

REPORT ON THE ACTIVITIES AND PLANS OF THE ESIL INTEREST GROUP ON INTERNATIONAL LAW OF CULTURE 2023-2024



International Law of Culture Interest Group



Presentation

The ESIL Interest Group on International Law of Culture (Group) was established on 15 September 2018 at the ESIL 14th Annual Conference in Manchester. Since then, the activities of the IG have greatly developed focusing on a wide range of themes relating to this growing area of international law. Indeed, the main objective of the Group is not only to study the legal regulation of the spheres of culture and heritage but also to provide a platform for deep reflection on the cultural conditions and foundations of international law, its making and operationalisation.

Coordinating Committee

Beatriz Barreiro Carril (Rey Juan Carlos University, Madrid) * Giovanni Carlo Bruno (National Research Council of Italy, Naples) * Andrzej Jakubowski (Polish Academy of Sciences, Warsaw) * Lucas Lixinski (UNSW, Sydney).

Group's activities (October 2023 – October 2024)

Workshops

- **"Towards the 20th Anniversary of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions: Food for thought for the future. 15 Years of the UNESCO Diversity of Cultural Expressions Convention Actors, Processes and Impact". 29 February 2024, UNESCO Headquarters, Paris**

The IG co-organised a side event to the Seventeenth Session of the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions (27 to 29 February 2024) ([link](#)). The event's goal was to explore the current challenges of the 2005 UNESCO Convention and situate them in relation to, as well as to promote, the book *15 Years of the UNESCO Diversity of Cultural Expressions Convention Actors, Processes and Impact* (Hart, 2023; [link](#)) whose editors are IG convenors. The book already arose from a workshop titled '[15 years of the Convention for the Protection and Promotion of the Diversity of Cultural Expressions and Lessons for New Ways of International Law-Making: Actors, Processes, Impact](#)', hosted under the umbrella of the IG on 9 September 2021. The book served in this seminar as a springboard to explore how the Convention can fulfil its objectives in the near future, taking into account its forthcoming 20th anniversary. The event, supported by the Fédération Wallonie-Bruxelles, was aimed at both scholars and practitioners in the field of international law of culture and international cultural cooperation.

The panel, chaired by Hiroko Tsuboi-Friedman (Independent expert; International Federation of Coalitions for Cultural Diversity), included authors and editors of the book: Véronique Guèvremont (Laval University, Canada), Beatriz Barreiro Carril (Rey Juan Carlos University, Madrid), Andrzej Jakubowski (Opole University, Poland), Lily Martinet (French Center for Intangible Cultural Heritage), Lilian Richieri Hanania (Lawyer and researcher, Paris, São Paulo), Clémence Varin (Université Laval, Canada/ Université de Rennes 1, France), Giacomo Mazzone (Eurovisoni, General Secretary).

- **"Unpacking the Meaning(s) of 'Restitution' in International Law of Culture" . 16 April 2024 (online)**

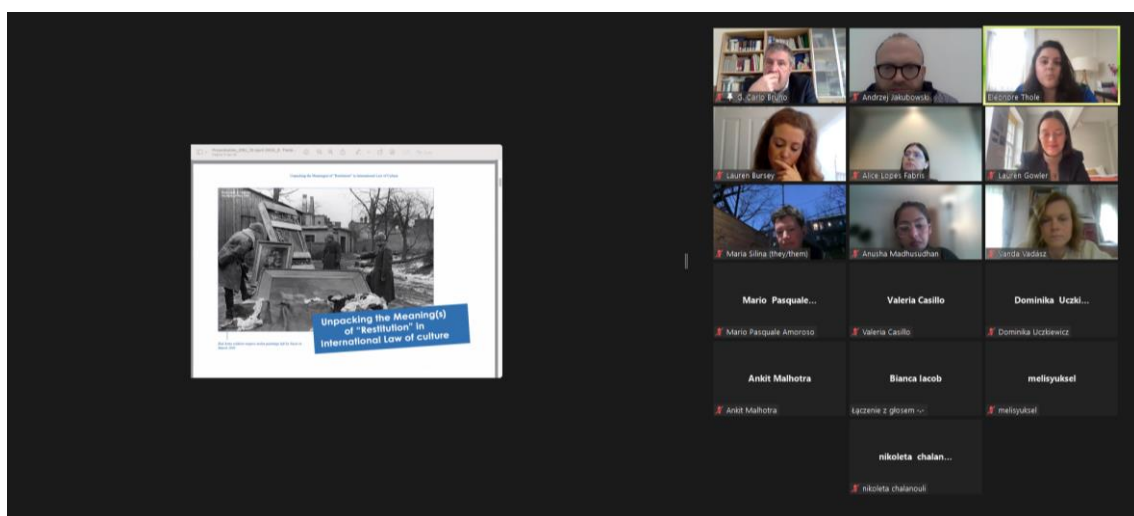
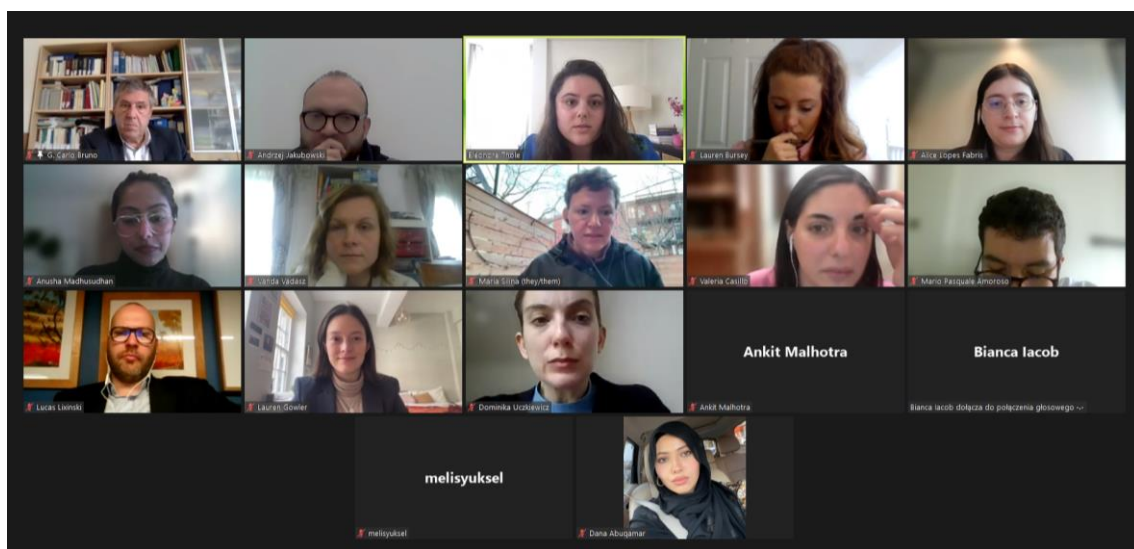
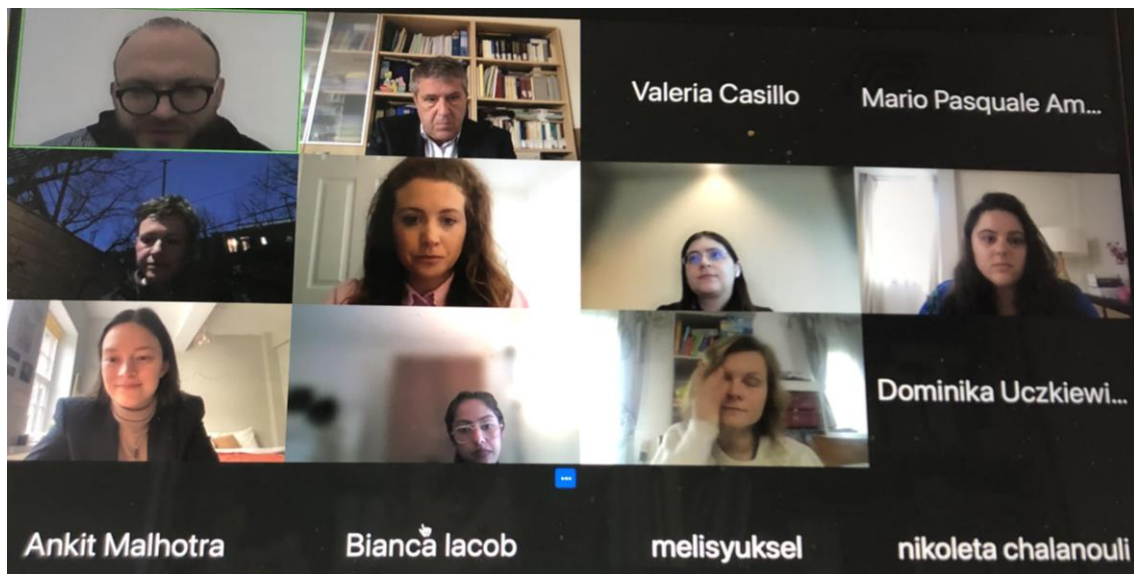
In the context of the 2024 ESIL Research Forum, the IG organised a pre-Forum Workshop online.

In international law of culture, “restitution” is used today in many contexts, has varying definitions and multiple contradicting components. Generally speaking, it denotes the reversal of an unlawful act involving the transfer, removal, damage or destruction of cultural heritage. In particular, it refers to movable heritage and to those situation(s) when the removal and displace of cultural objects occurred without the consent of the rightful owner or heritage community. It is usually understood as a tool to recovery of such objects which have left their countries of origin illegally, according to the relevant national legislation and/or in breach of international cultural heritage treaty obligations, in the event of an armed conflict and in peacetime. In relation to cultural wrongs, particularly taking of cultural objects, restitution thus presupposes the return of items to the rightful owner, territory or community of origin.

However, “restitution” may also refer to the broader issue of redressing or rectifying past cultural wrongs, even though no applicable laws in force at the time when the wrong occurred may not have been infringed. In this sense, the concept is related to restorative justice, closely linked to the legal frameworks of transitional justice that respond to the legacies of widespread and serious human rights violations. Hence it is also seen as crucial for global stability, peace and sustainable development, as addressed by the United General Assembly on several occasions, and recently by the UNESCO MONDIACULT Declaration (2022) endorsed by the vast majority of states of the world. Moreover, several Special Procedures of the United Nations Human Rights Council address restitution – whether directly or indirectly – as well as many national norms. These norms can stem from both statutory provisions and from “soft law” standards, like guidelines for museums. In this sense, many museums currently experience important changes in addressing the issue of “restitution” within the framework of decolonising their collections and practices.

The three sessions of the Workshop covered not only general questions on restitution, but also issues connected to specific countries, and offered some views on possible ‘future’ problems linked to special categories of goods and values.

The workshop’s programme is attached.



- **New Technologies at the Service of Cultural Justice. Pre-Conference Roundtable. 4 September 2024, morning (hybrid mode)**

The aim of this roundtable, organised on the occasion of the 19th ESIL Annual Conference in Vilnius (2024), was to debate the interaction between the technological advancement and cultural justice.

Technological change has transformed contemporary tools for the governance of and access to culture and cultural heritage. It has also affected the ways in which international law of culture is implemented. Some key developments include: the expansion of access to knowledge and opportunities to realize the right to participate in cultural life, the use of satellite imagery for the protection of historic sites and the inventorying of threats, programmes for the digital reconstruction and restoration of damaged or destroyed monuments and sites, the collection of evidence of international crimes affecting cultural life and heritage. Taken together, these developments perform a double movement: technological development influences how we develop culture, but also the needs of international law of culture shape the direction of technological development.

The workshop featured two sessions: New Technologies as a Vehicle of Interculturality and New Digital Technologies and Challenges of Intersectionality

The roundtable's programme is attached.

Other activities

Interest Group's future activities

The Interest Group's agenda for the forthcoming months comprises the following activities:

- **Support for initiatives by Group members**

The Group's Convenors regularly invite all IG members to submit their proposals for scholarly meetings and seminars, and encourage them to consider promoting their academic activities within the Group and among the wider ESIL community.

In addition, the IG created a Twitter/X account– (ESIL IG on International Law of Culture @ESILIGCulture) to be an information channel on relevant issues on heritage and culture, and on initiatives of IG Members and of the Group.

- **The multilingual scholarship bibliography on International Law of Culture**

The Group endorsed during its meetings the idea of creating and sharing a bibliography on International Law of Culture. While preparing a first version of the bibliography, with a specific attention to linguistic, cultural and geographical diversity, all Members are invited to submit ideas and entries.

- **2024-2025 ESIL events**

IG members have been invited to share ideas and topics to be developed in workshops, roundtable, seminars for the next ESIL events, in the forms (online, hybrid and in presence) envisaged by the ESIL Board and local organisers. The IG also plans to co-host 2-3 webinars with other ESIL IGs and with other learned societies, including the American Society of International Law, and to organise two book launches.

Annexes



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2024 ESIL Research Forum on “Revisiting Interactions between Legal Orders”

Unpacking the Meaning(s) of “Restitution” in International Law of Culture

Pre-Forum Workshop, ESIL Interest Group on International Law of Culture

16 April 2024

10:00 AM Nicosia (09:00 AM Rome) – 02:00 PM Nicosia (01:00 PM Rome)

9.00-09.10 – Introduction IG Co-Conveners

9.10-10.00 – General questions

- *Anusha Madhusudhan and Eva Keita (International Court of Justice)* – "Rethinking the legal framework for restitution of cultural heritage under international law"
- *Mario Pasquale Amoroso (University of Trento)* – "Repairing the environmental consequences of armed conflict: Ecosystem restoration as natural heritage restitution"

Q&A First round

10.00-11.50 – Country perspectives

- *Eléonore Thole (University of Amsterdam)* – "Twice Saved or Twice Looted? The Russian Trophy Art Law in the context of the Washington Principles"
- *Lauren Gowler (Queen Mary University of London)* – "A Journey of Reconciliation: Lessons from Indigenous Repatriation Efforts in Canada"
- *Lauren Bursey (London School of Economics and Political Science)* – "The evolution of cultural restitution through transnational legal process theory and the New York District Attorney"
- *Alice Lopes Fabris (Free University of Brussels)* – "The Restitution Of Indigenous Peoples' Sacred Sites: The Case Of Sagihengu And Kamukuwaká Sites (Brazil)"
- *Maria Silina (Ruhr University Bochum/University of Quebec in Montreal)* – "Restitution practices in the USSR: concepts and perspectives"

Q&A Second round

11.50-12.40 – A Focus on the future

- *Valeria Casillo (University of Naples Federico II)* – "A Museum Without Objects: Can Digital Returns of Colonial Archives Suffice?"

- *Ankit Malhotra (Supreme Court of India)* – "Beyond Restitution: The Challenges and Implications of Repatriating Colonial Artifacts to Contexts Lacking Preservation Capabilities"

Q&A Third round

12.40-01:00 – **Conclusion IG Co-Conveners**

Join Zoom Meeting:

<https://uw-edu-pl.zoom.us/j/92501827615?pwd=NkdwaXgxd2txZFByYU9mSCs3S3ZNdz09>

Meeting ID: 925 0182 7615

Passcode: 758004



New Technologies at the Service of Cultural Justice

2024 ESIL Interest Group on International Law of Culture Pre-Conference Workshop

19th Annual Conference in Vilnius

Technological Change and International Law

4 September 2024, morning, roundtable, hybrid mode
9:00-12:00

Technological change has transformed contemporary tools for the governance of and access to culture and cultural heritage. It has also affected the ways in which international law of culture is implemented. Some key developments include: the expansion of access to knowledge and opportunities to realize the right to participate in cultural life, the use of satellite imagery for the protection of historic sites and the inventorying of threats, programmes for the digital reconstruction and restoration of damaged or destroyed monuments and sites, the collection of evidence of international crimes affecting cultural life and heritage. Taken together, these developments perform a double movement: technological development influences how we develop culture, but also the needs of international law of culture shape the direction of technological development.

This roundtable organized within the framework of the 19th ESIL Annual Conference "Technological Change and International Law", deals with the former dimension, i.e. the roles, promises, and challenges of the use of new technologies in the international justice and accountability landscape in relation to culture and cultural heritage.

Participants:

Beatriz Barreiro Carril, Faculty of Law, Rey Juan Carlos University (Madrid, Spain)
Véronique Guévremont, Faculty of Law, Université Laval (Quebec, Canada)
Andrzej Jakubowski, Institute of Law Studies, Polish Academy of Sciences (Warsaw, Poland)
Clémence Varin, Faculty of Law, Université Laval (Quebec, Canada)

The roundtable is built on seven main questions/issues. Each participant will be asked to respond/comment briefly to each of them.

09:00-09:10 – Introduction – Andrzej Jakubowski

09:10-10:00 – Round 01 – New Technologies as a Vehicle of Interculturality

Moderator: Beatriz Barreiro Carril

- Interculturality is one of the key concepts marking the operation of the 2005 and 2003 UNESCO Conventions. To what extent can new digital technologies contribute to the achievement of equitable interaction of diverse cultures and the possibility of generating shared cultural expressions through dialogue and mutual respect?
- How can digital technologies promote linguistic diversity? What about the access and participation?
- How can digital technologies protect and promote the freedom of expression and thought in the era of political and social polarization?

10:00-10:20 – Break

10:20-11:20 – Round 02 – New Digital Technologies and Challenges of Intersectionality

Moderator: Andrzej Jakubowski

- How or to what extent does the development of digital technologies affect – mitigate or perhaps exacerbate – intersectional discrimination (based on gender, religion, age, race, wealth, and education) in accessing culture and participating in cultural life?
- Open culture and the right not to share and to protect one's group culture and heritage from external interference – how can digital technologies contribute to the preservation of and respect to diversity of minority and Indigenous cultures?
- Cultural sovereignty and digital hegemony: how does the influence of global digital market giants affect the realization of cultural human rights? Is there a need for regulatory intervention?

11:20-11:45 – Conclusions – Technological Change and International Law of Culture

Moderators: Beatriz Barreiro Carril & Andrzej Jakubowski

- What is the impact of the current technological change, particularly the development of artificial intelligence, on the broader field of international law of culture?

ESIL Interest Group on International Law of Culture – current agenda and future activities – Beatriz Barreiro Carril & Andrzej Jakubowski