
THE PROTECTION OF CULTURAL HERITAGE IN ARMED CONFLICTS: A CASE STUDY OF THE HAGUE CONVENTION

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ABSTRACT

Cultural heritage protection during armed conflict has become a highly topical issue in the international law and humanitarian discourse. Cultural property, which is historic, artistic and symbolic to humanity, is usually destroyed, looted and lost forever in armed conflicts. The Hague Convention of 1954 on the Protection of Cultural Property in the Event of Armed Conflict, and its later Protocols, is the first international convention that was devoted to protection of cultural heritage during war. The research paper will analyse the applicability and usefulness of the Hague Convention as a legal tool of securing cultural heritage as well as consider its problems of implementation and enforcement. Through the comparison of historical examples of the destruction of culture, and modern conflicts, this paper brings to the fore how the international law aims at protecting not only physical objects and monuments, but also the identity and the memory of a whole community. Another notable case is the demolition of ancient temples and artifacts in Palmyra, Syria (2015) by the ISIS that brought about urgent questions regarding the suitability of international legal protection under the Hague Convention in contemporary asymmetric warfare.

PART A

Introduction: Cultural Heritage and its Protection in the International Law.

The demolition of heritage has always been linked to human warfare, however, the mass pain felt after the demolition of cultural monuments during both World Wars brought about a new international legal awareness. ¹The appreciation of the fact that cultural property is not just nationally important but it is really a common heritage of the entire humankind helped to launch the development of the 1954 Hague Convention on the Protection of Cultural Property in the Face of Armed Conflict. The treaty was the first international treaty specifically aimed at protecting the heritage during the period of international and non-international conflict. The embracement of adoption was a shift in the doctrine of PIL, and the protection of art, monuments, and archaeological sites as its duty was transformed into a humanitarian and common responsibility².

Such an evolution has an ideational underpinning in the reorientation of PIL after World War II that gradually shifted away from state-oriented to humanity-oriented issues. The destruction of Warsaw and Monte Cassino, and other cultural heritage sites during the Second World War had been horrific to the world and this brought to the fore the ineffectiveness of norms in operation. This was reaffirmed by the international duty to preserve the world heritage of books, works of art and monuments of history and science by adoption of the UNESCO Constitution in 1945³. All these led to the context of the Hague Convention of 1954, which was a treaty to reconcile the state sovereignty with the universal duty towards the preservation of shared human cultural identity.

Research Area:

Hague Convention of 1954 and practical applications in modern warfare, the International Humanitarian Law (IHL) and protection of the cultural heritage during the armed conflicts.

Research Question:

How successful has been the Hague Convention of 1954 in its guarantee of cultural protection

¹ "Roger O'Keefe, *The Protection of Cultural Property in Armed Conflict* 3 (Cambridge Univ. Press 2006)".

² "Francesco Francioni, "The Human Dimension of International Cultural Heritage Law," 22 *Eur. J. Int'l L.* 51, 53 (2011)".

³ "UNESCO Const. pmb., Nov. 16, 1945, 4 U.N.T.S. 275".

in armed conflict and what obstacles still face the implementation of the Hague Convention in modern armed conflict?

Objectives:

1. The study of the legal provisions of the Hague Convention of 1954 and its Protocols aims at gaining the understanding of the framework developed by the Convention to ensure the protection of cultural property during armed conflict. It depicts a close examination of the responsibilities of the states, the definition of cultural property, the idea of special protection and the preventive steps that are suggested when protecting cultural heritage.
2. To examine the actual case studies of the destruction of cultural heritage, examining the example of the destruction of Palmyra in Syria (2015), the shelling of Dubrovski in Croatia (1991), and the looting of the Iraq National Museum (2003), this goal will help to determine the patterns of the threat, the role of the international law, and the outcomes of the inability to protect. It stresses the role of such events in showing the significance as well as the susceptibility of cultural heritage during strife.
3. To determine the effectiveness of the Hague Convention in practice this is by measuring the success of the Convention in averting destruction, looting, or illicit traffic of cultural property. It looks into the cases where compliance was effective and the cases where the Convention was not successful and in which regard the cooperation of states, the measures of enforcement and the role played by non-state actors such as armed groups were put into account.
4. In order to discover the difficulties and the constraints in the enforcement of the Convention, examines the barriers to the real application of the Hague Convention, such as political, legal and logistical ones. It also takes into account the issues of modern war, i.e. asymmetric warfare, warfare in cities, and the role of international organizations in the protection and detection of cultural property.
5. As an extension of the analysis, this goal is to make recommendations on how to improve the effectiveness of the Hague Convention by proposing recommendations on what can be done to achieve this objective. This involves enhancing compliance

systems, enhancing international collaboration, applying technology in surveillance, creating awareness among the military personnel, and incorporating cultural defense into conflict management and post-conflict recovery.

2. Sources and Theoretical Foundation of Public International Law.

The framework which is envisioned in regards to the protection of the cultural heritage during armed conflict is based on the various components of international law as listed in Article 38(1) of the Statute of the ICJ that is, treaties, customary international law, general principles of law, decisions of the court and writings of the scholars, publicists. Combined, these sources affirm the normative structure legitimation and authority of the one offered by Hague Convention.

2.1 Treaty Law

The major law in the preservation of cultural heritage is formed through treaties. The Hague Convention 1954 of UNESCO obliges states that are parties to the treaty to protect and guarantee the safeguarding of cultural properties both during peacetime and wartime. The First Protocol (1954) goes deeper into this provision and prohibits the exportation of cultural property in occupied territory and restitution thereof at the conclusion of hostilities. The Second Protocol of UNESCO (1999) is both a reaction to the culture destruction that befell the European continent during the Yugoslav Wars of the 1990s and carries with it critical innovations: now there is a list of grave infractions, a recognition of the notion of enhanced protection of properties of overriding importance to humanity and the recognition of personal criminal liability in the event of any intentional attack on said properties.

Subsequent UNESCO instruments, especially in addressing the issue of the trafficker in the peace time context, the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property of 1970, and the 1995 UNIDROIT Convention, augment the Convention and the Protocols. Combined, these treaties create a single legal framework that is committed to protection and recovery of culture property throughout all stages of conflict- preventive, wartime and post war-recovery stage.

2.2 Customary International Law.

The concepts associated with preservation of cultural property have become customary international law, which is applicable to all states irrespective of treaty ratification. In this

instance, customary law would be based on continuing and extensive practice of states, carried out on a belief towards juridical duty (*opinio juris*). According to the International Committee of Red Cross Study on the Customary International Humanitarian Law (2005), the following binding standards in this topic are as follows: Rule 38 (the duty to respect cultural property), Rule 40 (the prohibition of pillage, plunder or vandalism) and Rule 41 (the duty to prevent the illicit exportation)⁴. The Hague Convention was of a doctrinal value as confirmed by the International Court of Justice (ICJ) in the Nicaragua Case (1986) which stated that customary norms possess the same binding nature as a treaty obligation.

Besides, a somewhat weaker but still an establishing that is getting an increasingly accepted customary rule, the UNESCO Declaration on the Intentional Destruction of Cultural Heritage (2003) proclaims that the intentional destruction of cultural property is an infringement of international law, whether or not an armed conflict exists.

2.3 General Principles of Law and Jus Cogens Dimensions.

Cultural property protection relies upon the pre-eminent principles of law shared by all civil nations, including human dignity, rights that come with the property under their possession, and maintenance of the general identity of humankind. Other researchers believe that cultural heritage protection has gone to the point where it is considered as *jus cogens*⁵ norms and that would imply that it has no exceptions and is comparable to the norms of genocide and torture. Although the interpretation remains controversial, the tendency to universality of moral recognition is also indicated in the juridical terms of the Second Protocol, in that the concept cultural heritage is characterized as the common heritage of mankind.

2.4 Doctrinal theories: Sovereignty, Jurisdiction and International Responsibility.⁶

The historical conceptions of sovereignty had traditionally believed it to be an unchallenged wall against outside interference into the inner matters of a state, including the safeguarding of its cultural heritage. The jurisprudence of the post-1945 era has however changed the concept of the sovereignty to that of responsibility as opposed to a privilege. Articles on State

⁴ "Jean-Marie Henckaerts & Louise Doswald-Beck, *Customary International Humanitarian Law*, Vol. I (ICRC & Cambridge Univ. Press 2005)"

⁵ "Filipa Vrdoljak, "Human Rights and Cultural Heritage in International Law," 19 *Human Rights L. Rev.* 50, 57 (2019)"

⁶ "Ramesh Thakur, *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect* 116 (2d ed. 2017)".

Responsibility (2001) that were adopted at the bequest of the International Law Commission (ILC) contain that any state that engages in an act that is wrongful in the international aspect, including destruction of cultural property in contravention to the Hague Convention, gains liabilities towards reparation. The Barcelona Traction Case (ICJ, 1970) has continued to acknowledge the presence of obligations *erga omnes* which emphasizes that specific duties, including those to the conservation of the patrimony of mankind are owed in common to the community of states as a whole. Such a development of the doctrine suggests that it is right and perhaps the obligation--of the international community to take action or hold states responsible in case of destruction of culture.

3. The Legal Framework of the 1954 Hague Convention

3.1 Definition and Scope of Cultural Property:

Article 1 of the Hague Convention defines the term cultural property in a very general manner, and it entails not only immovable heritage such as monuments, archeological sites, and architectural buildings but also movable ones such as manuscripts, art pieces, and scientific collections. This two-sidedness depicts the understanding that culture is not just a physical creation, but it uses the symbolic and historical value really embedded in them. Besides, the Convention has been expanded to include repositories, like museums, libraries and archives, which have in these institutions the vital role in ensuring continuity of the intellectual life of a society.

3.2 The State Responsibilities; Protect and Maintain:

The Convention imposes two major responsibilities on its parties which are respecting and protecting cultural property. The duty of protection (Article 3) requests states in peacetime to make such preventive steps, such as the classification of cultural sites, the preparation of catalogues, the movement of movable property, and the training of military forces on the preservation of culture. Article 4 on the obligation of respect in times of hostilities also outlaws the utilization of cultural property to advantage in a way that may expose it to hazards of ruin or damages and the act of hostilities to cultural property.

These demands articulate the principle of proportionality and military necessity which has become deeply embedded in the humanitarian law. Although article 4(2) grants derogation to

a limited extent under the circumstances of imperative military necessity, the latter is spelled out with extreme reservations and must be proved. Such restrictive nature of such exception is critical in averting the abuse of such military necessity as a pretext of wilful destruction of culture.

3.3 Unique and Improved Protection Frameworks:

Articles 8 to 11 provide the concept of special protection which accedes the cultural locations of very great importance that are listed in the International Register of Cultural Property subject to Special Protection which are a program being managed by UNESCO. This process has, however, been ineffective because of strict qualification. This weakness was removed by the Second Protocol in 1999 that incorporated enhanced protection which might be extended to the property of highest importance to humankind, safeguarded by domestic law, and which is not military in nature. The Vatican City, the Old Town of Dubrovnik and the Auschwitz Concentration Camp ⁷ have been evaluated in accordance with that increased regime. The innovation represents an initiative of abandoning the reactive protection measures towards the international status of a status-oriented proactive type.

3.4 Identification and the Blue Shield Emblem:

Article 16 describes the Blue Shield emblem, which is a universal symbol that is used to designate a place that is afforded cultural protection. This symbol has two purposes: it teaches the military troops against the attack of secured places and it is a legal sign of the intention to obey regulations. Under an analogous role with that of the Red Cross, but cultural property specific, Blue Shield International Organisation helps to make countries and military forces consider the protection of culture heritage as part of their operational policies.

4. Jurisdiction, Enforcement, as well as State Responsibility.

4.1 The mechanisms of enforcement in international law:

The Hague Convention lacks its own mechanism of enforcement and a judiciary apparatus. It mainly relies on the national level implementation, social pressure among states and moral denunciation. However, additional judicial frameworks have been developed on the field of

⁷ "UNESCO, *List of Cultural Property under Enhanced Protection* (2023)".

international criminal law. Article 8(2)(b)(ix) and (e)(iv) of the Rome Statute of the International Criminal Court (1998) in particular, include deliberate attacks on cultural property in the list of war crimes regardless of whether the property is given special protection. Prosecutor v. ICC conviction. One of the most important doctrinal developments took place in 2016 Ahmad Al Faqi Al Mahdi: it affirmed that the destruction of cultural heritage, even without any civilian casualties, is a severe violation of international law. The demolition of the mausoleums in Timbuktu by Al Mahdi was identified as an attack on the soul of a community and therefore, the high humanitarian values connected with the preservation of cultural heritage.

4.2 The role of State Accountability and Compensation:

The Articles on State Responsibility of ILC (2001) impose full reparation on states that have committed wrongful acts and thus, restitution, compensation and satisfaction will be included in it. Pursuing this rule, cultural site destruction as in shelling of Dubrovnik can carry with it post-conflict restoration liability. ICTY law in Prosecutor v. Strugar defended this, believing the deliberate attack on cultural property was itself a war crime as well as a violation of the laws and customs of war, and the personal criminal responsibility is connected with the state one.

4.3 Inter-relationship between Universal Heritage and Sovereignty.

There is a basic clash of doctrine between the concept of state sovereignty and the acceptance of cultural heritage as the common heritage of mankind. The nation-states are the key custodians of cultural sites within their areas of jurisdiction but their roles are not confined to national interests. This trend has been inherent in broader trends in international law, in which the conception of sovereignty is increasingly constrained by collective duties--the most notable example being the so-called Responsibility to Protect (R2P) doctrine. In the context of cultural property, it means that there must be international cooperation and assistance instead of individualistic intervention as per the intentions of Article 17 of the Hague Convention, which encourages international cooperation in the event of an occupational and conflict situation.

5. Doctrinal Implications:⁸ The Hague Convention as a Humanitarian Norm The most

⁸ "Universal Declaration of Human Rights art. 27, G.A. Res. 217A (III), U.N. Doc. A/810 (Dec. 10, 1948); International Covenant on Economic, Social and Cultural Rights art. 15, Dec. 16, 1966, 993 U.N.T.S. 3".

significant change in the doctrine of the Hague Convention is that it encompasses cultural heritage under the International Humanitarian Law (IHL). This shift alters the safeguarding of monuments and objects to one that is not property-driven, but rather humanitarian, founded on a sense of a common identity and dignity of peoples. Following the guidelines of the jurisprudence of the International Criminal Court (ICC) and the International Criminal Tribunal former Yugoslavia (ICTY)⁹, cultural heritage is now being recognized as an expression of the right to culture and the right to identity; both of which are safeguarded in Article 27 of the Universal Declaration of Human Rights (1948) and in Article 15 of the International Covenant on Economic, Social and Cultural Rights (1966). In this way, the culture protection has shifted to a peripheral role in the law of property in wartime to a central part of the humanitarianism of international law. Such a regime does not just suppress hostilities conduct, but it also demands that cultural preservation plays the pivotal role of the post-conflict recovery and the post-conflict peacebuilding process.

Part B: Modern Application-based Analysis.

1. The Hague Convention in Modern Conflicts: Law versus Reality

In spite of its doctrinal strength, the Hague Convention of 1954 has been put to the extreme test of its actuality in the world of the current conflict. The essence of this modern conflicts has shifted radically to the classical inter-state conflicts to non-international and asymmetric conflicts; the insurgent groups, terrorist organizations, and proxy forces. So these non-state actors which are not always accountable to the international set of responsibilities have been targeting the cultural sites in their quest to prove their dominance, erase identity, and induce fear among populations. By extension, destruction of places of worship, museums and archaeological sites has become a method tactic as well as propaganda.

Despite the fact that the Hague Convention has been signed by almost 140 states and many have signed the Second Protocol of 1999, the implementation is disproportionate. Even handed enforcement is prevented by political ambition, military necessity, and poor mechanisms of compliance. In this regard, the effectiveness of the Hague framework in the real world is not as much to the codification of the law, but rather to voluntarism by the states, international co-

⁹“ Patrizia Vigni, *The Role of International and Mixed Criminal Courts in the Enforcement of International Norms Protecting Cultural Heritage*, 23 INT’L J. CULTURAL PROP. 1 (2016)”.

operation and accountability mechanisms.

2. Case Study Analysis: The Convention in Practice in the Recent Conflicts.

2.1 Shelling of Dubrovnik (Croatia, 1991).¹⁰

The Hague Convention was subjected to an important test by the Dubrovnik blockade and artillery fire of the Croatian War of Independence. The Old Town of Dubrovnik, a UNESCO World Heritage Site, fell victim to a lot of shelling despite it being demilitarized and its designation as a protection area. In *Prosecutor v. The Yugoslav People's Army commander* was found guilty of illegal offensive on civilian and cultural targets by the International Criminal Tribunal for the Former Yugoslavia (ICTY), which was headed by Pavle Strugar (IT-01-42-T, 2005).

The ICTY emphasized that any assault against cultural property is a serious violation of statutes and traditions in war, which ascertained that such annihilation is harmful to the heritage of humankind in common. It was the first great application of the Hague Convention of 1954 in an international court and cultural heritage itself became the subject of protection in traditional international law. The decision had it that cultural destruction is not merely the unavoidable harm, but an assault on the cultural identity of the whole people.

2.2. Looting of the Iraq National Museum (2003)¹¹

In the Iraq War of 2003, mass looting of Iraq National Museum in Baghdad led to the loss of over 15,000 objects most of them artifacts of the ancient Mesopotamia, the birthplace of civilization. Although Iraq was a state party to the Hague Convention, the occupying forces did not prevent looting 10 violating Article 5 of the Hague Convention, and Article 43 of the 1907 Hague Regulations, which states that occupied forces are to restore and secure order.

The American troops had been accused of failing to secure the museum yet they had guarded the ministry of oil. Such selective protection showed how culture protection was politicized and that culture protection had not been incorporated into the military planning. In a 2003

¹⁰ “Srdja Pavlovic, *Reckoning: The 1991 Siege of Dubrovnik and the Consequences of the 'War for Peace'*, 5 *STUD. ON IDEOLOGIES & IDEAS IN EDUC.* (2005)”;

¹¹ “Matthew Bogdanos, *The Casualties of War: The Truth about the Iraq Museum*, 109 *AM. J. ARCHAEOLOGY* 477 (2005)”;

report, Mission to Baghdad: Assessment of the Looting and Damage to the Iraq Museum, UNESCO characterized the event as a tragedy to the entire humanity and encouraged greater observance of the requirements under the Hague. The Iraq case was also given on how the success of the Convention is dependent on operational awareness and preparation, rather than just a nominal ratification.

2.3 Destruction of Palmyra (Syria, 2015).¹²

The most decadent cases in contemporary culture vandalism sadism were demolition by ISIS of ancient Palmyra shrines in Syria in 2015. The demolition of the Temple of Bel, the Triumphal Arch, and other monuments were not done in random and unplanned ways, but rather in calculated actions in order to destroy the pre-Islamic heritage of Syria even as it was attempting to get publicity universally. Although denounced everywhere, it was the failure of the Convention to deal with non-state actors.

States are primarily committed by the 1954 Convention and even though Article 19 enforces minimum obligations on the parties engaged in non-international armed conflicts, it is not feasible to exercise measures against terrorist groups like ISIS. In relation to the protection of culture to counterterrorism and anti-money laundering regimes, UN Security Council Resolution 2199 (2015) condemned the destruction and the sale of looted Syrian and Iraq antiquities and banned the practice.

In 2016, the ICC Prosecutor, Fatou Bensouda, referred to Palmyra, saying that war crimes include attacks targeting the symbols of the culture of humankind. This was, however, not directly prosecuted due to the non-membership of Syria of the Rome Statute and the geopolitical confrontation in the Security Council. The case of Palmyra illuminates a weakness of the existing system of international law, which is the fact that it is poorly configured to deal with non-state actors that operate in failed or disintegrated states.

2.4 Mausoleums of Timbuktu (Mali, 2012).¹³

An example of this is the case of Ahmad Al Faqi Al Mahdi (2016) before the ICC where an

¹² “Dr. Salam Al Kuntar Dr. Steven Zucker Palmyra: the modern destruction of an ancient city”

¹³ “Lazare Eloundou Assomo, Cultural Heritage at Risk in Mali: The Destruction of Timbuktu’s Mausoleums of Saints, in *Cultural Heritage and Mass Atrocities* 253 (James Cuno & Thomas G. Weiss eds., Getty Publications 2022)”

extremist of Ansar Dine was found guilty of wilful destruction of ten mausoleums and one mosque in Timbuktu, Mali. According to the ICC, such acts violated Article 8(2)(e) (iv) of the Rome Statute and amounted to non-international armed conflict war crimes.

This was the first international conviction based on pure destruction of culture and it was a landmark on accountability in line with the Hague Convention. Its ruling acknowledged that cultural property is the history and identity of a people and its destruction is hurtful to the entire humanity. In such way, the Al Mahdi case gave the Hague Convention its practical application, implemented in further trials and putting the protection of culture at the heart of the international criminal justice system.

3. Structural and Practical Challenges in Implementation¹⁴

Despite such legal developments, there are still a number of problems with the implementation of the Hague Convention:

3.1 Non-State Actors and Unconventional Warfare ¹⁵The contemporary conflicts hardly involve nation-states. Destruction of culture is often employed in the psychological warfare or propaganda tool by an armed movement, militia, or terror group. Since the Hague Convention was developed in the context of states, it has a flaw in being applied to non-state actors beyond the context of state consent. Even with the broadening of the protection clauses in the Second Protocol (1999), it is impossible to implement law enforcement against the activities of decentralized organizations, such as ISIS or Al-Qaeda. The fact that the provisions are not binding when it comes to investigating such groups on what they do implies further impunity violations.

3.2 Political Will and Military Necessity.

Article 4(2) ¹⁶law of military necessity has been misused very much. States usually defend equivocally directed assaults on heritage sites by declaring strategic needs. Therefore, during the NATO operation in Yugoslavia (1999), heritage sites were so purportedly put at risk because they were too close to military operations. Any ambiguity on what is considered as

¹⁴ “Emma Cunliffe, Paul Fox & Peter Stone, *The Challenges of Protecting Cultural Heritage in Armed Conflict*, HERITAGE IN WAR (Feb. 12, 2019)”

¹⁵ “Pavlovic, A., *Cultural Property in Non-International Armed Conflicts*, 5 Soc’y Int’l L. 12 (2001)”,

¹⁶ “Cuno, J., & Weiss, T., *Cultural Heritage and Mass Atrocities* 253 (Getty Publications 2022)”,

imperative necessity is fatal to accountability systems. Once again, state interests and state security issues are apt to override humanitarian and heritage interests, especially in those cases, which lack an immediate strategic payoff.

3.3 Lack of Adequate Surveillance and Non-Existence of Mechanisms

The Hague Convention does not provide any treaty body or compliance committee that has investigative powers, as in the other international regimes--in human rights treaties or in environmental conventions. The UNESCO Committee on the Protection of Cultural Property in Armed Conflict, which was formed as a result of the Second Protocol, is virtually advisory in its functions. The deterrent effect of the Convention is limited, since the enforcement of the Convention is not binding. Once again, the UNESCO Blue Shield Program, despite its value in terms of awareness and preventative measures, has no power in terms of coercion.

3.4 Post-Conflict Restitution and Recovery.

The other question is about the possibility of restoring looted cultural property after a conflict. Although the First Protocol (1954) demands the restitution of goods exported illegally in terms of culture, in most cases, successful recovery is left to the goodwill and bilateral agreement. Although this loophole is sealed under the UNIDROIT Convention (1995), the latter is not ratified in its entirety. Millions of stolen antiquities of Iraq, Syria and Libya continue to do so in the international art markets, representing the long-term issue of enforcing restitution requirements.

4. Global Cooperation and Technological Innovation

New tendencies signify increasing complementarity in processes of world government and culture guard. The cooperation between UNESCO and UNIDROT, the INTERPOL database of stolen art, and the World custom organization (WCO) all are aimed at combating illegal networks of trafficking. The UN peacekeeping has also started to incorporate cultural heritage units in their mandate such as in the UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).

Innovation in technologies has also become a strong partner. Remote sensing has been used to determine the state of cultural heritage in real time through the UNESCO-UNITAR satellite monitoring program, including those in Syria and Yemen, to digitally preserve the destroyed

monuments, which can be used to rebuild and subsequently document. Project Mosul and the CyArk digital projects have also been developed in accordance with this concept. These initiatives are an indication of a larger insight that the issues of heritage protection cannot exist outside of the concept of sustainable peace and post-conflict reconciliation.

5. An Analysis of the Real-World Effectiveness of the Hague Convention

In its comparison to its goals, the effectiveness of the Hague Convention is a mixed image. On the one hand, the Convention has managed to establish a lasting legal and moral normative which has steered the conduct of states, influenced tribunal jurisprudence, and motivated auxiliary tools. The fact that cultural destruction is now recognized as a war crime by the ICC and ICTY is an important doctrinal triumph.

On the contrary, imposition of measures of enforcement is haphazard and mainly reactive. Depending on voluntary compliance of states that is the Convention, its lack of power to control non-state governments and the inefficiency of a functional verification system undermine its prevention ability. Even the increased appreciation of culture and cultural heritage as an element of humanitarian protection, as manifested, in particular, in the practice of the UN Security Council and the case law of the ICC, predetermines a new tendency towards a greater responsibility.

After all, the real worth of the Convention is its normative power: it created an understanding that the cultural heritage is not an accessory, but a key to human survival. With the growing urbanization of the conflicts and the increasing ideologically-driven conflicts, it is necessary to further reinforce this legal regime through closer collaboration between international law, technology, and global governance.

6. Recommendations.

- I. Enforcement Mechanism Strengthened: either create a special International Cultural Heritage Tribunal or a special expanded cultural mandate of the ICC in order to deal with violations of the Hague paradigm.
- II. Bring Cultural Orientation into Armed Forces: The governments ought to incorporate cultural awareness in armed forces military handbooks and pre-deployment briefs.

- III. Encourage International Cooperation: Increase the collaboration between UNESCO, INTERPOL, and regional bodies in terms of sharing intelligence as well as responding promptly to any intervention.
- IV. Take advantage of Technology and Artificial Intelligence Employ satellite photography, monitoring of artifacts through blockchain, and artificial intelligence to avoid early identification of risks.
- V. Expand the Scope of Responsibility: Alter the Second Protocol to effectively expand its scope to take into account non-state actors and other private organizations that trade in or destroy these goods.
- VI. The effect of the enactment of such provisions would be, firstly, to bring the ethical code, which has been engrained in the 1954 Hague Convention, into existence, and, secondly, to tailor it to the conditions of the contemporary warfare, thereby preserving the historical consciousness of humankind against the destruction inherent in the modern conflict.

Conclusion:

One of the most ethically and legally topical issues in the contemporary society is the protection of cultural heritage during armed conflicts. Although the 1954 Hague Convention, originally developed within the environment of inter-state conflict, continues to be the main ingredient of the international legal activities of the preservation of the collective heritage of humankind, the recurring instances of the cultural destruction, both in Dubrovnik and in Palmyra, remind that the legal norms, by themselves, are not enough unless they are effectively enforced, indeed, they have the political will and the changes in strategy. The increasing body of jurisprudence of the ICC and increasing authority of cultural protection as an element of peace and reconciliation gives reason to believe in future. Though culture is increasingly becoming the victim of ideological and military aggression, the wider world in its broadest context must once again reclaim its shared responsibility not merely to protect architectural reminders of stone, but to protect memories, identity and dignity of peoples.

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