



Enforcing International Cultural Heritage Law (Cultural Heritage Law And Policy)

By Francesco Francioni, James Gordley

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The idea of cultural heritage as an 'international public good' can be traced back to the Preamble of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, according to which "damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind". How this idea of cultural heritage as a global public good can be reconciled with the effective enforcement of protection norms is the subject of this study. Bringing together world experts in protecting cultural heritage, *Enforcing International Cultural Heritage Law* examines the different ways that cultural heritage property can be protected, including protection at the international level, enforcement in domestic courts, and the role of alternative dispute resolution mechanisms.

The book is divided into three sections. The first section assesses international law and analyses the interaction between international and domestic norms of public and private law. It discusses the different methods of international enforcement, the role of international and mixed criminal tribunals and courts, and the means for protecting cultural heritage in times of armed conflict. The second section addresses the role of national courts, discussing such topics as: barriers to domestic enforcement of international norms, the refusal to enforce foreign law, the difficulty of territorial boundaries in relation to underwater heritage, and the application of criminal sanctions by domestic courts. The final section of the book surveys alternatives to the legal enforcement of the norms protecting cultural heritage, including arbitration, soft law, and diplomacy.

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Editorial Review

Review

"All chapters of the book provide an excellent and critical in depth analysis of existing international and national laws and State practice. The book evidences the difficulties relating to legal issues of cultural heritage. These laws have undergone a great development, and are still evolving. The book also presents a very useful historical perspective ... Authors presented very well researched and innovative approach to this issue; giving very honest accounts about the insufficient legal protection of cultural heritage, at the international and national levels. The book is a must for all international lawyers, not only experts in the area of cultural heritage. Although written by well-known specialists in this area, it is very accessible." -Malgosia Fitzmaurice, *German Yearbook of International Law*

About the Author

Francesco Francioni is Emeritus Professor of International Law and Human Rights and Co-Director of the Academy of European Law at the European University Institute in Florence. He was the chairman of the World Heritage Committee of the UNESCO and the Italian delegate to many diplomatic conferences on the protection of cultural property. He has written and edited many books, including *War by Contract* (with Natalino Ronzitti, OUP, 2011) and *The 1972 World Heritage Convention: A Commentary* (OUP, 2008). James Gordley holds the W.R. Irby Chair of Law at Tulane University. He is the author of, inter alia, *Foundations of Private Law* (OUP, 2006).

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