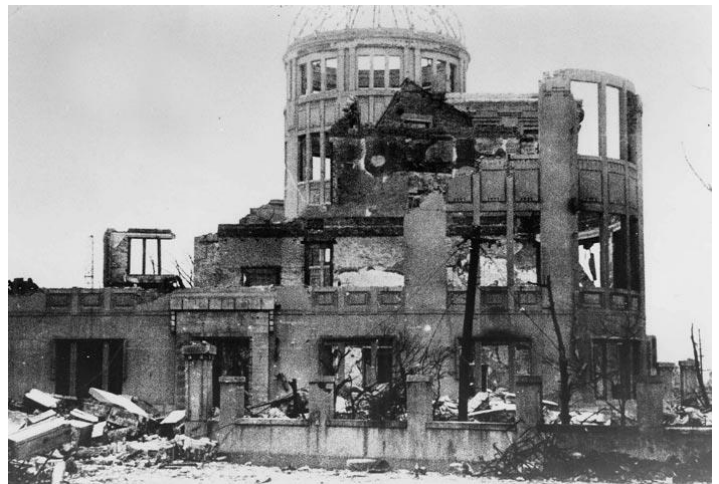


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Introduction

Cultural property is significant to the world as it recalls history and shapes different nations' identities. It includes both movable and immovable properties such as monuments, artworks, religious sites, books, etc. Since these assets are usually civilian, general humanitarian laws to protect civilian properties apply during the war. In addition, with the support of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the first international treaty to protect cultural properties, known as the 1954 Hague Convention, was made. However, regardless of this legislation, multiple cultural heritages were destroyed. Most notably, the atomic bombs in World War II damaged Hiroshima Prefectural Industrial Promotion Hall in Japan and the Royal Opera House in Malta. In addition, The Buddhas of Bamiyan, known as the tallest standing statues in the world, were destroyed by the Taliban. Most recently, the data for the number of cultural sites demolished in Ukraine since the Russian offensive began counts over 260. Thus, damage to cultural properties during times of armed conflict is still an ongoing that must be evaluated.



Hiroshima Prefectural Industrial Promotion Hall two weeks after bombing

Background

Destruction of cultural property happened for centuries, and the beginning of the 20th century was when actions began to protect them. The Hague Conventions of 1899 and 1907 is based on the laws and custom of wars elaborated in 1874 by the Conference of Brussels. This Convention consists of articles, specifically articles 27 and 56, to avoid attacks on historical monuments and places devoted to religion,



art, or science. Similarly, following the proposal from Professor Nicholas Roerich, a draft to protect cultural properties in times of conflict was prepared at the request of the Roerich Museum of New York. Then after several discussions and conferences, the Roerich Pact resolution was approved at the International Conference in the American States in 1933, which states that monuments, museums, scientific, artistic, educational, and cultural institutions should be protected and considered neutral unless they are put to military use. However, this treaty was ineffective because it was limited to the United States and some states in South America.



Blue Shield Emblem used as a marking system in Ukraine

Then, the greatest catastrophe happened in World War II, when cultural properties such as artworks, libraries, and archives were looted and systematically destroyed. These historical assets were intentionally targeted during the war, and later this event was recorded as a war crime. Alerted by this event, the international community adopted the 1954 Hague Convention. This is the first international treaty aimed exclusively at protecting cultural properties during times of armed conflict. The first protocol to this Convention was drafted at the same time, and it elaborates on movable cultural objects. Subsequently, recognizing the weaknesses of the protocol through its application in wars, the 1999 Second Protocol was formulated to strengthen the measures taken to protect cultural properties.

In spite of the advancement in the actions, there are still analyses of the flaws of the Convention. As stated in the 1999 Second Protocol Article 33, a party can only request UNESCO for technical assistance, and it has been noticed that this was a lack of support to the Parties resulting in missed opportunities to protect cultural properties. The lack of support was evident when the National Movement for the Liberation of Azawad (MNL) in Mali intercepted boxes of ancient manuscripts and reported to UNESCO, asking for help to return them to their rightful places. However, UNESCO never answered the letter, and the stored manuscripts were returned to the plunderers. In addition, the international protocols are still not in action in many states where non-international armed conflict is currently happening. Therefore, ratifications for the Second Protocol must continue so that more parties will be involved in protecting cultural properties.

The ongoing Russo-Ukrainian War also shows how cultural properties are still being destroyed during armed conflict, regardless of international laws. Both countries are parties to the 1954 Hague Convention, but Russian Federation has not yet acceded to the Second Protocol. Many of the Ukrainian people did not expect the crisis in their country, so even when the museum management appealed numerous times to take action to protect cultural values, there were no measures taken. So, the museums,



galleries, and nature reserves independently decided to secure the essential goods by evacuating them to the safer part of the country. Even if the civilians took actions, numerous cultural properties were destroyed in Ukraine to destroy Ukrainian memory and identity. The majority of the people did not expect the crisis, so the country did not initiate the steps to protect cultural properties.

Although there have been developments to face the issue of protecting cultural properties in armed conflict, including the international treaty and its two protocols, there are still multiple aspects to improve on in order to solve the issue. During the meeting held by the Committee for the Protection of Cultural Property in the Event of Armed Conflict, they listed the challenges in implementing the measures from the Convention and the two Protocols, for example, adopting preparatory measures to protect cultural properties from foreseeable effects of armed conflict, training military personnel on the rules of protection, and organizing activities for target groups to raise awareness on the importance and need to protect cultural property. If no actions are taken to overcome these challenges or if there are no further developments to face the issue of protecting cultural property, the properties that preserve the past and that represent character and identity will be destroyed. Humans rely on the past to live in the present and shape the future, so it is important to resolve the issue of protecting the properties that shape society.

International Actions

1954 Hague Convention

Throughout history, numerous cultural properties have been destroyed, and it caused an impactful influence on the world: as stated in the preamble of the 1954 Hague Convention which says, “damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind since each people makes its contribution to the culture of the world.” The Convention for the Protection of Cultural Property in the Event of Armed Conflicts, also referred as the 1954 Hague Convention aims to protect cultural properties

during armed conflict. Based on the data from the 14th meeting of the High Contracting Parties, held in November of 2021, there are 133 States that are parties to the 1954 Hague Convention. States Parties that are a part of are committed to respecting the measures from the Convention during the times of conflict,



International Conference held regarding the issue protecting cultural heritage



implementing criminal sanctions for anyone who disobeys the system, and promoting the Convention to the public, cultural heritage professionals, and military agencies.

The section of the Convention consists of the general provisions regarding protection, which in brief states that Parties should prepare during peace for “safeguarding” cultural property and should “respect” cultural property during an event of armed conflict. It also mentions that the immovable cultural properties should be marked with a special emblem so that those properties can be recognized and protected. In addition, the Convention created a system of protection called “special protection”, which is a higher level of protection compared to the “general protection” all cultural properties receive. When a cultural property is placed under “special protection,” the High Contracting Parties of the Convention must ensure immunity to those properties from any kind of harm. These properties and its surroundings will be an exception for being used for military purposes.

1954 First Protocol

The First Protocol of the 1954 Hague Convention was adopted at the same time as the Convention. It focuses on the protection of movable cultural property in the event of armed conflict. In general, the regulations prohibit any exportation of property and obligate the States to return the property to where it was exported from. If, in any case, the property is exported, the States are prohibited from keeping the cultural property in possession, so when the event ends, the State must return the property to the authorities who occupied it. In addition, any cultural property may not be sold, and if it is sold, then the occupying State must pay the purchaser a fair amount.

1999 Second Protocol

After implementing the 1954 Hague Convention in a series of wars, it has been analyzed that there should be an additional protocol to improve the Convention. The 1999 Second Protocol does not replace the First Protocol but rather adds more detail and measures to protect cultural properties. In the new protocol, a new system called “enhanced protection” was made to protect the cultural properties of the greatest importance to humanity. The Second Protocol also



UNIFIL female peacekeepers join military officers from region in protecting cultural heritage

elaborates on the conditions and penalties for when the respect for cultural property is violated. Apart



from these new measures, it also established a new committee, which is the Committee for the Protection of Cultural Property in Event of Armed Conflict. This Committee meets annually to oversee how the Second Protocol and the Convention are implemented.

Key Players

United Nations Educational, Scientific and Cultural Organization (UNESCO)

UNESCO is an organization that contributes to promoting international cooperation in education, science, culture, communication, and information. UNESCO has a crucial role in encouraging and implementing the international measures taken to protect cultural property in the event of armed conflict. The Netherlands and UNESCO together commissioned and funded a review of the Convention and Protocol so that revisions could happen if needed. This finally resulted in making an additional protocol, which was the 1999 Second Protocol. UNESCO also provides financial assistance for the Protection of Cultural Property in the Event of Armed Conflict. These funds can be used to prepare for the removal of movable cultural property, develop and implement training and educational programs on the protection of cultural property, or in other measures to protect cultural property. Besides the involvement of UNESCO mentioned, there are much more aspects where UNESCO engage to protect cultural values.



a group of representatives, including UNESCO, that opened an exhibition on the protection of cultural properties

Blue Shield International (BSI)

The Blue Shield is a non-profit, non-governmental organization committed to protecting cultural properties and is concerned with protecting tangible and intangible heritages during the event of armed conflict and natural or human-made disaster. According to the record from November 2020, there are 29 national committees operating, and more under construction. Blue Shield is an advisory body to UNESCO, and is an official mandate according to the 1999 Second Protocol. Some of their goals are to protect cultural heritages from any events that cause destruction, promote the implementation of the 1954 Hague Convention and the following protocols, provide training programs for those who protect,



mitigate, or respond to the damages made on the properties, and inform the importance of protecting the world's property in emergency situations.

International Committee of The Red Cross (ICRC)

The International Committee of The Red Cross (ICRC) is an international, independent, and neutral organization that helps people affected by conflict and armed violence and promotes the laws that protect victims of war. ICRC has been concerned about the issue of cultural properties being destroyed and encourages States to become parties to the treaty that protects cultural properties during the event of armed conflict. ICRC has supported different States with ratification and “domestication,” where measures from treaties are integrated into States' domestic laws by publishing guiding documents such as the model law, ratification kit, and factsheet. ICRC also signed a Memorandum of Understanding with UNESCO to agree that the organizations will commit to encouraging ratification of international measures, cooperating on raising awareness, and communicating on actions to protect cultural properties.



cultural properties damaged in Syria during crisis

Possible Solutions

Development of the 1954 Hague Convention and its two Protocols

There have already been multiple sources that analyzed the flaws and the improvements the Convention and the Protocols can make. Yet, there have not been further protocols since 1999 taken to revise and develop the preceding measures. Although there are gradual improvements made based on the reflection and progress reports conducted by the Committee to Protect Cultural Properties, there are no major changes in the two Protocols itself. During the International Conference on the 10th anniversary of the 1999 Second Protocol of the 1954 Hague Convention, it was mentioned that some of the wordings in the Protocol are still unclear and thereby expected to proceed with the reservation. Besides, there are multiple other challenges mentioned during the conference that can be further improved. Consequently, drafting a new Protocol with the weaknesses revised or developing new measures to face the challenges is a way to resolve the issue of damaged cultural properties.

Establishment of a New Organization

Establishing a new organization based on the reflection of the implementation of the measures can help settle the issue of damaged cultural properties. Through the different experiences in implementing the procedures, the organization can focus on improving the noticed flaws and supporting the most effective measures. Furthermore, the organization can host international training sessions online so that military personnel around the world can access them. By hosting sessions internationally, the countries will be provided with the most accurate and helpful information, and there will not be any spread of misinformation. The organization can also contribute financial aid or volunteers to assist in protecting the properties by supplying protection materials or volunteers to record damaged properties.



Professor meeting representatives of Latvian cultural heritage institutions at the Ministry of Culture

Glossary

Cultural Property

Cultural property defined by the Convention includes movable and immovable property important to the cultural heritage of all people. Examples are centers containing monuments, such as museums, large libraries, depositories of archives; works of art; books; scientific collections.

Convention

Agreement between states for regulation of matters affecting all of them

Non-international Armed Conflict

Extended armed confrontations between governmental armed forces and one or more armed groups, or between groups within the State territory.

High Contracting Parties

The representatives of states who have signed or ratified a treaty.

Reservation

A unilateral statement made by a state when agreeing or ratifying a treaty which excludes or modifies legal effect of the specific treaty provision as it applies to that state

Sources

- “Protection of cultural property in the event of armed conflict.” *International Committee of the Red Cross*, 29 Oct. 2010, www.icrc.org/en/doc/war-and-law/conduct-hostilities/cultural-property/overview-cultural-property.htm.
- Winchester, Nicole. “Targeting culture: The destruction of cultural heritage in conflict.” *UK Parliament*, House of Lords, 14 Dec. 2022, lordslibrary.parliament.uk/targeting-culture-the-destruction-of-cultural-heritage-in-conflict/.
- Hausler, Kristin, et al. “20 Years of the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in Armed Conflict: Have All the Gaps Been Filled?” *EJIL: Talk!*, Oxford University Press, 29 May 2019, www.ejiltalk.org/20-years-of-the-second-protocol-to-the-1954-hague-convention-for-the-protection-of-cultural-property-in-armed-conflict-have-all-the-gaps-been-filled/
- Culpin, Ben. “On the effectiveness of the Hague Convention in protecting Cultural Property.” *Medium*, 20 Oct. 2016, bc805.medium.com/on-the-effectiveness-of-the-hague-convention-in-protecting-cultural-property-c120bf6de22.
- “Partnerships.” *UNESCO*, en.unesco.org/protecting-heritage/partnerships
- “1954 Convention of the Protection of Cultural Property in the event of Armed Conflict.” *UNESCO*, en.unesco.org/protecting-heritage/convention-and-protocols/1954-convention.
- “About the Convention on the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols.” *UNESCO*, en.unesco.org/protecting-heritage/about**
- Parikh, Moyena. “9 cultural sites around the world that were destroyed by war or terrorist attacks.” *LIFESYLE ASIA*, 11 Mar. 2022, www.lifestyleasia.com/ind/travel/cultural-sites-destroyed-by-war/
- “Regulations: Art. 56.” *International Humanitarian Law Databases*, International Committee of the Red Cross, ihl-databases.icrc.org/en/ihl-treaties/hague-conv-ii-1899/regulations-art-56?activeTab=undefined
- “Regulations: Ar. 27.” *International Humanitarian Law Databases*, International Committee of the Red Cross, ihl-databases.icrc.org/en/ihl-treaties/hague-conv-ii-1899/regulations-art-27?activeTab=undefined
- “Roerich Pact: Protection of Artistic and Scientific Institutions and Historic Monuments (1935).” *The Getty Conservation Institute*, J. Paul Getty Trust, www.getty.edu/conservation/publications_resources/research_resources/charters/charter05.html
- “Background to Protection of Cultural Property.” *U.S. Committee of the Blue Shield*, uscbs.org/background/#hague-convention.**



- “Fund for the Protection of Cultural Property in the Event of Armed Conflict.” *UNESCO*,
en.unesco.org/protecting-heritage/International-fund
- “UNESCO in brief.” *UNESCO*, www.unesco.org/en/brief
- “International Committee of the Red Cross.” *International Committee of the Red Cross*,
www.icrc.org/en/who-we-are
- “Protection of cultural property - Questions & answers.”** *International Committee of the Red Cross*,
30 Oct. 2017, www.icrc.org/en/document/protection-cultural-property-questions-and-answers.
- “First Protocol to the 1954 Hague Convention.” *UNESCO*, <https://en.unesco.org/protecting-heritage/convention-and-protocols/first-protocol>
- “Immunity of Cultural Property under Special Protection.” *UNESCO*, en.unesco.org/node/341352
- “Making the Convention more operational:1999 Second Protocol.” *UNESCO*, en.unesco.org/protecting-heritage/convention-and-protocols/1999-second-protocol
- Clement, Etienne. *A Historical Perspective on the Protection of Cultural Property in the Event of Armed Conflict: From the Hague 1907 convention and the Roerich Pact, to the 2003 UNESCO Declaration Concerning the Intentional Destruction of Cultural Heritage*. ICOMOS, 2021, openarchive.icomos.org/id/eprint/2495/1/Etienne%20Clement%20Estonia-ICLAFI%20ICOMOS%202016%20rev.pdf, PDF file.
- Dutli, María Teresa. *Protection of Cultural Property in the Event of Armed Conflict*. International Committee of the Red Cross, 6 Oct. 2000. Report no. ISBN 2-88145-119-5.
www.icrc.org/en/download/file/1041/cultural-property-report-icrc_002_0805.pdf, PDF Download.
- About the Blue Shield: Factsheet*. Blue Shield International, 2020, theblueshield.org/wp-content/uploads/2021/12/Blue-Shield_International-Fact-Sheet-May-2021.pdf.
- United Nations Educational, Scientific and Cultural Organization. *1954 Hague Convention for the Protection of Cultural Property in Case of Armed Conflict Fourteenth Meeting of the High Contracting Parties*. UNESCO, 2021. Report no. C54/21/14.HCP/INF.4.
unesdoc.unesco.org/ark:/48223/pf00000379633
- “Russian cruise missile attack on Ukraine city of Lviv kills seven.” *The Guardian*, Guardian News & Media Limited, 6 July 2023, www.theguardian.com/world/2023/jul/06/russia-cruise-missile-attack-ukraine-city-lviv.
- Bazhenova, Hanna. “Protection of Ukraine’s Cultural Heritage during the War.” *Institute of Central Europe*, 27 April 2022, ies.lublin.pl/en/comments/protection-of-ukraines-cultural-heritage-during-the-war/.
- “World Heritage -Why preserve, conserve and protect?” *Flame University*, 20 April 2021,
www.flame.edu.in/in-the-media/world-heritage-why-preserve-conserve-and-protect.



Protecting Cultural Property. UNESCO, 2019,

www.ohchr.org/sites/default/files/Documents/Issues/CulturalRights/Activities/Geneva2019-ConferenceProceedings.pdf.

“Non-International Armed Conflict (NIAC).” *UNDRR*, www.undrr.org/understanding-disaster-risk/terminology/hips/so0002.

