Joanne Dingwall McCafferty

UNESCO, Cultural Heritage and Conflict in Yemen, Syria and Iraq

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Contents

List of Abbreviations

1954 Hague Convention	1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict
1970 Convention	1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property
1972 Convention	1972 Convention Concerning the Protection of the World Cultural and Natural Heritage
AKTC	Aga Khan Trust for Culture
ALIPH	International Alliance for the Protection of Heritage in Conflict Areas
ASOR	American Schools of Oriental Research
ASOR CHI	American Schools of Oriental Research Cultural Heritage Initiative
BBC	British Broadcasting Corporation
BSI	Blue Shield International
Caesar Act	US Caesar Syria Civilian Protection Act
CAORC	Council of American Overseas Research Centers
Carabinieri TPC	Carabinieri Tutela Patrimonio Culturale
CFR	Council on Foreign Relations
CfW	Cash for Work: Promoting Livelihood Opportunities for Urban Youth in Yemen
CHwB	Cultural Heritage without Borders
CJTF-OIR	Combined Joint Task Force – Operation Inherent Resolve
CP	Cultural property
CPP	Cultural property protection
CURE Framework	Framework for Culture in City Reconstruction and Recovery
DG	Director-General
DGAM	Directorate-General of Antiquities and Museums
DW	Deutsche Welle News

EAR	European Agency of Reconstruction
EPR Unit	Emergency Preparedness and Response Unit
EU	European Union
FSA	Free Syrian Army
FTO	Foreign Terrorist Organisation
GIS	Geographic Information System
GOAM	General Organization of Antiquities and Museums
GOPHCY	General Organisation for the Preservation of Historic Cities in Yemen
GOPHCY-CATS	General Organisation for the Preservation of Historic Cities in Yemen – Centre for Architectural Training and Studies
HCECR	The High Commission for the Erbil Citadel Revitilisation
HCP	High Contracting Party
HEF	Heritage Emergency Fund
HfP	Heritage for Peace
HQ	Headquarters
ICC	International Criminal Court
ICCROM	International Centre for the Study of the Preservation and Restoration of Cultural Property
ICISS	International Commission on Intervention and State Sovereignty
ICOM	International Council of Museums
ICOMOS	International Council on Monuments and Sites
ICTS	Iraq Counter Terrorism Service
IDPs	Internally displaced persons
IED	Improvised explosive device
IESCO	Islamic Educational, Scientific and Cultural Organisation
IGO	Intergovernment organisation
INTERPOL	The International Criminal Police Organization
Iraqi RRP	Iraqi Recovery and Resilience Programme
IRGC	Islamic Revolutionary Guard Corps
ISIL	Islamic State of Iraq and the Levant
ISIS	Islamic State of Iraq and Syria
JAN	Jabhat al-Nusra
LOAC	Law of Armed Conflict
MENA	Middle East and North African Region
MoC	Ministry of Culture
Mosul initiative	Revive the Spirit of Mosul initiative
MoU	Memorandum of Understanding
NATO	North Atlantic Treaty Organisation
NGO	Nongovernmental organisation

OUV	Outstanding Universal Value
PCNA	Post-Conflict Needs Assessment
PDNA	Post-Disaster Needs Assessment
PKK	Kurdish Workers' Party
PWP	Public Works Projects
RPBA	Recovery and Peacebuilding Assessment
SARG	Syrian Arab Republic Government
SBAH	State Board of Antiquities and Heritage
SCRI	Smithsonian Cultural Rescue Initiative
SDF	Syrian Democratic Forces
SFD	Social Fund for Development
SHI	State heritage institution
SIDA	Swedish International Development Agency
SLS	Security Level System
SOC	State of Conservation
SPS	Science for Peace and Security
STC	Southern Transitional Council
TDA	The Day After
The Observatory	The Observatory of Syrian Cultural Heritage
TNT	Trinitrotoluene
UKBS	UK Blue Shield
UN DSS	UN Department for Safety and Security
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational Scientific and Cultural Organisation
UNESCO GCC	UNESCO Gulf Cooperation Council
UNGA	United Nations General Assembly
UNITAR	United Nations Institute for Training and Research
UNOPS	United Nations Office for Project Services
UNOSAT	UNITAR's Operational Satellite Applications Programme
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
UNSG	United Nations Secretary-General
UNSR	United Nations Special Rapporteur
USCBS	United States National Committee of the Blue Shield
UXO	Unexploded ordnance
WHC	World Heritage Centre
WHCo	World Heritage Committee
WHS	World Heritage Site
WMF	World Monuments Fund
YPG	Kurdish People's Protection Units

Chapter 1
Where Conflict and Culture Connect

Over the past decade, the landscape of culture and conflict has shifted—in an era of increasing fractionalisation, cultural heritage, whether tangible or intangible, is now very much at the centre of many global conflicts. The subject of cultural heritage protection during times of armed conflict has therefore received a greater amount of attention in recent years, both in the media, and in the drafting of legislation to improve implementation of safeguarding efforts. Conflict has truly become the defining heritage issue of our age. It is evident that, during conflict, at times, the front line of such safeguarding falls to the various military forces who often do not possess the relevant skill set to enforce such protective measures. Although it is crucial that at-risk cultural heritage is afforded the appropriate level of in situ protection or refuge in secure locations, it remains that this is not currently the direct responsibility of the military, or indeed non-state actors (NSAs), but of the relevant civilian authorities and cultural heritage experts available.

On 24 February 2022, Russia invaded Ukraine. Within 2 weeks of the start of the invasion, the United Nations Human Rights Office of the High Commissioner had recorded 1424 civilian casualties in Ukraine (516 killed and 908 injured).[1] Each day the civilian death toll rises rapidly. On 24 February, the intergovernmental organisation (IGO) of the United Nations Educational Scientific and Cultural Organisation (UNESCO) released a statement expressing its concern about the ongoing military operations and escalating violence in Ukraine. As is customary practice for UNESCO, the organisation called on parties to the conflict to respect "international humanitarian law, notably the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (hereafter 'the 1954 Hague Convention') and its two (1954 and 1999) Protocols, to ensure the prevention of damage to cultural heritage in all its forms".[2] On 3 March 2022, UNESCO voiced its concern for

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[1] United Nations (2014).

[2] UNESCO (2022a).

Ukrainian cultural heritage in the face of Russian aggression.[3] Since the start of the invasion, cultural heritage sites and objects in affected areas in Ukraine have already taken damage, such as Kharkiv's Dormition Cathedral, as a result of shelling on 2 March. Despite Russia continuing to build up its forces along the Ukrainian border since late December 2021, preventative measures to safeguard Ukrainian cultural heritage were only enacted following the outbreak of conflict in contradiction of the 1954 Hague Convention. This narrative is not new.

In recent years, Yemen, Syria and Iraq have endured severe crises as a result of ongoing conflicts and political instability, with much of their cultural heritage being destroyed or greatly damaged due to intentional targeting, collateral damage and enforced neglect. UNESCO has consequently been involved to varying degrees in initiating cultural programmes focused on either protecting or reconstructing the cultural heritage of these countries. Naturally, however, in conditions of civil or international war and political instability, there comes many challenges in facilitating cultural safeguarding methods and rehabilitation programmes. There is a definite gap in current literature when it comes to determining how conflict and global governance influences UNESCO's relationship, and ability to directly engage, with a given country, and how and why this impact varies across different forms of conflict and geopolitical situations. The purpose of this book is to establish UNESCO's direct role in facilitating cultural heritage protection or reconstruction initiatives in Yemen, Syria and Iraq, alongside their respective state heritage institutions (SHIs) during recent and ongoing-armed conflicts and political unrest. In doing so, this research identifies reasons, both internal and external to the organisation, which influenced how it was able to engage with each country from the pre-conflict to conflict and, in the case of Iraq, post-conflict stage. Analysis will centre on UNESCO's facilitation of preparatory measures pre-conflict, emergency response measures during conflict and heritage recovery and reconstruction initiatives post-conflict. In doing so, this book will attempt to understand the organisation's capacity; the factors which affect its ability to carry out such cultural programmes in Yemen, Syria and Iraq amidst recent circumstances; and consequently, its limitations.

1.1   The Importance of Cultural Heritage Protection

Viewing cultural heritage as a human right could act as the much-needed catalyst for renewed international commitment in ensuring effective cultural heritage protection during armed conflict. Heritage can assume many forms. Examples of the more obvious form include Notre Dame Cathedral in Paris, Petra in Jordan, The Great Pyramid of Giza in Egypt, the Taj Mahal in India and the Statue of Liberty in the United States of America. However, cultural heritage encompasses more than such

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[3]UNESCO (2022b).

iconic monuments. The UNESCO World Heritage List encompasses more than human-made cultural heritage, it also includes natural heritage sites such as Tongariro National Park, New Zealand and Yosemite National Park, USA. Even entire cities and towns may be inscribed on the UNESCO World Heritage List. In order to be inscribed on the World Heritage List, sites must be of "outstanding universal value" (OUV).[4] This may mean that such heritage represents "a masterpiece of human creative genius", "an important interchange of human values", "major stages of earth's history, including the record of life, significant on-going geological processes in the development of landforms, or significant geomorphic or physiological features".[5] It is evident that culture does not have many boundaries, but this also determines that UNESCO has an enormous duty to acknowledge, foster the respect of, and advocate for the protection of, an enormous number of sites all over the world.

This criterion demonstrates that heritage currently recognised by the World Heritage Centre (WHC) as significant may span from acknowledging human excellence and engineering, past civilisations, as well as natural significance both on land and at sea. The current UNESCO World Heritage List reflects this. Marie Cornu states that the "concept of heritage turns out to be a highly malleable framework which is constantly changing and developing."[6] In recent years, intangible heritage has entered into the framework of cultural heritage and is openly recognised by organisations as a valid form of heritage which should be afforded protection and which plays a crucial role in our societies. UNESCO validated this notion with the creation of the UNESCO Intangible Cultural Heritage List in 2008.[7] When trying to understand such forms of heritage, we may consider traditions, religious practices and rituals which define different cultures and which have been passed down through generations.

UNESCO interpret cultural heritage to encompass tangible movable (paintings, sculptures, coins and manuscripts), immovable (monuments, archaeological sites, etc.) and underwater heritage (shipwrecks and underwater ruins and cities), as well as intangible heritage (oral traditions, performing arts and rituals).[8] However, UNESCO's definition of cultural heritage also encompasses natural heritage i.e. "natural sites with cultural aspects such as cultural landscapes, physical, biological or geological formations".[9] Moreover, UNESCO also qualifies "Heritage in the event of armed conflict" as its own individual category of heritage, distinct from tangible, intangible, and natural. It is not clear why this is the case, and UNESCO does not necessarily provide a clear definition from which to work. However, in order to provide greater focus on the scope of cultural heritage this book will

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[4]UNESCO (n.d.-a).

[5]UNESCO (n.d.-a).

[6]Cornu (2014), p. 199.

[7]UNESCO (n.d.-b).

[8]UNESCO (n.d.-c).

[9]UNESCO (n.d.-c).

consider, we must look at the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage ('the 1972 Convention') and the 1954 Hague Convention.

Article 1 of the 1972 Convention categorises the following as "cultural heritage":

monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of [OUV] 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 [OUV] 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 [OUV] from the historical, aesthetic, ethnological or anthropological point of view.

Article 1 of the 1954 Hague Convention defines "cultural property" thus:

(a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
(b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);
(c) centers containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as 'centers containing monuments'.

The above definitions of cultural heritage and cultural property have many similarities, and so are used interchangeably in this book. For the purpose of this study, the 1954 Hague Convention will serve to inform UNESCO's legal obligation to protect cultural heritage, and as such, heritage categories not mentioned in the above definition, i.e. underwater heritage, intangible heritage and natural heritage, have been excluded, leaving the focus only on that which is tangible. Moreover, when it comes to heritage safeguarding and reconstruction in Yemen, Syria and Iraq in recent years, UNESCO's focus has chiefly centred on static heritage, followed by movable tangible heritage. As this book considers the role that UNESCO plays in relation to the protection of such heritage, focus will naturally be on larger heritage sites, with the majority being listed as a UNESCO World Heritage Site (WHS) or inscribed on the Tentative List of World Heritage. Before addressing the destruction of such heritage and UNESCO's role in its safeguarding, it is important to understand why it is necessary to protect cultural heritage in the first place, as well as the recent developments in the field of cultural rights.

Lemkin coined the term "genocide" in his 1944 book, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, and Proposals for Redress*, following which he campaigned for its recognition as an international crime,

something that became a reality at the 1946 UN General Assembly.[10] The 1948 Convention on the Prevention and Punishment of the Crime of Genocide subsequently entered into force on 12 January 1951. Article 2 of the 1948 Convention defines genocide as

> any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group. . .:
>
> (a) Killing members of the group;
> (b) Causing serious bodily or mental harm to members of the group;
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
> (d) Imposing measures intended to prevent births within the group;
> (e) Forcibly transferring children of the group to another group.[11]

Edward C. Luck understood that Lemkin's idea of genocide did not necessarily mean the immediate destruction of a nation, but could instead take on various forms.[12] He consequently questioned "whether genocide must have a significant cultural component [and]. . . whether cultural genocide can be considered a stand-alone crime".[13] Although 'cultural genocide' is yet to be defined, accepted or codified in international legislation,[14] Luck agrees with Lemkin's placing of cultural destruction as one of the eight fields of the 'techniques of genocide' on a par with the other seven (political, social, economic, biological, physical, religious, and moral).[15]

Another similarly framed phrase is "cultural cleansing", which was used by Bokova in her article, Culture on the Front Line of New Wars, in reference to the then ongoing situation in Iraq and Syria.[16] Former UN Special Rapporteur in the Field of Cultural Rights, Karima Bennoune, pronounces that acts of "cultural cleansing," take "the terrorization of a population to a new level by attacking even its history".[17] Heritage destruction is not limited to collateral damage resulting from military operations. Intentional targeting in the interest of ethnic cleansing and the eradication of identity and dignity has instead assumed a central role in many recent conflicts. Frederik Rosén states,

> The reappearance of the discussion about whether intended systematic destruction of [cultural heritage] to eradicate the cultural references and customs of a group should be viewed as "cultural cleansing" or even "cultural genocide" epitomizes the link between [cultural heritage] protection and the human rights agenda.[18]

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[10] United Nations (n.d.).

[11] Art. 2 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

[12] Luck (2018), p. 19.

[13] Luck (2018), p. 19.

[14] Luck (2018), p. 27.

[15] Luck (2018), p. 18.

[16] Bokova (2015), p. 289.

[17] Bennoune (2016), Protecting Cultural Property: International Conference on the 20th anniversary of the 1999 Second Protocol to the 1954 Hague Convention, Geneva.

[18] Rosén (2017), p. 16.

1.2   The Relationship Between Conflict and Cultural Heritage

The relationship between war and culture is historic, with culture often used as a tool to undermine the opposition. The eradication of culture has been at the core of many global conflicts and major historical actions such as colonialisation and various other occupations. Such historical events involving culture remains a modern-day issue, as much of that which was looted during such occupations has not yet been repatriated.

1.2.1   Intentional Targeting of Cultural Heritage

UNESCO recognises that "threats to cultural heritage in the event of armed conflict result from intentional destruction, collateral damage, forced neglect, as well as from the organized looting and illicit trafficking of cultural objects, which today occurs at an unprecedented scale and finances, in some cases, terrorism".[19] There are two forms of cultural heritage destruction at the centre of this research inquiry, namely intentional targeting and collateral damage, although forced neglect will likely also constitute an important factor in the discussion. Attention is first given to intentional targeting,[20] which, as per the 2003 UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage,

> 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.[21]

Looking at recent historical cases such as the Nazi-Era, spanning 1933–1945, it is apparent that there was a systematic destruction of a culture, with a definite victim. This occurred in the bluntest of ways, from the damage and destruction of 267 synagogues during Reichskristallnacht, the desecration of more than 1400 Jewish cemeteries, the burning of books, to propaganda imagery and recordings, which would change the mindset of a nation, permitting and glorifying the mass undermining and eradication of a culture.[22] This pattern of cultural heritage destruction persists in modern-day conflict.[23] It has become evident that cultural heritage takes on new, negative value when it is enters into the realm of armed conflict. In an

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[19]UNESCO (2015), pp. 1–2.

[20]I acknowledge military targeting can be both intentional and legal, and should not always be categorised as collateral damage.

[21]Section II 2003 UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage.

[22]Bevan (2016), pp. 39–48.

[23]Newson and Young (2015), p. 450.

era of rising identity politics, cultural heritage is often used as a tactical tool to usurp another's cultural identity and history.[24] Considering recent intentional destruction claimed and attributed to Da'esh, Cunliffe and Curini identify five reasons why the group intentionally target heritage, which results in an increase in positive sentiment toward them:

1. *Humiliate targeted communities* (this category includes both aspects of humiliation, as well as a positive judgement about the desire to attack pre-Islamic culture, as the two are closely interlinked).
2. *Defy values of global cultural heritage*.
3. *Recruit* through the broadcasting of their ideology.
4. *Developing a narrative of origins*, returning to the purity of the Early Islamic past.
5. *Other reasons*, including:

   a. *Destruction* of idols of other religions and cultures, as ordered by the Prophet (peace be upon him).
   b. *Financing* through the illegal trade of art/antiquities.[25]

It is evident that the sheer significance of cultural heritage in the conflict environment and the new forms of identity politics makes it extremely valuable as a tool, which may be used tactically by either side of combatants.[26] This was evidenced by the Azerbaijani military's shelling of Armenian religious sites, such as the Ghazanchetsots Holy Saviour Cathedral in Shushi in the 2020 conflict over disputed territory.[27]

Former UNESCO Director-General (DG), Irina Bokova stated,

> Violent extremists target culture because they know that cultural heritage is a force for resilience. They attack heritage and persecute communities in an overall strategy of 'cultural cleansing', because they know the power of culture to delegitimize their claims and false promises.[28]

It is significant that Bokova has used the term 'cultural cleansing', as it frames the loss of cultural heritage as a humanitarian issue. She confirms that there is a definite purpose to the destruction of said cultural heritage, which is to persecute whole communities, thereby confirming that it is not a victimless crime. The rise in identity politics is at the centre of intentional targeting of cultural heritage during armed conflict. The adoption of historical, religious and ethnic narratives by political leaders, militias and terrorist organisations envelops cultural heritage in conflicts today, making it a security-related issue.[29] There are, of course, concomitant effects

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[24] Bevan (2016), pp. 17–18; Newson and Young (2017), p. 3.

[25] Cunliffe and Curini (2018), pp. 1104–1105.

[26] Bevan (2016), p. 18.

[27] Batycka (2020).

[28] UNESCO (2017).

[29] Rosén (2017), p. 15.

from conflict, which undoubtedly have a negative impact on the safeguarding and conservation of cultural heritage. When exposed to situations of civil unrest and armed conflict, governments and state authorities are significantly weakened, chiefly due to a redirection of resources, meaning a lack of funding for heritage institutions. This lack of funding has led or contributed to a lack of enforcement of heritage safeguarding or implementation of conservation management plans.

1.2.2   Cultural Heritage as Collateral Damage

Collateral damage constitutes injury or destruction inflicted upon civilians or civilian objects, which were not the intended target. To grasp this term, it is first important to understand the principle of proportionality. The Customary International Humanitarian Law database states that the principle of proportionality "implies that collateral civilian damage must never be excessive in relation to the concrete and direct military advantage anticipated".[30] Proportionality determines that damage to civilians and civilian objects must be kept to a minimum; when considering this principle, each military operation must ensure any collateral damage is justifiable. Cultural heritage can become collateral damage where it is not the direct target of a military operation, but its potential damage was taken into consideration in line with the principle of proportionality. A key piece of international legislation in this research inquiry, the 1954 Hague Convention and its two Protocols (1954, 1999), includes a military necessity clause. The key aim of the 1954 Hague Convention can majorly be summarised by Article 4(1):

> The High Contracting Parties [(HCPs)] undertake to respect cultural property situated within their own territory as well as within the territory of other [HCPs] 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.[31]

This is immediately followed by the military necessity clause, which states, "The obligations mentioned in paragraph 1 of the present Article may be waived only in cases where military necessity imperatively requires such a waiver".[32] Craig Forrest considers the "evolving use of military necessity as a justification rather than a limitation",[33] suggesting that in the context of the Hague Conventions, it served as a means to allow Parties to circumvent the newly introduced rules. In response to concerns raised in the 1993 Boylan Report, the justification of military necessity was more narrowly defined in Article 6 of the Second Protocol, which states a waiver on the basis of imperative military necessity may be invoked when:

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[30] ICRC (n.d.).

[31] Art. 4 (1) 1954 Hague Convention.

[32] Art. 4 (2) 1954 Hague Convention.

[33] Forrest (2007), p. 10.

(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".[34]

This more narrow definition has not however always proved effective, an example being the subsequent construction of the military base at the site of Babylon, a decision highlighted by Gerstenblith as "[p]robaby the most flagrant violation of [1954] Hague Convention principles".[35] Military necessity can justify a civilian object, in this case cultural heritage, as a legitimate intentional target if it meets the criteria of a military objective. In such instances, the site is no longer collateral damage, but the intended target.

Nonetheless, with most conflicts today involving one or more NSAs, hostilities often shift into civilian populations. What is more, in such asymmetric conflicts, NSAs as well as nation states may intentionally occupy cultural heritage sites, thereby potentially making the site a legitimate military target. The very nature of non-international conflicts can therefore make distinguishing between military personnel/military objects and civilians/civilian objects very difficult. This blurring of the lines can often lead to a great amount of collateral damage, thereby eliminating the basic protection that the Law of Armed Conflict (LOAC) can afford civilian populations residing in countries experiencing armed conflict.

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Chapter 2
UNESCO's Legal Obligation and Capability to Protect Cultural Heritage During Armed Conflict

2.1 The UNESCO 1945 Constitution

One of 18 specialised agencies within the UN system, the autonomous IGO of UNESCO is very much at the core of this research, which aims to delve into the mechanisms, programmes and initiatives it has in place to facilitate heritage protection specifically during armed conflict, with focus given to the recent conflicts in Yemen, Syria and Iraq. When trying to determine how UNESCO should be engaging in the protection of cultural heritage in Yemen, Syria and Iraq, it is important to establish the remit of this IGO. In order to do so, this chapter presents a close analysis of UNESCO's 1945 Constitution, the 1954 Hague Convention and its two Protocols (1954, 1999) as well as the policy document, UNESCO: Purpose and Philosophy (1946), written by Julian Huxley, the first UNESCO DG. Consideration of the Constitution and policy document identifies UNESCO's original aims in this regard, while the 1954 Hague Convention details its legal obligations when it comes to heritage protection during armed conflict. Consideration is also given to responses from interviewees for this research to ascertain what is expected from UNESCO when it comes to heritage protection during armed conflict, irrespective of what these key documents define as the organisation's mandate.

Born out of war in November 1945, with a mission to help materially and morally rebuild the world,[1] a year later, UNESCO's "constitution was signed by thirty-seven countries and twenty countries completed ratification".[2] Huxley asserts,

> [i]n the first place, [UNESCO] is international, and must serve the ends and objects of the [UN], which in the long perspective are world ends, ends for humanity as a whole. And

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[1] Meskell (2018), p. 168.

[2] Huxley (1946), p. v.

secondly it must foster and promote all aspects of education, science, and culture, in the widest sense of those words.[3]

From such words, it is evident that UNESCO is faced with an enormous task and may find it difficult to develop any form of specialist capability. Nonetheless, given the broad nature and ambiguity of these key aims, one can argue that cultural heritage protection most certainly serves humanity and promotes culture, and should therefore be within UNESCO's remit. The UNESCO Constitution further points out that

the wide diffusion of culture, and the education of humanity for justice and liberty and peace, are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern.[4]

These words demonstrate that under the UNESCO Constitution, culture is viewed as indispensable, and therefore something that must be preserved. Nonetheless, the Constitution does not state that UNESCO takes the responsibility to protect said culture. Instead, it proffers that the preservation of culture and education, allowing for justice and liberty and peace, is reliant on the cooperation of all nation states.

Under its Constitution, UNESCO's key purpose is understood as "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 UN Organisation was established and which its charter proclaims".[5] UNESCO has established itself as the facilitator of such aims, with a heavy reliance on individual state compliance for its aims to become a reality. Of the three methods put forth by the Constitution, the third has the most relevance to the protection of cultural heritage during armed conflict. It states that it will maintain and diffuse knowledge "[b]y 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".[6]

Here, by using the verb "to assure", this article is stating that UNESCO must guarantee conservation and protection, which, as we have seen from recent conflicts, is *impossible*. Nonetheless, this method alone expresses a tangible aim for UNESCO; as the Constitution is a regular international treaty, binding on Member States and UNESCO, it set up the organisation to be a key player in the cultural heritage protection discourse. This subsequently means that UNESCO can shift its priorities overtime. The other methods for achieving the key aims centre on fostering and encouraging cooperation and collaboration. It should also be noted that, at this stage, there is no direct reference to armed conflict or any form of civil unrest. However, it does indirectly refer to armed conflict by stating "and recommending to

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[3]Huxley (1946), p. 5.

[4]Preamble 1945 UNESCO Constitution.

[5]Preamble 1945 UNESCO Constitution.

[6]Art. 1 (2) (c) 1945 UNESCO Constitution.

the nations concerned the necessary international conventions".[7] One relevant convention, which is key to this research inquiry, is the 1954 Hague Convention and its two Protocols (1954, 1999), which will later be discussed at length.

Throughout the UNESCO Constitution and Julian Huxley's policy paper, cultural heritage is not referred to as such. Instead, the term 'art' is used. Huxley determines that

> The field of arts includes music; painting; sculpture and the other visual arts; ballet and dance; creative writing, from poetry and drama to the novel and the critical essay; architecture and the film, in so far as arts; and all the applications of art, from interior decoration to industrial design.[8]

He distinctly keeps libraries, museums and galleries out of this, as he views his definition of art to be descriptive of 'living art'. Nonetheless, he does support that such institutions as libraries, museums and galleries have importance.[9] The later drafted 1954 Hague Convention, which uses the term 'cultural property', would go on to encompass all movable or immovable heritage, including libraries, museums and galleries under this single umbrella term.[10] Throughout Huxley's writing, he continually emphasises the significance of art's social function; he states, "Art is capable of expressing the life of a city, a nation, or an epoch. The architecture and the drama of ancient Athens were not only an expression of its life, but an essential part of it".[11] He views art as "one of the essential agencies for mobilising society for action", and believed that it would be "for Unesco to help see that in the world of tomorrow art takes its place on terms of equality with science, and plays an equally important role in human affairs".[12] From this, we can see from the outset that UNESCO greatly valued that which it defined as "art" and recognised that its protection and promotion was key.

In terms of how UNESCO would promote cultural heritage, Lynn Meskell proffers that the organisation has gradually shifted from the support of original research or excavation to prioritising preservation and technical assistance.[13] This change can be understood as a move from "archaeological discovery to monumental recovery".[14] It is most definitely easier to promote the protection or recovery of a tangible monument, with which people are all familiar, such as Palmyra,[15] than something abstract, yet undiscovered, in the soil of another country. This greater prioritisation of preservation of monuments is indicative of cultural heritage protection during armed conflict becoming central to UNESCO's cultural programming.

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[7] Art. 1 (2) (c) 1945 UNESCO Constitution.

[8] Huxley (1946), p. 48.

[9] Huxley (1946), p. 48.

[10] Art. 1 (a–c) 1954 Hague Convention.

[11] Huxley (1946), p. 52.

[12] Huxley (1946), p. 55.

[13] Meskell (2018), p. 21.

[14] Meskell (2018), p. 25.

[15] Meskell (2018), p. 4.

UNESCO established itself as an organisation centred on monumental salvage with the Rescue of the Nubian Monuments and Sites project across Egypt and Sudan,[16] which brought about the relocation of key monuments to another more secure location after their preservation was threatened by the construction of a dam. This UNESCO mission elevated monuments within states beyond national interest, instead showing them to be of global concern.[17] In recent years, the Revive the Spirit of Mosul initiative is the only project reminiscent of the scale of the salvage of the Nubian Monuments.

UNESCO was founded in response to the cultural destruction witnessed during World War II, and so the organisation is directly tied to this issue. Although the UNESCO Constitution and the Huxley policy document do not detail any definite intentions for UNESCO to be directly involved in cultural heritage protection specifically during armed conflict, there is nonetheless a definite emphasis on the importance of conservation of art in both documents. For UNESCO, the 1954 Hague Convention triggered its direct involvement in the protection of cultural heritage in the context of armed conflict, with the organisation being mentioned on 37 occasions in the 1954 treaty, and again on 15 occasions in the 1999 Second Protocol. UNESCO is evidently key to the cultural heritage protection during armed conflict discourse. UNESCO has long since condemned the intentional destruction of cultural heritage,[18] while Paragraph 15 of UN Security Council Resolution (UNSCR) 2199 (2015) and Paragraph 1 of UNSCR 2347 (2017) formally recognised that such destruction should be deplored and condemned. The latter specifically states, the UN Security Council (UNSC)

> [d]eplores and condemns the unlawful destruction of cultural heritage, inter alia destruction of religious sites and artefacts, as well as the looting and smuggling of cultural property from archaeological sites, museums, libraries, archives, and other sites, in the context of armed conflicts, notably by terrorist groups.[19]

It is important to note that each UNSCR 2199 and 2347 placed particular emphasis on the condemnation of intentional destruction of cultural heritage by NSAs, specifically terrorist groups. This is a line also taken by UNESCO, which, as will be evidenced, only directly condemns the actions of NSAs, while taking a less direct tact when condemning destruction caused by nation states. Huxley posits, the

> analysis of evolutionary progress gives us certain criteria for judging the rightness or wrongness of our aims and activities, and the desirability or otherwise of the tendencies to be notes in contemporary history – tendencies of which UNESCO must take account.[20]

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[16]Meskell (2018), p. 45.

[17]Meskell (2018), p. 43.

[18]Clément (2016), p. 122.

[19]Para. 1 United Nations Security Council Resolution 2017.

[20]Huxley (1946), p. 12.