

P A R T I

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**HISTORICAL
OVERVIEW**

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CHAPTER 1

INTRODUCTION

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1. INTRODUCTION

SOCIAL media and new technologies have vastly expanded our access to culture, locally and globally. This new age of globalization has opened the diversity of cultures up to us as never before. Conversely, these same changes have fuelled rising intolerance, xenophobia, and the attendant suppression and destruction of culture and cultural heritage. While the technologies may be different, this cycle of forces has been with us since antiquity. The general public and scholars revelled in or condemned the destruction of religious monuments and cultural objects two thousand years ago, as we do today. We only need look at the frieze on the Arch of Titus in Rome, erected in 82 AD to celebrate the sacking of Jerusalem, or read the castigation of Verres by Cicero.¹ In our own time, we have the deliberate destruction of centuries-old monumental Buddhas in Bamiyan, Afghanistan, and mausoleums in Timbuktu, Mali, streamed across the world and onto our personal, handheld devices, along with the condemnation of such acts by the UN Security Council and the International Criminal Court.²

Public outcry in response to these acts of cultural destruction has challenged the deficiencies in, or lack of, national, regional, and international responses and the ineffectiveness of the law. Early interventions for the protection of cultural heritage were part of nascent efforts to codify the rule of war from the nineteenth century, at a time when no treaty law protection existed. However, the same charge—the lack of treaty protection of cultural heritage—cannot be levelled today. If anything, the inverse is true. There are currently seven culture treaties, six overseen by the UN Educational, Scientific

¹ See Hugo Grotius, *De jure belli ac pacis. Libri tres*, James Brown Scott (ed) (Clarendon Press 1925) 658–62.

² UNSC Res 2347 (24 March 2017) and *Prosecutor v Ahmad Al Faqi Al Mahdi* (27 September 2016) ICC-01/12-01/15, Judgment and Sentence (27 September 2016) para 29 (hereafter ‘*Al Mahdi* Judgment and Sentence’).

and Cultural Organization (UNESCO) in Paris and one by UNIDROIT in Rome. This tally does not include regional culture conventions. Most specialist areas of international law—from international humanitarian law to international criminal law, from human rights law to environmental law, and from intellectual property law to trade law—have dedicated treaty provisions and specialized practice on cultural heritage. A similar phenomenon is transpiring in general public international practice in respect of custom, general principles, State responsibility, and reparations. Therefore, the protection and promotion of cultural heritage is far from a niche field in international law. The challenge it faces is bringing these disparate areas and diverse practices together into a coherent, consistent body of law.

2. DEFINING CULTURAL HERITAGE

In introducing this *Handbook of International Cultural Heritage Law*, we are aware of the eternal questions that haunt this subject—that is, the legal definition of ‘cultural heritage’ and the determination of who owns cultural heritage. As to the first question, it is not our intention to provide an a priori definition of cultural heritage in this *Handbook*. Rather than proceeding from a set definition, we are guided by the expanding parameters of what is encompassed by international cultural heritage law contained in the specialist culture conventions, specialist areas of international law, and general international law as developed over the last century. The definition contained in successive cultural conventions adopted by UNESCO and other international bodies has grown from *immovable, tangible heritage* covering monuments and sites and buildings housing collections of cultural objects, books, and archives covered by early international humanitarian law and the 1954 Hague Convention,³ to include (in chronological order):

- *tangible, movable heritage* of archaeological, prehistoric, historic, literary, artistic, or scientific significance, including rare collections and specimens of flora, fauna, and minerals, antiquities, objects dismembered from monuments and archaeological sites, paintings, drawings, sculpture, prints, manuscripts and books, stamps, archives, furniture, and musical instruments (covered by the 1970 UNESCO Convention and 1995 UNIDROIT Convention);⁴

³ Convention for the Protection of Cultural Property in the Event of Armed Conflict (adopted 14 May 1954, entered into force 7 August 1956) 249 UNTS 240 (‘1954 Hague Convention’).

⁴ Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (adopted 14 November 1970, entered into force 24 April 1972) 823 UNTS 231, art 1 (‘1970 UNESCO Convention’); UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (adopted 24 June 1995, entered into force 1 July 1998) (1995) 34 *International Legal Materials* 1322, art 1 and annex (‘1995 UNIDROIT Convention’).

- *immovable cultural and natural heritage*, including monuments, groups of buildings, sites, natural features, geological and physiographical formations, natural sites, and cultural landscapes (covered by the 1972 World Heritage Convention);⁵
- *immovable, movable cultural and natural heritage*, including sites, structures, buildings, artefacts, and human remains and their archaeological and natural context, vessels, aircraft and other vehicles and their content, and objects of prehistoric character (covered by the 2001 Underwater Cultural Heritage Convention);⁶
- *intangible cultural heritage*, including practices, representations, expressions, knowledge and skills and associated instruments, objects, artefacts, and cultural spaces (covered by the 2003 Intangible Cultural Heritage Convention),⁷ and cultural expressions, cultural activities, goods and services, and cultural industries (covered by the 2005 Cultural Diversity Convention).⁸

The evolving and expanding ambit of the cultural heritage covered by the cultural conventions over the last seventy years reflects the expanding and diversifying membership of UNESCO and priorities of its Director-General at the relevant times (Chapter 2). Addressing cultural loss fuelled by the unregulated trade in cultural objects was a priority for new States following independence from the 1930s through to decolonization up to the 1970s; more recently, addressing the lacunae in existing culture conventions concerning intangible heritage became a priority for Asian and African States facing the challenges of rapid economic development in the late twentieth century.

This compartmentalization and evolution of the definition of cultural heritage is less clearly delineated in specialist areas of international law and general international law, which are not necessarily bound by the definitions arising from the culture conventions. For example, multilateral treaties covering intellectual property in operation since the nineteenth century can offer protection for elements of intangible heritage such as cultural expressions or knowledge (Chapter 20). International trade and investment law can, and has, covered sites, cultural objects, and intangible heritage (Chapters 21 and 22), while treaties covering State succession over several centuries have included movable and immovable cultural heritage (Chapter 25). It is important to recall that, while these treaties and specialist areas of international law may potentially cover the same manifestation of cultural heritage, the terminology used to define it reflects the objectives and purposes of the differing legal regimes.

⁵ Convention concerning the Protection of the World Cultural and Natural Heritage (adopted 16 November 1972, entered into force 17 December 1975) 1037 UNTS 151 arts 1 and 2 ('World Heritage Convention'); Operational Guidelines for the Implementation of the World Heritage Convention (12 July 2017) UNESCO Doc WHC 17/01, paras 46 and 47.

⁶ Convention on the Protection of Underwater Cultural Heritage (adopted 2 November 2001, entered into force 2 January 2009) 2562 UNTS 1, art 1 ('2001 Underwater Cultural Heritage Convention').

⁷ Convention for the Safeguarding of the Intangible Cultural Heritage (adopted 17 October 2003, entered into force 20 April 2006) 2368 UNTS 1, art 2 ('Intangible Cultural Heritage Convention').

⁸ Convention on the Protection and Promotion of the Diversity of Cultural Expressions (adopted 20 October 2005, entered into force 18 March 2007) 2440 UNTS 311, art 4 ('Cultural Diversity Convention').

Two further aspects of this evolving understanding of cultural heritage in international law that must be highlighted reflect significant shifts not necessarily obvious on reading the definitions contained in the culture conventions. The first is the movement from an emphasis on cultural *property* to cultural *heritage*.⁹ The 1954 Hague Convention and 1970 UNESCO Convention refer to ‘cultural property’ in their titles, while the 1972 World Heritage, 2001 Underwater Cultural Heritage, and 2003 Intangible Cultural Heritage conventions embody the shift in their titles. It is no coincidence that this changing emphasis is likewise propelled by the changing membership of the United Nations and UNESCO. It reflects the movement of numerical dominance away from Western countries—where cultural manifestations are often conceptualized in domestic law in terms of property law—to States in Africa, Asia, and the Global South where it is viewed in less transactional terms, with an emphasis on custodianship in communal and intergenerational terms. It also reflects the influence of other areas of international law, including human rights law (Chapter 17) and environmental law (Chapters 13 and 14) on the development of international cultural heritage law, and the increasing engagement of non-State actors, including Indigenous peoples and non-governmental organizations (Chapters 18 and 32). So, for example, the 1970 UNESCO Convention refers to the ‘illicit import, export and transfer of ownership of cultural property’, while the 2003 Intangible Cultural Heritage Convention in its definition states: ‘intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature, their history, and provides them with a sense of identity and continuity’.

The second aspect, related to this development and driven by many of the same forces, is the promotion of a holistic understanding of cultural heritage. The practice of UN human rights bodies (especially mechanisms related to Indigenous peoples) and the jurisprudence of regional human rights courts have emphasized the interrelatedness not only of all forms of cultural heritage but of natural and cultural heritage (Chapter 18). The compartmentalization of cultural heritage across the cultural conventions and continued siloing of operation is the result of historical and institutional circumstances within UNESCO (Chapters 2 and 31) and is not likely to change in the medium term. This situation is arguably being exacerbated with the intervention of other specialist fields of international law in the regulation of norms concerning cultural heritage, such as international criminal law (Chapter 5) and international investment law (Chapter 21). Despite efforts within UNESCO to facilitate coordination among these

⁹ Lyndel V. Prott and Patrick J. O’Keefe, ‘“Culture Heritage” or “Cultural Property”?’ (1992) 1 *International Journal of Cultural Property* 307; Janet Blake, ‘On Defining the Cultural Heritage’ (2000) 49 *International and Comparative Law Quarterly* 61; Manlio Frigo, ‘Cultural Property v cultural heritage: A “battle of concepts” in international law?’ (2004) 86 *International Review of the Red Cross* 367; Francesco Francioni, ‘A Dynamic Evolution of Concept and Scope: From Cultural Property to Cultural Heritage’ in Abdulqawi A. Yusuf (ed), *Standard Setting in UNESCO, Vol II: Conventions, Recommendations, Declarations and Charters Adopted by UNESCO* (UNESCO 2007) 221.

treaty frameworks,¹⁰ the duplication of work and oft-competing priorities means this is also having a detrimental impact on cultural heritage protection by needlessly stretching the limited resources of the Organization and Member States.

3. WHOSE HERITAGE?

Despite the persistent structural bias of the current multilateral system, which elaborates and implements international cultural heritage law within the traditional paradigm of sovereignty and interstate relations, there is increasing recognition of the role of other non-State actors in this field. These include the international community, peoples, groups and communities, individuals, civil society, and corporations. The UN Special Rapporteur on Cultural Rights, in her Access to Cultural Heritage report of 2011, recognized the need to acknowledge these multiple interests and prioritize their competing claims in respect of cultural heritage.¹¹ Unfortunately, this phenomenon of competing claims is made acute by the compartmentalization of the culture conventions and further fragmentation of international cultural heritage law throughout specialized fields of international law. However, there have been some steps towards prioritizing the claims of peoples and individuals who created the cultural heritage through their participation in decision-making processes concerning its protection. Among the culture conventions, the 2003 Intangible Cultural Heritage Convention is most actively engaged in endeavouring to ensure the effective participation of ‘communities, groups and relevant non-governmental organizations’ (Chapter 15).¹² In the regional context, the Council of Europe has adopted the Framework Convention on the Value of Cultural Heritage for Society (Faro Convention) as an overarching set of principles covering participatory rights and access to justice applicable in interpreting its existing culture treaties (Chapter 38).¹³

The dominance of States within international cultural heritage law persists, however, and the incursion of non-State actors in the field remains limited and largely hindered by States themselves. This is a product of the intergovernmental nature of our multilateral system generally and of the significance of culture and cultural heritage to the communal imagining of the modern nation state.¹⁴ A cursory examination of the culture conventions lays bare that it is the State that defines what, whether, how, and when

¹⁰ Joint Statement by the Chairpersons of the Committees of the UNESCO Culture Conventions (29 June 2015) <<https://whc.unesco.org/en/synergies>> accessed 15 August 2019.

¹¹ UNCHR, Report of the Independent Expert in the Field of Cultural Rights. Access to Cultural Heritage (21 March 2011) UN Doc A/HRC/17/38, paras 5 and 8 (hereafter ‘Access to Heritage report’).

¹² 2003 Intangible Cultural Heritage Convention (n 7), art 11.

¹³ Framework Convention on the Value of Cultural Heritage for Society (adopted 27 October 2005, entered into force 1 June 2011) CETS No 199 (Faro Convention).

¹⁴ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (Verso 1996).

heritage will be protected. It is States that drive the drafting and adoption of these treaty texts, as well as their implementation on the multilateral and national levels. The ground-breaking World Heritage Convention provides a stark example given its near-universal ratification. While it opened the door to recognition of the interest of the international community in cultural and natural sites of outstanding universal importance and the role of expert advisory bodies in their identification and protection, its governing framework, including the World Heritage Committee, has been resistant to broadening the effective participation of non-State actors in its decision-making (Chapter 11). This resistance has been especially prolonged and contested in respect of Indigenous peoples and the inscription of their lands on the World Heritage List, despite repeated interventions by UN and regional human rights bodies (Chapter 18).¹⁵ The interests and priorities of States are having a similar impact in general international law as it relates to cultural property, as it is reflected in the clash between human rights and State immunity (Chapter 24).

Given this continuing dominance of States, it is also imperative to recognize that not all States are equal. The discrepancy in political and economic power among States is reflected in compromises embodied in the text of treaties and the day-to-day operation of their implementation by intergovernmental committees and UNESCO internationally and by relevant regional bodies locally. For instance, the 1970 UNESCO Convention and affiliated intergovernmental committee on return or restitution embody the competing interests of States referred to as ‘source’ countries, which seek to regulate the international market in cultural objects, and ‘market’ countries, which advocate limiting the regulation of the market (Chapters 9 and 10). Originally championed by ‘source’ countries, the compromises negotiated into the final text, the long-held resistance to ratification by many ‘market’ countries, and limited effectiveness of the intergovernmental committee have led some to pursue other avenues within the UN system of seeking to tighten the regulation of the illicit market through its UN Office of Drugs and Crime.

The protection and promotion of cultural heritage in international law by necessity recognizes a role for the international community. This development is evidenced with an articulation of an international community beyond the society of States, the promotion of the ‘cultural heritage of mankind’ as a common good, and international cooperation in the protection and promotion of this common concern. The conceptualization of an international community to oversee the protection of cultural heritage could only occur with the ceding of authority and sovereignty of States through their signing of relevant treaties. Yet, not even the World Heritage Convention, with 193 States Parties, can claim to represent the international community in this field.¹⁶ Under treaty law, obligations under the Convention are owed to the other States Parties and not the world

¹⁵ See, for example, *Centre for Minority Rights Development and Minority Rights Group (on behalf of Endorois Welfare Council) v Kenya* (Merits) Communication 276/2003 African Commission on Human and Peoples’ Rights (25 November 2009).

¹⁶ Francesco Francioni, ‘Introduction’ in Francesco Francioni and Federico Lenzerini (eds), *World Heritage Convention: A Commentary* (Oxford University Press 2008) 5.

at large.¹⁷ The International Criminal Court, in its reparation order in the *Al Mahdi* case (2017), recognized the interest of not only the relevant State but also the international community, represented by UNESCO, in the World Heritage-listed site in Timbuktu damaged and destroyed in part by the defendant.¹⁸ This is an important step, and one that, ironically, remains at odds with the characterization of the cultural crime committed by the defendant as a ‘war crime’, rather than a ‘crime against humanity’, as would have been logical in view of the harm suffered by the ‘international community’. This notwithstanding, the expansion of the rationale for cultural heritage protection and promotion beyond national interests is complemented by an emphasis on its ‘universal importance’, a concept encapsulated in the phrase ‘cultural heritage of mankind’. Originating in the preamble of the 1954 Hague Convention, it has been reaffirmed repeatedly in subsequent culture conventions. It must be distinguished from the concept of ‘common heritage of humankind’ in international law, used in reference to space and oceans. The phrase in the cultural heritage context must be read with the adjoinder following it in the 1954 Convention: ‘since each people makes its contribution to the culture of the world’. It is recognition of cultural heritage as a common concern because it ensures cultural diversity. This interpretation is especially pronounced in respect of the 2003 Intangible Cultural Heritage and 2005 Cultural Diversity conventions (Chapters 15 and 22). Finally, SC Resolution 2347 (2017), the Security Council’s first resolution dedicated to cultural heritage, moves the international law obligations of Member States from *inter partes* to *erga omnes* in respect of deliberate destruction, looting, and smuggling. This trend to expand obligations beyond treaty obligations of States Parties has occurred in successive Security Council resolutions since the 1990s (Chapter 26).¹⁹

Since the mid-twentieth century, individuals are recognized in international law applicable to cultural heritage as attracting both rights and obligations. Under human rights law and related intellectual property regimes, individuals have the right to participate in cultural life generally and enjoy the fruits of their creative, literary, or scientific labours pursuant to article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights (Chapter 20).²⁰ Other human rights also provide individuals with rights vis-à-vis cultural heritage in its broadest sense, including freedom of expression, right to education, and right to family life (Chapter 17).²¹ However, individuals, unlike States, can be held

¹⁷ Roger O’Keefe, ‘World Cultural Heritage: Obligations to the International Community as a Whole?’ (2004) 53 *International and Comparative Law Quarterly* 189.

¹⁸ *Prosecutor v Ahmad Al Faqi Al Mahdi* (Reparation Order) ICC-01/12-01/15 (17 August 2017) (*Al Mahdi* Reparation Order).

¹⁹ UNSC Res 661 (6 August 1990); UNSC Res 1483 (22 May 2003); UNSC Res 2139 (22 February 2014); UNSC Res 2322 (12 December 2016).

²⁰ Universal Declaration of Human Rights, UNGA Res 217A(III) (10 December 1948) (‘UDHR’); International Covenant on Economic, Social and Cultural Rights UNGA Res 2200A(XXI) (adopted 16 December 1966, entered into force 3 January 1976) (‘ICESCR’); General Comment No 21 (21 December 2009) UN Doc E/C/12/GC/21; and Recommendation on the Right to Participate in Cultural Life, adopted by UNESCO General Conference, 19th session (26 November 1976).

²¹ Access to Heritage Report (n 11).

criminally responsible under international law for damage and destruction of cultural heritage (Chapter 5). From the conviction of Alfred Rosenberg by the International Military Tribunal at Nuremberg after World War II to the first war crimes prosecution in respect of cultural property before the permanent International Criminal Court in 2016, the international community has demonstrated its commitment to holding perpetrators of such acts to account.²²

The recognition of the role of peoples, communities, and groups in international cultural heritage law has been precipitated by developments in international law generally and human rights law specifically. For decades after the adoption of the Universal Declaration there had been a firm bias against the construction of cultural rights as true human rights. However, with the adoption of article 27 of the International Covenant on Civil and Political Rights in 1966, specialist declarations on minorities and Indigenous peoples rights in the late twentieth and early twenty-first centuries, and related human rights mechanisms, there has been an acknowledgement of the individual and collective aspects of such cultural rights. These developments are beginning to have a profound impact on our understanding of cultural heritage and the manner of its protection and promotion by States and intergovernmental organizations, such as UNESCO (Chapters 16 and 18). Where there had been resistance to any referencing of cultural human rights during the drafting of the 1970 UNESCO Convention,²³ the 2003 Intangible Cultural Heritage and 2005 Cultural Diversity Conventions explicitly reference Indigenous peoples, communities, and groups and human rights law. The importance of cultural heritage for the effective enjoyment of human rights has been likewise recognized in respect of persons with disabilities, women, youth and children, migrants and refugees, LGBTIQI people, and others, both in respect of participation in cultural life of society generally and of their own communities (Chapter 19).²⁴ The increasing intervention of these peoples has pushed the evolution of the definition of cultural heritage and challenged the strictures to participation and decision-making related to its safeguarding and promotion.

The recognition of the overlap between cultural and natural heritage has meant that there has been cross-fertilization between the development of international cultural heritage law and international environmental law (Chapter 14). The 1972 World Heritage Convention was adopted in the same year as the Declaration of the United Nations Conference on the Human Environment (Stockholm Convention).²⁵ They embody a common ethos of fostering international cooperation for safeguarding of a common concern of humanity. To this end, it is not surprising that this same wellspring has

²² *Judgment of the International Military Tribunal, Nuremberg 1946* (1947) 41 *American Journal of International Law* 172 at 237 (Rosenberg Judgment); and *Al Mahdi Judgment and Sentencing*.

²³ UNESCO, Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property: Preliminary Report (8 August 1969) UNESCO Doc SHC/MD/3, paras 9 and 10.

²⁴ Access to Heritage report (n 11).

²⁵ Declaration of the United Nations Conference on the Human Environment (16 June 1972) UN Doc A/Conf.48/14/Rev.1 (1973), (1972) 11 *International Legal Materials* 1416.

promoted the role of civil society and experts in achieving these aims. The World Heritage Convention explicitly defines the role of three advisory bodies to assist the World Heritage Committee in respect of nominations for inscription on the World Heritage lists and ongoing monitoring of protected sites (Chapter 11). Although not nominating specific expert bodies, the 2003 Intangible Cultural Heritage Convention has a similar provision for expert guidance in respect of inscription and monitoring. The operation of civil society (including NGOs) is limited within the context of the culture conventions to observer status and far removed from that envisaged under the Council of Europe's Faro Convention modelled on the Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Århus Convention).²⁶ However, NGOs and representative organizations have actively engaged in the promotion and protection of cultural heritage in the context of human rights law and international humanitarian law.

4. TOWARDS INTERNATIONAL CULTURAL HERITAGE LAW

A note on the overall structure of this *Handbook* is in order. It is not the editors' contention that there is a coherent, discrete body of law encapsulated by the term 'international cultural heritage law'. Not even the six culture conventions overseen by UNESCO fit this description. However, it is increasingly the case that almost every specialist area of international law and major areas of general international law have dedicated provisions relating to cultural heritage, which are *lex specialis*. Despite the compartmentalization of the culture conventions and the fragmentation of culture and cultural heritage throughout international law, there is growing evidence of cross-fertilization between these regimes and their interpretation of treaties and treaty provisions. It is through a distillation of these instruments, practice of States and intergovernmental organizations, and growing jurisprudence that we may start to better understand the norms, rights and obligations, and enforcement mechanisms which may define international cultural heritage law.

This mindset informs the structure of this *Handbook*. The importance of UNESCO and its culture conventions is acknowledged and described by way of a background overview to this area of the law, its institutional framework, and its limitations (Chapter 2). However, the structure of the body of the *Handbook* is not overtly determined by the UNESCO culture conventions. The order of the topics covered in the substantive aspects in Part II is inspired by the chronological order of the adoption for the culture conventions; they move beyond the convention to cover relevant specialist

²⁶ Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (adopted 28 June 1998, entered into force 30 October 2001) 2161 UNTS 447 (Århus Convention').

bodies on international law. So, for example, the 1954 Hague Convention and its protocols are dealt within in chapters covering international humanitarian law, intentional destruction, international criminal law, and the responsibility to protect (Chapters 3, 4, 5, and 6), while the overlap between natural and cultural heritage is considered in chapters concerning world heritage, landscape, underwater heritage, and the environment (Chapters 11, 12, 13, and 14).

This phenomenon of treating cultural heritage differently is not only discernible in specialist areas of international law. It is likewise taking place across general international law, which informs international law practice broadly. Part III examines how dedicated practices and provisions relating to cultural heritage inform key areas of general international law including custom and general principles (Chapter 23), State responsibility (Chapter 26), and remedies (Chapter 27). It is also important to recall that policy and political discussions which inform the rules governing general international law invariably overlap with complementary specialist areas of international law and practice. So, for example, norms and practices relating to State succession (Chapter 25) and State immunity overlap with those arising in respect of transitional justice (Chapter 8), human rights law (Chapter 17), and regulation of the transfer of cultural objects (Chapters 9 and 10).

The role of dispute resolution procedures and non-State actors in the interpretation, elaboration, and implementation of cultural heritage law is examined in Part IV covering procedural and institutional aspects. As occurs with international law generally, the role of international, regional, and domestic courts in the development of the law is fundamental (Chapters 28 and 29). However, this is especially pronounced in respect of international cultural heritage law, because cultural heritage protection (whether it concerns monuments and sites, cultural objects, or intellectual property) can engage public international law and private international law rules. It is also an explanation for the dominance of alternative means of dispute resolution in this field (Chapter 30). The central role of actors other than States in implementation is explored in respect of UNESCO (Chapter 31), non-State actors (Chapter 32), and professional and industry bodies (Chapter 33).

Part V provides a taster to the richness of international and State practice on international cultural heritage law across the regions including Africa, Asia, Oceania, Central and South America, Europe, Middle East and North Africa, and North and Central America. While issues and concerns may overlap with those at the international level, regional practice in this field provides a better appreciation of the differing and competing priorities between States. For example, where priorities may be negotiated down or framed in a particular way in multilateral fora, they can take on a different, more prominent, hue in regional contexts. So, for example, cultural loss visited by illicit trade from archaeological sites has been a persistent priority for decades for States in Central and South America and the Middle East and North Africa; and the adverse impact of development on intangible heritage remains a guiding priority for States in Asia, Africa, and Oceania.

It is the editors' hope that by drawing out and delineating these various norms and practices in international law concerning cultural heritage, this *Handbook* may facilitate a more coherent understanding and effective implementation of international cultural heritage law over time. For this reason we are especially grateful for the time, care, and commitment as well as the expertise of each of the contributing authors, who are leading authorities in their respective fields, and the tireless work and commitment of our editors, Merel Alstein and Jack McNichol at Oxford University Press. We also acknowledge the funding and support provided by the University of Technology Sydney for this project through the UNESCO Chair in International Law and Cultural Heritage.