

Wywiad z prof. Aną F. Vrdoljak Ana F. Vrdoljak Talks to Alicja Jagielska-Burduk

Professor Ana F. Vrdoljak works at the University of Technology Sydney, teaching courses on international law and cultural heritage, and formerly served as Dean of Research at the UTS Faculty of Law. She is also the author of *International Law, Museums and the Return of Cultural Objects* as well as the editor of the Oxford Handbook on International Cultural Heritage Law. Her tenure as both an attorney and academic have allowed her to develop several successful initiatives, including a UNESCO Chair in International Law and Cultural Heritage at UTS dedicated to the intersection of cultural heritage law and gender studies (currently in progress).

As a General Editor, with Francesco Francioni, of the Oxford Commentaries on International Cultural Heritage Law (Oxford University Press) and member of the Advisory Board, International Journal of Cultural Property (Cambridge University Press) you see from the editor's perspective how many scholars are engaged in culture related legal issues. Is the number of lawyers growing?

The International Journal of Cultural Property established by the late Professor John Henry Merryman several decades ago has been under the editorship of a number of scholars that have ensured its growth and prestigious. I am particularly grateful, as I am sure the rest of my colleagues on the Advisory Board are, to the current editor Alex Bauer and our publisher Cambridge University Press. The journal remains an important vehicle for leading scholarship in the field of cultural heritage protection for lawyers and non-lawyers alike. Likewise the Cultural Heritage Law and Policy book series which I co-edited with Professor Francesco Francioni have been designed as an avenue for established and emerging scholars to showcase their most recent research in our field; and while the Oxford Commentaries on International Cultural Heritage Law, also co-edited with Professor Francioni bring together

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contributors from each region of the world to provide definitive commentaries on each of UNESCO Culture Conventions. The latter is modelled on the World Heritage Commentary prepared by Professors Francioni and Federico Lenzerini published by Oxford University Press in 2008. We are grateful to Oxford University Press for taking on this immense and important project. The commercial viability of these endeavours reflects the growth in the interest and importance of the field of cultural heritage law generally. We are especially pleased several volumes in the book series will shortly be translated into Chinese.

There are so many branches of international law. Why have you chosen cultural heritage legal issues as your main area of research? Passion, strategy or coincidence or else?

To be honest, I can't say that it was strategy. As a child, I was always drawing and painting and it had been assumed that I would go to art school after high school. Indeed, I applied to art school, was interviewed but never received a reply. So I went to law school instead, completely a Bachelor of Arts in Fine Art History and Theory and Bachelor of Laws degree. The law somewhat runs in my family as do the arts so the intention was always to combine both fields of interest. After practicing as a lawyer for almost a decade, I returned to the academy to complete a PhD which on a topic which again combined the law and cultural heritage and their role in society. The urgency of my research was driven by the questions arising in Australia at the time (questions that remain unanswered) concerning the state's relationship with Aboriginal and Torres Strait Islanders and the wars unfolding in my parents' former homeland.

As a former associate Dean (Research) in the Faculty of Law UTS you are familiar with all problems that legal scholars are facing at the universities nowadays. What do you think is more dangerous: a competition between academics in applying for grants or concentration on scientific career and perceiving it as a project with all parts of the project management triangle (time, scope and costs)?

Universities like most public institutions face ever increasing external pressures but from government and the public. Accountability and transparency should be expected universities as it should of all public institutions. It is also important to remember both the responsibility we have as academics to undertake research often covering some of society's most pressing issues to ensure that it is accessible not only to other scholars but to the broader public; but also as we train



future legal practitioners and legal scholars through our teaching. It is important never to lose sight that both are inextricably entwined and reinforce each other. There is little doubt that our profession and the academy is changing rapidly and these changes bring greater demands and challenges on our time and resources. My role as Associate Dean (Research) at UTS Law certainly brought this to the fore for me. I have always been appreciative of those that are prepared to take on these large administrative roles. It is an appreciation which deepened during my time as ADR. But the essence of what we are as academics and lawyers and the attendant responsibilities remain. It is this which I tried to impress upon my colleagues. The grants and publications are a means to achieving these ends, not an ends in themselves. They enable us to increase the scale or scope of the project, and further the dissemination of the research results and findings, but it is that engagement with fundamental societal concerns through our research and teaching which must always be our guiding role.

Being a part of the UNITWIN/UNESCO Network is very important for universities. It not only confirms the previous achievements of the team and its leader, but also gives many possibilities for the future projects. This year a new UNESCO Chair of International Law and Cultural Heritage at the UTS with you as a chairholder will be constituted. Just to add, there are only around 80 chairs world wide dealing with culture. What are your plans for the 2019 – publications or perhaps some innovative projects with the use of new media?

The new UNESCO Chair in International Law and Cultural Heritage which has been confirmed by UNESCO and the University of Technology Sydney will be a wonderful opportunity to broaden scholarship and training in the field of international cultural heritage law in Australia, our region and globally. I am grateful to my international collaborators to agreeing to taking on this initiative, including Dr Alicja Jagielska-Burduk, herself a UNESCO Chair in Cultural Heritage Law at the University of Opole, Poland. And I, of course, look forward to meeting up regularly with other UNESCO Chair holders who form part of the UNITWIN/UNESCO Network. The first phase of this UNESCO Chair initiative will concentrate on preparing the Commentary on 1970 UNESCO and 1995 UNIDROIT Conventions together with research and training programmes designed to build capacity among Indigenous peoples and women in respect of cultural heritage protection. The latter part of this project especially as it relates to training will certainly be using new media and technologies to achieve its aims and for this reason it is fortuitous that this UNESCO Chair is located at the University of Technology Sydney.

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In one of your articles you mentioned a possible framework instrument, “like the Council of Europe’s Faro Convention, which gives an overarching set of principles inspired by developments in human rights and environmental law, by which all existing international cultural heritage treaties must be interpreted”¹. Could you elaborate further on this?

UNESCO and indeed the Council of Europe have a suite of specialist Culture treaties which were adopted over decades. Each of these instruments reflects the historical preoccupations and the political and diplomatic dynamics of the period in which they were drafted and adopted. These have necessarily changed over time and in many ways the various operational and oversight frameworks and their related guidelines which have developed alongside them have helped these instruments evolve to better serve the needs of the present. However they still very much continue to operate in silos. And despite ongoing efforts within UNESCO to facilitate some measure of cooperation, this remains to the case especially in respect of the UNESCO Culture conventions. One response to this issue by the Council of Europe was to adopt the Convention on the Value of Cultural Heritage for Society, or the Faro Convention, in 2005. This was designed as a framework convention intended to aid in the interpretation and implementation of existing Council of Europe treaties in the field of culture. It was intended to bring the principles contained in the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, also known as the Aarhus Convention into the field of cultural heritage protection, but in a more qualified way. Nonetheless it is clear that recognizing interests of others beyond States in respect of cultural heritage it has enabled the reinforcement of the ongoing cross-fertilization of this field with human rights law, environmental law and state responsibility. The Council of Europe has also made it clear that it is shaping its culture and cultural heritage policies more broadly.

In 2018 we celebrate the *European Year of Cultural Heritage*. In the decision (EU) 2017/864 of the European Parliament and of the Council of 17 May 2017 on a European Year of Cultural Heritage (2018) one of the specific objectives is to encourage synergies between cultural heritage and environment policies by integrating cultural heritage into environmental, architectural and planning

¹ A.F. Vrdoljak, *Challenges for International Cultural Heritage Law*, in: W. Logan, M. Nic Craith and U. Krockel (eds), *Blackwell Companion to the New Heritage Studies*, J Wiley and Sons, New York 2015, <https://ssrn.com/abstract=2518026> [accessed: 18.11.2018].

policies, and by promoting energy-efficiency. Sometimes natural environment is perceived as a part of cultural heritage for example in case of indigenous people and their sacred places. How does it work in Australia?

This recognition by the European Union is also reflected in the embedding of cultural heritage in the United Nations' Sustainable Development Goals (SDGs). Though it is clear that many States and non-state actors have advocated for an even more prominent role for culture (and the environment) in the SDGs. This step is yet another on the road to acknowledging the often symbiotic relationship between people, culture and environment. Indigenous peoples have emphasized this synergy for decades and it is clearly manifest in the Declaration on the Rights of Indigenous Peoples adopted by the UN General Assembly in 2007. It is a dynamic which is being recognized gradually through the work of international, regional and some national human rights bodies and courts, and international and regional organisations addressing environmental issues including natural disasters. It is also a development which emphasizes the need to defer to the knowledge and expertise of local communities, building their capacity and resilience at the local level, in partnership with national, regional and international organisations when required.

I noticed you are not only involved in indigenous people's problems, but also a great fan of indigenous Australian art. For foreigners indigenous Australian art is known for the dot painting. However behind the dots there is always a story with a symbolic meaning. Who is your favourite artist and why?

I was born in Australia and am fortunate to have Aboriginal and Torres Strait Islander friends and colleagues. They have taught me much over the years. It is also very true to say that without their patience and guidance my research would not have been as rich and relevant as it is. It is for the same reason that I have chosen to work by Aboriginal and Torres Strait Islander women artists both in my office and my home. They draw on the songlines of the Country where the artists were borne and reflect the longevity and resilience of their peoples and cultures on their lands. Although the 'dot' paintings are certainly the most publicly recognizable Aboriginal artworks, Indigenous artists are making significant contributions across various media including photography, weaving and sculpture, film and television and music. It is also important ethically that the artworks are purchased from cooperatives established by the artists and their communities or their agents. My favourite work? I have two small, early ochre paintings by Mabel Juli in my office. She is a Law

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woman from Warmun in Western Australia who started painting with Queenie Mackenzie. Although I have a window in my office, when the morning light hits the ochre on these canvases and sends transforms parts of it into shades of gold, one is transported to north western Australia. So I am deeply grateful to Mabel Juli for providing sharing this window into her Country.

Thank you for an inspiring interview.