

Contents

<i>Foreword</i>	<i>page xi</i>
<i>Acknowledgments</i>	<i>xiii</i>
<i>List of Treaties and Other Legal Instruments</i>	<i>xv</i>
<i>List of Abbreviations</i>	<i>xvii</i>
Introduction	1
1 Issues in the Field	2
1.1 Lack of Clarity	2
1.2 Lack of Coherence	4
1.3 Reciprocity versus Atomization of the Rules	6
1.4 Destruction during “Peacetime”	7
1.5 Revisionism and Idealism	8
2 Contribution to the Field	10
2.1 A Coordinated Approach	10
2.2 Identifying International Cultural Heritage Law	12
2.3 Discovering Principles Specific to the Protection of Cultural Property in Armed Conflict	13
2.4 Analyses of Current Conflicts	14
3 Some Caveats Regarding Scope	14
4 Chapter Summary	16
1 Two Wrong Ways of Thinking about the Legal Protection of Cultural Property in Armed Conflict	18
1 Revisionism	19
1.1 The 1907 IV Hague Regulations	20
1.2 The 1954 Hague Convention	24
1.3 The Two Additional Protocols of 1977	28

1.4	The 1999 Second Protocol	31
1.5	The 2003 UNESCO Declaration	35
1.6	Final Remarks	37
2	Idealism	37
2.1	The Effect of the ICTY and ICC Statutes on the 1954 Hague Convention	38
2.2	The ICTY Case Law and the 1954 Hague Convention as Customary International Law	39
2.3	The <i>Erga Omnes</i> Nature of Cultural Heritage Obligations	41
2.4	The Human Dimension of Cultural Heritage Law?	43
3	Conclusion	46
2	The Systemic Approach: International Cultural Heritage Law and Armed Conflict	48
1	The Search for a Branch of International Law	49
1.1	Systematization and the Problem of Identity	49
1.2	How Can We Identify a Branch of International Law?	51
1.3	Principles and Telos	53
2	International Cultural Heritage Law	54
2.1	Preliminary Considerations	54
2.2	The Principle of Prevention	57
2.3	The Principle of Relative Interest	58
2.4	The Principle of Differentiated Duties	61
2.5	The Principles of International Cultural Heritage Law: Its Telos	62
3	The Principles of International Cultural Heritage Law in Armed Conflict	63
3.1	The Principle of Prevention	63
3.2	The Principle of Third- and Fourth-Order Distinction	64
3.3	The Principle of Relative Proportionality: Collateral Cultural Damage	65
4	Conclusion	67
3	The World Heritage Convention as the Field's Common Legal Denominator	69
1	The World Heritage Convention: Background and Characteristics	70
2	The World Heritage Convention's Unique Features	73
3	The World Heritage Convention as the Field's Common Denominator: Systemic Integration and <i>Effet Utile</i>	74

4	Possible Objections	76
4.1	The Binding Nature of the World Heritage Convention	76
4.2	The Applicability of the World Heritage Convention in Armed Conflict	80
4.3	“Why Bother? States Would Never Accept This”	88
4	Syria: A Case Study of the Interplay between the World Heritage Convention and the 1954 Hague Convention	92
1	The Background of the Armed Conflict and the Role of Cultural Property	94
2	Preventive Measures	98
2.1	Syria and the Preventive Measures of the 1954 Hague Convention: Their Implementation and Limitations	99
2.2	The 1954/1972 Legal Framework	102
3	The Obligations of Respect during Armed Conflict under the 1954/1972 Framework	111
3.1	The Meaning of the Terms “Measures” and “Deliberate”	112
4	Reaching Out to the Common Parties to the Conventions	118
5	Conclusion	119
5	Libya and Mali: A Case Study of the Interplay between the World Heritage Convention and the Second Protocol	121
1	The Conflicts in Libya and Mali	122
1.1	Libya	122
1.2	Mali	127
1.3	A Final Remark: The “Bamiyanization” of World Cultural Heritage	131
2	Preventive Supplementary Measures in the 1999/1972 Framework	132
2.1	Safeguarding Measures	132
2.2	Precautions during the Hostilities	135
3	The Relationship between World Cultural Heritage and the Enhanced Regime of Protection	136
3.1	A Tripartite System	136
3.2	The Meaning of “Deliberate Measures against World Cultural Heritage” in the 1999 Second Protocol	137
3.3	The Relationship between the Enhanced Protection List and the Lists of the World Heritage Convention	139
4	A Critique of the Individual Criminal Responsibility for Violations of the Framework’s Obligations	143
5	Conclusion	145

6	2003 Iraq and Afghanistan: The World Heritage Convention as the Lowest Legal Common Denominator for the Protection of Cultural Heritage in All Contexts	146
1	The World Heritage Convention as the Lowest Legal Common Denominator in Armed Conflict and Occupation: The Minimum Framework	146
1.1	The Iraq War	149
1.2	The Minimum Framework: A Summary	156
2	The World Heritage Convention as the Lowest Legal Common Denominator in Armed Conflict and Occupation: The Buddhas of Bamiyan and the Minimum Rule	157
3	Conclusion	160
	Conclusion	162
1	Clarity over Basic Concepts	162
2	The Issue of Coherence and the Regime for World Cultural Heritage	165
3	The Atomization of Rules	166
4	Final Remarks	167
	<i>Bibliography</i>	169
	<i>Index</i>	185