

# HERITAGE AND ARMED CONFLICTS: PROVISIONS FOR PROTECTION UNDER INTERNATIONAL LAWS

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## ABSTRACT:

Taking care of the famous and incredible objects created by humans is what cultural heritage is all about. Different countries have distinct cultures and traditions that are dear to them. It is their country's identity and a big source of revenue in the tourism industry. The manner of life of a given group of people is referred to as culture. Culture does not remain static since each generation adds to the collective experience of the world and discards what is no longer useful. Anything that is deemed valuable enough to be passed down to future generations is termed heritage. Individual identities are shaped by historic buildings, monuments, and objects. Cultural heritage is particularly susceptible in times of armed conflict, when the destruction of archaeological sites or religious or scientific artefacts may have a negative influence on human identities. Unfortunately, armed war has wreaked havoc on cultural heritage in conflict-affected countries, particularly in recent years. The study focuses on the topic of preserving tangible and intangible cultural assets during times of armed conflict.

**Keywords:** Heritage, Armed Conflict, Cultural Heritage, International Laws

## 1. INTRODUCTION:

There are two types of cultural legacy in the world: tangible cultural heritage and intangible cultural treasure.<sup>(1)</sup> Physical artistic expressions such as historic buildings, monuments, artistic objects, paintings, sculptures, historic sites, and so on are represented by the former,<sup>(2)</sup> whereas nonphysical artistic expressions such as songs, narrations, tales, traditional expressions such as dance, religious practises, beliefs, and so on are represented by the latter.<sup>(3)</sup> Because tangible cultural legacy is fundamentally the natural property of the nation that owns it, it is sometimes referred to as "cultural property."<sup>(4)</sup> Intellectual property, which is also a sort of intangible cultural heritage, is, however, considered cultural property by certain experts<sup>(5)</sup> Unfortunately, armed war has wreaked havoc on cultural legacy in

conflict-stricken places, particularly in recent years.<sup>(6)</sup> For example, The Islamic State of Iraq and Syria (ISIS) has desecrated a number of temples, mediaeval Christian monasteries, artistic cultural objects, and monuments that date back thousands of years and were considered valuable cultural property and an important element of international cultural heritage.<sup>(7)</sup> Similarly, the 2003 war in Iraq resulted in widespread damage of both tangible and intangible cultural assets, including historic museums, libraries, book collections, and other historic cultural artefacts.<sup>(8)</sup>

Libya is another region where the collapse and toppling of Moammar Qaddafi's dictatorship resulted in significant cultural property loss.<sup>(9)</sup> The revolutionary civil war in Libya against the Qaddafi dictatorship resulted in huge cultural property pillage,<sup>(10)</sup> and now ISIS is attempting to take control of the territory in order to capture the region's valuable cultural property and oil assets.<sup>(11)</sup> These sites are considered among the most precious historic cultural heritage sites in the world.<sup>(12)</sup> Owing to their recurrent threats, the United Nations Educational, Scientific and Cultural Organization (UNESCO) regards five ancient cultural heritage sites Cyrene, Leptis Magna, Sabratha, Tadrart Acacus, and Ghadames in Libya-as at high risk of attack from ISIS.<sup>(13)</sup>

In light of historic and modern armed conflicts, this study uses a narrative approach to examine and evaluate the effects of armed conflicts on tangible and intangible cultural assets. Following that, it lays out the legal framework for safeguarding cultural heritage. The first section of this study delves at the effects of armed conflicts on tangible cultural assets in this regard. The prominent legal provisions presented by international conventions such as the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflicts, the UNESCO Convention 1970, the World Heritage Convention, the 1949 Geneva Conventions Additional Protocols of 1977, and the prominent UN Security Council resolutions for the protection of cultural property in Iraq and Syria are all evaluated in this paper. The importance of significant international organisations in safeguarding tangible cultural property is also discussed in the study.

## 2. ARMED CONFLICT AND ITS EFFECTS ON CULTURAL HERITAGE AROUND THE WORLD

There is a detailed discussion of the negative impacts of armed conflicts on cultural heritage, as well as an overview of some of the current conflicts that are endangering worldwide cultural assets. Victors pillage conquered societies in the name of collecting war treasures, as we have seen in historical instances since WWII.<sup>(14)</sup> Such plunder wreaks havoc on the vanquished region's tangible cultural heritage.<sup>(15)</sup> During and after the conflict, warring groups, mainly the triumphant party, damaged or burned down a number of cultural and historical sites such as museums, monuments, and libraries.<sup>(16)</sup>

## PROVISIONS OF INTERNATIONAL LAW FOR THE PROTECTION OF CULTURAL HERITAGE DURING ARMED CONFLICTS

During times of armed conflict, international law has aided in the safeguarding of cultural heritage around the world.<sup>(17)</sup> The major sets of legal laws that mandate the protection of cultural heritage and cultural property in times of peace and conflict are international cultural heritage law and international cultural property law.<sup>(18)</sup> Both sets of regulations are based on the norms outlined in the Hague Convention of 1954, the Additional Protocols to the Geneva Conventions of 1949 of 1977, the UNESCO Convention of 1970, the World Heritage Convention, and other international treaties.<sup>(19)</sup> These conventions have defined guidelines for warring parties in an armed conflict to protect cultural heritage and cultural property.<sup>(20)</sup>

The Hague Convention of 1954 is the first international treaty dedicated completely to the protection of cultural property and heritage sites in times of peace and war.<sup>(21)</sup> Because all of its provisions are aimed at protecting cultural property, it is regarded as an important contribution to international law that safeguards cultural heritage around the world.<sup>(22)</sup> Upon further investigation into the fields of international law, international humanitarian law, and human rights law, it appears that certain provisions of the ICCPRI,<sup>(23)</sup> as well as the Geneva and UNESCO Conventions, may be relevant in providing indirect protection for intangible cultural heritage during armed conflicts.<sup>(24)</sup>

In addition to the protection provided by international conventions for the preservation of cultural heritage, a number of international organisations work to safeguard cultural property and heritage around the world.<sup>(25)</sup> The International Committee of the Red Cross, ICOMOS, the International Council of Museums (ICOM), the World Customs Organization (WCO), and UNESCO, the International Alliance for the Protection of Cultural Heritage in Zones of Conflict (ALIPH), and the Committee for the Protection of Cultural Property in the Event of Armed Conflict are among the most well-known of these organisations. These international organisations are trying to conserve cultural heritage in armed conflicts within their respective fields of activities. The recommendation of these organisations can be taken into consideration by the states in order to protect and conserve the rich cultural heritage in cases of armed conflicts and whenever possible these organisations can collaborate with national authorities, such as UNESCO, and can work more effectively and efficiently to protect cultural heritage property from underlying dangers in times of peace and conflict.

### 3. PROBLEMS AND CHALLENGES IN PROTECTING INTERNATIONAL CULTURAL HERITAGE DURING ARMED CONFLICTS

Despite the fact that there are numerous regulations and institutions in place to protect international cultural assets during armed conflicts, there are a number of gaps and problems in their successful implementation.

- a) The Hague Convention of 1954 has certain gaps in relation in implementations of its provisions. The Hague Convention 1954, does not mention any procedure to punish the offender damaging the heritage properties. For instance, the ISIS men have damaged many historical sites in Syria and Iraq. But there are no penalties or punishment mentioned neither in the Convention nor in its protocols I and II. These conventions only mention recommendation for protection of heritage property. Secondly, the convention does not have any proper procedures for assessing the effectiveness of the efforts to protect the historical sites. The convention does not have its own tribunal to keep a track of the protection of heritage sites; it depends upon the national institutions for the same. Because the national institutions have their own drawbacks in regards to infrastructure, funds, expert employees, these in capabilities increase the gap between the provisions and their implementations.
- b) The UNESCO Convention 1970 does not provide any specific guidelines for implementation of its provisions in regard to protection of heritage properties damaged in armed conflicts. There are no set guidelines to punish the offenders who violate the laws made for heritage protection. The UNESCO Convention depends solely on its contracting parties to create laws for implementation of its provisions and these contracting parties are not well versed and quick in making laws, hence the implementation lacks speed.
- c) The UNESCO Conventions lacks universal jurisdiction. This means that the states that are not contracting parties to the convention do not get the benefits of heritage protection in cases of armed conflicts, no matter, the heritage sites belonging in these states hold an international importance.

#### **4. CONCLUSIONS**

The heritage of any country is its very important as its hold a historical recognition and also increase the value of the nation to which it belong. In cases of armed conflicts, these sites suffer huge damage; many are destroyed to such a level that it cannot be reconstructed. The international laws though are made, for heritage protection in cases of armed conflicts; there are no statutory guidelines for implementation of the provisions of these laws so that the offender can be punished for destroying the historical site of national importance. UNESCO has been one of the international organisations that have played a leading role in providing protection to cultural heritage in times of peace as well as in the event of armed conflicts. Exceptional efforts have been made by UNESCO to protect cultural heritage by organizing special committees and funds for the protection of cultural heritage in armed conflicts. But in spite of these efforts there are certain challenges and gaps which are need to be filled for heritage and cultural protection. These limitation and all other gaps related to the provisions of the conventions should be addressed by the international community in defining and setting up an effective mechanism to apply full protection to cultural heritage property in the event of armed conflicts.

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