Forum: General Assembly Third Committee

Issue: The Question of Intentional Destruction and Misappropriation of Cultural Heritage

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Introduction

With an increasing number of armed conflicts around the world since the 1980s, the world has witnessed an increase in the destruction of historic sites by armed forces and an explosion in the trafficking of cultural artifacts. The protection of cultural heritage has always been an aspect of war for thousands of years and has in recent decades garnered some much needed global attention.

The recent and ongoing conflicts in the Middle East have been devastating for both humans and the cultural heritage of humanity. Cultural heritage has not only increasingly suffered from collateral damage, large-scale looting and illicit trafficking, but has also become the target of systematic and deliberate attacks in numerous conflicts around the world, due to its high significance in the communities to which it belongs.

Culture is particularly vulnerable both to collateral damage and intentional destruction; the latter is often paired with the persecution of individuals based on their cultural, ethnic or religious affiliation, the violation of their cultural rights and the denial of their identities. While foreign governments, international organisations like UNESCO and non-governmental organisations have all strongly condemned the destruction and misappropriation of the cultural heritage, there still remains, however, work to be done in effective protection and deterrence of cultural heritage.
Definition of Key Terms

Cultural Heritage

Cultural heritage refers to the legacy received from the past, that we experience in the present and that we will pass on to future generations. There are certain places on Earth which have “exceptional universal value,” belong to the shared heritage of humanity and are an irreplaceable source of life and inspiration. However, cultural heritage is not limited to monuments and collections of objects. It also includes lived expressions inherited from our ancestors and passed on to our descendants. These include oral traditions, performing arts, social manners, rituals, celebrations, practices, knowledge and techniques related to traditional handcrafts. Despite its fragility, intangible cultural heritage or living heritage is an important factor in maintaining cultural diversity.

Intentional Destruction

Intentional destruction means an act intended to destroy in whole or in part cultural heritage, thus compromising its integrity, in a manner which constitutes a violation of international law or an unjustifiable offence to the principles of humanity and dictates of public conscience, in the latter case in so far as such acts are not already governed by fundamental principles of international law.

Cultural Misappropriation

Cultural appropriation is the act of taking or using things from a culture that is not your own, especially without showing that you understand or respect this culture. Misappropriation describes a one-sided process where one entity benefits from another group’s culture without permission and without giving something in return. It is an act of acquisition, based on creating or exploiting the often-inequitable conditions of local communities.

Cultural misappropriation significantly impacts the ability of Indigenous peoples and communities to manage the maintenance, expression, protection and transmission of cultural heritage. It also challenges Indigenous peoples’ rights of ownership and cultural control over aspects of their culture. Regardless of the intent, cultural misappropriation can be disruptive to the cultural, social, spiritual and economic health and wellbeing of indigenous peoples and communities.
Cultural Property

Cultural property means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science. To qualify as cultural property in terms of the 1970 UNESCO Convention on the Illicit Import, Export and Transfer of Ownership of Cultural Property (Implementation) Act, the object must belong to one of the categories provided for under Article 1 of the 1970 UNESCO Convention and be of great cultural, historical and scientific importance that belongs to the statutorily-protected cultural heritage of a country.

Illicit Trafficking

Illicit trafficking of cultural property refers to the transfer of ownership of cultural goods which can take on different forms such as theft from cultural heritage institutions or private collections, through looting of archaeological sites to the displacement of artifacts due to war. Illicit trafficking is the impoverishment of the cultural heritage of the countries of origin of such property. It is sometimes linked to organised crime, money laundering or even terrorism. International co-operation constitutes one of the most efficient means of protecting each country's cultural property against all the dangers resulting there from.
Background Information

Destruction of cultural heritage and religious sites during armed conflicts

In 1948, the Netherlands proposed a new draft text to UNESCO on the protection of cultural property in times of armed conflict. The Organization began the process of drafting a new international convention, which was adopted at The Hague in 1954. However, many religious sites and cultural property have not been spared by armed conflict. The destruction of the old town of Dubrovnik, which has been inscribed on the List of World Heritage in Danger, amongst many other sites, have spurred on many state parties to introduce a new system of heightened protection for cultural properties of great importance.

In recent decades, extremists groups most notably have largely been responsible for the destruction of cultural property and religious sites. In 2016, the International Criminal Court found the Malian jihadist, Ahmad Al Faqi Al Mahdi, guilty of war crimes for the destruction in 2012 of ten religious sites in Timbuktu, while the city was under the control of Ansar Dine, a group suspected to have ties to al Qaeda. This was an unprecedented event, as the destruction of cultural heritage had never before been considered a war crime. Moreover, the bombing of and fighting in urban centres, attacks on religious structures and archaeological remains as part of the ever-increasing sectarian violence, and the use of archaeological sites as strategic vantage points or militarily useful locations, have all increased the destruction of cultural heritage in the Syrian conflict. The Islamic State of Iraq and the Levant (ISIL) has focused on the destruction of shrines belonging to minority sects of Islam, as well as Christian and ancient structures, out of a stated desire to purify the region from what are considered to be heretical depictions and faith.

While the UN has undertook a series of measures, such as the provision of peacekeeping forces to protect cultural and historical sites, however, destruction is still rampant in areas largely embroiled in civil unrest and controlled by extremist groups.
Illegal possession of cultural property by individuals and entities

**Looting and theft**

Although countries in all parts of the world may suffer illegal exporting and importing of cultural objects, countries which have experienced war, crisis or natural disaster are particularly vulnerable to looting and criminal acts. There has been a significant increase in the looting of archaeological sites, such as at Dura-Europos and Mari, both Tentative World Heritage Sites, after they fell under ISIL control. Two images of the site of Apamea, a Tentative World Heritage Site, one taken in July 2011 and the other in April 2012, reveal the shocking amount of damage done. Another site in western Syria, the site of Ebla is yet another Tentative World Heritage Site that reveals damage both from military activity and installations and from looting. ISIL and extremists groups do not necessarily conduct the looting, rather, they are allowing the looting to go on and even organise the looting. They then reap the economic reward through taxation, control of smuggling routes and direct selling of artifacts.

An unprecedented level of looting of archaeological sites is being carried out in an organized fashion and on an industrial scale. The purpose of these depredations is for a very specific context of economic gain for the purpose of funding terrorism and armed conflict being perpetrated by organized entities in the case of ISIL and perhaps other rebel groups and the Assad regime as well. With looting being used as a means of profit for extremists groups, therefore promoting more armed conflicts, the notion of looting of archaeological sites being characterised as simply another form of destruction of cultural property has gained traction amongst many countries. Thus, delegates might want to explore solutions where looting could be viewed as a violation of the 1954 Hague Convention and actionable under other legal instruments as a form of targeted and intentional destruction of cultural sites.

**Illicit trafficking of cultural property**

The illicit trafficking of cultural property and artifacts stolen from museums or looted from has been a growing international problem in the recent decades. Countries affected or embroiled in conflict have been especially vulnerable and susceptible to the illicit trading of cultural artifacts. Current examples include Iraq and Syria, where objects stolen from museums, cultural institutions and archaeological sites are being smuggled abroad for illegal sale in other parts of the world. The illicit cash flows resulting from these activities are channelled to fund arms deals and extremist activities, as have been in the case of the ISIL in the current Middle-Eastern conflicts. The proceeds generated by the sale of smuggled objects are used to finance arms deals and the activities of extremist groups, and may ultimately prolong civil unrest and human suffering. According to INTERPOL, illicit trade in artifacts and cultural objects is one of the most common forms of illicit trade, and generates substantial revenues.
With Islamic State’s targeted destruction of numerous heritage sites across Iraq and Syria and with the growing availability of antiquities and cultural artifacts for online sale, the issue of exhibiting illicit antiquities has gained importance. The problems of illicit trafficking of cultural property goes far beyond the funding of extremists. By supplying the demands of the art market, countries and institutions lose cultural and scientific knowledge as cultural artifacts of significant importance are no longer able to be located and rightfully returned.

**Illegal possession of cultural property by countries**

The issue of ownership and repatriation of cultural artifacts has polarised the world and has constantly been a source of tensions between countries. Numerous artifacts held in Western museums and libraries are known to have been appropriated over the ages through conquest and colonialism. It is not a hidden fact that many internationally renowned objects from antiquity currently reside outside of their countries of origin. Centuries after they were removed from their original homelands, governments are actively demanding the return many cultural treasures. One example would be the Elgin Marbles, which Greece has been actively pressuring the United Kingdom to return. However, the United Kingdom have been extremely vocal against the repatriation and restitution of cultural property and artifacts on the basis that they are custodians and conservers of humanity’s cultural and natural treasures.

However, such cases of repatriation and restitution of cultural artifacts largely vary from country to country. Ultimately, there are 2 main ways for the restitution of cultural artifacts, either through diplomatic relations and as a sign of good faith, or through mediation and conciliation of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation. However, it is worth noting that while the Committee provides a platform and framework for countries to engage in, ultimately, it is still largely dependent on the former. Most cases of restitution have come as an act of good faith and as a means to improve diplomatic ties. For example Beijing has long sought the repatriation of stolen or smuggled Chinese cultural artifacts held abroad, launching high-profile campaigns in recent years to do so. In response to China’s meteoric rise as an international juggernaut, Italy has agreed to return nearly 800 cultural relics to China, a goodwill gesture during President Xi’s high-profile trip to Rome that saw the country become the first Western European nation to join Beijing’s controversial “Belt and Road Initiative”. Ultimately, while there have been high-profile cases of illegal possession of cultural property by countries, countries are often rendered helpless with the lack of international enforcement and oversight in the issue.

**Customary International Law**

Amongst the many conventions and protocols, customary international law still plays a pivotal role in ensuring the protection of cultural heritage and property across the globe. Customary international law
is defined as “a general practice accepted as law.” There must be “a belief that such practice is required, prohibited or allowed as a matter of law.” One consideration in determining whether a rule has become part of customary international law is whether the rule has been embodied in a multilateral treaty and, if so, the extent of the ratification of the treaty and particularly whether States that are not a party consistently follow the rule and how States that have ratified the treaty act with respect to States that are not a party to it.

Several elements of the 1954 Hague Convention had reached the status of customary international law. These core provisions would include the substantive obligations to refrain from targeting cultural property in the absence of imperative military necessity and to prevent one’s own military from engaging in vandalism, theft and misappropriation of cultural property. However, there still remains many areas of contention when applying customary international law to hold stakeholders accountable. First, the manner in which and the extent to which these instruments become binding on particular States, and second, difficulties in prosecuting war crimes and, in the realm of cultural heritage, the paucity of such prosecutions raises questions whether these legal provisions provide any actual deterrence to the commission of these violations. Thus, delegates are encouraged to come up with ways to ensure that customary international law and the code of conduct is upheld internationally.
Major Countries and Organizations Involved

Iraq and Syria

The most disastrous of the “Arab Spring” conflicts for cultural heritage is the ongoing conflict in Syria and the closely related destruction in north-western Iraq. Parts of Syria and northern Iraq have been home for centuries to countless religious sites and cultural artifacts from different time periods. The destruction and misappropriation of cultural heritage in Iraq and Syria is largely down the ISIL, which is centred in the region. The ISIL has focused on the destruction of shrines belonging to minority sects of Islam, as well as Christian and ancient structures, out of a stated desire to purify the region from what are considered to be heretical depictions and faith. It is worth noting that the full extent of destruction cannot be accounted for, however, the most notable ones include that of the minaret of the Great Mosque of Aleppo, the site of Tell Mardikh and the Hellenistic and Roman site of Palmyra. Such destruction is unprecedented in recent history and has devastated a region with extensive history.

The Islamic State of Iraq and the Levant (ISIL)

Since the conflict began in 2010, countless cities have suffered irreparable damage at the hands of ISIL. While UNESCO considers the intentional destruction of cultural heritage a war crime, ISIL however has been known to ostentatiously do just that, with works of art at museums, mosques, and churches becoming its main targets of destruction. ISIL destroys and loots archaeological sites, selling the objects on the black market to fund their activities. Meanwhile, videos placed on YouTube by ISIL have set out to show intentional destruction of artifacts stored and on display in the museum in Mosul, intentional destruction of the site of Nineveh, located in Mosul, and explosion and leveling of numerous religious sites. Their stated reason for destroying sites that do not align with their beliefs is that these structures do not conform to and therefore pollute their version of Islam. However, away from public view, ISIL orchestrates the looting of non-Islamic materials, preserves them, and sells them or taxes their sale for profit.

United Nations Educational, Scientific and Cultural Organization (UNESCO)

UNESCO has played an integral role to the protection of cultural heritage around the world. While cultural have increasingly become the direct targets of and deliberate attacks in numerous conflicts around the world, UNESCO has been actively leading and advocating for the increase awareness of the issue, prompting positive responses by major stakeholders to integrate culture in the framework of humanitarian, security, peacekeeping and human rights policies and operations. This is exemplified by a number of ground-breaking and historic resolutions and decisions taken initially within UNESCO and then by various relevant UN bodies. Such initiatives include underlining the role of the destruction of cultural heritage as a threat to cultural rights, a tool for terrorism financing, and as an imperative for peace and security, as well as laying out a new international agenda for the protection of culture cultural heritage in emergency
situations. However, many analysts have raised questions about UNESCO’s limited ability to ensure the protection of cultural heritage, especially when countries are embroiled in conflict.

**International Criminal Police Organization (INTERPOL)**

INTERPOL has been at the forefront of combatting the global threat of illicit trade. INTERPOL have set up a Stolen Works of Art database, which serves as its main tool to tackle the traffic in cultural property. It is the only database at the international level with certified police information on stolen and missing objects of art. Countries can send in information about stolen and missing items, and its experts add this to the database. Moreover, INTERPOL have also made great advancements in global coordinated operations. More than 41,000 objects including coins, furniture, paintings, musical instruments, archaeological pieces and sculptures were seized in a global operation, which was jointly organised by the World Customs Organisation and INTERPOL, targeting the trafficking of cultural artifacts. However, the fight against illicit trade in cultural objects raises various challenges, including the fact that the market is global and the increasing mobility of traffickers. Artifacts and cultural objects are often not registered or properly secured by those in charge of them, which is especially the case in developing countries, thus limiting INTERPOL’s effectiveness in areas of low enforcement.

**Countries in dispute over artefact ownership**

Undoubtedly one of the most controversial topics of the issue, the question of artefact ownership and whether ancient artifacts displaced from their original homelands should be returned has polarised opinion all over the globe. One of the main reasons for such displacement is down to colonialism by past empires. The United Kingdom has been at the centre of continuous demands from countries such as China, India, and Greece for the restitution of their priceless ancient artifacts. From these countries perspectives, ancient artifacts such as the Elgin Marbles, Koh-i-Noor Diamond and Imperial Treasures, hold intrinsic and deep cultural value to these nations. However, countries such as Britain, have continuously rejected demands of restitution on the grounds that its museums allow for greater protection of an international cultural heritage as well as greater accessibility to its visitors. As such, serious questions, such as who decides and what conditions have to be in place, have to be answered by the stakeholders involved in the dispute as well as the international community so as to ensure accountability is upheld.
## Timeline of Events

<table>
<thead>
<tr>
<th>Date</th>
<th>Description of event</th>
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<tr>
<td>October 18, 1907</td>
<td>The Regulations annexed to the 1907 Hague Convention on Land Warfare expanded the 1899 Convention, with key provisions pertaining to cultural property. It stipulated that an occupying power had an obligation to protect and preserve property belonging to institutions of a religious, charitable, educational, historic and artistic character from intentional damage.</td>
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<td>March 8, 1960</td>
<td>UNESCO launches an international campaign and collects US$80 million to save the Abu Simbel temples in the Nile valley.</td>
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<td>November 16, 1972</td>
<td>The Convention concerning the Protection of World Cultural and Natural Heritage, which was adopted by the General Conference of UNESCO in Paris.</td>
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<td>December 14, 1992</td>
<td>The World Heritage Convention was adopted as the first international legal instrument to recognize and protect cultural landscapes.</td>
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<td>May 6, 2002</td>
<td>World Heritage Committee adopts the ‘Budapest Declaration on World Heritage’ inviting all partners to support World Heritage conservation.</td>
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<td>May 18, 2004</td>
<td>The UN International Criminal Tribunal for the former Yugoslavia sentenced former Yugoslav naval officer, Miodrag Jokić, to seven years of imprisonment in 2004. This was the first-ever conviction for the deliberate destruction of cultural heritage.</td>
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<tr>
<td>December 18, 2010</td>
<td>Various uprising in the Middle East resulted in Arab Spring starting.</td>
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<tr>
<td>June 29, 2014</td>
<td>ISIS was officially formed and it started it operations of armed conflicts in Iraq and Syria.</td>
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<tr>
<td>September 27, 2016</td>
<td>The International Criminal Court found the Malian jihadist, Ahmad Al Faqi Al Mahdi, guilty of war crimes for the destruction in 2012 of ten religious sites in Timbuktu, while the city was under the control of Ansar Dine, a group suspected to have ties to al Qaeda.</td>
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Relevant UN Treaties and Events

- Convention Concerning the Protection of the World Cultural and Natural Heritage, November 16, 1972
- The Budapest Declaration on World Heritage, May 6, 2002
- Security Council Resolution 2100, April 25, 2013 (S/RES/2100)
- Security Council Resolution 2199, February 12, 2015 (S/RES/2199)
- Security Council Resolution 2347, March 24, 2017 (S/RES/2347)

Previous Attempts to solve the Issue

UN Involvement

In the past decade, there has been a shift in attitude of the international community to cultural heritage. While UNESCO has been the main organisation responsible for the protection of cultural heritage in the world, however recent conflicts in Iraq and Syria have prompted action from UNSC. Some fifty countries have adopted UN Security Council Resolution 2199, prohibiting trade in cultural property coming from Iraq and Syria. The ICC have also prosecuted individuals for the intentional destruction and misappropriation of cultural property as it has been viewed as a war crime. However, there are many caveats such as what warrants UNSC intervention and legality of prosecution. Member states and UN organisations have to address these caveats and concerns and thereby set the international standard and a precedent for future cases.

Countries

Many countries have also been actively playing their part to ensure the protection of world heritage. In 2017, France and the United Arab Emirates collaborated to establish the International Alliance for the Protection of Heritage in Conflict Areas (ALIPH). ALIPH finances projects for the implementation of preventive, emergency protection, conservation and restoration programs for cultural property endangered due to armed conflict. Many countries and individuals have supported the initiative and more than 75 million dollars was pledge to the fund.
Possible Solutions

Firstly, while there have been many resolutions and declaration affirming countries commitment to protect cultural heritage, however, ultimately results will only be delivered when there is a set of concrete preventive measures put in place to protect cultural property during times of conflict, curb the illicit selling of cultural artifacts and hold individuals responsible accountable, among other things. Such physical measures, along with punitive measures, should set out to have a deterrent effect to further prevent perpetrators from intentionally misappropriating cultural artifacts for profit.

Moreover, the issue of repatriation of cultural artifacts must also be treated seriously and delegates should work together to come to a diplomatic solution which should aim to minimise hostile tensions between countries in dispute. Member states should make more efforts to condemn countries guilty of illegal possession of cultural artifacts. Delegates should also define what exactly is the customary international law and the international standard in which countries should expect of themselves. This would ensure that countries, organisations and individuals found to be in violation of customary international law would be held accountable.

Delegates may want to consider the possibility of involving more UN organisations to ensure that there is a multi-faceted approach to this broad issue. Countries could increase their efforts in ensuring the protection of not only their cultural heritage, but also the cultural heritage of the world. Such efforts could include increased coordinated and concerted effort between countries and organisations, be it through law enforcement, shared databanks, or even a creation of another small organisation to address the issues which may have been eluded till the present day.

Public education is paramount in ensuring that citizens understand the innate importance of protecting not only their own cultural heritage, but cultural heritage belonging to others. Better education will allow citizens to be more aware of how to safeguard their cultural heritage, and might even curb the constant perpetuation of the purchasing of cultural artifacts through the black market. Delegates may wish to continue implementing new awareness programmes or modify existing educational curriculums, with the cooperation of UNESCO.

Iraq and Syria have been the hotbed for the constant destruction and misappropriation of cultural heritage in the region. While there has been much talk about the need to raise awareness of the importance of cultural heritage protection, delegates may want to suggest possible protective measures in the region to shield religious sites and cultural artifacts away from the violence.
Bibliography


