

OXFORD

INTERNATIONAL CULTURAL  
HERITAGE LAW

Janet Blake



CULTURAL HERITAGE LAW AND POLICY

# CULTURAL HERITAGE LAW AND POLICY

*Series Editors*

PROFESSOR FRANCESCO FRANCONI

*Professor of International Law and Human Rights and Co-Director of the Academy  
of European Law at the European University Institute, Florence*

PROFESSOR ANA VRDOLJAK

*Associate Dean (Research) and Professor of Law at the University of Technology, Sydney*

## International Cultural Heritage Law

## CULTURAL HERITAGE LAW AND POLICY

The aim of this series is to publish significant and original research on and scholarly analysis of all aspects of cultural heritage law through the lens of international law, private international law, and comparative law. The series is wide in scope, traversing disciplines, regions, and viewpoints. Topics given particular prominence are those which, while of interest to academic lawyers, have significant bearing on policymaking and current public discourse on the interaction between art, heritage, and the law.

### *Advisory Board*

James Nafziger

Kurt Siehr

Ben Boer

Roger O'Keefe

Marc-Andre Renold

Federico Lenzerini

Keun-Gwan Lee

Foralin Shyllon

# International Cultural Heritage Law

JANET BLAKE

**OXFORD**  
UNIVERSITY PRESS

**OXFORD**  
UNIVERSITY PRESS

Great Clarendon Street, Oxford, OX2 6DP,  
United Kingdom

Oxford University Press is a department of the University of Oxford.  
It furthers the University's objective of excellence in research, scholarship,  
and education by publishing worldwide. Oxford is a registered trade mark of  
Oxford University Press in the UK and in certain other countries

© Janet Blake 2015

The moral rights of the author have been asserted

First Edition published in 2015

Impression: 1

All rights reserved. No part of this publication may be reproduced, stored in  
a retrieval system, or transmitted, in any form or by any means, without the  
prior permission in writing of Oxford University Press, or as expressly permitted  
by law, by licence or under terms agreed with the appropriate reprographics  
rights organization. Enquiries concerning reproduction outside the scope of the  
above should be sent to the Rights Department, Oxford University Press, at the  
address above

You must not circulate this work in any other form  
and you must impose this same condition on any acquirer

Crown copyright material is reproduced under Class Licence  
Number C01P0000148 with the permission of OPSI  
and the Queen's Printer for Scotland

Published in the United States of America by Oxford University Press  
198 Madison Avenue, New York, NY 10016, United States of America

British Library Cataloguing in Publication Data  
Data available

Library of Congress Control Number: yet to receive

ISBN 978-0-19-872351-6

Printed and bound by  
CPI Group (UK) Ltd, Croydon, CR0 4YY

Links to third party websites are provided by Oxford in good faith and  
for information only. Oxford disclaims any responsibility for the materials  
contained in any third party website referenced in this work.

To  
Nasser and Daniel,  
for their endless patience  
And to  
Professor Iain Scobbie,  
for his invaluable support and guidance



## *Series Editors' Preface*

The books in this series thus far have provided a detailed viewpoint of specialist areas of international law covering the protection of cultural heritage. The very fact that such book length treatments are possible reflects the accelerated development of this field of law.

This volume by Janet Blake is a different but equally important contribution to this series. The author endeavours to provide a detailed overview of the field of cultural heritage law as a whole. A number of academics have sought to undertake this task in the last century and their efforts reflect the gradual evolution and growing density of this field of law – from its disparate beginnings to a panoply of specialist instruments at the international and regional levels covering immovable and movable, tangible and intangible heritage during war and peacetime, today. These treaties have been adopted over time and accordingly are often defined by differing (even competing) objectives. Therefore, bringing these various threads together in a comprehensive and logical whole is a significant challenge but one which the author embraces fully.

Importantly, Janet Blake also places these specialist developments in cultural heritage law within other related areas of international law including human rights law, environmental law, and intellectual property. This approach emphasises its synergies, as well as possible normative conflicts, between these specialist areas of international law. It also enables readers to better understand and appreciate the concepts, ideas and concerns which connect this volume with those that have preceded it in the series and those that shall follow.

Francesco Francioni  
Ana Filipa Vrdoljak





# *Table of Contents*

<i>Table of Cases</i>	xi
<i>Table of National Legislation and International Instruments</i>	xiii
<i>List of Abbreviations</i>	xxi
<b>1. Cultural Heritage Law: Contextual Issues</b>	<b>1</b>
Valuing and Protecting Cultural Heritage	1
Some Terminological Questions	6
Universal, National, or Local Heritage?	12
<b>2. Cultural Heritage: Illicit Excavation, Theft, and Trafficking</b>	<b>23</b>
Introduction	23
The Scale of the Problem of Illicit Movement and Site Destruction	24
Nature of the Illicit Trade in Antiquities	26
Existing Forms of Control	29
The Role of Transit States in Antiquities Trafficking	36
The Relevant International Treaties	37
International Litigation for the Recovery of Cultural Objects	50
<b>3. Cultural Heritage Located Underwater</b>	<b>70</b>
Introduction—What is Underwater Cultural Heritage?	70
The Challenges in Protecting Marine Cultural Heritage	73
The Different Maritime Zones	76
Salvage Law and Ancient or Historic Wrecks	85
UNESCO's 2001 Convention on Underwater Cultural Heritage	91
Conclusion	113
<b>4. Cultural Heritage and the Environment</b>	<b>114</b>
Introduction	117
Norms and Approaches Common to Cultural Heritage and Environmental Law	119
An Analysis of the Relevant International Law	124
Two Illustrative Cases	140
Conclusion	149
<b>5. Cultural Heritage: Intangible Aspects</b>	<b>150</b>
Introduction	150
Identifying 'Intangible Cultural Heritage'	151
UNESCO's Normative and Operational Activities from 1970 to 1999	159

Developing a Convention for Safeguarding ICH	163
2003 Convention for Safeguarding Intangible Cultural Heritage	168
Evolutions in implementation—gender and community participation	182
Conclusion	191
<b>6. Cultural Heritage: The Diversity of Cultural Expressions</b>	<b>194</b>
Introduction	194
Some Contextual Issues	195
International Cooperation for Cultural Diversity and Development	203
The 2005 Convention on Diversity of Cultural Expressions	212
Conclusion	228
<b>7. Cultural Heritage and Intellectual Property Law</b>	<b>230</b>
How Appropriate are Intellectual Property Rules?	231
IP Rules as Applied to Traditional Culture and Knowledge	239
A New IP Treaty Based on <i>Sui Generis</i> Approaches to Protection?	257
<b>8. Cultural Heritage and Human Rights</b>	<b>271</b>
Introduction	271
Some Key Notions Linking Cultural Heritage and Human Rights	275
Human Rights Applicable to Cultural Heritage	288
Character of the Human Rights Related to Cultural Heritage	296
Human Rights as Expressed in Cultural Heritage Instruments	304
Conclusion	311
<b>9. Regional Trends and Approaches</b>	<b>313</b>
Introduction	313
Regional Systems of Protection	315
Conclusion	333
<i>Bibliography</i>	337
<i>Index</i>	353

# Table of Cases

## DOMESTIC

### United Kingdom

<i>Attorney-General of New Zealand v. Ortiz and others</i> ([1982] QB 349 and [1984] AC 1) . . . . .	30–1, 53, 64
<i>Bumper Development Corp. Ltd. v. Comr. of Police</i> [1991] 4 All E.R. 638 [United Kingdom] . . . . .	33, 51, 52
<i>Government of the Islamic Republic of Iran v. Barakat Galleries Ltd.</i> [2007] EWCA Civ. 1374; [2007] EWHC 705 QB; [2009] QB 22. . . . .	52, 64–5
<i>The “Lusitania”</i> 1 <i>Lloyds Reports</i> (1986) 132. . . . .	87–8
<i>Winkworth v. Christie Manson and Woods Ltd and another</i> [1980] All ER 1121. . . . .	43

### Rest of the World

<i>Autocephalos Greek Orthodox Church of Cyprus and the Republic of Cyprus v. Goldberg and Feldman Fine Arts, Inc.</i> : 717 F.Supp.1374 (1989); upheld on appeal 917 F.2d. 278 (1990), US Court of Appeals, 7th. Cir. (No.89-2809); petition for rehearing denied in decision of 21 Nov.1990 in <i>US App. LEXIS</i> at 20398. . . . .	37, 43, 45, 57–9, 60, 69
<i>Columbus-America Discovery Group v. unidentified, wrecked and Abandoned Sailing Vessel Believed to be the USS Central America</i> : 1989 AMC 1955; 1990 AMC 2409; 1992 AMC 2705; US Dist.Ct. (E.D.Virginia) 18 November 1993. . . . .	88–9
<i>Commonwealth of Massachusetts v. Maritime Underwater Surveys, Inc.</i> , 403 Mass.501 (Mass. Supreme Court 1988) ( <i>Whydah</i> case). . . . .	76, 85
<i>Government of Peru v. Benjamin Johnson et al</i> , 720 F.Supp. 810 (US Dist. Cal. 1989); decision affirmed by the Court of Appeals in unreported decision at 1992 <i>US App. LEXIS</i> at 10385. . . . .	57
<i>Solomon R. Guggenheim Foundation v. Lubell</i> 567 N.Y.S. 2d 623 (1991) [United States] . . .	56
<i>Islamic republic of Iran versus Wolfcarious</i> , Cour d’Appel de Bruxelles, 4eme Chambre – R.G. No. 2002/AR/1993 of 20 April 2011. . . . .	62–3
<i>Republic of Turkey v. Metropolitan Museum of Art</i> , 762 F. Supp. 44 (S.D.N.Y. 1990) (denying motion to dismiss); case settled in an out of court agreement on 23 Sept. 1993. . . . .	25, 39, 53, 59–61, 69
<i>Republic of Turkey v. OKS Partners</i> , 797 F. Supp. 64 (D. Mass. 1992) (denying motion to dismiss), <i>discovery motion granted in part and denied in part</i> , 146 F.R.D. 24 (D. Mass. 1993), <i>summary judgment denied</i> , No. 89-CV-2061, 1994 U.S. Dist. LEXIS 17032 (D. Mass. June 81994), <i>summary judgment on different claims denied</i> , No. 89-CV-3061-RGS, 1998 U.S. Dist. LEXIS 23526 (D. Mass. Jan. 23, 1998) . . . . .	61–2, 40
<i>RMS Titanic inc. v. Wrecked and Abandoned Vessel</i> 9 F.Supp.2d 624 (1998); <i>RMS Titanic inc. v. Haver</i> (1999) <i>American Maritime Cases</i> 1330. . . . .	32, 75, 82, 90, 94, 108
<i>Solomon R Guggenheim Foundation v Lubell</i> 567 NYS 2d 623 (1991) [United States] . . . . .	60
<i>Subaqueous Exploration and Archaeology Ltd. v. The Unidentified Wrecked and Abandoned Vessel</i> . 577 F. Supp. 597 (1984) . . . . .	88

*Treasure Salvors Inc. v. The Unidentified, Wrecked and Abandoned Vessel Believed to be the Nuestra Señora de Atocha* relating to the *Atocha*, a Spanish wreck subject to a commercial salvage operation by Mel Fisher off Florida which raised items worth approximately \$300 million, at: 408 F.Supp.907 (US,1976); 569 F.2d.230 (US,1978); 621 F.2d. 1340 (US,1980); 640 F.2d.560 (US,1981) . . . . .80, 85

INTERNATIONAL

**International Court of Justice**

*Whaling in the Antarctic (Australia v. Japan; New Zealand Intervening)*,  
General List No. 148, Judgment 31 March 2014. . . . . 118

**Inter-American Human Rights Commission**

*Miskitos Case* (Nicaragua) before the Inter-American Human Rights Commission, cited in *Report on the situation of human rights of a sector of the Nicaraguan population of Miskito origin*, [Doc. OAS/Ser.L/V/II.62.doc 10 rev.3] (1984) . . . . .20

*Yanomami Indigenous Tribe Case*, case No. 7615 (Brazil), Inter-American Human Rights Commission Res. No. 12/85 of 5 March 1985, *Annual Report of the Intra-American Commission on Human Rights, 1984–1985* [OAS Doc. OEA/Ser.L/V/II.66. doc.10, rev. 1 at 24] (1985) . . . . . 123, 141, 146

# *Table of National Legislation and International Instruments*

<p style="text-align: center;">NATIONAL LEGISLATION</p> <p><b>Australia</b></p> <p>Australian Environment Protection and Biodiversity Conservation Act 1999 . . . . . 115</p> <p><b>Denmark</b></p> <p>Act No. 445 of 1973 . . . . . 99</p> <p><b>Iran</b></p> <p>Law of 3 November 1930 . . . . . 62, 63</p> <p><b>Norway</b></p> <p>Act No. 50 of 9 June 1978 (amended 1993) . . . . . 99</p> <p><b>Sweden</b></p> <p>Act No. 589 of 30 June 1971 . . . . . 99</p> <p><b>Turkey</b></p> <p>Antiquities Law 1906 . . . . . 59</p> <p><i>Firman</i> issued by the Ottoman Sublime Porte to Lord Elgin 1799 . . . . . 3</p> <p>Law for the Conservation of Cultural and Natural Property 1983 (as amended 1987, 2001, 2004, 2006, 2007, 2008, and 2009) . . . . . 33, 62</p> <p>Ottoman Historic Monuments Act 1874 (as amended 1884) . . . . . 2</p> <p>Regulation No. 18 278 Relating to the Trade in Movable Cultural Property and Commercial Premises 1984 . . . . . 33</p> <p><b>United Kingdom</b></p> <p>Environmental Protection Act 1990 . . . . . 117</p> <p><b>United States</b></p> <p>Abandoned Shipwrecks Act 1987 . . . . . 98</p> <p>Convention on Cultural Property Implementation Act 1983 . . . . . 31</p> <p>Native American Graves and Repatriation Act 1991 . . . . . 281</p> <p>National Stolen Property Act (18 USC 2311–2315) . . . . . 55–6</p>	<p>Pre-Columbian Art Act 1972 . . . . . 32</p> <p>RMS Titanic Memorial Act 1986 . . . . . 90</p> <p style="text-align: center;">INTERNATIONAL TREATIES AND OTHER INSTRUMENTS</p> <p><b>Bilateral Agreement</b></p> <p>Agreement between the Netherlands and Australia Concerning Old Dutch Shipwrecks 1972 . . . . . 102</p> <p><b>African Intellectual Property Organization (OAPI)</b></p> <p>Convention concerning African Intellectual Property (Bangui text) (1977) . . . . 243, 246</p> <p><b>African Union</b></p> <p>African Charter of Human and Peoples' Rights ('Banjul Charter') (1981) . . . . . 122, 304–5, 310, 315–6, 319</p> <p>Charter for African Renaissance adopted by the African Union at Khartoum on 24 January 2006 (not yet in force) . . . . . 314, 316, 318</p> <p>Convention on the Conservation of Nature and Natural Resources (2003) . . . . . 313</p> <p style="text-align: center;">ASEAN</p> <p>Charter of the Association of Southeast Asian Nations, (2007) . . . . . 314, 316, 329</p> <p>Declaration on Cultural Heritage (2000) . . . . . 314, 315, 330–1</p> <p><b>Conference of the Parties, Convention on Wetlands of International Importance (Ramsar, 1971)</b></p> <p><i>Guidelines for establishing and strengthening local communities' and indigenous people's participation in the management of wetlands</i>, Resolution VII.8 of COP-7 held at San José, Costa Rica, 10-18 May 1999 . . . . . 116, 126</p>
--	--

<i>Guidelines for the Implementation of the Wise Use Concept, Recommendation C.4.2 (Rev) of COP-4, Montreux, Switzerland, 1990</i> . . . . .	122	(Council of Europe, Parliamentary Assembly, 2012) . . . . .	323
<b>Conference of the Parties, UN Convention on Biological Diversity (1992)</b>		Report of the Sub-committee for the Artistic and Architectural Heritage of the Committee on Culture and Education, Parliamentary Assembly of the Council of Europe (Strasbourg, 1995) . . . . .	95
<i>Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity</i> . . . . .	116, 126	<i>War Damage to the Cultural Heritage in Croatia and Bosnia-Herzegovina</i> (Strasbourg, 1993) . . . . .	285
<i>Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization</i> (2002) . . . . .	256	Working Group on Underwater Cultural Heritage (CAHAQ) <i>Final Report</i> [restricted distribution] (Strasbourg, 1985) . . . . .	94
‘Nagoya Protocol’ on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (2010) . . . . .	256	<b>Economic Council for Europe</b>	
<b>Conference of the Parties, UN Convention against Transnational Crime (2010)</b>		Convention on Access to Information, Public Participation and Decision-Making and Access to Justice in Environmental Matters (Aarhus, 1998) . . . . .	121
<i>Use of the UN Convention against Transnational Crime for protection against trafficking in cultural property</i> (October 2010) . . . . .	49	<b>Food and Agriculture Organization</b>	
<b>Council of Europe</b>		International Treaty on Plant Genetic Resources for Food and Agriculture (Food and Agricultural Organization, 2001) . . . . .	125, 126, 167
Convention on the Conservation of European Wildlife and their Natural Habitats (Berne, 1979) . . . . .	313, 323	Union for the Protection of New Varieties of Plants (‘UPOV’) (1961) (revised in 1972, 1978, and 1991) . . . . .	144
Council of Europe Framework Convention on the Value of Cultural Heritage for Society (Faro, 2005) . . . . .	127, 271, 312, 314, 315	<b>International Labour Organization</b>	
European Convention for the Protection of the Architectural Heritage of Europe (Granada, 1985) . . . . .	324, 325	Convention concerning Indigenous and Tribal Peoples in Independent Countries (1989) . . . . .	158, 294–5
European Convention on the Protection of the Archaeological Heritage (1992) . . . . .	33, 91, 324, 325–6		
European Charter for Regional or Minority Languages (1992) . . . . .	324		
European Landscape Convention (Florence, 2000) . . . . .	324, 326–7		
<i>Explanatory Report</i> to the European Landscape Convention (Strasbourg, 2000) . . . . .	326		
<i>Explanatory Report</i> to the Council of Europe Framework Convention on the Value of Cultural Heritage for Society (Strasbourg, 2006) . . . . .	327		
Recommendation 1990 on the right of everyone to take part in cultural life			

IUCN

*Guidelines for Protected Areas Management Categories* (Switzerland: Gland, 1994) . . . . .117

**International Organization for Migration**  
International Organization for Migration, UNHCR et al. *Climate Change, Migration and Displacement: Impacts, Vulnerability, and Adaptation Options*, submitted to the 5th session of the Ad-Hoc Working Group on Long-term Cooperative Action under the UNFCCC, 29 March–8 April 2001 (IOM, 6 February 2009) . . . . .148

**League of Nations**

Convention for the Regulation of Whaling  
(Geneva, 1931) . . . . . 126

**Non-Aligned Movement**

Declaration and Programme of Action on  
Human Rights and Cultural Diversity  
(2007) . . . . . 332-3

**Organization of American States**

Additional Protocol to the American  
Convention on Human Rights  
in the area of Economic, Social,  
and Cultural Rights ('Protocol  
of San Salvador') (1988) . . . . . 122

American Declaration of the Rights and  
Duties of Man (1948) . . . . . 319

American Convention on Human Rights  
(San Jose, 1969) . . . . . 319

Convention on the Protection of the  
Archaeological, Historical, and Artistic  
Heritage of the American Nations  
(‘Convention of San Salvador’)  
(1976) . . . . . 320

*Final Report of the Fifth Inter-American  
Meeting of Ministers of Culture and  
Highest Appropriate Authorities OAS  
Headquarters, Washington D.C. 9-10  
November (2011)* . . . . . 320

*Québec Plan of Action approved at the Third  
Inter-American Meeting of Ministers  
of Culture and Highest Appropriate  
Authorities (2007)* . . . . . 320

*Record of the Current Status of the Draft  
American Declaration on the Rights of  
Indigenous Peoples (2011)* . . . . . 320

*Report on the situation of human rights of a sector  
of the Nicaraguan population of Miskito  
origin, (Washington DC, 1984)* . . . . . 20

*The Human Rights Situation of the Indigenous  
People in the Americas (1997)* . . . . . 321

**Organization of the Islamic Conference**

Charter of the Organization of the Islamic  
Conference, revised (Dakar, 2008) . . . . . 332

**Pan-American Union**

Treaty on the Protection of Artistic and  
Scientific Institutions and Historic  
Monuments ('Roerich Pact') 1935 . . . . . 4

**Second Hague Peace Conference**

Convention No. IV respecting the Laws and  
Customs of War on Land and its annex:

Regulations concerning the Laws and  
Customs of War on Land (The Hague  
1907) . . . . . 4, 7

Convention No. IX concerning  
Bombardment by Naval Forces in  
Time of War (The Hague, 1907) . . . . . 4, 7

**United Nations Education, Science and  
Culture Organization (UNESCO)**

Action Plan on Cultural Policies  
for Development (1998) . . . . . 155, 198

Convention for the Protection of  
Cultural Property in the Event of  
Armed Conflict with Regulations  
for the Execution of the Convention  
(‘Hague Convention’) (1954) . . . . . 4, 7,  
10, 11, 14, 35, 37, 38, 128,  
159, 194, 285, 306, 316

Convention on the Means of Prohibiting  
and preventing the Illicit Import,  
Export and Transfer of  
Ownership of Cultural Property  
(1970) . . . . . 5, 6, 13, 14, 16, 23, 31,  
33-7, 38-40, 41, 42, 44, 48, 51,  
63, 68, 128, 152, 159, 196,  
276, 307-9, 316, 321

Convention on the World Cultural and  
Natural Heritage (1972) . . . . . 5, 6, 9, 11,  
13-15, 114-5, 116, 118-9,  
127-136, 148, 151, 152, 158-9,  
163-5, 174, 182, 191, 195,  
218, 223, 249, 272,-3, 282,  
308, 310, 316, 321

Convention on the Protection of  
the Underwater Cultural Heritage  
(2001) . . . . . 5, 10, 11, 36, 85,  
97-113, 116, 195, 316, 334-5

Convention for the Safeguarding of  
Intangible Cultural Heritage  
(2003) . . . . . 5, 10,  
11, 12, 14, 116, 126, 127, 128,  
133-40, 144, 145, 157, 168-181,  
182-91, 192-3, 194-5, 199, 202,  
204, 220, 224-5, 230, 244, 258, 269,  
279, 305, 307, 308, 309, 310, 315, 316

Convention for the Protection of  
the Diversity of Cultural Contents  
and Artistic Expressions (2005) . . . 172-3,  
194-5, 198, 199, 200-1, 202-3,  
203-5, 206-10, 210-12,  
212-27, 305, 309, 315, 317, 336

Declaration on the Principles of  
International Cultural Cooperation  
(1966) . . . . . 196, 215, 278-9, 308, 316



Declaration concerning the Intentional Destruction of Cultural Heritage (2013) . . . . .	284	<i>Intangible Cultural Heritage – a Mirror of Cultural Diversity</i> , the ‘Istanbul Declaration’ of the 3rd Round Table of Ministers of Culture (Istanbul, Turkey, 2002) . . . . .	156
Director-General of UNESCO <i>Feasibility Study for the Drafting of a New Instrument for the Protection of the Underwater Cultural Heritage</i> , Executive Board of UNESCO [Doc. 146 EX/27] (Paris, 1995) . . . . .	95	Intangible Heritage Section <i>Masterpieces of the Oral and Intangible Heritage of Humanity. Proclamations 2001, 2003 and 2005</i> , UNESCO Culture Sector (UNESCO, 2006) . . . . .	169
Draft Treaty for the Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Actions (UNESCO/WIPO, 1984) . . . . .	247	International Jury for the Proclamation by UNESCO of Masterpieces of Oral and Intangible Heritage of Humanity <i>Final Report</i> , Extraordinary Meeting of the Jury, Elche (Spain), 21–23 September 2001 Doc RIO/ITH/2002/INF/6 (UNESCO, 2001) . . . . .	162
Expert Meeting on <i>Evaluation of General Principles and Criteria for Nominations of Natural World Heritage Sites</i> , Parc national de la Vanoise, France, 22–24 March 1996. WHC-96/CONF.202/ INF.9 (UNESCO, 1996) . . . . .	132	Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions, First Extraordinary Session, Paris, UNESCO Headquarters, 24–27 June 2008 – Item 5 of the Provisional Agenda (UNESCO, 2008) . . . . .	199
Expert Meeting on <i>The World Cultural Heritage and Cultural Landscapes in Africa</i> held at Tiwi, Kenya on 9–14 March 1999 (UNESCO, 1999) . . . . .	199	Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage <i>Operational Guidelines for the Implementation of the World Heritage Convention</i> (Paris: UNESCO, 1998) . . . . .	131
General Assembly of the States Parties to the Convention on the Safeguarding Intangible Cultural Heritage <i>Operational Directives for the Implementation of the Convention on Safeguarding Intangible Cultural Heritage</i> , Second ordinary session, Paris 16–19 June 2008 [Doc 1.EXT. COM 6] and amended at its third session (Paris 22 to 24 June 2010) . . . . .	116, 173	Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage <i>Operational Guidelines for the Implementation of the World Heritage Convention</i> (Paris, 2013) [Doc. WC. 13/01, 13 July 2013] . . . . .	117
General Assembly of the States Parties to the Convention for the Safeguarding of the Intangible Cultural Heritage <i>Resolutions</i> , Third Session, Paris 22–24 June 2010, Resolution 3.GA 5 (UNESCO, 2010) . . . . .	187	Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage <i>Examination of the reports of States Parties on the implementation of the Convention and on the current status of all elements inscribed on the Representative List</i> , Seventh session [Doc ITH-12-7.COM-6-E] (UNESCO, 2012) . . . . .	138
General Conference, 31 <sup>st</sup> session <i>Mid-term Budget of UNESCO (Biennium 2002–3)</i> (UNESCO, 2002) . . . . .	140	Internal Oversight Service <i>Evaluation of UNESCO’s Standard-setting Work of the Culture Sector: Part I—2003 Convention for the Safeguarding of the Intangible Cultural Heritage</i> edited by Barbara Torggler and Ekaterina Sediakina-Rivière with Janet Blake as consultant [Doc. IOS/EVS/ PI/129 REV] (UNESCO, 2013) . . . . .	157
<i>Guidelines—Living Human Treasures Programme</i> (UNESCO, 1996) . . . . .	161	Model provisions for National Laws on the Protection of Expressions of Folklore	
<i>Impacts of the First Proclamation of the Nineteen Masterpieces Proclaimed Oral and Intangible Heritage of Humanity</i> (UNESCO, January 2002) . . . . .	162		
<i>Information Note</i> submitted to the Conference Celebrating the 10th Anniversary of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, 24 June 2005, UNESCO Headquarters, Paris (UNESCO, 2005) . . . . .	41		

- Against Illicit Exploitation and Other Prejudicial Actions (UNESCO/WIPO, 1982) . . . . . 159, 232, 240, 248, 257
- Recommendation on International Principles Applicable to Archaeological Excavations (New Delhi, 1956) . . . . . 5
- Recommendation on Safeguarding the Beauty of Landscapes (1962) . . . . . 5, 130
- Recommendation on the Preservation of Cultural Property Endangered by Public Works (1968) . . . . . 276
- Recommendation for the Protection of Movable Cultural Property (1978) . . . . . 8
- Recommendation for the Safeguarding of Traditional Culture and Folklore (Paris, 1989) . . . . . 12, 124, 152, 160, 248–50, 308
- Recommendation concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace (2003) . . . . . 205
- Report of International Meeting of Experts for the Preparation of Glossary of Intangible Cultural Heritage, Paris, 10–12 June 2002 (UNESCO, 2002) . . . . . 167
- Restricted Drafting Group *First Preliminary Draft of an International Convention for the Safeguarding of the Intangible Cultural Heritage*, Paris, 26 July 2002 [Doc CLT-2002/ CONF.203/3] (UNESCO, 2002) . . . . . 187
- Tunis Model Law on Copyright for Developing Countries (UNESCO/WIPO 1976) . . . . . 243, 245
- Universal Copyright Convention (UNESCO/WIPO, 1952, as revised 1971) . . . . . 159, 240, 246, 308
- Universal Declaration on Cultural Diversity (UNESCO, 2001) . . . . . 141, 156, 196, 204, 271, 279
- Yamato Declaration on Integrated Approaches for Safeguarding Tangible and Intangible Cultural Heritage*, adopted by the International Conference on the Safeguarding of Tangible and Intangible Cultural Heritage: Towards an Integrated Approach, 20–23 October 2004 (Nara, Japan) . . . . . 135
- UNIDROIT
- Convention on the International Return of Stolen or Illegally Exported Cultural Objects (Rome, 1995) . . . . . 7, 13, 35, 37, 39, 40, 41–8, 49, 50, 51, 63, 67, 68, 107, 196, 307
- Draft Convention for a Uniform Law on the Acquisition of Good Faith of Corporeal Movables (LUAB) (1974) . . . . . 44
- United Nations
- Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Seas of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (1995) . . . . . 92
- Charter of the United Nations, San Francisco (1945) . . . . . 285
- Committee on Economic, Social and Cultural Rights General Comment No.16 on *Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights*, Thirty-fourth session on 11 August (2005) [Doc.E/C.12/2005/4] . . . . . 303
- Committee on Economic, Social and Cultural Rights General Comment No.20 on *Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights*, Forty-third session 2–20 November (2009) [Doc.E/C.12/GC/20] . . . . . 303
- Committee on Economic, Social and Cultural Rights General Comment No.21 (2009) on *The Right of everyone to take part in cultural life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights)* Forty-third session 2–20 November (2009) [Doc. E/C.12/GC/21] . . . . . 288, 289, 290, 298, 299, 300, 301, 302, 304
- Convention on the Continental Shelf (Geneva, 1958) . . . . . 74, 77, 78, 80–1
- Convention on the High Seas (Geneva, 1958) . . . . . 74, 77, 78, 79, 83
- Convention on the Territorial Sea and Contiguous Zone (Geneva, 1958) . . . . . 74, 77, 78
- Convention on Wetlands of International Importance, Especially as Waterfowl Habitat (Ramsar, 1971) . . . . . 115, 122, 126, 128–9
- Convention on the International Trade in Endangered Species ('CITES') (Washington, 1973) . . . . . 27, 36, 107, 115, 118, 122, 128

- Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 1979) . . . . . 102, 115, 180
- Convention on the Elimination of All Forms of Discrimination against Women (1979) . . . . . 287, 290, 303
- Convention on the Law of the Sea (Montego Bay, 1982) . . . . . 16, 73, 74, 75, 78, 79, 80, 81–2, 83–4, 119
- Convention on the Rights of the Child (1989) . . . . . 290
- Convention Against Desertification (1994) . . . . . 120
- Convention on the Rights of Persons with Disabilities ('CRPD') (2006) . . . . . 303
- Declaration of the United Nations Conference on the Human Environment (Stockholm, 1972) . . . . . 6, 114
- Declaration on the Right to Development (1986) . . . . . 209, 215, 273
- Declaration of the World Conference on Cultural Policies ('MONDIACULT') (Mexico, 1982) . . . . . 154
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992) . . . . . 291, 292
- Declaration of the UN Conference on the Environment and Development (Rio de Janeiro, 1992) . . . . . 121, 124, 154, 156, 210, 250
- Declaration on the Rights of Indigenous Peoples (2007) . . . . . 156, 282, 293–4
- Convention on Biological Diversity (1992) . . . . . 116, 120, 125, 126, 127, 144, 158, 166, 237, 251, 255–6, 311
- Framework Convention on Climate Change (1992) . . . . . 120, 124, 147, 224
- General Assembly *The Question of the Reservation Exclusively for Peaceful Purposes of the Sea Bed and Ocean Floor, and the Subsoil Thereof, Underlying the High Seas, Beyond the Limits of Present National Jurisdiction and the Use of Their Resources in the Interests of Mankind* (1967) [Doc. A/C.1/P.V 1525 (1967)] . . . . . 119
- Human Rights Council (2010) 'Report of the Independent Expert in the Field of Cultural Rights (Farida Shaheed)' submitted pursuant to resolution 10/23 of the Human Rights Council, adopted at the 14th session of the Human Rights Council, 22 March 2010 [Doc. A/ HRC/14/36] . . . . . 201, 297, 298, 300
- Human Rights Council (2011) 'Report of the Independent Expert in the Field of Cultural Rights, Farida Shaheed, on the Right of Access to and Enjoyment of Cultural Heritage,' Human Rights Council Seventeenth session Agenda item 3, 21 March 2011 [UN Doc. A/ HR/C/17/38] . . . . . 112, 141, 183, 273–4, 289, 290, 297, 307
- Intergovernmental Panel on Climate Change *Climate Change 2007: Synthesis Report (2007)*, edited by RK Pauchuri and A Reisinger (Geneva: IPCC, 2007) . . . . . 148
- International Convention for the Regulation of Whaling (1946) (amended 1956) . . . . . 118–9, 126
- International Covenant on Civil and Political Rights (1966) . . . . . 146, 291, 297, 304, 307
- International Covenant on Economic, Social and Cultural Rights (1966) . . . . . 146, 289, 299, 304, 305, 307
- International Convention on the Elimination of All Forms of Racial Discrimination (1965) . . . . . 303
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) . . . . . 283
- Universal Declaration of Human Rights (1948) . . . . . 284, 289, 290, 304
- World Intellectual Property Organization**
- Agreement on Trade-related Aspects of Intellectual Property Rights ('TRIPS') (1994) . . . . . 167, 207, 208, 238, 242, 253–5
- Convention for the Protection of Industrial Property (???) ('Paris Convention') (as revised 1900, 1911, 1925, 1934, 1958, 1967 and 1979) . . . . . 234, 235
- Convention for the Protection of Literary and Artistic Works (1886) ('Berne Convention') (as amended in 1914, 1928, 1948, 1967, 1971, and 1979) . . . . . 232, 240, 241, 308
- Convention for the Protection of Appellations of Origin and their International Registration (1958) (revised at Stockholm in 1967, amended in 1979 to establish the Lisbon Union) . . . . . 235
- Copyright Treaty (1996) . . . . . 241

Draft Articles on the Protection of Traditional Knowledge (Rev.2) (2014) . . . . .	264–270	of Folklore Against Illicit Exploitation and Other Prejudicial Actions (UNESCO/WIPO, 1982) . . .	159, 232, 240, 248, 257
Draft Treaty for the Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Actions (UNESCO/WIPO, 1984) . . . . .	247	Performances and Phonograms Treaty (1996) . . . . .	241
General Agreement on Tariffs and Trade (GATT) (1994) . . . . .	206, 208, 210	Revised Provisions for Protecting Traditional Cultural Expressions (Rev.2) (2014) . . . . .	259–264
General Agreement on Trade in Services (GATS) (1994) . . . . .	206, 208	<i>Revised Provisions for the Protection of Traditional Cultural Expressions/ Expressions of Folklore - Policy Objectives and Core Principles</i> , Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore (Geneva, 2005) . . . . .	157
<i>Information Note Provided by the Secretariat of the World Intellectual Property Organization</i> (2004) . . . . .	211	Tunis Model Law on Copyright for Developing Countries (UNESCO/WIPO 1976) . . . . .	243, 245
<i>Intellectual Property and the Protection of GRs [their Derivatives] and Associated Traditional Knowledge: NEGOTIATING TEXT</i> (2012) . . . . .	264	Universal Copyright Convention (UNESCO/WIPO, 1952, as revised 1971) . . . . .	159, 240, 246, 308
International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome, 1961) . . . . .	241	<b>Other Multilateral Treaties</b>	
<i>Matters Concerning Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore</i> , 25th Session of the General Assembly, Geneva (WIPO, 2000) . . . . .	258	Agreement on Measures to Regulate Sealing and Protect Stocks in the Northeast Part of the Atlantic Ocean (1957) . . . . .	124
Model provisions for National Laws on the Protection of Expressions		Agreement on Conservation of Polar Bears (Oslo, 1973) . . . . .	129