CLT/CIH/MCO/2008/PI/69/REV

Protect cultural property in the event of armed conflict

Protéger les biens culturels en cas de conflit armé

Proteger los bienes culturales en caso de conflicto armado

THE 1954 HAGUE CONVENTION
AND ITS TWO PROTOCOLS

CONVENTION DE LA HAYE
DE 1954
ET SES DEUX PROTOCOLES

CONVENCIÓN DE LA HAYA
1954
Y SUS DOS PROTOCOLOS

UNESCO

United Nations
Educational,
Scientific and Cultural
Organization

Organisation
des Nations unies
pour l'éducation,
la science
et la culture

Organización
de las Naciones Unidas
para la Educación,
la Ciencia y la Cultura

The aim of this information kit is to:

i) encourage ratification of the 1954 *UNESCO Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict* and its two *Protocols* (1954 and 1999);
ii) contribute to celebrating the fiftieth anniversary of the 1954 *Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict* and its 1954 *Protocol* in 2004;
iii) contribute to celebrating the entry into force, in March 2004, of the 1999 *Second Protocol*;
iv) contribute to the dissemination of the 2003 *UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage;*
v) raise public awareness of the protection of cultural property in the event of armed conflict.

Ce dossier d'information a été réalisé pour :

i) encourager la ratification de la *Convention de La Haye de l'UNESCO pour la protection des biens culturels en cas de conflit armé* de 1954 et de ses deux *Protocoles* (1954 et 1999) ;
ii) contribuer à la célébration du cinquantième anniversaire de la *Convention de La Haye pour la protection des biens culturels en cas de conflit armé* et de son *Protocole* de 1954 en 2004 ;
iii) contribuer à la célébration de l'entrée en vigueur, en mars 2004, du *Deuxième Protocole* de 1999 ;
iv) contribuer à la dissémination de la *Déclaration de l'UNESCO concernant la destruction intentionnelle du patrimoine culturel* de 2003 ;
v) sensibiliser le grand public à la protection des biens culturels en cas de conflit armé.

Este dossier informativo tiene por objeto:

i) fomentar la adhesión a la *Convención de La Haya de la UNESCO para la Protección de los Bienes Culturales en caso de Conflicto Armado* de 1954 y a sus dos *Protocolos* (1954 y 1999);
ii) contribuir a la celebración del quincuagésimo aniversario de la *Convención de La Haya para la Protección de los Bienes Culturales en caso de Conflicto Armado* de 1954 y de su *Primer Protocolo* de 1954, que tendrá lugar en 2004;
iii) contribuir a la celebración de la entrada en vigor del *Segundo Protocolo* de 1999, que tendrá lugar en marzo de 2004;
iv) contribuir a la difusión de la *Declaración de la UNESCO relativa a la destrucción intencional del patrimonio cultural*, adoptada en 2003;
v) sensibilizar al público a la protección de los bienes culturales en caso de conflicto armado.

Design J.Gébara / Créagraphie 0156582844, Paris. creag@noos.fr

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Contents

The facts:

The increase in the number of international and non-international armed conflicts and the consequences for cultural heritage

Wars, confrontations and conflicts in general, between two or more opposed factions, have always represented a serious threat to the integrity of the cultural heritage located on their territories. Unfortunately, this threat most often materializes in the form of the destruction of significant amounts of cultural property (movable and immovable): monuments, religious sites, museums, libraries, archives, etc., thus depriving humanity of a shared and irreplaceable cultural heritage.

Although the practice has existed since ancient times, the destruction of cultural property has proved even more devastating since the introduction of aerial bombing and long-distance weapons. World War I resulted in the destruction of a large amount of cultural property in Rheims, Leuven and Arras, among many other examples, but World War II was even more traumatic, due to the regular nature of bombings, export of cultural property from occupied territories and, naturally, the geographical scope and duration of the conflict. There still remains a considerable number of disputes concerning cultural objects displaced during World War II, despite several multilateral and bilateral agreements, *ad hoc* negotiations between the former belligerents, and restitution proceedings before the national courts, either completed or ongoing.

Traditionally, the pillaging of cultural property proclaimed "spoils of war" has been deliberately carried out by the victor. Separate from this practice of "inter-state" plunder, there is "individual" pillaging made easy by the consequences of armed conflicts, especially if long-lasting and/or accompanied by a military occupation. These consequences include social and economic instability, poverty, weakening or even disappearance of the administrative authorities in charge of

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maintaining public order, etc. (unless temporarily replaced by the occupying authorities).

A new threat to cultural property emerged after World War II, as non-international and/or ethnic conflicts increased. Not only do these conflicts fall outside the scope of rules applicable to traditional "inter-state" conflicts, but their goal is often clearly to destroy the adversary's or the opposing "ethnic group's" cultural heritage. In addition, this destruction is facilitated by the geographical proximity and mutual knowledge of the cultural sites and property, as well as culture of the adversary.

This is exemplified by the destruction during the war in the former Yugoslavia, where cultural property that was not a military target was deliberately attacked by the opposing ethnic group, seeking to destroy the traces or symbols of the ethnic "enemy's" culture. Particularly significant examples include the bombing of the old town of Dubrovnik in Croatia and the destruction of the Mostar Bridge in Bosnia and Herzegovina.

These new challenges clearly show the need to improve protection of cultural property, particularly in the case of internal conflicts with an ethnic dimension. However, even this type of conflict should not be beyond the reach of the requirements for protection summarized in the eternal message – so often ignored in the reality of conflict – of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict: "… damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world."

Legal framework:

The state of International Law before the adoption of the 1954 Hague Convention

The facts previously described reminded us that the "right to spoils" of war of the victor, often associated with the destruction of cultural property remaining on the conquered site, characterizes most conflicts that have occurred since ancient times. If we look at the question from the legal standpoint, it was only from the 16th and 17th centuries onwards that the determination to protect artistic and cultural heritage appeared in international law. There are several historical reasons for this. First, works of art were increasingly recognized as specific objects as opposed to "ordinary objects" from the Renaissance onwards. Second, private property was increasingly recognized as legally distinct from the property of the "enemy" state or power. This meant that private property could enjoy a different and more enviable fate.

Peace treaties are particularly demonstrative of the slow but undeniable progress of international law on this issue. Starting with the Treaty of Westphalia (1648), more and more treaties included clauses specifically referring to cultural property (in the wide sense of the term as understood at the time) removed during the conflict, and often provided for its restitution.

Following progress both in ideas relating to the importance of art and cultural heritage and in fields of international law, the issue evolved from the *ad hoc* (specific to a given conflict and to the warring States concerned) codification, occurring only *a posteriori* (providing for restitution after the conflict) to *general* and *preventive* codification. Various legal instruments of quite diverse nature then appeared.

The *Instructions for the Government of Armies of the United States in the Field*, prepared by Francis Lieber and promulgated by President Lincoln as General Order 100, on April 24, 1863, provided for protection of cultural property: exempted from the main consequences of the traditional regime of capture and booty by the

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victor (Article 45); secured against all avoidable injury, even when they are contained in fortified places whilst besieged or bombarded (Article 35). If such cultural property can be removed without injury, the ruler of the conquering state or nation may order it to be seized and removed for the benefit of the said nation. In no case shall it be sold or given away (…), nor shall it ever be privately appropriated, or wantonly destroyed or injured (Article 36).

In 1874, at the *Brussels Conference*, a draft international agreement on the laws and customs of war was adopted, but it never came into force. This draft provided that all seizure or destruction of, or wilful damage to cultural property should be made the subject of legal proceedings by the competent authorities (Article 8). In addition, it was stipulated that in the event of a siege or bombardment, all necessary steps must be taken to spare, as far as possible, buildings dedicated to art, science, or charitable purposes (Article 17).

However, this protection during wartime became substantial and consistent in international law only through the recognition, consecrated during the two international conferences (1899 and 1907) of the specific nature of cultural property and of the need to protect it. The two *Hague Conventions* (*II* of 1899 and *IV* of 1907) achieved this goal through a general codification of the laws governing war on land.

In particular the *Convention (IV) respecting the Laws and Customs of War on Land* of 1907 provides, in Articles 27 and 56 of the *Regulations* found in the Annex to the Convention, for the protection of cultural property. Article 27, included in the Section on hostilities, asserts that: "In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, *historic monuments*, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes." It also states that: "It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand." Article 56, found in Section III concerning occupied territories, states that: "The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property. All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings."

In the same way, Article 5 of the *Hague Convention (IX) concerning Bombardment by Naval Forces in Time of War* of 1907 asserts that: "In bombardments by naval forces all the necessary measures must be taken by the commander to spare as far as possible sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on the understanding that they are not used at the same time for military purposes." Also: "It is the duty of the inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large, stiff rectangular panels divided diagonally into two coloured triangular portions, the upper portion black, the lower portion white." As in Article 27 of the Regulations of the Fourth Convention of The Hague of 1907, the protection is not absolute, as it is limited by a reservation concerning military necessity. This protection is also limited geographically to the immediate area of combat.

On 15 April 1935, the *Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments* (Roerich Pact) was signed in Washington. In its Article 1, it provides for the following: "The historic monuments, museums, scientific, artistic, educational and cultural institutions shall be considered as neutral and as such respected and protected by belligerents." It requires that the same respect be due to the personnel of the said institutions, in time of peace as well as in time of war. Article 2 specifies that the neutrality of, protection and respect due to, monuments and institutions is extended to the entire expanse of territories subject to the sovereignty of each of the Signatory and Acceding States.

In 1946, the importance of the 1907 Hague Regulations, annexed to Convention IV, was reinforced by the Nuremberg International Military Tribunal, which stated that these rules were "recognized by all civilized nations and were regarded as being declaratory of the laws and customs of war…". The vocation of the Regulations as international customary law, applicable in principle to the entire international community, was thus recognized.

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Conventional response of the international community within UNESCO:

The 1954 Hague Convention and its two Protocols (1954 and 1999)

◆ Background ◆ General principles
◆ The customary value of these principles

I. BRIEF HISTORY

Following World War II and its damage to, and destruction of, cultural heritage on an unprecedented scale, the international community made a determined decision to prepare an international convention to anticipate, and, if possible, to prevent future destruction of irreplaceable historical and artistic treasures. On the initiative of the Netherlands, UNESCO, during the 4th session of its General Conference (Paris, 1949), adopted Resolution 6.42.

The Secretariat then undertook work, the results of which were presented at the 5th session of the General Conference (Florence, 1950), which adopted Resolution 4.44, authorizing the Director-General to "prepare and submit to Member States a draft for an international convention for the protection, in case of war, of monuments and other objects of cultural value…". This was transmitted to the Member States, and the responses of their governments were submitted to the 6th session of the General Conference (Paris, 1951). The draft was then reworked by the International Council on Monuments, Artistic and Historical Sites and Archaeological Excavations, then re-submitted to the governments and revised by the Secretariat following their comments. The final revision by a Committee of Governmental Experts produced three separate documents (a commentary, a draft Convention and draft Regulations for its Execution), which were submitted to the 7th session of the General Conference (Paris, 1952). Following the work of this session, UNESCO accepted the offer from the Government of the Netherlands to host an Intergovernmental Conference.

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This Conference, held at The Hague from 21 April to 14 May 1954, led to the adoption, on 14 May 1954 of the *Convention for the Protection of Cultural Property in the Event of Armed Conflict, the Regulations for its Execution*, its *Protocol* and three resolutions.

A) *The Convention*

The Convention represents the first international multilateral treaty with a universal vocation exclusively focused on the *protection of cultural heritage in the event of armed conflict*. The Convention covers both movable and immovable property, including architectural, artistic or historical monuments, archaeological sites, works of art, manuscripts, books and other objects of artistic, historical or archaeological interest as well as scientific collections of all types.

B) *The First Protocol (1954)*

A *Protocol* specific to movable cultural property and the difficult issues of its restitution was adopted with the Convention. The Protocol prohibits the export of such property from the occupied territory and requires its return to the territory of the State from which the property was exported. With a rule of fundamental importance in that it excludes the submission of this "specific" property to the regime of war damages applicable to "ordinary" property, the Protocol prohibits the retention of cultural property as war reparations.

On 30 April 2004, 109 States were party to the 1954 Convention, and 88 of them to the Protocol.

C) *The Second Protocol (1999)*

The acts of barbarism committed against cultural heritage during the numerous conflicts that took place at the end of the 1980s and the beginning of the 1990s brought to the international community new challenges that were only partially taken into account during the negotiations of the Convention in the 1950s. Contemporary conflicts are often "internal" and of an "ethnic nature", thus not within the scope of the international law applicable to classic "inter-state" warfare. In addition, this type of conflict is often particularly destructive of cultural heritage, which is often directly and deliberately targeted to humiliate the opposing ethnic group, by taking away privileged evidence of its past, culture and heritage.

Starting in 1991, a process of review of the Convention began, and led to the negotiation and adoption in The Hague in March 1999 of a *Second Protocol* to the Convention. This Protocol strengthens several provisions of the Convention concerning the safeguarding of and the respect for cultural property and conduct during hostilities. It creates a new category, "enhanced protection", for cultural property of the greatest importance for humanity, protected by adequate legal provisions at the national level and not used for military purposes. It also increases effectiveness by directly defining the sanctions due in the event serious violations are committed against cultural property, and the conditions under which individual criminal responsibility applies.

This Protocol also establishes an institutional element: the *Committee for the Protection of Cultural Property in the Event of Armed Conflict*. The Committee

consists of twelve States Parties, and is in charge of ensuring the implementation of the Second Protocol.

The Second Protocol entered into force on 9 March 2004 for its first twenty States Parties. Another important step in the international protection of cultural heritage has thus been achieved.

II. GENERAL PRINCIPLES OF THE CONVENTION AND ITS TWO PROTOCOLS

A) The definition of cultural property

There is no *universal legal* definition of cultural property – it varies according to the applicable national legislation or international instrument.

Each prescriptive instrument contains its own definition. The 1954 Convention (Article 1) and its two Protocols define cultural property as follows – irrespective of origin or ownership:

- Movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
- Buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);
- Centres containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as "centres containing monuments".

B) The States Parties must principally adopt the following protective measures:

1) *Mainly during peacetime*

- Prepare for the safeguarding of cultural property situated within their own territory (Article 3 of the Convention). Article 5 of the Second Protocol also provides for: the preparation of inventories, the planning of emergency measures for protection against fire or structural collapse, the preparation for the removal of movable cultural property or the provision for adequate *in situ* protection of such property, and the designation of competent authorities responsible for the safeguarding of cultural property. It should be stressed that these measures often prove very useful not only in the event of armed conflict, but also in the event of natural disaster or as an effective method of fighting illicit trafficking in cultural property.

- Consider the possibility of placing a limited number of refuges, monumental centres and other immovable cultural property under "special" protection (Chapter II of the Convention and Articles 11 to 14 of the Regulations for its Execution) following an entry in the "International Register of Cultural Property under Special Protection". In addition, "enhanced" protection is provided for in Chapter 3 of the Second Protocol.
- Consider the use of the special distinctive emblem to facilitate identification of cultural property (Articles 6, 16 and 17 of the Convention and Article 20 of the Regulations for its Execution).
- Plan or establish, in peacetime within their armed forces, services or specialist personnel whose purpose will be to secure respect for cultural property and to co-operate with the civilian authorities thereon (Article 7 of the Convention).
- Widely disseminate the text of the Convention (Article 25) and that of the Second Protocol (Article 30).
- Remove to the maximum extent feasible, movable cultural property from the vicinity of military objectives, and avoid locating military objectives near cultural property (Article 8 of the Second Protocol).
- Take, within the framework of their ordinary criminal jurisdiction, all necessary steps to prosecute and impose penal or disciplinary sanctions upon those persons, of whatever nationality, who commit or order to be committed a breach of the Convention (Article 28 of the Convention). This obligation is reinforced by Chapter 4 of the Second Protocol concerning serious violations and other offences, as well as provisions in terms of penal procedure and legal cooperation.

2) *During armed conflict*

- Respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any act of hostility directed against such property (Article 4(1) of the Convention). This obligation is reinforced by the provisions of Chapter 2 of the Second Protocol, and, in particular by Articles 6, 7 and 8 regarding the respect for cultural property, precautions against attack and the effects of attack. Respect for cultural property also applies to conflicts that are not of an international character (Article 19 of the Convention) and, in addition, all the provisions of the Second Protocol are applicable to this type of conflict (Article 22).
- Refrain from any act directed by way of reprisals against cultural property (Article 4(4) of the Convention).
- Prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property (Article 4(3) of the Convention).
- Take all necessary steps to prosecute and impose penal or disciplinary sanctions upon those persons who commit or order to be committed a breach of the Convention (Article 28 of the Convention), and implement the penal measures laid out in Chapter 4 of the Second Protocol.
- Protect cultural property situated in occupied territory and, in particular, as far as possible, take the necessary measures for its preservation (Article 5 of the Convention). This obligation is reinforced by Article 9 of the Second Protocol

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which prohibits, in particular, all illicit export, removal or transfer of cultural property.

3) *After the hostilities*

- Return, at the close of hostilities, to the competent authorities of the territory previously occupied, exported cultural property which is in its territory (Article I(3) of the 1954 Protocol).
- Prohibit the retention of cultural property as war reparations (Article I(3) of the 1954 Protocol).

III. ON THE CUSTOMARY VALUE OF THESE PRINCIPLES

Like any other international treaty, the Convention and the two Protocols are legally binding for their respective States Parties only. However, the effect of these instruments is different if and to the extent that some or all of the provisions of the Convention and its Protocols have, following repeated and constant practices by third-party States, acquired a value as international customs for the whole of the international community.

In 1946, the Nuremberg International Military Tribunal declared that in 1939 the rules contained in the Hague Convention (IV) respecting the Laws and Customs of War on Land were "recognized by all civilized nations and were regarded as being declaratory of the laws and customs of war…". This concerned, among other things, the obligations set out in Articles 27 and 56 protecting cultural property.

The 27th session of the General Conference of UNESCO (Paris, October-November 1993) adopted Resolution 3.5 on the *Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954)* which, among other things, reaffirmed that "the fundamental principles of protecting and preserving cultural property in the event of armed conflict could be considered part of international customary law." This mainly concerns the principles contained in Articles 3 and 4 of the Convention regarding the safeguarding of and respect for cultural property.

The contribution of International Humanitarian Law

I) THE TWO *ADDITIONAL PROTOCOLS* TO THE 1949 GENEVA CONVENTIONS

Since the end of the 1960s, a number of States issued from decolonization have asserted the need, in various forms, to establish a new international order. One of the elements of this concerns the strengthening of international humanitarian law. Although they represent an essential element of this law, the *Geneva Conventions* of 12 August 1949 proved inadequate for the regulation of certain new forms of armed conflict, in particular those that took place during the decolonization process. For this reason, the *Geneva Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts* (Geneva, 1974-1977), hosted by the Swiss authorities, deemed it appropriate to adopt the two *Additional Protocols* to the 1949 Geneva Conventions (June 8, 1977).

These two Protocols contain essentially two provisions devoted to the "protection of cultural objects and of places of worship." In particular, the *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts* (Protocol I) asserts in Article 53 that: "Without prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, and of other relevant international instruments, it is prohibited: (a) to commit any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples; (b) to use such objects in support of the military effort; (c) to make such objects the object of reprisals." In the same way, Article 16 of the *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts* (Protocol II) states that it is prohibited "to commit any acts of hostility directed against historic monuments, works of art or

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places of worship which constitute the cultural or spiritual heritage of peoples, and to use them in support of the military effort", always without prejudice to the provisions of the 1954 Hague Convention.

In addition, Article 85 (4) (d) of Protocol I considers it a grave breach to make "the clearly-recognized historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples and to which special protection has been given by special arrangement, for example, within the framework of a competent international organization, the object of attack, causing as a result extensive destruction thereof, where there is no evidence of the violation by the adverse Party of Article 53, sub-paragraph (*b)**, and when such historic monuments, works of art and places of worship are not located in the immediate proximity of military objectives", when this is done intentionally in violation of the Geneva Conventions or of Protocol I.

II) ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

The intentional destruction of monuments and cultural property (*lato sensu*) is now authoritatively also sanctioned by Article 8 (2)(b)(ix), applicable to international conflicts and Article 8 (2)(e)(iv), applicable to non-international conflicts, of the Rome Statute of the International Criminal Court.

III) STATUTE OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

The seizure of, destruction, or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science, are also sanctioned by the Statute of the International Criminal Tribunal for the former Yugoslavia (Article 3 *d)*. The principal case-law of the Tribunal concerning cultural property concerns, at present, the cases of Blaskic, Kordic, Naletilic and Jokic.

IV) CONFIRMATIONS IN THE PRACTISES OF THE UNITED NATIONS FORCES

The United Nations Secretary General's Bulletin of August 6, 1999 concerning the *Observance by United Nations forces of international humanitarian law* prohibits (Section 6.6) United Nations forces from "attacking monuments of art, architecture or history, archaeological sites, works of art, places of worship and museums and libraries which constitute the cultural or spiritual heritage of peoples." In particular, it prohibits, on the one hand, theft, pillage, misappropriation and any act of vandalism directed against cultural property, and on the other hand, engaging in reprisals against such property.

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* "to use such objects in support of the military effort"

The 2003 UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage

The Declaration was elaborated pursuant to Resolution 31C/26 (31st session of the UNESCO General Conference, October-November 2001) and then adopted by unanimity by the UNESCO General Conference during its 32nd session (September-October 2003) in response to the increasing number of cases of intentional destruction of cultural heritage. A particularly well-known and tragic example was the destruction of the Buddhas of Bamiyan (Afghanistan) in March 2001.

The Declaration is not *per se* an internationally legally binding instrument. Although it does not directly create rights and legal obligations for States, the importance of the Declaration is nevertheless undeniable in its *moral* force, based on its unanimous adoption by UNESCO Member States, which represent the overwhelming majority of the international community.

The Declaration begins by recognizing the importance of cultural heritage and the commitment of UNESCO Member States to fight the intentional destruction of this heritage in all its forms so that this heritage may be passed on to future generations (I). All intentional destruction is covered – in time of peace, occupation and armed conflict (II); and States are called upon to fight it with various measures; legislative, technical, administrative or other, and by adhering to the international agreements for the protection of cultural heritage (III).

During peacetime, States are called upon to comply with the principles and objectives included in a certain number of international recommendations and agreements regarding the protection of cultural heritage (IV). During periods of war and occupation, States are called upon to comply with international customary law and the principles and objectives of international agreements, and UNESCO recommendations for the protection of cultural heritage during hostilities (V).

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The provisions concerning *State responsibility* (VI) and *Individual criminal responsibility* (VII) are the cornerstone of the Declaration. In particular, section VI provides for – if and to the extent that this is provided for by international law – State responsibility for the intentional destruction of cultural heritage if the State concerned either intentionally destroys it, or intentionally fails to act to prevent such destruction. Section VII underscores the need for States to establish their juridiction over, and to provide for effective sanctions against, persons who have committed or given the order to commit acts of intentional destruction. The scope of application for these two sections differs (*rationae materiae*) from the other provisions in the Declaration in that they concern only cultural heritage of great importance for humanity.

The Declaration also stresses the need for States to engage in international cooperation for the protection of cultural heritage from intentional destruction through various means such as information exchange, consultation, awareness-raising measures for the general public and legal and administrative cooperation (VIII). When applying the Declaration, States should respect international humanitarian law and international rules related to human rights (IX).

Finally, section X is particularly explicit concerning its goal – to ensure the widest dissemination possible of the Declaration.

Advantages and benefits of ratification. Model instrument of ratification

All the UNESCO Conventions on the protection of cultural heritage – and in particular the 1954 Convention and its Protocols, which aim to ensure the survival (no destruction tolerated) and maintenance *in situ* (no pillage or illicit export tolerated) of this heritage – offer the following main advantages and benefits to their States Parties:

- Ensure the preservation of cultural heritage in order to assert its value, enable its scientific knowledge and allow for public access;
- Encourage and orient cultural and tourism industries that respect cultural heritage and provide a source of resources and employment;
- Contribute to the sustainable economic development of the country or region from the cultural point of view;
- Strengthen both national identity, openmindeness and respect for cultural diversity, a precious equilibrium in the face of contemporary globalization;
- Ensure social and cultural continuity between past, present and future generations;
- Benefit from a network of States Parties through which international cooperation, assistance and exchange of experiences are a reality.

The interests at stake of the international community and the need for inter-state cooperation are particularly significant in the domain of cultural property when faced with the atrocities and the potential for destruction associated with armed conflict. The Preamble of the Convention reasserts that “damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world.”

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More specifically, by becoming a party to the Hague Convention and its two Protocols, States Parties may count on the mutual obligations of all other States Parties regarding the various forms and contents of the protection of cultural heritage, illustrated as the "Principles" of the Convention and its Protocols.

HOW TO BECOME A PARTY TO THE CONVENTION AND ITS TWO PROTOCOLS?

The 1954 Hague Convention and its 1954 Protocol

The State concerned must deposit an instrument of *accession* (for States which have not signed the Convention) or of *ratification* (for States signatories) with the Director-General of UNESCO. The same approach applies to the 1954 First Protocol.

The Second Protocol

Only States already party to the Convention may become party to the Second Protocol, by depositing an instrument of *ratification, acceptance* or *approval* with the Director-General of UNESCO. However, a State not signatory to the Second Protocol, may accede by depositing an instrument of *accession.*

Model Instruments

I) CONVENTION

Model instrument of ratification [accession to] the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict

CONSIDERING that the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict is open to ratification [to accession] in the terms of its Article 31 [32],

I DECLARE by the present instrument that the Government of [*name of State*], after examining the aforementioned Convention, ratifies [accedes to] the aforementioned Convention and commits to faithfully executing all of its Articles.

IN WITNESS THEREOF I have signed and sealed the present instrument of ratification [of accession].

[*location*] .....

[*date*] .....

(Seal)

[Signature of the Head of State,
Prime Minister or Minister for Foreign Affairs]

II) FIRST PROTOCOL

Model instrument of ratification [accession to] the 1954 Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict

CONSIDERING that the 1954 First Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict is open for ratification [for accession] in the terms of its Article 7 [8],

I DECLARE by the present instrument that the Government of [*name of State*], after examining the aforementioned 1954 Protocol, ratifies [accedes to] it and commits to faithfully executing all of its Articles.

IN WITNESS THEREOF I have signed and sealed the present instrument of ratification [of accession].

[*location*] .....

[*date*] .....

(Seal)

[Signature of the Head of State,
Prime Minister or Minister for Foreign Affairs]

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III) SECOND PROTOCOL

Model instrument of ratification of [acceptance of] [approval of] [accession to] the 1999 Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict

CONSIDERING that .....[*name of country*]..... has deposited its instrument of ratification of [accession to] the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict on .....[*date*]..... ,

CONSIDERING that the Second Protocol to the 1954 Convention, adopted on March 26, 1999, is open for ratification [for acceptance] [for approval] [for accession] in the terms of its Article 41 [42],

I DECLARE by the present instrument that the Government of .....[*name of State*]..... , after examining the aforementioned 1999 Protocol, ratifies [accepts] [approve] it [accedes to it] and commits to faithfully executing all of its Articles.

IN WITNESS THEREOF I have signed and sealed the present instrument of ratification, [of acceptance] [of approval] [of accession].

[*location*] .....

[*date*] .....

(Seal)

[Signature of the Head of State,
Prime Minister or Minister for Foreign Affairs]

Protect cultural property
in the event of armed conflict
Protéger les biens culturels
en cas de conflit armé
Proteger los bienes culturales
en caso de conflicto armado

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For further information, please contact:
UNESCO
Division of Cultural Objects and Intangible Heritage/
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Pour de plus amples informations, veuillez contacter:
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1, rue Miollis – 75732 Paris Cedex 15 - France
Phone/tel: + 33 (1) 45684342 / + 33 (1) 45684359
Fax: +33 (1) 45685596
E-mail: j.hladik@unesco.org
Web: English: http://www.unesco.org/culture/en/armedconflict
Français : http://www.unesco.org/culture/fr/armedconflict
Español: http://www.unesco.org/culture/es/armedconflict