



PROTECTING CULTURAL PROPERTY FROM ILLEGAL TRAFFICKING DURING ARMED CONFLICTS IRAQ CASE STUDY

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Article history:	Abstract:
Received: 24 th October 2022 Accepted: 24 th November 2022 Published: 30 th December 2022	Theft of cultural property for the purpose of illegal trade in it is considered an organized crime at the international level, as nations rob their culture, history and cultural heritage that expresses it. Therefore, the safety and protection of cultural belongings from infringement turned into a concern of the global network, as cultural belongings do no longer represent a product or assets of a unique human beings, but as an alternative is A commonplace history for all humanity. In this sense, international efforts have been combined to combat illegal trafficking in cultural property.
Keywords: cultural property,illegal trade,Effects	

RESEARCH IMPORTANCE:

The importance of the take a look at seems in showing the following-extent to which international mechanisms are compatible to combat illegal trafficking in cultural property, especially in the case of Iraq after 2003. Were these controls all for the protection of Iraqi antiquities and cultural property or not?

The first topic: the nature of illegal trafficking in cultural property

First: the concept of the crime of trafficking in cultural property

Al-Faqah defines cultural property as "all types of movables and real estate that are important to the cultural heritage of a people, such as museums, places of worship, religious shrines, memorials, antiquities sites, and places for preserving works of art, books, manuscripts, and so on."

As defined by the Hague Agreement, cultural property was defined in Article 1 of it, as: a- Movable or immovable belongings of extraordinary significance to the cultural background of peoples, such as architectural, artistic, or historical buildings, non secular or secular, archaeological websites, and companies of homes that collect historic or inventive cost. Artifacts, manuscripts, books and different things of creative, ancient and archaeological value, in addition to clinical collections, collections of vital books, information and copies of the aforementioned property.

B - buildings specific typically and effectively for the protection and show of movable cultural assets as set forth in Paragraph (a) together with museums, principal ebook houses and archive stores, in addition to bunkers meant for the protection of movable cultural property set forth in Paragraph (a) in case of armed war.

C- centers that include a huge series of cultural residences proven in (A, B), which can be referred to as (Memorial homes Centres).

The researcher believes that the definition supplied by using the Hague convention of 1954 is the maximum common and customary by researchers and scholars of public worldwide law, as it includes with it a fixed of cultural houses of ancient, background and cultural cost, as well as places designed to protect and display these houses or centers designed to keep these homes a form permanent or temporary.

Second: Defining illegal trafficking in cultural property

The UNESCO convention of 1970 defArticle 1 of ines cultural property as the entirety that the country decides for non secular or secular considerations to be of importance to archeology, prehistory, records, literature, art or technology, and that falls into one of the following categories:

- 1 uncommon collections and models from the kingdoms of animals, plants, minerals, anatomy, and crucial portions associated with fossils
- 2 houses related to records, consisting of the history of science, technology, navy history, the lives of leaders, thinkers, students, countrywide artists, and the events that the usa went through.
- 3 outcomes of archaeological excavations and archaeological discoveries
- 4 portions that form part of creative or historical monuments or archaeological web sites
- 5 real estate this is extra than 100 years old, which include inscriptions, cash and engraved seals
- 6 gadgets of ontological hobby

7 houses of inventive significance, together with snap shots, paintings, statues, and original snap shots published on stone

8 Postage and monetary stamps

9 archives, which include photographic and cinematic archives

10 portions of furnishings which might be extra than a hundred years vintage, antique musical gadgets

The settlement additionally stipulates in Article No. three that it is considered an illegal act to import, export or switch possession of cultural property opposite to the provisions accepted with the aid of the nation events underneath this agreement. via the preceding evaluate, numerous observations may be made on the difficulty of unlawful trade in cultural assets there's an global legislative shortcoming, as we did now not discover any agreement that explicitly mentioned the idea of trafficking in cultural assets

We conclude from the foregoing that the export, import or transfer of possession of cultural assets in methods that contravene the provisions of the states events to it's far an unlawful act and no longer illegal alternate. this is what the agreement emphasized in

Article No. 3,, as the article did not refer to trafficking.

It can also be concluded through the previous definition that it is not possible to imagine trafficking except in movable cultural property, and the researcher believes that this matter is consistent with reality and logic, as immovable cultural property cannot be imported, exported or transferred easily, unlike what is the case in movable cultural property .

In the light of the foregoing, a definition of trafficking in cultural property can be proposed as all illegal appropriation or possession of immovable cultural property in order to transfer, import or export it to achieve a benefit.

The second topic: mechanisms to combat illegal trafficking in cultural property at the international and national levels, Iraq as a model

First: Mechanisms to combat illegal trafficking in cultural property at the international level

,The international protection of cultural property from illegal trafficking was not limited to periods of peace only, but the protection went beyond that and provided protection during armed conflicts as well, represented by the Hague Convention of 1954, as this agreement is the first document that emphasized the need to protect antiquities during armed conflicts due to the large number of them. Cultural property is subjected to looting during armed conflicts 3 . The agreement obligated the contracting parties to take the measures they deem appropriate by refraining from using these antiquities and their neighboring places for purposes that might expose them to destruction or damage during armed conflicts, in addition to ensuring that the contracting parties criminalize any theft, looting or Illegal trade in antiquities.

The Protocol supplementing the Hague convention of 1954 for the protection of Cultural property in the occasion of Armed struggle stipulated that antiquities should not be kept as war reparations and required countries to prevent the export of antiquities in occupied territories during armed conflicts and put them under guard in case they were imported to the territory of another country and return them to the territory of the competent authorities. at the end of war operations. It also dealt with the second additional protocol related to the protection of cultural property during armed conflicts of 1999

The same topic, where he stressed the need to protect antiquities from illegal trade, as the protocol prohibited the state parties, in the event of their occupation of territories belonging to other state parties, from any act of illegal export or transfer of antiquities outside the territory of the state. The protocol also attended the excavation of antiquities or making any change In antiquities in a manner intended to conceal or destroy any cultural, historical or scientific evidence Finally, the role of UNESCO had the largest role regarding measures to be taken to limit and save you the import and export of cultural property illegally.

It stipulated a hard and fast of ensures and prison mechanisms to shield antiquities from illegal change, by means of stipulating country wide measures that oblige nations to make a contribution to the coaching of draft legal guidelines and guidelines to protect Antiquities and drawing up a list of important antiquities whose export constitutes a violation of the national heritage, and taking into account the appropriate means of announcing the disappearance of any cultural property.

The agreement also provided for preventive measures that included preparing inventories and export certificates, monitoring and punishing merchants, and imposing criminal and administrative penalties.

The agreement clarified the mechanisms of international cooperation by allowing each state party whose antiquities are at risk of looting to seek the assistance of other concerned countries. Thus, the countries undertake to participate in a joint action to take the necessary measures.

UNESCO was not satisfied with this only to provide double protection for cultural property from illegal trafficking. An intergovernmental committee was established to promote the return of cultural property to its country of origin or its return in the event of illegal appropriation.

Second: Mechanisms to combat trafficking in cultural property at the national level Iraq case study

The Iraqi Antiquities and background law No. fifty five of 2002 handled the issue for antiquities and the penalties for anyone who harms them. Iraq in cases other than those stipulated in the law itself. The law also regulated legal and illegal excavations. Finally, the law allocated criminal penalties for anyone who violates its provisions and commits an act that harms Iraqi antiquities.

Iraq witnessed a set of violations of cultural property as a result of the events that took place in 2003, where many damages were caused to cultural property and it was subjected to looting, vandalism and illegal trafficking in it, as

statistics indicate that the Iraqi Museum has lost approximately 15,000 artifacts out of 134,000 registered pieces, but it Under the aforementioned agreements and concerted international efforts, especially the efforts of UNESCO, 5,000 pieces have been recovered

The aforementioned committee, which was referred to, also played an important role in Iraq's recovery from France of 11 parts of the Babylonian slides

In 2008, about 700 antiquities, including gold coins and jewelry, were returned to Iraq from Syria, which had been stolen after the American intervention. Iraqi antiquities were also detained in Lebanon in October 2008, where they were examined by Interpol officers when they participated in a training workshop organized by UNESCO. for the Iraqi participants

This is from the side of protecting movable antiquities from trading in them. On the other hand, represented by protecting cultural property from vandalism, international law failed to provide the necessary protection for rural sites in Iraq when foreign forces used them as military bases. Artistic and places of worship that represent the cultural heritage and civilized heritage, and the best example of that is the report issued by UNESCO, which assesses the damage to the ruins of Babylon, as it was used as a military base for the coalition forces in 2003.

The same scene was repeated with the entry of the terrorist ISIS into the limitations of international law protecting cultural property in 2015, where ISIS looted and destroyed ancient sites in northern Iraq, where the organization published videos and pictures of their actions as part of their propaganda efforts. It was not without condemnation and denunciation through a conference held by the Director-General of UNESCO.

CONCLUSION:

Through the previous research paper, a set of results and recommendations were reached, as follows:

RESULTS:

- 1- Trafficking in cultural property is a transnational crime that the international community has paid great attention to through international agreements, charters and meetings of a global nature.
- 2- Protection of cultural property includes situations of peace and armed conflicts

RECOMMENDATIONS:

- 1- Work to provide a new informational framework to follow up the Iraqi antiquities and cultural properties that are still looted
- 2- Amending Law No. 55 of 2005 due to the lack of adequate protection for cultural property
- 3- Working on issuing a special law dealing with the issue of restoring Iraqi antiquities.

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