Law School
Strathclyde Centre for Environmental Law and Governance

Seminar Series

University of Strathclyde
Humanities & Social Sciences

# Exploring the borderlands: the role of individual in International Cultural Law

## Biography

Valentina Vadi is Professor of International Economic Law at Lancaster University, United Kingdom. She formerly was a Reader in International Business Law at the same University (2013-2015), an Emile Noël Fellow at the Jean Monnet Centre for International and Regional Economic Law, at New York University (2013-2014), and a Marie Curie Postdoctoral Fellow at Maastricht University (2011-2013). Professor Vadi also lectured at Hasselt University (Belgium), the University of Rome III (Italy), the China EU School of Law (P.R. China) and Maastricht University (The Netherlands). She has published more than eighty articles in various areas of public international law in top journals, including the Vanderbilt Journal of Transnational Law, the Stanford Journal of International Law, the Columbia Human Rights Review, the European Journal of International Law, the Journal of International Economic Law and others. She is the co-editor (with Hildegard Schneider) of Art, Cultural Heritage and the Market: Legal and Ethical Issues (Springer: Heidelberg 2014), and (with Bruno De Witte) of Culture and International Economic Law (Routledge: 2015). Valentina Vadi is the author of Public Health in International Investment Law and Arbitration(Routledge, Abingdon 2012), Cultural Heritage in International Investment law and Arbitration (Cambridge University Press, 2014) and Analogies in International Investment Law and Arbitration (Cambridge University Press, 2016).

**Wednesday 12 October 2016**
12:00 – 14:00
University of Strathclyde
Lord Hope Building 228
141 St James Road
Glasgow G4 0LT (map)

The seminar is free but places are limited and light snacks will be provided.
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## Abstract

What is the role of non-state actors in international cultural law? These actors, including individuals, minorities, indigenous groups, NGOs, businesses and organised armed groups, lie at the heart of international cultural law, expressing many of its aims and strengths but also highlighting its borders. Private actors can be a force for good, investing in the recovery and exhibition of cultural heritage. Individuals are the holders of a range of human rights including cultural rights. The protection of cultural heritage can humanise conflict. Significantly, private actors have enacted elements of cultural law. For instance, the International Council on Monuments and Sites (ICOMOS) and other non-governmental organizations (NGOs) have adopted a number of instruments on the protection of monuments.

The changing role of private actors in international cultural law is particularly evident in cultural heritage-related disputes. Private actors often file claims against states for the recovery of cultural property looted in times of war or for the violation of cultural entitlements before human rights courts and tribunals. Private actors have filed admiralty claims to establish title to sunken vessels, upon which, in turn, states have asserted public-property and sovereign-immunity defenses. Foreign investors may also file claims against the host state alleging that the state's cultural policies amount to disguised discrimination or an indirect expropriation of an investment. Such disputes present a mixture of private and public interests, which at times coincide (i.e., the protection of a cultural item), and at times conflict (i.e., the clash of private economic or cultural interests with collective cultural or economic entitlements).

However, private actors can also show the limits of international cultural law. While non-state actors hold human and peoples' rights and economic actors enjoy particular entitlements under international economic law, they formally remain a peripheral subject of international cultural law. Moreover, international cultural law has traditionally underestimated and not adequately dealt with private activities jeopardising if not destroying cultural heritage. The privatization of some aspects of cultural heritage governance has been criticized by art historians because of the risk of overemphasizing the economic dimension of heritage. Investments in extractive industries can erase cultural heritage. The violations of cultural rights often do not receive the same condemnation of those of other human rights. International cultural law often lacks dedicated dispute settlement and effective enforcement mechanisms. Cultural heritage remains vulnerable in times of armed conflict. Finally, anthropologists highlight that the traditional notion of conservation privileges physical protection disembodying cultural heritage from their everyday context and their interaction with local communities ('heritagization of culture').

The proposed paper sets out to investigate the contribution of non-state actors to international cultural law. Its objective is to find out to what extent their changing role requires some fundamental rethinking of the current pillars of international cultural law, with particular focus on dispute resolution and enforcement mechanisms.