

NEW BOOKS

Editorial Note

CULTURAL HERITAGE LAW BOOKS PUBLISHED IN 2023

Post-trauma and the Recovery Governance of Cultural Heritage edited by Toshiyuki Kono and Junko Okahashi

ISBN 9783031049460

Springer Nature, Singapore 2023, pp. 281
Published: 5 December 2022

This volume offers interdisciplinary viewpoints on post-trauma and the recovery governance of cultural heritage, combining legal perspectives with architectural and anthropological approaches. Through the observation and analysis presented here, this book is the first to demonstrate research-based governance solutions for cultural heritage within the process of recovering from traumatic events. Its opening statement is that universal international standards are not effective enough for the specific situations of disaster-struck places.

A major objective of this volume is to allow its readers to go through a learning experience by examining a plurality of cases where reconstruction of cultural heritage became central to rebuilding a post-disaster society. It introduces Japan as the most disaster-prone country, with a long history of confronting and overcoming the power of nature, resulting in its

unique solutions for cultural heritage resilience and sustainability. It describes how leadership and decision-making can become efficient in times of recovery. Bearing in mind what may be lacking in Japanese practices, this work also presents comparable governance models from other countries which use alternative solutions. It explains and shows that while a traumatic event may occur within one night, the process of recovery can last for decades. Such disasters also tend to recur. In order to ensure that directly affected communities can sustain their resilience throughout the long recovery period, and that equally severe social trauma will not be repeated, a continuous, well-maintained governance response is required, whether grounded in local knowledge or national policy frameworks (or both). The issue of ensuring that the reconstruction process involves networks of small and large communities lies at the heart of this book. Each of these communities has a role that becomes operational through linkages of contacts, the interchange of knowledge and skills, and above all through the sharing of common goals.

The volume was jointly edited by Toshiyuki Kono, Professor of Law at the Kyushu University and former President of the International Council on Monuments and Sites (ICOMOS); and Junko Okahashi, Associate Professor in international cultural cooperation at the University of the Sacred Heart in Tokyo.

*International Law
of Underwater Cultural Heritage.
Understanding the Challenges*
Kim Browne and Murray Raff

ISBN 9783031105685

Springer, Cham 2022, pp. 726
Published: 1 January 2023

This fascinating book, authored jointly by Kim Browne, Researcher at the University of Edinburgh, and Murray Raff, Professor Emeritus in the Canberra Law School, brings together three distinct areas of international law – namely environmental, cultural heritage, and ocean law – to address the international legal protection of historically significant wrecks, with particular focus on the environmental hazards they may pose. The confluence of cultural heritage law and the law of the sea

with international environmental law represents an important development in international governance strategies for the 21st century, in particular the legal and administrative regimes that concern the world's oceans and underwater cultural heritage protection. Importantly, connections between international legal regimes, such as the 1982 Convention on the Law of the Sea, and institutions like the International Maritime Organization (IMO) and UNESCO can play a crucial part in governance strategies that involve the regulation of marine pollution and the salvaging of historic shipwrecks.

This book offers a truly critical doctrinal perspective on the protection of both cultural and natural underwater heritage and undoubtedly might be useful to scholars and practitioners dealing with the law of the sea.

Implementing the World Heritage Convention. Dimensions of Compliance Evan Hamman and Herdis Hølleland

ISBN 9781789904918

Edward Elgar Publishing, Cheltenham–Northampton 2023, pp. 300
Published: 17 January 2023

This book – authored by Evan Hamman from the Queensland University of Technology School of Law, and Herdis Hølleland from Norwegian Institute for Cultural Heritage Research – draws together perspectives across law and heritage research to examine the World Heritage Convention and its implementation through the novel lens of compliance.

The book challenges the widely held view that managing the “world’s heritage” is a non-regulatory, incentive-based task with limited sanctioning options. Combining theoretical perspectives with deep technical analysis and historical investigation, the book tackles the compliance question through an examination of 12 diverse cases. While analysing past World Heritage properties like the Arabian Oryx Sanctuary (Oman) and Dresden Elbe Valley (Germany), as well as at-risk properties like the Great Barrier Reef (Australia), Group of Monuments

at Hampi (India) and Everglades National Park (United States), it traces the evolution and application of key non-compliance mechanisms like Reactive Monitoring, the In Danger List, and the Deletion procedure. In so doing, this book provides a comprehensive understanding of the Convention's compliance architecture and the tools available to respond to instances of non-compliance.

By illustrating how an improved compliance system is a critical component of a functioning and legitimate World Heritage regime, this book provides an invaluable resource to heritage and environmental policymakers and organizations seeking to understand their obligations under the treaty, as well as aids both scholars and students in coming to terms with the impact of the World Heritage regime.

*15 Years of the UNESCO Diversity
of Cultural Expressions Convention.
Actors, Processes and Impact*
edited by Beatriz Barreiro Carril,
Andrzej Jakubowski, and Lucas Lixinski

ISBN 9781509961443

Hart Publishing (Bloomsbury Publishing), Oxford–Portland 2023, pp. 296
Published: 23 February 2023

This edited volume investigates – through the prism of the 2005 UNESCO Convention for the Protection and the Promotion of the Diversity of Cultural Expressions (“the Convention”) – the ways in which the processes and substance of international law-making have shifted in response to new technologies and new actors. The essays, written by recognized experts in the field, engage deeply with the practices under the Convention. The four parts examine: (i) the rise of new actors and their impact on the Convention's law-making and implementation; (ii) the specific implementation of Article 21; (iii) the role of cultural communities in promoting diversity of cultural expressions; and (iv) the effectiveness and coherence of the Convention.

The volume – edited by Beatriz Barreiro Carril from University Rey Juan Carlos in Madrid; Andrzej Jakubowski, University of Opole and member of the Editorial Board of the “Santander Art and Culture Law Review” (SAACLR); and Lucas Lixinski from the University of New South Wales and member of the SAACLR Programme Committee – was prepared in the context of activities of the Interest Group on International Law of Culture of the European Society of International Law (ESIL). It is intended to be of interest and assistance to scholars and practitioners in the field of international law of culture and international cultural cooperation.

Cultural Heritage in International Economic Law Valentina Vadi

ISBN 9789004347816

Brill-Nijhoff, Boston–Leiden 2023, pp. 532
Published: 30 March 2023

This important monograph by Valetina Vadi, Adjunct Professor at the University of Florence, queries whether cultural heritage can adequately be protected vis-à-vis economic globalization. The key focus is on the interrelationship between cultural heritage protection, international trade, and foreign direct investment. Published in open access, this book investigates whether and how international economic law governs cultural phenomena by mapping the relevant legal frameworks, discussing the relevant disputes concerning cultural elements adjudicated before international economic “courts” (namely the World Trade Organization adjudicative bodies and investment treaty arbitral tribunals), and proposing legal methods to reconcile cultural and economic interests. Hence it provides a comprehensive evaluation of possible solutions, including evolution of the law through treaty interpretation and reforms, to improve the balance between economic governance and wider cultural policy objectives.

This book is of relevance for a wide audience, including international law scholars and practitioners, policy-makers, and cultural heritage experts. It is also a must-read for anyone interested in global cultural heritage governance.

Art and Human Rights. A Multidisciplinary Approach to Contemporary Issues
edited by Fiana Gantheret,
Nolwenn Guibert, and Sofia Stolk

ISBN 9781802208146

Edward Elgar Publishing, Cheltenham–Northampton 2023, pp. 388
Published: 9 May 2023

This volume – edited by Fiana Gantheret, Director of Creating Rights (The Netherlands), Nolwenn Guibert, Senior Legal Officer at the World Intellectual Property Organization, and Sofia Stolk, Assistant Professor at the Vrije Universiteit Amsterdam – builds bridges between the notions of art and aesthetics, human rights, universality, and dignity. The fields of human rights and art are brought together in order to open the discussion and contribute to the promotion and protection of human rights.

This interdisciplinary work brings together experts in the fields of art, cultural heritage, social justice, human rights, international law, and transitional justice, and presents the idea that a complex interplay between morality, politics, law, and aesthetics is present in concrete settings: such as the rights of cultural creators; the right to artistic expression; art as a catalyst of change in times of conflict; and post-conflict restitutions. The volume offers vignettes of current debates in art and human rights, tackling issues at the confluence of these fields by providing a general framework upon which the conversation can be built, and by bringing to the discussion a diverse range of contemporary themes and concrete case analyses. It is a valuable read primarily for academics interested in international law, transitional justice, and human rights.

Intellectual Property Law in Africa. Harmonising Administration and Policy

Caroline B. Ncube

ISBN 9781032315324

Routledge, Abingdon–New York 2023, pp. 248
Published: 29 June 2023

This second edition of the influential monograph by Caroline B. Ncube, Professor in the Department of Commercial Law at the University of Cape Town, examines the harmonization of intellectual property (IP) policy, and law and administration in Africa. It evaluates the effectiveness of efforts to establish continental IP institutions and frameworks. It also considers sub-regional initiatives led by the regional economic communities and the regional IP organizations, focusing on relevant protocols and agreements that address IP as well as the implementing institutions.

The book assesses the progress of such initiatives, with particular reference to the current socio-economic status of African states. It argues that harmonization initiatives need to be crafted in a way that is supportive of the developmental goals of African states and advocates for the due consideration of individual states' unique conditions and aspirations. This book is of great relevance to scholars and policy makers with an interest in IP law and its harmonization across Africa.

*The Routledge Handbook
of Heritage Destruction*
edited by José Antonio González
Zarandona, Emma Cunliffe,
and Melathi Saldin

ISBN 9780367627287

Routledge, Abingdon–New York 2023, pp. 476
Published: 10 August 2023

This research handbook – edited by José Antonio González Zarandona (a PhD in art history, archaeology, and heritage studies), Emma Cunliffe (a PhD in archaeology), and Melathi Saldin (a PhD in heritage studies) – features contributions by more than 30 experts worldwide. It presents a comprehensive view on the destruction of cultural heritage and offers insights into this multifaceted, interdisciplinary phenomenon. By juxtaposing theoretical and legal frameworks and conceptual contexts alongside a wide distribution of geographical and temporal case studies, this volume throws light upon the risks, and the realizations, of art and heritage destruction. Exploring the variety of forces that drive the destruction of heritage, the handbook also contains contributions that consider what forms heritage destruction takes, and in which contexts and circumstances it manifests itself. Contributors, including local scholars, also consider how these drivers and contexts change, what effect this has on heritage destruction, and how we conceptualize it.

Overall, the volume establishes the importance of the need to study the destruction of art and cultural heritage within a wider framework; one that encompasses not only theory but also legal, military, social, and ontological issues. It is intended to be a useful reference book to academics, students, and professionals with an interest in heritage, conservation and preservation, history and art history, archaeology, anthropology, philosophy, and law.

The Parthenon Marbles Dispute. *Heritage, Law, Politics* Alexander Herman

ISBN 978150996719

Hart Publishing (Bloomsbury Publishing), Oxford–Portland 2023, pp. 272
Published: 21 September 2023

This book, authored by Alexander Herman, Director of the Institute of Art and Law, offers a fresh take on the history of the Parthenon Marbles removed from the Acropolis in Athens by Lord Elgin's men in the early 19th century. It explains how they became the cause célèbre of the larger debates around cultural heritage and restitution now taking place. The subject is one that is currently embroiling museums, governments, universities, and the public at large.

Herman provides a balanced, thorough, and critical account of the history of the Marbles, while considering the legalities of their initial removal and the ethics of their retention by the British Museum. His book incorporates the views of curators, museum directors, lawyers, archaeologists, politicians, and others in both London and Athens. It explains why this particular dispute has not yet been satisfactorily resolved, and suggests new ways of seeking resolution – both with respect to the case of the Parthenon Marbles and for the many other cultural treasures held in museum collections outside their countries of origin. The book sets out a way forward for this famously intractable dispute, one based on evidence of past practice, the applicable legal rules surrounding the transfer of cultural objects, and the role of museums in negotiating international exchanges.

Cultural Objects and Reparative Justice. *A Legal and Historical Analysis* Patty Gerstenblith

ISBN 9780192872104

Oxford University Press, Oxford 2023, pp. 320
Published: 5 October 2023

This book by Patty Gerstenblith, Distinguished Research Professor at DePaul University College of Law and Faculty Director of its Center for Art, Museum and Cultural Heritage Law, provides a comprehensive legal and historical analysis surrounding a highly debated current question: Where should cultural objects that were removed without consent be located? This book follows an innovative, interdisciplinary approach based in law, history, art history, anthropology, and archaeology and proposes a paradigm for reparations.

Tracing the historical foundations of the current legal framework, Gerstenblith closely examines three factors that heavily informed the cultural heritage debate since the late 18th century: the rise of the encyclopaedic museum; the development of archaeology as a science; and the appropriation of objects in the context of armed conflict and colonialism. Each of these explorations is enriched by examples from around the globe and assessed on the international, national, and local levels. Subjecting contested objects – such as the Parthenon Marbles; those from the Yuanmingyuan Palace; the Benin Bronzes; looted archaeological artefacts and human remains; and Nazi-looted art objects – to this holistic approach enables a contextualization of the unique history of appropriation of these objects.

This book outlines how current cultural heritage laws and ethical guidelines with respect to cultural heritage derive from a background of imperialism and colonialism. It advocates for a new structure based on reparation, restitution, repatriation, compensation, and market regulation to cease perpetuating past harms and to disincentivize new ones. The primary audience includes those persons who address the legal hurdles to repatriation, be they researchers, policymakers, communities, or museums.

Confronting Colonial Objects. Histories, Legalities, and Access to Culture

Carsten Stahn

ISBN 9780192868121

Oxford University Press, Oxford 2023, pp. 592
Published: 13 October 2023

This book by Carsten Stahn, Professor of International Criminal Law and Global Justice, Leiden University & Queen's University Belfast, demonstrates that the removal of cultural objects during colonialism was material to the colonial project throughout different periods and went far beyond looting. It presents micro histories and object biographies to trace recurring justifications and contestations of cultural takings and returns while outlining the complicity of anthropology, racial science, and professional networks that enabled colonial collecting. The book demonstrates the dual role of law and cultural heritage regulation in facilitating colonial injustices and mobilizing resistance thereto.

Drawing on the interplay between justice, ethics, and human rights, the author develops principles of relational cultural justice. He challenges the argument that takings were acceptable according to the standards of the time and outlines how future engagement requires a re-invention of knowledge systems and relations towards objects, including new forms of consent, provenance research, and partnership, and a re-thinking of the role of museums themselves. This is an important account on the treatment and legal history of cultural colonial objects.

This book is available in an open access under the terms of a CC BY-NC-ND 4.0 International licence. It is free to read on the Oxford Academic platform and offered as a free PDF download from OUP and selected open access locations.

The 1972 World Heritage Convention.
A Commentary
edited by Francesco Francioni
and Federico Lenzerini

ISBN 9780198877448

Oxford University Press, Oxford 2023, pp. 480
Published: 17 October 2023

This is already the second edition of the Oxford University Press commentary to the World Heritage Convention, published within the prestigious series “Oxford Commentaries on International Cultural Heritage Law”. Indeed, almost 50 years have passed since the adoption of this multilateral instrument of international law. With its 194 States Parties, it is the most widely ratified convention within the family of UNESCO treaties on the protection of cultural heritage. The success of this Convention, and its almost universal acceptance by the international community of states, is due to the great appeal that the recognition of certain properties as “world heritage” has for national governments.

Since the publication of the first *Commentary* in 2008, new problems have arisen in the management of world heritage sites. It has become increasingly difficult to properly monitor the conservation of the ever-growing mass of sites inscribed in the World Heritage List, and to resolve disputes over the formal designation of contested world heritage properties – a problem that has led to the withdrawal of the United States and Israel from UNESCO. New frontiers are now being explored for the expansion of the world heritage idea over marine areas beyond national jurisdiction, and the monopoly of the state in the identification, delineation, and presentation of world heritage properties is being increasingly challenged in the name of Indigenous peoples’ rights and by local communities claiming ownership over contested cultural sites. At the same time, the regime of world heritage protection has infiltrated other areas of international law, especially international economic law, investment arbitration, and the area of international criminal law.

This second edition critically examines the World Heritage Convention against this dynamic evolution of international heritage law in order to help academics, lawyers, diplomats, and officials interpret and apply the norms of the Convention after half a century of uninterrupted implementing practice by States Parties and Treaty Bodies.

The research commentary was edited by Francesco Francioni, Professor Emeritus of International Law at the European University Institute, and Federico Lenzerini, Professor of International Law and Human Rights Law at the University of Siena, and co-authored by 15 other contributors.

Indigenous Cultural Property and International Law. Restitution, Rights and Wrongs Shea Elizabeth Esterling

ISBN 9780367182007

Routledge, Abingdon–New York 2024, pp. 266
Published: 23 October 2023

The book by Shea Elizabeth Esterling, Senior Lecturer in the Faculty of Law at the University of Canterbury in Christchurch (New Zealand), examines the restitution of cultural property to Indigenous peoples under human rights law. It offers a detailed analysis of the opportunities and constraints of international law as a tool of resistance and social transformation for marginalized groups. In accordance with an increasing insistence on respect for diverse cultures, and through their own international mobilization, Indigenous peoples have participated in the construction of a distinct human rights framework. Significant academic inquiry has been focused on the substantive gains made by Indigenous peoples in this context, along with their impact on a body of law that had previously denied Indigenous peoples a basis for claims to their own cultural materials and practices. Accordingly, this book acknowledges that Indigenous peoples, as non-state actors, have generated greater substantive and procedural legitimacy in the context of human

rights law. However, while offering normative insights into the participation of non-state actors in the making of international law, the book also demonstrates that despite their significant role in constructing the legal framework of human rights in the 21st century, the participation of Indigenous peoples continues to be structurally limited.

With its interdisciplinary approach to the field, this book will appeal to scholars and students in the fields of law, politics, anthropology, and Indigenous studies.

*Safeguarding Intangible Cultural Heritage.
A Practical Interpretation
of the 2003 UNESCO Convention*
Janet Blake

ISBN 9781800371903

Edward Elgar Publishing, Cheltenham–Northampton 2023, pp. 466
Published: 14 November 2023

This book by Janet Blake, University of Shahid Beheshti (Iran), presents a detailed analysis of the different approaches and measures for implementing the requirements of UNESCO's 2003 Convention on Safeguarding Intangible Cultural Heritage ("the Convention") and a practical interpretation of that treaty, based on the experience of States Parties and other primary actors. The book considers the interests of multiple stakeholders and takes into account how the Convention interacts with other international law regimes pertaining to both human rights and sustainable development.

The book is written in an accessible language and its main focus is on the functioning of the Convention, mapping out its provisions thematically and highlighting their practical applications. The book provides clear and concise information concerning the definition, scope, and significance of intangible cultural heritage, while utilizing a wide-range of case studies to illustrate the application of this treaty on the ground. It also outlines practical strategies and solutions for protecting and promoting cultural heritage and looks ahead to potential

future developments in this field. Hence it shall serve as essential reading for lawyers and practitioners involved in the protection of intangible cultural heritage in both governmental and non-governmental institutions. Blake's work is also a valuable resource for academics and researchers working across various disciplines, including law, heritage, and anthropology.

*Caring for Cultural Heritage.
An Integrated Approach to Legal
and Ethical Initiatives in the United Kingdom*
Charlotte Woodhead

ISBN 9781108696463

Cambridge University Press, Cambridge 2023, pp. 420
Published: 30 November 2023

This book by Charlotte Woodhead, Associate Professor at Warwick Law School and member of the SAACLR Programme Committee, explores how cultural heritage and its care are translated in law and non-law instruments in the United Kingdom (UK). It analyses how communities look after cultural heritage because they care about it. These communities include the international and national community, national and local governments, courts, professional bodies, institutions such as museums, as well as community groups. In this regard, "care" refers to the varied ways in which communities engage with cultural heritage to maintain it, sustain relationships about it and with it, use it, and provide access to it, with a view to passing it on to future generations. The book also assesses how these vested practices of care assist communities in providing respectful, empathetic, and dialogical care to navigate through harm to cultural heritage.

While focusing on the particularities of the UK legal system, this monograph critically debates key features of cultural heritage from international and comparative law perspectives. Hence it is of interest to scholars of cultural heritage studies worldwide and across disciplines, including law, sociology, and anthropology, as well as policymakers and practitioners in cultural heritage management.

Cultural Heritage, Sustainable Development and Human Rights. Towards an Integrated Approach
edited by Laura Pineschi

ISBN 9781032413570

Routledge, Abingdon–New York 2023, pp. 466
Published: 4 December 2023

This volume, edited by Laura Pineschi, Professor of International Law at the University of Parma, highlights the importance of cultural heritage – in both its tangible and intangible forms – to sustainable development and how its economic, social, and environmental components are increasingly recognized and evident in the recent practice of intergovernmental and non-governmental organizations at both the universal and regional levels. The integration of the cultural dimension in the implementation of Agenda 2030 has been addressed in various international forums. These efforts include initiatives to emphasize the role and contribution of tangible and intangible heritage as drivers and enablers of sustainable development. It has also been recognized that the inherent links between cultural heritage and sustainable development cannot be effectively addressed without taking into account their various implications for the effective enjoyment of all human rights, including cultural rights.

This volume, bringing together a number of eminent scholars, offers a thorough academic investigation into the importance of cultural heritage to sustainable development and cultural rights from an international law perspective. It provides an in-depth review of the possible intersections between cultural heritage, sustainable development, and cultural rights and the limits of the current legal and institutional frameworks. This edited collection will be of interest to researchers and scholars of international law, cultural heritage law, environmental law, and human rights law.