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The Role of International Law in the Protection of Cultural Heritage

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Abstract:

All nations are committed to preserving their cultural heritage, a vital expression of human life across social, economic, and political contexts. Cultural heritage plays a significant role in safeguarding and revitalizing national identity, serving as the collective memory of a community's knowledge, craftsmanship, and beliefs. Consequently, it is protected and nurtured both nationally and internationally. The protection of cultural heritage has attracted considerable international attention due to its immense value and the numerous threats it faces, including war, theft, trafficking, and the impacts of globalization. These threats pose serious risks to cultural heritage at both national and global levels. In response, several international initiatives have been launched, playing a crucial role in ensuring its preservation and protection.

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Introduction:

European philosophy has long been concerned with the protection of cultural property, which is seen as countries' civilizational legacy. The Hague Conventions of 1899 and 1907 emphasized the need of conserving cultural property, opening the groundwork for the establishment of precise international laws. This endeavor resulted in the 1949 Geneva Conventions and 1977 Additional Protocols, which strengthened the legal framework for conserving cultural resources.

Without a question, a nation's heritage represents its civilizational history and reality, providing as a witness to its achievements. Monuments and relics left by a country build a feeling of belonging, provide insight into identity, increase awareness of the past, and provide a sense of security while navigating the difficulties of today's world. When people successfully balance their ideals, behaviours, and acceptance of others, they accomplish both their existential and moral identities.

Cultural heritage protection is usually acknowledged and legally established, albeit the extent of attention varies by country. Countries such as France, Egypt, Algeria, and Iraq have passed laws to protect cultural history. The necessity for legislative protection of cultural and natural assets has become more apparent owing to repeated breaches against monuments and historic sites, especially during the present crucial moment highlighted by security issues in certain areas. These conditions have resulted in widespread theft and destruction of valuable cultural and natural resources, particularly in recent years. Heritage preservation has been handled via collaborative efforts at both the international and national levels, ensuring more comprehensive and effective protection. International law on heritage conservation is one of the most important legal frameworks for protecting cultural heritage, emphasizing its legitimate claim to worldwide preservation.

Numerous laws in international law exist to protect cultural property. International humanitarian law was the first to establish safeguards for cultural property, broadening its scope to encompass religious, artistic, historical, and scientific sites because of their profound spiritual and historical importance to nations and societies. This protection represents an enlargement of international humanitarian law, which was formerly solely concerned with protecting persons from the effects of conflict and relieving their suffering. Its objective has evolved over time to include the preservation of cultural property during armed situations. This transformation occurred as a natural reaction to the enormous damage, looting, and theft of cultural property caused by historical wars.

Notably, the establishment of a specialized protection system for cultural property during armed conflicts sought to enhance the preservation of such property and minimize the risk of looting or destruction, even when incidental.

From this standpoint, the following problem statement is raised: **To what extent is cultural heritage protected at the international level, and what efforts are being made to safeguard it?**

To answer this problem statement, we divided this research paper into two sections. The **initial section** examines the notion of cultural heritage that falls under the protection of law legal, while the **second section** addresses the legal mechanisms established to protect cultural heritage.

First Section: The Concept of Cultural Heritage Subject to Legal Protection

The evolution of international humanitarian law has included cultural property into its scope of concern, with laws for its preservation serving as an important component of this legal system. This emphasis arises not from the belief that cultural property belongs to a certain country, but rather from its acknowledgement as the inheritance of all people. Attacking such property violates people's freedom to connect with their civilization. and history. Furthermore, cultural property is considered neutral, thus all sides to a dispute must respect and defend it, whether in peace or war. (Al-Rahaifa S. S., 2012, p. 68)

Hence, this section will first define cultural heritage and then discuss its types.

First: Definition of Cultural Heritage

To begin with, the practice of conserving cultural property dates back to antiquity. This protection was firmly established, particularly after the enormous damage of cultural property during World War I. The peace treaties that followed the war addressed abuses of cultural property, asking governments to restore stolen objects to their rightful owners. Calls for the preservation of cultural property became stronger after World War II, especially as affected nations lobbied for creating criminal tribunals to punish war criminals, such as the Nuremberg and Tokyo Trials. These tribunals emphasized the importance of cultural property, considering any assault on it a war crime. Protecting cultural property during armed conflicts became even more important following the horrible devastation Throughout the war that occurred in the former Yugoslavia in 1992, along with the Gulf War that began in 1991. (Al-Rahaifa S. , 2005, p. 1)

To clarify the meaning of cultural heritage, we will first examine its scholarly definition, followed by its legal definition.

1- The Jurisprudential Definition of Heritage of Culture:

Legal scholars have employed the expressions 'cultural heritage' and 'cultural property' to refer to anything generated by human hands or thinking that has survived for more than a century. This contains remnants of humans, animals, and plants, as well as real estate artifacts, creative arts, and folk collections. These concepts are positioned in the perspective of highlighting cultural continuity between the past, present, and future while recognizing cultural works' authenticity and intrinsic value.

Cultural property is also described as "movable or immovable items, whether man-made or natural, that have historical value and are significant as components of the tangible environment." These things embody human cultures' cultural history, despite the fact that many people are ignorant of their historical and aesthetic significance. As a result, essential steps must be taken to protect them from any assaults or damage, as well as to manage any degradation or collapse that may occur (Mestaoui, 2020, p. 434)."

Some scholars describe cultural heritage as "what ancestors have left to their children and grandchildren in various aspects of life, including culture, history, literature, civilization, art, industry, agriculture, architecture, traditions, and customs. (Al-Shibli & Al-Zaidi, 2020, p. 5)."

Additionally, the researcher Emile Alexandrov defines cultural legacy as: " All human creations attributed to creative effort in the past and present, whether scientific, educational, or artistic... that are vital for understanding previous civilizations and their evolution in the present and future. (Boubaker, 2018, p. 347)"

Some jurists underscore that for anything to be termed cultural heritage, it must contain universal cultural worth, using the criteria for cultural value in antiquities as an example. (Badr Al-Din, 1999, p. 15).

In this regard, some scholars also define cultural property as: "Everything created by humans that is inherently fixed in nature, anything created by an individual's hands or mind, and the remnants left behind that are tied to human heritage and date back more than a century, in addition to remains of species (Si Ali, 2011, p. 12)."

It is worth highlighting that international law has yet to establish a full concept of cultural property. This delay may be ascribed to the term's relative novelty, since it was first used during the drafting of The 1954 Hague Convention for the Protection of Cultural Heritage in the event Armed Conflicts. However, this does not imply that there have been no efforts to define cultural property in jurisprudence.

As a result, a subset of international legal theory defines it by relating cultural property to the word 'culture' itself. Cultural property is described as a medium of communication between people throughout the globe that influences the evolution of cultures from one generation to the next and across time periods. ' This approach underscores that cultural legacy must have global cultural worth, using antiquities as an example. (Ferguani, 2021, p. 281).

Another approach in international law splits cultural property into two groups depending on the nature of the locations, structures, and cultural landscapes. Immovable cultural item is regarded fixed and cannot be moved without causing serious harm to this priceless human legacy. On the other hand, movable cultural property, as the term implies, may be moved from one location

to another, such as sculptures and paintings. Each country has the authority to defend this cultural property via its legislative system and decisions, which supplement and address gaps in international law on its protection. (Laurent Frier, 1997, p. 14).

2- Legislative Concept of Culture's Heritage:

The legislative concepts of cultural heritage are diverse; with certain ones are being precisely defined in national legislation, while others are enshrined in international conventions.

A/ Definition of Cultural Heritage in National Legislation: After Algeria joined the 1972 Convention on the World Cultural and Natural Heritage, along with various other relevant agreements, the Algerian legislator has defined cultural heritage in Law No. 98/04 as: "... All cultural assets, whether fixed or movable, situated on national lands or within its borders, possessed by people or legal entities according to private law, such as those discovered in underground layers or within national territorial waters, and inherited by multiple civilizations throughout history, from prehistoric times to present day.

Furthermore, intangible cultural characteristics resulting from social interactions and the creations of people and organizations throughout history are regarded part of a country's cultural legacy. These features continue to appear from antiquity to the present. (Law No. 98/04, 1998)**.**

From this text, the Algerian legislator sought to provide a precise definition of cultural heritage in all its forms, whether immovable, movable, or intangible, and whether public or private.

B/ Definition of Cultural Heritage in International Conventions:

Numerous international conventions and documents have sought to describe cultural heritage in a comprehensive and explicit manner. The Roerich Pact, signed by the American nations in 1935, defines cultural heritage in Article 1 as " Culturally significant artefacts, locations, and works of art, such as historical sites as well as all crafts."

The 1954 Hague Treaty on the Conservation of Cultural Assets in Times of Armed Wars provided a thorough definition of cultural assets. Article 1 defined three forms of cultural property: Fixed or moveable assets of immense value to people's cultural legacy, such as architectural or artistic structures, historical locales, and archaeological sites, and buildings that acquire historical or artistic value by their grouping, along with works of art, manuscripts, and significant book collections. (Hazem Fares, 2018, p. 347).

The Rome Agreement forming the International Criminal Court was approved on July 17, 1998, employed the terms "historical monuments" and " constructions for educational, religious, scientific, artistic, or philanthropic reasons" in Article 8 to describe cultural properties protected during armed wars (Mestaoui, 2020, p. 436).

Cultural property is described in the two supplementary protocols to the Conventions of Geneva of 1977 as "historical landmarks, works of art, and places of worship that form the cultural or religious inheritance of peoples." (the First Supplementary Protocol of 1977, 1977)**."**

Meanwhile, the *Convention* of *Council of Europe* 1992 defined cultural heritage under Article 01/03 as: "structures, buildings, architectural groups, organized sites, movable monuments, and various natural landmarks, along with their surroundings, whether above or below the water."

Moreover, Article 2 of the Convention OF UNIDROIT 1995 determines cultural assets as 'belongings of religious or secular importance to fields such as archaeology, prehistory, history, literature, art, or science, falling within the categories presented in the Convention's annex' (Hazem Fares, 2018, pp. 348-349). (Hazem Fares, 2018, pp. 348-349)."

As a result, the Agreement for the Preservation of Intangible Cultural Property, issued October 17, 2003, is one of the most important international agreements. that helped create and establish a particular concept of cultural heritage. It states: "Intangible cultural heritage include behaviors, representations, statements, expertise, and abilities, as well as accompanying instruments, items, artefacts, and cultural places that reflect the identity of communities or groups." (Khahlia & Mourad, 2020, p. 172)."

It should be noted that the phrases used in the 1954 Convention of Hague, including theft, looting, destruction, bombing, and restitution, expressly pertain to tangible cultural property. The protection of cultural property in relation to war crimes and crimes against humanity has been discussed by certain jurists, like Stefan Glaser, under the specific heading of "infringement on material values." (Mestaoui, 2020, p. 436).

Second: Cultural Heritage Types

Regulation No. 98/04 on the Preservation of Cultural Assets gives a definition of cultural heritage that covers both physical and intangible cultural assets.

1. **Tangible Cultural Assets**: Includes mainly fixed and moveable cultural assets.

   A. **Immovable Cultural Assets** (Algerian Civil Code,): This is defined in archaeological terminology as "fixed monuments". It contains ancestors' remnants, such as religious and funerary monuments including temples, burial sites, temples, and mosques, as well as military and civilian buildings like fortresses, palaces, castles, baths, dams, and walls (Souilem & Bouhadda, 2018, pp. 243-244). According to Article 8 of Law No. 98/04, immovable cultural property involves: historical landmarks (Law No. 98/04, 1998), archaeological sites (the aforementioned law), and rural or urban cultural ensembles (the aforementioned law).

B. **Movable Cultural Property**: This is commonly referred to by archaeologists as: "movable antiquities," which typically include items such as coins, works of art, artifacts discovered through archaeological excavations both on land and underwater. This also includes pottery, inscriptions, coins, seals, jewelry, traditional clothing, weapons, burial remains, manuscripts, archival documents, and other types of written materials (Souilem & Bouhadda, 2018, pp. 244-245).

According to Article 50 of Law No. 98/04, movable cultural property includes the following:

- Results of archaeological excavations and research on land and underwater,
- Antiquities such as tools, pottery, inscriptions, coins, seals, jewellery, traditional dress, weaponry, and burial relics.
- Components caused by the disintegration of historical attractions,
- Ethnological and Anthropological equipment,
- Cultural assets pertaining to religion, the history of science and technology, and the history of social, economic, and political progress.
- Assets of artistic significance like:
    - Paintings in oil and hand-painted sketches on any support material.
    - Original drawings, photographs, and posters as forms of authentic creativity,
    - Coins (medals and currency) or postal stamps.

2- Intangible Cultural Property:

Knowledge, social perspectives, abilities, competences, or methods derived from customs in many cultural heritage fields are examples of intangible cultural property. One or more people possess it, and it symbolizes the real significance of a relationship to cultural identity. Ancient musicology, traditional and folk songs, anthems and melodies, theatre and dance, culinary arts, and storytelling are among the fields in which it is most relevant. (Rabia & Fadel, 2021, p. 178).

In order to expand knowledge and unearth historical, social, and personal allusions, this category aims to investigate traditional cultural expressions and materials via identification, documentation, classification, collecting, and recording using all relevant methods and on a variety of supports. Additionally, it seeks to protect their integrity by making sure they are not altered during transmission or publication for next generations. (Bennour , 1992, p. 11).

Second Section: Legal Mechanisms Established for the Protection of Cultural Heritage

Through its discovery and protection, cultural heritage may be revitalized as the cornerstone of our civilization. Finding and recording history is a crucial part of this endeavour in order to make it known and understood. In some instances, it

involves promoting reproduction of high-quality examples and advantageously reusing heritage. (Bakhouya, 2016, p. 98).

Mutual understanding between peoples and the adoption of measures to safeguard these resources are improved by the study, awareness, and preservation of cultural heritage across nations. This is accomplished via regional and global initiatives to protect cultural assets from the many types of damage they encounter.

As a result, the idea of cultural property protection is founded on the basic idea that the cultural legacy of all people is influenced by what happens to one individual's cultural property. This idea serves as the foundation for creating an international legal system that safeguards cultural assets throughout times of peace as well as during armed wars. International conservation of cultural assets in times of peace and worldwide safeguarding of cultural treasures during armed crises will be the two topics covered in this section.

First: Global Preservation of Cultural Assets in Peacetime

International actions devoted to the conservation of cultural assets throughout peacetime have aimed to establish common legal rules for organizing heritage, including the following:

1. **Unified Arab Antiquities Law Issued in Baghdad in 1981:** Notably, this law stipulated in its first chapter that: "An artifact is any object left by past civilizations or previous generations, whether discovered or found, whether immovable or movable, pertaining to the sciences, arts, literature, daily life, beliefs, or public events, and so on, dating back more than one hundred years, provided it has artistic or historical value."

This law divides the artifacts into:

- **Immovable artifacts**: Such as the remains of cities, archaeological mounds, caves, forts, walls, strongholds, religious historical buildings, schools, and others, whether underground or under national or regional waters.
- **Movable artifacts**: These are objects created to be naturally separate from the previous artifacts. The archaeological authority may consider them immovable if they are part of an immovable artifact, complement it, or are associated with it, such as ceramics.

In this context, these artifacts are, according to this law, the property of the state, and the archaeological authority may seize them. Individuals cannot acquire them through adverse possession (Al-Hadithi, 1999, pp. 244-245). The archaeological authority must record the artifacts and list them using contemporary scientific techniques in accordance with Chapter Two of this regulation. Artifacts may not be given as gifts. According to a different viewpoint, this statute gives Chapter Four the authority to regulate penalties, allowing states to choose the appropriate punishments based on their unique situations. In the same way, Chapter Four lists a number of conditions regarding penalties, such as:

- Penalties must be stringent to ensure deterrence.
- Penalties must be implemented quickly.
- The sanction must be suitable to the nature of the offence and the level of damage it brings to national or cultural assets. (Al-Hadithi, 1999, p. 257).

2. Agreement on the Preservation of the globe's Cultural and Natural Heritage, Paris 1972:

This agreement is regarded as one of the most significant international agreements in the field of heritage. It was approved by the General Assembly of UNESCO at its 17th meeting in Paris, 1972 and came into force in 1975. The convention consists of 38 articles that establish international protection for all properties related to cultural and natural heritage (Khahlia & Mourad, 2020, p. 175).

Algeria joined this convention under Order 73/38, published in Official Gazette No. 69 on July 25, 1973, thereby adding an international protective framework to its cultural heritage and assets.

Article 03 of the Convention of Hague 1954 stipulated that contracting parties commit to implementing precautionary measures to protect cultural property from risks during times of peace. Hence, the following precautionary measures during times of peace are included:

- Each state must establish legislative rules to ensure protection from risks that could affect its cultural property.
- Establishing technical bodies to protect cultural property from illicit trafficking.
- Preparing national inventory records.
- Protecting archaeological sites by creating buffer zones to safeguard them from the spread of modern buildings.
- Prohibiting illegal excavations (Al-Hadithi, 1999, p. 47).

On another note, concerning the necessary precautionary and regulatory measures in emergencies, or the preparation of national lists of cultural property, or any issues arising from the implementation of the 1999 Protocol, countries cooperate with UNESCO to provide technical assistance in organizing protection efforts (Al-Fatlawi & Rabie, 2007, p. 205).

3. The UN's 1982 treaty governing maritime law:

The cultural assets found in the depths of the ocean is protected according to the 1982 Law of the Sea Agreement. Seafloor monuments and historical artifacts are protected under Articles 149 and 303. A treaty on the safeguarding of Underwater Cultural Heritage was later adopted on November 2, 2001. (Al-Hadithi, 1999, p. 47)

4. The International Covenant on Measures to Prohibit and Prevent the Import, Export, and Transfer of Ownership of Cultural Assets by Unlawful Methods, Paris 1970:

The Convention's preamble states right away that cultural property is an essential component of national civilization and culture and that its actual worth can only be determined if enough details on its provenance, background, and customary setting are known. It is the duty of every state to protect its cultural assets against unauthorized export, theft, and covert excavation. In order to reduce these hazards, each state must also foster a sense of moral responsibility and increase respect for both its own and other countries' cultural heritage.

Furthermore, as stated in Article 3, the Convention acknowledges cultural property that each state identifies as important for literary, artistic, scientific, archaeological, prehistoric, historical, or religious grounds. In order to combat the violation of cultural rights of ownership, UNESCO has made suggestions for protecting this property. via adherence to scientific and legal procedures to stop illegal trafficking. (Al-Hadithi, 1999, p. 175)

5. The Convention for the Protection of intangible cultural assets came into force on October 17, 2003, in Paris:

Cultural asset now include intangible cultural assets as well as physical legacy, which is important for preserving cultural diversity in the face of increased globalization. The opening paragraph of the convention for the Protection of Intangible Cultural Assets, which was approved on October 17, 2003, emphasizes how social change and globalization put intangible cultural heritage at risk of degradation and destruction, especially because of a lack of funding for its protection. "Safeguarding" is defined by the convention as actions taken to ensure the sustainability of this legacy, including identification, documenting, research, preservation, protection, promotion, and transfer. It also recognizes the worldwide commitment to its preservation.

The convention's aims are outlined below:

- Preserving immaterial cultural assets.
- acknowledging communities, organizations, and individuals' intangible cultural treasures.
- Promoting understanding regionally, nationwide and worldwide. about its significance and the mutual appreciation of this heritage.
- Promoting international cooperation and assistance (Saidi & Al-Laythi, 2021, p. 797).

Second: Worldwide Conservation of Cultural Assets Throughout Armed Wars:

The consequences of World War II has shown how important it is to safeguard cultural property during fighting. In addition to assaults on people, the escalation of religious and ethnic tensions has resulted in the damage of civilian property, particularly cultural property. The extensive acts of vandalism and destruction that often target cultural assets during armed conflicts highlight the urgent need for

greater awareness and practical methods to safeguard such property during these times. (Al-Hadithi, 1999, p. 21).

Since the Vienna Congress in 1815, efforts have been made to safeguard cultural property during times of armed war. Since a country's cultural creations are closely linked to its identity and legacy, one of its main suggestions was that they should always be protected. Based on this idea, The Hague 1954 Convention on the Preservation of Cultural Items in Armed Wars provides particular safeguards for cultural assets, as do the Geneva 1949 Agreements and their two supplementary protocols of 1977. The 1907 Hague Convention created a key framework for such a form safeguarding prior to the 1954 Hague Convention. Two protocols further strengthened this convention, the most important of which being the Second Protocol of 1999. (Hassani & Gouasmia, 2013, p. 4), which introduced stronger measures for the protection and preserving of cultural property during conflicts.

In this section, we will first examine the types of protection established for cultural heritage during armed conflicts. Next, we will explore the mechanisms implemented to fulfill this protection by analyzing the major international conventions addressing this issue. Finally, this study will the repercussions of breaking the regulations governing the preservation of cultural assets throughout an armed struggle.

1. Protective Measures for Cultural Property in Times of War

It is imperative that all essential steps be taken to safeguard cultural property, both during times of peace and during times of armed conflict. With regard to the objectives and guiding principles of the 1967 The recommendation on the Conservation of Cultural Items Threatened by Public and Private Works, the 1972 Convention for the safeguarding of the Global Cultural and Natural Cultural Property, and the 1972 The recommendation on the safeguarding of Cultural and Natural Heritage at the National Level, nations should take steps needed to protect cultural property during times of peace. This duty encompasses both international and non-international military conflicts, including occupation, in which governments are parties. Under such conditions, authorities must take all necessary steps to guarantee cultural property preservation. (Al-Rahaifa S. , 2005, p. 40)

Three protection mechanisms are established in this respect by the Convention of Hague 1954 and its two Additional Protocols. The first is general protection, which requires that all reasonable steps be taken by parties to an armed conflict to prevent the use of cultural property for military objectives and to keep it away from military targets. In addition, the other party must take steps to stop the opposition from stealing, destroying, or seizing cultural property. Any aggressive actions intended to destroy cultural property or use it as a means of retaliation are likewise forbidden under general protection. This kind of protection, as defined

by the convention, covers both the preservation and observance of cultural property.

The second type, known as enhanced protection, was established by the 1954 Hague Convention's Second Protocol. This kind of security aims to prevent attacks on cultural property and forbids the use of the property or nearby regions for military purposes. Cultural property cannot be attacked, even if it is considered a military objective.

In addition to the third type, which is **special protection**, the Hague Convention1954, in Article 8, sets two conditions for a specific category of cultural property to be eligible for special protection under certain circumstances. These two conditions are:

- The cultural property must not be used for military purposes (Al-Anani, 2010, p. 38). For example, the Venice Waterfalls in Italy were not placed under the special protection system due to their proximity to a military airport. It is worth noting that armed guards assigned specifically to protect cultural property are not considered to be using it for military purposes (Abu Al-Wafa, , 2006, p. 102).
- The second criteria is that the cultural asset must be placed at an adequate distance from any major industrial centre or significant military target, such as airports, television stations, or train stations (the First Supplementary Protocol of 1977, 1977).

However, one criticism of the convention is that it does not define what is meant by "a sufficient distance." Defining this distance would help avoid misinterpretation and conflicting views by the parties involved, each acting in their own interest. When applying this condition to the Venice Waterfalls, which many consider an irreplaceable part of the common human heritage, it falls short of meeting the required criteria due to its proximity to Marco Polo Airport, located on mainland Italy. Consequently, placing the waterfall under special protection is not deemed appropriate (the First Supplementary Protocol of 1977, 1977, pp. 38-39).

In addition to the two previous conditions for cultural property to benefit from protection, the Hague Convention stipulates a formal requirement: the cultural property that a state party wishes to provide particular safeguarding must be recorded in the worldwide registry of cultural asset put according to a unique safeguarding system. (the 1954 Hague Convention).

Furthermore, the treaty provides that cultural assets are protected by the specific preservation system, along with the methods of transporting such property, shall be immune from seizure, confiscation, or appropriation (the 1954 Hague Convention). However, this immunity does not impact the right to visit and inspect the property to ensure that the concerned states comply with all the

standards established by the 1954 Hague Agreement for giving special safeguarding to the assets. (the 1954 Hague Convention).

2- Strategies for Safeguarding Cultural Assets during Armed Conflicts:

The legal procedures for conserving cultural assets are different, spanning from international agreements—whether regional or global—to the efforts of multinational organizations like the UN Educational, Scientific, and Cultural Organization. The last one has issued several recommendations, including the 1956 recommendation regarding the implementation of international principles in archaeological excavations.

In addition, it has issued declarations, such as the Declaration regarding Deliberate Demolition of Cultural Property, issued by the General Conference of UNESCO at its 32nd session in Paris in 2003, after the devastation of the Buddha sculptures in Bamiyan by Taliban troops. International cooperation is further demonstrated through the organization of international conferences and the drafting of agreements sought at regulating the preservation of cultural property during armed conflicts (Al-Rahaifa S. S., 2012, pp. 43-44).

From this perspective, we will address the key international agreements established to preserve cultural assets during armed wars.

A/ The Hague Convention for the Safekeeping of Cultural Properties in the Event of Armed Conflict and its Initial Protocol: Crimes committed throughout WWII led to a firm determination to avoid such horrors in the future. The ban on war was enacted by the United Nations Act of 1945, the UN Declaration of Human Rights of 1948, the Conventions of Geneva of 1949, the Convention of Hague in 1954, and its First Protocol. These instruments introduced a set of legal rules aimed at protecting cultural property, based on the principle of providing international legal safeguards to ensure its preservation both during peacetime and in armed conflict. The safeguarding is divided into four categories: general safeguards, special preservation, preventing the export of assets that are under occupation, and improved protection, which was established by the 1999 Next Protocol to the Hague Agreement.

B/ The 2nd Supplementary Protocol to the Hague Treaty: Armed wars that broke out after the 1954 Hague Convention's adoption, particularly those that occurred in the early 1990s, revealed serious flaws in the Convention's implementation, making it difficult to carry out successfully. As a result, the Second Additional Protocol was created to rectify the weaknesses of the particular safeguarding system and the convention. By revitalizing the special protection mechanism, addressing infractions more thoroughly, and establishing a system of penalties to enforce responsibility, this Protocol improved the protection framework. (Saidi & Al-Laythi, 2021, p. 798).

3- Effects of Breaching the Rules for Preserving Cultural Assets Throughout Armed Wars:

When the parties to a conflict are held accountable for breaches of the regulations of the protocols, which includes the First Protocol of the Conventions of Geneva of 1949, the Convention of Hague of 1954, and its supplementary Protocols, two main repercussions emerge: the return of the cultural assets and the provision of compensation.

A/ Restoration of Cultural Asset: Returning cultural assets involves restoring the situation disrupted by the unlawful act to its original state prior to the violation. Restitution is regarded as the most important form of remedy, as it involves returning the affected property or money to its original condition before the damage occurred. Legal consequences may arise from establishing responsibility for breaches of regulations safeguarding cultural assets, including the obligation to return objects of historical, artistic, or religious value to their original location. Financial compensation is not required as long as the cultural property remains intact and can be returned.

The Vienna Congress in 1815 was the first to assert that a country's cultural artifacts should always be respected as property inseparably tied to the nation to which they belong. However, the concept of restitution only took on a formal legal framework with the signing of the Conventions Hague in 1907, especially as reflected in Article 35 of the 4 th Convention regarding the Laws and Customs of War on Land. This idea was subsequently incorporated into most agreements concluded after World War II, which included provisions associated with the return of cultural assets. Furthermore, the Second supplementary protocol to the Hague Agreement of 1999 clearly recognized customary law, stating in its preamble: " "The regulations of customary universal law shall still apply to issues that are not governed by the provisions of this Protocol."

Applications of Restitution: In 1987, Mexico recovered a collection of historical and artistic pieces from the state of San Francisco, USA. Iraq was also able, with the assistance of the International Governmental Committee, to recover a large number of its cultural properties located in England, France, and the United States (Ferguani, 2021, pp. 292-293).

Notably, the only rule obligating states to return cultural property during armed conflicts is a customary one. This rule dictates respect for the cultural and religious legacy of conquered peoples, as well as the the repatriation of cultural assets looted during military operations. Based on the principle that an unlawful act grants no rights to the perpetrator, any party that seizes cultural property during an armed conflict is required to return it to its rightful owner (Al-Rahaifa S. , 2005, p. 145).

B/ Compensation: Cultural property frequently exceeds its historical and cultural worth, holding great monetary value as well. Therefore, the primary responsibility is to restore the item to its original home if it remains in the control of the seizing

state. Compensation is not allowed as long as the property exists and can be returned. However, if restoring the cultural property to its place of origin becomes impossible owing to its loss or destruction, the final alternative is financial compensation. (Al-Rahaifa S. , 2005, p. 159).

Compensation either naturally follows the formation of international accountability or develops as a result of a state's inability to meet its duties under international law when it commits an illegal conduct against another international entity. The fundamental idea is the repatriation of cultural assets to the nation of origin. Nevertheless, if reparation is impossible due to damage or loss, financial compensation becomes the appropriate alternative.

There are two types of compensation:

- **Restitutive Compensation:** This refers to restoring the situation to its state before the unlawful act occurred. In this vein, the Convention of UNESCO for the Restoration and Repatriation of Cultural Assets of 1954, in the initial paragraph of Article 1, tackles the right to restitution. This right enables the owner of stolen cultural heritage to reclaim the stolen items, thereby restoring the situation to its original state (Al-Fawa'ir, p. 89).
- **Financial Compensation:** This occurs when the state holding the cultural property is unable to return it due to absolute impossibility, or if the property has been damaged, making it impossible to restore the situation to its original state. In such cases, financial compensation is a complement to restitutive compensation.

As for the amount of financial compensation, it is usually agreed upon between the requesting state and the state unlawfully holding the cultural property. It may also be determined through international arbitration or by recourse to international courts, such as the International Court of Justice (Al-Rahaifa S. , 2005, p. 160).

The 1919 Versailles Treaty, which included a provision for the establishment of an arbitration court to address compensation claims from civilians whose property was confiscated by German forces during the war, is an example of states fulfilling their obligations to compensate for damage caused by destruction, looting, or theft.

Furthermore, financial compensation may be used as a punishment for a state that has broken its commitments, and it is not always meant only to give reparation. It is important to highlight that financial or material compensation must be made in all situations of cultural property infringement, even when the cultural property is recovered. This compensation may cover moral damages, lost income, or provide proper restitution, such as a formal apology for the harm done to governments and/or persons. Naturally, compensation for cultural property must be fair and commensurate to the harm, not surpassing or falling short. (Sameh Amro, 2005, p. 224).

Conclusion:

The purpose of protecting cultural heritage is to preserve historical monuments, sites, and artifacts, ensuring that historical evidence remains intact and unaltered in a way that preserves its essence. It also seeks to prevent their looting, theft, and smuggling.

Moreover, the protection of cultural property during armed conflicts has garnered significant international attention, as evidenced by the adoption of several agreements establishing rules for safeguarding cultural heritage. Among the most notable of these is the Hague Convention of 1954, the first international treaty specifically discussing the protection of cultural property during armed conflicts. This convention also outlines the measures that states must implement to preserve cultural property, both in periods of peace along with violent wars.

Hence, preserving cultural assets necessitates the creation and execution of policies, legislation, plans, and programs by relevant authorities, as well as the involvement of scientific and cultural institutions specializing in heritage preservation.

We have reached a set of conclusions and recommendations in this study, which are outlined as follows:

First: Conclusions

- The issue of protecting cultural property must be understood in a broader and more comprehensive manner, viewing it as an interconnected series of actions. It begins with taking all preventive measures to preserve cultural property during times of peace and ends with the obligation to refrain from any hostile acts against property during periods of armed conflict and occupation.
- Cultural property enjoys general protection, which includes preventing harm and respecting these properties. Special protection involves placing a limited number of shelters to safeguard movable cultural property. There is also enhanced protection during normal or emergency circumstances under specific conditions. A cultural property may enjoy more than one form of protection.
- International law continues to classify conflicts as international armed conflicts and non-international armed conflicts, which, naturally, negatively affects the legal characterization of violent disputes, as well as the implementation of legal laws regulating cultural heritage preservation.
- The state must protect and respect these properties, refrain from utilizing them for purposes that could expose them to destruction or damage, and must also refrain from any hostile acts directed against them. This obligation may only be waived in cases of necessity.
- Compensation is a consequence of international responsibility for violating the rules established to protect cultural property during armed conflicts. It may take the form of restitution or financial compensation.

Second: Recommendations

- Spreading information contained in international The preservation of cultural assets among residents, and promoting consciousness about the need for the preservation and conservation of such items using visual and auditory media, with scientific institutions playing a crucial role in this regard.
- It is essential to include provisions in the treaty to strengthen national legislation and relevant penal laws to reflect the significance of protecting cultural property during armed conflicts.
- National measures must be in place to ensure that any cultural property deserving of international protection is recognized, to prevent its potential misuse for military purposes.
- Promoting the role of committees and international institutions established under international agreements, and create a monitoring role for them over parties to non-international armed conflicts, in coordination with the International Committee of the Red Cross, to protect cultural heritage from destruction.
- Provisions should be made to obligate states to take legislative and technical measures and prepare appropriate plans to transport property in the event of armed conflict, with any failure to do so resulting in international responsibility for non-compliant states and the imposition of appropriate international penalties.
- Raising cultural awareness about the protection of cultural property among individuals through cultural curricula and media channels.

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