

LAW AND THE CULTURAL HERITAGE,  
VOLUME 3: MOVEMENT by P J O'Keefe and L V Prot, t,  
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Since the middle of last century, tourism has become an increasingly dominant part of the world economy. In Australia, for example, it ranks as one of the leading export industries — there is truth in the statement that Australia is a mine, farm and hotel for the rest of the world. An integral part of tourism (at least for Europeans and other Westerners) is the visiting of museums, art galleries, places of religious and historical significance, theatres and other places of interest. Invariably such places contain objects which have been produced, either in the past or the present, by one or more cultural traditions. Frequently, such objects were not produced by the culture of the country or region in which they are now located, but from a distant place (for example, Ming vases in the Topkapi Museum in Istanbul or Gothic altarpieces in the Metropolitan Museum of Art in New York).

This idea of the movement of cultural objects from their place of origin to another place is the theme of this new volume by two members of the Faculty of Law at the University of Sydney. Although written by lawyers, the work is not limited to legal concerns, but also takes into account philosophical, historical, aesthetic, archaeological and anthropological concerns and interests. As such it is likely to be of interest to a wide circle of readers — lawyers, museum curators, professional archaeologists and anthropologists, auctioneers, government officials and others. Similarly, its focus is not parochial and restricted to Australian concerns. The focus of this volume is breathtaking in its scope, covering legislation enacted by the majority of the world's sovereign States (and many of their political sub-divisions) and over 70 international legal instruments.

Within the theme of movement the authors address a wide range of issues, including the difficulties in determining which cultural objects should be protected by enacting controls on their movement (for example, there is no need for controls on wooden handicrafts mass produced by modern Indonesian artisans, but few would disagree with ensuring the monuments at Borobudur remain intact), the damage which has been (and continues to be) caused by the illegal trade in artworks, antiquities and other cultural objects, the difficult question of return of cultural objects to their place of origin, the need for access to museum collections and the risks posed by the international exhibition of significant cultural objects, government incentives to ensure works of art are retained within a particular jurisdiction, export and import controls and the recovery of objects illegally or unlawfully removed from one place to another and whether the concepts of "property" and "ownership" (which are central to Western jurisprudence, but are not necessarily so significant in other legal systems) are appropriate in this area of law. The authors examine critically the range of legal rules and regulations which have been used to enforce behaviour relating to the movement of cultural objects (for example, in Australia, the *Protection of Movable Cultural Heritage Act* 1986 (Cth), various Customs Regulations, National Parks legislation and the

*Income Tax Assessment Act 1936 (Cth)* and the community interests which have led to the enactment of such rules and regulations.

Chapter 14 contains a detailed discussion of the 1970 Unesco Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property to which 65 sovereign States are party. Other international legal instruments are referred to in the 16 chapters of the book and the themes of "nationalism" v "internationalism" and the limitations on the effectiveness of national legislation alone recur throughout the text.

The volume at over 1,000 pages takes time to read and at times the reader is overwhelmed by detail, but as the authors note in their conclusion (paragraph 1701):

The issues relating to movement of the cultural heritage are immensely complex — hence the length of this book. But, for the proper development of cultural policy, for the least use of cultural material, for ensuring public access to important segments of cultural history and simply for the provision of aesthetic and intellectual stimulation, these issues have to be understood and the complexities wrestled with.

The reader will be rewarded by persevering to the end as Pat O'Keefe and Lyndel Prott have sought to understand law in its social and historical context and identify the concerns and needs of a wide range of interested groups in regulating the movement of cultural objects. They offer guidance to what approaches have been successful in the past and what approaches have been shown to be lacking in one or more respects. This analysis will enable legislators to update and revise the rules and regulations for the protection and preservation of the cultural heritage — law can never be static and should be constantly reviewed to meet the expectations of a changing community.

The present volume is the second in a planned series of five volumes. Volume 1 was published in 1984 and examined the legislative controls over the discovery and excavation of cultural objects. In some respects it is unfortunate that volume 2 dealing with the creation and preservation of cultural objects has not been published. The two existing volumes of the series have a heavy emphasis on archaeological relics and antiquities, whereas (as the authors readily acknowledge) the cultural heritage is a much wider and expansive concept. Volume 4 will focus on the immovable cultural heritage (monuments and sites).

The fifth and final volume will perhaps be the most significant contribution for lawyers since it will analyse the emergence of a cultural heritage law, the concept of cultural property and the need for law to respond to changing human needs. It is to be hoped that the remaining three volumes in the series will be published more frequently than one every five years.

In addition to being a valuable treatise on the legal issues associated with the movement of cultural objects, volume 3 is also a major reference work containing a list of judicial decisions from many jurisdictions, an extensive index of national and international legislation, a comprehensive bibliography and index of conference materials and a detailed index. In his review of Volume 1 of *Law and the Cultural Heritage: Discovery and Excavation*, Professor David Johnson (formerly Challis Professor of International Law,

University of Sydney) stated that the authors are bringing great credit both to the University of Sydney and to the Faculty of Law. Volume 3 of *Law and the Cultural Heritage: Movement* demonstrates that the authors are continuing to do so.

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