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Abstract :

Cultural heritage is one of the most important tourist attractions, as it draws the attention of broad segments of tourists worldwide, particularly educated visitors. Given the role of this tourist product in highlighting the cultural and civilizational specificities of human societies throughout history, this cultural legacy has been granted protection at both the national and international levels. International organizations have made considerable efforts to establish a legal framework for the protection of cultural property, based on the principle that such heritage belongs to humanity as a whole, especially sacred cultural property. Accordingly, this study aims to identify the legal mechanisms established to protect sacred cultural heritage in general, and cultural heritage in the city of Jerusalem in particular.

Keywords: *Cultural heritage; Human heritage; Landmarks of Jerusalem ; Sacred landmarks.*

1. Introduction

Historically, wars have been characterized by calamities and destruction that impacted humans and their properties. In response, the international community has sought to establish a set of legal rules aimed at mitigating these damages. This collection of rules is referred to as the laws of war. As international relations evolved and wars expanded with significant widespread damages to humanity, the scope of the laws of war broadened to include rules focusing on the protection of civilians and cultural properties. UNESCO has endeavored to develop a set of provisions within a separate convention dedicated to the protection of cultural properties in armed conflicts.

As we know, wars are marked by destruction, extending their damage to include both private and public properties without sparing cultural properties. However, the international community was keenly aware of the need to protect sacred cultural properties. The Islamic religion, in particular, emphasized the protection of sacred sites and religious figures without exception. Nonetheless, the impact of these rules was limited in scope.

It is observed that the majority of wars, regardless of their motives, have been violent and did not consider the special nature of these cultural properties, leading to their damage and looting. Consequently, humanity suffered significant losses since these properties, reflecting spiritual values, are considered to belong to all of humanity and hold importance for human societal values.

From here, the research problem emerges, focusing on the most important customary and treaty legal provisions for the protection of cultural properties in general and sacred cultural properties in particular. What are the most important of these provisions?

2. The Concept of Cultural Landmarks:

The clear definition of cultural properties is the fundamental basis for their protection. Clear criteria make the protection process easier because they prevent confusion when applying protection provisions, whether customary or treaty-based.

2.1 Defining cultural landmarks:

Although the term "cultural properties" appeared in the context of the 1954 Hague Convention, it had been addressed earlier under different names ([Hague Convention IV, 1907, Art. 27](#); [Hague Convention IX, 1907, Art. 5](#)), beginning with the Vienna Congress in 1815, followed by the Institute of International Law which adopted a document in 1875 and 1877 stipulating these properties. Subsequent mentions include the Hague Conventions of 1899 and 1907, the Geneva Convention of 1949, and finally, the 1954 Hague Convention, which classified them under Article 1 into three categories: the first includes all movable and immovable cultural properties of significant importance to the cultural heritage; the second encompasses buildings that house significant collections of movable cultural properties; and the third comprises centers where cultural properties are collected, known as memorial buildings.

Cultural properties can be defined as: "All types of movable and immovable items that are significant to the cultural heritage of a specific people, such as universities, places of worship, religious shrines, memorials, archaeological sites, and others ([Shehata, 1977, p.257](#))." They are also described as "all products resulting from the creative self-expression of humans in the past or present across various fields, including scientific, educational, and cultural, which possess a degree of importance and affirm the continuity of cultural progression and communication between the past, present, and future ([Al-Hadithi, 1999, p. 21](#))."

2.2 Criteria for Defining Cultural Landmarks:

Here, we distinguish between legal and doctrinal criteria as follows:

2.2.1 Legal Criteria:

The legal texts regulating cultural properties include two main standards for their definition: the criterion linked to civil objects and the criterion set forth in Article 1 of the 1954 Hague Convention.

- **Criterion Linked to Civil Objects:** This criterion depends on distinguishing between civil objects that include cultural properties and military objectives. It has been incorporated into many international treaties, most notably Article 52 of Protocol I of 1977, which sets conditions for considering an object as a military target, and Article 25 of the Fourth Hague Convention of 1907, which outlines the conditions for considering objects as civilian.

Dual Criterion in Article 1 of the 1954 Hague Convention: The interpretation of Article 1 of the 1954 Hague Convention presents us with two criteria within a single standard, so to speak. The first is based on the significant importance to cultural heritage and considering this as a fundamental condition for an object to be considered cultural ([Shehata, 1977, p. 257](#)). The second criterion concerns the enumeration provided by the drafters of the Convention, who identified certain categories of cultural property and offered practical examples, such as buildings housing major collections of movable cultural property ([Al-Hadithi, 1999, p. 21](#)).

2.2.2 Doctrinal Criteria:

Scholars do not significantly differ in defining the criteria for considering properties as cultural compared to what is stated in Article 1 of the 1954 Hague Convention. They largely agree on the dual criterion that links the importance and the exclusive enumeration of properties. This includes the definition by Professor *Al-Hadithi*, previously mentioned, which focuses on the elements of creativity and the role of properties as a connection point between different generations.

2.3 Types of Cultural Landmark:

Several classifications and categorizations of cultural properties exist, yet most scholars agree on dividing them based on three criteria: the criterion of essence, the criterion of function, and the criterion of specialization. We summarize these as follows ([Khemisi, 2018, pp. 100-108](#)):

2.3.1 Cultural Landmarks According to the Criterion of Essence:

This division relies on intrinsic factors that form the shape and substance of the properties, according to specific conditions including human creativity, the passage of time, and association with a particular community. According to this criterion, cultural properties can be immovable as stipulated in Article 1 of the previously mentioned 1954 Hague Convention, which the Algerian legislator followed in Law 98-04 ([Law No. 98-04, 1998](#)) in Articles 2, 3, and 5, and also Chapter Two in Articles from 8 to 49, or movable, including works created and sold by humans as specified in Articles 50 and 51 of the same law ([Abdel-Moneim, 2017, p. 40](#)).

2.3.2 Cultural Landmarks According to the Criterion of Function:

This criterion refers to the role played by cultural properties, which may be educational, scientific, artistic, or religious, and the properties can be movable or immovable:

- **Immovable Properties:** As stated in the same article (Article 1 of the 1954 Convention) in paragraph B, it includes real estate that falls within the scope of cultural properties and states: "...buildings primarily and actually designated for the protection and display of movable cultural properties specified in paragraph A such as museums, major libraries, archives, and shelters prepared to protect the movable cultural properties specified in paragraph A."
- **Movable Properties:** Many international treaties discuss movable cultural properties, including paragraph A of Article 1 of the 1954 Convention, which states: "...artistic pieces, manuscripts, books, and other items of artistic, historical, and archaeological value, as well as scientific collections, significant book collections, archives, and copies of the properties previously mentioned."

2.3.3 Cultural Landmarks According to the Criterion of Specialization:

This refers to the designation of properties for the practice of religious rites in various forms, as expressed by Article 53 of Protocol I and Article 16 of Protocol II of 1977, considering them as cultural and spiritual heritage of peoples ([Al-Issa, 2010, p. 51](#)). According to this criterion, cultural properties are

defined according to both cultural and spiritual aspects. For the cultural aspect, Article 1 of the 1954 Convention considers places designated for worship as cultural properties. Cultural properties according to the criterion of specialization take two forms: ordinary religious properties and sacred religious properties, which we will explore further.

3. The Meaning of Sacred Landmarks:

Jerusalem, although originally a symbol of peace since its inception, is currently considered a major stronghold for human rights violations and assaults on sacred sites in various ways by a brutal occupier who disregards humanity, backed by international endorsement from powers described as supreme, and amidst a terrifying international silence that almost amounts to a comprehensive international conspiracy.

In this discussion, we will focus on one of the most significant cultural properties that highlight the identity of each nation, which are the sacred religious places. Jerusalem encompasses the most important historical and religious landmarks sacred to most Abrahamic religions. Representing Islam is the Al-Aqsa Mosque and the Western Wall; for Christianity, the Church of the Nativity and the Church of the Holy Sepulchre; and for Judaism, the Israeli entity claims a connection with the Western Wall, which they consider a remnant of Solomon's Temple, falsely and maliciously to justify their occupation of the blessed land of Palestine. These historical landmarks are considered a global cultural heritage.

3.1 Definition of Sacred Places:

Sacred sites are generally defined as: "A collection of beliefs that the human psyche has embraced and to which the human spirit is connected in such a way that it cannot be detached, regardless of the degree of reverence or reliance placed upon them. These are divine laws found in people's environment, with which they have no role in creating or inventing, and to which they voluntarily commit (Bridges, 1990, p. 16). Sacred places can also be defined as those locations that religions, especially the Abrahamic ones, have accorded special importance and status. They reflect historical events that occurred at the inception of these religions and are often associated with a community, starting

from a small point like a building or a shrine (such as the Kaaba for Muslims and the Church of the Nativity for Christians), growing in significance in the hearts of the believers and gaining more importance over time. Perhaps one of the best examples of locations containing sacred sites is beloved Palestine, especially the noble Jerusalem, which houses numerous sacred sites belonging to most of the Abrahamic religions."

3.2 The Roots of Sacred Places:

Sacred landmarks are considered one of the most important spiritual connections that designate a destination where believers of a specific faith gather to perform their religious rites and seek forgiveness from their creator, believing these spots to be the best places to atone for their sins.

It should be noted here that all Abrahamic religions (Judaism, Christianity, and Islam) share a common origin in that they all trace back to the faith of Prophet Abraham (peace be upon him). We will discuss the origins of the sacred sites of each religion in the order of their appearance.

- **The Roots of Sacred Places in Judaism:** The first known sacred site for Jews originated after the war between the Jebusites and the Hebrews around 1000 BCE, which ended with the victory of the Hebrews led by King David, the founder of the first Jewish kingdom in Palestine. This kingdom lasted only about 413 years. King Solomon, who succeeded him, renamed it to *Jerusalem* and built his temple there on Mount *Moriah*, known to Jews as Solomon's Temple. This temple was not preserved, especially after the division of King Solomon's kingdom following his death into the kingdoms of Israel and Judah, both of which were destroyed; the former by the Assyrians during the 8th century BCE in what is known as the First Exile, and the latter by *Nebuchadnezzar* in 587 BCE in what is called the Second Exile (or the Babylonian Exile).
- **The Roots of Sacred Places in Christianity:** The earliest roots of Christian sacred sites can be traced back to after the ascension of Jesus Christ (peace be upon him), specifically to the reign of the Roman Emperor Constantine in the 4th century AD. His mother visited the Holy City in 336 AD and established the Church of the Holy Sepulchre in

Jerusalem, associated with the death of Jesus Christ, and the Church of the Nativity in Bethlehem, associated with his birth.

- **The Roots of Sacred Places in Islam:** The emergence of sacred places for Muslims dates back to the Arabian Peninsula or what is known as the Hejaz, and extends to Palestine and even among Shia Muslims in Iran, Iraq, and Syria.

3.3 Characteristics of Sacred Places:

From the definitions previously mentioned, we can identify some of the distinct characteristics of sacred places, which include:

- Sacred places are religious sites associated with the beliefs of the followers of a particular religion.
- They are archaeological, cultural, and civilizational sites built at a certain time and often characterized by a unique architectural style.
- These places are pilgrimage destinations visited by believers of the faith they represent.
- Sacred sites hold significant importance especially for the adherents of the religion they represent.
- According to Jean-Marc Pény, a sacred religious place embodies the relationship between humanity and divinity.

4. Identifying the Sacred Religious Places of the Three Abrahamic Religions in Jerusalem:

Before discussing this topic, it's important to note the significant differences in criteria for defining sacred religious places among various sects and their scholars. Some attribute sanctity to any landmark or building used for worship, while others believe this designation applies only to religious sites of greatest importance and historical value.

4.1 Sacred Places for Jews:

As previously mentioned, Jews consider Solomon's Temple, also known as the First Temple, their holiest site, along with the Western Wall, which they attribute to their heritage. This includes some graves and tombs where their prophets are buried, though these are of lesser significance compared to the first two structures.

4.1.1 Solomon's Temple:

Referred to earlier, Solomon's Temple was built on Mount Moriah or the Temple Mount, known in English narratives for worship purposes. The temple, part of a large complex including King Solomon's palace and several other buildings, measured 90 feet in length, 30 feet in width, and 45 feet in height. Like Canaanite temples, it consisted of three parts (an entrance, a hall, and the Holy of Holies) and was constructed in what was then known as the Pharaonic-Assyrian style. After King Solomon's death and the subsequent division and destruction of his kingdom, the temple was rebuilt as the Second Temple between 19-20 CE by the Roman king Herod to appease the Jews and to increase state revenue. Currently, there is talk of a Third Temple that Jews aspire to build. The Temple holds an exceedingly important place in the hearts and minds of Jews, as they consider it the center of the world since it is built on the land of Jerusalem, which they believe to be at the center of the Earth. They regard the grave in the middle of the temple as the navel of the world, sanctifying it accordingly ([Hamo, 2016, pp. 170-171](#)).

4.1.2 Western Wall:

Also known as the Kotel or the Wailing Wall, and known to Muslims as the Buraq Wall. According to Jewish belief, it is part of the outer wall built by King Herod and is one of the holiest sites in their religion. It's noteworthy that the wall was not mentioned in Jewish narratives until 1520 when it became a site of veneration, mimicking the Muslim tradition of venerating the Black Stone in Mecca.

4.2 Sacred Places for Christians:

Christians hold numerous sacred sites in Palestine, especially in Jerusalem, with the most important being the Church of the Nativity, the Church of the Holy Sepulchre, and the Via Dolorosa.

4.2.1 Church of the Holy Sepulchre:

This is considered the holiest site for Christians as it is believed, according to their faith, to be the location of Jesus Christ's crucifixion, burial, and resurrection on the third day, conquering death. The church is located in the Christian Quarter in the heart of Jerusalem and was initially built around 336 AD by Queen Helena, mother of Emperor Constantine. The church was burnt down by the Persians led by King Khosrow around 614 AD, restored in 626 AD, and remained so until after the conquest of Mecca in 637 AD. It was rebuilt again by Caliph Harun al-Rashid after an earthquake destroyed it in 746 AD, with further restorations continuing until 1944. The church contains significant landmarks for various Christian denominations, including the Chapel of Calvary, the Church of Saint James, the Sultan Monastery, and general Christian landmarks such as the Holy Sepulchre, the Calvary Cave, and the Altar of Saint Mary of Egypt.

4.2.2 Via Dolorosa:

Also known as the Way of the Cross or the Road to Calvary, this is a path within the Old City that starts at the Lion's Gate (also known as St. Stephen's Gate), the place where Jesus was presented and conspiratorially accused by the Jews before their highest council and the Roman governor Pontius Pilate. It ends inside the Holy Sepulchre in the Church of the Holy Sepulchre. According to Christian tradition, Jesus walked this path from his sentencing to his crucifixion. The Via Dolorosa comprises 14 Stations of the Cross, with nine outside the Church of the Holy Sepulchre and the last five inside it ([Al-Jundi, 2016](#)).

4.3 Identifying Sacred Places for Muslims:

Unlike the Jews, Muslims have numerous sacred sites genuinely attributed to them due to their association with significant historical events, such as the Buraq Wall, and others related to various prophets, varying between tombs and

mosques. Among the most important is Al-Aqsa Mosque (Boutros-Ghali, 1952, p. 20).

4.3.1 Al-Aqsa Mosque:

This term refers to everything within the enclosure located at the southeastern corner of the Old City of Jerusalem. It covers an area of about 144,000 square meters and is the second Qibla for Muslims, the place of the Prophet Muhammad's Night Journey (Isra) and Ascension (Mi'raj). There are various accounts of its construction: some say it was built by angels, others claim it was constructed by Prophet Adam and later renovated by Prophet Solomon (Khemisi, 2018, p. 80). Its key landmarks include:

- **Dome of the Rock:** This octagonal building houses the sacred rock and is considered the oldest Islamic building that still retains its original form and elements. Constructed by the Caliph Abd al-Malik ibn Marwan between 685-691 AD, it was seized by Crusaders in 1099 AD and transformed into a church known as the *Templum Domini* until it was reclaimed by Muslims under Saladin in 1187 AD.
- **Al-Qibli Chapel:** Located south of the Al-Aqsa Mosque towards the Qibla (direction of prayer), it is named because it is the main prayer hall for Friday prayers. Originally built during the Umayyad era by Caliph Abd al-Malik between 705-714 AD, it initially included 15 aisles, reduced to 7 after a devastating earthquake during the reign of Caliph al-Zahir. After the Crusaders occupied it, it was restored by Saladin in 1187 AD. It currently consists of a large central aisle flanked by three aisles on each side.

Additional sacred landmarks within the same complex include the Marwani Prayer Hall, the Mosque of the Moors, and key Quranic schools like the Ashrafiyya School and the Umariah School.

4.3.2 Buraq Wall:

This is part of the southwestern wall of the Haram and is revered by Muslims because the Prophet Muhammad, peace be upon him, is believed to have tied his steed, the Buraq, here during his night journey from Mecca to Jerusalem. The

wall is about 100 meters long and 20 meters high. The concerning issue is the Israeli attempts to claim it, referring to it as the "Western Wall" or "Kotel," with intentions to establish the Third Temple, as previously discussed. It is noteworthy that a 1923 decree affirms the rights of Muslims to the wall, recognizing it as part of the Noble Sanctuary (Haram al-Sharif).

5. The Most Important Customary and Treaty Provisions for the Protection of Sacred Cultural Properties in International Humanitarian Law:

5.1 Pre-Convention Provisions for the Protection and Recovery of Sacred Cultural Properties:

The earliest noteworthy provisions aimed at protecting sacred cultural properties have a history of application before the development of key international humanitarian law treaties, embodied in certain international customs for protecting sacred cultural landmarks. These customary rules emerged largely due to the efforts and scholarship of jurists such as Francis Lieber, who in 1763 formulated a set of regulations for the American army to control the conduct of land warfare. These provisions were adopted by the Institute of International Law in Brussels, initially proposed in a draft in 1770 and later adopted at the First Peace Conference in 1899 and the Second in 1907. They were incorporated into the 1907 Hague Convention, reiterating the stipulations laid out in the first Hague Convention of 1899 concerning the prohibition of methods intended to cause damage to the enemy through the seizure or destruction of cultural properties. The Convention emphasized the need to avoid damaging cultural properties during bombings or attacks and to take all necessary measures and guarantees to protect buildings dedicated to religion, arts, science, and charity.

An international effort was made to visually distinguish sacred cultural properties by using a rectangular emblem divided into two triangles, one black and the other white.

The most significant provisions from the Hague Regulations were incorporated into Article 56 of the Fourth Hague Convention, stating that "the property of municipalities, institutions dedicated to religion, charity and education, the arts and sciences, even when state-owned, shall be treated as private property. All seizure of, or willful damage to such institutions, historic monuments, works of

art or science, is forbidden, and should be made the subject of legal proceedings."

However, practices accompanying most international conflicts have shown that combatants often exploit loopholes in the 1907 Convention's texts related to the protection of private cultural properties. Based on this, international legal scholars have emphasized the need for a comprehensive convention to address the deficiencies of the previous agreements. Consequently, the provisions of the 1954 Hague Convention emerged as a new alternative for the protection of cultural properties.

5.2 The Protection of Cultural Properties under the Provisions of the 1954 Hague Convention:

UNESCO played a significant role in seeking provisions that include serious guarantees for the protection of both public and private cultural properties (sacred properties). Following the violations of cultural properties during World War II by the Allies, the 1954 Hague Convention was established to expand the scope of protection. It extended beyond just wartime to cover all types of international and non-international conflicts, making its provisions applicable in all circumstances. The convention emphasizes the application of its provisions without specifying particular forms of damage, aiming to prevent states from exploiting legal loopholes to evade their obligations to protect cultural properties. This includes states on whose territory the properties are located as well as states involved in conflicts or known as hostile parties.

Every state that ratifies the convention must respect its provisions by issuing instructions to their military institutions on the necessity of including the convention's provisions in military training programs. Moreover, legislative authorities are responsible for amending any laws that contradict the spirit of the convention to align national law with international legal standards.

The convention calls for all parties involved to take proactive measures to ensure the protection of cultural properties, including:

- Avoiding the use of cultural properties for military purposes.

- Prohibiting the targeting of cultural properties during military operations unless absolutely necessary, and then only under strict conditions of imperative military necessity.
- Establishing safety zones around cultural properties to prevent their exposure to hostilities.

Additionally, the convention encourages states to mark cultural properties with a distinctive emblem of the convention (a shield split into blue and white triangles) to indicate protection under international law. This marking aims to facilitate the identification of protected sites and objects, thereby reducing the risk of accidental damage during conflicts.

These measures, when enforced, play a critical role in preserving the cultural heritage of humanity, particularly in regions experiencing armed conflict, thereby safeguarding these invaluable assets for future generations.

6. CONCLUSION :

Through this study, we find that alongside the general protection of cultural properties, the 1954 Hague Convention allows for the possibility of granting specific protection to cultural properties under certain conditions. After reviewing the provisions of this protection, it becomes apparent that there are two types of protection: special protection and enhanced protection. The special protection for cultural properties is outlined in the 1954 Hague Convention, which allows for the special protection of properties and sites identified in Articles 8 and 11. Article 8 mentions a specific number of shelters designated to protect cultural properties of great importance under special protection.

Enhanced protection for cultural properties has led states to register their properties in a special register for cultural properties, a system that initially did not achieve significant results. This prompted entities concerned with the protection of cultural properties, particularly UNESCO and the International Committee of the Red Cross, to work on establishing a new system of protection specifically for cultural properties in armed conflicts. This effort culminated in the diplomatic conference that resulted in the Second Protocol to the Hague Convention of 1999, which introduced a new system known as enhanced protection, outlined in Chapter III of the Second Protocol of 1999. This system aims to protect cultural properties by refraining from targeting them, especially sacred cultural properties.

All these measures initially aim to preserve the coexistence of multiple cultures under a spirit of tolerance and cooperation, ensuring the continuity of cultural landmarks and physical objects without any impediments, regardless of race, religion, or language. This is a fundamental factor in international humanitarian law regarding the protection of cultural properties. We can see how the true meaning of cultural properties has evolved based on cultural diversity and how the fundamental objectives of cultural property law tend to promote cultural diversity. Furthermore, the gradual retreat from the territoriality theory in this field supports the case for cultural pluralism.

7. Bibliography:

- [1] Abdel-Moneim, H. A. (2017). International Judgments and the Extent of Their Detraction from State Sovereignty. Alexandria: Dar Al-Jamea Al-Jadida for Publishing.
- [2] Al-Hadithi, A. K. (1999). Protection of Cultural Property in International Law, A Comparative Applied Study. Amman: Dar Al-Thaqafa for Publishing and Distribution.
- [3] Al-Hadithi, A. K. (1999). Protection of Cultural Property in International Law: A Comparative Case Study. Amman, Jordan: Dar Al-Thaqafa for Publishing and Distribution.
- [4] Al-Jundi, A. (2016, 06 20). Consists of 14 Stations... Via Dolorosa in Old Jerusalem. Retrieved from Aljazeera: <https://www.aljazeera.net/politics>
- [5] Bridges, J. (1990). Commit to Holiness. (N. Ashm, Trans.) Shubra, Egypt: Hana Salvation of Souls Publishing.
- [6] Definition of Regional Agreements. (1952). Egyptian Journal of International Law
- [7] Hamo, B. I. (2016). On the Origin of Judaism, The Relationship of the World's Jews with the Children of Israel. Islamic University Journal for Islamic Studies.
- [8] Khemisi, Z. (2018). Legal Protection of Sacred Religious Places in International Law: A Legal Study of the Status of Jerusalem. PhD dissertation in Legal Sciences, Faculty of Law and Political Science. Batna : University of Batna 1.
- [9] Law No. 98-04 dated 20 Safar 1419 AH corresponding to June 15, 1998, concerning the protection of cultural heritage, Official Gazette No. 44 dated June 17, 1998
- [10] Review Articles 27 from the Fourth Convention and Article 9 from the Ninth Convention (1907 Hague Convention) which refer to "buildings dedicated to worship, arts, sciences, charity, and historic monuments."
- [11] Shehata, M. K. (1977). The Military Occupation and Rules of Contemporary International Law: A Case Study on the Israeli Occupation of Arab Territories. PhD dissertation, Faculty of Law. Cairo : Cairo University.
- [12] Sovereignty Between Its Traditional and Contemporary Concepts (A Study on the Extent of the Internationalization of Sovereignty in the Present Age)2010Journal of the University of Economic and Legal Sciences