Book Reviews


This collection of essays arose from the legal sessions of a conference held in Palermo and Siracusa in March 2001. There are 20 papers in total, each written in one of the three official languages of the conference. Eleven of the papers are in English, eight in Italian and one in French. Many of the authors are Italian scholars, writing in both English and Italian. Others are well-known scholars in the field from various parts of the world. The context for the conference, and the book, was the UNESCO initiative to produce an international convention for the protection of the underwater cultural heritage. Indeed, the conference coincided with the start of the final round of negotiations that eventually led to agreement of a final text. The UNESCO Convention on the Protection of the Underwater Cultural Heritage was adopted in November 2001 and the foreword to the book states that the papers have been updated to take this into account.

The essays are split into five sections. Section I, entitled “Cultural Heritage and International Law”, is introductory in nature and does not relate specifically to the underwater cultural heritage. The first, very short, essay by Francesco Francioni (in English) identifies some general principles of international law applicable to the protection of the cultural heritage. The second paper, by Manlio Frigo (in Italian), considers issues relating to the movement and restitution of cultural goods from an international perspective.

The second section of the book is entitled “Underwater Cultural Heritage: Selected Cases”. It comprises five essays, mainly concerned with bilateral agreements relating to specific wrecks. The first contribution, by Constance Johnson (in English), outlines the Agreement between Australia and the Netherlands Concerning Old Dutch Shipwrecks 1972. One of the most interesting aspects of this Agreement is the detailed provision it makes for the disposition of recovered artefacts. However, while Johnson describes the provision that is made, she does not go on to consider in any detail the provision in today’s context, especially in light of the principles enshrined in, and underlying, the UNESCO Convention. (Her final two sentences are tantalising...)

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because they refer briefly to this issue but do not fully address it.) The next paper, by Guido Acquaviva (in English), considers the case of the Confederate raider CSS Alabama. Acquaviva provides some well-researched historical background to the loss of the Alabama before commenting upon the bilateral agreement between France and the USA in respect of the wreck, the Steinmetz case concerning ownership of the ship’s bell, and US policy in respect of sunken warships. His essay is followed by another piece on the Alabama (this time in Italian), by Tullio Scovazzi, joint editor of the collection. Manuela Matera then considers (in Italian) two agreements relating to British warships: the 1989 Exchange of Notes between the UK and South Africa in respect of HMS Birkenhead, and the 1997 Memorandum of Understanding between the UK and Canada concerning HMS Erebus and HMS Terror. The final paper in this section is by Roberta Garavello (in English). This essay differs from the others in this section in that it does not focus on a bilateral agreement. Instead it uses the judgment of a US District Court in the Subaqueous case in 1983 (in which it was concluded that an abandoned shipwreck fell within the category of “natural resources” for the purposes of a US statute) as the basis for a discussion of the rights of coastal states over shipwrecks on the continental shelf and in the exclusive economic zone (EEZ). This essay is particularly interesting in view of the significance of Article 10(2) of the 2001 UNESCO Convention, which affords state parties the right to prohibit or authorise activities on their continental shelf or in their EEZ in so far as such activities interfere with their sovereign rights, including their rights over natural resources. Regrettably, Garavello does not go on to comment upon the implications of Article 10(2) itself, especially given that it is probably the most powerful provision of the new Convention.

The next section of the book, entitled “The Negotiations for the UNESCO Convention”, comprises six essays. The first, by Patrick O’Keefe (in English), contains an interesting discussion of the International Law Association draft convention, which formed the basis for the UNESCO Convention. A short essay then follows by Ariel Gonzalez (in English), which examines what the author characterises as “myths” (but which others may see as valid viewpoints) concerning the nature and role of the Convention, which Gonzalez believes unnecessarily impeded the negotiations. The next two contributions, one written by Tullio Scovazzi and the other by Guido Carducci (both in English), focus on the UNESCO Convention itself and discuss it in detail. Both are well informed and provide some thought-provoking comments on, and analysis of, the Convention. Carducci’s piece is particularly valuable because it is substantial (over 80 pages) and provides one of the most detailed evaluations of the Convention published to date. (In fact, it is an expanded version of Carducci’s article published in the American Journal of International Law in April 2002.) The penultimate essay in this section, by Vittorio Mainetti (in Italian), relates to coastal state jurisdiction over archaeology. Finally, a very short paper by Roberta Garavello (also in Italian) provides some general comments on the UNESCO negotiations.