

## PREFACE/PRÉFACE

Cultural heritage, a pillar of civilization and of peoples' identities, is globally under siege. Although significant results have been achieved in identifying priorities, principles and objectives for protecting this heritage, the concrete results in the field are not yet very encouraging. For example, despite the many uninterrupted efforts of several States and of the relevant international organizations and entities, cultural heritage is currently pillaged at an alarming rate and continues to be a prized target of organized crime.

Thus, to broach the subject of the globalization of the protection of cultural heritage, as the authors of this book have masterly done, is to examine a topic the importance of which has exponentially increased through time, especially since the second half of the 20<sup>th</sup> century, and which nowadays, with cultural property under threat due to complex and interrelated circumstances, is extremely relevant.

This book is the tangible -and valuable- end product of the seminar entitled "The Globalization of the Protection of Cultural Heritage. The 1970 Convention: New Challenges" which, under the patronage of UNESCO, UNIDROIT, the International Association of Legal Sciences and the Legal Research Institute (LRI) of the National Autonomous University of Mexico, took place at the prestigious LRI in Mexico City from March 21<sup>st</sup> to 23<sup>rd</sup> of 2013.

The Seminar, which brought together an important number of renowned experts from far and near, focused attention, among other topics, on the need to improve the protection of cultural heritage in the context of an ever-increasing, rapacious and injudicious demand for all types of cultural property.

The Government of Mexico, as guardian of the universal cultural heritage from ancient peoples and civilizations, of objects and documents linked to the country's history and of the nation's chief artistic expressions, is deeply concerned by the growing pillage of protected cultural property, the increasing involvement of criminal groups in its trafficking and by the common international dealing in it.

Therefore, as it will surely be by every other "art-rich" or "source" country, the authors' work is most welcomed by Mexico. Indeed, this book

constitutes a manifestation of a noble current attempting to prominently place the protection of cultural heritage in the relevant national and international agendas.

The book offers a clear and broad insight into the progressive development of the protection of cultural heritage, as well as of adverse issues threatening it and latest developments.

Moreover, this well-balanced study also brings up the subject of structural causes of trafficking in protected cultural property, among which stand out poverty, institutional weaknesses, lack of awareness and poor understanding of the social and scientific value of cultural property, non-enforcement of the relevant regulatory mechanisms, lack of clear-cut policies and unscrupulous practices by certain entities and segments of the international antiquities market as well as of private individuals.

In other words, the book contributes to mark where we currently stand and to indicate the way forward concerning protection of cultural heritage. Thus, it can be considered a concise and practical handbook -*e.g.*, on measures to counteract trafficking- for civil servants, policy makers, field and law enforcement personnel, practitioners, researchers and neophytes.

In close relation with the aforementioned, part of the added value of this book is that it will guide anyone using it to arrive at the conclusion that the depredation of cultural heritage constitutes a redoubtable challenge that no single State or international organization or entity can keep in check, let alone try to overcome.

Indeed, since isolated action is useless to neutralize the pernicious trends that ravage and threaten cultural heritage, the policies and strategies -domestic and international as well as bilateral and multilateral- should be designed and structured accordingly. Moreover, while confronting the depredation of cultural heritage, every initiative aimed at fostering intensive international cooperation and coordination between States, as well as between them and the relevant international organizations and entities, should be privileged and promoted.

In that which concerns “art-rich” or “source” countries, it is worth mentioning that the book sketches some of the problems they encounter when legitimately attempting to recover cultural heritage.

For instance, according to their duty to protect cultural heritage, several States have enacted unambiguous laws on State ownership of certain cultural property, notably archaeological artifacts and historical objects, regardless of prior exercise of physical control over it and thus even when it remains officially undiscovered or otherwise uncatalogued.

Taking into consideration the unique and irreplaceable nature of certain cultural property, State ownership laws are intended to grant it special protection. Therefore, said laws constitute the first barrier against looting and their legal effects should deter and obstruct trade in protected cultural property.

However, State ownership laws cannot fulfill their protective purpose or facilitate the return of cultural property if the illegal removal of the concerned property from the territory of provenance is not internationally regarded as theft of public assets and if said laws are not, at least, pondered abroad as appropriate.

Furthermore, due to the clandestine nature of the pillage of cultural property, especially archaeological artifacts and historical objects officially undiscovered, it is materially impossible for provenance States to have at their disposal exhaustive national inventories of relevant movable cultural property as well as to offer concrete data on circumstances, documentation and other evidence concerning thefts, pertaining to their claims whenever attempting to recover cultural property.

The prodigious intrinsic value of cultural heritage remains to some degree unrecognized and this lack of knowledge, added to a deceitful denial of the ravages caused by its trafficking and an unconscious or somewhat conscious personal dissociation from the cause-effect relationship between demand and traffic, severely hampers efforts towards its effective protection.

This book will undoubtedly reinforce the wall against any attempt to dilute or evade the fact that the pillage and trafficking of archeological artifacts constitute offenses against the cultural wealth of humankind.

In a nutshell, by causing artifacts to be removed from the place they are found without a proper research objective and without following a rigorous protocol, pillage prevents the integration and dissemination of knowledge concerning ancient peoples and civilizations. Moreover, due to the use of destructive methods, pillage is responsible for the irretrievable loss of valuable information on mankind. Likewise, trafficking, besides involving -as mentioned- organized crime, deprives invaluable archeological artifacts from their cultural, historical and symbolic essence, turning them into simple merchandises or curiosities.

Granting effective protection to cultural property would require tackling the adverse issues identified in this book and implementing adjustments and changes in policies and practices accordingly. The scale of the tasks is such that national efforts by themselves will not meet the challenges involved.

As this book shows, the preservation of cultural heritage requires the commitment and active participation of the international community, of the relevant international organizations and entities, of museums, of specia-

lized commercial entities and dealers, civil society and of the broad public. In other words, interdependent and mutually reinforcing committed engagement to protect is a prerequisite of success.

This book will surely contribute to reinvigorate and ground efforts towards the effective protection of cultural heritage and, ideally, will become an instrument for the crafting of public policies intended, for example, to raise awareness and shape minds, both at the national and international level, about the serious consequences of cultural property pillage and of its trafficking.

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