertake and present interdisciplinary research in a critical and thoughtful manner.
- Demonstrate an ability to enter into informed and critical debate through written work, oral presentations and group discussions.

## Indicative reading list

[View reading list on Talis Aspire](#)

## Subject specific skills

No subject specific skills defined for this module.

## Transferable skills

No transferable skills defined for this module.

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## Study

### Study time

Type	Required
Lectures	18 sessions of 1 hour (12%)
Seminars	7 sessions of 1 hour (5%)
Private study	125 hours (83%)
Total	150 hours

### Private study description

No private study requirements defined for this module.

## Costs

No further costs have been identified for this module.

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## Assessment

You do not need to pass all assessment components to pass the module.

### Assessment group D

## Weighting

## Study time

Reflective Diary

60%

Students will present a record of their reflections on the objects, places and practices that were discussed in seminars and workshops. This will be informed by their seminar preparation and by the discussions undertaken in the seminar. Students will also be encouraged to link their reflections to their engagement with art and cultural heritage outside the seminar room. As part of this reflective diary students will be required to construct a final determination of a claim 'in the court of law and morality' which relates to a real-world example of a dispute about art or cultural heritage. This will take the form of a reasoned and cogent argument (supported by appropriate authorities) setting out their proposed resolution of such a claim. This will involve them conducting independent research to present the cultural, historical and political background and then rely on both legal and non-legal materials to support and defend the position that they adopt.

Moot and Skeleton Argument

40%

Students will be required to present a 25-30 minute submission (either for the claimant or respondent) supported by a 1,500 word skeleton argument in which they set out both the ethical and moral submissions on which they rely. Students will be assigned a particular object/place/practice and provided with accompanying case documentation comprising of fictitious witness statements, expert reports and other documents and they will be assigned a particular party who they will represent. The presentation and skeleton argument will contribute equally to this element of the assessment.

## Feedback on assessment

Feedback via Tabula

[Past exam papers for LA380](#)

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## Availability

### Courses

This module is Optional for:

- ULAA-M300 Undergraduate Law
  - Year 2 of M300 Law
  - Year 3 of M300 Law
- ULAA-M105 Undergraduate Law (3 year) (Qualifying Degree)
  - Year 2 of M105 Law (3 year) (Qualifying Degree)
  - Year 2 of M105 Law (3 year) (Qualifying Degree)
  - Year 3 of M105 Law (3 year) (Qualifying Degree)
  - Year 3 of M105 Law (3 year) (Qualifying Degree)
- ULAA-M106 Undergraduate Law (4 year) (Qualifying Degree)
  - Year 2 of M106 Law (4 year) (Qualifying Degree)

- Year 3 of M106 Law (4 year) (Qualifying Degree)
- Year 4 of M106 Law (4 year) (Qualifying Degree)
- ULAA-M104 Undergraduate Law (Year Abroad)
  - Year 2 of M104 Law (Year Abroad)
  - Year 4 of M104 Law (Year Abroad)
- ULAA-M108 Undergraduate Law (Year Abroad) (Qualifying Degree)
  - Year 4 of M108 Law (Year Abroad) (Qualifying Degree)
  - Year 4 of M108 Law (Year Abroad) (Qualifying Degree)
- Year 3 of ULAA-ML33 Undergraduate Law and Sociology
- Year 2 of ULAA-M10A Undergraduate Law with French Law (Qualifying Degree)
- Year 2 of ULAA-M10C Undergraduate Law with German Law (Qualifying Degree)
- Year 3 of ULAA-M110 Undergraduate Law with Humanities (3 Year)
- Year 3 of ULAA-M113 Undergraduate Law with Humanities (4 Year) (Qualifying Degree)
- ULAA-M115 Undergraduate Law with Social Sciences (3 Year) (Qualifying Degree)
  - Year 2 of M115 Law with Social Sciences (3 year) (Qualifying Degree)
  - Year 2 of M115 Law with Social Sciences (3 year) (Qualifying Degree)

This module is Option list A for:

- Year 4 of ULAA-M10A Undergraduate Law with French Law (Qualifying Degree)
- Year 4 of ULAA-M10C Undergraduate Law with German Law (Qualifying Degree)
- Year 4 of ULAA-M113 Undergraduate Law with Humanities (4 Year) (Qualifying Degree)
- ULAA-M115 Undergraduate Law with Social Sciences (3 Year) (Qualifying Degree)
  - Year 3 of M115 Law with Social Sciences (3 year) (Qualifying Degree)
  - Year 3 of M115 Law with Social Sciences (3 year) (Qualifying Degree)

This module is Option list B for:

- ULAA-ML34 BA in Law and Sociology (Qualifying Degree)
  - Year 3 of ML34 Law and Sociology (Qualifying Degree)
  - Year 4 of ML34 Law and Sociology (Qualifying Degree)
- Year 4 of ULAA-ML33 Undergraduate Law and Sociology