



Royal University of Law and Economics

Final Report on

**The Hague Convention for the  
Protection of Cultural property in the  
Event of Armed conflict**

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## **ABSTRACT**

Conflict between states and states, hostility and other armed conflict, poses one of the greatest risks to this cultural Property either heritage and yet it has only been relatively recently that specific international laws have provided for its protection. This is true that the world still contains a lot of areas of significant instability and no doubt human conflict and military action will still be continue. Cultural property or Cultural Heritage is part of the inheritance of humankind and should never be deliberately attacked as a symbolic gesture of power nor suffer preventable incidental loss. Its destruction in times of armed conflict is not inevitable provided the international legal regime for its protection is effectively implemented. This researching paper sets out the background to the international protection of cultural property in times of armed conflict and provides details of the specific protection measures in place together with a critical evaluation of their effectiveness. The study will be conducted by gathering data from previous research of other scholars, reliable news and documents as well. The data collected above will help to analyze about the historical background of the convention and the development of the protection of cultural property in time of armed conflict and in peace time. Notably, this paper will give a detailed explanation about the impact of destruction cultural property in the past time to present, the root cause of establishing the convention and the related articles to the convention as well.



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## **LIST OF ABBREVIATIONS**

ANCBS:	The Association of the National Committees of the Blue Shield
CC:	The 1954 Hague Convention for the Protection of Cultural Property in Event of Armed Conflict
CH:	Cultural Heritage
CP:	Cultural Property
ICBS:	International Committees of the Blue Shield
ICC:	International Criminal Court
ICJ:	International Court of Justice
ICRC:	International Committee of Red Cross
ISIL:	Islamic State of Iraq and the Levant
JNA or YPA:	Yugoslav People's Army
UNESCO:	United Nation Educational, Scientific, and Cultural Organization
US:	The United State
WHC:	World Cultural and National Heritage

## CHAPTER1: INTRODUCTION TO THE STUDY

Since historical time to the 21<sup>st</sup> Century, Conflict is unavoidable in community and international stage. It normally occurs in daily life time of human being and frequently happens international community as well. Conflict could start from small opposite ideas or opinions and could reach settlement. But, some conditions of conflict are too intricate that would not reach any settlement and even worst, it leads from a small fight to an actual war which involved with hostilities. Presently, the world becomes more connected between states. Throughout these connections and relations, each state seeking and looking forward for its own interest and benefits from the others. By so, it would be a root cause of conflict among nations that lead to war. Whenever there is war happens, there will be always a massive damage on infrastructure, human life, and a whole community. “Of course, in any armed conflict, the priority remains to protect the civilian population and persons not participating directly in the hostilities, and we should not forget that the protection of civilian objects is also a basic rule of humanitarian law. We should nevertheless not underestimate the need to establish an effective system for the protection of **Cultural Property** in the event of armed conflict. Not only is the protection of such property, part of the world historical and cultural heritage, intrinsically important, its destruction could act as a catalyst, sparking more widespread hostilities and further blurring the distinction between military targets and civilian objects.”<sup>1</sup> “Cultural Property can be considered to symbolize the cultural identity and history of the adverse party.” Cultural Heritage or Cultural Property considered as a crucial artifact belonging to its own states that identify their nationality, culture, civilization. The CH or CP also been as a valuable item that established and

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<sup>1</sup> Mari’a Teresa Dutli, “Protection of Cultural Property in the Event of Armed Conflict,” *Report on the Meeting of Experts (Geneva, 5-6 October 2000)*, February, 2002, [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewi204i40orxAhUEfSsKHW07BVQOFjAPegQIExAE&url=https%3A%2F%2Fwww.icrc.org%2Fen%2Fdownload%2Ffile%2F1041%2Fcultural-property-report-icrc\\_002\\_0805.pdf&usg=AOvVaw3meV-Usf8-COkwyCcYaSMq.pdf](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewi204i40orxAhUEfSsKHW07BVQOFjAPegQIExAE&url=https%3A%2F%2Fwww.icrc.org%2Fen%2Fdownload%2Ffile%2F1041%2Fcultural-property-report-icrc_002_0805.pdf&usg=AOvVaw3meV-Usf8-COkwyCcYaSMq.pdf), accessed June 10, 2021.



constructed by the ancient people left to the next generation people to be cherish, protected, and to be used in positive ways. In peacetime cultural heritage is protected by the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage (WHC) and the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (2003). At the same time when a country started a war with one another state in or near area of cultural property located, it must easily be **damaged, destructed, and be stolen**. For these reasons make the world concerned about these critical issues. Leaders from Western country gathered and figured out the solution and finally dealt on establishing a treaty. The key treaty for Cultural Heritage Protection is **The Hague Convention for the Protection of Cultural Property in Event of Armed Conflict**. It was designed to protect cultural heritage in event armed conflict and occupation from damage and destruction and from all forms of misappropriation. “It is the only international instrument aimed specifically at protecting cultural heritage during an armed conflict and occupation, and aimed to ensure that cultural property, both movable and immovable, was preserved and respected.”<sup>2</sup> In addition, it plays an important role in protecting and preserving the Cultural Property in armed conflict.

## **1.1 General background**

Cultural heritage covers immovable and movable, tangible or intangible objects such as monuments of architecture, art or history, archaeological sites, works of art, manuscripts, books, relics and many other items, as well as scientific collections of all kinds regardless of their origin or ownership. However, this heritage is also under threat during armed conflict, it may be intentionally attacked as a symbol of the enemy and identity. Whether it be historical,

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<sup>2</sup> Erika Techera, “Protection of Cultural Heritage in Times of Armed Conflict: The International Legal Framework,” Revisited, October, 2007, <https://www.heritageforpeace.org/heritage-for-peace/legal-framework/hague-convention-and-its-two-protocols/>, accessed June 10, 2021.

cultural, or religious. It may be robbed or stolen for profit. Or maybe accidentally damaged during hostilities.<sup>3</sup>

Although specific protection at the international level was unclear until the Hague Convention 1954, the first steps towards its protection began in the nineteenth century when the laws of warfare began to be codified.<sup>4</sup> Prior to that time various rules of warfare have made reference to the protection of cultural property. For example, the customary prohibition on destruction of cultural and ancient properties is said to date back to ancient Greece.<sup>5</sup> In Roman times, it was accepted that culture will only be destroyed as a last resort. And later during the Napoleonic wars the principle that cultural property is the property of all humanity first emerged in international law.<sup>6</sup>

One of the earliest laws of war that include the protection of cultural-types of properties was the United States' Instructions for the Government of Armies of the United States in the Field, also known as the Lieber Code<sup>7</sup>, used by the Union during American Civil War. Although the Lieber Code was binding only on the military forces of the USA. But they are in accordance with the laws and customs of war existing at that time. Specifically, Articles 35 and 36 of the Lieber Code aims to protect cultural property.

Article 35 provides: Classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all

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<sup>3</sup> Keith Suter, "We Must do More to Protect Cultural Property in Wartime," 22 May, 2007, <<http://www.onlineopinion.com.au/view.asp?article=2407>> accessed 14 June, 2021.

<sup>4</sup> Gregory P Noone, JAGC, USN "The History and Evolution of the Law of War Prior to World War II" (2000) 47 *Naval L Rev* 176, 184-186, 21 May, 2007, <[http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/634HW6/\\$File/irrc\\_854\\_Frigo.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/634HW6/$File/irrc_854_Frigo.pdf)> last Accessed 14 June, 2021.

<sup>5</sup> Kastenber, above n 1, 281. Accessed 14 June, 2021.

<sup>6</sup> Kastenber, above n 1, 284. Accessed 14 June, 2021.

<sup>7</sup> Lieber Code, "Instructions for the Government of Armies of the United States in the Field," prepared by Francis Lieber, promulgated as General Orders No 100 by President Lincoln, 24 April 1863, 21 May, 2007, <<http://fletcher.tufts.edu/multi/texts/historical/LIEBER-CODE.txt>>, accessed 16 June, 2021.

avoidable injury, even when they are contained in fortified places whilst besieged or bombarded.

Article 36 relates to a conquering State's duties not to steal, destroy or injury such property: if such works of art, libraries, collections, or instruments belonging to a hostile nation or government, can be removed without injury, the ruler of the conquering state or nation may order them to be seized and removed for the benefit of the said nation. The ultimate ownership is to be settled by the ensuing treaty of peace. In no case shall they be sold or given away, if captured by the armies of the United States, nor shall they ever be privately appropriated, or wantonly destroyed or injured.

Following, there were further moves towards codification of the law of war at the international level. The Lieber Code was the basis for the declaration concerning the laws and customs of war presented to the Brussels Conference in 1874.<sup>8</sup> However, it was not formally accepted. Later, following the Hague Conference in 1899 an international convention was signed, which drew heavily on the Lieber Code again.<sup>9</sup> This convention came up with respect to the laws and customs of war on land and its annexed Regulation (Hague Convention II)<sup>10</sup> focused primarily on prisoners of war and noncombatant civilians; however some articles of this convention still offer protection for cultural property items. For example, the destruction or seizure of enemy's property was formally prohibited, attack or bombardment of towns, villages, habitations or buildings, which were not defended, was prohibited.<sup>11</sup> Furthermore, before commencing any bombardment, the commander of an attacking force, except in the case of an

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<sup>8</sup> Noone, above n 17, 194.

<sup>9</sup> Noone, above n 17, 195-196.

<sup>10</sup> Convention signed on 29 July 1899 and entered into force 4 September 1900, 26 Martens Nouveau Recueil (ser 2) 949, Regulation with respect to the Laws and Customs of War on Land 29 July 1899, 32 Stat 1803.

<sup>11</sup> Article 25 Hague Convention II.

assault, should have done all he could to warn the local authorities.<sup>12</sup> This, at least in theory, should have allowed for the removal of moveable heritage items. Under Article 27 all necessary steps should be taken during sieges and bombardments to spare, as far as possible, edifices devoted to religion, art, science, and charity. The besieged was to indicate these buildings or places by some particular and visible signs, which should also be notified to the assailants prior to the commencement of bombardment.<sup>13</sup> Thus some protection was also provided to immovable objects. Article 46 prohibited the confiscation of private property, and pillage was formally forbidden under Article 47.

Later, this convention was replaced by the Convention on the Laws and Customs of War on Land (Hague Convention IV) 1907. The 1907 Hague convention (IV) revealed the necessary amendments to the Hague convention of 1899. While the conventions and declarations of this changed little between 1899 and 1907 Hague conventions, the key differences in the concept of cultural-property protection in armed conflict comes from the 1907 Convention Bombardment by Naval Forces, which focuses on water vs land assaults. However, although these both conventions are in force and binding on the parties during World War I, they failed to protect cultural heritage such as France's Rheims Cathedral or Belgium's Louvain University from damage<sup>14</sup> and there were no formal prosecutions for these atrocities following the end of the War. Subsequently, the USA signed and ratified the first international treaty exclusively concerned with protecting cultural-types of property during armed conflicts (known as the Roerich Pact)<sup>15</sup>, entered into force on 26 August 1935.

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<sup>12</sup> Article 26 Hague Convention II.

<sup>13</sup> Article 27 Hague Convention II

<sup>14</sup> Kastenberg, above n 1, 286. Nafziger, above n 11, 2.

<sup>15</sup> Washington Pact (1935) signed 15 April 1935, 49 Stat 3267.

World War II had made widespread destruction and looting of cultural property across Europe and elsewhere. After the end of the war “statement of policy” was signed by the USA, United Kingdom and France. This, in part, led to the Geneva Convention of 1949, while the Geneva Convention had some part prohibited on the destruction of private property but there were no specific reference to cultural property or heritage. In 1948 the Netherlands made another proposal to UNESCO. It was established three years ago. In 1951, the UNESCO General conference decided to form a government expert committee to draft a new convention. A year later this committee sent the draft to the general conference, which forwarded to the national governments for further discussion. From 21 April to 14 May 1954 an international conference was held in The Hague, attended by 56 states, which drew up a final version and adopted it as "The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict". This Agreement entered into force on 7 August 1956.

## **1.2 Research Question**

### **❖ Main Research Question**

- What reasons that “The Hague Convention for the Protection of Cultural Property in Event of Armed Conflict” being as an indispensable and necessary treaty of every states around the world?

### **❖ Sub Research Question**

- What is Cultural Property?
- What are the main purposes of the Convention?
- How does the implementation of the Convention work?
- What are the challenges of the Convention?
- Do the international community recognize this convention as an effective treaty?

### 1.3 Research Object

The role of the Hague convention for the protection of cultural property in the event of armed conflict has not been widely reported yet. So, the aim of this research is to examine about the role and to gain an understanding of this convention. We will raise about the history how it becomes effective, the process of protection during the war time in the past or until not quite war like in the present, also the implementation that punish those violate this convention. It is one of the most important convention which regard with UNESCO that many people well known about cultural heritage around the world and we need people know this convention well like UNESCO.

### 1.4 Research methodology

There were many research methods and data that indicate about the cultural property protection. According to the studies, this research conducted in qualitative method focusing on examine, role and answer the research question of the topic.

This research paper regarded with the official information from the secondary sources such as website of UNESCO organization, internet, books, previous research or study of scholars, agreements, case study and other websites that related to **the Hague convention for the protection of cultural property in the event of armed conflict**. In order to reach an effective paper, every information and reference documents of this research were officially certified, examined and analyzed by scholars with the situation happened in the past. Moreover, the case studies referred to real cases happened in the past time which provided the protection for violated and damaged cultural property in time of war or no war. So, the reader can believe that these data used, were reliable and informative to made this research became effective.

## **1.4 Scope and Limitation of the Research**

The Scope of this research is to examine how the 1954 Hague Convention plays role in event of armed conflict. This will focus on the aim and purpose of the Convention and how the process of the convention work. Moreover, this research analyzed about the historical background of the protection Cultural Property in centuries ago until the 1954 Hague Convention had established. Furthermore, the new real definition of Cultural Property in this 21<sup>st</sup> Century had also mentioned to be an object for analyzing in this piece of work. This research covered the protocols and implementation of the Convention as well. Moreover, this research will only concentrate on cases that have happened since 1954 till now which based on the real problems happened in the society, and references on the secondary date which approach from the credible international websites, and other organization websites.

## **1.5 Literature Review**

This literature review is a collection of view from the study of scholars, research reports, books, agreements, well known institutions and many articles related to **the Hague convention for the protection of cultural property in the event of armed conflict**. These are clearly give their concrete analysis and information according to this topic. The information that put into this research mostly were taken from reliable organization websites such as, UNESCO, Blue Shield International, International Committee of Red Cross and some authors.

UNESCO that is one of the six organ of United Nation that play a main role in protecting cultural heritage that people around the world acknowledged. Because of that, any data containing in this topic must fully with UNESCO, like in the article "Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention. The Hague" provided the information about the execution process of the convention, how is it become effective and useful until now. Beside the data from the

reliable organizations, there are also a number of scholars who have studied about this topic. One of the scholar article that is about “Protection of Cultural Heritage in Times of Armed Conflict: The International Legal Framework”, written by Erika Techera whose research about the protection of cultural heritage. His article explained that the Hague convention for the protection of cultural property in the event of armed conflict is the only international instrument aimed specifically at protecting cultural heritage during an armed conflict and occupation, and aimed to ensure that cultural property, both movable and immovable, was preserved and respected<sup>16</sup>.

Regarding to this research paper, those authors and organizations mentioned above are not quite different from each other. Their main goal just to examine and clarify the protection of cultural heritage from all around the world, the same as our goal to examine this research.

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<sup>16</sup> Erika Techera, “Protection of Cultural Heritage in Times of Armed Conflict: The International Legal Framework,” Revisited, October, 2007, <https://www.heritageforpeace.org/heritage-for-peace/legal-framework/hague-convention-and-its-two-protocols/>, accessed June 10, 2021.



## **CHAPTER2: GENERAL PROVISION REGARDING PROTECTION OF CULTURAL PROPERTY**

### **2.1 Definition of Cultural Property**

What is Cultural Property? There are many definitions of Cultural Property had been defined in different ways. In generally, Cultural Property has defined as tangible (physical, material) items that are part of the cultural heritage of a group or society. CP considered as a collection of unique real and personal property that is important to a culture. They may include such items as cultural landscapes, historic buildings, work of arts, archaeological sites, as well as collections of libraries, archives and museums. They are the vital part of people's identity and of all humanity.

Cultural property is defined in Article 1 of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict “irrespective of origin or ownership” as:(a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;

(b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);

(c) centers containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as 'centers containing monuments',<sup>17</sup>

- Cultural property should be identified with the emblem (Blue Shield) defined in Article 16, 17 of the 1954 Convention.

## **2.2 What is the 1954 Hague Convention?**

The 1954 Hague Convention adopted in The Hague (Netherlands) in 1954, the Convention for the Protection of Cultural Property in the Event of Armed Conflict is the first international treaty devoted exclusively to the protection of cultural property in the event of armed conflict. Its States Parties have committed to adopt safeguarding measures to ensure that both movable and immovable cultural property are provided adequate protection, both in peacetime and in the event of armed conflict. The treaty stipulates a number of measures that States and the armed forces should conduct during peacetime to prepare for conflict, and provides a regime for its protection during fighting. The Convention constitutes the first culture convention ever adopted under the auspices of UNESCO and was adopted as a direct response to the destruction of cultural property during World War II.<sup>18</sup> The 1954 Hague Convention was drawn up after the widespread devastation of cultural property in World War II. Together with its two Protocols of 1954 and 1999, it is the most widely recognized international treaty exclusively dedicated to the protection of cultural heritage in armed conflict.<sup>19</sup> With 133 States Parties (Data in 2018), the 1954 Hague Convention is considered customary international law. This means all nations as well as non-state actors are bound by the terms of the Convention. Violations can be prosecuted under international law, whether the accused party signed/ratified the Convention

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<sup>17</sup> Mr Jan HLADÍK, "THE PENAL PROTECTION OF CULTURAL PROPERTY," 2017, accessed 4 July, 2021.

<sup>18</sup> Mr Jan HLADÍK, "THE PENAL PROTECTION OF CULTURAL PROPERTY," 2017, accessed 4 July, 2021.

<sup>19</sup> Blue Shield International, "TREATY LAW AND THE 1954 HAGUE CONVENTION," 2018, <https://theblueshield.org/resources/laws/1954-hague-convention-treaty-law/armed-conflict-protocols/>, accessed 4 July, 2021.

or not. Under the terms of the Convention, all States Parties must protect the cultural property situated within their own territory and avoid acts of hostility directed against another State Party's cultural property, defined broadly to include historic structures and monuments, archaeological sites, and repositories of collections of artistic, scientific and historical interest.<sup>20</sup>

Broadly, the Hague Convention requires that States Parties adopt protection measures during peacetime for the safeguarding of cultural property. Such measures include the preparation of inventories, preparation for the removal of movable cultural property and the designation of competent authorities responsible for the safeguarding of cultural property. States Parties undertake to respect cultural property, not only located within their own territory, but also within the territory of other States Parties, during times of conflict and occupation. In doing so, they agree to refrain from using cultural property and its immediate surroundings for purposes likely to expose it to destruction or damage in the event of armed conflict. States Parties also agree to refrain from any act of hostility directed against such property. The Convention also requires the establishment of special units within national military forces, to be charged with responsibility for the protection of cultural property. Furthermore, States Parties are required to implement criminal sanctions for breaches of the Convention, and to undertake promotion of the Convention to the general public, cultural heritage professionals, the military and law-enforcement agencies.

- Safeguarding cultural property

The obligation of States Parties to safeguard cultural property in peacetime is outlined in Article

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<sup>20</sup> Military Cultural Heritage Advisory Group (MilCHAG), "The 1954 Hague Convention for the Protection of Cultural Property During Armed Conflict," 2021, <https://www.aiamilitarypanel.org/milchag/policy/cr-laws-treaties/1954-hague-convention/>, accessed 4 July, 2021.

It stipulates: “The High Contracting Parties undertake to prepare in time of peace for the safeguarding of cultural property situated within their own territory against the foreseeable effects of an armed conflict, by taking such measures, as they consider appropriate.”<sup>21</sup>

- Respect for cultural property

The Hague Convention sets out a minimum level of respect which all States Parties must observe, both in relation to their own national heritage as well as the heritage of other States Parties. States are obliged not to attack cultural property, nor to remove or misappropriate movable property from its territory of origin. Only exceptional cases of 'military necessity' will excuse derogation from this obligation. However, a State Party is not entitled to ignore the Convention's rules by reason of another Party's failure to implement safeguarding measures alone. This is set out in Article 4 of the Hague Convention:

Article 4: (1) The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility directed against such property.

(2) The obligations mentioned in paragraph I of the present Article may be waived only in cases where military necessity imperatively requires such a waiver.

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<sup>21</sup> UNESCO, “Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954,” UNESCO constitution, 12 June, 2017, [http://portal.unesco.org/en/ev.php-URL\\_ID=13637&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html), accessed 5 July, 2021.

(3) The High Contracting Parties further undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property. They shall, refrain from requisitioning movable cultural property situated in the territory of another High Contracting Party.

(4) They shall refrain from any act directed by way of reprisals against cultural property.

(5) No High Contracting Party may evade the obligations incumbent upon it under the present Article, in respect of another High Contracting Party, by reason of the fact that the latter has not applied the measures of safeguard referred to in Article 3.<sup>22</sup>

An example: of the application of the prohibition on disproportionate incidental damage to cultural property came during the first Gulf War in 1991, when Iraq positioned two fighter aircraft next to the ancient ziggurat at Ur. Coalition commanders decided not to attack the aircraft ‘on the basis of **respect for cultural property** and the belief that positioning of the aircraft adjacent to Ur (without servicing equipment or a runway nearby) effectively had placed each out of action, thereby limiting the value of their destruction by Coalition air forces when weighed against the risk of damage to the temple’.<sup>23</sup>

- Occupation

The rules set out in the Hague Convention also apply to States who are Occupying Powers of territory during conflict or otherwise. The Convention obliges Occupying Powers to respect the cultural property of the occupied territory, and to support local national authorities in its preservation and repair when necessary. This obligation is articulated in Article 5:

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<sup>22</sup> UNESCO, “Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954,” UNESCO constitution, 12 June, 2017, [http://portal.unesco.org/en/ev.php-URL\\_ID=13637&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html), accessed 5 July, 2021.

<sup>23</sup> Protection of cultural property: military manual; 2016, PDF

Article 5: (1) Any High Contracting Party in occupation of the whole or part of the territory of another High Contracting Party shall as far as possible support the competent national authorities of the occupied country in safeguarding and preserving its cultural property.

(2) Should it prove necessary to take measures to preserve cultural property situated in occupied territory and damaged by military operations, and should the competent national authorities be unable to take such measures, the Occupying Power shall, as far as possible, and in close co-operation with such authorities, take the most necessary measures of preservation.

(3) Any High Contracting Party whose government is considered their legitimate government by members of a resistance movement, shall, if possible, draw their attention to the obligation to comply with those provisions of the Conventions dealing with respect for cultural property.<sup>24</sup>

- Special protection

The Hague Convention establishes a 'special protection' regime, which obliges States Parties to ensure the immunity of cultural property under special protection from acts of hostility (Articles 8 and 9). Under Article 8, this protection may be granted to one of three categories of cultural property:

(1) refuges intended to shelter movable cultural property in the event of armed conflict;

(2) centers containing monuments; and

(3) other immovable cultural property of very great importance. To receive special protection, cultural property must also be located an adequate distance from an industrial center

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<sup>24</sup> UNESCO, "Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954," UNESCO constitution, 12 June, 2017, [http://portal.unesco.org/en/ev.php-URL\\_ID=13637&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html), accessed 8 July, 2021.

or location which would render it vulnerable to attack, and must not be used for military purposes.<sup>25</sup>

### **2.3 Systems of protection**

Parties to the Convention must protect all cultural property, whether their own or that situated in the territory of other States Parties. The various systems that provide protection for cultural property are described below:

- General protection

All cultural property must be afforded, at minimum, "general protection," as described in the Convention.

- Protection

Parties to the Convention must safeguard their own cultural property against foreseeable effects of armed conflict (CCP, Art. 3). States Parties must also respect all cultural property by:

- (1) not using cultural property for any purpose likely to expose it to destruction or damage in the event of armed conflict;
- (2) not directing any act of hostility against cultural property;
- (3) prohibiting, preventing and, if necessary, putting a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property; and,
- (4) refraining from requisitioning movable cultural property situated in the territory of another State Party (CCP, Art. 4).

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<sup>25</sup> UNESCO, "Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954," UNESCO constitution, 12 June, 2017, [http://portal.unesco.org/en/ev.php-URL\\_ID=13637&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html), accessed 8 July, 2021.

- Exception

The obligation to respect all cultural property, described above, may be waived on the basis of imperative military necessity (CCP, Art. 4). This waiver may be invoked:

(1) to use cultural property for purposes likely to endanger it, only if there is no feasible alternative available to obtain a similar military advantage (P2, Art. 6);

(2) to attack cultural property, only when that property has, by its function, been made into a military objective and there is no feasible alternative available to obtain a similar military advantage.<sup>26</sup>

## **2.4 The Protocol of the Convention**

The Convention is supplemented by two Protocols: The First Protocol (1954) imposes a number of obligations on Parties in relation to the protection of cultural property in occupied territories; and the Second Protocol (1999) extends and clarifies the obligations under the Convention and the First Protocol.

### **2.4.1 The First Protocol**

The First Protocol was adopted at the same time as the Hague Convention, on 14 May 1954 in response to the systematic pillage of cultural property of the occupied territories during the Second World War. It specifically applies to movable cultural property only, and prohibits the export of movable property from occupied territory and also requires its return to its original territory at the conclusion of hostilities (Article 1). States Parties under the obligation to prevent

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<sup>26</sup> International Committee of Red Cross, “1954 Convention on the Protection of Cultural Property in the event of armed conflict and its Protocols,” November 2014, [https://www.icrc.org/en/download/file/13071/1954\\_convention-on-the-protection-of-cultural-property-in-the-event-of-armed-conflict-and-its-protocols-icrc-eng.pdf](https://www.icrc.org/en/download/file/13071/1954_convention-on-the-protection-of-cultural-property-in-the-event-of-armed-conflict-and-its-protocols-icrc-eng.pdf), accessed 5 August, 2021.



the export of such property may be required to pay an indemnity to States whose property was removed during hostilities.

The States Parties to the First Protocol agree to undertake the following measures:

- (1) Prevent exportation of cultural property from an occupied territory in the event of armed conflict;
- (2) Take into custody cultural property imported into its territory directly or indirectly from any occupied territory;
- (3) Return to the competent authorities of the previously occupied territory, cultural property which is in its territory, if such property has been exported in contravention of the principles of the 1954 Hague Convention
- (4) Pay indemnity to the holders in good faith of any cultural property which has to be returned in accordance with the First Protocol.<sup>27</sup>

#### **2.4.2 The Second Protocol**

Criminal acts committed against cultural property in the course of many conflicts that took place at the end of the 1980s and the beginning of the 1990s highlighted a number of deficiencies in the implementation of the Hague Convention. A review of the Convention was initiated in 1991 to draw up a new agreement to improve the Convention, taking account of the experience gained from recent conflicts and the development of international humanitarian and cultural property protection law since 1954. Consequently, a Second Protocol to the Hague Convention was adopted at a Diplomatic Conference held at The Hague in March 1999. The Second Protocol further elaborates the provisions of the Convention relating to safeguarding of

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<sup>27</sup> UNESCO, "Armed conflict and heritage," UNESCO Organization, 2017, <http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/convention-and-protocols/second-protocol/>, accessed 8 July, 2021.

and respect for cultural property and the conduct of hostilities; thereby providing greater protection than before. It creates a new category of enhanced protection for cultural heritage that is particularly important for humankind, enjoys proper legal protection at the national level, and is not used for military purposes. It also specifies the sanctions to be imposed for serious violations with respect to cultural property and defines the conditions in which individual criminal responsibility shall apply. Finally, it establishes a twelve-member Intergovernmental Committee to oversee the implementation of the Second Protocol and de facto the Convention.<sup>28</sup>

The Second Protocol does not replace the Hague Convention; it complements it. The Second Protocol is intended to supplement the provisions of the original 1954 Hague Convention and to reinforce its implementation. It contains general provisions for the safeguarding of cultural property that include taking preparatory measures in times of peace, fostering respect for cultural property, and employing precautionary measures in times of conflict. The Convention also calls for provisions enhanced protection status for cultural heritage property and immunity granted under such status. It describes the circumstances under which enhanced protection status can be lost, suspended or cancelled. The Convention also outlines criminal responsibility and jurisdictional procedures in the event of violations. It specifically addresses the protection of cultural property in the event of domestic, national armed conflicts. The Convention calls for informational and educational programs to foster appreciation and respect for cultural property. Finally, the Convention establishes the Committee for the Protection of Cultural Property in the Event of Armed Conflict which is to develop guidelines for implementation and be responsible for the granting and rescinding of

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<sup>28</sup> UNESCO, "Armed conflict and heritage," UNESCO Organization, 2017, <http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/convention-and-protocols/second-protocol/>, accessed 8 July, 2021.

enhanced protection status. A Fund for the Protection of Cultural Property in the Event of Armed Conflict is also established.<sup>29</sup>

- **Enhance Protection**

One of the most important features of the Second Protocol is the 'enhanced protection' regime it establishes. This new category of cultural property is outlined in Chapter Three of the Second Protocol. Enhanced protection status means that the relevant cultural property must remain immune from military attack, once it is inscribed on the List of Cultural Property Under Enhanced Protection. While the 1954 Hague Convention requires States not to make any cultural property the object of attack except for cases of 'military necessity', the Second Protocol stipulates that cultural property under enhanced protection must not be made a military target, even if it has (by its use) become a 'military objective'. An attack against cultural property which enjoys enhanced protection status is only excusable if such an attack is the only feasible means of terminating the use of property in that way (Article 13). To be granted enhanced protection, the cultural property in question must satisfy the three criteria stipulated in Article 10 of the Second Protocol.

The three conditions are:

- (a) it is cultural heritage of the greatest importance for humanity;
- (b) it is protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring the highest level of protection; and

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<sup>29</sup> J. Paul Getty Trust, "Cultural Heritage Policy Documents," The getty, 11 May, 2011, [https://www.getty.edu/conservation/publications\\_resources/research\\_resources/charters/charter70.html](https://www.getty.edu/conservation/publications_resources/research_resources/charters/charter70.html), accessed 9 July, 2021.

(c) it is not used for military purposes or to shield military sites and a declaration has been made by the Party which has control over the cultural property, confirming that it will not be so used.<sup>30</sup>

Currently there are 13 cultural properties from 8 States Parties inscribed on the Enhanced Protection List. These include sites in Azerbaijan, Belgium, Cambodia, Cyprus, Georgia, Italy, Lithuania, and Mali.

- **The Committee for the Protection of Cultural Property in Event of Armed Conflict**

The Second Protocol establishes a 12-member Committee for the Protection of Cultural Property in the Event of Armed Conflict. Its members are elected for a term of four years, and an equitable geographic representation is taken into account at the election of its members. The Committee meets once a year in ordinary session, and in extraordinary sessions if and when it deems necessary. The Committee is responsible for the granting, suspension and cancellation of enhanced protection to cultural properties nominated by States Parties. It also receives and considers requests for international assistance which are submitted by States, as well as determining the use of the Fund for the Protection of Cultural Property in the Event of Armed Conflict. Under Article 27 of the Second Protocol, the Committee also has a mandate to develop Guidelines for the implementation of the Second Protocol.

- **The Fund for the Protection of Cultural Property in Event of Armed Conflict**

The Second Protocol establishes the Fund for the Protection of Cultural Property in the Event of Armed Conflict. Its purpose is to provide financial or other assistance for 'preparatory or other measures to be taken in peacetime'. It also provides financial or other assistance in

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<sup>30</sup> UNESCO, "Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict," 12 June, 2017, [http://portal.unesco.org/en/ev.php-URL\\_ID=15207&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15207&URL_DO=DO_TOPIC&URL_SECTION=201.html), accessed 9 July, 2021.

relation to emergency, provisional or other measures to protect cultural property during periods of armed conflict, or for recovery at the end of hostilities. The Fund consists of voluntary contributions from States Parties to the Second Protocol.<sup>31</sup> In 2016, the sums of US\$50,000 and US\$40,000 were provided to Libya and Mali respectively from the Fund, in response to their requests for assistance in the installation of emergency and safeguarding measures.

- **Sanction and Individual Criminal Responsibility**

The Second Protocol specifies sanctions to be imposed for serious violations against cultural property, and defines the conditions in which individual criminal responsibility should apply. This reflects an increased effort to fight impunity through effective criminal prosecution since the adoption of the Hague Convention in 1954. The Second Protocol defines five 'serious violations' for which it establishes individual criminal responsibility (Article 5)<sup>32</sup>

1. making cultural property under enhanced protection the object of attack;
2. using cultural property under enhanced protection or its immediate surroundings in support of military action;
3. extensive destruction or appropriation of cultural property protected under the Convention and this Protocol;
4. making cultural property protected under the Convention and this Protocol the object of attack; and

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<sup>31</sup> UNESCO "[Fund | United Nations Educational, Scientific and Cultural Organization.](http://www.unesco.org)" 12 June, 2017, [www.unesco.org](http://www.unesco.org), accessed 9 July, 2021.

<sup>32</sup> UNESCO. "Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict 1999." UNESCO Organization, 11 May, 2021, [http://portal.unesco.org/en/ev.php-URL\\_ID=15207&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15207&URL_DO=DO_TOPIC&URL_SECTION=201.html), accessed 10 July, 2021.

5. theft, pillage or misappropriation of, or acts of vandalism directed against cultural property protected under the Convention.

States are obligated to adopt appropriate legislation to make these violations criminal offences under their domestic legislation, to stipulate appropriate penalties for these offences, and to establish jurisdiction over these offences including universal jurisdiction for three of the five serious violations, as set out in Article 16.<sup>33</sup>

## 2.5 The Emblem of the Convention (Blue Shield)

The Blue Shield is a symbol of protection that identifies cultural property to be protected in the event of armed conflict and those responsible for protecting it, defined under international law.<sup>34</sup> The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict bear a distinctive emblem to facilitates its recognition. In accordance with Article 16 of the 1954 Hague Convention, the distinctive emblem shall take the form of a shield, pointed below, colored persaltire blue and white (a shield consisting of a royal-blue square, one of the angles of which forms the point of the shield, and of a royal-blue triangle above the square, the space on either side being taken up by a white triangle).<sup>35</sup>



This emblem is commonly referred as “Blue Shield”

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<sup>33</sup> ICRC international committee of the red cross, “Treaties, States Parties and Commentaries,” 9 March, 2004, <https://ihl-databases.icrc.org/ihl/INTRO/590>, accessed 10 July, 2021.

<sup>34</sup> Blue shield international, “The 1954 Hague Convention Blue Shield Emblems of Protection,” 16 October, 2018, <https://theblueshield.org/download/the-hague-conventions-emblems-of-protection/>, accessed 11 July, 2021.

<sup>35</sup> UNESCO, “Emblems for the Protection of Cultural Heritage in Times of Armed Conflicts,” UNESCO Organization, 2017, <http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/convention-and-protocols/1954-hague-convention/blue-shield-emblem/>, accessed 11 July, 2021.

The Blue Shield Emblem may be used as a means of identification of:

- Cultural property (with an exception of cultural properties under special and enhanced protection);
- The persons responsible for the duties of control in accordance with the Regulations for the Execution of the Convention;
- The personnel engaged in the protection of cultural property;
- The identity cards mentioned in the Regulations for the Execution of the Convention.

In accordance with Article 17 of the 1954 Hague Convention, during an armed conflict, the use of the distinctive emblem in any other cases than those mentioned above, and the use for any purpose whatever of a sign resembling the distinctive emblem, is forbidden.

The Blue Shield emblem shall also be presented three times together to facilitate identifying the following:

- Immovable cultural property under special protection;
- The transport of cultural property under the conditions provided for in Articles 12 and 13 of the 1954 Hague Convention;
- Improvised refuges, under the conditions provided for in the Regulations for the Execution of the Convention.

## **2.6 Scope of the Application of the Convention**

### **2.6.1 Application of the Convention**

In addition to the provisions which shall take effect in time of peace, the present Convention shall apply in the event of declared war or of any other armed conflict which

may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by, one or more of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance. If one of the Powers in conflict is not a Party to the present Convention, the Powers which are Parties thereto shall nevertheless remain bound by it in their mutual relations. They shall furthermore be bound by the Convention, in relation to the said Power, if the latter has declared, that it accepts the provisions thereof and so long as it applies them.

#### **2.6.2. Conflicts not of an International Character**

In the event of an armed conflict not of an international character occurring within the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as, a minimum, the provisions of the present Convention which relate to respect for cultural property. The parties to the conflict shall endeavor to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The United Nations Educational, Scientific and Cultural Organization may offer its services to the parties to the conflict. The application of the preceding provisions shall not affect the legal status of the parties to the conflict.



## **CHAPTER 3: IMPLEMENTATION OF THE CONVENTION**

### **3.1. Punishment for Infringement**

The Rome Statute, adopted in July 1998 and entering into force four years later, as the legal basis of the International Criminal Court (ICC), defines in Article 8(2) deliberate attacks against buildings of a religious, educational, artistic, scientific or non-profit nature and against historical monuments as war crimes in both international and non-international armed conflicts. The International Criminal Court is thus authorized to prosecute such crimes if such an act was committed either by a national of a Contracting Party or on the territory of a Contracting Party. However, it only exercises its competence if the country concerned is unwilling or unable to ensure effective prosecution itself.

### **3.2. Case study**

There were many cases that happened related to destruction and looting of cultural property such as churches, places of worship, monuments, history books, structures and other objects in the part time of war or peace. In any cases or any parties became a member of this convention break the rule, they must be punished according to the rule of the convention. The following cases are truly happened in the world and had some prosecuted to whom or group that destroyed the cultural property. This linked people from past and now has the connection together. Cultural property has been considered as precious and sacred things for people in their country.

#### **3.2.1. Khmer Rouge Tribunal**

The Khmer Rouge Tribunal, established by the United Nations together with the government of Cambodia in July 2006, has the possibility of prosecuting the destruction of cultural assets during the Khmer Rouge dictatorship from April 1975 to January 1979, with

explicit reference to the Hague Convention of 1954, pursuant to Article 7 of the Law on the Establishment of Extraordinary Chambers.<sup>36</sup> During this time, most of the more than 3,300 temples and 130 mosques in Cambodia were severely damaged by the Khmer Rouge. They also destroyed all 73 Catholic churches and many other sites of religious or cultural significance. The Hague Convention of 1954 can be applied in principle, since Cambodia became a party to the Convention in 1962, before the Khmer Rouge came to power, and because Article 19 of the Convention stipulates that even in non-international armed conflicts, each party to the conflict is bound at least by the provisions on respect for cultural property.

However, it is not yet known whether and to what extent trials will be instituted in the court which are based on the destruction of cultural property. A possible problem with the application of Article 7 and thus with The Hague Convention, is that it is a legal requirement to establish the existence of an armed conflict. This would then resemble the definition commonly used in international humanitarian law. Whether such an assessment of the Khmer Rouge dictatorship will be possible, cannot yet be predicted.

### **3.2.2. Siege of Dubrovnik and the Mostar Bridge**

Article 3 of the Statute of the International Criminal Tribunal for the former Yugoslavia also contains provisions that allow the prosecution of violations of the fundamental principles of the Hague Convention of 1954. On the basis of this article, for the first time since the conclusion of the Convention, proceedings were brought in an international court for the destruction of cultural property during an armed conflict.<sup>37</sup>

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<sup>36</sup> The Council of Jurists and the Secretariat of the Task Force, "Law on the establishment of extraordinary Chamber," 27 October, 2004 [https://www.eccc.gov.kh/sites/default/files/legal-documents/KR\\_Law\\_as\\_amended\\_27\\_Oct\\_2004\\_Eng.pdf](https://www.eccc.gov.kh/sites/default/files/legal-documents/KR_Law_as_amended_27_Oct_2004_Eng.pdf), accessed 12 July, 2021.

<sup>37</sup> Abtahi, Hirad. "The Protection of Cultural Property in Times of Armed Conflict: The Practice of the International Criminal Tribunal for the Former Yugoslavia," Harvard Human Rights Journal, 2001, <http://opac.cshr.cmb.ac.lk:8080/jspui/handle/123456789/931>, accessed 12 July, 2021.



targeted by the JNA even though it served no military purpose to bomb this town. At the heart of the bombing efforts by the JNA elite was the complete eradication of the memory of the Croatian people and history by erasing their cultural heritage and destroying their cultural property. The court's convictions, which among other charges were also based on this article, were issued in February 2001 against Dario Kordić,<sup>39</sup> a commander of the Croatian Defense Council (HVO) during the war in Bosnia, against Miodrag Jokić,<sup>40</sup> a senior commander in the navy of the Yugoslav People's Army during the Battle of Dubrovnik in 1991, and against Milan Martić,<sup>41</sup> a politician and military leader of the internationally unrecognized Republic of Serbian Krajina. The attacks on the Herzegovinian city of Mostar, which in November 1993 led to the destruction of the Stari most bridge, internationally recognized as an outstanding cultural asset, led to the trial of six defendants before the International Criminal Tribunal for the former Yugoslavia in April 2006.<sup>42</sup> Among them is the Croatian General Slobodan Praljak, who is suspected of having ordered the fire on the bridge.

The historic town of Mostar, spanning a deep valley of the Neretva River, developed in the 15th and 16th centuries as an Ottoman frontier town and during the Austro-Hungarian period in the 19th and 20th centuries. Mostar was mostly known for its old Turkish houses and specifically the Old Bridge; the Stari Mostar, after which it is named. In the 1990s conflict with the former Yugoslavia, however, most of the historic town and the Old Bridge were destroyed purposely by Croatian Army and their allies. This type of destruction was in step with that of

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<sup>39</sup> Kordić and Čerkez, "International Criminal Tribunal for the former Yugoslavia," United Nation, 13 June, 2018, [www.icty.org](http://www.icty.org), accessed 12 July, 2021.

<sup>40</sup> Jokić, Miodrag, "International Criminal Tribunal for the former Yugoslavia," United Nation, 13 June, 2018, [www.icty.org](http://www.icty.org), accessed 12 July, 2021.

<sup>41</sup> Martić, "International Criminal Tribunal for the former Yugoslavia," United Nation, 13 June, 2018, [www.icty.org](http://www.icty.org), accessed 12 July, 2021.

<sup>42</sup> Prlić et al, "International Criminal Tribunal for the former Yugoslavia," United Nation, 18 June, 2018, [www.icty.org](http://www.icty.org), accessed 13 July, 2021.

the Old Town of Dubrovnik, where the aim was the eradication of the memory of the people that once occupied the land, an effort reminiscent of the Third Reich and the Nazi party. The attacks on the Herzegovinian city of Mostar, which in November 1993 led to the destruction of the Stari most bridge, internationally recognized as an outstanding cultural asset, led to the trial of six defendants before the International Criminal Tribunal for the former Yugoslavia in April 2006. Among them is the Croatian General Slobodan Praljak, who is suspected of having ordered the firing of the bridge.<sup>43</sup>

### **3.2.3. Destruction of cultural heritage**

#### **3.2.3.1. Destruction of cultural heritage by ISIL**

Deliberate destruction and theft of cultural heritage has been conducted by the Islamic State of Iraq and the Levant since 2014 in Iraq, Syria, and to a lesser extent in Libya. The destruction targets various places of worship under ISIL control and ancient historical artifacts. In Iraq, between the fall of Mosul in June 2014 and February 2015, ISIL has plundered and destroyed at least 28 historical religious buildings.<sup>44</sup> The valuable items from some buildings were looted in order to smuggle and sell them to finance ISIL activities.

Although Libya, Syria and Iraq ratified the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict in 1957, 1958 and 1967 respectively,<sup>45</sup> it has not been effectively enforced.

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<sup>43</sup> Prlić et al, "International Criminal Tribunal for the former Yugoslavia," United Nation, 18 June, 2018, [www.icty.org](http://www.icty.org), accessed 13 July, 2021.

<sup>44</sup> Khalid al-Taie, "Iraq churches, mosques under ISIL attack," Internet Achieve Way Back Machine, 13 February, 2015, [mawtani.al-shorfa.com](http://mawtani.al-shorfa.com), accessed 15 July, 2021.

<sup>45</sup> UNESCO, "Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention. The Hague," 14 May, 1954, <https://maintenance.unesco.org/>, accessed 15 July, 2021.

### **3.2.3.2 The death of the Buddha Bamiyan**

The 2001 destruction of the two giant-Buddhas in Bamiyan is, by far, the most spectacular attack against the historical and cultural heritage of Afghanistan committed during the country's recent period of turmoil.

On February 26, 2001, and after having consulted a college of 'Ulama', Mullah Muhammad Omar, the leader of the Taliban, issued a decree ordering the elimination of all non-Islamic statues and sanctuaries in Afghanistan. A kind of jihad was launched against the two Buddhas — the one to the east 38 meters high, and the other to the west, 55 meters high — hewn into the cliff of Bamiyan. "Our soldiers are working hard; they are using all available arms against them," said the Taliban's spokesman. Rockets and tank shells were brought in to help, and the destruction was completed with dynamite. On March 14, the Taliban issued a public announcement that the giant figures had been destroyed.

Mullah Omar's decree had prompted many attempts by Western countries and moderate Muslim clerics and heads of state from among Afghanistan's neighbors to convince the Taliban to call off their plans. The need to preserve a cultural heritage and to respect religious tolerance was at the core of this general protest. UNESCO emissaries pleaded in vain that a necessary distinction should be made between idolatry and exemplarity — between a secular admiration and an idolatrous veneration. Others insisted on the exemplarity of piety, the "lesson of faith," that these statues could offer to the believers of all religions. In fact, the Taliban's argument gave these ambassadors of culture no chance of success: "If the statues were objects of cult for an Afghan minority, we would have to respect their belief and its objects, but we don't have a single Buddhist in Afghanistan," said the Mullah, "so why preserve false idols? And if they have no religious character, why get so upset? It is just a question of breaking stones." Besides

the steps taken by UNESCO to save the statues, the MET (New York), as well as some Buddhist states, such as Thailand, Sri Lanka, and even Iran, offered to “buy” the Buddhas.

Yet, the victory over the Buddhas could only be won if there were witnesses. This is why journalists were flown to Bamiyan on March 26 to see with their own eyes the gaping openness of the niches, deep into the cliff, where the statues had stood. Prior to that, on March 19, the Taliban had agreed for this one occasion to let Al-Jazeera cameramen witness the final phase of the demolition.

Such an extraordinary attack on religious and cultural emblems led many to speculate about the real intentions of the Mullah. Two kinds of explanation of the Mullah’s astounding decision are possible. The first, based on his and his close collaborators’ explicit argumentation, highlights the Taliban clerics’ conception of Islamic law. The second, a more contextual explanation, takes into account the position of the Taliban regime on the international scene. This point of view is supported by the contradictory statements made by the Taliban since they came to power. In July 1999, three years after the entry of the Mullah’s forces into Kabul, the Taliban Minister of Culture spoke about the respect due to pre-Islamic antiquities and also mentioned the risk of retaliation against mosques in Buddhist countries. He made clear that, though there were no Buddhist believers in Afghanistan, “Bamiyan would not be destroyed but, on the contrary, protected.” The famous February 26 decree appears as a real volte-face since it maintains that “these statues were and are sanctuary for unbelievers” — hence the religious obligation to destroy them. The assault against the Buddhas seems thus to be an answer to a changing political context, a kind of reprisal against the sanctions imposed by the UN Security Council on the Taliban regime and the refusal of most UN members to recognize the Taliban Emirate.

Besides, the Taliban themselves expressed afterwards their indignation and anger at the protest coming from the “West,” which they described as being exclusively concerned with saving “idols” but ignorant of the misery of the Afghans. According to this point of view, Afghan cultural heritage is an indirect victim of the Western countries’ rejection of the Emirate and of their double standard — moved by the destruction of the statues but indifferent to the ordeal of the Afghan people. In the West, the destruction of the Buddhas of Bamiyan has been condemned as an intolerable attack against the whole of humanity’s most precious treasures.

The making of the Afghan national heritage with the Buddhas as its jewel is intimately related to the European venture. The first European travelers, who in the 19th century mentioned the gigantic figures in their travelogues, were for the most part secret agents, explorers, and traffickers. In 1832, Alexander Burnes, an agent of the Indian Political Service, described the “couple of idols” as relics of a past cult. He found them inelegant, even unsightly, and good only for savages and their primitive beliefs.

Charles Masson, an Indian Army deserter, while visiting the site in 1833, was the first to recognize the effigy of the Buddha in the figures. He was also the first to admire them. He wrote: “The traveler surveying [...] the vast and mysterious idols and the multitude of caves around him will scarcely fail to be absorbed in deep reflection and wonder...”

But what about the Afghans? What was their feeling about this “jewel” of their cultural heritage, this Western invention? For many Afghans, the two giant figures, for them a male and a female, were a reminder of the monstrous idols Lât and Manât mentioned in the Qur’an. This being said, the inhabitants of central Afghanistan looked at the Buddhas as a familiar presence, and, in their religious beliefs, as survivors of pre-Islamic times, whose pagan origins were occasionally recalled by the local mullahs.



For most Afghans and for the Taliban, the category “cultural heritage” hardly existed or was, at best, suspicious. More vehement was their protest and more convinced were they that it only reflected a belief — the cult of masterpieces of Art — as illegitimate as that of idol-worshippers. The Taliban’s position precisely revealed their negation that a space for secular veneration could exist, wherein Art would have replaced the God of the monotheists. The worldwide mobilization against the Buddhas’ destruction did not cause the foreign military intervention in autumn of 2001 or the collapse of the Taliban regime. Nevertheless, the Taliban’s iconoclasm surely contributed, in the West, to the de-legitimization of their regime.<sup>46</sup>

### **3.3. Transport of Cultural Property**

#### **3.3.1. Transport under Special Protection**

One way of protecting movable cultural property from the foreseeable effects of armed conflict is to transfer it from the vicinity of military objectives to a place of safety within or outside the state in which the property is situated Article 12 of the 1954 Hague Convention makes provision in this connection, specifying that, at the request of the state party concerned, cultural property may be transported under a special, internationally-supervised regime. In accordance with article 12(3), states parties are absolutely prohibited from making means of transport engaged exclusively in the transfer of cultural property the object of attack. It is not just state parties to the Convention, however, that are prohibited from attacking means of transport, whether by land, sea or air, of cultural property. Since the movable cultural property being transported can never make an effective contribution to military action, it—and by extension any vehicle while transporting it—can never be considered a military objective. As a consequence, any party to an international or non-international armed conflict, regardless of

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<sup>46</sup> Pierre Centlivres, “The death of the Buddha Bamiyan,” 18 April, 2012, <https://www.mei.edu/publications/death-buddhas-bamiyan#edn1>, accessed 20 July, 2021.

whether it is a state party to the 1954 Hague Convention, is absolutely prohibited from making means of transport engaged exclusively in the transfer of cultural property the object of attack. This prohibition, moreover, applies to any means of transport engaged exclusively in the transfer of cultural property, whether or not it benefits from the regime of transport provided for in article 12 of the Convention, which, as it is, has never formally been used.<sup>47</sup>

### **3.3.2. Transport in Urgent Cases**

In Accordance with article 13 of the Convention;

(1) If a High Contracting Party considers that the safety of certain cultural property requires its transfer and that the matter is of such urgency that the procedure laid down in Article 12 cannot be followed, especially at the beginning of an armed conflict, the transport may display the distinctive emblem described in Article 16, provided that an application for immunity referred to in Article 12 has not already been made and refused. As far as possible, notification of transfer should be made to the opposing Parties. Nevertheless, transport conveying cultural property to the territory of another country may not display the distinctive emblem unless immunity has been expressly granted to it.

(2) The High Contracting Parties shall take, so far as possible, the necessary precautions to avoid acts of hostility directed against the transport described in paragraph 1 of the present Article and displaying the distinctive emblem.

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<sup>47</sup> Roger O’Keefe, Camille Péron, Tofiq Musayev, Gianluca Ferrari, “Protection for Cultural Property military manual,” UNESCO, 2016, [https://www.iihl.org/wp-content/uploads/2017/11/Military-Manual-EN-last-update\\_7nov17.pdf](https://www.iihl.org/wp-content/uploads/2017/11/Military-Manual-EN-last-update_7nov17.pdf) accessed 20 July, 2021.

## **CHAPTER 4: THE EXECUTION OF THE CONVENTION**

### **In Accordance to Article 20: Regulations for the execution of the convention**

The procedure by which the present Convention is to be applied is defined in the Regulations for its execution, which constitute an integral part thereof.<sup>48</sup>

### **In Accordance to Article 21: Protecting powers**

The present Convention and the Regulations for its execution shall be applied with the co-operation of the Protecting Powers responsible for safeguarding the interests of the Parties to the conflict.<sup>49</sup>

### **In Accordance to Article 22: Conciliation procedure**

1. The Protecting Powers shall lend their good offices in all cases where they may deem it useful in the interests of cultural property, particularly if there is disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention or the Regulations for its execution.

2. For this purpose, each of the Protecting Powers may, either at the invitation of one Party, of the Director-General of the United Nations Educational, Scientific and Cultural Organization, or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for the protection of cultural property, if

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<sup>48</sup> The Art Newspaper Archive, “The full text of the Hague convention for the protection of cultural property in the event of armed conflict (1954),” 06 March, 1991, <https://www.theartnewspaper.com/archive/the-full-text-of-the-hague-convention-for-the-protection-of-cultural-property-in-the-event-of-armed-conflict-1954> , Accessed 01 August 2021.

<sup>49</sup> The Art Newspaper Archive, “The full text of the Hague convention for the protection of cultural property in the event of armed conflict (1954),” 06 March, 1991, <https://www.theartnewspaper.com/archive/the-full-text-of-the-hague-convention-for-the-protection-of-cultural-property-in-the-event-of-armed-conflict-1954> , Accessed 01 August 2021.

considered appropriate on suitably chosen neutral territory. The Parties to the conflict shall be bound to give effect to the proposals for meeting made to them. The Protecting Powers shall propose for approval by the Parties to the conflict a person belonging to a neutral Power or a person presented by the Director-General of the United Nations Educational, Scientific and Cultural Organization, which person shall be invited to take part in such a meeting in the capacity of Chairman.<sup>50</sup>

### **In Accordance to Article 23: Assistance of UNESCO**

1. The High Contracting Parties may call upon the United Nations Educational, Scientific and Cultural Organization for technical assistance in organising the protection of their cultural property, or in connection with any other problem arising out of the application of the present Convention or the Regulations for its execution. The Organization shall accord such assistance within the limits fixed by its programme and by its resources.

2. The Organization is authorised to make, on its own initiative, proposals on this matter to the High Contracting Parties.<sup>51</sup>

### **In Accordance to Article 24: Special agreements**

1. The High Contracting Parties may conclude special agreements for all matters concerning which they deem it suitable to make separate provision.

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<sup>50</sup> The Art Newspaper Archive, “The full text of the Hague convention for the protection of cultural property in the event of armed conflict (1954),” 06 March, 1991, <https://www.theartnewspaper.com/archive/the-full-text-of-the-hague-convention-for-the-protection-of-cultural-property-in-the-event-of-armed-conflict-1954> , Accessed 01 August 2021.

<sup>51</sup> The Art Newspaper Archive, “The full text of the Hague convention for the protection of cultural property in the event of armed conflict (1954),” 06 March, 1991, <https://www.theartnewspaper.com/archive/the-full-text-of-the-hague-convention-for-the-protection-of-cultural-property-in-the-event-of-armed-conflict-1954> , Accessed 01 August 2021.

2. No special agreement may be concluded which would diminish the protection afforded by the present Convention to cultural property and to the personnel engaged in its protection.

#### **In Accordance to Article 25: Dissemination of the convention**

The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the text of the present Convention and the Regulations for its execution as widely as possible in their respective countries. They undertake, in particular, to include the study thereof in their programmes of military and, if possible, civilian training, so that its principles are made known to the whole population, especially the armed forces and personnel engaged in the protection of cultural property.<sup>52</sup>

#### **In Accordance to Article 26: Translations, reports**

1. The High Contracting Parties shall communicate to one another, through the Director-General of the United Nations Educational, Scientific and Cultural Organization, the official translations of the present Convention and of the Regulations for its execution.
1. Furthermore, at least once every four years, they shall forward to the Director-General a report giving whatever information they think suitable concerning any measures being taken, prepared.

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<sup>52</sup> The Art Newspaper Archive, "The full text of the Hague convention for the protection of cultural property in the event of armed conflict (1954)," 06 March, 1991, <https://www.theartnewspaper.com/archive/the-full-text-of-the-hague-convention-for-the-protection-of-cultural-property-in-the-event-of-armed-conflict-1954> , Accessed 01 August 2021.

2. or contemplated by their respective administrations in fulfilment of the present Convention and of the Regulations for its execution.<sup>53</sup>

### **In Accordance to Article 27: Meetings**

1. The Director-General of the United Nations Educational, Scientific and Cultural Organization may, with the approval of the Executive Board, convene meetings of representatives of the High Contracting Parties. He must convene such a meeting if at least one-fifth of the High Contracting Parties so request.
2. Without prejudice to any other functions which have been conferred on it by the present Convention or the Regulations for its execution, the purpose of the meeting will be to study problems concerning the application of the Convention and of the Regulations for its execution, and to formulate recommendations in respect thereof.
3. The meeting may further undertake a revision of the Convention or the Regulations for its execution if the majority of the High Contracting Parties are represented, and in accordance with the provisions of Article 39.

### **In Accordance to Article 28: Sanctions**

The High Contracting Parties undertake to take, within the framework of their ordinary criminal jurisdiction, all necessary steps to prosecute and impose penal or disciplinary sanctions upon

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<sup>53</sup> The Art Newspaper Archive, "The full text of the Hague convention for the protection of cultural property in the event of armed conflict (1954)," 06 March, 1991, <https://www.theartnewspaper.com/archive/the-full-text-of-the-hague-convention-for-the-protection-of-cultural-property-in-the-event-of-armed-conflict-1954> , Accessed 01 August 2021.

those persons, of whatever nationality, who commit or order to be committed a breach of the present Convention

## **CHAPTER 5: INTERNATIONAL ACCEPTANCE AND PARTNERING ORGANIZATIONS**

As of November 2020, 133 states ratified the 1945 Hague Convention, 110 of them are also parties to the first protocol and 84 of them to the 1999 second protocol.<sup>54</sup> The full list of state parties registered table is provided in Appendix A.

Of the five permanent members of the United Nations Security Council, France became a party in 1957. Russia is contracting party in legal succession of the Soviet Union, which also became party in 1957. The People's Republic of China ratified the convention in 2000 and the United States acceded in 2009. The United Kingdom signed the Agreement in 1954 and ratified the Convention and acceded to the Protocols in 2017.

The main reason for the long period between signature and ratification by the United States were the reservations of the US Department of Defense during the Cold War, that the Convention's obligations regarding the possible use of nuclear weapons could not be fulfilled.<sup>55</sup> The Joint Chiefs of Staff, to which the commanders-in-chief of all units of the American armed forces belong, unanimously declared itself in 1995 in favor of voluntary compliance with the Convention. On 6 January 1999, then US President Bill Clinton recommended that the US Senate ratify both agreements. In his opinion, they were not only in accordance with the principles and methods of the American Armed Forces, but were even based on them in essential aspects. After the Senate approved accession in September 2008, the US Ambassador to UNESCO, Stephen Engelken, handed over the instrument of ratification to Kōichirō Matsuura, Secretary-General of UNESCO on 13 March 2009. On the

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<sup>54</sup> UNESCO, "Armed conflict and heritage," November 2020, <http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/convention-and-protocols/states-parties/#topPage>, accessed 2 August 2021.

<sup>55</sup> US/ICOMOS, "Hague Convention and US/ICOMOS," 2019, [www.usicomos.org](http://www.usicomos.org), accessed 3 August 2021.



occasion of the 50th anniversary of the signing of the Convention on 14 May 2004, the Government of the United Kingdom declared its intention to become a party to the Convention and the two Protocols.<sup>56</sup> This was due to the conclusion of the Second Protocol of 1999, which, in the view of the British government, eliminated essential weaknesses and ambiguities of the 1954 Convention. A draft law containing ratification of the Convention, the two protocols and criminal law provisions was announced by the UK government in November 2006.

## **5.1. UNESCO**

The United Nations Educational, Scientific and Cultural Organization (UNESCO), a legally independent specialized agency of the United Nations based in Paris, and is the most important international institution in the field of dissemination and implementation of the protection of cultural property in armed conflicts. It acts as depositary of The Hague Convention of 1954 and its two Protocols and administers the "International Register of Cultural Property under Special Protection".

## **5.2. Blue Shield International**

Blue Shield International (formerly the International Committee of the Blue Shield, ICBS; has existed since 1996. Its mission is to improve international cooperation in the field of cultural heritage protection and to support local and regional activities. The Second Protocol of 1999 explicitly mentions in Articles 11 and 27 the consultative role of the International Committee of the Blue Shield in the implementation of the Agreement.<sup>57</sup> Since the International Committee was founded in 1996, national Blue Shield Committees have been established in Argentina, Australia, Belgium, Benin, Brazil, Chile, Curaçao, Denmark, France,

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<sup>56</sup> Archive.today, "UK To Ratify Convention Safeguarding Cultural Heri...", 23 December, 2012, [https://archive.ph/20121223133857/http://www.culture.gov.uk/reference\\_library/media\\_releases/2452.aspx](https://archive.ph/20121223133857/http://www.culture.gov.uk/reference_library/media_releases/2452.aspx) , accessed 3 August, 2021.

<sup>57</sup> UNESCO, "Text | United Nations Educational, Scientific and Cultural Organization," 2021, <https://en.unesco.org/>, accessed 3 August 2021.

Georgia, Guatemala, Haiti, Ireland, Israel, Italy, Madagascar, Macedonia, the Netherlands, Norway, Poland, Romania, Senegal, Spain, the Czech Republic, Ukraine and the US,<sup>58</sup> comparable to the International Red Cross and Red Crescent Movement. The Association of the National Committees of the Blue Shield (ANCBS) was established on September 28, 2006 as the umbrella organization for the national committees. ANCBS and ICBS merged in 2016,<sup>59</sup> to become the Blue Shield. International activities are now represented by Blue Shield International, who also work to coordinate and support the work of the national committees.

While in many wars the freedom of movement of United Nations personnel is significantly restricted due to security concerns, Blue Shield is regarded as particularly suitable due to its structure to act flexibly and autonomously in armed conflicts. Despite the partial dissolution of state structures and the very unclear security situation resulting from the wars and unrest in Iraq, Syria, Mali, Egypt and Libya, the employees of Blue Shield and its national organizations then carried out very robust undertakings to protect the cultural assets there.<sup>60</sup> This concerns in particular the collection of cultural assets to be protected, the compilation with local experts of "no-strike lists" (which preserve the coordinates of important cultural monuments), the linking of civil and military structures and the training of local military personnel with regard to the protection of cultural assets. From Blue Shield's point of view, it is not enough to develop and adopt international law norms such as the Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict or the Doha Statement of the Conference of 'Ulamâ on Islam and Cultural Heritage'. It is

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<sup>58</sup> The Blue Shield, "The Blue Shield: Around the Globe," 2018, <https://theblueshield.org/about-us/around-the-globe/>, accessed 3 August 2021.

<sup>59</sup> The Blue Shield, "The Blue Shield: History," 2018, <https://theblueshield.org/about-us/history/>, accessed 3 August 2021.

<sup>60</sup> The Getty conservation institute, "Newsletter 23.1 Spring," 2008, [http://www.getty.edu/conservation/publications\\_resources/newsletters/23\\_1/feature.html](http://www.getty.edu/conservation/publications_resources/newsletters/23_1/feature.html), accessed 3 August 2021.

necessary to implement these standards effectively on a global scale.<sup>61</sup> This also concerns the prevention of the illicit trade in antiquities and stolen cultural assets to finance military conflicts.<sup>62</sup> As a result of the destruction of cultural assets by armed conflict, war and unrest in Iraq, Syria, Mali or Afghanistan, but also by earthquakes such as in Haiti or Nepal, cooperation has developed between Blue-Shield and national armed forces such as the US Army or the British Army.<sup>63</sup>

### 5.3. Other Civil Society Structures

Beyond the Hague Convention 1954 and its Protocol, there are other international instruments that protect cultural property in times of armed conflict. Of particular note are the 1977 Protocols I and II of the Geneva Convention 1949 (Geneva PI and Geneva PII respectively) which were passed after the Vietnam War. Geneva PI applies to situations of international armed conflict and Geneva PII is applicable to non-international conflicts. Cultural property is ‘civilian property’ for the purposes of these Protocols and it was prohibited to use such property for military purposes or to intentionally attack it. General protection is given to undefended localities<sup>64</sup> and again pillage is prohibited.<sup>65</sup>

The "International League of National Societies for the Protection of Cultural Property", based in the Swiss city of Freiburg, was also established in May 1997 as an international umbrella organization. Through the activities of these national and international organizations and associations, which also include the protection of cultural property against disasters in times

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<sup>61</sup> Der standard, "Iconoclasm: The global norms for the protection of cultural property do not apply," February 2015, <https://www.derstandard.at/story/2000012502400/bildersturm-in-mossulklassische-normen-und-uebereinkuenfte-versagen>, accessed 3 August 2021.

<sup>62</sup> Hines, Nico, "Real-Life Indiana Jones Vs. ISIS," The Daily Beast, 5 July, 2015, <https://www.thedailybeast.com/real-life-indiana-jones-vs-isis>, accessed 3 August 2021.

<sup>63</sup> The Chronicle of Philanthropy, "Cultural Preservation in Disasters, War Zones Presents Big Challenges," 11 May, 2015, <https://www.philanthropy.com/article/cultural-preservation-in-disasters-war-zones-presents-big-challenges/>, accessed 3 August 2021.

<sup>64</sup> Geneva PI Article 59.

<sup>65</sup> Geneva PII Article 4(2)(g).

of peace, civil society structures will play an increasing role in the field of cultural property protection and support the work of state and international institutions.

## CONCLUSION

In conclusion, in response to a research question about the main reason that urge “The Hague Convention for the Protection of Cultural Property in Event of Armed Conflict” being as an indispensable and a necessary treaty for current world and in the international community, there are a few key points that had been mentioned specifically and exclusively in this research. One of the main reasons is the possibility of the Convention in protecting and preserving Cultural Property and Cultural Heritage is in adequate level, the other reason is that the Convention had been ratified and accepted by many member states in the international stage, and another reason is that the Convention itself plus its two protocols are working effectively to lead the rate of destruction of the cultural property go down. In addition, as we had acknowledged that when a conflict or war happen, there would be consequences come after. It damages the economy and politic but on a deeper level, the damage of cultural heritage can destroy society and cultural identity of the people. Cultural property or heritage considered as a victim of the war as human does. This is why CP or CH need to be protected under law restriction. After the devastation, international community come together to create international conventions with noteworthy protocols and treaties. The 1954 Hague Convention can be set as a good example due to the fact that it made up with a system that protect states party’s cultural heritage. It becomes the first international treaty working to protect CP in event of armed conflict. Moreover, the convention had protected cultural property during and before an armed conflict. With 133 parties and 4 official languages for the convention, it designed to ensure the respect from other by provide a security measure to be implemented in the time of peace. The implementation of the convention is very important for parties to the convention to participate and practice. Anyone that cause a damage to the property must be prosecuted with the convention and protocol that they violated. With many cases arise that related to the damage on

cultural property, the execution and punishment for infringement is a must. Furthermore, there are many international organizations such as the well-known organization like UNESCO and Blue Shield International are accepted the convention with the same purpose to prohibit the attack on the heritage. With the same provisions of these organizations make the convention even more effective in processing the rule of protecting CP that had been stated in the convention and its two protocols. To sum, the Hague Convention for the Protection of Cultural Property in Event of Armed Conflict is one of a crucial treaty that designed to preserve all kind of Cultural Heritage or CP during war time or even in peace time. More than that its role also to prohibit any act of violation or attack over Cultural Property and Heritage. This convention plays such a serious role in the current world and still be the necessary treaty for all time.

## RECOMMENDATION

Come up to this part, since we completed examining and analyzing through this research thesis, we have learned and understand clearly about the beginning of the convention until now, how it has become the crucial convention of the world regarding the protection of cultural property and heritage. In contrast, the 1954 Hague Convention already gave adequate protection for the cultural property, somehow it lacked some points to preserve the heritage or cultural property. For example, like in the case study, there were still problems caused by the lack of protection. This is the reason for the ongoing damage and destruction of cultural property. As mentioned above we would like to provide the recommends that make the Hague Convention for more strengthen, work well and long last stable such as:

- UN or UNESCO should take action seriously to persons, groups or any member parties that are against the rule of the convention, by making them pay for the compensation for destroying the victim's property.
- The UN or UNESCO should have clear measures about no stealing and copying of cultural property of other states, if those happen should put a punishment to those wrongs.
- The cultural property protection should be emphasized as national cultural property being part of the international cultural property.
- The cultural property protection should also be stressed to those who will have to fight around foreign cultural property as part of the international cultural property and should be respected as equal to their own cultural property.

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#### **Appendix A: Table of international treaty of state parties**

<b>1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two (1954 and 1999) Protocols</b>			
<b>Status of Ratification</b>			
<b>Group I</b>			
<b>Member States</b>	<b>1954 Convention</b>	<b>1954 Protocol</b>	<b>Second Protocol</b>
Andorra	-	-	-

Austria	25/03/1964	25/03/1964	01/03/2002
Belgium	16/09/1960	16/09/1960	13/10/2010
Canada	11/12/1998	29/11/2005	29/11/2005
Cyprus	09/09/1964	09/09/1964	16/05/2001
Denmark	26/03/2003	26/03/2003	05/09/2018
Finland	16/09/1994	16/09/1994	27/08/2004
France	07/06/1957	07/06/1957	20/03/2017
Germany	11/08/1967	11/08/1967	25/11/2009
Greece	09/02/1981	09/02/1981	20/04/2005
Iceland	-	-	-
Ireland	17/05/2018	-	17/05/2018
Italy	09/05/1958	09/05/1958	10/07/2009
Luxembourg	29/09/1961	29/09/1961	30/06/2005
Malta	-	-	-
Monaco	10/12/1957	10/12/1957	-
Netherlands	14/10/1958	14/10/1958	30/01/2007
Norway	19/09/1961	19/09/1961	05/09/2016
Portugal	04/08/2000	18/02/2005	09/04/2018
San Marino	09/02/1956	09/02/1956	-
Spain	07/07/1960	26/06/1992	06/07/2001
Sweden	22/01/1985	22/01/1985	10/11/2017
Switzerland	15/05/1962	15/05/1962	09/07/2004
Turkey	15/12/1965	15/12/1965	-



United Kingdom of Great Britain and Northern Ireland	12/09/2017	12/09/2017	12/09/2017
		-	-
<b>Total 25</b>	<b>22</b>	<b>21</b>	<b>19</b>

<b>Group II</b>			
<b>Member States</b>	<b>1954 Convention</b>	<b>1954 Protocol</b>	<b>Second Protocol</b>
Albania	20/12/1960	20/12/1960	-
Armenia	05/09/1993	05/09/1993	18/05/2006
Azerbaijan	20/09/1993	20/09/1993	17/04/2001
Belarus	07/05/1957	07/05/1957	13/12/2000
Bosnia and Herzegovina	12/07/1993	12/07/1993	22/05/2009
Bulgaria	07/08/1956	09/10/1958	14/06/2000
Croatia	06/07/1992	06/07/1992	08/02/2006
Czechia	26/03/1993	26/03/1993	08/06/2007
Estonia	04/04/1995	17/01/2005	17/01/2005
Georgia	04/11/1992	04/11/1992	13/09/2010
Hungary	17/05/1956	16/08/1956	26/10/2005
Latvia	19/12/2003	19/12/2003	-
Lithuania	27/07/1998	27/07/1998	13/03/2002

Montenegro	26/04/2007	26/04/2007	26/04/2007
North Macedonia	30/04/1997	30/04/1997	19/04/2002
Poland	06/08/1956	06/08/1956	03/01/2012
Republic of Moldova	09/12/1999	09/12/1999	-
Romania	21/03/1958	21/03/1958	07/08/2006
Russian Federation	04/01/1957	04/01/1957	-
Serbia	11/09/2001	11/09/2001	02/09/2002
Slovakia	31/03/1993	31/03/1993	11/02/2004
Slovenia	05/11/1992	05/11/1992	13/04/2004
Tajikistan	28/08/1992	28/08/1992	21/02/2006
Ukraine	06/02/1957	06/02/1957	30/06/2020
Uzbekistan	21/02/1996	-	-

**Total 25**

**25**

**24**

**20**

<b>Group III</b>			
<b>Member States</b>	<b>1954 Convention</b>	<b>1954 Protocol</b>	<b>Second Protocol</b>
Antigua and Barbuda	-	-	-
Argentina	22/03/1989	10/05/2007	07/01/2002
Bahamas	-	-	-
Barbados	09/04/2002	02/10/2008	02/10/2008
Belize	-	-	-
Bolivia (Plurinational State of)	17/11/2004	-	-

Brazil	12/09/1958	12/09/1958	23/09/2005
Chile	11/09/2008	11/09/2008	11/09/2008
Colombia	18/06/1998	18/06/1998	24/11/2010
Costa Rica	03/06/1998	03/06/1998	09/12/2003
Cuba	26/11/1957	26/11/1957	-
Dominica	-	-	-
Dominican Republic	05/01/1960	21/03/2002	03/03/2009
Ecuador	02/10/1956	08/02/1961	02/08/2004
El Salvador	19/07/2001	27/03/2002	27/03/2002
Grenada	-	-	-
Guatemala	02/10/1985	19/05/1994	04/02/2005
Guyana	-	-	-
Haiti	-	-	-
Honduras	25/10/2002	25/10/2002	26/01/2003
Jamaica	-	-	-
Mexico	07/05/1956	07/05/1956	07/10/2003
Nicaragua	25/11/1959	25/11/1959	01/06/2001
Panama	17/07/1962	08/03/2001	08/03/2001
Paraguay	09/11/2004	09/11/2004	09/11/2004
Peru	21/07/1989	21/07/1989	24/05/2005
Saint Lucia	-	-	-
Saint Kitts and Nevis	-	-	-
Saint Vincent and the Grenadines	-	-	-

Suriname	-	-	-
Trinidad and Tobago	-	-	-
Uruguay	24/09/1999	24/09/1999	03/01/2007
Venezuela (Bolivarian Republic of)	09/05/2005	-	-
<b>Total 33</b>	<b>20</b>	<b>18</b>	<b>17</b>

<b>Group IV</b>			
<b>Member States</b>	<b>1954 Convention</b>	<b>1954 Protocol</b>	<b>Second Protocol</b>
Afghanistan	26/10/2017	12/03/2018	12/03/2018
Australia	19/09/1984	-	-
Bangladesh	23/06/2006	23/06/2006	-
Bhutan	-	-	-
Brunei Darussalam	-	-	-
Cambodia	04/04/1962	04/04/1962	17/09/2013
China	05/01/2000	05/01/2000	-
Cook Islands	-	-	-
Democratic People's Republic of Korea	-	-	-
Fiji	-	-	-
India	16/06/1958	16/06/1958	-

Indonesia	10/01/1967	26/07/1967	-
Iran, Islamic Republic of	22/06/1959	22/06/1959	24/05/2005
Japan	10/09/2007	10/09/2007	10/09/2007
Kazakhstan	14/03/1997	14/03/1997	-
Kiribati	-	-	-
Kyrgyzstan	03/07/1995	-	-
Lao People's Democratic Republic	-	-	-
Malaysia	12/12/1960	12/12/1960	-
Maldives	-	-	-
Marshall Islands	-	-	-
Micronesia (Federated States of)	-	-	-
Mongolia	04/11/1964	-	-
Myanmar	10/02/1956	10/02/1956	-
Nauru	-	-	-
Nepal	-	-	-
New Zealand	24/07/2008	17/10/2013	23/10/2013
Niue	-	-	-
Pakistan	27/03/1959	27/03/1959	-
Palau	-	-	-
Papua New Guinea	-	-	-
Philippines	-	-	-
Republic of Korea	-	-	-
Samoa	-	-	-

Singapore	-	-	-
Solomon Islands	-	-	-
Sri Lanka	11/05/2004	-	-
Thailand	02/05/1958	02/05/1958	-
Timor-Leste	-	-	-
Tonga	-	-	-
Turkmenistan	22/01/2018	22/01/2018	22/01/2018
Tuvalu	-	-	-
Vanuatu	-	-	-
Viet Nam	-	-	-
<b>Total 44</b>	<b>19</b>	<b>15</b>	<b>6</b>

<b>Group</b>			
<b>V(a)</b>			
<b>Member States</b>	<b>1954 Convention</b>	<b>1954 Protocol</b>	<b>Second Protocol</b>
Angola	07/02/2012	-	-
Benin	17/04/2012	17/04/2012	17/04/2012
Botswana	03/01/2002	23/08/2017	-
Burkina Faso	18/12/1969	04/02/1987	05/02/2018
Burundi	-	-	-

Cameroon	12/10/1961	12/10/1961	-
Cape Verde	-	-	-
Central African Republic	-	-	-
Chad	17/06/2008	-	-
Comoros	-	-	-
Congo	-	-	-
Côte d'Ivoire	24/01/1980	-	-
Democratic Republic of the Congo	18/04/1961	18/04/1961	-
Djibouti	09/04/2018	09/04/2018	09/04/2018
Equatorial Guinea	19/11/2003	-	19/11/2003
Eritrea	06/08/2004	-	-
Ethiopia	31/08/2015	31/08/2015	-
Gabon	04/12/1961	04/12/1961	29/08/2003
Gambia	-	-	-
Ghana	25/07/1960	25/07/1960	-
Guinea	11/12/1961	11/12/1961	-
Guinea-Bissau	-	-	-
Kenya	-	-	-
Lesotho	-	-	-
Liberia	-	-	-
Madagascar	03/11/1961	03/11/1961	03/07/2018
Malawi	-	-	-
Mali	18/05/1961	18/05/1961	15/11/2012

Mauritius	22/09/2006	-	-
Mozambique	-	-	-
Namibia	-	-	-
Niger	06/12/1976	06/12/1976	16/06/2006
Nigeria	05/06/1961	05/06/1961	21/10/2005
Rwanda	28/12/2000	-	-
Sao Tome and Principe	-	-	-
Senegal	17/06/1987	17/06/1987	-
Seychelles	08/10/2003	-	-
Sierra Leone	-	-	-
Somalia	-	-	-
South Africa	18/12/2003	-	11/02/2015
South Sudan	-	-	-
Swaziland	-	-	-
Togo	24/01/2017	24/01/2017	24/01/2017
Uganda	-	-	-
United Republic of Tanzania	23/09/1971	-	-
Zambia	-	-	-
Zimbabwe	09/06/1998	-	-

**Total 47**

**27**

**16**

**11**



<b>Grou p V(b)</b>			
<b>Member States</b>	<b>1954 Convention</b>	<b>1954 Protocol</b>	<b>Second Protocol</b>
Algeria	-	-	-
Bahrain	26/08/2008	26/08/2008	26/08/2008
Egypt	17/08/1955	17/08/1955	03/08/2005
Iraq	21/12/1967	21/12/1967	-
Jordan	02/10/1957	02/10/1957	05/05/2009
Kuwait	06/06/1969	17/02/1970	-
Lebanon	01/06/1960	01/06/1960	08/10/2020
Libya	19/11/1957	19/11/1957	20/07/2001
Mauritania	-	-	-
Morocco	30/08/1968	30/08/1968	05/12/2013
Oman	26/10/1977	-	16/05/2011
Palestine	22/03/2012	22/03/2012	22/03/2012
Qatar	31/07/1973	-	04/09/2000
Saudi Arabia	20/01/1971	06/11/2007	06/11/2007
Sudan	23/07/1970	-	-
Syrian Arab Republic	06/03/1958	06/03/1958	-
Tunisia	28/01/1981	28/01/1981	-
United Arab Emirates	-	-	-

Yemen	06/02/1970	06/02/1970	-
<b>Total 19</b>	<b>16</b>	<b>13</b>	<b>10</b>

<b>TOTAL 193</b>	<b>129*</b>	<b>107*</b>	<b>83*</b>
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\* The Holy See, Liechtenstein, Israel and United States of America are not voting members of UNESCO, and therefore they have not been included in the list, although these States have acceded to the 1954 Hague Convention. The Holy See, Liechtenstein and Israel have also acceded to the First Protocol (1954). Liechtenstein has acceded to the Second Protocol (1999).



