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## RESOLUTION OF CULTURAL PROPERTY DISPUTES



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# Resolution Of Cultural Property Disputes

**Abdulqawi A. Yusuf**



## **Resolution Of Cultural Property Disputes:**

**Alternative Dispute Resolution in Cultural Property Disputes**, 2016      **Resolution of Cultural Property Disputes** Permanent Court of Arbitration. International Bureau, 2004 The papers collected in this volume represent the work of the Permanent Court of Arbitration's 7th International Law Seminar The Resolution of Cultural Property Disputes held at the Peace Palace in The Hague in the spring of 2003 and attended by world renowned legal experts and professionals from art institutions The looting of the National Museum of Iraq in Baghdad during the Second Gulf War is only the most recent example of the depredation of cultural property that can be part of the tragic human cost of war Brazen pillage causes the world an irretrievable loss of significant information about our universal past Given the magnitude of the problem it is surprising how little international jurisprudence there is in this field Furthermore more than 50 years on many Holocaust era cases of looted or stolen art remain unresolved and continue to emerge In this volume several authors discuss the range of resources such as internet databases now available for art provenance research especially for cases related to World War II Cultural property disputes raise complicated questions that enter into many spheres including history national and international law and of course the marketplace Because of the wide variety of legal norms and the cross border nature of most cultural property claims complicated conflict of law issues inevitably arise As several of the authors in this volume note and examine from various angles cultural property claims run up against differing and sometimes prohibitive limitation periods evidentiary standards not to mention competing claims of good faith acquisition of property Several of the authors note that traditional legal norms are often incapable of addressing the special problems of cultural property and recommend the institution of special arbitral regimes equipped with unique substantive and procedural rules capable of handling such cases      *Art and Cultural Heritage* Barbara T. Hoffman, 2006 Art and Cultural Heritage is appropriately but not solely about national and international law respecting cultural heritage It is a bubbling cauldron of law mixed with ethics philosophy politics and working principles looking at how cultural heritage law policy and practice should be sculpted from the past as the present becomes the future Art and cultural heritage are two pillars on which a society builds its identity its values its sense of community and the individual The authors explore these demanding concerns untangle basic values and look critically at the conflicts and contradictions in existing art and cultural heritage law and policy in its diverse sectors The rich and provocative contributions collectively provide a reasoned discussion of the issues from a multiplicity of views to permit the reader to understand the theoretical and philosophical underpinnings of the cultural heritage debate      Cultural Property Disputes: The Role of Arbitration in Resolving Non Contractual Disputes Isabelle Gazzini, 2021-10-25 The originality of this work lies in its in depth consideration of practical procedural problems related to transnational arbitration in extra contractual situations Particular attention is given to voluntary and forced intervention and to consolidation co ordination or suspension of related arbitration proceedings Those concerned with restitution of cultural property and the effective use of

arbitration in non contractual disputes will find this book a valuable resource Published under the Transnational Publishers imprint *Special Issue: Alternative Dispute Resolution in Cultural Property Disputes*, 2016 **Resolution of Cultural**

**Property Disputes**, 2004-01-01 *International Arbitration and the Permanent Court of Arbitration* Manuel

Indlekofer, 2013-08-01 The modern tendency to restrict international arbitration to matters of commerce and investment is succumbing to a renewed recognition of the original impetus for dispute resolution by arbitration i.e. matters of public international law most importantly the settlement of disputes that pose a threat of international conflict Recent developments suggest a renaissance of public international arbitration most clearly manifested in the present flourishing of the Permanent Court of Arbitration PCA the oldest existing dispute settlement institution in international law As the calls for the development of new and more appropriate methods for dispute settlement in international law increased during the 1990s the PCA undertook a structural reform and is today a vital forum for dispute settlement with scores of arbitrations currently pending under its auspices This book the most comprehensive study of the institution to date covering its history its present status and its future prospects proves the PCA's contemporary relevance within the international dispute settlement framework Among aspects of the PCA's work covered are the following how public international arbitration functions in comparison to other means available for dispute settlement in international law the PCA's historical contributions to the current dispute settlement framework arbitrations between a state and a non state actor that are in whole or in part governed by public international law the fields in which public international arbitration plays a revived role the PCA's present day institutional framework and its current activities the prospects for public international arbitration and the PCA in the dispute settlement framework of the twenty first century and proposals to increase the PCA's activities in future and to sustain and enhance the institution's ongoing revitalization A very useful Practitioner's Guide provides an overview of the PCA's various services and the best means of accessing them along with a summary of the key provisions of the new PCA Arbitration Rules 2012 For lawyers who are involved in dispute resolution proceedings there can be little doubt about the PCA's relevance This book is at once an academic work indispensable for scholars of the institution and a practical guide that will be a required addition to the libraries of counsel arbitrators and others involved in dispute resolution proceedings conducted at the PCA

**The Settlement of International Cultural Heritage Disputes** Alessandro Chechi, 2014-03-13

The past forty years have seen a wide proliferation of disputes under international law concerning cultural heritage These have included the restitution of stolen art objects or the protection of monuments Unlike other fields of international law international cultural heritage law does not have an ad hoc mechanism of dispute settlement As a result controversies are to be settled through negotiation or if it fails through existing dispute resolution means This can result in similar cases being settled in different ways thereby bringing about an incoherent and fragmentary enforcement of the law This book offers a comprehensive and innovative analysis of the settlement of cultural heritage disputes This examination is two fold First it

assesses the existing legal framework and the available dispute settlement means Second it explores the feasibility of two solutions for overcoming the lack of a specialized forum The first is the establishment of a new international court The second concerns existing judicial and extra judicial fora and their interaction through the practice of cross fertilization The book focuses on the substance of such interaction and identifies a number of culturally sensitive parameters the common rules of adjudication It argues that existing judicial and non judicial fora should adopt a cross fertilizing perspective to use and disseminate jurisprudence containing these common rules of adjudication It sets out how such an approach would enhance the effectiveness and coherence of decision making processes and would be conducive to the development of a *lex culturalis* This can be defined as a composite body of rules designed to protect cultural heritage by excluding the mechanical application of the norms established for standard business transactions of ordinary goods

*Cultural Property Law and Restitution* Irini A. Stamatoudi, 2011-01-01 This invaluable book for the first time brings together the international and European Union legal framework on cultural property law and the restitution of cultural property Drawing on the author's extensive experience of international disputes it provides a very comprehensive and useful commentary Theories of cultural nationalism and cultural internationalism and their founding principles are explored Irini Stamatoudi also draws on soft law sources ethics morality public feeling and the role of international organisations to create a complete picture of the principles and trends emerging today

*Cultural Property in Cross-Border Litigation* Mara Wantuch-Thole, 2015-03-10 This thesis comparatively investigates into the cross border enforcement of claims to misappropriated cultural objects initiated by states It identifies and categorises sovereign rights in cultural property and discusses the legal mechanisms to successfully implement these rights in foreign courts The results may be used by government officials museum officials lawyers art historians archaeologists art dealers academics

*Indigenous Peoples' Cultural Property Claims* Karolina Kuprecht, 2013-11-19 This book analyses the legal aspects of international claims by indigenous peoples for the repatriation of their cultural property and explores what legal norms and normative orders would be appropriate for resolving these claims To establish context the book first provides insights into the exceptional legislative responses to the cultural property claims of Native American tribes in the United States and looks at the possible relevance of this national law on the international level It then shifts to the multinational setting by using the method of legal pluralism and takes into consideration international human rights law international cultural heritage law the applicable national laws in the United Kingdom France and Switzerland transnational law such as museum codes and decision making in extra legal procedures In the process the book reveals the limits of the law in dealing with the growing imperative of human rights in the field and concludes with three basic insights that are of key relevance for improving the law and decision making with regard to indigenous peoples cultural property

Protection of Geographic Names in International Law and Domain Name System Heather Ann Forrest, 2017-03-15 Written by internal counsel for internal counsel clear concise and inspirational Personifies

that the benefit of the bargain is not simply a game of numbers Ute Joas Quinn Associate General Counsel Exploration and Production Hess Corporation Spot on A user friendly book that I was using before I reached the end It made me think more creatively about all my negotiations to come A must read for every current and future in house counsel Cyril Dumoulin Senior Legal Counsel Global Litigation Shell International A lively entertaining work A multi faceted approach to the art of negotiation A convincing demonstration of what it is about and how it actually works Isabelle Hautot General Counsel International Expertise Orange Telecom A clear and most comprehensive not to mention practical book on negotiation I picked it up and could not put it down Wolf Von Kumberg former Associate General Counsel and European Legal Director Northrop Grumman Corporation Chairman of the Board of Management Chartered Institute of Arbitrators Director American Arbitration Association Member ArbDB It has been such a pleasure to read what is destined to inspire in house counsel and many others for negotiating deals and settlements It covers the landscape from both theoretical and practical angles I found myself nodding in recognition and agreement all along the way Leslie Mooyaart former General Counsel KLM Royal Dutch Airlines former Vice President and General Counsel APM Terminals Maersk Chairman The New Resolution Group

**Standard-setting in UNESCO.** Abdulqawi A. Yusuf, 2007 Standard setting represents one of the main constitutional functions of UNESCO and an important tool for realizing the goals for which the organization was created In addition to conventions and recommendations the declarations adopted by the General Conference promulgate principles and norms intended to inspire the action of member states in specific fields of activity Topics addressed in the first volume include methods of elaboration and implementation constitutional objectives and legal commitments international collaboration and impact Volume 2 contains conventions and agreements adopted by the General Conference and by intergovernmental conferences convened by UNESO itself or jointly by UNESCO and other international organizations as well as the recommendations issued by the General Conference and UNESCO declarations Together these two volumes compose an invaluable commentary and reference work that should be of interest to scholars practitioners diplomats policy makers and students of international organizations Publisher s description

**Private International Law, Art and Cultural Heritage** Christa Roodt, 2015-04-30 In this timely book Christa Roodt demonstrates how the structure and method of private international law can be applied in its expanding relationship with cultural heritage law In particular she explores the use of private international law in the co

The Return of Cultural Artefacts Alper Taşdelen, 2016-09-24 This book analyses the instruments and approaches offered by public international law to resolve cultural heritage related disputes and facilitate the return of illicitly transferred objects to their countries of origin In addition to assessing the instruments themselves their origins and their advantages and disadvantages it also examines the roles and interests of the actors involved Lastly the book explores the interaction between hard and soft law approaches the reasons for and importance of this interaction as well as its consequences

**The Oxford Handbook of International Cultural Heritage Law** Francesco Francioni, Ana Filipa

Vrdoljak,2020-07-30 This Handbook provides a cutting edge study of the fast developing field of international law on the protection of cultural heritage by taking stock of the recent developments and of the core concepts and current challenges The legal protection of cultural heritage has come under renewed focus from the international community and states since the 1990s This is evidenced by the adoption of a range of international instruments Countries are also enacting cultural heritage legislation or overhauling existing laws within their own national territory Contributions address the protection of immovable and movable tangible and intangible cultural heritage in peacetime and in the event of armed conflict as well as the interaction between specific regimes of cultural heritage protection with other fields of international law including international criminal law human rights and humanitarian law environmental law international trade investments and intellectual property The last part of the Handbook covers diverse regional systems of heritage protection

**Research Handbook on Intellectual Property and Cultural Heritage** Stamatoudi, Irini,2022-07-21 This important Research Handbook offers a comprehensive analysis of the intersections between intellectual property IP and cultural heritage law It explores and compares how both have evolved and sometimes converged over time how they increased tremendously in significance as well as in economic value despite the fact that the former mainly pertains to the private sphere whilst the latter is considered a common good

*Standard-Setting at UNESCO* Abdulqawi A. Yusuf,2007-10-31 Standard setting represents one of the main constitutional functions of UNESCO and an important tool for realizing the goals for which the Organization was created In addition to conventions and recommendations the declarations adopted by the General Conference promulgate principles and norms intended to inspire the action of Member States in specific fields of activity This first of a two volume work on Standard setting in UNESCO contains the essays presented at a symposium held on the occasion of its sixtieth anniversary Topics addressed in Normative Action in Education Science and Culture include methods of elaboration and implementation constitutional objectives and legal commitments international collaboration and impact

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**State Succession in Cultural Property** Andrzej Jakubowski,2015 Through a historical analysis of state dissolution and succession and its impact on cultural heritage from 1815 to present day this book identifies guiding principles to facilitate the conclusion of agreements on the status of cultural property following the succession of states

Yearbook of Cultural Property Law 2009 Sherry Hutt,David Tarler,2016-12-05 The Yearbooks of Cultural Property Law provide the key up to date information and analyses that keep heritage professionals lawyers and land managers abreast of current legal practice including summaries of notable court cases settlements and other dispositions legislation government regulations policies and agency decisions Interviews with key figures refereed research articles think pieces and a substantial resources section round out each volume Thoughtful analyses and useful information from leading practitioners in the diverse field of cultural property law will assist government land managers state tribal and museum officials attorneys anthropologists archaeologists public historians and others to better preserve protect and manage cultural

property in domestic and international venues In addition to eight practice area sections federal land management state and local tribes tribal lands and Indian arts marine environment museums art market international enforcement actions the 2009 volume features an interview with an important figure in the field and original articles on new ICOMOS rules on dispute resolution Section 47 of the Internal Revenue Code risk and fair market value of antiquities the visual artists rights act and religious free exercise and historic preservation All royalties are donated to the Lawyer s Committee on Cultural Heritage Preservation



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