

ART AND CULTURAL HERITAGE

Art and Cultural Heritage provides appropriately more than a comprehensive in-depth analyses of national and international laws respecting cultural heritage. It is a bubbling caldron of law mixed with ethics, philosophy, politics, and working principals about 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 its individuals. 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 their 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. Given the range of topics discussed with scholarship and clarity, the book is a resource to assist government and business policy makers, cultural resource professionals, and others whose activities impact the cultural and natural environment as well as the casual reader seeking to gain an in-depth understanding of the critical issues facing the protection of our global heritage in the twenty-first century.

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Art and Cultural Heritage

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Edited by

Barbara Hoffman

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Alvaro Soto is the Director of Expedition America and an Anthropologist from Universidad de los Andes. He received his master of arts and PhD. from the University of California, and completed his post-doctoral studies in Environment and International Relations at the Royal Society of Canada. He is President of Neotropico, a center for the study of the neotropics. He is also a University professor and serves as Executive Secretary for the Commission on Developing Countries and Global Change and was in charge of the preparation and publication of the book titled *For Earth's Sake*, presented as the position paper to the Earth Summit in Brazil in 1992. He is Senior Fellow of the International Federation of Institutes for Advanced Studies. Has been Chairman of the Department of Anthropology at the Universidad de los Andes, Director-General of the natural parks system of Colombia, and Director of the Colombian Institute of Anthropology. Mr. Soto has published several articles and books on environmental issues and on his exploration and discovery of the Lost City of the Tayronas in the Sierra Nevada de Santa Marta, Colombia. He has produced several documentaries such as "Secrets of the Choco," a film on the Pacific coast of Colombia and its future. He has worked extensively among the indigenous and black communities of Colombia, particularly those on the Pacific coast, Amazonia, the Caribbean coast, and the Sierra Nevada.

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María Margarita Suárez García served as an expert at the National Museum of Fine Art in 1968 and has been the Director of the Museum of Colonial Art in Havana since 1969. She is currently also the Deputy Director of Museology in the Department of Cultural Heritage of the Office of the Historian of the City of Havana. Ms Suárez holds a degree in Art History from the University of Havana's Faculty of Arts. She completed her post-graduate studies in the same faculty, as well as at the Ministry of Culture's

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National Centre for Conservation, Restoration and Museology. She has undertaken research into museum collections and Colonial Cuban furniture, and has contributed to the *Thesaurus of Decorative Arts*, published by the Ministry of Culture. In 1987, Ms. Suárez attended a training course on museum work in the former USSR. She has also attended courses on educational work in museums and the protection of historical heritage organised by the Spanish Agency for International Cooperation. Ms. Suárez has participated in various national and international gatherings related to the registration and documentation of museum collections and colonial art.

Maria Rosa Suárez-Inclán Ducassi is a lawyer specializing in law and International relations. She is also one of Spain's most highly regarded experts based on her long experience in the field of conservation and the law as it relates to the legal protection of historic heritage. She is President of both the Spanish National Committee and the International Scientific Committee on Cultural Routes of ICOMOS. Ms. Suárez-Inclán Ducassi is also a member of the Executive Committee of ICOMOS. Indigenous Librarians' Forum Organizing Committee, 1999–2000, and edited their *Proceedings* (Auckland: Te Ropu Whakahaau, 2001). He created and maintained the first Maori Web directory organized by subject, *Nga Matatiki Rorohiko*, 1995–2001, at The University of Auckland Library. In 2001, this directory was transferred to form the basis for the Maori section of the National Library of New Zealand's Te Puna Web Directory (<<http://www.auckland.ac.nz/lbr/trout/trout.htm>>). He is also a board member of the New Zealand Electronic Poetry Centre (<<http://www.nzepc.auckland.ac.nz>>).

Elizabeth Torres is an architect specialising in the restoration of monuments and historic sites. She holds a masters degree in social sciences, with a focus on anthropology, as well as a diploma in the rights of indigenous and primitive peoples. Ms. Torres is the Director of the National Museum of Bolivian Ethnography and Folklore. She was previously the Director of the National Institute of Artistic Heritage and Visual Arts of Bolivia and the Founder and Executive Director of the Rehabilitation of Sucre's Historic Areas Programme. Ms. Torres is Professor of Architectural History and the History of Latin-American Urbanism at Nuestra Señora de la Paz University and a consultant of the project to rehabilitate the historic areas of Cochabamba, organised by the University of San Simon. She is a member of the National Association of Architects of Bolivia, ICOMOS, ICOM, and SIARB.

Fred J. Truslow is the founder and chairman of the Board of the Institute for Latin American Art Documentation, a U.S. foundation for documenting and protecting Latin American cultural patrimony. As a lawyer (District of Columbia and New York), he specialised in housing and urban development (1970–80) and in corporate law, leveraged mergers and acquisitions, and financial transactions (1980–90). From 1990 to 1999, he was active in a private investment firm. During the 1980s, he represented the government of Peru in the recovery of cultural patrimony. Mr. Truslow was educated at Harvard Law School (Juris Doctor 1964 and Yale College, Bachelor of Arts, 1961).

Alida Tua is the Vice President of ARPAl. She received a doctorate in philosophy from the University of Rome and a doctorate in psychology from the University of Padova. She is a member of the Board of the Società Europea di Cultura, headquartered in Venice, and the Associazione per la Ricerca Contro il Cancro in Rome.

Juan Carlos Uribe was the Associate Director of the Intellectual Property Department of Cavalier Abogados (1990–3) and the founder, Partner and Director of the Intellectual Property Department of Vernot Abogados (1993–5). He currently lectures on Intellectual Property Law at the University Politecnico Grancolombiano. Mr. Uribe studied at the School of Law, Colegio Mayor de Nuestra Señora del Rosario (JD, 1988), the University of Kent at Canterbury (LLM in International Commercial Law, 1989), and the University of Pennsylvania (LLM in Intellectual Property and Entertainment Industries, 1990). His publications include *The Protection of Trade Secrets and Confidential Information* (1989). He is a member of the Copyright Society, the American

Intellectual Property Law Association, the Colombian Copyright Centre, an officer of the Committee on Art, Cultural Institutions and Heritage Law of the International Bar Association, and the University of Pennsylvania Alumni Association.

Juan Antonio Valdés received his Ph.D. in Archaeology from the Sorbonne University in 1983. He has published six books on Mayan civilisation and has lectured at many universities in the United States, Europe, and Latin America. He has written more than 100 articles on the results of his work at many first-class archaeological sites, including Tikal, Uaxactun, Copán, Dos Pilas, Kaminaljuyu and others. Professor Valdés has taught at San Carlos University since 1986 and served as Guatemala's Director of Cultural Heritage from 1996 to 1998.

Jorge Velarde is a senior partner of Rodrigo, Elias & Medrano Abogados. He chairs the Regulatory Group and is a member of the Finance Group in the firm's Lima office. He specializes in transportation finance, infrastructure, insurance, and mergers and acquisitions. He has participated in important international transactions, mainly representing foreign clients in the acquisition of Peruvian corporations and in the privatization of state businesses in several industries. Mr. Velarde is a graduate of the Catholic University of Peru and a member of the Lima, American, and International Bar Associations.

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Wend Wendland is a lawyer, with a Masters of Law degree in intellectual property law. He practised as an intellectual property, competition law, and media law attorney, and is now Head of the Traditional Creativity and Cultural Expressions Section, Global Intellectual Property Issues Division, of the World Intellectual Property Organization in Geneva, Switzerland.

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Johannes Christian Wichard, a national of Germany, holds a masters degree from Harvard Law School and a doctorate in law from Tübingen University, Germany. Before joining WIPO in 1998, he was responsible for trademark and unfair competition law in the German Federal Ministry of Justice, and, before that, taught German and international private law at the Universities of Tübingen and Berlin.

Doğan Yağiz is head of the Legal Department of GAMA holding A.S., and is a leading Turkish contractor dealing internationally in large-scale industrial and infrastructure projects. He has represented the European International Contractors at the International Bar Association San Francisco Conference in 2003, where the paper formulating his chapter in this book was first presented. He is experienced in construction and energy law.

Preface and Acknowledgments

The field of art and cultural heritage law has expanded greatly since John Henry Merryman and Albert E. Elsen first published in 1979 their ground-breaking treatise based on the first course in art law at Stanford University, entitled, "Law, Ethics and the Visual Arts." The field of art law and cultural heritage law at that time was a specialty the contours of which were amorphous and not adequately defined.

As a young practitioner in the field in the early seventies, my starting point was always some other area of the law; i.e., commercial law, copyright, or trusts and estates, to which I tried to bring a special focus as to how those particular areas mixed with the specific concerns of artists or the particular qualities of artworks and the idiosyncrasies in the art world. Stephen Weil's decision to create the ALI-ABA Museum and the Law course was most welcome to assist practitioners and museum counsel in sharing information as the law developed. Similarly, the law of international cultural heritage and cultural heritage policy at that time was underdeveloped, causing Professor Merryman to apologize for so often quoting and citing his own articles.

Since that time, international protection of cultural heritage has become a common topic in legal literature, conferences, and international fora, with several international conventions having been negotiated and ratified. In addition, a specialized body of law is developing as it relates to artworks and cultural resources. At every level, from international conventions to national and local legislation, works of art and cultural resources are being singled out for special treatment; however, the mixture of art and law is still not entirely soluble and basic principles of general law applied to art and cultural property disputes may lead to incongruous and disparate results. It is still an ongoing debate as to how much more the law must change to accommodate the specific needs required to protect the natural and cultural heritage. Despite the growth in the fields, no comprehensive book on international art and cultural heritage law currently exists.

The occasion of the annual meeting of the International Bar Association in 2001 in Cancun, Mexico, and a generous grant from the Ford Foundation of US\$40,000 permitted the International Bar Association's (IBA) Committee on Art, Cultural Institutions and Heritage Law, the Latin American and Caribbean Steering Group, and the International Council of Museums (ICOM), to organize an interdisciplinary conference and invite distinguished speakers from the region to discuss the various political and legal national initiatives of countries in Latin American and the Caribbean for protecting cultural heritage in the context of international law.

Referred to as "source nations" in literature and international debates, the voices of these nations had not often been heard in the legal and academic conferences in the United States and Europe. There is a tendency in this field to focus on the United States, Europe, and the Mediterranean; Africa, Latin America, and the Caribbean Basin are parts of the world that tend to be overlooked.

The success of the e-book and the interest of various communities within and outside the IBA, coupled with the growing interest in this field led to the decision to substantially revise and expand the publication beyond Latin America and, more importantly, to address other topical areas in greater depth, albeit maintaining our original vision and goals. *Art and Cultural Heritage: Law, Policy, and Practice* is the

result of this decision. In addition to our original co-sponsor, ICOM, we are also joined in this publication by the International Council on Monuments and Sites (ICOMOS). The members of both organizations have contributed significant chapters to this book and literally helped to make it possible. The outstanding contributions of these two non-governmental international organizations in the ongoing struggle to preserve, protect, and manage cultural heritage is evident throughout the discussions in this book.

Art and Cultural Heritage: Law, Policy, and Practice was written and revised with the intention of appealing to a broad, as well as a specialized, readership. Increasingly, there are a number of desk or reference books on art law or art and cultural heritage law and in the related fields of our participating committees, which provide forms and guidance as to how or how not to approach a particular project or transaction. For that reason, also, we have omitted specific chapters on artists' rights and other topics related to the individual artist as well as the collector and the auction house – important players and stakeholders in the development of cultural heritage policy – not because such topics are unimportant to art law but because there is a surfeit of articles and literature on these topics, at least in the United States.

The book is unique in its breadth and in the voice it gives to constituencies who do not usually converse. It has been my privilege to invite from around the world, authors who are outstanding and distinguished in their area of expertise – experts, practitioners, academics, and individuals from diverse disciplines and sectors, including law, politics, museums, archaeology, anthropology, architecture, art history, business, and traditional knowledge. Obviously, each of the parts of this book could be the subject of a separate volume. Even each chapter could be the subject of a separate book. We have provided practical information as well as policy questions for further discussion. Most contributors have also provided useful Web site links and extended bibliographies to permit those interested in acquiring a more in-depth understanding of the subjects and issues presented to do so.

A publication such as this, taking nearly four years from its initial conception, can only be accomplished with the guidance and assistance of numerous people. At the outset, this book would not be possible without the authors' contributions. To them, I express my deepest gratitude for their wise counsel, generosity and dedication in managing to find time in their active professional lives to share their valuable knowledge and expertise. Similarly, this book could not have been possible without the support of the co-sponsoring organization, and their officers and staff to whom I am also more grateful: publication, Manus Brinkman, former Secretary of ICOM; John Zvereff, Secretary of ICOM; Alissandra Cummins, President of ICOM; Gaia Jungeblodt, Director of ICOMOS; James K. Reap, President, ICOMOS International Committee on Legal, Administrative & Financial Issues; and Michael Petzet, President of ICOMOS. I should also like to acknowledge the Ford Foundation and the International Bar Foundation, Inc. for their financial support.

Thanks also to the International Bar Association: Mark Ellis, its Executive Director, Andrew Primrose, Past President of the IBA Section on General Practice, L. Tom Forbes, Chair of the IBA's Public and Professional Interest Division, Paul Crick, its director of publications, the officers of the Committee on Art, Cultural Institutions and Heritage Law who have contributed their support before and during the time of my leadership as chair, particularly Judith Hill of Farrer & Co., John Heurta, General Counsel of the Smithsonian Institution, Juan Carlos Uribe of Triana Uribe and Michelsen, John Rubinstein of Rubinstein Phillips, and the chairs of the IBA committees who cooperated with us in the development of various programs from which some of these chapters are derived, notably Clive Elliott of Shortland Chambers and co-chair of the Committee on Intellectual Property and Entertainment Law, Dr. Christian Breitzke of Lebuhn & Puchta LLP and Maritime and Transport Law; Michael E. Schneider of Lalive Partners, and Ange Sandberg of Skanka International Civil Engineering AB, International Construction Law; Gabrielle Williamson of Heuking Kuehn Luer Woitek and chair of the Environment, Health and Safety Law

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Committee; Louis van Wyck of Spoons & Fischer and vice chair of the Products Liability and Advertising Committee; Russell Raikes of Cohen Highly LLP, and David Paterson of David Paterson Law Corp., chairs of the Indigenous Peoples Committee; Claus von Wobeser of Von Wobeser y Sierra S. C. and Dominique Beserk Brown of BMG Avocats, chairs of the Dispute Resolution Section; and last but certainly not least the always inspiring and quick-witted chairs of the Committee on International Sales, James Klotz of Davis & Company and Jonathan P. Wood of Clyde & Co. I also note the contribution of Jack Batievsky, whose early support in his capacity as chair of the Latin American and Caribbean Steering Committee was critical to the initial success of the conference and e-book. His untimely death in 2002 is a significant loss to all of us.

Finally, my acknowledgment must be made to my assistant, Abigail Martin. Without Abigail's dedicated and superbly competent support in helping to put this manuscript together and her enthusiasm for the subject and to John Berger, Senior Editor of Cambridge.

Barbara Hoffman
March 2005, New York

Statements from Sponsoring Organizations

The International Bar Association The global voice of the legal profession

In its role as a dual membership organisation, comprising about 16,000 individual lawyers and more than 190 Bar Associations and Law Societies, the International Bar Association (IBA) influences the development of international law reform and helps shape the future of the legal profession. Its member organisations cover all continents and include the American Bar Association, the German Federal Bar, the Japan Federation of Bar Associations, the Law Society of Zimbabwe, and the Mexican Bar Association.

Grouped into two divisions – the Legal Practice Division and the Public and Professional Interest Division – the Association covers all practice areas and professional interests. It provides members with access to leading experts and up-to-date information in addition top-level professional development and network-building opportunities through high-quality publications and world-class conferences. The IBA's Human Rights Institute works across the Association, helping to promote, protect, and enforce human rights under a just rule of law, and to preserve the independence of the judiciary and the legal profession worldwide.

The IBA, through the committees that make up its divisions, has a long tradition of publishing, in cooperation with leading publishers, books that offer the practitioner an in-depth analysis of current legal issues with a uniquely global perspective. *Art and Cultural Heritage: Law, Policy, and Practice* admirably continues this tradition. Its genesis was in the IBA Annual Conference held in Cancun in 2001, from which grew the IBA's first e-book. The interest in this, from various committees and fora within the IBA and beyond, led directly to this current volume, which the IBA is proud and pleased to support.

With topics as diverse as illicit traffic in cultural property, developing conservation strategies for national heritage areas, protecting underwater cultural heritage, and the role of museums and their stewardship of cultural property, *Art and Cultural Heritage: Law, Policy, and Practice* will be of interest to practitioners working in many areas of law, as well as museum professionals and anyone involved in the management and protection of cultural resources; indeed it will be of great interest to anyone who cares about the world's natural and cultural resources. Lawyers can and do play an important role, working alongside conservation and cultural heritage professionals, in safeguarding the treasures of the world, especially in today's international society, where national borders are becoming increasingly open. *Art and Cultural Heritage: Law, Policy, and Practice* not only comments on current issues in this arena, it moves the debate forward by highlighting new problems and issues.

As Editor, Barbara Hoffman has undertaken a huge task in bringing together contributors from all continents and from organisations such as the World Bank, the United Nations Educational, Scientific and Cultural Organization (UNESCO)

and the World Intellectual Property Organization (WIPO or OMPI). The IBA would particularly like to note the support of the International Council of Museums and the International Council on Monuments and Sites. It is the IBA's aim to encourage exchange of information throughout the global legal community in accord with its role as the global voice of the legal profession. With this book, Barbara Hoffman has more than achieved this aim and I congratulate her and thank her for the many hours of work she has put into making it a reality.

Francis Neate
President, International Bar Association

March 2005

The International Bar Association

As Co-Chair of the “Human Rights Institute” and former President of the International Bar Association, I am very glad to present this inspiring and interesting book.

Some years ago, I had the privilege and good fortune to learn about the energetic and challenging efforts Barbara Hoffman was undertaking in connection with her work as Chair of the International Bar Association’s “Committee on Art, Cultural, Institution and Heritage Law.”

Today such efforts have produced this splendid book.

Let me take this opportunity to remind that human rights are central among the purposes of the United Nations, as proclaimed in its own Charter, which states that they are “for all without distinction.”

Human rights are not a privilege but, instead, they are natural-born rights of a universal nature, as written into the Universal Declaration of Human Rights, the Preamble of which proclaims that they are a “common standard” for all peoples and for all nations.

They are further of an indivisible, interdependent, and interrelated nature. This is to mean that political, cultural, social, economic, and civil rights are to be construed as a system, in their entirety.

Human rights, however, do not impose one single cultural standard. They respect every single one. Instead, they provide the minimum protection required to preserve human dignity. They are not oriented nor are they representative of any particular culture to the exclusion of others, but allow a healthy cultural variation without compromising the “minimum standards” they do set.

In fact, they facilitate respect for and protection of cultural diversity because they are predicated in the belief that every human being has the right to culture, which includes the right to enjoy his or her own particular identity.

On the other hand, cultural rights are not, however, unlimited.

They are clearly limited, like most rights, at the point at which they may infringe or violate the human rights of others.

This is so because no right can be abused at the expense or destruction of another. Cultural rights, therefore, cannot justify in any manner the denial or violation of human rights and fundamental individual freedoms.

Cultural “relativism”; i.e., the assertion that values vary a great deal according to different cultural perspectives, cannot – under any circumstance – be used or claimed as an excuse to violate or deny human rights.

The aforementioned means that there are substantive limitations on cultural behaviors or practices, even when they seem to be based in well-entrenched traditions.

No culture – as a nonstatic mutable historical formation – could, for example, be used to justify torture or slavery, nor to protect discrimination based on sex, race, ethnicity, or religion.

Having said that, it is also clear that there is a lot of room for cultural variation without compromising the “minimum standards” of human rights, as they are established by international law.

Let me say, in closing, that in our own daily efforts we are definitely encouraged by the fact that the author and all the collaborators who have produced this excellent book, whom we congratulate, have undertaken the adventure of putting together this useful tool that we definitely welcome.

Emilio J. Cárdenas
*Co-Chair of the Human Rights Institute of
The International Bar Association*

The International Council of Museums

The International Council of Museums (ICOM) was created in 1946, almost sixty years ago, and over this period some remarkable improvements have taken place in the field of cultural heritage protection. Nevertheless, the battle is far from won and this second edition of *Art and Cultural Heritage: Law, Policy, and Practice* provides valuable insight into current practices and policies. It is therefore a source of great pride for ICOM to be co-sponsoring this publication, which succeeds in putting the whole issue of cultural heritage legislation into perspective and will undoubtedly make a significant contribution to raising awareness at all levels.

ICOM is a nongovernmental organization and a nonprofit association, primarily financed by membership fees and supported by various public and private organizations. Today, six decades since its foundation, the organization has become a unique, culturally diverse network of individuals and institutions that voluntarily contribute their expertise and resources to the preservation and protection of cultural and natural heritage. ICOM's more than 20,000 members – institutional as well as individual – in 148 countries; its 116 national committees, twenty nine international committees, fifteen international affiliated organizations, and six regional organizations attest to its inclusive cultural diversity, and are a tribute to the role it plays for the profession and for the world community.

After the reconstruction from the devastation of World War II, ICOM's role has been in constant evolution, adapting its structure and focus to the needs of the times. From originally orchestrating the profession's response to the recovery of the damage inflicted upon the world's cultural heritage by the ravages of war, the organization has concentrated on communicating this very heritage as a means to ensure and preserve core values of humanity.

Throughout, ICOM never lost sight of its memberships' needs: publications, courses, training session, capacity building workshops, seminars, and regular General Conferences have been and are organized all over the world to promote networking and the exchange of expertise among museum professionals.

The organization recognized that it was also being called upon to set the standards for museum governance and professional practices and, in 1986, it established a Code of Professional Ethics, of compulsory adherence by all of its members and institutions. Translated into many languages, the Code of Ethics has become a benchmark for all its members and, indeed, for any professional museum body.

The awareness of a pervasive globalizing process that threatens the identity of minority cultures – and with it, world cultural heritage as a whole – prompted ICOM to embrace initiatives to protect cultural diversity. One such initiative is now one of ICOM's major commitments: the ongoing battle against the illicit traffic of cultural property that erodes the identity of communities by depriving them of referential elements of their cultural heritage. Public awareness campaigns were

launched with the simultaneous publications of illicit traffic-prevention tools, such as the *100 Missing Objects* series (four volumes to date), later complemented by the Red List publications (Chapter two; see bibliography) featuring culturally protected objects, which were complemented by the more recent addition of Object ID, the minimum standards for describing art objects developed by the J. Paul Getty Institute and now administered by ICOM. Governments, international agencies, museums, and art institutions were all enlisted in this truly arduous battle, where ICOM has scored significant victories. Manus Brinkman, former Secretary General of ICOM, has devoted an article to this subject in the present volume.

As illicit traffic has increasingly become the object of international and national legislation, new issues are coming to the fore, issues on which ICOM will have to take a stance: restitution and repatriation of cultural property, as well as, perhaps, a role in mediating corresponding out-of-court disputes. In addition, ICOM will be taking a proactive approach to the preparation of mechanisms responding to the needs of countries caught up in the devastation that accompanies natural as well as manmade disasters. Already established is our Museum Emergency Preparedness Programme, recently supported by the creation of the Disaster Relief Web site and Task Force tasked with communicating needs and identifying the ways in which ICOM can best help in the event of an emergency.

ICOM has also identified the need for the complementary and comprehensive protection and preservation of both intangible and tangible heritage, positioning museums as essential partners in the process of developing national regional strategies for the implementation of the International Convention for the Safeguarding of the Intangible Cultural Heritage. This action signals ICOM's preoccupation with such global measures and mirrors the organization's active engagement in the process of elaborating a strong, principled position with respect to international conventions for the protection of cultural heritage. Working to advance the notion of an inclusive and unified approach to the safeguarding, identification, and conservation of cultural heritage in all its aspects is a challenge thrown out to all heritage agencies. ICOM, as mandated by its General Assembly, is poised to respond by reshaping itself into a more flexible and capable organization equipped to address the challenge of change and diversity. This it must do by fostering a visionary spirit capable of stimulating the increased involvement of the broad range of membership in upholding and fostering its core values.

This book will give the reader a comprehensive view of the present international legislative environment, which will, to a considerable extent, determine the future priorities and role of our Organization. We look forward to meeting the challenge.

Alissandra Cummins
*President, International Council
of Museums
Director, Barbados Museum and
Historical Society*

John Zvereff
*Secretary General, International
Council of Museums*

International Council on Monuments and Sites

ICOMOS, the International Council on Monuments and Sites, is a nongovernmental organization of professionals dedicated to the conservation of the world's cultural heritage. It provides a forum for professional dialogue and a vehicle for the collection, evaluation, and dissemination of information on theory and practice of conservation. Founded in 1965, following the adoption of the Charter for the Conservation and Restoration of Monuments and Sites in Venice, ICOMOS has 8,000 members in more than 120 countries. Headquartered in Paris, ICOMOS is officially recognised as an advisory body to UNESCO, actively contributing to the World Heritage Committee and taking part in the implementation of the World Heritage Convention of 1972.

The International Scientific Committee on Legal, Administrative and Financial Issues (ICLAFI) is one of twenty-five ICOMOS International Committees of professionals with common interests who are organized for dialogue and dissemination of information specific to their particular disciplines. ICLAFI was established at a meeting in Weimar, Germany, in April 1997. The committee meets, generally on an annual basis, to explore the comparative legal aspects of a particular theme. Its objective is to promote, consistent with the aims of ICOMOS, international cooperation in the identification, study, and solution of legal, administrative, and financial issues in connection with the protection, maintenance, and conservation of monuments and sites.

It was therefore with great pleasure that we welcomed the generous offer of our ICOMOS colleague, Ms. Barbara Hoffman, Chair of the International Bar Association (IBA) Committee on Art, Cultural Institutions and Heritage Law, to make available the Committee's online publication, "*Legal and Other Issues in Protecting Cultural Heritage: The Latin American and Caribbean Experience in Context*" through a link on the ICOMOS Web site. The IBA solicited additional papers from interested ICOMOS members to expand the publication beyond its primary focus on the illicit traffic and looting of archaeological sites in Latin America to include materials on the preservation of immovable cultural heritage. Because ICOMOS provides the broadest worldwide forum for issues regarding preservation of monuments and sites, it seemed appropriate to provide our members an opportunity to share their professional perspectives, and their papers are included in the current volume, which is the culmination of the IBA effort to increase international dialogue on heritage conservation issues.

ICOMOS members are eager to develop an ongoing collaborative effort with IBA to promote a dialogue on issues involving cultural heritage in all its aspects. This publication is a positive step in that process. Certain papers may represent personal opinions, perhaps even controversial ones, but we believe that the expression of conflicting opinions is a positive contribution to the global debate.

International Council on Monuments and Sites

ICOMOS is pleased to have been invited to foster discussion and advance the legal protection of the cultural heritage in all regions of the world through participation in this forum.

James Reap
President of ICLAFI

Michael Petzet
President of ICOMOS