

CONFLICT AND CULTURE: THE DEVELOPMENT OF INTERNATIONAL
PRESERVATION ADVOCACY IN THE TWENTIETH CENTURY AND ITS
EFFECTIVENESS IN ARMED CONFLICT

by

SARAH HUDSON MCCULLOUGH

(Under the Direction of John C. Waters)

ABSTRACT

Cultural heritage is integral to human identity. Humanity is becoming increasingly aware of the significance of cultural property in preserving a culture's history, beliefs, and achievements. Yet, in World War II the world saw how truly destructive war could be. In the conflicts of the Balkans fifty years later, the world saw how devastating to cultural heritage war could be as conflicts increasingly arise from cultural or religious differences. The purpose of this study is to analyze the origins, roles, and effectiveness of international cultural heritage organizations and legal instruments as they relate to cultural heritage protection during armed conflict. In conclusion, a determination will be made as to the effectiveness of these organizations and instruments, and recommendations will be made as to how their effectiveness can be enhanced.

INDEX WORDS: Cultural Property, Cultural Heritage, International Preservation, International Law, Preservation Law, Treaties, Historic Preservation, International Non-Governmental Organizations, War, Armed Conflict, Ethnocide

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DEDICATION

To all who have suffered the ravages of war

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CHAPTER ONE

INTRODUCTION

"Remove not the old landmark; and enter not into the fields of the fatherless."¹

Cultural Heritage and Destruction

In March of 2003, the world watched images of the nighttime sky over Baghdad become eerily illuminated by the glare of rocket fire, as the United States went to war with Iraq. The first thought one has in reaction to such images is, as it should be, the tragic loss of human life. Why, then, in times of armed conflict is the loss of physical representations of a history and a culture of concern? How do stone, mortar, documents, and artifacts compare to human life in value? The obvious answer is that they do not. Why, then, be concerned about the fate of that which constitutes our tangible cultural heritage: historic buildings, old town centers, the books and manuscripts in libraries, the archives of a people, the artifacts in museums, commemorative monuments, or religious structures? Why not simply accept the destruction of cultural property as an inevitable consequence of armed conflict? This question, too, has an obvious answer: the survivors of war must at least be left with reminders of the dead.

In times of trouble, it is a basic human desire to seek that with which we are familiar and that which gives us identity. This need is intensified after

¹Pro. 23:10 (King James Version of the Bible).

humanity has suffered the ravage of war. This need is only greater if that war has been fought on grounds of cultural, ethnic, or religious differences. The need for identity and the importance of cultural property in establishing it have been recognized throughout history. Nothing can lead to the destruction of a civilization as can destruction of monuments to that civilization's faith, history, and creativity. In our minds, the civilizations of the world are inextricably associated with their tangible cultural heritage: the Egyptians and the Pyramids, the Greeks and the Parthenon, the Romans and the aqueducts, and the Inca and Machu Picchu. Continuity of the human intellectual and creative spirit depends on the preservation and peaceful transition of cultural heritage through the ages. Cultural heritage can be lost through neglect, natural disaster, or war. It is perhaps the destruction through war that causes the greatest outrage, as this loss results from a deliberate attempt to desecrate the accomplishments and traces of existence of a culture, and consequently a portion of the culture of all humanity. Perhaps a time will come when war no longer exists. Until that time, however, we must strive to protect that which represents a culture and a people.

Purpose

The purpose of this thesis is to review, compare, and analyze the development of international preservation advocacy organizations and legal instruments. This work focuses on the time period beginning in the mid-twentieth century, for it was following World War II that the majority of these organizations and instruments came into being. The focus is also

predominantly on immovable cultural heritage, for it is the damage to and destruction of immovable cultural property, such as museums and libraries, that often leads to loss of movable cultural property. The term cultural property is broad and encompassing. It has been given various definitions by cultural heritage advocacy organizations and agreements. The lack of a uniform, concise definition of cultural heritage is testament to its breadth and magnitude. As seen in the examples in this study, cultural heritage is truly defined by the people of a culture, for only they can determine those buildings, cities, churches, mosques, synagogues, museums, libraries, artifacts, works of art, archives, manuscripts, and landscapes which give them their identity.

The questions that arise in this study are evident: Is cultural heritage protected during times of armed conflict? Do those cultural heritage organizations and instruments discussed in this work have policies specifically relating to the protection of cultural heritage during armed conflict? Have these policies been implemented? Lastly, a determination will be made as to whether or not further policies regarding the protection of cultural heritage during armed conflict are needed.

First, though, one must look at the events leading to the development of international preservation advocacy. Chapter one provides a history of the codes of war that led to the codes established after World War II. Chapter two provides a history and analysis of major international cultural heritage organizations and instruments established after World War II. Chapter three provides overviews of three major conflicts that have occurred concurrently

with, or after, the policies of those organizations and instruments discussed in Chapter two were enacted. Chapter four addresses the problems that exist in cultural heritage protection advocacy during armed conflict and recommends solutions.

History of the Contemporary Codification of Rules of War

Attempts to establish rules of war have been made for centuries. Modern attempts to codify the rules of war date to the late nineteenth century. These codes established mechanisms for the peaceful resolution of international disputes and rules for the humane treatment of prisoners of war. They also gave some consideration to the preservation and protection of cultural property during war. Aside from scorched-earth military strategies, however, the means of warfare during the late nineteenth and early twentieth centuries prevented large-scale destruction. In the twenty-five years between World War I and World War II, however, the advancement of technology was both awesome and disturbing. War went from ground conflict of foxholes and bayonets to air wars of the blanket bombing of Dresden and Warsaw and the dropping of atomic bombs on Hiroshima and Nagasaki. Humanity became terrified as we realized that all known to us could, in an instant, disappear in a ball of fire. We recognized the urgent need to protect ourselves, sadly, from each other.

Following World War II came the development of international agreements in which we agree, somewhat paradoxically, to respect one another's culture and heritage in the midst of killing. One could argue that such agreements are not as needed now as they were during World War II, as

the so-called smart bombs of twenty-first century warfare make widespread destruction strategically unnecessary. Such an argument rings hollow, however, when the stimuli of many recent conflicts, particularly those in the Balkans, are considered. With the fall of communism in the late twentieth century, wars of political ideology seem to have become world history, while wars of cultural, ethnic, and religious differences seem to have become current events. In his work, *The Clash of Civilizations and the Remaking of World Order*, Samuel Huntington states, "Wars between clans, tribes, ethnic groups, religious communities, and nations have been prevalent in every era and in every civilization because they are rooted in the identities of people."²

Huntington further states that these conflicts rarely involve a political or ideological issue and tend to be brutal and bloody. Perhaps some degree of conflict among humans is an inevitable aspect of the human existence. If so, that is all the more reason to establish rules and play by them.

Codes of War and Cultural Heritage: Late Nineteenth to Early Twentieth Century

The Lieber Code

Among the nineteenth century codes of war are the "Instructions for the Government of Armies of the United States in the Field," referred to as the Lieber Code. Ordered by Lincoln, it was drafted by law professor Francis Lieber in 1863. Though initiated during the War Between the States, the Lieber Code was to be applicable in international conflicts as well. The Lieber Code

²Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster Inc., 1996), 252.

addressed, in rather vague terms, the concept of "military necessity," meaning actions in war that are deemed necessary to achieve victory.³ The concept and definition of military necessity would remain a controversial provision of the rules of war even 140 years later.

The Lieber Code is a significant instrument in the protection of cultural heritage during armed conflict due to the regulation stipulated in Article 35 of the code:

Classical works of art, libraries, scientific collections, or precious instruments, such as astrological telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places whilst besieged or bombarded.⁴

The scorched earth tactics used by the United States Army in the South provide support for the argument that this and other articles of the Lieber Code may not have been enforced. Yet, the concepts of military necessity and protection of cultural heritage had been codified in rules of war. These concepts would remain integral and often disputed components of future codes, in particular the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague Convention), which would be drafted nearly a century later.

The Brussels Conference

Just over a decade after the drafting of the Lieber Code, the International Declaration concerning the Laws and Customs of War would result from a

³U. S. Army, *Instructions for the Government of Armies of the United States in the Field*, General Orders No. 100, 24 April 1863, 6.

⁴Ibid., 10.

conference in Brussels in 1874. The Brussels Conference focused on the actions of the military and its conduct during war. It provided brief directives on the authority of the military in hostile territory, sieges and bombardments, and treatment of the enemy. It is under the area of military authority in hostile territory that the declaration addresses protection of cultural property. Article 8 states:

The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences even when State property, shall be treated as private property. All seizure and destruction of, or willful damage to, institutions of this character, historic monuments, works of art and science should be made the subject of legal proceedings by the competent authorities.⁵

The Brussels Conference thus continued the Lieber Code's provision of protection of cultural property but expanded it to include legal implications. This concept would be yet another that would continue to be included in future instruments and debated throughout the development of codes protecting cultural property during armed conflict.

The Oxford Manual

In 1880, only six years after the Brussels Conference, the Institute of International Law at Oxford published a manual of The Laws of War on Land.⁶ The Institute expanded the terms of the declaration made at the Brussels Conference to draft a manual of rules of war. In its preface, *The Oxford Manual* proclaimed the Brussels Conference "a solemn pronouncement of the good

⁵Brussels Conference, *International Declaration concerning the Laws and Customs of War*, 27 August 1874, 1-2.

⁶Institute of International Law, *The Oxford Manual*, 1880, 1.

intentions of governments" in its efforts to encourage minimal destruction during war.⁷ The manual's rule relating to cultural property stated:

In case of bombardment all necessary steps must be taken to spare, if it can be done, buildings dedicated to religion, art, science and charitable purposes, hospitals and places where the sick and wounded are gathered on the condition that they are not being utilized at the time, directly or indirectly, for defense. It is the duty of the besieged to indicate the presence of such buildings by visible signs notified to the assailant beforehand.⁸

The Oxford Manual thereby added the provision of identity of cultural property to help ensure its protection during armed conflict. This concept as well would remain an issue in international cultural heritage agreements for at least the next century. Having the advantageous perspective of history, it is interesting to note that the preface to *The Oxford Manual* says the Institute of International Law "does not propose an international treaty, which might perhaps be premature or at least very difficult to obtain;"⁹

*The International Peace Conference:
The Hague Conventions of 1899 and 1907*

Though the possibility of an international treaty governing conduct in warfare may have been premature in 1880, it would come to fruition less than twenty years after the publication of *The Oxford Manual*. In July of 1899, monarchs of Europe gathered world leaders in The Hague for the International

⁷Ibid., 1.

⁸Ibid., 5.

⁹Ibid., 1.

Peace Conference.¹⁰ The conference was convened for the purpose of drafting international resolutions designed to prevent war and establish rules in the event that prevention fails and war does occur. Discussions focused on a range of topics regarding international relations. These discussions resulted in four major international conventions:

- The Convention for the Pacific Settlement of International Disputes (Hague I)
- The Convention with Respect to the Laws and Customs of War on Land (Hague II)
- The Adaption to Maritime Warfare of Principles of the Geneva Convention of 1864 (Hague III)
- Laws of War: Prohibiting Launching of Projectiles and Explosives from Balloons (Hague IV)¹¹

The Convention for the Pacific Settlement of International Disputes (Hague I) established a permanent Court of Arbitration whose jurisdiction was disagreements among states. The Convention with Respect to the Laws and Customs of War on Land (Hague II) was another historically significant agreement in which the signatories agreed to abide by the agreement's provisions regarding prisoners, the wounded, hostilities, bombardments, and authority over hostile territory. It provided for the protection of cultural property in Article 27, which states:

In sieges and bombardments all necessary steps should be taken to spare as far as possible edifices devoted to religion, art, science, and charity, hospitals, and places where the sick and wounded are collected, provided they are not used at the same time for military purposes. The besieged should indicate these buildings or places

¹⁰International Peace Conference, *Final Act of the International Peace Conference*, 29 July 1899, 1.

¹¹Ibid.

by some particular and visible signs, which should previously be notified to the assailants.¹²

In 1907, drafters of the Convention again gathered in The Hague to elaborate on the 1899 Convention. The article regarding cultural property protection from the 1899 convention was expanded to include historic monuments.¹³

Thus, by the time World War I began in the early years of the twentieth century, codes had been written which attempted to prevent war or at least minimize its suffering. The groundwork had been laid for the international bodies and policies that would be formed during the twentieth century in an attempt to prevent war, or at the very least control the scale of its destruction and devastation. The need for such codes would only increase during the twentieth century with the escalation of war and its destructive capabilities.

¹²International Peace Conference, *Laws and Customs of War on Land (Hague II)*, 29 July 1899, 9.

¹³International Peace Conference, *Laws and Customs of War on Land (Hague IV)*, 18 October 1907, 11.

TABLE 1

MAJOR INSTRUMENTS IN THE DEVELOPMENT OF CULTURAL HERITAGE
PROTECTION AS APPLICABLE IN ARMED CONFLICT

1863	The Lieber Code is drafted, establishing rules of conduct for the United States Army
1874	European leaders hold the Brussels Conference for the purpose of codifying rules of war
1880	The Institute of International Law at Oxford publishes <i>The Oxford Manual</i> as a guideline for conduct during war
1899	The International Peace Conference is held at The Hague, resulting in the Convention with Respect to the Laws and Customs of War on Land (Hague II)
1907	The 1899 Laws and Customs of War on Land is strengthened
1931	The International Congress of Architects and Technicians of Historic Monuments is held in Athens, resulting in the Athens Charter, which established international guidelines for conservation and restoration
1945	The United Nations (UN) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) are formed
1954	UNESCO and other parties meet at The Hague and draft the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague Convention) and its First Protocol
1964	The International Congress of Architects and Technicians of Historic Monuments is held in Venice for the purpose of reviewing the Athens Charter and drafting the Venice Charter
1965	The International Council on Monuments and Sites (ICOMOS) is founded
1972	UNESCO drafts the Convention Concerning the Protection of the World Cultural and Natural Heritage, which established the World Heritage Committee and the World Heritage List
1996	The International Committee of the Blue Shield is founded by international cultural heritage protection organizations to advocate the inclusion of cultural property in risk preparedness programs
1998	The UN initiates the Rome Statute for the establishment of an international criminal court whose jurisdiction would include war crimes
1999	A review of the 1954 Hague Convention results in its Second Protocol

CHAPTER TWO

THE DEVELOPMENT OF INTERNATIONAL PRESERVATION ADVOCACY SINCE WORLD WAR II

*"That since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed."*¹

The United Nations Educational, Scientific and Cultural Organization (UNESCO)

1945

The History and Founding of the United Nations

In spite of the efforts of international bodies and agreements, war was not prevented. World War I began in 1914, only fifteen years after the International Peace Conference. Yet, attempts to prevent war and the scope of its destruction would continue, for following World War I the Treaty of Versailles established the League of Nations. Its purpose was "to promote international cooperation and to achieve peace and security."² Again, attempts to prevent war would fail, and history would repeat itself with the outbreak of World War II only a quarter-century after the League of Nations was founded. Recognizing the failure to fulfill its purpose, the League of Nations dissolved. The concept of such an international peace organization remained, however. On January 1, 1942, in the midst of World War II, twenty-six countries made a

¹UNESCO, *Manual of the General Conference*, 2003, 7.

²UN, "About the United Nations" [database on-line]; available from <http://www.un.org/aboutun/history.htm>; Internet; accessed 31 July 2003.

"Declaration by United Nations" in which they pledged continued opposition to the fascism and aggression of the German and Italian Axis Powers.³ The term United Nations would remain as well, for immediately after World War II the international organization that would be called the United Nations was formed in yet another attempt to prevent war and control the scale of its destruction.

The United Nations was the result of the United Nations Conference on International Organization, held in San Francisco in 1945. Representatives of fifty countries collaborated to establish an international body whose overall purpose was to serve as a forum for all nations in hopes of a peaceful conflict resolution. The Charter established the United Nations:

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom⁴

Representatives of the fifty countries signed the Charter on June 26, 1945.

The United Nations officially came into existence on October 24 of that year

³Ibid.

⁴UN, "Preamble to the Charter of the United Nations" [database on-line]; available from <http://www.un.org/aboutun/charter/>; Internet; accessed 28 March 2003.

with ratification of the Charter by a majority of the original fifty drafting nations.⁵

The History and Purpose of UNESCO

Within the authority of the United Nations is the right to form and enter into agreements with organizations whose roles assist the United Nations in implementing its objectives. The United Nations would eventually enter into agreements with fifteen autonomous organizations, among them the United Nations Educational, Scientific and Cultural Organization (UNESCO).⁶

UNESCO was formed November 16, 1945, at which time the collaborative parties created "the United Nations Educational, Scientific and Cultural Organization for the purpose of advancing, through the educational and scientific and cultural relations of the peoples of the world, the objectives of international peace and of the common welfare of mankind for which the United Nations Organization was established and which its Charter proclaims."⁷

The role of UNESCO in implementing the objectives of the United Nations is to foster international peace by supporting and promoting cultural

⁵UN, "About the United Nations" [database on-line]; available from <http://www.un.org/aboutun/history/htm>; Internet; accessed 31 July 2003.

⁶UN, "UN in Brief" [database on-line]; available from <http://www.un.org>; Internet; accessed 31 July 2003.

⁷UNESCO, *Manual of the General Conference*, 8.

understanding. This role is to be carried out through five principal purposes and functions as defined in UNESCO's Constitution:

(1) The purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.

(2) To realize this purpose the Organization will:

(a) Collaborate in the work of advancing the mutual knowledge and understanding of peoples, through all means of mass communication and to that end recommend such international agreements as may be necessary to promote the free flow of ideas by word and image;

(b) Give fresh impulse to popular education and to the spread of culture:

By collaborating with Members, at their request, in the development of educational activities;

By instituting collaboration among the nations to advance the ideal of equality of educational opportunity without regard to race, sex or any distinctions, economic or social;

By suggesting educational methods best suited to prepare the children of the world for the responsibilities of freedom;

(c) Maintain, increase and diffuse knowledge:

By assuring the conservation and protection of the world's inheritance of books, works of art and monuments of history and science, and recommending to the nations concerned the necessary International conventions;

By encouraging cooperation among the nations in all branches of intellectual activity, including the international exchange of persons active in the fields of education, science and culture and the exchange of publications, objects of artistic and scientific interest and other materials of information;

By initiating methods of international cooperation calculated to give the people of all countries access to the printed and published materials produced by any of them.⁸

⁸Ibid., 8-9.

It is the purpose stated in (c) above, in which UNESCO states its commitment to conserve and protect books, works of art, historic sites, and monuments of science, that makes UNESCO an international body for the establishment of protective policies concerning historic and cultural sites. UNESCO thereby established itself as the world's principal international cultural heritage organization and embarked on its mission to educate the nations of the world on the necessity of respecting various cultures in creating global peace. UNESCO recognizes the intertwining of cultural understanding and international relations. It attempts to promote this understanding through conferences and directives which address specific cultural heritage protection issues. At the International Conference on Education, held in Geneva in 1994, UNESCO presented Proposals for a Culture of Peace.⁹ These proposals contained "Ten Bases for a Culture of Peace." Among the ten bases is "Respect for cultural identity, reversing the effects of imperialist and colonial policies and avoiding any tendency to impose a universal culture."¹⁰

The World Heritage Convention

UNESCO expanded its role in promoting peace through cultural understanding at its General Conference held in Paris in 1972: the Convention Concerning the Protection of the World Cultural and Natural Heritage. UNESCO saw a need for the convention "Considering that deterioration or

⁹UNESCO, "UNESCO Culture of Peace Program" [database on-line]; available from <http://www.peace.ca/unesco.htm>; Internet; accessed 20 May 2003; 3.

¹⁰Ibid., 4.

disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world."¹¹ The convention was a significant event for international cultural preservation policy overall and international cultural preservation in the event of armed conflict in particular. The conference that would come to be known as the World Heritage Convention acknowledged that, as existing international conventions recognize the importance of cultural property, a systematic and permanent record of such properties was needed.¹² It also saw the need to clearly define cultural and natural heritage. Consequently, it established international criteria for sites of cultural and natural significance. The convention defined cultural heritage as:

monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;

groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;

sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.¹³

¹¹UNESCO, *Convention Concerning the Protection of the World Cultural and Natural Heritage* [database on-line]; available from <http://whc.unesco.org/world>; Internet; accessed 22 September 2002, 1.

¹²Ibid.

¹³Ibid., 2.

It defined natural heritage as:

natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;

geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;

natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.¹⁴

The World Heritage Convention not only defined both cultural and natural heritage, but also identified a universal obligation for their protection. Article 6 of the convention stated that the countries which were parties to the convention recognize that the cultural and natural heritage, as defined above, of other states are components of a world heritage which the international community as a whole bears responsibility for protecting.¹⁵ The convention went a step further in stating that "Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 [of the World Heritage Convention] situated on the territory of other States Parties to this Convention."¹⁶ It thereby stated that each party would respect the others' cultural and natural heritage and would not take any deliberate actions

¹⁴Ibid.

¹⁵Ibid.

¹⁶Ibid., 3.

that may damage it. The parties therefore agreed to protect cultural property even during times of armed conflict.

Also of importance in the World Heritage Convention is the measure which enables UNESCO to establish the World Heritage Committee. The World Heritage Committee was granted the responsibility and challenge of protecting cultural and natural heritage of outstanding universal value.¹⁷ Also granted to the World Heritage Committee was the authority to work with other organizations, by stating that representatives of international cultural protection organizations, among them the International Council on Monuments and Sites (ICOMOS), may attend meetings and act in an advisory capacity to the World Heritage Committee.¹⁸ Of major significance to international preservation policy is the fact that the conference granted the World Heritage Committee the authority to establish the World Heritage List as an inventory of property that comprises universal heritage.¹⁹ Under the provisions which established the World Heritage List, each state party is given the authority to determine which sites within its boundaries are deemed cultural heritage and natural heritage as defined by the Convention.²⁰ Yet, if a site is not included on the World Heritage List, exclusion does not signify that the site does not have universal cultural or natural heritage value nor does it signify that the

¹⁷Ibid., 4.

¹⁸Ibid.

¹⁹Ibid., 5.

²⁰Ibid., 2.

site is not significant enough to be protected during armed conflict.²¹ As of July 3, 2003, 754 properties in 129 UNESCO member states were on the World Heritage List.²²

The protection of cultural heritage during armed conflict would again be addressed when the convention granted the World Heritage Committee the authority to compile and update a List of World Heritage in Danger. This list is comprised of properties requiring major conservation and for which conservation assistance is requested. The property must also be threatened, and listed among the threats that make a property eligible for inclusion on the list is that of armed conflict.²³

Therefore, UNESCO had established a means by which sites of significant cultural and natural heritage throughout the world could be documented. This would come to be particularly important during times of armed conflict, when sites referred to as World Heritage List sites and sites on the List of World Heritage in Danger would be deemed in danger of destruction. The World Heritage Convention thereby provided a somewhat objective means of determining which cultural and natural heritage sites were of the greatest value to the culture of humanity. Also of significance is the power granted to UNESCO in Article 8 of the convention, which enables UNESCO to join with

²¹Ibid., 5.

²²UNESCO, *The World Heritage List* [database on-line]; available from <http://whc.unesco.org/heritage.htm>; Internet; accessed 8 September 2003.

²³UNESCO, *Convention Concerning the Protection of the World Cultural and Natural Heritage*, 5.

other organizations in seeking protection of heritage sites.²⁴ Thus came about an attempt to create a unified approach to the protection of international cultural and natural heritage sites.

The World Workshop at Angkor

An exemplar of the effectiveness of both the World Heritage List and the List of World Heritage in Danger can be found in the ancient Cambodian site of Angkor. The Angkor Archaeological Park is comprised of heavy forests and former capitals of the Khmer Empire dating from the ninth to the fifteenth centuries.²⁵ Within the former city of Angkor is Angkor Wat. Built as a Hindu temple in the twelfth century, it later became Buddhist and a holy site for pilgrims of both religions.²⁶ It is believed to be the largest religious stone monument in the world. In the latter half of the twentieth century, the years of conflict in Southeast Asia took a tremendous toll on the people, economy, land, and culture of Cambodia. Angkor, the country's greatest cultural treasure, especially suffered. During the 1980s, forces of the Khmer Rouge used Angkor Wat as a field hospital, and the occupying troops destroyed Buddhist statues and monasteries.²⁷ Though the massive stone temple remained standing, it

²⁴Ibid., 4.

²⁵UNESCO, "Angkor" [database on-line]; available from <http://whc.unesco.org/sites>; Internet; accessed 8 September 2003.

²⁶Trevor Howells et al., eds., *A Guide to the World's Greatest Buildings: Masterpieces of Architecture and Engineering* (San Francisco: Fog City Press, 2002), 34.

²⁷UNESCO, "Angkor."

became increasingly threatened by the destruction of occupying forces and looting villagers desperate for an artifact to sell.

In 1991, Cambodia was placed under the temporary administrative authority of the United Nations. A year later, the World Heritage Committee simultaneously placed Angkor on the World Heritage List and the List of World Heritage in Danger. The simultaneous inclusion on both lists was necessary due to what the Committee described as the "serious threat posed to the site by long-term civil disturbances, with armed groups investing the site."²⁸ In its decision, the Committee cited the political and economic situation in Cambodia in waiving some of its usual preliminary criteria for inclusion on both lists. The action was determined necessary in order to seek the urgent assistance required to save the war-torn Angkor. At the recommendation of ICOMOS, the World Heritage Committee requested that the authorities in Cambodia enact measures to ensure the adequate protection and security of Angkor.

By 2003 Angkor had become what UNESCO would describe as the largest conservation workshop in the world.²⁹ Its conservation program at Angkor is truly representative of international preservation efforts. Extensive conservation work began in the years following Angkor's placement on the World Heritage List and the List of World Heritage in Danger. Large financial support has been received from Italy and Japan through contributions to UNESCO, technical support has been received from Germany's Apsara

²⁸Ibid.

²⁹Ibid.

Conservation Project, and some former Khmer Rouge soldiers now serve as park police. Though much remains to be done to protect Angkor from looting, unplanned tourism, and the encroaching jungle, the cultural heritage conservation efforts at Angkor prove that international preservation policy can work with the support of the international community.

The Loss of the Buddhas of Bamiyan

Though a means of documenting world heritage had been established and members of UNESCO had been encouraged to support international preservation policies, the issue of deliberate destruction of cultural and natural heritage sites needed to be addressed more thoroughly. The urgent need for expanded guidelines and international legislation on this issue came about in 2001. Reports from Afghanistan of the destruction of items in the collection of the Afghan National Museum in Kabul began to alarm international cultural heritage organizations. Afghanistan had seen two decades of war, beginning with the invasion by Soviet troops in 1979. Years of fighting the Soviets led to internal armed conflict between tribal warlords and the extremist Islamic force, the Taliban. By the end of the twentieth century, most of Afghanistan had fallen under Taliban rule. In February of 2001, Taliban leader Mohammed Omar ordered the destruction of all non-Muslim symbols in the country.³⁰ Among these non-Muslim symbols were the Buddhas of Bamiyan.

³⁰Embassy of Afghanistan, "The Buddhas of Bamiyan" [database on-line]; available from <http://www.embassyofafghanistan.org/main/links/bamiyan.cfm>; Internet; accessed 2 September 2003.

Situated in the Bamiyan Valley of the Hindu Kush Mountains, the Buddhas were considered the most valuable archaeological site in Afghanistan. They hailed from the time of the Silk Road and were a symbol of the historic link between the Islamic and Buddhist regions of the East. Carved into a sandstone cliff, the taller Buddha stood 175 feet and the smaller stood 125 feet.³¹ The order to destroy this cultural treasure, which the Taliban deemed an offense to its extremist Islamic ideology, caused an international outcry. On the day that the order was issued, UNESCO appealed to the Taliban to halt the destruction. UNESCO worked largely through representatives in Pakistan, one of the few countries that had maintained diplomatic ties with the Taliban-controlled Afghanistan. Though UNESCO received overwhelming international support for its stance, only days after the order for destruction had been announced officials of the Taliban's Ministry for the Prevention of Vice and the Promotion of Virtue used dynamite to destroy the Buddhas that had overlooked the Bamiyan Valley since the third century. The cultural community, along with much of the world, was shocked and outraged. The Director-General of UNESCO issued the following statement: "This crime against culture was committed while people throughout the world raised their voices to prevent it. The Taliban heeded neither the unprecedented scope of

³¹Ibid.

international mobilization, nor the advice against their decision, spontaneously issued by the highest religious authorities of Islam."³²

The destruction of the Buddhas of Bamiyan demonstrates the loss of cultural heritage that can occur when international law is defied. Though UNESCO reacted promptly in pleading with the Taliban to spare the Buddhas, their pleas were ignored by a regime that had no regard for another culture, another religion, or world heritage. In 2003, the Cultural Landscape and Archaeological Remains of the Bamiyan Valley were placed on the World Heritage List, as well as on the List of World Heritage in Danger. The World Heritage Committee noted that in addition to its archaeological and natural heritage significance, "The site is also testimony to the tragic destruction by the Taliban of the two standing Buddha statues, which shook the world in March 2001."³³

*Draft UNESCO Declaration Concerning the
Intentional Destruction of Cultural Heritage*

The intentional destruction of such a significant cultural heritage site in open defiance of international preservation policy prompted UNESCO to enact more encompassing protection policies. At its 32nd session in July of 2003, UNESCO expanded its policy on the deliberate destruction of cultural heritage sites. The result was the Draft UNESCO Declaration Concerning the

³²UNESCO, "World Heritage News" [database on-line]; available from <http://whc.unesco.org/news/>; Internet; accessed 2 September 2003.

³³UNESCO, "Cultural Landscape and Archaeological Remains of the Bamiyan Valley" [database on-line]; available from <http://whc.unesco.org/sites/208rev.htm>; Internet; accessed 8 September 2003.

Intentional Destruction of Cultural Heritage. The Draft Declaration had three main purposes:

- 1) to uphold existing obligations of States under international agreements for the protection of cultural heritage in force;
- 2) to prevent and inhibit the intentional destruction of cultural heritage, and when linked, natural heritage, in time of peace and in the event of armed conflict; and
- 3) to encourage states to become party to instruments protecting cultural heritage if they have not already done so.³⁴

It emphasized the principles of The Hague Convention of 1954, which stated that the destruction of one culture's identity is the destruction of a portion of the culture of all humanity. It clearly defined intentional destruction as "an act intended to destroy in whole or in part cultural heritage, thus compromising its integrity, in a manner which constitutes an unjustifiable offence to the principles of humanity and dictates of public conscience."³⁵ Furthermore, states not yet signatories to The Hague Convention were encouraged to become a party to it. The Draft Declaration also specifically addressed the destruction of cultural heritage sites during armed conflict in Article 5 - Protection of cultural heritage in the event of international or non-international armed conflict:

When being involved in an armed conflict, be it of international or non-international character, including occupation, States should take all appropriate steps to conduct their activities in such a manner as to protect cultural heritage and, in particular, in conformity with the principles and objectives of the following existing international agreements on the protection of such heritage during hostilities such

³⁴UNESCO, *Draft UNESCO Declaration Concerning the Intentional Destruction of Cultural Heritage*, 17 July 2003, 1.

³⁵*Ibid.*, 2.

as the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two 1954 and 1999 Protocols and the relevant provisions of the 1977 Additional Protocols to the four 1949 Geneva Conventions. States should also do their utmost to conform their conduct to any future international multilateral convention having a universal scope providing a higher level of protection of such cultural heritage.³⁶

Of further significance in the Draft Declaration is its statement of responsibility and accountability, which says that any state that intentionally destroys or intentionally fails to interfere in the destruction of cultural heritage deemed to be of significance should provide reparations. Reparations are to be in the form of restoration, if feasible, or in the form of compensation, be it financial or other assistance. This statement on accountability leads to perhaps one of the greatest strengths of the Draft Declaration, which is its statement on individual criminal responsibility. Members of UNESCO are encouraged to enforce penal sanctions against those individuals who commit acts of intentional destruction of cultural heritage sites or order such acts of intentional destruction to be committed. The legal means of such penal sanctions are left to the authority of the member states, though the Draft Declaration specifies that these legal means are to be in accordance with international law.

The Draft UNESCO Declaration Concerning the Intentional Destruction of Cultural Heritage of July 2003 was a major step toward enforcement of international protective measures for cultural and natural heritage sites. Yet, weaknesses still exist. The Draft Declaration is, by its own admission, soft

³⁶Ibid., 3.

law.³⁷ It does not alter existing agreements protecting cultural heritage. Also, though it grants member states the authority to seek punitive damages from those who intentionally destroy sites of cultural and natural heritage, enforcement remains the responsibility of each individual country and is restricted to the member states of UNESCO. Consequently, compliance is predominantly voluntary.

An example of voluntary compliance occurred in August of 2003, when Royal Dutch/Shell announced that it would not conduct drilling or exploration activities near World Heritage List sites. Shell's announcement was preceded by that of the International Council on Mining and Metals several days earlier. Comprised of representatives of fifteen of the world's largest mining companies, the council vowed to cease its exploration and mining activities at World Heritage List sites.³⁸ These announcements are encouraging for preservationists, as they represent willingness on the part of major international corporations to respect international cultural and natural heritage. Yet, this example also shows that compliance with international preservation policy is largely voluntary and therefore precarious. How, then, is international preservation policy to be enforced? How is it to be enforced during times of armed conflict?

³⁷Ibid., 2.

³⁸Heather Timmons, "Shell to Avoid Oil Drilling At Sites Listed By UNESCO," *New York Times*, 31 August 2003, sec. A, p. 4.

The Rome Statute

The question of enforcement of international preservation policy during armed conflict would be addressed by the United Nations General Assembly in 1994 when it received a draft statute for the establishment of an international criminal court from the International Law Commission.³⁹ This draft statute ultimately led to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court in Rome in 1998, referred to as the Rome Statute.⁴⁰ Representatives of 160 countries attended the conference in Rome, brought together for the purpose of discussing the need for an institution dedicated to the trial and conviction of war criminals. The United Nations' recognition of the need for an international criminal court dates to the end of World War II. At that time, an international criminal court was needed to prosecute the most horrific of crimes, genocide.⁴¹ Yet, it would be fifty years and many more conflicts and atrocities later before the Rome Statute would establish a permanent international criminal court holding individuals responsible for war crimes.

Trials for war crimes had taken place prior to the Rome Statute, though these trials were usually conducted as tribunals established for the purpose of trying those accused of recent war crimes. Perhaps the most notorious of these in the twentieth century is the Nurnburg Tribunal, established for the trial and

³⁹UN, "Establishment of an International Criminal Court" [database on-line]; available from <http://www.un.org/law/icc/general.overview.htm>; Internet; accessed 1 September 2003.

⁴⁰Ibid.

⁴¹Ibid.

persecution of Nazi war criminals following World War II. Also established at the end of World War II was the International Court of Justice, founded at The Hague in 1946 and referred to as the World Court. The primary functions of the World Court are to settle disputes brought before it by states and to issue advisory opinions.⁴² The absence of an international criminal court prior to the Rome Statute necessitated the establishment of ad hoc tribunals by the World Court. Among those ad hoc tribunals formed for trying war crimes, namely genocide, during the last decade of the twentieth century were the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda.

While the tribunals for the World Court have been overseen by the United Nations Security Council, the International Criminal Court is overseen by those states that have ratified the Rome Statute.⁴³ The International Criminal Court was formed so that those individuals charged with the most horrific crimes on a large scale can be brought to justice. The statute grants the court authority over genocide, crimes against humanity, war crimes, and aggression.⁴⁴ The definition of war crimes would be crucial for the protection of international cultural heritage, for included in the statute's definition of war crimes in armed conflict is that of a deliberate attack on "buildings dedicated to

⁴²UN, "United Nations: International Law" [database on-line]; available from <http://www.un.org/Depts/dhl/resguide/specil.htm>; Internet; accessed 31 July 2003.

⁴³Marlise Simons, "Argentine Prosecutor Turns Focus to New War Crimes Court," *New York Times*, 29 September 2003, sec. A, p. 9.

⁴⁴UN, *Rome Statute of the International Criminal Court*, 1998, 3.

religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives."⁴⁵ Of particular significance considering the impetus for the armed conflicts of the latter years of the twentieth century, the statute applies the same definition to armed conflicts that are not international in scope, but rather domestic conflicts between organized armed political entities.

The Rome Statute went into effect on July 1, 2002.⁴⁶ Two months earlier, the United States had notified the United Nations that it would not become a party to the Rome Statute, citing fundamental flaws.⁴⁷ President Clinton had signed the treaty on December 31, 2000, shortly before he left office. However, he said at the time that provisions of the Rome Statute required further clarification and that the treaty would not be sent to the Senate for ratification. He also recommended that George Bush, upon taking office in January of 2001, not send the Rome Statute to the Senate for ratification. Internationally, however, the statute continued to have strong support. On April 11, 2002, it surpassed the required number of sixty countries for ratification. On September 9, 2003, the chief prosecutor for the

⁴⁵Ibid, 7.

⁴⁶UN, "Multilateral Treaties deposited with the Secretary-General" [database on-line]; available from <http://untreaty.un.org>; Internet; accessed 1 September 2003.

⁴⁷Department of State, Office of War Crimes Issues, *The International Criminal Court* (Washington, D. C., 6 May 2002).

International Criminal Court announced the court's first case would be the investigation of war crimes in the Congo.⁴⁸

The United States' reservations regarding the Rome Statute deal with issues of jurisdiction, the right of state parties to refuse to comply with amendments to the statute which expand the definition of war crimes, the lack of definition of aggression, and the possibility of politically-motivated prosecutions.⁴⁹ The Rome Statute's inclusion of the deliberate destruction of cultural heritage sites among its definitions of war crimes was not among the reservations expressed by the United States. Therefore, the Rome Statute at least resulted in a somewhat unified international agreement regarding the harm or destruction of cultural heritage sites during armed conflict and accountability for those individuals responsible for the harm or destruction of cultural heritage. The Rome Statute thus signifies a major step toward international cultural heritage preservation during times of armed conflict.

The Hague Convention

*Convention for the Protection of Cultural Property in the Event of Armed Conflict:
The Hague Convention of 1954*

Like the founding of the United Nations and its related organizations such as UNESCO, the drafting of The Hague Convention of 1954 was prompted by the great destruction caused by World War II. Drafters of the convention realized that the advanced capabilities of warfare used in World War II posed a

⁴⁸"Congo Killings Will Get Court's Attention," *New York Times*, 10 September 2003, sec. A, p. 10.

⁴⁹Department of State, Office of War Crimes Issues, *The International Criminal Court*.

greater threat to the destruction of cultural heritage during times of armed conflict than ever before. Just as the United Nations built on its predecessor the League of Nations, the 1954 Hague Convention built on the principles of the preceding international agreements governing warfare, particularly the 1899 International Peace Conference and the Convention with Respect to the Laws and Customs of War on Land. While UNESCO and its conventions are concerned with the protection of cultural property during both times of armed conflict and times of peace, The Hague Convention is concerned with the protection of cultural property during times of armed conflict, while acknowledging that measures for its protection must be established during times of peace.

Since the drafting of the first Hague Convention Respecting the Laws and Customs of War on Land over a half-century earlier, two world wars had proven the need for an international agreement which further clarified the protective measures necessary for cultural heritage protection during armed conflict. In order to address this need, UNESCO, at its General Conference in Paris in 1949, adopted a resolution designed to encourage greater protection of cultural heritage.⁵⁰ UNESCO's resolution, along with input from other international preservation organizations, led to an invitation from the government of the Netherlands to hold an international conference at The Hague in 1954.⁵¹ The resultant Convention for the Protection of Cultural Property in the Event of

⁵⁰Jiri Toman, *The Protection of Cultural Property in the Event of Armed Conflict* (Aldershot, England: Dartmouth Publishing Company Limited; Paris: UNESCO Publishing, 1996), 22.

⁵¹Ibid.

Armed Conflict would be the most comprehensive international agreement on the issue to date.

The Hague Convention contained several key provisions which elaborated on the protective measures established in earlier agreements. As did UNESCO in 1972 in the World Heritage Convention, the 1954 Hague Convention defined the term cultural property. Given the focus of The Hague Convention, its definition applies to protection of such property during armed conflict:

For the purposes of the present Convention, the term "cultural property" shall cover, irrespective of origin or ownership:

- (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; archeological 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 subparagraph (a);
- (c) centers containing a large amount of cultural property as defined in subparagraphs (a) and (b), to be known as "centers containing monuments."⁵²

Based on this definition, the convention pledged that its parties would respect cultural property not only within their own territory, but within the territories

⁵²UNESCO, *Convention for the Protection of Cultural Property in the Event of Armed Conflict* [database on-line]; available from <http://exchanges.state.gov/culprop/hague.html>; Internet; accessed 9 September 2002.

of other parties to the convention "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."⁵³

Drafters of the convention realized that protective measures for cultural property were not likely to be implemented at the outbreak of an armed conflict due to the urgent nature of war. They therefore had the foresight to include a provision stating that parties to the convention were to undertake measures for the protection of cultural property in the event of armed conflict during times of peace. The convention granted its parties the authority to seek assistance from UNESCO in establishing protective measures for its cultural property as defined by the convention.⁵⁴ However, the convention did not provide guidelines for protective measures. It simply stated that parties should prepare for the protection of their cultural property during a potential armed conflict "by taking such measures as they consider appropriate."⁵⁵ In its draft recommendation to the convention, UNESCO had provided the following guidelines:

- (a) Special measures of an architectonic nature designed to ensure the protection, particularly against the dangers of fire and collapse, of a certain number of buildings of great value and of buildings

⁵³Ibid., 2.

⁵⁴Ibid., 9.

⁵⁵Ibid., 2.

containing collections of cultural property (museums, archives, libraries, etc.)

- (b) Special measures designed to ensure the protection of movable property of cultural value in the building where it is generally to be found or in the immediate neighborhood of the latter (organization, stocking of packing material, etc.)
- (c) The establishment of refuges for the shelter, in case of armed conflict, of the most important and most seriously endangered movable cultural property, and organization of the necessary transport to these refuges.
- (d) The institution of a civilian service which in case of war or threat of war would put into execution the measures taken or prepared under paragraphs (a), (b), and (c) above⁵⁶

Yet, delegates to the conference disagreed as to how safeguarding cultural property should be defined and who bears responsibility. The American delegate proposed that the armed forces should be responsible for safeguarding cultural property during armed conflict, while the French delegate proposed that government authorities of the territory in which the cultural property is located bear responsibility for its safeguarding.⁵⁷ In order to reach an agreement among the delegates, the convention eventually reduced the provision to its ambiguous wording.

The convention at least stated the importance of taking precautionary measures for safeguarding cultural property. In order to have a systematic means of determining what each party to the convention considered cultural property, the convention established an International Register of Cultural

⁵⁶Toman, *The Protection of Cultural Property in the Event of Armed Conflict*, 60.

⁵⁷*Ibid.*

Property under Special Protection.⁵⁸ The register differs from the List of World Heritage in Danger that would later be established by UNESCO in that it documents cultural property for which protection is being sought solely in cases of armed conflict, while the List of World Heritage in Danger documents cultural and natural heritage sites for which protection is being sought from a myriad of threats, armed conflict being one of them. Cultural property eligible for the International Register of Cultural Property under Special Protection could be immovable cultural property or places of refuge which had been established for the purpose of housing movable cultural property during an armed conflict. The convention also set two criteria for property to be included in the register: 1) the property must be an adequate distance from a major industrial center or military objective, and 2) it must not be used for a military purpose.⁵⁹

Parties to The Hague Convention vowed to refrain from any military action that would endanger a cultural property that is included on the International Register.⁶⁰ A question that arose as a result of the preceding provision was that of identification of cultural property. How were military personnel to be able to accurately and readily identify cultural property during an armed conflict? In response, The Hague Convention designed a shield-shaped emblem to be used to designate cultural property to be

⁵⁸*Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 4.

⁵⁹*Ibid.*

⁶⁰*Ibid.*

protected. The use of three emblems would designate cultural property that had been placed under special protection, per the criteria of the International Register of Cultural Property under Special Protection. In the case of movable cultural property, the use of three emblems would be used to designate cultural property in transport to a safe refuge. The use of one emblem would serve as a means of identifying cultural property not under special protection, but nonetheless deemed to be of cultural significance.⁶¹

Parties to The Hague Convention pledged to educate their armed forces on the convention and its codes of war. During peacetime, parties are to initiate measures for training their military personnel on the importance of respecting cultural property and ensuring that they are informed on the convention and its guidelines. The convention goes a step further in stating that its parties are to have in their armed forces personnel responsible for working with civilian authorities in protecting cultural property.⁶²

The Hague Convention applies to international armed conflict. It also applies to occupying forces of a territory, even if such occupation is not met with armed resistance.⁶³ The Hague Convention addressed the issue of

⁶¹Ibid., 7.

⁶²Ibid., 3.

⁶³Ibid., 7-8.

domestic armed conflict without making its provisions fully applicable. In matters of conflict not international, Article 19 of the convention states:

1. 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.
2. 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.⁶⁴

The convention thereby contained provisions relating to domestic armed conflict but did not make a strong provision for their applicability.

Yet, how were the provisions of the convention to be enforced? The convention provided for enforcement power by granting its parties the right to try, prosecute, and impose sanctions against another party who violates the convention. Such legal action is to be within the judicial guidelines of the damaged party's legal system.⁶⁵ While The Hague Convention expanded guidelines regarding the protection of cultural property during armed conflict, it also contained provisions that would allow for these guidelines to be waived.

Paragraph 2 of Article 4 states:

The obligations mentioned in paragraph 1 of the present Article [in which the parties agree to refrain from destruction of or damage to cultural property in armed conflict] may be waived only in cases where military necessity imperatively requires such a waiver.⁶⁶

⁶⁴Ibid.

⁶⁵Ibid., 10.

⁶⁶Ibid., 2.

The convention did, therefore, recognize a need for making exceptions when deemed militarily essential. What it did not do was specify criteria under which such military exceptions would be considered necessary. With the outbreak of armed conflicts during the remainder of the twentieth century, this inadequacy, as well as others of the 1954 Hague Convention, would cause concern among international cultural heritage organizations.⁶⁷

Yet, The Hague Convention of 1954 is nonetheless regarded as a significant instrument in international preservation policy. It combined the provisions of previous agreements, expanded them, and created a single international agreement for the protection of cultural property during armed conflict.⁶⁸ However, as conflicts arose during the latter half of the twentieth century, the inadequacies of the 1954 convention would become increasingly apparent. Concern over the convention's failure to clarify certain issues would grow during the late 1980s and into the 1990s when the dissolution of the Soviet bloc and the ensuing internal conflicts among ethnic groups would threaten cultural heritage in Central and Eastern Europe.

⁶⁷Worth noting is the Protocol for the Protection of Cultural Property in the Event of Armed Conflict, which also resulted from the 1954 Hague Convention and prohibited the exportation of cultural property from a territory during armed conflict. The Protocol stated that parties that are the occupying force of another territory during armed conflict are to prevent cultural property from being exported from the occupied territory, to take any exported cultural property into its custody, to return such property at the end of the period of occupation, and to pay the holders in good faith in the event that they hold cultural property that is to be returned. The illegal exportation of cultural property remains a threat to cultural heritage during current armed conflicts.

⁶⁸Toman, *The Protection of Cultural Property in the Event of Armed Conflict*, 24.

*Second Protocol to the 1954 Hague Convention
for the Protection of Cultural Property in the Event of Armed Conflict (1999)*

The government of the Netherlands and UNESCO would again play leading roles in analyzing and revising international preservation policy. In 1991, they collaborated to fund a review of the 1954 Hague Convention in order to determine what revisions may be necessary to improve its effectiveness.⁶⁹ The review concluded that a Second Protocol was necessary. A Second Protocol to The Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict was held at The Hague in March of 1999. Five key provisions were addressed:

- 1) protective measures during peacetime
- 2) The International Register of Cultural Property under Special Protection
- 3) institutional aspects
- 4) individual criminal responsibility
- 5) exception of the military⁷⁰

Though the 1954 convention had encouraged the implementation of protective measures for cultural property prior to armed conflict, its failure to provide guidelines for such measures would diminish the effectiveness of this provision. In recognition of this shortcoming, delegates to the Second Protocol sought to clarify and elaborate on the concept of parties to the convention "taking such measures as they deem appropriate" for the protection of cultural

⁶⁹Jean-Marie Henckaerts, "New rules for the protection of cultural property in armed conflict" [database on-line]; available from <http://www.helpcicr.org>; Internet; accessed 14 September 2003.

⁷⁰ Ibid.

property in the event of future armed conflict.⁷¹ Drafters of the Second Protocol looked to UNESCO's original recommendations to the 1954 convention as an example for guidelines. Following these recommendations closely, the Second Protocol revised the article regarding protective measures to state that precautionary measures should include:

- 1) preparation of inventories of cultural property
- 2) preparation of emergency measures to protect against fire or structural collapse
- 3) preparation for the placement of movable cultural property to a safe refuge or preparation for the on-site protection of such property
- 4) designation of authorities responsible for the safeguarding of cultural property⁷²

Of further significance regarding this provision is the Second Protocol's article regarding the establishment of a fund for the protection of cultural property.⁷³ The fund is supervised by the Committee for the Protection of Cultural Property in the Event of Armed Conflict.⁷⁴ Among the designated uses of the fund is that of financial assistance for establishing precautionary measures during peacetime.

Just as the provision for precautionary measures in the 1954 convention prompted the establishment of the International Register of Cultural Property under Special Protection, the expanded provision for precautionary measures

⁷¹*Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 2.

⁷²*Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict* [database on-line]; available from <http://www.vbs.admin.ch/internet/gst/kvr/e/f-conv-ZPIILH54.htm>; Internet; accessed 11 September 2002, 2.

⁷³*Ibid.*, 11.

⁷⁴*Ibid.*, 10.

in the Second Protocol led to the establishment of the International Register of Cultural Property under Enhanced Protection. Criteria for placing a property on the International Register of Cultural Property under Enhanced Protection were similar to those criteria for placing a property on the International Register of Cultural Property under Special Protection. Yet, as with the provision regarding precautionary measures, drafters saw a need to clarify the provision pertaining to special protection. At the time the Second Protocol was held in 1999, only one center of immovable cultural property and five places of refuge for movable cultural property were on the International Register.⁷⁵ The provision in the 1954 Convention which was the most restrictive for eligibility of property was that which required the cultural property to be located an adequate distance from a major industrial center or military objective.⁷⁶ Adequate distance was not defined, however. This criterion made much cultural property ineligible, as many cultural properties such as historic structures and museums are located in urban areas, which are typically military targets.

The Second Protocol therefore eliminated the criterion for adequate distance and provided new criteria.⁷⁷ In order to be eligible for inclusion on the International Register for Cultural Property under Enhanced Protection, cultural property:

⁷⁵*Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 4.

⁷⁶*Ibid.*

⁷⁷Henckaerts, "New rules for the protection of cultural property in armed conflict," 6.

- 1) must be of the greatest importance to the culture of humanity
- 2) must be protected by domestic legal measures
- 3) may not be used for military purposes or to shield military sites, and the party must make a declaration that the property will not be used as such⁷⁸

Member states with cultural property listed on the International Register of Cultural Property under Special Protection may request that their property be transferred to the International Register of Cultural Property under Enhanced Protection.⁷⁹

The provision regarding enhanced protection also contained specific guidelines for submission of property. Each member state is asked to submit to the Committee for the Protection of Cultural Property in the Event of Armed Conflict a list of its cultural properties that meet the three criteria. In addition to authorizing member states to recommend their own cultural property for inclusion, international preservation organizations were also given the authority to recommend properties. Provisions were also made for any state that was not able to meet the criterion of adequate domestic legal protection. In such case, the cultural property may be granted enhanced protection if the state requests international assistance in establishing adequate domestic legal protection. Enhanced protection status may also be granted on an emergency basis in the event of sudden outbreak of armed conflict. Parties to the conflict can, at their request, receive provisional enhanced protection of cultural

⁷⁸*Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 4.

⁷⁹Henckaerts, "New rules for the protection of cultural property in armed conflict," 7.

property while the review for the inclusion of the property in the International Register is expedited.⁸⁰ Parties to a conflict vow to refrain from military action that would endanger or destroy a property or the immediate surroundings of a property listed on the International Register.⁸¹

Of the five major issues addressed by the Second Protocol, perhaps the two most significant are the provision regarding military exception to the convention's regulations and the provision regarding individual criminal responsibility. The provision which exempts the military from certain obligations of the convention has caused the most controversy. The lack of clarification of "cases where military necessity imperatively requires such a waiver" lent itself to very ambiguous interpretation.⁸² As stated by Jiri Toman in his comprehensive analysis of the 1954 Convention, "this waiver guarantees the relative freedom of the Parties," thereby allowing parties to pledge support for the convention while also allowing them to exempt themselves from its provisions.⁸³

The challenge facing delegates to the Second Protocol was the same that faced the delegates to the 1954 convention, that of adding substance to the clause pertaining to imperative military necessity while allowing for some military freedom. A balance between the two was essential if the Protocol was

⁸⁰Ibid., 5.

⁸¹*Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 5.

⁸²*Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 2.

⁸³Toman, *The Protection of Cultural Property in the Event of Armed Conflict*, 70.

to garner sufficient support from delegates and also be effective in its application. Understandably, delegates differed as to how the waiver of the 1954 provision could be adequately expanded. In his role as observer at the Second Protocol, Jean-Marie Henckaerts, a Legal Advisor for the International Committee of the Red Cross, noted that the 1954 convention was drafted long before the 1977 Protocols to the 1949 Geneva Convention.⁸⁴ The 1977 Protocols to the Geneva Convention deal with victims' rights and civilian protection during armed conflict. More specifically, Article 52 deals with the protection of civilian objects during armed conflict:

1. Civilian objects shall not be the object of attack or of reprisals. Civilian objects are all objects which are not military objectives as defined in paragraph 2.
2. Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.
3. In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.⁸⁵

The Second Protocol was able to build on this definition and more clearly address the issue of military exception. The final provision was based on proposals made by Austria and the International Committee of the Red Cross.

⁸⁴Henckaerts, "New rules for the protection of cultural property in armed conflict," 3.

⁸⁵International Committee of the Red Cross, *1977 Protocol to the Geneva Convention* [database on-line]; available from http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/party_gc; Internet; accessed 1 September 2003.

Austria's proposal stated, "Imperative military necessity under Article 4, paragraph 2 of the Convention may only be invoked when there is no other feasible alternative for fulfilling the mission and for as long as the reasons for its invocation prevail."⁸⁶ The proposal of the International Committee of the Red Cross stated, "Objects constituting cultural property lose their general protection from the moment they become military objectives, i.e. when they are used to make an effective contribution to military action and when their total or partial destruction, capture or neutralization offers a definite military advantage in the circumstances ruling at the time."⁸⁷ Though these proposals provide some clarification of imperative military necessity, some dissension regarding the proposals took place among the delegates. Of interest is the nationality of the delegates and its probable influence on their views. The delegates from Egypt and Greece, both nations with a significant number of cultural heritage sites, argued that cultural property not being used in any sort of military activity should never be attacked. The majority of delegates from NATO countries, however, argued that the definition of military objective should acknowledge that the nature, location, purpose, or use of cultural property, as stated in the 1977 Protocols to the Geneva Convention, can deem its use to be militarily necessary, and thereby a military objective.⁸⁸

⁸⁶Henckaerts, "New rules for the protection of cultural property in armed conflict," 4.

⁸⁷Ibid.

⁸⁸Ibid.

Delegates were nonetheless able to eventually draft a combination of the Austrian and International Committee of the Red Cross proposals on which a majority of them agreed. Article 6 of the Second Protocol therefore stated:

- a. a waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to direct an act of hostility against cultural property when and for as long as:
 - i. that cultural property has, by its function, been made into a military objective; and
 - ii. there is no feasible alternative available to obtain a similar military advantage to that offered by directing an act of hostility against that objective;
- b. a waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to use cultural property for purposes which are likely to expose it to destruction or damage when and for as long as no choice is possible between such use of the cultural property and another feasible method for obtaining a similar military advantage;⁸⁹

Article 6 further specifies the level of military commander who has the authority to determine a case of imperative military necessity and that an effective advanced warning should be issued if possible. Though some could argue that the Second Protocol's provision regarding imperative military necessity still allowed for subjective interpretation, the Protocol no doubt provided a clearer definition of a complex and controversial provision than had the 1954 convention.

The Second Protocol also addressed the issue of individual criminal responsibility for actions which violated the regulations of the convention. This

⁸⁹*Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 3.

issue, like that of military exception, was complex and controversial. Its wording in the 1954 convention was also vague and ambiguous:

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 those persons, of whatever nationality, who commit or order to be committed a breach of the present Convention.⁹⁰

By inclusion of this provision, the 1954 convention acknowledged that the unnecessary destruction of cultural property during armed conflict constituted a war crime, and was, therefore, punishable. However, the convention failed to clarify which actions would be considered breaches of the convention.

Granting the parties the authority to take legal action within their own legal systems also allowed the possibility of inconsistency in the legal process and in punishment, as domestic laws for such actions vary greatly among the member states. Yet again an international preservation policy would be able to build on preceding policies. Drawing from Additional Protocol I of the 1949 Geneva Convention and the Rome Statute, the Second Protocol to The Hague Convention was able to define specific actions which violated the convention's provisions.⁹¹ These actions were

- (a) making cultural property under enhanced protection the object of attack
- (b) using cultural property under enhanced protection or its immediate surroundings in support of military action
- (c) extensive destruction or appropriation of cultural property protected under the Convention and this Protocol

⁹⁰*Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 10.

⁹¹Henckaerts, "New rules for the protection of cultural property in armed conflict," 9.

- (d) making cultural property protected under the Convention and this Protocol the object of attack
- (e) theft, pillage or misappropriation of, or acts of vandalism directed against cultural property protected under the Convention⁹²

Having clarified acts which constitute breaches of the convention's regulations, the Second Protocol next addressed the issue of enforcement. Some criteria and continuity of legal process needed to be established. The Second Protocol required parties to place, within their own legal system, laws making the actions outlined above criminal acts. Parties were also required to establish legal provisions granting their legal systems jurisdiction over these criminal acts, as well as extradition provisions. The implementation of domestic jurisdiction over these acts is not in any way to diminish the role or jurisdiction of the International Criminal Court established by the Rome Statute, but is to be supplementary.

As with any international institution, provisions had to be made for the administration of the Second Protocol. Most notable among the institutional provisions is the requirement that members elect the Committee for the Protection of Cultural Property in the Event of Armed Conflict. In addition to the committee's duties as administrator of the fund for the protection of cultural property and of the International Register of Cultural Property under Enhanced Protection, the committee was given the responsibility of overseeing the implementation of the Second Protocol and reviewing requests for international assistance. The committee is to consist of twelve members

⁹²*Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 6.

elected by the member parties to the convention, and its members are to be representative of international cultures and regions. It may seek advice from other international preservation organizations such as UNESCO, ICOMOS, and the International Committee of the Blue Shield.⁹³

In summary, the Second Protocol clarified certain provisions in the 1954 Hague Convention, enabling those provisions to be implemented and enforced. As UNESCO and the 1954 Convention resulted from the loss of cultural heritage during armed conflict, so, too, did the Second Protocol. Regrettably, strengthened protective measures for cultural property seem to be a reaction to armed conflict. Both the 1954 Convention and the Second Protocol serve not only as protective entities, but also as a means of increasing international awareness of the destruction of cultural property during war. In 2001, two years after the Second Protocol, the British Red Cross hosted a conference entitled *Heritage under Fire*, the purpose of which was to raise awareness of the 1954 Hague Convention and its First and Second Protocols. Though the United Kingdom, like the United States, verbally supports the principles of the convention but has yet to ratify it, perhaps such events will lead to pressure for ratification.⁹⁴

⁹³Ibid., 11.

⁹⁴"Protecting Cultural Property In Wartime" [database on-line]; available from <http://www.mda.org.uk>; Internet; accessed 5 September 2003.

As The Hague Convention nears its fiftieth anniversary, 105 nations have become parties to it.⁹⁵ This number is a substantial increase from the nineteen nations who were parties shortly after the 1954 Convention went into force in August of 1956.⁹⁶ The hope of the international preservation community is that the tragic conflicts that have taken place in recent years will at the very least bring The Hague Convention to the forefront of international policy.

The Case of Turkey and Cyprus

However, no international policy can be effective without adequate enforcement. In spite of the enhanced enforcement provisions of the Second Protocol, enforcement of the 1954 Hague Convention and its two protocols remains difficult. One example of the difficulty in enforcing its provisions is found in the ongoing conflict between Turkey and Cyprus, both of which are states parties to the Hague Convention.

Caught between conquering empires throughout its history, Cyprus came under the rule of Great Britain and remained a British colony until 1960. It then became governed by a partnership between Turkey and Greece and found itself caught between the two cultures and religions of the region, Islamic Turkey and Eastern Orthodox Greece. The tense relations between the two grew more fragile and reached the breaking point in 1974 when Turkish troops

⁹⁵UNESCO, "Protection of Cultural Property in the Event of Armed Conflict" [database on-line]; available from <http://whc.unesco.org/world>; Internet; accessed 14 September 2003.

⁹⁶Toman, *The Protection of Cultural Property in the Event of Armed Conflict*, 306.

invaded.⁹⁷ The Turkish invasion resulted in Turkish occupation of over 35 percent of Cyprus.

The Turkish invasion involved what invasions for centuries have involved: the attempt to obliterate the culture of the occupied territory and replace it with the culture of the occupying force. Demetrio Michaelides, head of archeological research at the University of Cyprus, observed, "The Turks are waging a war against our cultural patrimony. They are trying to erase Greek and Christian heritage."⁹⁸ The Turks began the destruction or looting of countless Orthodox churches on Cyprus in direct violation of the 1954 Hague Convention and the subsequent First and Second Protocols. Cypriot authorities estimate that, of the five hundred churches in the north, all but five have been looted. Authorities also say that Turkey has shown no regard for international law and the conventions of UNESCO.⁹⁹ The United Nations has been involved in the Cyprus situation since its inception, hosting talks in an attempt to peacefully resolve the issue by establishing a bi-communal federation with a single nationality, and therefore its own cultural identity.¹⁰⁰ Yet during a round of negotiations in 2000, the Turkish representative announced that the talks were futile. Turkey abandoned the talks in spite of

⁹⁷Judith Miller and Stephen Kinzer, "Massive Plundering of Early Christian Art Exposed," *New York Times*, 1 April 1998.

⁹⁸Ibid.

⁹⁹"Destruction of Cultural Heritage" [database on-line]; available from <http://www.pio.gov.cy/cyissue/heritage.htm>; Internet; accessed 14 September 2003.

¹⁰⁰"Turkish Intransigence" [database on-line]; available from <http://www.pio.gov.cy/cyissue/turksihinstra.htm>; Internet; accessed 14 September 2003.

opposition from some Turkish factions. Pleas from the United Nations and the European Union to resume talks failed. In its analysis of the situation, the Republic of Cyprus remarked that Turkish authorities continue to defy the international community.¹⁰¹

The Turkish situation in Cyprus shows the difficulty that can result from a lack of strong enforcement of international agreements. Through their ratification of The Hague Convention, both Turkey and Cyprus pledged a respect for cultural property, regardless of the culture it represented. Yet in its invasion, destruction, and looting, Turkey has displayed disdain for the culture of Cyprus. With its refusal to continue talks with the Cypriots, it has also displayed a refusal to work within the framework of international law. No simple solution exists to enforcement of international law. It is in cases such as this, however, that the enforcement provisions of the Second Protocol, once the protocol comes into force, can be enacted. In time, as more states parties exercise their right to prosecute violations of The Hague Convention and its protocols, perhaps such prosecution will come to be a deterrent to the intentional destruction and desecration of cultural property.

The International Council on Monuments and Sites (ICOMOS)

1965

The History and Role of ICOMOS

In Venice in 1964, UNESCO held the International Congress of Architects and Technicians of Historic Monuments for the purpose of reviewing the

¹⁰¹Ibid.

Athens Charter. The Athens Charter had been drafted at the 1931 International Congress of Architects and Technicians of Historic Monuments. The 1931 Congress marked the first time conservation issues had been discussed at the international level, and the Athens Charter was drafted as an international guideline for conservation and restoration of historic monuments and sites. Just as the Second Protocol to The Hague Convention sought to expand the principles of the 1954 Convention, the Venice Charter sought to expand the principles of the Athens Charter. The Congress recognized a need for strengthened guidelines and an international uniformity in the restoration of historic monuments and sites in order to ensure respect for their historic integrity. These guidelines were drafted with input from experts representing sixteen countries, UNESCO, and the International Center for the Study of the Preservation and Restoration of Cultural Property (ICCROM).¹⁰² The result was the International Charter for the Conservation and Restoration of Monuments and Sites, known as the Venice Charter.

With the development of these international guidelines came the need for an international advisory body to oversee and implement them. Therefore, a year after the Venice Charter, ICOMOS was founded at the Constituent Assembly of ICOMOS in Warsaw and Krakow in 1965.¹⁰³ ICOMOS would serve as one of the three advisory bodies to the World Heritage Committee, the others

¹⁰²International Congress of Architects and Technicians of Historic Monuments, *The Venice Charter*, May 1965 [database on-line]; available from [http://www.icomos.org/docs/Venice charter.html](http://www.icomos.org/docs/Venice%20charter.html); Internet; accessed 1 September 2003.

¹⁰³"ICOMOS Celebrates 30th Anniversary at Birthplace in Cracow, Poland," *US/ICOMOS Newsletter* No. 5 (1995).

being the World Conservation Union and ICCROM. ICOMOS set specific objectives for implementation of protective principles for monuments and sites:

- to serve as an international forum for conservation professionals
- to be the international resource on conservation issues
- to establish, in conjunction with national and international authorities, conservation documentation centers
- to adopt and implement international conventions regarding architectural heritage conservation and enhancement
- to assist in organizing international conservation training programs
- to assist international heritage conservation efforts by providing professional expertise¹⁰⁴

Whereas UNESCO is comprised of member states and The Hague Convention of ratifying states, ICOMOS is comprised of individuals who are professionals in various areas of conservation. The international organization consists of national committees, including the Palestinian Observer Committee, in 118 countries.¹⁰⁵ Twenty-one international scientific committees develop and oversee international standards for cultural heritage management, preservation, and restoration.¹⁰⁶ As a means of fulfilling its objectives, ICOMOS holds conferences and symposia which provide a forum for its members to discuss relevant conservation issues and develop necessary recommendations. In its role as the international advisory organization for

¹⁰⁴ICOMOS, "Objective and Initiatives" [database on-line]; available from http://www.international.icomos.org/e_introd.htm; Internet; accessed 19 February 2003.

¹⁰⁵ICOMOS, "Address List" [database on-line]; available from <http://www/international.icomos.org/address.htm>; Internet; accessed 29 September 2003.

¹⁰⁶ICOMOS, "About ICOMOS" [database on-line]; available from <http://www.international.icomos.org.about/htm>; Internet; accessed 22 September 2002.

conservation of monuments and sites, its general assemblies have produced the following charters in the years following the Venice Charter in 1964:

- The Florence Charter: Historic Gardens and Landscapes
- Charter on the Conservation of Historic Towns and Urban Areas
- Charter for the Protection and Management of the Archeological Heritage
- Charter for the Protection and Management of the Underwater Cultural Heritage
- International Charter on Cultural Tourism
- Principles for the Preservation of Historic Timber Structures
- Charter on the Built Vernacular Heritage¹⁰⁷

Symposia have been held, and consequently resolutions adopted, on the following issues:

- Resolutions of the Symposium on the Introduction of Contemporary Architecture into Ancient Groups of Buildings
- Resolution on the Conservation of Smaller Historic Towns
- Tlaxcala Declaration on the Revitalization of Small Settlements
- Declaration of Dresden (regarding destruction of cultural heritage during armed conflict)
- Declaration of Rome (regarding the importance of professional education and training in conservation)
- Guidelines for Education and Training in the Conservation of Monuments, Ensembles and Sites
- Nara Conference on Authenticity in Relation to the World Heritage Convention
- Declaration of San Antonio at the InterAmerican Symposium on Authenticity in the Conservation and Management of the Cultural Heritage
- Principles for the Recording of Monuments, Groups of Buildings and Sites
- The Stockholm Declaration: Declaration of ICOMOS marking the 50th Anniversary of the Universal Declaration of Human Rights¹⁰⁸

¹⁰⁷ICOMOS, "ICOMOS Charters and other instruments" [database on-line]; available from http://www/international.icomos.org/e_cjarte.htm; Internet; accessed 18 September 2003.

¹⁰⁸Ibid.

The most significant of these in terms of ICOMOS' role in the protection of cultural heritage during armed conflict is the Declaration of Dresden. In 1982, the German National Committee hosted an ICOMOS Conference entitled *Reconstruction of Monuments Destroyed by War*.¹⁰⁹ Representatives from eleven countries attended to discuss the reconstruction of historic sites, towns, and cities damaged or destroyed during armed conflict. Such discussions taking place with Dresden as a backdrop emphasized the impact of cultural heritage destruction during armed conflict. As a result of the discussions in Dresden, ICOMOS supported the Mexico City Declaration on Cultural Policies, which had been drafted by UNESCO earlier that year. The Mexico City Declaration resulted from UNESCO's World Conference on Cultural Policies, which had been organized to discuss the impact which the world's rapidly changing technology, politics, economic conditions, and conflicts would have on cultural heritage.¹¹⁰ In the wake of changing global politics and national boundaries, ICOMOS, like UNESCO, saw an increased need to attempt to prevent armed conflict, its tragedy, and its destruction of cultural heritage.

The Declaration of Dresden ended with the following plea:

Our experience working in the field of monuments protection, in seeing the terrible loss of human life and the destruction of cultural heritage by wars, our experience in the beautiful and responsible work of restoring and newly understanding these monuments, place an obligation on all of us to make every effort for a more secure

¹⁰⁹ICOMOS, *The Declaration of Dresden* [database on-line]; available from <http://www.icomos.org/docs/Dresden.html>; Internet; accessed 22 September 2003.

¹¹⁰UNESCO, *Mexico City Declaration on Cultural policies, World Conference on Cultural Policies*, [database on-line]; available from <http://www.unesco.org/culture/laws/mexico/html>; Internet; accessed 29 September 2003.

peace in the world on the basis of assiduous international cooperation and disarmament.¹¹¹

The Declaration of Dresden and ICOMOS' increased awareness of the threat of armed conflict to cultural heritage would be timely, for just over a decade later, in 1994, world events would lead ICOMOS to again address the issue. The Swedish National Commission for UNESCO, ICOMOS Sweden, and the Swedish Central Board of National Antiquities organized the conference which adopted the Resolution on Information as an Instrument for Protection against War Damages to the Cultural Heritage.¹¹² With the collapse of communism and the outbreak of conflict in Yugoslavia and other regions of the former Soviet bloc, the world was seeing an alarming increase in hostilities between cultures and ethnic groups. The conflicts of the times sought to obliterate any trace of a culture through the deliberate destruction of its monuments and archives.

The Resolution denounced the destruction of culture as a war crime, a type of genocide it termed ethnocide.¹¹³ It cited the Hague Convention as an instrument of humanitarian law. In the resolution, ICOMOS appealed to the United Nations to increase its role in protection of cultural heritage during armed conflict. As the international body with the authority to enforce the

¹¹¹ICOMOS, *The Declaration of Dresden*.

¹¹²ICOMOS, *Resolution on Information as an Instrument for Protection against War Damages to the Cultural Heritage*, 10 June 1994 [database on-line]; available from <http://www.icomos.org/unesco/1994-information-resolution.html>; Internet; accessed 22 September 2003.

¹¹³Ibid., 1.

Hague Convention, the United Nations also has the authority to place peacekeeping forces in areas of conflict. The Resolution states, "The protection of the cultural heritage should be clearly included in the task of the UN peacekeeping forces, and to make this happen UNESCO has an increased role to play."¹¹⁴ ICOMOS suggested that heritage monitors be placed within peacekeeping forces and within disaster aid agencies.¹¹⁵ Delegates also lent their support to UNESCO's review of The Hague Convention, the review which ultimately led to the Second Protocol in 1999.¹¹⁶ ICOMOS would also come to focus more strongly on precautionary measures to be taken. In 1998, it published *Risk Preparedness: A Management Manual for World Cultural Heritage*, which outlined a strategy for protective preparations of cultural monuments and sites in times of disaster, including armed conflict.¹¹⁷

ICOMOS would strengthen its role as the international forum for conservation issues when, in 2000, it began publishing *Heritage at Risk*. *Heritage at Risk* serves as an international directory of threatened cultural heritage sites throughout the world. It is compiled from reports prepared by the National Committees of ICOMOS, the International Scientific Committees,

¹¹⁴Ibid., 2.

¹¹⁵Ibid., 1.

¹¹⁶Ibid., 2.

¹¹⁷ICOMOS, "Publications" [database on-line]; available from <http://www.international.icomos.org/publications/risk.htm>; Internet; accessed 18 September 2003.

and international professionals.¹¹⁸ Though its compilation is in conjunction with UNESCO, *Heritage at Risk* is a more encompassing source for threatened cultural heritage than UNESCO's List of World Heritage in Danger in that it provides current information on cultural heritage properties and the challenges which ICOMOS National Committees are facing. As it is produced annually, it serves as a means of monitoring conservation progress at the sites, includes case studies, and follows trends in conservation. It also serves as a very effective means of communication for the National Committees of ICOMOS, particularly for those committees of small countries whose voices are rarely heard at the international level.

In response to world events, ICOMOS would continue to play a larger role in cultural heritage protection during armed conflict. Hostilities between cultures and religions throughout the world increased dramatically at the end of the twentieth century and beginning of the twenty-first. Given that these conflicts stemmed from cultural or religious differences, they presented the most alarming threat to the deliberate destruction of cultural heritage since World War II. At its 13th General Assembly in Madrid in 2002, ICOMOS encouraged a greater role in risk preparedness.¹¹⁹ The General Assembly recognized the International Committee on Risk Preparedness (ICORP),

¹¹⁸"ICOMOS World Report 2000 on Monuments and Sites in Danger," *Heritage at Risk* [database on-line]; available from <http://www.international.icomos.org/risk/risk2000.htm>; Internet; accessed 29 September 2003.

¹¹⁹ICOMOS, "Resolutions Committee Report," 13th General Assembly and International Symposium, 5 December 2002 [database on-line]; available from <http://www/international.icomos.org/icomos/madrid2002>; Internet; accessed 22 September 2003.

organized for the purpose of overseeing risk activities for ICOMOS, as well as coordinating its work with the International Committee of the Blue Shield. ICOMOS would also become increasingly active in issuing statements denouncing the deliberate destruction of cultural heritage during armed conflict.¹²⁰ Its roles as an international forum for conservation issues and as an international voice for the conservation of historic monuments and sites would expand as such needs arose during times of conflict.

Destruction in Palestine

One such conflict is the ongoing hostility between Israel and Palestine. An ICOMOS Palestinian Observer Committee was established in February of 2002, a time in which hostilities between Palestine and Israel were intensifying. The Palestinian Observer Committee would make use of its new access to the international forum of ICOMOS to draw attention to the situation. In April of that year, the Palestinian Observer Committee reported that the historic Old City of Nablus had been severely damaged by Israeli forces. Nablus is one of the largest cities in the West Bank, with a historic Old City originally built by the Canaanites and rebuilt by the Romans in the first century.¹²¹ Regarded as one of the most historic old cities in the Middle East, local protective measures such as the prevention of vehicles and heavy vibrations in the Old City had been enacted. These local initiatives became pointless when Israeli bombing

¹²⁰Ibid., 7.

¹²¹"Destruction in the West Bank," *Heritage at Risk 2002-2003*, ICOMOS [database on-line]; available from <http://www.international.icomos.org/risk/2002/palestine2002.htm>; Internet; accessed 29 September 2003.

heavily damaged the Old City, with some of the most extensive damage being caused by Israeli bulldozers which destroyed the narrow streets in order to allow room for tanks. The Palestinian Observer Committee reported to ICOMOS that all buildings in the Old City had to some extent been affected by the attacks. The committee further reported that the homes of sixty families who lived in the Old City were demolished and sixty-four buildings or groups of buildings were destroyed or severely structurally damaged. Recent restoration work, such as stone streets whose restoration had been made possible through international donations, was also destroyed.¹²² Accounts from other sources seemed to corroborate the reports of the Palestinian Observer Committee. The BBC provided similar accounts of destruction and reported that international criticism of Israel seemed to fall on deaf ears as the destruction continued.¹²³

Also damaged in the West Bank was the historic city of Bethlehem. Yet, Palestinians could also be accused of violating international preservation law in this case. As Israeli forces entered the city, an estimated one hundred Palestinian police and gunmen sought refuge in the historic Church of the Nativity, which was built in the sixth century and considered a holy site for Christians.¹²⁴ The occupation of the church by armed forces allows it to be deemed a military objective according to the definition of the term in the Second Protocol to the Hague Convention. The church was surrounded by

¹²²Ibid.

¹²³"Israeli tanks enter Nablus," BBC [database on-line]; available from http://www.news.bbc.co.uk/1/hi/world/middle_east; Internet; accessed 29 September 2003.

¹²⁴Ibid.

Israeli forces and suffered some damage as a result of gunfire. Ironically, the Palestinian Observer Committee had used the Church of the Nativity as a case study in *Heritage at Risk 2001-2002* and had assessed its conservation needs.¹²⁵

The destruction in the West Bank would receive international attention. On August 23, 2002, a statement from the United Nations said that Secretary-General Kofi Annan was concerned about the destruction in the West Bank and the reports regarding actions of Israeli troops.¹²⁶ Palestinians would also note that the destruction was not their loss alone. "It is not just a crime against Palestine but a crime against world culture" observed Nazmi Ju'abi, a Palestinian historian and preservationist.¹²⁷

Israel would also accuse Palestine of ignoring the standards of respect for cultural and religious sites, though these accusations seemed to come mostly from Israeli authorities rather than preservationists. Israel reported that a Palestinian mob attacked and destroyed the Tomb of Joseph in Nablus in October of 2000. Synagogues and other Jewish holy sites were also reported to

¹²⁵"Case Study: The Church of the Nativity in Bethlehem," *Heritage at Risk 2001-2002*, ICOMOS [database on-line]; available from <http://www.international.icomos.org/risk/2001/pale2001.htm>; Internet; accessed 29 September 2003.

¹²⁶"Annan Disturbed By Israeli Destruction of Palestinian Homes," UN Press Release [database on-line]; available from <http://www.escwa.org.lb/information/press/un/2002/july/23>; Internet; accessed 29 September 2003.

¹²⁷ ICOMOS Palestinian National Committee, "In Palestine: Crimes Against Culture," 12 April 2002 [database on-line]; available from <http://www.labournet.net/world/0204/palest9.html>; Internet; accessed 18 September 2003.

have been destroyed or desecrated.¹²⁸ In its report, Israel cited violation of international law in Palestinian forces' occupation of the Church of the Nativity. These incidences were not, however, included in the ICOMOS Israeli National Committee's report to *Heritage at Risk 2001-2002*. The report focused on the threats of limited resources, tourism, and looting as a follow-up to its report in 2000.¹²⁹

Yet, as an international organization comprised of individuals of various nationalities, cultures, religions, and political ideologies, ICOMOS must strive to maintain a balanced, unbiased perspective in times of armed conflict. To always be perceived as impartial is difficult and has been particularly so in the case of the ongoing conflict between Israel and Palestine. In the Palestinian Observer Committee report on destruction in the West Bank, excerpts of which were published in the newsletter of the United States National Committee, an editor's note emphasizes the mission of ICOMOS in stating, "ICOMOS certainly has no interest in placing blame, but rather in preventing the destruction of the heritage of all cultures."¹³⁰ It is not the role of ICOMOS to determine a right and wrong side in a conflict, but rather to determine a right and wrong in terms of protecting cultural heritage.

¹²⁸"What about claims that holy sites are being desecrated?" Israeli M. F. A., August 2002 [database on-line]; available from <http://www.Israel-mfa.gov.il/mfa>; Internet; accessed 29 September 2003.

¹²⁹"Israel," *Heritage at Risk 2001-2002*, ICOMOS [database on-line]; available from <http://www.international.icomos.org/ris/2001/isra2001.htm>; Internet; accessed 29 September 2003.

¹³⁰Editor's Note, "Destruction in the West Bank," *US/ICOMOS Newsletter*, April-June 2002, 13.

At its 2002 General Assembly, ICOMOS would reiterate its support of The Hague Convention and the 1994 UNESCO-ICOMOS Resolution on Information as an Instrument for Protection Against War Damages to the Cultural Heritage. Based on a resolution jointly proposed by the National Committee of Israel, the Palestinian Observer Committee, and the National Committees of Greece and Canada, the General Assembly supported a statement which:

- 1) asked Israeli and Palestinian authorities to respect international agreements
- 2) encouraged them to take joint action in cultural heritage protection
- 3) offered the assistance and support of ICOMOS¹³¹

The centuries-old conflict in the present-day area of Israel and Palestine has tragically resulted in countless lives lost for the causes of religion, culture, and homeland. Should it continue at its current level, the cultural heritage of all involved will be irreversibly diminished. This would indeed be, as the Palestinian historian said, "a crime against world culture."¹³²

Eritrea

Receiving less international attention than the conflict between Israel and Palestine is the conflict in northeastern Africa between Eritrea and its southern neighbor Ethiopia. In 1962, Ethiopia made Eritrea an Ethiopian province. This led to the outbreak of a conflict that would last nearly thirty

¹³¹"Resolutions" ICOMOS 13th General Assembly.

¹³²ICOMOS Palestinian National Committee, "In Palestine: Crimes Against Culture," [database on-line]; available from http://www.international.icomos.org/icomos/madrid2002/eng/resol_eng.htm 5 December 2002/; Internet; accessed on 22 September 2003.

years, with Eritrea finally winning independence from Ethiopia in 1991.¹³³ In 1998, however, a border dispute between Eritrea and Ethiopia again led to the outbreak of conflict between the two countries.¹³⁴ Though neither nation has ratified The Hague Convention, Ethiopia has been a member of UNESCO since 1955, and Eritrea has been a member since 1993.¹³⁵

The conflict would prove to be costly for Eritrea, as Ethiopia's advance into the country caused an estimated US \$600,000,000 in property damage.¹³⁶ Of particular concern to the Eritreans was the irreplaceable loss of cultural heritage, for Ethiopian troops reportedly showed little regard for the country's culture and destroyed sites deemed sacred in Eritrea. Particularly damaging to the Eritreans' identity was the deliberate destruction of countless sycamore trees. Historically, the sycamore tree was the site of important political and social gatherings in Eritrea and is still regarded as sacred. Yet these trees were destroyed by the Ethiopians, as were other cultural heritage sites in Eritrea. The destruction was brought to the attention of the international cultural heritage community when Dr. Yosief Libsekal, the Director of the National Museum of Eritrea, provided a disturbing report in *Heritage at Risk 2001-2002*.

¹³³Central Intelligence Agency, "The World Factbook: Eritrea," [database on-line]; available from <http://www.cia.gov/cia/publications/factbook/geos/er.html>; Internet; accessed 29 September 2003.

¹³⁴Department of State, "Consular Information Sheet: Eritrea," 29 September 2003 [database on-line]; available from <http://www.travel.state.gov/Eritrea.html>; Internet; accessed 29 September 2003.

¹³⁵UNESCO, "Member States and Associate Members," [database on-line]; available from <http://www.unesco.org/general/eng/about/members.html>; Internet; accessed 22 September 2002.

¹³⁶Central Intelligence Agency, "The World Factbook: Eritrea."

He reported that significant Eritrean archaeological, religious, and historic sites had been damaged, desecrated, or destroyed by Ethiopian forces. Ethiopia did not provide a report to *Heritage at Risk 2001-2002*, therefore not providing its account of the destruction.¹³⁷

One of the greatest losses is the historic Stele of Metera, one of the most historically and culturally valuable sites in Eritrea. A monument believed to date from the first millennium before Christ, the Stele was inscribed with pre-Christian symbols of the sun and moon and a dedication from an ancient king. An explosive placed by Ethiopian forces at the base of the monument shattered it. Also destroyed by Ethiopian forces was the small town of Senafe near the Stele.¹³⁸ In his report, Dr. Libsekal cites the International Peace Conference of 1907 and The Hague Convention of 1954 and seeks assistance from UNESCO and ICOMOS. Dr. Libsekal expressed the difficulty in understanding how one culture can be so inhumane in its regard for another: "It is strange that the Ethiopians, who are proud of their ancient history . . . show no regard for Eritrea's cultural property." He further states: "There can be no justification for attacking civilian populations and for the destruction of cultural property. It is the duty of a leader to forbid these acts of brutality and to prevent the pointless destruction of the noblest production of the human

¹³⁷ICOMOS, "National Reports," *Heritage at Risk 2001-2002*, [database on-line]; available from http://www.international.icomos.org/risk/2001/nat_reports.htm; Internet; accessed 29 September 2003.

¹³⁸"Eritrea National Committee Report," *Heritage at Risk 2001-2002*.

spirit. Pointless destruction of an irreplaceable culture is never excusable."¹³⁹
In the wake of such tragedy and turmoil, countries such as Eritrea are to be commended for utilizing the communication and advisory capabilities of international organizations such as ICOMOS in seeking help. As Dr. Libsekal said, "It is the duty of a leader to forbid these acts of brutality."¹⁴⁰
In the absence of responsible domestic political or military leadership, it is the duty of organizations such as ICOMOS to bring these situations to the world's attention, the duty of organizations such as UNESCO to intervene and assist, and the duty of the United Nations to resolve them.

The International Committee of the Blue Shield

1996

As the twentieth century entered its final decade, the loss of cultural heritage would increase due to natural disasters and armed conflict. This disturbing trend prompted UNESCO to organize a meeting of cultural heritage organizations in 1992. As a result, the International Agency Task Force (IATF) was established in 1994. The IATF is comprised of representatives from the major international cultural heritage organizations. Its purpose is to ensure consistency in these organizations' emergency policies. Yet, a need still existed for an organization whose sole purpose was the oversight of international

¹³⁹Ibid.

¹⁴⁰Ibid.

emergency preparedness.¹⁴¹ Therefore, the IATF supported the formation of the International Committee of the Blue Shield "to provide a coordinating mechanism at the international level for emergency response."¹⁴² The Blue Shield was formally formed in 1996 as a result of the NATO Partnership for Peace Conference on Cultural Heritage Protection in Wartime and in State of Emergency.¹⁴³ The NATO Partnership for Peace Conference included representatives from Belgium, Canada, Croatia, the Czech Republic, Estonia, Germany, Hungary, Italy, Lithuania, the Netherlands, Norway, Poland, Russia, Slovakia, the United States, UNESCO, ICOMOS, the International Council of Museums (ICOM), and other governmental and nongovernmental organizations. The number of participants and the representation of both cultural heritage organizations and the military at the conference were encouraging for world heritage. Their participation demonstrated an international agreement and understanding of the significance of cultural heritage and the importance of protective measures and preparedness. In a Final Communiqué, conference participants expressed their support for the

¹⁴¹ICOMOS, "Blue Shield Preparedness and Emergency Response: A Program for Cultural Heritage at Risk as a Result of Natural or Manmade Disaster" [database on-line]; available from http://www.icomos.org/blue_shield; Internet; accessed 28 March 2003.

¹⁴²"The Kobe/Tokyo Declaration on Risk Preparedness for Cultural Heritage" [database on-line]; available from <http://www.geidai.ac.jp/labs/hozon/Sympo97/sympo97.html>; Internet; accessed 2 October 2003.

¹⁴³ICOMOS, "Blue Shield Preparedness and Emergency Response: A Program for Cultural Heritage at Risk as a Result of Natural or Manmade Disaster."

Hague Convention, the World Heritage Convention, and the International Committee of the Blue Shield.¹⁴⁴

The Blue Shield adopted its charter in April of 2000.¹⁴⁵ Its work encompasses all disciplines of cultural heritage: museums, archives, libraries, and monuments and sites. The purpose of establishing such an organization was to have an international body to coordinate the risk and emergency preparedness activities of the four main international cultural heritage organizations: the International Council on Archives (ICA), the International Federation of Library Associations and Institutions (IFLA), ICOM, and ICOMOS. The Blue Shield also works closely in a consultative capacity with UNESCO and ICCROM.¹⁴⁶

The Blue Shield takes its name from the emblem designated by The Hague Convention as the international emblem for cultural property under protection. It calls itself "the cultural equivalent of the Red Cross."¹⁴⁷ The organization's mission is "to work for the protection of the world's cultural heritage by coordinating preparations to meet and respond to emergency

¹⁴⁴"Final Communique," NATO Partnership for Peace Conference on Cultural Heritage Protection in Wartime and in State of Emergency [database on-line]; available from http://www.icomos.org/blue_shield/krakowna.html; Internet; accessed 8 October 2003.

¹⁴⁵"International Committee of the Blue Shield" [database on-line]; available from http://icom.museum/icbs_requirements.html; Internet; accessed 28 March 2003.

¹⁴⁶ICOMOS, "The International Committee of the Blue Shield: Working for the Protection of the World's Cultural Heritage," *Heritage at Risk 2001-2002* [database on-line]; available from <http://www.international.icomos.org/risk/2001/icbs2001.htm>; Internet; accessed 2 October 2003.

¹⁴⁷Ibid.

situations."¹⁴⁸ In order to effectively implement its mission, the Blue Shield established the following objectives:

- to enhance international response mechanisms for threatened cultural property
- to promote risk preparedness for the safeguarding of cultural property
- to have experts at both the national and regional levels who are trained in disaster prevention, control, and recovery
- to serve as an advisor for the protection of threatened cultural heritage
- to coordinate its activities with other international organizations such as UNESCO, ICCROM, and the Red Cross¹⁴⁹

The Blue Shield would fill a growing need in cultural heritage protection. The four organizations which formed the Blue Shield, ICA, ICOM, IFLA, and ICOMOS, are concerned with all aspects of cultural heritage in their respective areas. Such broad and encompassing missions make it impossible for each of these individual organizations to develop and oversee emergency preparedness programs. Having each organization develop its own program would also result in duplication of efforts and overlap of programs. As disasters affect large geographical areas, and therefore damage or destroy archives, museums, libraries, and monuments and sites, having a single organization with oversight of disaster programs for all of these cultural heritage properties is a logical solution as the need for risk preparedness and emergency responsiveness continues to increase.

The Blue Shield strongly supported the review of The Hague Convention of 1954 and the inclusion of more stringent protective measures in the Second

¹⁴⁸Ibid.

¹⁴⁹Ibid.

Protocol to The Hague Convention in 1999. The Blue Shield took these measures, as well as those of the World Heritage Convention and the United Nations' International Decade for Natural Disaster Reduction (1990-2000) and developed them into comprehensive risk preparedness guidelines for the protection of cultural heritage during times of disaster. With the drafting of the Second Protocol in 1999, the Blue Shield would also have the role of advisor to the Committee for Protection of Cultural Property in the Event of Armed Conflict.¹⁵⁰

Though the Blue Shield is an international organization, it recognizes that in order for protective measures for cultural heritage to be effective, emergency preparedness initiatives must be taken at the national and local levels. To facilitate these initiatives, the Blue Shield oversees a risk preparedness plan to be incorporated into national, regional, and local emergency preparedness programs. It includes five general areas:

- development of an independent fund for an emergency preparedness program
- coordinating efforts with the Blue Shield
- documentation and information management
- training and manuals
- awareness and advocacy¹⁵¹

At its meeting in Paris in June of 2001, the organization set guidelines for the establishment of national committees to assist with the implementation

¹⁵⁰Ibid.

¹⁵¹"Blue Shield Preparedness and Emergency Response: A Program for Cultural Heritage at Risk as a result of Natural or Manmade Disaster."

of policies in the five areas listed above.¹⁵² The establishment of a national committee of the Blue Shield in a country is to be supported by that country's national representatives of ICA, ICOM, IFLA, and ICOMOS. National committees are to assist emergency agencies in establishing and implementing risk preparedness programs at the national, regional, and local levels. The Blue Shield provided general guidelines for the establishment of national risk preparedness programs. The guidelines allowed each national program to meet the specific cultural, political, and geographic needs of its own country. As of March 2003, the Blue Shield had national committees in Belgium, France, the Netherlands, Norway, and the United Kingdom.¹⁵³

The Blue Shield, like ICOMOS, also serves as an international forum for cultural heritage issues, with the Blue Shield's conferences focusing on risk preparedness in cultural property protection. In January of 1997, the IATF, with the support of the Blue Shield, held conferences in Kobe and Tokyo, two years after the devastating earthquake in Japan. The conferences were held to discuss ways to improve the international coordination of risk management and emergency preparedness and to establish national strategies. Twenty countries were represented, along with UNESCO, ICA, ICOM, ICOMOS, ICCROM, and the Council of Europe.¹⁵⁴ The document resulting from the conference, *The Kobe/Tokyo Declaration on Risk Preparedness for Cultural*

¹⁵²"International Committee of the Blue Shield (ICBS)" [database on-line]; available from http://icom.museum/icbs_requirements.html; Internet; accessed 28 March 2003.

¹⁵³Ibid.

¹⁵⁴"The Kobe/Tokyo Declaration on Risk Preparedness for Cultural Heritage."

Heritage, emphasizes the Blue Shield's goal of including cultural heritage property in risk preparedness and emergency planning. The declaration reiterated the five general areas to be incorporated into national and local risk preparedness programs and expanded them to state:

- make sufficient funding available for cultural heritage protection in risk preparedness plans
- ensure that public safety standards which respect cultural heritage are met and give emergency response for cultural heritage a higher priority in emergency preparedness programs
- document cultural heritage property not only before, but during and after a disaster, and conduct research on cultural heritage protection methods
- increase education and training of emergency personnel
- promote awareness of the inclusion of cultural heritage in risk preparedness plans¹⁵⁵

The Blue Shield elaborated on the principles of the Kobe/Tokyo Declaration when it held the Blue Shield Seminar on the Protection of Cultural Heritage in Emergencies and Exceptional Situations in Radenci, Slovenia in 1998. Representatives of cultural heritage organizations from Belgium, Bosnia and Herzegovina, Croatia, France, Hungary, Italy, the Netherlands, Poland, Slovenia, and Sweden met to develop strategies for the protection of cultural property in times of disaster. Particularly as three of the ten countries represented, Bosnia and Herzegovina, Croatia, and Slovenia, were ending several years of war that had been devastating to their cultural heritage, the seminar focused largely on the disasters caused by armed conflict.¹⁵⁶ The

¹⁵⁵Ibid., 4-5.

¹⁵⁶"Blue Shield Seminar on the Protection of Cultural Heritage in Emergencies and Exceptional Situations," Radenci, Slovenia, 12-16 November 1998 [database on-line]; available from <http://www.ifla.org/VI/4/admin/e,ergcy.htm>; Internet; accessed 29 March 2003.

seminar was supported by UNESCO and stressed the significance of its cultural heritage policy, as well as the principles of The Hague Convention. Delegates recognized the increasing loss of cultural heritage in recent years, noting that this loss has been caused by both natural disaster and human disrespect for cultural heritage. Regarding the latter, the declaration stated:

With regard to the particular case of armed conflicts, the participants recognized the value of the basic principles of safeguard and respect for cultural heritage as embodied in The Hague Convention of 1954 and other conventions for the protection of cultural heritage adopted under the auspices of UNESCO, including precautionary measures such as the preparation of inventories, development and implementation of appropriate technical measures, and the adoption of national legislation and policies.¹⁵⁷

While international policy can advocate protection of cultural heritage, establish guidelines for protection, and provide mechanisms for support and enforcement, a certain level of responsibility must be assumed at the national level if such guidelines and enforcement are to be effective. The Blue Shield promotes the concept of national, regional, and municipal responsibility in establishing measures for the protection of cultural heritage in times of emergency.

International Cultural Heritage Organizations and their Focus Areas

The preceding analyses of the international cultural heritage protection policies of UNESCO, The Hague Convention, ICOMOS, and the Blue Shield indicate the scope of international protective measures. Given the breadth of cultural heritage, the involvement of other organizations is essential in cultural heritage protection. Also essential is the cooperation and collaboration among

¹⁵⁷Ibid., 3.

the organizations in establishing protective policies. As the need for international protective measures increased toward the end of the twentieth century, so too did the roles of international cultural heritage organizations in establishing and implementing such measures. As seen in the establishment of the Blue Shield, the international organizations that oversee cultural heritage throughout the world are ICOMOS, ICOM, ICA, and IFLA. Also playing a major role in international cultural heritage protection is ICCROM. Each has its own area of responsibility in ensuring that cultural heritage is preserved for the benefit of all humanity.

The International Federation of Library Associations and Institutions

IFLA is among the oldest of the international cultural heritage organizations. Founded in Edinburgh in 1927, as of 2003 IFLA has over 1,700 members in 155 countries. It has a voice in international cultural heritage issues, as it has formal relations with UNESCO and observer status with the United Nations.¹⁵⁸ It served as a partner with UNESCO in the Memory of the World Program, which promoted the significance of documentary heritage to the overall cultural heritage of humanity.¹⁵⁹ IFLA also holds international conferences and symposia addressing a range of issues affecting documentary heritage. At its 1984 conference in Nairobi, IFLA established its Core Activity for Preservation and Conservation, the purpose of which was to promote

¹⁵⁸IFLA, "About IFLA" [database on-line]; available from <http://www.ifla.org//III/intro00.htm>; Internet; accessed 6 October 2003.

¹⁵⁹IFLA, Preface to "Safeguarding our documentary heritage" [database on-line]; available from <http://www.ifla.org/VI/6/dswmedia.en.txt>; Internet; accessed 6 October 2003.

international cooperation for the preservation of documentary materials.¹⁶⁰ IFLA has also established a disaster preparedness plan. The plan lists the principal causes of disaster and their effects, as well as recommendations for prevention, preparedness, response, and recovery. Development of the plan would be integral in the establishment of international protective measures for documentary cultural heritage, as well as in IFLA's role as one of the organizations forming the Blue Shield.¹⁶¹

The International Council of Museums

The devastation of World War II led not only to the formation of UNESCO and the drafting of The Hague Convention but to the establishment of other international cultural heritage organizations such as ICOM. Formed in 1946, its membership is comprised of museums and museum professionals "committed to the conservation, continuation and communication to society of the world's natural and cultural heritage, present and future, tangible and intangible."¹⁶² ICOM maintains formal relations with UNESCO and serves as an international resource for museums through the UNESCO-ICOM Museum Information Center. As of 2003, it has a membership of 17,000 in 140

¹⁶⁰IFLA, "IFLA Core Activity for Preservation and Conservation (PAC)" [database on-line]; available from <http://www.ifla.org/VI/4/pac.htm>; Internet; accessed 6 October 2003.

¹⁶¹ICOM, "Disaster Planning, Prevention, Preparedness, Response, Recovery" [database on-line] available from http://www.ifla.org/VI/6/dswmedia/en/txt_sini.htm; Internet; accessed 6 October 2003.

¹⁶²ICOM, "What is ICOM" [database on-line]; available from <http://icom.museum/organization.html>; Internet; accessed 26 September 2003.

countries.¹⁶³ ICOM has issued ten declarations and statements on issues relating to the cultural heritage of museums. Three of these ten have resulted from ICOM workshops on the illicit trade of cultural property.¹⁶⁴ Recognizing that the illicit trade of cultural property is often a result of the plundering of cultural heritage during armed conflict, ICOM is also cognizant of the importance of international cooperation in the protection of cultural heritage.

In 1992, ICOM established the Working Group on Cross Cultural Issues.¹⁶⁵ The working group was given the task of examining ways in which museums reflect cultural diversity and how ICOM can incorporate these trends in its work. Its study showed that the shifting of cultural identities toward the end of the twentieth century was being reflected in museums' development and outreach efforts. The study further recognized the need for ICOM and the international museum community to assist museums that had been damaged or destroyed in the growing cultural and ethnic conflicts of the 1990s. The report ended with an acknowledgment of the importance of museums in establishing cultural identity and the importance of respecting cultural identity in establishing peaceful international relations:

Museums have increasingly become forums for the promotion of community relations and peace. In addressing the problems of the world created due to inadequate cross cultural understanding, historical fears and ethnic tensions, museums are increasingly

¹⁶³Ibid.

¹⁶⁴ICOM, "Declarations and Statements" [database on-line]; available from <http://icom.museum.reports.html>; Internet; accessed 26 September 2003.

¹⁶⁵ICOM, "Museums and Cultural Diversity: Policy," [database on-line]; available from <http://icom/museum/diversity.html>; Internet; accessed 6 October 2003.

connecting with the important role that they can play in the promotion of cultural understanding through activities driven by community relations strategies.¹⁶⁶

The International Council on Archives

Also formed shortly after World War II was ICA. Founded in 1948, ICA is devoted to the preservation of archival history and heritage.¹⁶⁷ As does IFLA, ICA works closely with UNESCO. In 2003, it had over 1,500 members in 170 countries, indicating the level of international value placed on archival heritage.¹⁶⁸ It conducts its work through

- promoting the development of archival preservation throughout the world
- educating archivists and conservators
- implementing a professional code of ethics
- promoting international archival management
- developing international relationships among archivists and archival institutions
- making archival information widely known and accessible¹⁶⁹

Like IFLA, ICA would also gain greater international influence as one of the organizations forming the Blue Shield.

The International Center for the Study of the Preservation and Restoration of Cultural Property

Nearly ten years after the founding of these organizations, ICCROM was established as a result of UNESCO's 9th General Conference in New Delhi in

¹⁶⁶Ibid.

¹⁶⁷ICA, "ICA History" [database on-line]; available from <http://www.ica.org>; Internet; accessed 6 October 2003.

¹⁶⁸ICA, "ICA in Brief" [database on-line]; available from <http://www.ica.org/static.php?ptextid=bref&plangue=eng>; Internet; accessed 6 October 2003.

¹⁶⁹ICA, "The Mission of ICA, [database on-line]; available from <http://www.ica.org/static.php?ptextid=mission&plangue=eng>; Internet; accessed 6 October 2003.

1956.¹⁷⁰ Based in Rome, it would come to be known as the Rome Center as well as ICCROM. As with the other major international cultural heritage organizations, its need was realized following the destruction of World War II. At that time, the rebuilding of historic cities such as Warsaw and Dresden revealed a need for international technical standards in matters of restoration and reconstruction. Thus ICCROM was founded to provide technical training and professional standards in the conservation of archives, structures, cities, and landscapes. It addresses issues such as the feasibility of restoration, techniques to be used in restoration, and authenticity in restoration.¹⁷¹ In its role as the international center for preservation and restoration, ICCROM focuses on five main areas:

- 1) training: ICCROM organizes international training programs and as of 2003 has trained an estimated four thousand conservation and preservation professionals.
- 2) information: With a library of 65,000 volumes and journals, ICCROM serves as an international resource on conservation issues.
- 3) research: Through workshops, ICCROM establishes international standards for conservation.
- 4) cooperation: ICCROM interacts with its international partners on projects and for assistance.
- 5) advocacy: ICCROM raises international public support for conservation.¹⁷²

¹⁷⁰ICCROM, "About ICCROM" [database on-line]; available from <http://www.iccrom.org>; Internet; accessed 22 September 2003.

¹⁷¹Jukka Jokilehto, "ICCROM's Involvement in Risk Preparedness: 6 New Frontiers: Risk Preparedness at a Territorial Scale," *Journal of the American Institute for Conservation* 2000 Volume 39, Number 1 [database on-line]; available at http://aic.stanford.edu/jaic/articles/jaic39-01-014_6.html; Internet; accessed 18 September 2003.

¹⁷²ICCROM, "About ICCROM."

As the international body responsible for technical aspects of conservation, ICCROM also is involved in risk preparedness and the determination of preventive measures that can be taken to mitigate damage in disasters. It participated in an ICOMOS workshop in Assisi in 1998. The workshop followed the destruction of major earthquakes in central Italy and resulted in the Declaration of Assisi.¹⁷³ The declaration acknowledged that natural disasters and armed conflict have the same physical impact on cultural property; they both result in damage or destruction. ICCROM addresses the technical aspect of such physical destruction. Working closely with UNESCO, ICOMOS, and ICOM, it serves as a valuable resource to all other cultural heritage organizations faced with preservation and reconstruction issues. The roles of ICCROM and the other leading international cultural heritage organizations in risk preparedness would prove significant in the conflicts of the former Yugoslavia.

¹⁷³Jokilehto, "ICCROM's Involvement in Risk Preparedness: 6 New Frontiers: Risk Preparedness at a Territorial Scale."

CHAPTER THREE

CONFLICT AND CULTURE

"Civilizations are the ultimate tribes, and the clash of civilizations is tribal conflict on a global scale."¹

Croatia

History of Croatia

In *Balkan Ghosts*, journalist Robert Kaplan's account of the tumultuous history of the Balkans, he observed that as the early years of the twentieth century were marked by conflict in the Balkans, so too would be the final years of the century.² In order to understand the underlying motives leading to the cultural heritage destruction that occurred in the former Yugoslavia during the 1990s, it is essential to have some understanding of the region's long, complicated history. The geographic area that was to become twentieth century Yugoslavia is one of cultural, ethnic, and religious complexity. It is where Catholic Western Europe meets Orthodox Eastern, and where Orthodox Eastern Europe meets the Islamic East. Perhaps more than anywhere else on Earth, its current geographic and cultural boundaries were formed centuries ago.

As was the rest of Europe, the region was long inhabited by nomadic and often warring tribes. Some degree of political unity existed in the region when

¹Huntington, 207.

²Robert D. Kaplan, *Balkan Ghosts* (New York: Vintage Books, 1994).

it came under Roman rule. Yet, control by Rome would also lead to political division. When the Roman Empire was divided in 395 A. D., the area of present-day Slovenia, Croatia, and Bosnia and Herzegovina was made part of the Western Roman Empire, while the area of present-day Serbia and Montenegro was made part of the Eastern Roman Empire.³ With the spread of Christianity and the influence of Charlemagne and Constantine, the western regions would come to be predominantly Catholic and to culturally identify with Rome. The eastern regions would come to be predominantly Orthodox and to culturally identify with Constantinople. With the Ottoman invasions of the fifteenth century would come Islam, whose converts were largely in the area of present-day Bosnia and Herzegovina. Over the course of history, parts of the region would also come under control of the Venetians, Napoleon, and the Austro-Hungarian Empire. Strong feelings of cultural identity would rise in the mid-nineteenth century in reaction to oppression by the Hungarians. The Eastern Orthodox Church began promoting ideas of a national identity among its followers, who were largely Serbian. Over a century later, such feelings would be the cause of some of the greatest devastation of cultural heritage seen in modern times.

Though clear cultural and religious differences existed among the ethnic groups of the region, Croatians, Serbians, and Slovenians united when the Austro-Hungarian Empire fell at the end of World War I. Often feeling overshadowed by Western Europe, these differing cultures realized unity would

³Marcus Tanner, *Croatia: A Nation forged in War* (New Haven and London: Yale Nota Bene, 2001), 4.

lessen their chances of being controlled by a larger European power.

Aleksander, of a Serbian royal house, was made king in what would prove to be a fateful decision.⁴ The Serbians quickly gained political control, with Croats being underrepresented in the central government. This stirred bitterness and resentment among the Croats, feelings that would erupt into violence in coming years. Increasing unrest in Croatia led King Aleksander to abolish democratic representation by suspending parliament in 1929. Croats responded by forming the Ustashe Croatian Liberation Movement.⁵ Concurrently, unrest existed in other areas of the young Yugoslav state. In 1934, a member of the Internal Macedonian Revolutionary Organization assassinated King Aleksander.⁶ The Serbs considered Aleksander's successor sympathetic to Hitler and overthrew him.

As World War II began, the Serbians opposed the fascism in Germany and Italy. The Croats, however, refused to side with England and France, whom they considered dominant European powers who had never fully recognized the state of Yugoslavia. As a result, when Germany invaded Yugoslavia in 1941, the Croatian Ustashe was put in control.⁷ The Ustashe began the horrific extermination of Jews and Serbs that would intensify the bitter feelings between the Serbians and Croats, bitterness that would again erupt fifty years later.

⁴Kaplan, 27.

⁵Tanner, 125.

⁶Ibid., 126.

⁷Ibid., 141.

Opposition to the tactics of the Ustashe would arise within Croatia, however, with the formation of the National Liberation Party under Tito.⁸ The Allies' support of the party would contribute to Tito's rise to power following World War II. Tito became prime minister and established a communist dictatorship over a federation of six republics: Macedonia, Serbia, Montenegro, Bosnia and Herzegovina, Slovenia, and Croatia, with Belgrade as the federal capital. Croatia resented the tight control from Belgrade and the disbursement of Croatian economic productivity into the more deprived republics. Aside from sporadic attempts at resistance, Yugoslavia would remain largely peaceful during Tito's thirty-five-year reign. In the years following his death in 1980, however, dreams of an autonomous Croatia would surface. Weary of the huge foreign debt amassed by Tito's regime, Croatians rejected the Communist party in 1990. The Croatian Democratic Union was elected to power in the republic.

Shortly before the 1990 elections, the League of Communists, which had changed its name under Tito from the Yugoslav Community Party, held the party congress in Belgrade.⁹ Slobodan Milošević, party leader from the Central Committee of the Party in Serbia, pushed for a centralized and more tightly-controlled communist system in Yugoslavia.¹⁰ Dissention resulted, particularly from Slovenia and Croatia, who feared discrimination from the Serbian-dominated political and military systems. Milošević responded in

⁸Ibid., 156.

⁹Ibid., 222.

¹⁰Ibid., 220.

January of 1991 by ordering all paramilitary police units in Slovenia and Croatia to disband.¹¹ His action only incensed desire for independence. As tensions increased, so too did the strength of paramilitary independence forces, who could easily obtain old Soviet arms and munitions on the international market.

In 1991, Croatia declared its independence. Its new constitution granted no rights of protection for minorities. Fearful of a recurrence of the persecution they had suffered under the Ustashe during World War II, the homogenous enclaves of Serbians within Croatia declared their independence from the rest of Croatia. The Serbians knew they would have the backing of the Serbian-dominated Yugoslav Federal Army as it entered Croatia. Yet, the Croatians' strong sense of cultural identity and desire for autonomy would be fierce opposition. The cultural differences that had developed between the groups over the centuries had only intensified in the twentieth. Well-armed and enraged, they erupted into a cultural genocide that would prove devastating for world heritage.

Conflict and Destruction

The violence that broke out between Croatia and Serbia was truly born from cultural and religious differences and the basic human desire for identity. As attacks began, it quickly became evident that not only were Croatian and Serbian lives to be lost, but any trace of their cultural identities was to be annihilated. Yugoslavia was a signatory to The Hague Convention and

¹¹Ibid., 238.

therefore bound to its belief that "damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world."¹² Yugoslavia had also issued a Declaration on the Protection of Cultural Property in Cases of Armed Conflicts, and the Yugoslav Army's chief commanding officer ordered forces to follow the rules of war.¹³ This command, however, would largely be ignored by the Yugoslav Army and the Serbian paramilitary forces who fought alongside them.

Croatia had an extensive cultural property protection system in place prior to the conflict. Legislation had been enacted that ensured protection for the republic's historic and cultural heritage. Among this protective legislation were the Law on the Protection of Cultural Monuments, the Law on Museum Activities, and the Law on the Protection of Archival Materials and Archives.¹⁴ A system was also in place for educating the public on the significance of cultural property and the effective protective measures to be taken in armed conflict. At the time conflict began, Croatia had three sites inscribed on the World Heritage List: the cultural heritage sites of the Old City of Dubrovnik and the Historic Complex of Split with the Palace of Diocletian, and the natural

¹²*Convention for the Protection of Cultural Property in the Event of Armed Conflict.*

¹³Republic of Croatia, Ministry of Culture, Agency for the Protection of Cultural Heritage, Special Central Commission for the Listing and Evaluation of War-Inflicted Damage on Cultural Monuments, *War Inflicted Damage on Cultural Monuments 1991-1995* (Zagreb, July 1999), 18.

¹⁴Jadran Antolovic, *Implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict* (paper presented at the conference of the international legal committee of ICOMOS, Athens, Georgia, April 2002), 6.

heritage site of Plitvice Lakes National Park. Aware that this would be a conflict intent on the destruction of cultural identity, heritage advocates in Croatia became immediately concerned for the safety of these, as well as thousands of other cultural heritage sites throughout the country.

Shortly after the outbreak of war in 1991, the Institute for the Protection of Cultural Monuments of the Ministry of Culture and Education established a commission whose purpose was the documentation and assessment of cultural monuments damaged by the conflict.¹⁵ The commission quickly enacted methods of documenting and assessing damage to cultural property. It also assisted in implementing protective measures. At the beginning of the conflict, the Republic of Croatia had registered 7,023 cultural monuments and taken preventive measures for their protection.¹⁶ Though Croatia had followed The Hague Convention's provisions for enacting preventive measures, the Yugoslav Army largely ignored the convention and its provisions. The protective symbol of The Hague Convention seemed meaningless to military forces in spite of instructions to follow the rules of warfare. The Yugoslav Army used immovable cultural property as military locations. Among the cultural properties used were The Fortress in Slavonski Brod, The Gripe Fortress in Split, and The Osijek Fortress.¹⁷ The Fortress in Skavonski Brod is considered an exceptional example of military fortification architecture. Built by the Austrians during the

¹⁵*War Inflicted Damage on Cultural Monuments 1991-1995*, 4.

¹⁶*Ibid.*, 12.

¹⁷*Implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 8.

eighteenth century, its earliest portions are estimated to have been built in 1715.¹⁸ The Gripe Fortress in Split is part of the old city that dates to the first century A. D., and The Osijek Fortress was built by the Viennese in eastern Croatia in the early eighteenth century. In using these structures as military locations the Yugoslavs showed complete disregard for international policy, indicating the lack of respect for conventions that can arise in conflict, particularly one whose motives are cultural or religious extermination.

Shortly after the conflict began and the potential for cultural property destruction was realized, Croatia sought assistance from the international preservation community. The Croatian Service for the Protection of Cultural Monuments began preparing reports of the damage to cultural property and disseminating them to organizations such as UNESCO. International assistance was imperative if Croatia's cultural heritage was to survive the force of the Yugoslav Army. During the night of July 25, 1991, the fortress in the medieval town of Erdut was extensively damaged during an attack.¹⁹ On July 27, Croatian cultural officials quickly began implementing extensive protective measures. In keeping with the provisions of The Hague Convention and the policies of UNESCO, the Croatian Minister of Culture and Education established the following measures in reaction to the situation:

- authorization of the governmental agencies involved in cultural heritage protection to work in extraordinary circumstances

¹⁸Slavonski Brod [database on-line]; available from <http://www.sbonline.net/en/vodic/turizam/znamenitosti.htm>; Internet; accessed 24 October 2003.

¹⁹Antolovic, *Implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 7.

- removal of permanent museum and galleries to safe refuges
- prioritizing of the significance of cultural heritage property in order to determine those most likely to be threatened
- removal of movable cultural property to safe refuges
- marking of the most significant immovable cultural property with the protective emblem of The Hague Convention
- marking of vehicles and personnel involved in the protection of cultural heritage with the protective emblem of The Hague Convention
- technical protective measures at the most significant immovable cultural heritage property²⁰

Seven hundred ninety-four immovable cultural properties were marked with the protective blue shield emblem of The Hague Convention in a period of only ten days.²¹ Protective technical measures were taken on 143 cultural properties during 1991.²² As for movable cultural property, 149 missions transporting over 6,000 parcels were carried out during 1991.²³ This figure includes only official ministry missions, not those protective evacuations done by owners of cultural property. Due to these protective measures, much of the collections in the national museums were spared.²⁴

The need for these protective measures only increased as the conflict and its attempt to destroy symbols of cultural identity intensified. Per Jadran Antolovic, Chief of Cabinet for the Ministry of Culture, in a 2002 presentation to the ICOMOS Legal Committee, "The disrespect of cultural property by the aggressor was the result of a premeditated strategy, the so-called

²⁰Ibid., 7.

²¹Ibid.

²²Ibid., 8.

²³Ibid., 7.

²⁴"Destruction and Loss: A Report on Croatia," The Getty Conservation Institute, Newsletter, vol. 9, number 3 (Fall 1994), 2.

'scorched-earth tactics,' and which implied not only the goal of conquering but also the execution of ethnic cleansing of the entire non-Serbian population, including the destruction of the material evidence of Croatian national identity."²⁵ One of the most blatant attempts to destroy Croatia's cultural heritage took place in the ancient coastal city of Dubrovnik. Often called "The Jewel of the Adriatic," Dubrovnik was considered a cultural center as early as the Renaissance. Its centuries-old walls protected the preserved old town of marble-paved squares, cobbled streets, and stone buildings, churches, and houses. The historic old city was inscribed on the World Heritage List in 1979.²⁶ As Dubrovnik embodies Croatia's history and culture, its destruction would have symbolized the destruction of Croatian cultural identity.

In the fall of 1991, the Yugoslav Army began bombing Dubrovnik in a siege on the city that would last until June of 1992. The protective measures established by UNESCO and The Hague Convention were seemingly ignored. Seven historic palaces in Dubrovnik were heavily damaged.²⁷ Among the damaged buildings in the old city were the Sponza Palace and the Rupe Museum.²⁸ The building which houses the Rupe Museum is a granary dating to 1590. During the siege on Dubrovnik, it was the target of artillery attacks by the Yugoslav Army and also suffered roof damage due to a direct hit from a

²⁵Antolovic, *Implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 8.

²⁶UNESCO, World Heritage Committee, *The World Heritage List* [database on-line]; available from <http://whc.unesco.org/heritage.htm>; Internet; accessed 8 September 2003.

²⁷*War-Inflicted Damage on Cultural Monuments*, 14.

²⁸Jadran Antolovic, *Cultural Heritage Protection in the Republic of Croatia* (Zagreb, 2001), 27.

Yugoslav Navy warship. The eastern wing of the Sponza Palace was also damaged by projectiles that landed in a nearby street. The distinctive tile roofs of the city's historic buildings suffered extensive damage from mortar fire and shelling. UNESCO representatives were in Dubrovnik as the bombing began, as well as throughout the conflict.²⁹ Systems for assessing damage and for establishing further protective measures were quickly enacted.

Though Dubrovnik suffered damage that is taking years to repair, the historic city could have suffered immeasurable destruction had it not been for the protective measures and risk preparedness on the part of Croatian officials. Croatian and international cultural heritage organizations have worked in close cooperation to ensure that the war-damaged cultural property in Dubrovnik is restored in a manner that respects its architectural and historic integrity. The dedication of these organizations was rewarded in 1998 when, on the advice of ICOMOS, UNESCO removed the old city of Dubrovnik from the List of World Heritage in Danger.³⁰

Destruction was even greater in other areas. The most intense fighting was largely in the areas of eastern Croatia near the Serbian border, Central Croatia, the mountainous western region, and areas of the southern coastal

²⁹Antolovic, *Implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 9.

³⁰UNESCO, World Heritage Committee, "Report of the Convention Concerning the Protection of the World Cultural and Natural Heritage," 30 November-5 December 1998 [database on-line]; available from <http://whc.unesco.org/archive/repcom98.htm>; Internet; accessed 23 October 2003.

region.³¹ In addition to Dubrovnik, Croatia's other World Heritage List cultural site, the historic old city of Split, also suffered damage. Split is the site of Diocletian's Palace dating to the third century A. D. While Dubrovnik and Split were heavily damaged, the historic old city of Vukovar was nearly completely destroyed. Located in eastern Croatia on the Serbian border, Vukovar's population is a mix of Croatian, Serbian, and other ethnicities. In the fall of 1991, just months after Croatia had declared its independence, Croats in the city fought fiercely to block the Yugoslav Army from advancing from Serbia into eastern Croatia. Journalists in Vukovar in September of 1991 reported the city to be heavily damaged but standing. Yet by the end of October the town had been nearly completely destroyed by shelling and air bombardments.³² Among the destroyed historic structures was the Baroque Eltz Palace.³³ The historic old cities of Vinkovci, Lipik, Kostajnica, and Petrinja were virtually destroyed as well.³⁴

As the Yugoslav Army and Serbian paramilitary forces began to occupy areas within Croatia, the destruction obviously grew worse. Religious structures were prime targets, as Catholic churches and monasteries were extensively damaged or completely destroyed. Among these were St. Jacob Cathedral in Sibenik, St. Anastasia and St. Krsevan in Zadar, St. Peter Cathedral in Dakovo, and Mary's Holy Conception Church and the Franciscan

³¹Antolovic, *Cultural Heritage Protection in the Republic of Croatia*, 27.

³²Tanner, 256.

³³Antolovic, *Cultural Heritage in the Republic of Croatia*, 31.

³⁴*Ibid.*, 27.

Monastery in Karin.³⁵ In the town of Aljmas, the Catholic church was destroyed and its foundation completely cleared in a symbolic act of removing any trace of its existence. The Church of the Sacred Virgin Mary was filled with explosives and destroyed just before Yugoslav troops retreated from the village of Vocin.³⁶

Many Roman buildings were destroyed, particularly in the occupied areas. Destruction was clearly deliberate, as many were burned or exploded. Other historic buildings in areas around war zones suffered extensive roof and façade damage from mortar shells. Damage occurred even in unoccupied areas, where church towers were the primary targets. In Pokupski, the tower of the Church of St. Ladislav was attacked. The motives of the conflict were cruelly symbolized in this particular attack, as the section of the tower hit was that which contained the blue shield emblem of The Hague Convention.³⁷ The Church of St. Lawrence in Petrinja was also marked for protection by the emblem of The Hague Convention but was destroyed. Explosives were placed in the majority of Catholic buildings in Ravni kotari, an ethnically mixed region of the country near the Adriatic which saw brutal massacres and destruction.³⁸

Destruction of cultural property was not limited to historic city centers and religious sites. In eastern Croatia, in the area surrounding Vukovar,

³⁵Ibid., 28.

³⁶Antolovic, *Implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 8.

³⁷*War-Inflicted Damage on Cultural Monuments 1991-1995*, 14.

³⁸Ibid.

archaeological sites suffered extensive damage. Missiles, armored vehicles, and the digging of trenches permanently disturbed many valuable archeological sites. Looting also occurred as artifacts were found by military and paramilitary personnel.³⁹ As had the museums of Vukovar, museums in other areas of Croatia also suffered damage. In October of 1993 the Getty Conservation Institute supported an ICOM mission to Croatia to survey and help assess damage to Croatian museums. Of the 143 museum institutions in Croatia, 47 had been damaged or had lost parts of their collections.⁴⁰ Damage had also been done to archives. Particularly in areas of the country occupied by the Yugoslav Army and Serbians, records of births, marriages, and property were destroyed in another attempt to destroy the traces of a people and a culture. The protective measures put in place by the Ministry of Culture proved to be effective in protecting the archives of many areas, though. Some records were lost, mainly in small towns and villages, but most were recovered from places of safe refuge.⁴¹ Libraries were also extensively damaged or destroyed. Libraries of the town of Vinkovci in eastern Croatia, the Franciscan Monastery of Hrvatski Cuntic, and Inter-University Center in Dubrovnik were completely destroyed.⁴²

³⁹Antolovic, *Cultural Heritage Protection in the Republic of Croatia*, 28.

⁴⁰"Destruction and Loss: A Report on Croatia," The Getty Conservation Institute, Newsletter.

⁴¹UNESCO, "Case Study 2: Croatia" [database on-line]; Internet; available from http://www.unesco.org/webworld/archives/sro_citra/CroatiaIntro.html; accessed 16 October 2003.

⁴²Antolovic, *Cultural Heritage Protection in the Republic of Croatia*, 29.

Assessment of Destruction

The documentation and assessment measures enacted by The Ministry of Culture proved to be an effective means of monitoring the status of cultural property during the conflict. Observations showed, however, that the protective shields were largely ignored by the Yugoslavs and Serbs, as over 34 percent of protected property was heavily damaged.⁴³ The commission at the Institute for the Protection of Cultural Monuments of the Ministry of Culture and Education that had been established shortly after the conflict began assessed damage throughout the conflict. By early 1993, an estimated 322 historic areas or sites were reported to have been in some way affected by the war. Eighty-three had been destroyed and 237 had been damaged. In the historic areas, 801 individual historic buildings had been reported damaged or destroyed.⁴⁴ Religious sites suffered most. Of a total of 501 churches and monasteries, by early 1993, 73 had been destroyed, 167 heavily damaged, and 100 slightly damaged.⁴⁵

In its final report of war damage to cultural property, the commission had a consistent system of evaluating damage based on previous assessments

⁴³*War-Inflicted Damage on Cultural Monuments 1991-1995*, 12.

⁴⁴Antolovic, *Cultural Heritage Protection in the Republic of Croatia*, 27.

⁴⁵*Ibid.*, 28.

of earthquake damage in Dubrovnik and Dalmatia.⁴⁶ Damage was categorized by severity:

- Category 1: light superficial damage
- Category 2: light structural damage
- Category 3: light bearing structural damage
- Category 4: heavy bearing structural damage
- Category 5: partially demolished
- Category 6: completely demolished⁴⁷

Buildings were categorized by type or use:

- historic/memorial
- civil
- military or defense
- industrial
- religious
- sepulchral/cemeteries
- sculpture/street furniture⁴⁸

The commission had inspected over 2,000 historic buildings and had assessed damage to 1,861 immovable cultural monuments in accessible areas of the country by the end of 1995.⁴⁹ As formerly occupied areas became accessible, evaluations were performed on cultural properties in these areas and were completed by the end of May 1997. Damage throughout Croatia was assessed on a total of 2,423 immovable cultural monuments.⁵⁰

⁴⁶Antolovic, *Implementation of the Convention for the Protection of Cultural Heritage in the Event of Armed Conflict*, 13.

⁴⁷Ibid., 15.

⁴⁸Ibid., 15-16.

⁴⁹Ibid., 15.

⁵⁰Ibid.

TABLE 2

DAMAGE CATEGORIZED BY BUILDING AND SEVERITY

<u>Type of Building</u>	<u>Number of Damaged Properties</u>						<u>Total</u>
	<u>Degree of Severity Category</u>						
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	
Historic/Memorial	4	4	3	0	1	3	15
Civil	405	564	458	117	176	39	1759
Military/Defence	12	23	20	4	1	0	60
Industrial	6	14	11	13	8	9	61
Religious	88	78	101	64	83	81	495
Sepulchral/Cemeteries	3	3	2	3	2	2	15
Sculpture/Street Furniture	6	4	5	0	1	2	18
TOTAL	524	690	600	201	272	136	2423 ⁵¹

Those areas of Croatia that were temporarily occupied by Yugoslav and Serb forces suffered the greatest damage to cultural property. Damaged cultural property in these areas ranged from palaces in Dubrovnik to recreational facilities. Religious structures suffered most.

⁵¹Ibid.

TABLE 3
SIGNIFICANT PROPERTIES DAMAGED

<u>Cultural Property</u>	<u>Location</u>	<u>Degree of Severity</u>
Historic resort complex	Lipik	3-5
Eltz Manor House complex	Vukovar	5-6
Franciscan friary and The Church of St. Philip and Jacob	Vukovar	5
Workers' Hall	Vukovar	5
Regional Court Palace	Vukovar	5
Viceroy's Palace	Zagreb	4
Gutmann Palace	Belisce	5
St. Lawrence's Parish Church	Petrinja	6
Syrmia County Palace	Vukovar	5
St. Paul and St. Peter's Church	Osijek	4
St. Mary's Church	Gora	6
Old Gymnasium	Vukovar	5
St. Nicholas' Church	Hrvatska Kostajnica	6
St. Nicholas' Church	Karlovac	6
The Tower Building	Stara Gradiska	4
The Church of the Visitation of the Blessed Virgin Mary	Vocin	6
Franciscan Friary and St. Francis' Church	Dubrovnik	4 ⁵²

⁵²Ibid., 16-17.

The areas of Dubrovnik and Neretva County had the highest number of cultural monuments damaged, with 683. They were followed by Osijek and Baranja County with 356. Civilian buildings were hit most, a total of 1,759, with most of these in historic city centers. Nearly 73 percent of war damage to immovable cultural property was damage to historic buildings in these historic areas.⁵³ Following civilian buildings in damages were religious sites of churches and monasteries.⁵⁴ Nearly one-eighth of Catholic sites in Croatia were damaged or destroyed.⁵⁵ Of all Croatia's immovable cultural property, nearly one-sixth was destroyed.⁵⁶ Regarding movable cultural property, estimates are that approximately 2,200 properties were destroyed, and plundering occurred from some 150 buildings, most of these religious.⁵⁷ The Ministry of Culture report on war damage as of early 1993 stated, "Indeed, the extent of deliberate destruction of a cultural heritage with the purpose of stamping out the very identity of the people it belongs to is unprecedented in the history of wars. It is the third year in succession that this senseless

⁵³*War-Inflicted Damage on Cultural Monuments 1991-1995*, 10.

⁵⁴*Ibid.*

⁵⁵Croatian Information Center, Introductory Remarks: *The Wounded Church in Croatia: The Destruction of the Sacral Heritage of Croatia (1991-1995)* [database on-line]; available from <http://www.hic.hr/English/books/hic/wounded-church/intro.htm>; Internet; accessed 16 October 2003.

⁵⁶*War-Inflicted Damage on Cultural Monuments 1991-1995*, 12.

⁵⁷*Ibid.*, 17.

aggression has been so eager to wipe out the culture and property of a country.”⁵⁸

International Support

Though Croatian, and consequently world, cultural heritage suffered great losses during the conflicts of the early 1990s, these losses could have been far greater had it not been for the measures taken by Croatian cultural agencies and the support of international cultural heritage organizations. As stated earlier, UNESCO became involved in the early stages of the conflict and remained involved throughout. The Director-General of UNESCO made a plea for all involved in the conflict to respect cultural property, not only in Croatia but also throughout the former Yugoslavia and the Balkans. The Council of Europe also expressed concern for the devastation in the region early in the conflict and began issuing a series of reports on war damage to the cultural heritage in Croatia and Bosnia and Herzegovina. Prepared by the Committee on Culture and Education, the reports proclaimed the destruction disastrous. In a declaration made in June of 1993, the committee criticized all parties to the conflict for their cultural destruction. It expressed grave concern for the situation, stating, “This concern covers the culture in its widest sense: the heritage (which is a prime target), education, creative cultural activity, sport

⁵⁸Antolovic, *Cultural Heritage Protection in the Republic of Croatia*, 29.

and the media.”⁵⁹ In raising the question of why cultural heritage should be a concern during times of conflict, the committee provided the following reasons:

- to assert the rights of peoples and individuals to their identity, dignity and quality-of-life
- to refuse to accept religious persecution in Europe
- to draw attention to the plight of children in the areas of hostility and look towards the future
- to reflect the fact that the heritage is a common concern
- to support those who are working on the spot in the cultural field
- to reinforce the shattered remnants of whatever administrative services
- to support those working inside and outside the former Yugoslavia for the survival of the idea of a pluricultural society
- to help artists and research workers both inside and outside the former Yugoslavia⁶⁰

The Council of Europe’s Committee on Culture and Education would reiterate the significance of cultural property protection during armed conflict in another report in January of 1994: “One cannot separate the condition of cultural heritage from the physical fate of peoples”⁶¹ This sentiment was of course shared by international cultural heritage organizations during the conflict. In 1993, ICCROM began training Croatians on the technical processes

⁵⁹Council of Europe, Committee on Culture and Education, "War Damage to the cultural heritage in Croatia and Bosnia-Herzegovina," Second Information Report, Doc. 6869 revised, 17 July 1993,[database on-line]; available from <http://assembly.coe.int/Documents/WorkingDocs/Doc93/EDOC6869.htm>; Internet; accessed 16 October 2003.

⁶⁰Ibid.

⁶¹Council of Europe, Committee on Culture and Education, "War Damage to the cultural heritage in Croatia and Bosnia-Herzegovina," Fourth Information Report, Doc. 6999, 19 January 1994 [database on-line]; available from <http://assembly.coe.int/Documents/WorkingDocs/Doc93/EDOC6999.htm>; Internet; accessed 16 October 2003.

of restoration and reconstruction of historic structures.⁶² ICOM participated in missions, in addition to that in conjunction with the Getty, to assess damage to museums and make recommendations.⁶³ ICOMOS established a Croatian National Committee and continued to assist UNESCO. UNESCO's representatives had visited not only the cultural heritage sites at Dubrovnik and Split, but also Vukovar and the natural heritage site at Plitvice Lakes to assess damage.⁶⁴ At its meeting in Cartagena in 1993, the World Heritage Committee unanimously supported a declaration condemning the destruction in the former Yugoslavia.⁶⁵ ICA expressed its concern for the archival heritage of Croatia and appealed to all to respect cultural property and abide by the provisions of international agreements.

After extensive intervention from the United Nations and the United States, the conflicts in the former Yugoslavia reached an uneasy peace with the signing of the Dayton Peace Accords by the Presidents of Bosnia and Herzegovina, Serbia, and Croatia on December 14, 1995. The conflicts tragically left thousands dead. The survivors were left to face a desecrated cultural heritage.

⁶²Council of Europe, Committee on Culture and Education, "War Damage to the cultural heritage in Croatia and Bosnia-Herzegovina," Fourth Information Report, 20.

⁶³"Destruction and Loss: A Report on Croatia," Getty.

⁶⁴Antolovic, *Implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 9.

⁶⁵UNESCO, *World Heritage Newsletter* #6, vol. II, 11 December 1993 [database on-line]; available from <http://www.anatomy.usyd.edu.au/danny/anthropology/anthro-1/archive/december-1993/0209.html>; Internet; accessed 22 September 2003.

Croatia is an example of the success of protective measures and risk preparedness for cultural property at the national level, an example of the success of cooperation among cultural heritage organizations at the international level, and an example of the failure to respect and enforce international cultural property laws at the international level. In an analysis of implementation of The Hague Convention during the conflict in Croatia, Jadran Antolovic references Article 11 of the convention, the article dealing with “unavoidable military necessity,” saying the clause can be used to justify virtually any military action, regardless of that action’s impact on cultural property.⁶⁶ This observation was also made by Colin Kaiser, the former director of the UNESCO office in Sarajevo: “In the case of the former Yugoslavia, the heritage sites destroyed for purely military reasons were few and far between.”⁶⁷ Antolovic observes that the extent of damage to cultural property in Croatia proves that it could not have been caused solely out of military necessity.⁶⁸ He further states, “Although it was clear to everyone that conditions for applying the institute of ‘military necessity’ stipulated by Articles 4 and 11 of the [Hague] Convention did not exist, the systematic destructive behavior of the aggressor and the violation of the convention did not result in

⁶⁶Antolovic, *Implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 5.

⁶⁷Colin Kaiser, "Crimes Against Culture," UNESCO [database on-line]; available from http://www.unesco.org/courier/2000_09/uk/sign2.htm; Internet; accessed 16 October 2003.

⁶⁸*Implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 5.

criminal prosecution.”⁶⁹ The need is clearly for strong international support and enforcement of the provisions of The Hague Convention. The need for increased awareness that destruction of cultural heritage constitutes a war crime was also expressed in the newsletter of the United States National Committee of ICOMOS.⁷⁰

No adequate enforcement of the provisions of The Hague Convention can exist without adequate punitive measures. Concurrently with the conflict in Croatia, the meetings leading to the Second Protocol to The Hague Convention were being held. Croatia strongly supported a Second Protocol to clarify the exemption based on military necessary. It also intensified its domestic cultural property protection laws in 1999 when the National Parliament passed the Law on the Protection and Preservation of Cultural Goods.⁷¹ Of significance in the new law is its establishment of a scale of monetary fines that can be imposed on individuals violating its provisions.⁷² Croatia also participated in the NATO Partnership for Peace Conference in Poland in 1996, the conference that had also endorsed the Blue Shield. It was the only nation not a member of NATO to participate in these discussions regarding cultural heritage protection in war

⁶⁹Ibid., 11.

⁷⁰"The Destruction of Cultural Heritage in the Former Yugoslavia," *US/ICOMOS Newsletter*, No. 7-8 (1994) [database on-line]; available from <http://www.icomos.org/usicomos/news/usicomos7894>; accessed 16 October 2003.

⁷¹Antolovic, *Cultural Heritage in the Republic of Croatia*, 36.

⁷²Ibid, 85-88.

and in times of emergency.⁷³ The Partnership for Peace Conference focused specifically on the role of legal agreements in cultural property protection, particularly The Hague Convention, the World Heritage Convention, and the role of the Blue Shield. Its final communiqué made the following recommendations to The Hague Convention, recommendations which would be considered during the drafting of the Second Protocol:

- clearly define "military necessity" and the conditions under which it may be justified
- expansion of the definition of "armed conflict" to include internal civil and armed conflicts, particularly those arising from ethnic differences which present such a threat to cultural property
- establishment of a minimum distance separating military operations from a protected cultural property
- use of new technology for designation of cultural properties under protection
- specific designation of cultural properties under protection on topographical maps
- the recognition of the willful damage or destruction of cultural property during military operations in violation of The Hague Convention as a war crime and therefore subject to international and states' tribunals⁷⁴

Following the peace accords, Yugoslav and Serbian leader Slobodan Milošević would be defeated in the Federal Republic of Yugoslavia's presidential elections in September of 2000. Milošević would be brought to trial at the World Court in The Hague for ordering and instigating war crimes. The Statute of the Tribunal names Milošević as a participant in what it termed a joint criminal enterprise. Fourteen members of his regime were also named in the

⁷³NATO, "Final Communiqué," Partnership for Peace Conference on Cultural Heritage Protection in Wartime and in State of Emergency.

⁷⁴Ibid.

charges. Among the specific charges were the imprisonment, torture, and murder of innumerable Croats and other non-Serbs. Also among the charges was "The deliberate destruction of homes, other public and private property, cultural institutions, historic monuments and sacred sites of the Croat and other non-Serb population in Dubrovnik and its environs."⁷⁵ The inclusion of cultural property destruction among the numerous charges brought against Milošević was viewed as encouraging for international cultural heritage organizations. UNESCO Director-General Koichiro Matsuura issued a statement saying, "This sets a historic precedent as it is the first time since the judgments of the Nurnburg and Tokyo tribunals that a crime against cultural property has been sanctioned by an international tribunal."⁷⁶ He added, "It shows that the international community will not sit idly by and condone crimes against cultural property."⁷⁷ As the Milosevic trial and that of others in his administration continues, the fate he will meet for his attempts at genocide and ethnocide against Croats and the other non-Serbian peoples of the former Yugoslavia remains to be seen.

Though Croatia has been used as an example of cultural heritage destruction, it is important to note that the conflicts that ravaged the republics

⁷⁵"The International Criminal Tribunal for the Former Yugoslavia, The Prosecutor of the Tribunal against Slobodan Milosevic, Indictment," Case No. IT-01-50-I [database on-line]; available from <http://www.un.org/icty/indictment/English/mil-ii011008e.htm>; Internet; accessed 16 October 2003.

⁷⁶"Director-General Welcomes Tribunal's Indictment on Destruction of Heritage in Dubrovnik," UNESCO [database on-line]; available from <http://www.unesco.org/bpi/eng/unescopress/2001/01-40e.shtml>; Internet; accessed 2 September 2003.

⁷⁷Ibid.

of the former Yugoslavia during the 1990s affected the cultural heritage of virtually every ethnicity in the region. In the village of Banjska in Kosovo, the Orthodox Church of St. Nicholas was reduced to ruin by explosives placed at its altar by Kosovo Albanians.⁷⁸ In Sarajevo, the Oriental Institute, which housed archival Islamic and Jewish manuscripts, was shelled and burned, as was Bosnia's National and University Library.⁷⁹ The Yugoslavs called for the destruction to stop in an appeal initiated by faculty members at Belgrade University, one of whom was a member of ICOM. They felt that not all voices had been heard by UNESCO.⁸⁰

One incident, however, did draw international attention and condemnation. The destruction of Stari Most, which translates as "The Old Bridge" in Mostar, Bosnia caused outrage. Built by the Ottomans in 1566, it was destroyed by a Croatian bombardment in only minutes in November of 1993.⁸¹ The destruction at Mostar was one action that prompted the World Heritage Committee, at its meeting in Cartagena the following month, to

⁷⁸Mark Abley, "God's House in Ruins: The world keeps silent as Serb churches, monasteries are destroyed in Kosovo under noses of peacekeepers," *The Center for Peace in the Balkans* [database on-line]; available from <http://www.balkanpeace.org/monitor/koskss/kss22.html>; Internet; accessed 22 September 2003.

⁷⁹Andras Riedlmayer, "Erasing the Past: The Destruction of Libraries and Archives in Bosnia-Herzegovina," *Middle East Studies Association Bulletin*, (July 1995) [database on-line]; available from <http://fp.arizona.edu/mesassoc/Bulletin/bosnia.htm>; Internet; accessed 22 September 2003.

⁸⁰The Appeal of Yugoslavian people for the protection of the Cultural Heritage, "To the professional community and the protection of heritage workers from all over the world," Belgrade, 5 April 1999 [database on-line]; available from <http://members.tripod.com/Vasiljevic/News/stop.htm>; Internet; accessed 18 September 2003.

⁸¹Kaiser.

declare its support for UNESCO's plea to stop the destruction of cultural heritage in Bosnia and Herzegovina.⁸² The suffering on all sides helped prompt the Federal Republic of Yugoslavia, which now consists of the republics of Serbia and Montenegro, to announce in May of 2002 that it would sign the Second Protocol to The Hague Convention.⁸³

The destruction of cultural property throughout the former Yugoslavia shocked the entire international community, not only preservationists, through most of the 1990s. The deliberate attacks on churches, libraries, and historic buildings are indicative of what humans are capable of doing. The attacks on these structures were not attacks against the physical edifices themselves, but attacks on the religions, cultures, and heritage which they represented. As has been said in every international cultural heritage instrument, the heritage of every culture comprises the culture of all humanity. Therefore, those who attack cultural heritage properties are, in a sense, attacking themselves.

Afghanistan

History, Culture, and Conflict

Only six years after the Dayton Peace Accords helped bring peace to the Balkans, another conflict would draw the world's attention, this being in Afghanistan. Throughout its history Afghanistan has been at the crossroads of world trade. It is the region where the trade routes of the Indus civilizations

⁸²World Heritage Committee, *World Heritage Newsletter* #6.

⁸³"Yugoslavia promises to punish attacks against cultural property in wartime," UNESCO [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=5930&URL DO=DO TOPIC&URL SECTION=201.html>; Internet; accessed 5 September 2003.

met those of Mesopotamia. With the invasions of Alexander the Great in the fourth century B. C., it would become the region where the Eastern Indian civilizations met those of the Western Greek.⁸⁴ The influences of various cultures and religions created layers of history and a rich cultural heritage in Afghanistan that represents Hinduism, Buddhism, and Islam.

As discussed in the section on UNESCO, Afghanistan and the world lost a major cultural heritage site in March of 2001 when the ruling Taliban party in Afghanistan destroyed the Buddhas of Bamiyan. The destruction under the Taliban followed years of war with the invading forces of the Soviet Union. During the nearly twenty years of conflict with the Soviets, Afghanistan's infrastructure was devastated, including many of its cultural resources such as historic buildings, universities, and libraries. The destitute country would only suffer more loss of its cultural heritage when the extremist Taliban took control and set out to destroy all traces of Afghanistan's pre-Islamic history.

The destruction of the Buddhas of Bamiyan brought Afghanistan's plight to the world's attention. Yet, as the world denounced destruction of this heritage, it could not fathom the level of destruction of which the Taliban were capable. In September of 2001, the Taliban-supported and Afghan-based terrorist organization al-Qaida crashed hijacked American commercial airliners into the World Trade Center in New York and the Pentagon in Washington. These were not simply buildings in America, but symbols of American

⁸⁴"UNESCO launches drive to save Cultural Heritage in Afghanistan," UNESCO 26 May 2002 [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=2659&URL DO=DO TOPIC&URL SEC>; Internet; accessed 16 October 2003.

capitalism and military power. Thus, to the Taliban they were symbols of American culture. The United States responded to these attacks by military action against the ruling power in Afghanistan. Though the Taliban were overthrown, two years later conflicts still occur between American and Afghan military forces and resistant warlords and Taliban remnants in regions outside the capital of Kabul.

In December of 2001, Hamid Karzai became president of the newly-democratic Afghanistan.⁸⁵ He faced the daunting task of presiding over a country that was still politically volatile and rebuilding its shattered infrastructure. Yet, even in the midst of such overwhelming tasks, the rebuilding of Afghanistan's cultural heritage was not lost. In September of 2002, Karzai urged protection and reconstruction of historic sites in Kabul. He specifically mentioned the wall of Zanborak Shah, a nearly two-thousand-year-old section of the historic walls around the city.⁸⁶ In a radio address on April 25, 2003, he called on all Afghans to respect their culture, saying that all are responsible for safeguarding the national heritage.⁸⁷

A major topic surrounding discussions of the rebuilding of Afghanistan's cultural heritage was the possibility of reconstructing the Buddhas of Bamiyan.

⁸⁵"Karzai takes power in Kabul," BBC [database on-line]; available from: http://news.bbc.co.uk/1/hi/world/south_asia/1724641.stm; Internet; accessed 27 October 2003.

⁸⁶"Karzai urges to preserve Kabul's culture and history heritages," AfghanNews.net, 21 September 2002 [database on-line]; available from: <http://www.afghannews.net/print.php?topicid=53>; Internet; accessed 22 September 2002.

⁸⁷Nancy Hatch Dupree, "Protecting the Afghan Cultural Heritage," Development Gateway [database on-line]; available from: <http://www.developmentgateway.org/node/134111/sdm/docview?docid=546315>; Internet; accessed 29 May 2003.

International cultural heritage organizations and restoration workers throughout the world considered the project. Strong support came from the Afghan Museum and Institute and the Afghan Ministry of Information and Culture. The project was estimated to take four years and to cost between US\$30 million and US\$50 million.⁸⁸ The project also drew support from many Afghans. In May of 2002, however, UNESCO's Assistant Director-General for Culture announced that archaeological experts decided against reconstruction, as it simply did not seem feasible.⁸⁹

In addition to the Buddhas and the historic walls around Kabul, the devastation of the Kabul Museum was a concern. The museum had been nearly completely destroyed during the fighting among Islamic factions from 1992 until 1996, when the Taliban gained control.⁹⁰ Seventy percent of its collection had been looted in the years of war.⁹¹ The Taliban destroyed most of what remained.

International Support

Afghanistan received offers of assistance from governments and cultural heritage organizations throughout the world. As in Croatia, UNESCO led the international efforts to rebuild the cultural heritage of Afghanistan. The

⁸⁸"Countering Cultural Terrorism: A Response to the Destruction in Afghanistan," World Monuments Fund Watch, 21 June 2002 [database on-line]; available from: <http://www.wmf.org/html/programs/Afghanistan.html>; Internet; accessed 14 September 2003.

⁸⁹Ibid.

⁹⁰"UNESCO Appeals for the Safeguard of the Cultural Heritage of Afghanistan," UNESCO, World Heritage Committee, *World Heritage News* [database on-line]; available from <http://whc.unesco.org/news/2804.htm>; Internet; accessed 22 September 2003.

⁹¹Dupree.

assessment of cultural heritage sites in Afghanistan by UNESCO began in late 2001.⁹² As the Afghan Ministry of Information and Culture did not have the resources to administer international proposals for assistance, in March of 2002, a Memorandum of Understanding was signed which granted UNESCO authority to coordinate international restoration efforts of the National Museum. UNESCO moved quickly in organizing international cooperation. Working with the Afghan Interim Administration's Ministry of Culture and Information, it helped to organize a conference in Kabul in May of 2002.⁹³ The conference entitled The International Seminar on the Rehabilitation of the Afghan Cultural Heritage` was the first such discussion meeting to be held in twenty years.⁹⁴ Recommendations as to how assistance should be coordinated were discussed. It was during this conference that the future of the Buddhas of Bamiyan was discussed and the decision made that their reconstruction will not be a focus of UNESCO and the Society for the Protection of Afghanistan's Cultural Heritage. Instead, a recommendation was made which supported protection and restoration of the cliffs of Bamiyan and remains of the Buddhas, exploration and protection of cave murals in the area, and archaeological exploration for a giant Buddha carving believed to be buried in the Bamiyan

⁹²"UNESCO Appeals for the Safeguard of the Cultural Heritage of Afghanistan" [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=2659&URL DO=DO TOPIC&URL SEC>; Internet; accessed 16 October 2003.

⁹³"UNESCO Appeals for the Safeguard of the Cultural Heritage of Afghanistan" [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=3699&URL DO=DO TOPIC&URL SEC>; Internet; accessed 16 October 2003.

⁹⁴"UNESCO Appeals for the Safeguard of the Cultural Heritage of Afghanistan" [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=3708&URL DO=DO TOPIC&URL SEC>; Internet; accessed 16 October 2003.

Valley.⁹⁵ UNESCO helped to further ensure the protection of the Bamiyan Valley by inscribing it on both the World Heritage List and the List of World Heritage in Danger in May of 2003.⁹⁶

The conference also established the International Coordination Committee for the Safeguarding of Afghanistan's Cultural Heritage to advise Afghan authorities and UNESCO member states on the coordination of international efforts. The International Coordination Committee held its first plenary session in Paris in June of 2003. The session focused on

- archaeological research and capacity building
- protection of major sites and prevention of illegal trade
- conservation of the Jam minaret and the monuments in Herat
- reconstruction of the Kabul National Museum
- preservation of the site of the Buddhas of Bamiyan and the Bamiyan Valley
- protection of traditional crafts and intangible cultural heritage⁹⁷

The committee made ten recommendations to UNESCO's Director-General.

These recommendations were then made to Afghan authorities, UNESCO member states, and other organizations involved in the effort:

- establishing cultural heritage protection and promotion as a priority in Afghanistan's new constitution
- training of cultural heritage personnel
- an inventory and database of cultural property and conservation projects

⁹⁵"UNESCO Appeals for the Safeguard of the Cultural Heritage of Afghanistan" [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=2659&URL DO=DO TOPIC&URL SEC>; Internet; accessed 16 October 2003.

⁹⁶"Cultural Landscape and Archeological Remains of the Bamiyan Valley," UNESCO [database on-line]; available from <http://whc.unesco.org/sites/208rev.htm>; Internet; accessed 8 September 2003.

⁹⁷"UNESCO Appeals for the Safeguard of the Cultural Heritage of Afghanistan" [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=12964&URL DO=DO TOPIC&URL SEC>; Internet; accessed 27 October 2003.

- instilling in the Afghan people knowledge of and pride in their heritage
- the taking into account of the heritage of the area in which a project is located
- establishment of an Interministerial Committee on Cultural and Natural Heritage and Development to assist cabinet members and ministers on issues relating to cultural heritage and its protection
- activities to prevent illicit archeological excavations
- involvement of local communities in preservation efforts
- the clearing of anti-personnel land mines at heritage sites
- effective communication among UNESCO member states and others involved in assisting Afghanistan with world heritage matters⁹⁸

Restoration efforts were initiated on several cultural heritage sites throughout Afghanistan. Work began on the restoration of the seventeenth-century mosque at Baghe Babur. The minarets at Herat are also listed as a restoration priority and restoration work has started on the mausoleum of Timur Shah. A major priority was the protection of the minaret at Jam. Built in 1194, the minaret is the second tallest in the world after the Qutab Minar in India. Afghanistan was in the process of having it inscribed on the World Heritage List when war interrupted the process in the 1980s.⁹⁹ In June of 2002, the minaret was added to both the World Heritage List and the List of World Heritage in Danger.¹⁰⁰ Valued for its importance in medieval Islam and its elaborate brickwork, the minaret faces several threats that led to its inclusion on the List of World Heritage in Danger. Its location near the junction of two rivers leads to water infiltration. Also, road construction is

⁹⁸First Plenary Session of the International Coordination Committee for the Safeguarding of Afghanistan's Cultural Heritage, UNESCO, 16-18 June 2003, Recommendations, 2.

⁹⁹"Endangered minaret puts Afghanistan on World Heritage List," UNESCO [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=3592&URL DO=DO TOPIC&URL; Internet; accessed 27 October 2003>.

¹⁰⁰Ibid.

planned near the site, and illegal excavations and looting over the years have damaged its integrity.¹⁰¹

UNESCO serves as the lead organization in the rebuilding of Afghanistan's cultural heritage. As in Croatia it does so with the assistance and support of other international organizations. In October of 2002, the General Assembly of ICOM's Asia Pacific Organization appealed to museums throughout the world to assist with the reconstruction of the Kabul Museum.¹⁰² In its advisory role to UNESCO, ICOMOS assisted in adding the Jam minaret to the World Heritage List and the List of World Heritage in Danger. The Blue Shield appealed to all countries that had pledged assistance to Afghanistan to honor their commitment.

The destruction of cultural heritage that occurred in Afghanistan remains difficult to completely assess due to continuing skirmishes in the areas outside Kabul. The destruction is also difficult to assess due to the length of time of conflict, nearly twenty-five years, and the policies of the Taliban. At the time conflict began in Croatia, it had been a republic in a highly structured communist bureaucracy and had not experienced major conflict since World War II. Systems were in place for the inventory of cultural heritage properties and the implementation of protective measures in times of emergency. Croatia serves as an example of risk preparedness as endorsed by

¹⁰¹Ibid.

¹⁰²"Save the Culture of Afghanistan," Press Release, 1 March 2001, ICOMOS and ICOM [database on-line]; available from <http://www.international.icomos.org/risk/appeal.htm>; Internet; accessed 16 October 2003.

the Blue Shield due in part to its organized governmental system. Afghanistan, on the other hand, is a country that did not have a strong centralized government in place at the time of the Soviet invasion. This, coupled with the fact that the country was at war for two decades before falling under the control of a brutal regime, shows the difficulty that arises in monitoring, and thus protecting, cultural property when a cultural heritage protection program is not in place at the outbreak of conflict.

The above situation reinforces the Blue Shield's recommendation of establishing a system of emergency preparedness which utilizes the resources of federal, regional, and local governments. Three types of destruction of cultural heritage occurred in Afghanistan: looting, deliberate destruction by a religious regime that took power by force, and war. Damage to cultural heritage in these situations can be mitigated by the adoption of emergency procedures and by adherence to international cultural heritage protection agreements by a stable, responsible central government. UNESCO also encouraged the new administration in Afghanistan to ratify The Hague Convention and its Protocols. Ratification would show support for the respect and protection of the heritage of all cultures and would help safeguard what remains of Afghanistan's cultural heritage in the tragic event that this ravaged country should again suffer through armed conflict. As of fall 2003, Afghanistan remains in the process of establishing a democracy. Conflicts continue in the more rural provinces where tribal warlords still fight for control. A thorough, detailed assessment of Afghanistan's cultural heritage

and its damage and destruction will not be possible until peace is restored, infrastructure is rebuilt, and the systems of a centralized, democratic government are in place.

Iraq

Brutality and War

Afghanistan would not be the only country in that part of the world to see war as the twenty-first century began. Once part of the Ottoman Empire, Iraq became independent in 1932. Its brief history as an independent nation has been tumultuous, as the country has had a series of rulers who have been for the most part absolute, brutal dictators. Iraqi leader Saddam Hussein became infamous for a barbaric system of ruling that included the torture or execution of any opponents of his regime. He also enacted the genocide of ethnic minorities such as the Kurds and the Shiites. On the premise that Hussein was harboring weapons of mass destruction, the United States attacked Iraq on March 19, 2003.

The presence of brutal dictators and war seems contradictory in the country of Mesopotamia and "The Cradle of Civilization." Its cultural heritage begins in ancient history and its cities date to Biblical times. The Iraqi city of Ashur dates to 2800 B. C. It was the first Assyrian capital and the site of Assyrian kings' coronations and burials. Remains of the Assyrian civilization have been excavated in Ashur.¹⁰³ For its significance in world history and the

¹⁰³UNESCO, "World Heritage: The Tentative List of Iraq" [database on-line]; available from http://whc.unesco.org/news/news_170203_tentiv_irak.htm; Internet; accessed 28 March 2003.

threats to it by war, Ashur was added to both the World Heritage List and the List of World Heritage in Danger in May of 2003. Ashur was Iraq's second World Heritage site, as the ancient city of Hatra, capital of the first Arab kingdom, was inscribed on the World Heritage List in 1985. The towers and massive walls of Hatra enabled the city to survive Roman invasions. The remains of Hatra are largely unexcavated, and a lack of funds hinders its conservation.¹⁰⁴ Modern-day Iraq is also the site of the ancient cities of Ur, Babylon, and Nineveh.¹⁰⁵

International Support

Regrettably, other than Ashur and Hatra no other cultural heritage sites in Iraq have been placed on the World Heritage List. Though Iraq ratified the World Heritage Convention in 1974, a lack of funds and political stability precluded these and other sites from being added to the World Heritage List in the 1970s and 1980s.¹⁰⁶ Concern for these sites was expressed as soon as the war between Iraq and the United States began. Immediately following the American attack, the Director-General of UNESCO issued the following statement, "It is our duty to do all we can to ease the suffering of the Iraqi

¹⁰⁴UNESCO, "World Heritage: Hatra" [database on-line]; available from http://whc.unesco.org/news/news_170203_hatra.htm; Internet; accessed 28 March 2003.

¹⁰⁵UNESCO, "World Heritage News: Iraq-Heritage in Danger" [database on-line]; available from <http://whc.unesco.org/news/news170203.htm>; Internet; accessed 28 March 2003.

¹⁰⁶Ibid.

people, to help protect their heritage and to build their future."¹⁰⁷ Within days, UNESCO had organized the Intersectoral Task Force on Iraq, whose purpose is the coordination of UNESCO's various programs to ensure that Iraq's cultural heritage is protected to the greatest degree possible.¹⁰⁸ In the following weeks, as reports from Iraq contained information on damage to cultural buildings in the cities of Baghdad, Mosul, and Tikrit, UNESCO called a meeting of thirty international experts. They agreed to make an initial assessment of damage and determine immediate protective measures. The appeal was made for all parties involved to follow the provisions of The Hague Convention. Specific recommendations were made to provide protection for the cultural heritage sites that had been damaged or that were endangered:

- museums, libraries, archives, and monuments and sites be guarded and secured
- the export from Iraq of antiquities, books, and archives be prohibited
- the international trade of cultural heritage items from Iraq be prohibited
- the return of cultural heritage objects by request
- a fact-finding mission, under the leadership of UNESCO
- the facilitation of international cultural heritage assistance efforts in Iraq by UNESCO¹⁰⁹

¹⁰⁷UNESCO, "Statement by Mr. Koichiro Matsuura, Director-General of UNESCO," Press Releases [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=10611&URL DO=DO TOPIC&URL>; Internet; accessed 27 October 2003.

¹⁰⁸"First meeting of the Intersectoral Task Force on Iraq set up by the Director-General of UNESCO," UNESCO, Press Releases [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=10761&URL DO=DO TOPIC&URL>; Internet; accessed 27 October 2003.

¹⁰⁹UNESCO, "International Expert Meeting on Cultural Heritage in Iraq Ends at UNESCO," UNESCO Press Releases [database on-line]; available from <http://portal.unesco.org/en/ev.php?URL ID=9231&URL DO=DO TOPIC&URL>; Internet; accessed 27 October 2003.

In addressing the meeting, the Director-General stated that the fate of Iraq's cultural heritage was not just in the hands of those present, but "in the hands of the international community as a whole."¹¹⁰

A second meeting of the Intersectoral Task Force was held in late April.¹¹¹ The task force had already begun some of the recommendations that resulted from the first meeting. An assessment trip to Iraq was planned for early May to evaluate museums, monuments, and archaeological sites. The Baghdad Museum was one of the major cultural heritage sites of concern on the mission. The prevention of further theft was recommended, as was the preparation of an inventory. The delegation also looked at the National Archives, the Manuscript Center, and the Baghdad Library. John Russell, a professor of art history and archaeology who was a member of the team, painted a grim picture of destruction and looting.¹¹²

At the Intersectoral Task Force meeting in June, plans for a second mission to Iraq were made. The second mission assessed cultural heritage sites in Mosul, Nineve, Erbil, Hatra, and Ashur to the north of Baghdad, and

¹¹⁰UNESCO, "Koichiro Matsuura: The fate of Iraqi heritage lies in the hands of the international community as a whole," UNESCO Press Releases [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=11393&URL DO=DO TOPIC&URL>; Internet; accessed 27 October 2003.

¹¹¹UNESCO, "Second meeting of the Intersectoral Task Force on Iraq," UNESCO Press Releases [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=11480&URL DO=DO TOPIC&URL>; Internet; accessed 27 October 2003.

¹¹²John M. Russell, "A Personal Account of the First UNESCO Cultural Heritage Mission to Baghdad, May 16-20, 2003," Archaeological Institute of America [database on-line]; available from www.archaeological.org/pdfs/papers/J_Russell_IraqA5S.pdf; Internet; accessed 27 October 2003.

Babylon, Kish, Isin, Nippur, Ur, Uruk, and Basra to the south.¹¹³ The delegates also assessed the condition of the restoration section of the Iraqi Museum. It was found to have some usable equipment, but inadequate and unsafe working conditions and no supplies. At archaeological sites, four causes of concern were identified: looting and illegal digging, the presence of military bases near the sites, accelerated decay, and controversial reconstruction.¹¹⁴ Historic buildings and cultural institutions in Baghdad, Basra, and Mosul were assessed. Looting and vandalism were the major problems. The town of Basra was extensively damaged, though some of the damage was attributable to Iraq's war with Iran. In Mosul, a music school was completely plundered, though a heritage center in the town had suffered only minor damage. No war damage was found in the town of Erbil. In Baghdad, the Iraqi Center for Manuscripts remained in relatively good condition. Though its laboratory and restoration unit were looted, its collection was moved to a safe refuge before the conflict. The Baghdad National Library was considerably damaged. Part of the building had been burned and books destroyed. Library employees were able, however, to remove an estimated 500,000 volumes, with an estimated 700,000 remaining in the library. The main library in Basra was completely destroyed.¹¹⁵ Recommendations were developed and prioritized. At the Iraqi Museum, the mission determined it imperative to establish security

¹¹³UNESCO, "UNESCO second assessment mission to Iraq, 28 June-7 July 2003" [database on-line]; available from <http://portal.unesco.org/en>; Internet; accessed 27 October 2003.

¹¹⁴Ibid., 7.

¹¹⁵Ibid., 11.

measures and appropriate environmental conditions. At archaeological sites, looting and illegal digging were to be stopped by establishing security measures and prosecuting violaters.¹¹⁶

The mission was followed by a fourth meeting of the Intersectoral Task Force in September of 2003.¹¹⁷ Attending were UNESCO representatives who had been based in Iraq. The significance of cultural heritage in the reconstruction on Iraq was emphasized. The link between a new Iraq and the cultural heritage of its past was also acknowledged by Mufid al-Jazairi, the Iraqi Minister of Culture, at UNESCO's General Conference in Paris in October of 2003. Mr. al-Jazairi stated, "without culture, there can be no democracy."¹¹⁸

UNESCO responded to the situation in Iraq expeditiously. Its actions were supported by many other international cultural heritage organizations. ICOMOS, in its advisory role to UNESCO, was instrumental in seeing that Ashur was added to the World Heritage List and the List of World Heritage in Danger. ICOMOS also effectively communicated with its international membership of preservation professionals, ensuring that the international cultural heritage community was kept informed of events in Iraq, therefore enabling them to respond accordingly. In the introduction to the 2002-2003

¹¹⁶Ibid., 15.

¹¹⁷UNESCO, "Fourth meeting of UNESCO's Intersectoral Task Force on Iraq," Press Releases [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=14553&URL DO=DO TOPIC&URL>; Internet; accessed 27 October 2003.

¹¹⁸UNESCO, "Democracy and Culture are indissociable, without culture, there can be no democracy," Press Releases [database on-line]; available from <http://portal.unesco.org/en/ev.php@URL ID=16549&URL DO=DO TOPIC&URL>; Internet; accessed 27 October 2003.

edition of *Heritage at Risk*, the Assistant Director-General for Culture for UNESCO lamented the looting of the National Museum in Baghdad and of archaeological sites. He pointed to the alarming trend of cultural heritage as an issue in conflicts, and its sites therefore targets.¹¹⁹ In a communiqué of June 3, 2003, ICOMOS asked "all governments and international organizations to preserve cultural heritage of future generations from the devastation of war."¹²⁰ The communiqué further asked that all involved follow the terms of the World Heritage Convention, The Hague Convention and its Protocols, and the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.¹²¹ The United States National Committee of ICOMOS sent letters to President George Bush, Secretary of Defense Donald Rumsfeld, and Secretary of State Colin Powell urging that cultural heritage sites be protected, particularly as Iraq is a party to all three above-mentioned conventions.¹²²

¹¹⁹Mounir Bouchenaki, "The destruction of the cultural heritage of Iraq," *Heritage at Risk 2002-2003* [database on-line]; available from <http://www.international.icomos.org/risk/2002/intro.htm>; Internet; accessed 27 October 2003.

¹²⁰"War in Iraq-Memory and Heritage of the World in Danger," Communiqué-06.03.2003, *Heritage at Risk 2002-2003* [database on-line]; available from <http://www.international.icomos.org/risk/2002/irak-appeal.htm>; Internet; accessed 18 September 2003.

¹²¹Ibid.

¹²²Gustavo Araoz, Letter to Membership of US/ICOMOS; 17 April 2003.

The four organizations forming the Blue Shield: ICA, ICOM, IFLA, and ICOMOS, were part of UNESCO's meeting of experts in April of 2003.¹²³ The Blue Shield had been among the first organizations to issue a statement on protection of Iraq's cultural heritage. In anticipation of the conflict, it adopted a statement on March 7, 2003: "Whilst the ICBS [International Committee of the Blue Shield] is keenly aware that there are other compelling concerns at times of armed conflict, not least the loss of human life, the Committee urges all the governments concerned to work within the spirit of The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, to protect archives, libraries, monuments and sites, and museums, if war breaks out in Iraq and the region."¹²⁴ The statement was released on March 19, 2003, the day the conflict began.¹²⁵ An additional resolution was adopted on April 16, 2003, urging all to protect property and encouraging the participation of religious authorities. The president of the Blue Shield called the loss that had taken place in Iraq a loss "to the memory of the world."¹²⁶

IFLA also expressed concern for the situation in Iraq, particularly the fate of libraries. At the World Library and Information Congress in Berlin in August

¹²³IFLA, "Meeting on Iraqi Cultural Heritage, UNESCO, Paris, 17 April 2003" [database on-line]; available from <http://www.ifla.org/VI/4/admin/iraq2204.htm>; Internet; accessed 2 October 2003.

¹²⁴ICBS, "Blue Shield (ICBS): Statement on Impact of War on Cultural Heritage in Iraq," 19 March 2002 [database on-line]; available from <http://www.ica.org/news.php?pnewsid=54&plangue=eng>; Internet; accessed 28 March 2003.

¹²⁵Ibid.

¹²⁶ICBS, "Heritage professionals call for emergency protection to save Iraq's treasures," 16 April 2003 [database on-line]; available from <http://www.ifla.org/VI/4/admin/iraq1794.htm>; Internet; accessed 2 October 2003.

of 2003, it adopted a Council Resolution on Libraries in Iraq. The resolution appealed for

- governments that have not already done so to ratify The Hague Convention
- governments to implement measures banning the illicit trade of cultural heritage
- governments to establish national committees of the Blue Shield
- a commitment from its colleagues to contribute to the restoration of Iraqi libraries¹²⁷

IFLA also offered assistance in rebuilding the libraries of Iraq. Looting of the National Library was the main concern. Yet, conflicting reports from Iraq suggested that many of the missing books were not looted but were removed by the Iraqis for safekeeping. In May of 2003, a story in the *Boston Globe* recounted the journalist's visit to the Al Hak Mosque in the old Saddam City. A room in the mosque contained an estimated 400,000 manuscripts, biographies, and religious works. The mosque's imam said the books were removed before the siege of Baghdad because "We had to protect the Islamic and Arabic heritage."¹²⁸ A similar story came from Basra, where the town's chief librarian, along with library staff and volunteers, took the books from the city's Central Library to private homes for safekeeping.¹²⁹

The fate of items taken from the National Museum in Baghdad is less encouraging, largely due to the great demand for arts and antiquities on the

¹²⁷IFLA, "IFLA Council resolution on Libraries in Iraq, August 2003, Berlin, Germany" [database on-line]; available from <http://www.ifla.org/VI/4/admin/iraq1509.htm>; Internet; accessed 2 October 2003.

¹²⁸Patrick Healy, "Library's volumes safely hidden, *Boston Globe*, 13 May 2003, sec. A, p. 1.

¹²⁹"Savior of Iraq's books" [database on-line]; available from <http://straitstimes.asial.com.sg/>; Internet; accessed 13 August 2003.

international market. In May of 2003, a *New York Times* reporter in Afak, Iraq described a clandestine meeting with a trafficker of stolen artifacts, a meeting arranged with ease and one in which the trafficker showed the reporter ancient bronze figures and professed to have over a thousand tablets looted from museums and archeological sites. The Iraqi told the reporter, "Just tell me what you want, and I can show it to you."¹³⁰ A British archaeologist reporting from Iraq told of staff archaeologists in the Iraqi Museum in Baghdad moving into the museum in an attempt to protect its collection of 100,000 artifacts dating to 7000 B. C.¹³¹ The American Association of Museums urged all member museums to be vigilant in the watch for artifacts from Iraq.¹³² The United Nations responded quickly in strengthening measures to protect the illegal trade of Iraq's cultural heritage. On May 22, 2003, it passed UN Security Council Resolution 1483, which banned the trade or transfer of Iraqi cultural property illegally taken from the country since August 6, 1990.¹³³

In addition to libraries and museums, the thousands of archaeological sites throughout Iraq were of concern to preservationists. In preparing for war, the Pentagon requested that a team of archaeologists prepare a list of archaeologically-sensitive sites in Iraq. One member of the team responded

¹³⁰Edmund L. Andrews, "Global Network Aids Theft of Iraqi Artifacts," *New York Times*, 28 May 2003.

¹³¹David Keys, "Antiquities experts guarding treasures," *Independent*, 27 March 2003.

¹³²American Association of Museums, "AAM Statement on the Cultural Heritage Crisis in Iraq," 15 April 2003 [database on-line]; available from <http://www.aam-us.org/files/iraqicrisis.cfm>; Internet; assessed 27 October 2003.

¹³³UN, "UN Security Council Resolution 1483," 22 May 2003 [database on-line]; available from <http://www.ifla.org/VI/4/admin/iraq2605.htm>; Internet; accessed 2 October 2003.

that all of Iraq was one massive archaeological site.¹³⁴ The Archaeological Institute of America appealed for the protection of the archaeological heritage of Iraq and for parties to the conflict to honor the terms of The Hague Convention.¹³⁵

As the Iraqi conflict began only six months before the time of this writing and is still underway, to provide a detailed and accurate assessment of Iraq's cultural heritage is not possible at this time. Particularly as some items are reportedly in safe havens, it will take a considerable amount of time after the conflict ends to fully assess the state of Iraq's cultural heritage and determine that which is damaged or lost. The situation in Iraq provides more evidence of the need for further ratification and enforcement of The Hague Convention and its First Protocol, which seeks to prevent the exportation of cultural property during armed conflict. It also shows a need for further support of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. In an attempt to find hope in the wake of tragedy, perhaps preservationists can be encouraged by the stories of townspeople protecting the books in their libraries and museum workers guarding their collections. Yet, to leave the protection of cultural property in armed conflict to chance and goodwill is a risk which the cultural heritage of the world cannot afford to take.

¹³⁴David Whitehouse, "War risk to Iraqi treasures" BBC [database on-line]; available from <http://news.bbc.co.uk/2/hi/science/nature/2822095.stm>; Internet; accessed 5 September 2003.

¹³⁵Ibid.

CHAPTER FOUR

SUMMARY AND RECOMMENDATIONS

*“Aliorum exempla commonent”
The example of others should serve as a warning.¹*

Laws governing armed conflict are humanitarian law and evolve as conflict evolves. The development of international preservation law as it relates to protection of cultural heritage during armed conflict has been evolutionary. Each organization, instrument, or agreement has built on the one preceding it. With each conflict, the fallacies of preservation policy in existence at that time have come to light. In an analysis of international humanitarian law and the rules of armed conflict, Gabor Rona, Legal Advisor in the Legal Division of the International Committee of the Red Cross, raised the possibility that humanitarian law has not evolved enough to adequately govern today's warfare.² Yet, to determine whether or not this theory is applicable in terms of protection of cultural property in armed conflict is difficult. It is also perhaps pointless when one considers that the United States, the world's strongest military force, has not ratified The Hague Convention. One also needs to consider that the 1999 Second Protocol to The Hague Convention, drafted in

¹Jadran Antolovic, *Implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 10, quoting A. Romac, *Latin Legal Sayings* (Zagreb: Globus, 1982), 191.

²Gabor Rona, “Interesting Times for International Humanitarian Law: Challenges from ‘The War on Terror,’” *The Fletcher Forum of World Affairs* 27.2 Summer/Fall (2003): 56.

the midst of ethnocide in the Balkans, has not yet reached the required number of ratifying states for it to be in effect.

In the conflicts discussed in this work, international preservation advocacy organizations have played key roles. Each has attempted to identify the threats to cultural property during a conflict and assist in its protection. Yet, how effective can these organizations be unless they are able to work within the framework of substantive, enforceable law? As seen in particular in the conflict in Croatia, protective measures for cultural property were taken in accordance with the provisions of The Hague Convention and international organizations such as UNESCO assisted in implementing protective measures and assessing damage. While these actions no doubt were to some degree effective in the protection of certain properties, their effectiveness was diminished by a lack of enforcement of The Hague Convention during the conflict, and the lack of the Second Protocol being in effect.

Throughout conflict during the last half of the twentieth century and into the twenty-first, international cultural heritage organizations have appealed to warring parties to respect the provisions of The Hague Convention. However, in order for these appeals to have strong legal support, those involved in conflict must be parties to The Hague Convention. Further ratification of the Second Protocol is also essential, as the Second Protocol clarified and strengthened the provisions of the 1954 convention. Of particular significance is United States' ratification of The Hague Convention. This issue has been discussed since the convention was originally drafted in 1954. At the time of

the 1954 convention, the world was in the midst of the Cold War. The powers of the time were hesitant to enter agreements perceived as a hindrance to national defense. Yet, treaties for the reduction or banning of weapons of mass destruction have been implemented since that time, making today's warfare possibly more akin to that before World War II. It is, therefore, important for the United States to ratify The Hague Convention in this new day of attacks on American soil and attacks against cultural identity, when cultural heritage is more threatened by armed conflict than any time in recent memory.

United States' ratification of The Hague Convention has received public support, as recent attention has been drawn to the situation in Iraq. It has also received a degree of political support since its inception. During his term, former President Bill Clinton sent a letter to the Senate advising ratification of The Hague Convention.³ The United States signed The Hague Convention at the time it was drafted in 1954. Concern over what was seen as ambiguous language was the impediment to its ratification. However, much of what was deemed ambiguous in the 1954 convention was clarified in the Second Protocol in 1999. Also, as Clinton stated in his letter to the Senate, the military policy of the United States already follows Hague Convention provisions.⁴ Ratifying it, however, would not be just a symbolic gesture, but would allow for

³ President, Proclamation, "Letter of Transmittal from Clinton to the Senate for Ratification of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict," The White House: Office of the Press Secretary (6 January 1999) [on-line]; available from <http://www.mtholyoke.edu/acad/intrel/haguecon.htm>; Internet; accessed 5 September 2003.

⁴ Ibid.

enforcement of the convention's provisions in attacks against American cultural property.

Though advocacy for the protection of cultural property during armed conflict is demonstrated by ratification of The Hague Convention, the argument can be made that it is a futile act. As seen in Croatia, the protective emblem of the convention was largely ignored, as it is likely to be by paramilitary forces in conflicts that arise from cultural hostilities. For this reason, the recommendation made by ICOMOS in UNESCO's Resolution on Information as an Instrument for Protection against War Damages to the Cultural Heritage, in which ICOMOS suggested cultural heritage personnel be among peacekeeping forces, is particularly important. The nature of war is chaotic, and specific measures for the oversight of enforcement of protective measures must be in place at the outset of conflict.

Laws, however, are based on the assumption that most who live under their jurisdiction are law-abiding. For those who are lawless, there is no incentive for following the rules of law other than a knowledge and fear of punishment. This makes support for the International Criminal Court established by the Rome Statute crucial. Further review of the statute is recommended for clarification of terms such as aggression, with the goal of increased ratification of the statute. While the world fortunately sees few war criminals on the scale of Milošević, he and all who desecrate or destroy cultural property must know that they will be held responsible and will face consequences for their actions.

The protection of the cultural heritage of the world is the responsibility of all cultures of the world. As acknowledged by UNESCO, all cultures of the world contribute to the broad culture of humanity. Consequently, all must do their part to ensure that cultures maintain their identity through the ages, or we all will lose a sense of the identity integral to human existence. It often seems difficult, however, for small countries and less-affluent cultures to establish programs for the protection of cultural heritage. As seen in the cases of Eritrea and Palestine in this study, ICOMOS, however, provides such a means. Both of these countries were able to use ICOMOS' *Heritage at Risk* as a mechanism for drawing international attention to the destruction of their cultural heritage. Also, as ICOMOS is a non-governmental organization comprised of preservationists, the formation of a national committee does not depend on a country's political situation.

In conclusion, international preservation advocacy can further evolve by following four recommendations: ratification of The Hague Convention by the United States and ratification of its Second Protocol by the number of countries required for it to go into effect, the inclusion of cultural heritage personnel in peacekeeping forces, further review and support of the Rome Statute, and the establishment of additional ICOMOS national committees, particularly by preservationists in smaller countries. Implementation of these recommendations would result in a greater international awareness of the necessity of cultural heritage protection during armed conflict. Greater awareness would thereby lead to the establishment of further protective

instruments, and, most importantly, their enforcement. Though the protection of cultural heritage during armed conflict may seem impossible, it is worth recalling that in 1880 the Institute of International Law at Oxford thought an international treaty governing rules of war was not feasible. Rather than be restricted by what some may perceive as impossible, the international cultural heritage community should continue to strive to ensure that all cultures comprising the human culture are preserved.

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APPENDIX ONE

INTERNATIONAL CULTURAL HERITAGE ORGANIZATIONS

<u>Organization</u>	<u>Acronym</u>
United Nations Educational, Scientific and Cultural Organization	UNESCO
International Council on Monuments and Sites	ICOMOS
International Council of Museums	ICOM
International Council on Archives	ICA
International Federation of Library Associations and Institutions	IFLA
International Committee of the Blue Shield	ICBS
International Center for the Study of the Preservation and Restoration of Cultural Property (The Rome Center)	ICCROM

APPENDIX TWO

CONVENTION FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT

1954 HAGUE CONVENTION

The High Contracting Parties,

Recognizing that cultural property has suffered grave damage during recent armed conflicts and that, by reason of the developments in the technique of warfare, it is in increasing danger of destruction;

Being convinced that damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world;

Considering that the preservation of the cultural heritage is of great importance for all peoples of the world and that it is important that this heritage should receive international protection;

Guided by the principles concerning the protection of cultural property during armed conflict, as established in the Conventions of The Hague of 1899 and of 1907 and in the Washington Pact of 15 April 1935;

Being of the opinion that such protection cannot be effective unless both national and international measures have been taken to organize it in time of peace;

Being determined to take all possible steps to protect cultural property;

Have agreed upon the following provisions:

CHAPTER I: GENERAL PROVISIONS REGARDING PROTECTION

Definition of Cultural Property

Article 1. For the purposes of the present Convention, the term "cultural property" shall cover, irrespective of origin or ownership:

(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 subparagraph (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."

Protection of Cultural Property

Article 2. For the purposes of the present Convention, the protection of cultural property shall comprise the safeguarding of and respect for such property.

Safeguarding of Cultural Property

Article 3. 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.

Respect for Cultural Property

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.

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.

Occupation

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 cooperation 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.

Distinctive Marking of Cultural Property

Article 6. In accordance with the provisions of Article 16, cultural property may bear a distinctive emblem so as to facilitate its recognition.

Military Measures

Article 7. 1. The High Contracting Parties undertake to introduce in time of peace into their military regulations or instructions such provisions as may ensure observance of the present Convention, and to foster in the members of their armed forces a spirit of respect for the culture and cultural property of all peoples.

2. The High Contracting Parties undertake to plan or establish in peacetime, within their armed forces, services or specialist personnel whose purpose will be to secure respect for cultural property and to cooperate with the civilian authorities responsible for safeguarding it.

CHAPTER II: SPECIAL PROTECTION

Granting of Special Protection

Article 8. 1. There may be placed under special protection a limited number of refuges intended to shelter movable cultural property in the event of armed conflict, of centers containing monuments and other immovable cultural property of very great importance, provided that they:

(a) are situated at an adequate distance from any large industrial center or from any important military objective constituting a vulnerable point, such as, for example, an aerodrome, broadcasting station, establishment engaged upon work of national defense, a port or railway station of relative importance or a main line of communication;

(b) are not used for military purposes.

2. A refuge for movable cultural property may also be placed under special protection, whatever its location, if it is so constructed that, in all probability, it will not be damaged by bombs.

3. A center containing monuments shall be deemed to be used for military purposes whenever it is used for the movement of military personnel or material, even in transit. The same shall apply whenever activities directly connected with military operations, the stationing of military personnel, or the production of war material are carried on within the center.

4. The guarding of cultural property mentioned in paragraph I above by armed custodians specially empowered to do so, or the presence, in the vicinity of such cultural property, of police forces normally responsible for the maintenance of public order, shall not be deemed to be used for military purposes.

5. If any cultural property mentioned in paragraph I of the present Article is situated near an important military objective as defined in the said paragraph, it may nevertheless be placed under special protection if the High Contracting Party asking for that protection undertakes, in the event of armed conflict, to make no use of the objective and particularly, in the case of a port, railway station or aerodrome, to divert all traffic therefrom. In that event, such diversion shall be prepared in time of peace.

6. Special protection is granted to cultural property by its entry in the "International Register of Cultural Property under Special Protection." This entry shall only be made, in accordance with the provisions of the present Convention and under the conditions provided for in the Regulations for the execution of the Convention.

Immunity of Cultural Property under Special Protection

Article 9. The High Contracting Parties undertake to ensure the immunity of cultural property under special protection by refraining, from the time of entry in the International Register, from any act of hostility directed against such property and, except for the cases provided for in paragraph 5 of Article 8, from any use of such property or its surroundings for military purposes.

Identification and Control

Article 10. During an armed conflict, cultural property under special protection shall be marked with the distinctive emblem described in Article 16, and shall be open to international control as provided for in the Regulations for the execution of the Convention.

Withdrawal of Immunity

Article 11. 1. If one of the High Contracting Parties commits, in respect of any item of cultural property under special protection, a violation of the obligations under Article 9, the opposing Party shall, so long as this violation persists, be released from the obligation to ensure the immunity of the property concerned. Nevertheless, whenever possible, the latter Party shall first request the cessation of such violation within a reasonable time.

2. Apart from the case provided for in paragraph I of the present Article, immunity shall be withdrawn from cultural property under special protection only in exceptional cases of unavoidable military necessity, and only for such time as that necessity continues. Such necessity can be established only by the officer commanding a force the equivalent of a division in size or larger. Whenever circumstances permit, the opposing Party shall be notified, a reasonable time in advance, of the decision to withdraw immunity.

3. The Party withdrawing immunity shall, as soon as possible, so inform the Commissioner-General for cultural property provided for in the Regulations for the execution of the Convention, in writing, stating the reasons.

CHAPTER III: TRANSPORT OF CULTURAL PROPERTY

Transport under Special Protection

Article 12. 1. Transport exclusively engaged in the transfer of cultural property, whether within a territory or to another territory, may, at the request of the High Contracting Party concerned, take place under special protection in accordance with the conditions specified in the Regulations for the execution of the Convention.

2. Transport under special protection shall take place under the international supervision provided for in the aforesaid Regulations and shall display the distinctive emblem described in Article 16.

3. The High Contracting Parties shall refrain from any act of hostility directed against transport under special protection.

Transport in Urgent Cases

Article 13. 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.

Immunity from Seizure, Capture, and Prize

Article 14. 1. Immunity from seizure, placing in prize, or capture shall be granted to:

(a) cultural property enjoying the protection provided for in Article 12 or that provided for in Article 13;

(b) the means of transport exclusively engaged in the transfer of such cultural property.

2. Nothing in the present Article shall limit the right of visit and search.

CHAPTER IV: PERSONNEL

Personnel

Article 15. As far as is consistent with the interests of security, personnel engaged in the protection of cultural property shall, in the interests of such property, be respected and, if they fall into the hands of the opposing Party, shall be allowed to continue to carry out duties whenever the cultural property

for which they are responsible has also fallen into the hands of the opposing Party.

CHAPTER V: THE DISTINCTIVE EMBLEM

Emblem of the Convention

Article 16. 1. The distinctive emblem of the Convention shall take the form of a shield, pointed below, per saltire 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).

2. The emblem shall be used alone, or repeated three times in a triangular formation (one shield below), under the conditions provided for in Article 17.

Use of the Emblem

Article 17. 1. The distinctive emblem repeated three times may be used only as a means of identification of:

- (a) immovable cultural property under special protection;
- (b) the transport of cultural property under the conditions provided for in Articles 12 and 13;
- (c) improvised refuges, under the conditions provided for in the Regulations for the execution of the Convention.

2. The distinctive emblem may be used alone only as a means of identification of:

- (a) cultural property not under special protection;
- (b) the persons responsible for the duties of control in accordance with the Regulations for the execution of the Convention;
- (c) the personnel engaged in the protection of cultural property;
- (d) the identity cards mentioned in the Regulations for the execution of the Convention.

3. During an armed conflict, the use of the distinctive emblem in any other cases than those mentioned in the preceding paragraphs of the present Article, and the use for any purpose whatever of a sign resembling the distinctive emblem, shall be forbidden.

4. The distinctive emblem may not be placed on any immovable cultural property unless at the same time there is displayed an authorization duly dated and signed by the competent authority of the High Contracting Party.

CHAPTER VI: SCOPE OF APPLICATION OF THE CONVENTION

Application of the Convention

Article 18. 1. Apart from 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.

2. 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.

3. 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.

Conflicts Not of an International Character

Article 19. 1. 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.

2. 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.

3. The United Nations Educational, Scientific and Cultural Organization may offer its services to the parties to the conflict.

4. The application of the preceding provisions shall not affect the legal status of the parties to the conflict.

CHAPTER VII: EXECUTION OF THE CONVENTION

Regulations for the Execution of the Convention

Article 20. 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.

Protecting Powers

Article 21. The present Convention and the Regulations for its execution shall be applied with the cooperation of the Protecting Powers responsible for safeguarding the interests of the Parties to the conflict.

Conciliation Procedure

Article 22. 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 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.

Assistance of UNESCO

Article 23. 1. The High Contracting Parties may call upon the United Nations Educational, Scientific and Cultural Organization for technical assistance in organizing 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 program and by its resources.

2. The Organization is authorized to make, on its own initiative, proposals on this matter to the High Contracting Parties.

Special Agreements

Article 24. 1. The High Contracting Parties may conclude special agreements for all matters concerning which they deem it suitable to make separate provision.

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.

Dissemination of the Convention

Article 25. 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 program 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.

Translations, Reports

Article 26. 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.

2. 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 or contemplated by their respective administrations in fulfillment of the present Convention and of the Regulations for its execution.

Meetings

Article 27. 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.

Sanctions

Article 28. 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 those persons, of whatever nationality, who commit or order to be committed a breach of the present Convention.

FINAL PROVISIONS

Languages

Article 29. 1. The present Convention is drawn up in English, French, Russian, and Spanish, the four texts being equally authoritative.

2. The United Nations Educational, Scientific and Cultural Organization shall arrange for translations of the Convention into the other official languages of its General Conference.

Signature

Article 30. The present Convention shall bear the date of 14 May 1954 and, until the date of 31 December 1954, shall remain open for signature by all States invited to the Conference which met at The Hague from 21 April 1954 to 14 May 1954.

Ratification

Article 31. 1. The present Convention shall be subject to ratification by Signatory States in accordance with their respective constitutional procedures.

2. The instruments of ratification shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Accession

Article 32. From the date of its entry into force, the present Convention shall be open for accession by all States mentioned in Article 30 which have not signed it, as well as any other State invited to accede by the Executive Board of the United Nations Educational, Scientific and Cultural Organization. Accession shall be effected by the deposit of an instrument of accession with the

Director-General of the United Nations Educational, Scientific and Cultural Organization.

Entry into Force

Article 33. 1. The present Convention shall enter into force three months after five instruments of ratification have been deposited.

2. Thereafter, it shall enter into force, for each High Contracting Party, three months after the deposit of its instrument of ratification or accession.

3. The situations referred to in Articles 18 and 19 shall give immediate effect to ratifications or accessions deposited by the Parties to the conflict either before or after the beginning of hostilities or occupation. In such cases the Director-General of the United Nations Educational, Scientific and Cultural Organization shall transmit the communications referred to in Article 38 by the speediest method.

Effective Application

Article 34. 1. Each State Party to the Convention on the date of its entry into force shall take all necessary measures to ensure its effective application within a period of six months after such entry into force.

2. This period shall be six months from the date of deposit of the instruments of ratification or accession for any State which deposits its instrument of ratification or accession after the date of the entry into force of the Convention.

Territorial Extension of the Convention

Article 35. Any High Contracting Party may, at the time of ratification or accession, or at any time thereafter, declare by notification addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization, that the present Convention shall extend to all or any of the territories for whose international relations it is responsible. The said notification shall take effect three months after the date of its receipt.

Relation to Previous Conventions

Article 36. 1. In the relations between Powers which are bound by the Conventions of The Hague concerning the Laws and Customs of War on Land (IV) and concerning Naval Bombardment in Time of War (IX), whether those of 29 July 1899 or those of 18 October 1907, and which are Parties to the present Convention, this last Convention shall be supplementary to the aforementioned Convention (IX) and to the Regulations annexed to the aforementioned Convention (IV) and shall substitute for the emblem described in Article 5 of

the aforementioned Convention (IX) the emblem described in Article 16 of the Present Convention, in cases in which the present Convention and the Regulations for its execution provide for the use of this distinctive emblem.

2. In the relations between Powers which are bound by the Washington Pact of 15 April 1935 for the Protection of Artistic and Scientific Institutions and of Historic Monuments (Roerich Pact) and which are Parties to the present Convention, the latter Convention shall be supplementary to the Roerich Pact and shall substitute for the distinguishing flag described in Article III of the Pact the emblem defined in Article 16 of the present Convention, in cases in which the present Convention and the Regulations for its execution provide for the use of this distinctive emblem.

Denunciation

Article 37. 1. Each High Contracting Party may denounce the present Convention, on its own behalf, or on behalf of any territory for whose international relations it is responsible.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect one year after the receipt of the instrument of denunciation. However, if, on the expiry of this period, the denouncing Party is involved in an armed conflict, the denunciation shall not take effect until the end of hostilities, or until the operations of repatriating cultural property are completed, whichever is the later.

Notifications

Article 38. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States referred to in Articles 30 and 32, as well as the United Nations, of the deposit of all the instruments of ratification, accession, or acceptance provided for in Articles 31, 32, and 39 and of the notifications and denunciations provided for respectively in Articles 35, 37, and 39.

Revision of the Convention and of the Regulations for its Execution

Article 39. 1. Any High Contracting Party may propose amendments to the present Convention or the Regulations for its execution. The text of any proposed amendment shall be communicated to the Director-General of the United Nations Educational, Scientific and Cultural Organization who shall transmit it to each High Contracting Party with the request that such Party reply within four months stating whether it:

(a) desires that a Conference be convened to consider the proposed amendment;

(b) favors the acceptance of the proposed amendment without a Conference; or

(c) favors the rejection of the proposed amendment without a Conference.

2. The Director-General shall transmit the replies, received under paragraph 1 of the present Article, to all High Contracting Parties.

3. If all the High Contracting Parties which have, within the prescribed time-limit, stated their views to the Director-General of the United Nations Educational, Scientific and Cultural Organization, pursuant to paragraph 1 (b) of this Article, inform him that they favor acceptance of the amendment without a Conference, notification of their decision shall be made by the Director-General in accordance with Article 38. The amendment shall become effective for all the High Contracting Parties on the expiry of ninety days from the date of such notification.

4. The Director-General shall convene a Conference of the High Contracting Parties to consider the proposed amendment if requested to do so by more than one-third of the High Contracting Parties.

5. Amendments to the Convention or to the Regulations for its execution, dealt with under the provisions of the preceding paragraph, shall enter into force only after they have been unanimously adopted by the High Contracting Parties represented at the Conference and accepted by each of the High Contracting Parties.

6. Acceptance by the High Contracting Parties of amendments to the Convention or to the Regulations for its execution, which have been adopted by the Conference mentioned in paragraphs 4 and 5, shall be effected by the deposit of a formal instrument with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

7. After the entry into force of amendments to the present Convention or to the Regulations for its execution, only the text of the Convention or of the Regulations for its execution thus amended shall remain open for ratification or accession.

Registration

Article 40. In accordance with Article 102 of the Charter of the United Nations, the present Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

In faith whereof the undersigned, duly authorized, have signed the present Convention.

Done at The Hague, this fourteenth day of May 1954, in a single copy which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 30 and 32 as well as to the United Nations.

International List of Persons

Article 1. On the entry into force of the Convention, the Director-General of the United Nations Educational, Scientific and Cultural Organization shall compile an international list consisting of all persons nominated by the High Contracting Parties as qualified to carry out the functions of Commissioner-General for Cultural Property. On the initiative of the Director-General of the United Nations Educational, Scientific and Cultural Organization, this list shall be periodically revised on the basis of requests formulated by the High Contracting Parties.

Organization of Control

Article 2. As soon as any High Contracting Party is engaged in an armed conflict to which Article 18 of the Convention applies:

(a) It shall appoint a representative for cultural property situated in its territory; if it is in occupation of another territory, it shall appoint a special representative for cultural property situated in that territory;

(b) The Protecting Power acting for each of the Parties in conflict with such High Contracting Party shall appoint delegates accredited to the latter in conformity with Article 3 below;

(c) A Commissioner-General for Cultural Property shall be appointed to such High Contracting Party in accordance with Article 4.

Appointment of Delegates of Protecting Powers

Article 3. The Protecting Power shall appoint its delegates from among the members of its diplomatic or consular staff or, with the approval of the Party to which they will be accredited, from among other persons.

Appointment of Commissioner-General

Article 4. 1. The Commissioner-General for Cultural Property shall be chosen from the international list of persons by joint agreement between the Party to which he will be accredited and the Protecting Powers acting on behalf of the opposing Parties.

2. Should the Parties fail to reach agreement within three weeks from the beginning of their discussions on this point, they shall request the President of the International Court of Justice to appoint the Commissioner-General, who shall not take up his duties until the Party to which he is accredited has approved his appointment.

Functions of Delegates

Article 5. The delegates of the Protecting Powers shall take note of violations of the Convention, investigate, with the approval of the Party to which they are accredited, the circumstances in which they have occurred, make representations locally to secure their cessation and, if necessary, notify the Commissioner-General of such violations. They shall keep him informed of their activities.

Functions of the Commissioner-General

Article 6. 1. The Commissioner-General for Cultural Property shall deal with all matters referred to him in connection with the application of the Convention, in conjunction with the representative of the Party to which he is accredited and with the delegates concerned.

2. He shall have powers of decision and appointment in the cases specified in the present Regulations.

3. With the agreement of the Party to which he is accredited, he shall have the right to order an investigation or to conduct it himself.

4. He shall make any representations to the Parties to the conflict or to their Protecting Powers which he deems useful for the application of the Convention.

5. He shall draw up such reports as may be necessary on the application of the Convention and communicate them to the Parties concerned and to their Protecting Powers. He shall send copies to the Director-General of the United Nations Educational, Scientific and Cultural Organization, who may make use only of their technical contents.

6. If there is no protecting Power, the Commissioner-General shall exercise the functions of the Protecting Power as laid down in Articles 21 and 22 of the Convention.

Inspectors and Experts

Article 7. 1. Whenever the Commissioner-General for Cultural Property considers it necessary, either at the request of the delegates concerned or after consultation with them, he shall propose, for the approval of the Party to which he is accredited, an inspector of cultural property to be charged with a specific mission. An inspector shall be responsible only to the

Commissioner-General.

2. The Commissioner-General, delegates, and inspectors may have recourse to the services of experts, who will also be proposed for the approval of the Party mentioned in the preceding paragraph.

Discharge of the Mission of Control

Article 8. The Commissioners-General for Cultural Property, delegates of the Protecting Powers, inspectors, and experts shall in no case exceed their mandates. In particular, they shall take account of the security needs of the High Contracting Party to which they are accredited and shall in all circumstances act in accordance with the requirements of the military situation as communicated to them by that High Contracting Party.

Substitutes for Protecting Powers

Article 9. If a Party to the conflict does not benefit or ceases to benefit from the activities of a Protecting Power, a neutral State may be asked to undertake those functions of a Protecting Power which concern the appointment of a Commissioner-General for Cultural Property in accordance with the procedure laid down in Article 4. The Commissioner-General thus appointed shall, if need be, entrust to inspectors the functions of delegates of Protecting Powers as specified in the present Regulations.

Expenses

Article 10. The remuneration and expenses of the Commissioner-General for Cultural Property, inspectors and experts shall be met by the Party to which they are accredited. Remuneration and expenses of delegates of the Protecting Powers shall be subject to agreement between those Powers and the States whose interests they are safeguarding.

Improvised Refuges

Article 11. 1. If, during an armed conflict, any High Contracting Party is induced by unforeseen circumstances to set up an improvised refuge and desires that it should be placed under special protection, it shall communicate this fact forthwith to the Commissioner-General accredited to that Party.

2. If the Commissioner-General considers that such a measure is justified by the circumstances and by the importance of the cultural property sheltered in this improvised refuge, he may authorize the High Contracting Party to display on such refuge the distinctive emblem defined in Article 16 of the Convention. He shall communicate his decision without delay to the delegates of the Protecting Powers who are concerned, each of whom may, within a time-limit of 30 days, order the immediate withdrawal of the emblem.

3. As soon as such delegates have signified their agreement or if the time-limit of 30 days has passed without any of the delegates concerned having made an objection, and if, in the view of the Commissioner-General, the refuge fulfils the conditions laid down in Article 8 of the Convention, the Commissioner-General shall request the Director-General of the United Nations Educational, Scientific and Cultural Organization to enter the refuge in the Register of Cultural Property under Special Protection.

International Register of Cultural Property Under Special Protection

Article 12. 1. An "International Register of Cultural Property under Special Protection" shall be prepared.

2. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall maintain this Register. He shall furnish copies to the Secretary-General of the United Nations and to the High Contracting Parties.

3. The Register shall be divided into sections, each in the name of a High Contracting Party. Each section shall be sub-divided into three paragraphs, headed: Refuges, Centers containing Monuments, Other Immovable Cultural Property. The Director-General shall determine what details each section shall contain.

Requests for Registration

Article 13. 1. Any High Contracting Party may submit to the Director-General of the United Nations Educational, Scientific and Cultural Organization an application for the entry in the Register of certain refuges, centers containing monuments or other immovable cultural property situated within its territory. Such application shall contain a description of the location of such property

and shall certify that the property complies with the provisions of Article 8 of the Convention.

2. In the event of occupation, the Occupying Power shall be competent to make such application.

3. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall, without delay, send copies of applications for registration to each of the High Contracting Parties.

Objections

Article 14. 1. Any High Contracting Party may, by letter addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization, lodge an objection to the registration of cultural property. This letter must be received by him within four months of the day on which he sent a copy of the application for registration.

2. Such objection shall state the reasons giving rise to it, the only valid grounds being that:

(a) the property is not cultural property;

(b) the property does not comply with the conditions mentioned in Article 8 of the Convention.

3. The Director-General shall send a copy of the letter of objection to the High Contracting Parties without delay. He shall, if necessary, seek the advice of the International Committee on Monuments, Artistic and Historical Sites and Archaeological Excavations and also, if he thinks fit, of any other competent organization or person.

4. The Director-General, or the High Contracting Party requesting registration, may make whatever representations they deem necessary to the High Contracting Parties which lodged the objection, with a view to causing the objection to be withdrawn.

5. If a High Contracting Party which has made an application for registration in time of peace becomes involved in an armed conflict before the entry has been made, the cultural property concerned shall at once be provisionally entered in the Register, by the Director-General, pending the confirmation, withdrawal or cancellation of any objection that may be, or may have been, made.

6. If, within a period of six months from the date of receipt of the letter of objection, the Director-General has not received from the High Contracting Party lodging the objection a communication stating that it has been

withdrawn, the High Contracting Party applying for registration may request arbitration in accordance with the procedure in the following paragraph.

7. The request for arbitration shall not be made more than one year after the date of receipt by the Director-General of the letter of objection. Each of the two Parties to the dispute shall appoint an arbitrator. When more than one objection has been lodged against an application for registration, the High Contracting Parties which have lodged the objections shall, by common consent, appoint a single arbitrator. These two arbitrators shall select a chief arbitrator from the international list mentioned in Article I of the present Regulations. If such arbitrators cannot agree upon their choice, they shall ask the President of the International Court of Justice to appoint a chief arbitrator who need not necessarily be chosen from the international list. The arbitral tribunal thus constituted shall fix its own procedure. There shall be no appeal from its decisions.

8. Each of the High Contracting Parties may declare, whenever a dispute to which it is a Party arises, that it does not wish to apply the arbitration procedure provided for in the preceding paragraph. In such cases, the objection to an application for registration shall be submitted by the Director-General to the High Contracting Parties. The objection will be confirmed only if the High Contracting Parties so decide by a two-third majority of the High Contracting Parties voting. The vote shall be taken by correspondence, unless the Director-General of the United Nations Educational, Scientific and Cultural Organization deems it essential to convene a meeting under the powers conferred upon him by Article 27 of the Convention. If the Director-General decides to proceed with the vote by correspondence, he shall invite the High Contracting Parties to transmit their votes by sealed letter within six months from the day on which they were invited to do so.

Registration

Article 15. 1. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall cause to be entered in the Register under a serial number, each item of property for which application for registration is made, provided that he has not received an objection within the time-limit prescribed in Paragraph I of Article 14.

2. If an objection has been lodged, and without prejudice to the provision of paragraph 5 of Article 14, the Director-General shall enter property in the Register only if the objection has been withdrawn or has failed to be confirmed following the procedures laid down in either paragraph 7 or paragraph 8 of Article 14.

3. Whenever paragraph 3 of Article 11 applies, the Director-General shall enter property in the Register if so requested by the Commissioner-General for Cultural Property.

4. The Director-General shall send without delay to the Secretary-General of the United Nations, to the High Contracting Parties, and, at the request of the Party applying for registration, to all other States referred to in Articles 30 and 32 of the Convention, a certified copy of each entry in the Register. Entries shall become effective thirty days after dispatch of such copies.

Cancellation

Article 16. 1. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall cause the registration of any property to be cancelled:

(a) at the request of the High Contracting Party within whose territory the cultural property is situated;

(b) if the High Contracting Party which requested registration has denounced the Convention, and when that denunciation has taken effect;

(c) in the special case provided for in Article 14, paragraph 5, when an objection has been confirmed following the procedures mentioned either in paragraph 7 or in paragraph 8 of Article 14.

2. The Director-General shall send without delay, to the Secretary-General of the United Nations and to all States which received a copy of the entry in the Register, a certified copy of its cancellation. Cancellation shall take effect thirty days after the dispatch of such copies.

Procedure to Obtain Immunity

Article 17. 1. The request mentioned in paragraph 1 of Article 12 of the Convention shall be addressed to the Commissioner-General for Cultural Property. It shall mention the reasons on which it is based and specify the approximate number and the importance of the objects to be transferred, their present location, the location now envisaged, the means of transport to be used, the route to be followed, the date proposed for the transfer, and any other relevant information.

2. If the Commissioner-General, after taking such opinions as he deems fit, considers that such transfer is justified, he shall consult those delegates of the Protecting Powers who are concerned, on the measures proposed for carrying it out. Following such consultation, he shall notify the Parties to the conflict concerned of the transfer, including in such notification all useful information.

3. The Commissioner-General shall appoint one or more inspectors, who shall satisfy themselves that only the property stated in the request is to be transferred and that the transport is to be by the approved methods and bears the distinctive emblem. The inspector or inspectors shall accompany the property to its destination.

Transport Abroad

Article 18. Where the transfer under special protection is to the territory of another country, it shall be governed not only by Article 12 of the Convention and by Article 17 of the present Regulations, but by the following further provisions:

(a) while the cultural property remains on the territory of another State, that State shall be its depositary and shall extend to it as great a measure of care as that which it bestows upon its own cultural property of comparable importance;

(b) the depositary State shall return the property only on the cessation of the conflict; such return shall be effected within six months from the date on which it was requested;

(c) during the various transfer operations, and while it remains on the territory of another State, the cultural property shall be exempt from confiscation and may not be disposed of either by the depositor or by the depositary. Nevertheless, when the safety of the property requires it, the depositary may, with the assent of the depositor, have the property transported to the territory of a third country, under the conditions laid down in the present article;

(d) the request for special protection shall indicate that the State to whose territory the property is to be transferred accepts the provisions of the present Article.

Occupied Territory

Article 19. Whenever a High Contracting Party occupying territory of another High Contracting Party transfers cultural property to a refuge situated elsewhere in that territory, without being able to follow the procedure provided for in Article 17 of the Regulations, the transfer in question shall not be regarded as misappropriation within the meaning of Article 4 of the Convention, provided that the Commissioner-General for Cultural Property certifies in writing, after having consulted the usual custodians, that such transfer was rendered necessary by circumstances.

Affixing of the Emblem

Article 20. 1. The placing of the distinctive emblem and its degree of visibility shall be left to the discretion of the competent authorities of each High Contracting Party. It may be displayed on flags or armlets; it may be painted on an object or represented in any other appropriate form.

2. However, without prejudice to any possible fuller markings, the emblem shall, in the event of armed conflict and in the cases mentioned in Articles 12 and 13 of the Convention, be placed on the vehicles of transport so as to be clearly visible in daylight from the air as well as from the ground.

The emblem shall be visible from the ground:

(a) at regular intervals sufficient to indicate clearly the perimeter of a center containing monuments under special protection;

(b) at the entrance to other immovable cultural property under special protection.

Identification of Persons

Article 21. 1. The persons mentioned in Article 17, paragraph 2 (b) and (c) of the Convention may wear an armlet bearing the distinctive emblem, issued and stamped by the competent authorities.

2. Such persons shall carry a special identity card bearing the distinctive emblem. This card shall mention at least the surname and first names, the date of birth, the title or rank, and the function of the holder. The card shall bear the photograph of the holder as well as his signature or his fingerprints, or both. It shall bear the embossed stamp of the competent authorities.

3. Each High Contracting Party shall make out its own type of identity card, guided by the model annexed, by way of example, to the present Regulations. The High Contracting Parties shall transmit to each other a specimen of the model they are using. Identity cards shall be made out, if possible, at least in duplicate, one copy being kept by the issuing Power.

4. The said persons may not, without legitimate reason, be deprived of their identity card or of the right to wear the armlet.

APPENDIX THREE

CONVENTION FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT

1999 SECOND PROTOCOL

The Parties,

Conscious of the need to improve the protection of cultural property in the event of armed conflict and to establish an enhanced system of protection for specifically designated cultural property;

Reaffirming the importance of the provisions of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague on 14 May 1954, and emphasizing the necessity to supplement these provisions through measures to reinforce their implementation;

Desiring to provide the High Contracting Parties to the Convention with a means of being more closely involved in the protection of cultural property in the event of armed conflict by establishing appropriate procedures therefor;

Considering that the rules governing the protection of cultural property in the event of armed conflict should reflect developments in international law;

Affirming that the rules of customary international law will continue to govern questions not regulated by the provisions of this Protocol;

Have agreed as follows:

Chapter 1 - Introduction

Article 1 - Definitions

For the purposes of this Protocol:

- a. "Party" means a State Party to this Protocol;
- b. "cultural property" means cultural property as defined in Article 1 of the Convention;
- c. "Convention" means the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague on 14 May 1954;
- d. "High Contracting Party" means a State Party to the Convention;

e. "enhanced protection" means the system of enhanced protection established by Articles 10 and 11;

f. "military objective" means an object which by its nature, location, purpose, or use makes an effective contribution to military action and whose total or partial destruction, capture, or neutralization, in the circumstances ruling at the time, offers a definite military advantage;

g. "illicit" means under compulsion or otherwise in violation of the applicable rules of the domestic law of the occupied territory or of international law;

h. "List" means the International List of Cultural Property under Enhanced Protection established in accordance with Article 27, sub-paragraph 1(b);

i. "Director-General" means the Director-General of UNESCO;

j. "UNESCO" means the United Nations Educational, Scientific and Cultural Organization; and

k. "First Protocol" means the Protocol for the Protection of Cultural Property in the Event of Armed Conflict done at The Hague on 14 May 1954;

Article 2 - Relation to the Convention

This Protocol supplements the Convention in relations between the Parties.

Article 3 - Scope of application

1. In addition to the provisions which shall apply in time of peace, this Protocol shall apply in situations referred to in Article 18 paragraphs 1 and 2 of the Convention and in Article 22 paragraph 1.

2. When one of the parties to an armed conflict is not bound by this Protocol, the Parties to this Protocol shall remain bound by it in their mutual relations. They shall furthermore be bound by this Protocol in relation to a State party to the conflict which is not bound by it, if the latter accepts the provisions of this Protocol and so long as it applies them.

Article 4 - Relationship between Chapter 3 and other provisions of the Convention and this Protocol

The application of the provisions of Chapter 3 of this Protocol is without prejudice to:

a. the application of the provisions of Chapter I of the Convention and of Chapter 2 of this Protocol; and

b. the application of the provisions of Chapter 2 of the Convention save that, as between Parties to this Protocol or as between a Party and a State which accepts and applies this Protocol in accordance with Article 3 paragraph 2, where cultural property has been granted both special protection and enhanced protection, only the provisions of enhanced protection shall apply.

Chapter 2 - General provisions regarding protection

Article 5 - Safeguarding of cultural property

Preparatory measures taken in time of peace for the safeguarding of cultural property against the foreseeable effects of an armed conflict pursuant to Article 3 of the Convention shall include, as appropriate, the preparation of inventories, the planning of emergency measures for protection against fire or structural collapse, the preparation for the removal of movable cultural property or the provision for adequate in situ protection of such property, and the designation of competent authorities responsible for the safeguarding of cultural property.

Article 6 - Respect for cultural property

With the goal of ensuring respect for cultural property in accordance with Article 4 of the Convention:

a. a waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to direct an act of hostility against cultural property when and for as long as:

i. that cultural property has, by its function, been made into a military objective; and

ii. there is no feasible alternative available to obtain a similar military advantage to that offered by directing an act of hostility against that objective;

b. a waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to use cultural property for purposes which are likely to expose it to destruction or damage when and for as long as no choice is possible between such use of the cultural property and another feasible method for obtaining a similar military advantage;

c. the decision to invoke imperative military necessity shall only be taken by an officer commanding a force the equivalent of a battalion in size or larger, or a force smaller in size where circumstances do not permit otherwise; and

d. in case of an attack based on a decision taken in accordance with sub-paragraph (a), an effective advance warning shall be given whenever circumstances permit.

Article 7 - Precautions in attack

Without prejudice to other precautions required by international humanitarian law in the conduct of military operations, each Party to the conflict shall:

a. do everything feasible to verify that the objectives to be attacked are not cultural property protected under Article 4 of the Convention;

b. take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental damage to cultural property protected under Article 4 of the Convention;

c. refrain from deciding to launch any attack which may be expected to cause incidental damage to cultural property protected under Article 4 of the Convention which would be excessive in relation to the concrete and direct military advantage anticipated; and

d. cancel or suspend an attack if it becomes apparent:

i. that the objective is cultural property protected under Article 4 of the Convention; and

ii. that the attack may be expected to cause incidental damage to cultural property protected under Article 4 of the Convention which would be excessive in relation to the concrete and direct military advantage anticipated.

Article 8 - Precautions against the effects of hostilities

The Parties to the conflict shall, to the maximum extent feasible:

a. remove movable cultural property from the vicinity of military objectives or provide for adequate in situ protection; and

b. avoid locating military objectives near cultural property.

Article 9 - Protection of cultural property in occupied territory

1. Without prejudice to the provisions of Articles 4 and 5 of the Convention, a Party in occupation of the whole or part of the territory of another Party shall prohibit and prevent in relation to the occupied territory:

- a. any illicit export, other removal or transfer of ownership of cultural property;
- b. any archaeological excavation, save where this is strictly required to safeguard, record or preserve cultural property; and
- c. any alteration to, or change of use of, cultural property which is intended to conceal or destroy cultural, historical, or scientific evidence.

2. Any archaeological excavation of, alteration to, or change of use of, cultural property in occupied territory shall, unless circumstances do not permit, be carried out in close cooperation with the competent national authorities of the occupied territory.

Chapter 3 - Enhanced Protection

Article 10 - Enhanced protection

Cultural property may be placed under enhanced protection provided that it meets the following three conditions:

- 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
- 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.

Article 11 - The granting of enhanced protection

1. Each Party should submit to the Committee a list of cultural property for which it intends to request the granting of enhanced protection.
2. The Party which has jurisdiction or control over the cultural property may request that it be included in the List to be established in accordance with Article 27 sub-paragraph 1(b). This request shall include all necessary information related to the criteria mentioned in Article 10. The Committee may invite a Party to request that cultural property be included in the List.
3. Other Parties, the International Committee of the Blue Shield and other non-governmental organizations with relevant expertise may recommend specific cultural property to the Committee. In such cases, the Committee may decide to invite a Party to request inclusion of that cultural property in the List.

4. Neither the request for inclusion of cultural property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State, nor its inclusion, shall in any way prejudice the rights of the parties to the dispute.

5. Upon receipt of a request for inclusion in the List, the Committee shall inform all Parties of the request. Parties may submit representations regarding such a request to the Committee within sixty days. These representations shall be made only on the basis of the criteria mentioned in Article 10. They shall be specific and related to facts. The Committee shall consider the representations, providing the Party requesting inclusion with a reasonable opportunity to respond before taking the decision. When such representations are before the Committee, decisions for inclusion in the List shall be taken, notwithstanding Article 26, by a majority of four-fifths of its members present and voting.

6. In deciding upon a request, the Committee should ask the advice of governmental and non-governmental organizations, as well as of individual experts.

7. A decision to grant or deny enhanced protection may only be made on the basis of the criteria mentioned in Article 10.

8. In exceptional cases, when the Committee has concluded that the Party requesting inclusion of cultural property in the List cannot fulfill the criteria of Article 10 sub-paragraph (b), the Committee may decide to grant enhanced protection, provided that the requesting Party submits a request for international assistance under Article 32.

9. Upon the outbreak of hostilities, a Party to the conflict may request, on an emergency basis, enhanced protection of cultural property under its jurisdiction or control by communicating this request to the Committee. The Committee shall transmit this request immediately to all Parties to the conflict. In such cases the Committee will consider representations from the Parties concerned on an expedited basis. The decision to grant provisional enhanced protection shall be taken as soon as possible and, notwithstanding Article 26, by a majority of four-fifths of its members present and voting. Provisional enhanced protection may be granted by the Committee pending the outcome of the regular procedure for the granting of enhanced protection, provided that the provisions of Article 10 sub-paragraphs (a) and (c) are met.

10. Enhanced protection shall be granted to cultural property by the Committee from the moment of its entry in the List.

11. The Director-General shall, without delay, send to the Secretary-General of the United Nations and to all Parties notification of any decision of the Committee to include cultural property on the List.

Article 12 - Immunity of cultural property under enhanced protection

The Parties to a conflict shall ensure the immunity of cultural property under enhanced protection by refraining from making such property the object of attack from any use of the property or its immediate surroundings in support of military action.

Article 13 - Loss of enhanced protection

1. Cultural property under enhanced protection shall only lose such protection:

a. if such protection is suspended or cancelled in accordance with Article 14; or
b. if, and for as long as, the property has, by its use, become a military objective.

2. In the circumstances of sub-paragraph 1(b), such property may only be the object of attack if:

a. the attack is the only feasible means of terminating the use of the property referred to in sub-paragraph 1(b);

b. all feasible precautions are taken in the choice of means and methods of attack, with a view to terminating such use and avoiding, or in any event minimizing, damage to the cultural property; and

c. unless circumstances do not permit, due to requirements of immediate self-defense:

i. the attack is ordered at the highest operational level of command;

ii. effective advance warning is issued to the opposing forces requiring the termination of the use referred to in sub-paragraph 1(b); and

iii. reasonable time is given to the opposing forces to redress the situation.

Article 14 - Suspension and cancellation of enhanced protection

1. Where cultural property no longer meets any one of the criteria in Article 10 of this Protocol, the Committee may suspend its enhanced protection status or cancel that status by removing that cultural property from the List.

2. In the case of a serious violation of Article 12 in relation to cultural property under enhanced protection arising from its use in support of military action, the Committee may suspend its enhanced protection status. Where such violations are continuous, the Committee may exceptionally cancel the enhanced protection status by removing the cultural property from the List.

3. The Director-General shall, without delay, send to the Secretary-General of the United Nations and to all Parties to this Protocol notification of any decision of the Committee to suspend or cancel the enhanced protection of cultural property.

4. Before taking such a decision, the Committee shall afford an opportunity to the Parties to make their views known.

Chapter 4 - Criminal responsibility and jurisdiction

Article 15 - Serious violations of this Protocol

1. Any person commits an offense within the meaning of this Protocol if that person intentionally and in violation of the Convention or this Protocol commits any of the following acts:

a. making cultural property under enhanced protection the object of attack;

b. using cultural property under enhanced protection or its immediate surroundings in support of military action;

c. extensive destruction or appropriation of cultural property protected under the Convention and this Protocol;

d. making cultural property protected under the Convention and this Protocol the object of attack;

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

2. Each Party shall adopt such measures as may be necessary to establish as criminal offenses under its domestic law the offenses set forth in this Article and to make such offenses punishable by appropriate penalties. When doing so, Parties shall comply with general principles of law and international law, including the rules extending individual criminal responsibility to persons other than those who directly commit the act.

Article 16 - Jurisdiction

1. Without prejudice to paragraph 2, each Party shall take the necessary legislative measures to establish its jurisdiction over offenses set forth in Article 15 in the following cases:

- a. when such an offense is committed in the territory of that State;
- b. when the alleged offender is a national of that State;
- c. in the case of offenses set forth in Article 15 sub-paragraphs (a) to (c), when the alleged offender is present in its territory.

2. With respect to the exercise of jurisdiction and without prejudice to Article 28 of the Convention:

- a. this Protocol does not preclude the incurring of individual criminal responsibility or the exercise of jurisdiction under national and international law that may be applicable, or affect the exercise of jurisdiction under customary international law;
- b. except in so far as a State which is not Party to this Protocol may accept and apply its provisions in accordance with Article 3 paragraph 2, members of the armed forces and nationals of a State which is not Party to this Protocol, except for those nationals serving in the armed forces of a State which is a Party to this Protocol, do not incur individual criminal responsibility by virtue of this Protocol, nor does this Protocol impose an obligation to establish jurisdiction over such persons or to extradite them.

Article 17 - Prosecution

1. The Party in whose territory the alleged offender of an offense set forth in Article 15 sub-paragraphs 1 (a) to (c) is found to be present shall, if it does not extradite that person, submit, without exception whatsoever and without undue delay, the case to its competent authorities, for the purpose of prosecution, through proceedings in accordance with its domestic law or with, if applicable, the relevant rules of international law.

2. Without prejudice to, if applicable, the relevant rules of international law, any person regarding whom proceedings are being carried out in connection with the Convention or this Protocol shall be guaranteed fair treatment and a fair trial in accordance with domestic law and international law at all stages of the proceedings, and in no cases shall be provided guarantees less favorable to such person than those provided by international law.

Article 18 - Extradition

1. The offences set forth in Article 15 sub-paragraphs 1 (a) to (c) shall be deemed to be included as extraditable offenses in any extradition treaty existing between any of the Parties before the entry into force of this Protocol. Parties undertake to include such offenses in every extradition treaty to be subsequently concluded between them.
2. When a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, the requested Party may, at its option, consider the present Protocol as the legal basis for extradition in respect of offenses as set forth in Article 15 sub-paragraphs 1 (a) to (c).
3. Parties which do not make extradition conditional on the existence of a treaty shall recognize the offenses set forth in Article 15 sub-paragraphs 1 (a) to (c) as extraditable offenses between them, subject to the conditions provided by the law of the requested Party.
4. If necessary, offenses set forth in Article 15 sub-paragraphs 1 (a) to (c) shall be treated, for the purposes of extradition between Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the Parties that have established jurisdiction in accordance with Article 16 paragraph 1.

Article 19 - Mutual legal assistance

1. Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offenses set forth in Article 15, including assistance in obtaining evidence at their disposal necessary for the proceedings.
2. Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, Parties shall afford one another assistance in accordance with their domestic law.

Article 20 - Grounds for refusal

1. For the purpose of extradition, offenses set forth in Article 15 sub-paragraphs 1 (a) to (c), and for the purpose of mutual legal assistance, offenses set forth in Article 15 shall not be regarded as political offenses nor as offenses connected with political offenses nor as offenses inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such offenses may not be refused on the sole ground that it concerns

a political offense or an offense connected with a political offense or an offense inspired by political motives.

2. Nothing in this Protocol shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance if the requested Party has substantial grounds for believing that the request for extradition for offenses set forth in Article 15 sub-paragraphs 1 (a) to (c) or for mutual legal assistance with respect to offenses set forth in Article 15 has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 21 - Measures regarding other violations

Without prejudice to Article 28 of the Convention, each Party shall adopt such legislative, administrative, or disciplinary measures as may be necessary to suppress the following acts when committed intentionally:

- a. any use of cultural property in violation of the Convention or this Protocol;
- b. any illicit export, other removal, or transfer of ownership of cultural property from occupied territory in violation of the Convention or this Protocol.

Chapter 5 - The protection of cultural property in armed conflicts not of an international character

Article 22 - Armed conflicts not of an international character

1. This Protocol shall apply in the event of an armed conflict not of an international character, occurring within the territory of one of the Parties.
2. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.
3. Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.
4. Nothing in this Protocol shall prejudice the primary jurisdiction of a Party in whose territory an armed conflict not of an international character occurs over the violations set forth in Article 15.

5. Nothing in this Protocol shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict or in the internal or external affairs of the Party in the territory of which that conflict occurs.

6. The application of this Protocol to the situation referred to in paragraph 1 shall not affect the legal status of the parties to the conflict.

7. UNESCO may offer its services to the parties to the conflict.

Chapter 6 - Institutional Issues

Article 23 - Meeting of the Parties

1. The Meeting of the Parties shall be convened at the same time as the General Conference of UNESCO, and in coordination with the Meeting of the High Contracting Parties, if such a meeting has been called by the Director-General.

2. The Meeting of the Parties shall adopt its Rules of Procedure.

3. The Meeting of the Parties shall have the following functions:

(a) to elect the Members of the Committee, in accordance with Article 24 paragraph 1;

(b) to endorse the Guidelines developed by the Committee in accordance with Article 27 sub-paragraph 1(a);

(c) to provide guidelines for, and to supervise the use of the Fund by the Committee;

(d) to consider the report submitted by the Committee in accordance with Article 27 sub-paragraph 1(d);

(e) to discuss any problem related to the application of this Protocol, and to make recommendations, as appropriate.

4. At the request of at least one-fifth of the Parties, the Director-General shall convene an Extraordinary Meeting of the Parties.

Article 24 - Committee for the protection of cultural property in the event of armed conflict

1. The Committee for the Protection of Cultural Property in the Event of Armed Conflict is hereby established. It shall be composed of twelve Parties which shall be elected by the Meeting of the Parties.

2. The Committee shall meet once a year in ordinary session and in extra-ordinary sessions whenever it deems necessary.
3. In determining membership of the Committee, Parties shall seek to ensure an equitable representation of the different regions and cultures of the world.
4. Parties members of the Committee shall choose as their representatives persons qualified in the fields of cultural heritage, defense or international law, and they shall endeavor, in consultation with one another, to ensure that the Committee as a whole contains adequate expertise in all these fields.

Article 25 - Term of office

1. A Party shall be elected to the Committee for four years and shall be eligible for immediate re-election only once.
2. Notwithstanding the provisions of paragraph 1, the term of office of half of the members chosen at the time of the first election shall cease at the end of the first ordinary session of the Meeting of the Parties following that at which they were elected. These members shall be chosen by lot by the President of this Meeting after the first election.

Article 26 - Rules of procedure

1. The Committee shall adopt its Rules of Procedure.
2. A majority of the members shall constitute a quorum. Decisions of the Committee shall be taken by a majority of two-thirds of its members voting.
3. Members shall not participate in the voting on any decisions relating to cultural property affected by an armed conflict to which they are parties.

Article 27 - Functions

1. The Committee shall have the following functions:
 - a. to develop Guidelines for the implementation of this Protocol;
 - b. to grant, suspend, or cancel enhanced protection for cultural property and to establish, maintain, and promote the List of cultural property under enhanced protection;
 - c. to monitor and supervise the implementation of this Protocol and promote the identification of cultural property under enhanced protection;

- d. to consider and comment on reports of the Parties, to seek clarifications as required, and prepare its own report on the implementation of this Protocol for the Meeting of the Parties;
- e. to receive and consider requests for international assistance under Article 32;
- f. to determine the use of the Fund;
- g. to perform any other function which may be assigned to it by the Meeting of the Parties.

2. The functions of the Committee shall be performed in cooperation with the Director-General.

3. The Committee shall cooperate with international and national governmental and non-governmental organizations having objectives similar to those of the Convention, its First Protocol, and this Protocol. To assist in the implementation of its functions, the Committee may invite to its meetings, in an advisory capacity, eminent professional organizations such as those which have formal relations with UNESCO, including the International Committee of the Blue Shield (ICBS) and its constituent bodies. Representatives of the International Center for the Study of the Preservation and Restoration of Cultural Property (Rome Center) (ICCROM) and of the International Committee of the Red Cross (ICRC) may also be invited to attend in an advisory capacity.

Article 28 - Secretariat

The Committee shall be assisted by the Secretariat of UNESCO which shall prepare the Committee's documentation and the agenda for its meetings and shall have the responsibility for the implementation of its decisions.

Article 29 - The Fund for the protection of cultural property in the event of armed conflict

1. A Fund is hereby established for the following purposes:

- a. to provide financial or other assistance in support of preparatory or other measures to be taken in peacetime in accordance with, inter alia, Article 5, Article 10 sub-paragraph (b) and Article 30; and
- b. to provide financial or other assistance in relation to emergency, provisional, or other measures to be taken in order to protect cultural property during periods of armed conflict or of immediate recovery after the end of hostilities in accordance with, inter alia, Article 8 sub-paragraph (a).

2. The Fund shall constitute a trust fund, in conformity with the provisions of the financial regulations of UNESCO.

3. Disbursements from the Fund shall be used only for such purpose as the Committee shall decide in accordance with the guidelines as defined in Article 23 sub-paragraph 3(c). The Committee may accept contributions to be used only for a certain program or project, provided that the Committee shall have decided on the implementation of such program or project.

4. The resources of the Fund shall consist of:

(a) voluntary contributions made by the Parties;

(b) contributions, gifts, or bequests made by:

(i) other States;

(ii) UNESCO or other organizations of the United Nations system;

(iii) other intergovernmental or non-governmental organizations; and

(iv) public or private bodies or individuals;

(c) any interest accruing on the Fund;

(d) funds raised by collections and receipts from events organized for the benefit of the Fund; and

(e) all other resources authorized by the guidelines applicable to the Fund.

Chapter 7 - Dissemination of Information and International Assistance

Article 30 - Dissemination

1. The Parties shall endeavor by appropriate means, and in particular by educational and information program, to strengthen appreciation and respect for cultural property by their entire population.

2. The Parties shall disseminate this Protocol as widely as possible, both in time of peace and in time of armed conflict.

3. Any military or civilian authorities who, in time of armed conflict, assume responsibilities with respect to the application of this Protocol, shall be fully acquainted with the text thereof. To this end the Parties shall, as appropriate:

(a) incorporate guidelines and instructions on the protection of cultural property in their military regulations;

(b) develop and implement, in cooperation with UNESCO and relevant governmental and non-governmental organizations, peacetime training and educational programs;

(c) communicate to one another, through the Director-General, information on the laws, administrative provisions, and measures taken under subparagraphs (a) and (b);

(d) communicate to one another, as soon as possible, through the Director-General, the laws and administrative provisions which they may adopt to ensure the application of this Protocol.

Article 31 - International cooperation

In situations of serious violations of this Protocol, the Parties undertake to act, jointly through the Committee, or individually, in cooperation with UNESCO and the United Nations and in conformity with the Charter of the United Nations.

Article 32 - International assistance

1. A Party may request from the Committee international assistance for cultural property under enhanced protection as well as assistance with respect to the preparation, development, or implementation of the laws, administrative provisions, and measures referred to in Article 10.

2. A party to the conflict, which is not a Party to this Protocol but which accepts and applies provisions in accordance with Article 3, paragraph 2, may request appropriate international assistance from the Committee.

3. The Committee shall adopt rules for the submission of requests for international assistance and shall define the forms the international assistance may take.

4. Parties are encouraged to give technical assistance of all kinds, through the Committee, to those Parties or parties to the conflict who request it.

Article 33 - Assistance of UNESCO

1. A Party may call upon UNESCO for technical assistance in organizing the protection of its cultural property, such as preparatory action to safeguard cultural property, preventive and organizational measures for emergency situations, and compilation of national inventories of cultural property, or in connection with any other problem arising out of the application of this Protocol. UNESCO shall accord such assistance within the limits fixed by its program and by its resources.

2. Parties are encouraged to provide technical assistance at bilateral or multilateral level.

3. UNESCO is authorized to make, on its own initiative, proposals on these matters to the Parties.

Chapter 8 - Execution of this Protocol

Article 34 - Protecting Powers

This Protocol shall be applied with the cooperation of the Protecting Powers responsible for safeguarding the interests of the Parties to the conflict.

Article 35 - 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 this Protocol.

2. For this purpose, each of the Protecting Powers may, either at the invitation of one Party, of the Director-General, 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 considered appropriate, on the territory of a State not party to the conflict. 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 State not party to the conflict or a person presented by the Director-General, which person shall be invited to take part in such a meeting in the capacity of Chairman.

Article 36 - Conciliation in absence of Protecting Powers

1. In a conflict where no Protecting Powers are appointed the Director-General may lend good offices or act by any other form of conciliation or mediation, with a view to settling the disagreement.

2. At the invitation of one Party or of the Director-General, the Chairman of the Committee may 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 considered appropriate, on the territory of a State not party to the conflict.

Article 37 - Translations and reports

1. The Parties shall translate this Protocol into their official languages and shall communicate these official translations to the Director-General.

2. The Parties shall submit to the Committee, every four years, a report on the implementation of this Protocol.

Article 38 - State responsibility

No provision in this Protocol relating to individual criminal responsibility shall affect the responsibility of States under international law, including the duty to provide reparation.

Chapter 9 - Final Clauses

Article 39 - Languages

This Protocol is drawn up in Arabic, Chinese, English, French, Russian, and Spanish, the six texts being equally authentic.

Article 40 - Signature

This Protocol shall bear the date of 26 May 1999. It shall be opened for signature by all High Contracting Parties at The Hague from 17 May 1999 until 31 December 1999.

Article 41 - Ratification, acceptance, or approval

1. This Protocol shall be subject to ratification, acceptance, or approval by High Contracting Parties which have signed this Protocol, in accordance with their respective constitutional procedures.

2. The instruments of ratification, acceptance, or approval shall be deposited with the Director-General.

Article 42 - Accession

1. This Protocol shall be open for accession by other High Contracting Parties from 1 January 2000.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General.

Article 43 - Entry into force

1. This Protocol shall enter into force three months after twenty instruments of ratification, acceptance, approval, or accession have been deposited.

2. Thereafter, it shall enter into force, for each Party, three months after the deposit of its instrument of ratification, acceptance, approval or accession.

Article 44 - Entry into force in situations of armed conflict

The situations referred to in Articles 18 and 19 of the Convention shall give immediate effect to ratifications, acceptances, or approvals of or accessions to this Protocol deposited by the parties to the conflict either before or after the beginning of hostilities or occupation. In such cases the Director-General shall transmit the communications referred to in Article 46 by the speediest method.

Article 45 - Denunciation

1. Each Party may denounce this Protocol.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General.

3. The denunciation shall take effect one year after the receipt of the instrument of denunciation. However, if, on the expiry of this period, the denouncing Party is involved in an armed conflict, the denunciation shall not take effect until the end of hostilities, or until the operations of repatriating cultural property are completed, whichever is the later.

Article 46 - Notifications

The Director-General shall inform all High Contracting Parties as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, approval, or accession provided for in Articles 41 and 42 and of denunciations provided for in Article 45.

Article 47 - Registration with the United Nations

In conformity with Article 102 of the Charter of the United Nations, this Protocol shall be registered with the Secretariat of the United Nations at the request of the Director-General.

IN FAITH WHEREOF the undersigned, duly authorized, have signed the present Protocol.

DONE at The Hague, this twenty-sixth day of March 1999, in a single copy which shall be deposited in the archives of the UNESCO, and certified true copies of which shall be delivered to all the High Contracting Parties.

APPENDIX FOUR

RATIFYING STATES OF THE HAGUE CONVENTION OF 1954 (as of March 2003)

Albania	Georgia	Nicaragua
Argentina	Germany	Niger
Armenia	Ghana	Nigeria
Australia	Greece	Norway
Austria	Guatemala	Oman
Azerbaijan	Guinea	Pakistan
Barbados	The Holy See	Panama
Belarus	Honduras	Peru
Belgium	Hungary	Poland
Bosnia and Herzegovina	India	Portugal
Botswana	Indonesia	Qatar
Brazil	Iran	Moldova
Bulgaria	Iraq	Romania
Burkina Faso	Israel	Russia
Cambodia	Italy	Rwanda
Cameroon	The Ivory Coast	San Marino
Canada	Jordan	Saudi Arabia
China	Kazakhstan	Senegal
Colombia	Kuwait	Slovakia
The Congo	Kyrgyzstan	Slovenia
Costa Rica	Lebanon	Spain
Croatia	Libya	Sudan
Cuba	Liechtenstein	Sweden
Cyprus	Lithuania	Switzerland
Czech Republic	Luxembourg	Syria
Denmark	Macedonia	Tajikistan
Dominican Republic	Madagascar	Tanzania
Ecuador	Malaysia	Thailand
Egypt	Mali	Tunisia
El Salvador	Mexico	Turkey
Estonia	Monaco	Ukraine
Finland	Mongolia	Uruguay
France	Morocco	Uzbekistan
Gabon	Myanmar	Yemen
	The Netherlands	Yugoslavia
		Zimbabwe

APPENDIX FIVE

RATIFYING STATES OF THE 1999 SECOND PROTOCOL TO THE HAGUE
CONVENTION OF 1954
(as of January 2003)

Argentina
Austria
Azerbaijan
Belarus
Bulgaria
Cyprus
El Salvador
Honduras

Libya
Lithuania
Macedonia
Nicaragua
Panama
Qatar
Spain
Yugoslavia

APPENDIX SIX

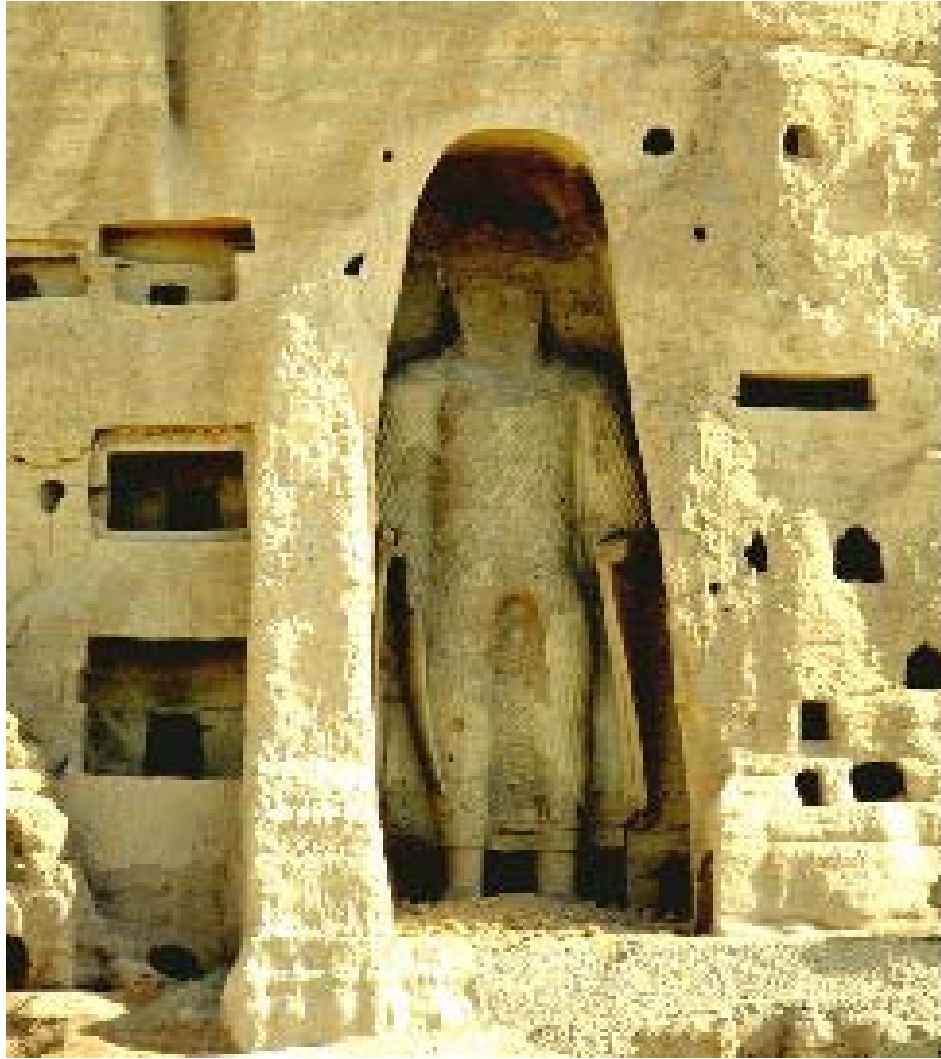
IMAGES OF CULTURAL HERITAGE DESTRUCTION DURING ARMED
CONFLICT



Croatia: The bell tower of The Church of St. Lawrence in Petrinja was struck during a bombardment despite the protective Blue Shield emblem of The Hague Convention flying from its window.



Bosnia and Herzegovina: *Stari Most*, The Old Bridge in Mostar, Bosnia and Herzegovina, was built by the Ottomans in the sixteenth century and destroyed by a Croatian bombardment in 1993.



Afghanistan: The Buddhas of Bamiyan, which had overlooked the Bamiyan Valley since the third century, were destroyed by the Taliban in 2001.



Iraq: The artifacts of the Baghdad Museum were looted by Iraqis when American-led coalition forces toppled the regime of Saddam Hussein in 2003.