

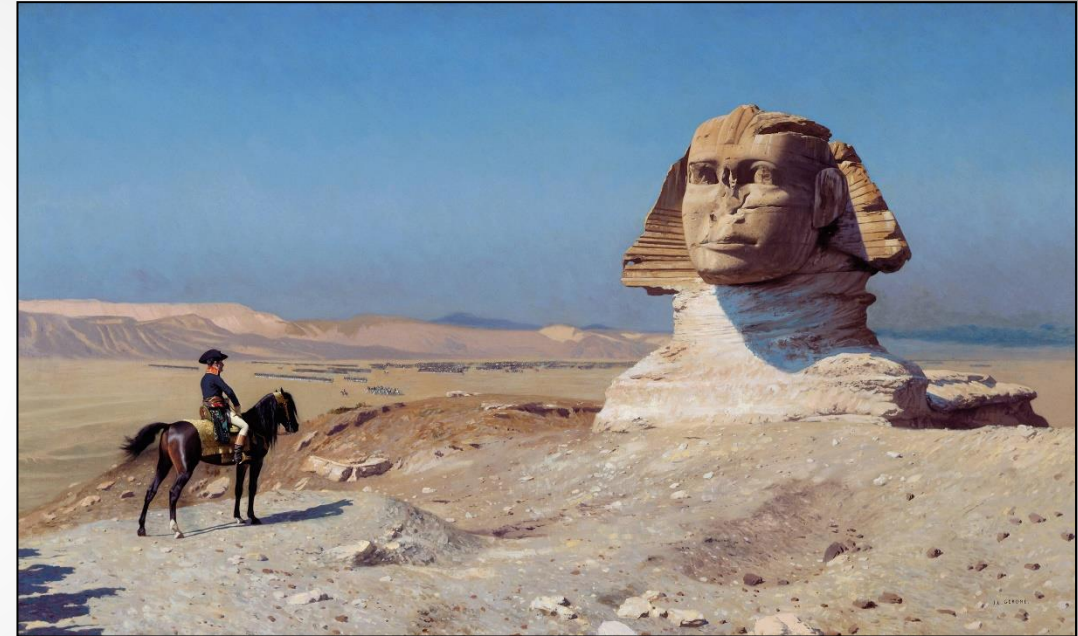
THE INTERNATIONAL TREATIES ON CULTURAL HERITAGE

Nikolaos Arvanitis

ON-LINE WORKSHOP ON HERITAGE EDUCATION:
PERSPECTIVES AND CONTEXTUAL DISCUSSION ON
CURRENT CHALLENGES

Université Paris 1 Panthéon-Sorbonne

Reframing Heritage Education in Egypt (ReHeED)



INTRODUCTION AND SUMMARY

- 1) Bibliographic references, specialize academic articles, list of international conventions and on line resources on the sources of legal , operational and guidelines on international law concerning cultural heritage and properties.
- 2) Brief Historical overview on early intervention on the protection of CH
- 3) Conventions applicable to the protection of cultural property in time of war and of belligerent occupation
- 4) Rules applicable to prevent and suppress the illicit traffic in movable cultural objects
- 5) International norms and institutions aimed at safeguarding cultural property of outstanding universal value for all humanity
- 6) Juridic frameworks on underwater Cultural Heritage
- 7) Safeguarding of the immaterial/intangible aspects of cultural heritage, which is represented by the oral, artistic, and cultural expressions transmitted from one generation to another as part of the cultural identity of peoples, communities or groups.

1. SOURCES AND
RESOURCES ON
INTERNATIONAL
LAWS ON
CULTURAL
HERITAGE



KEY SOURCES FOR THIS PRESENTATION

Francesco Francioni

Cultural Heritage:

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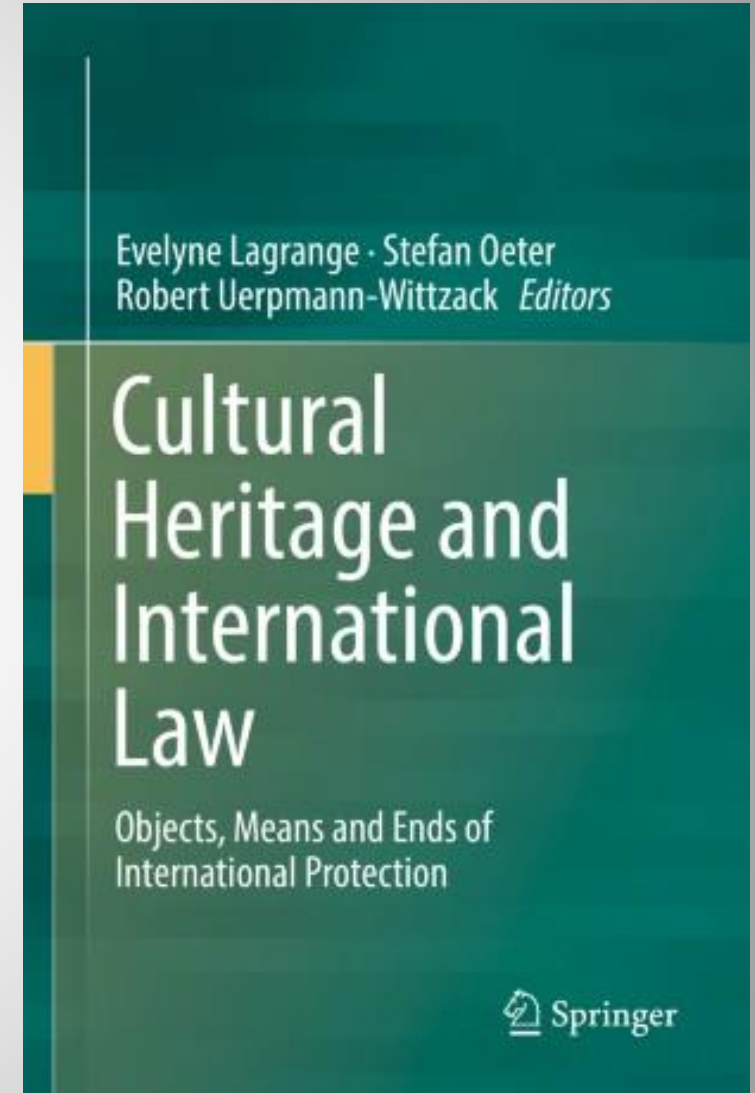
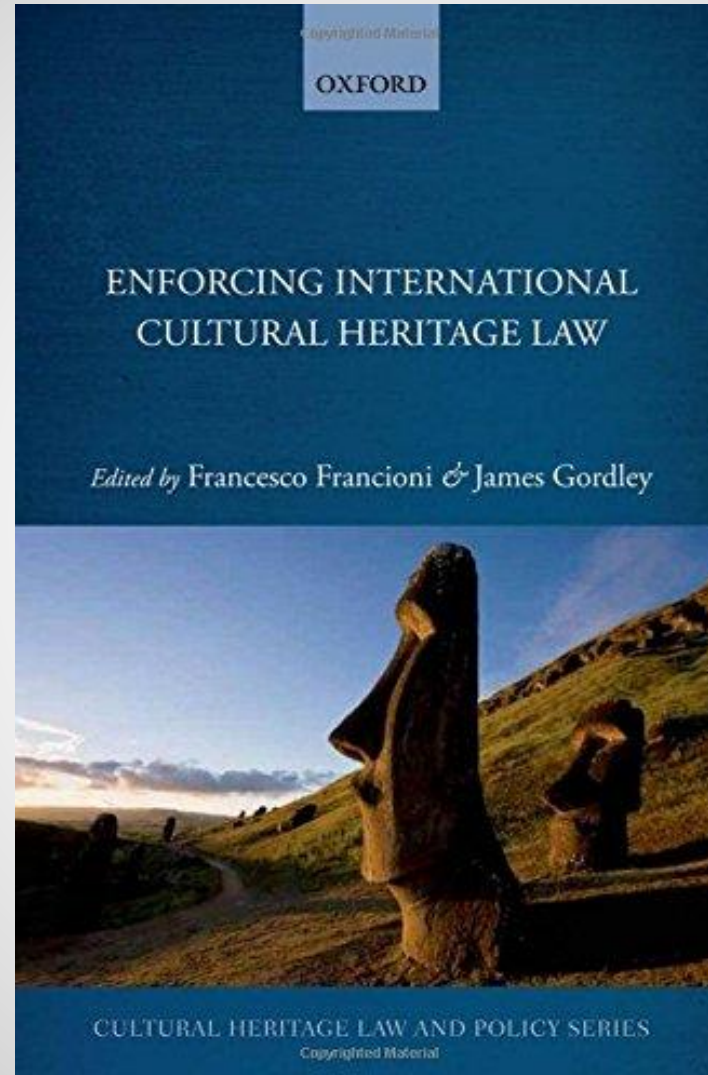
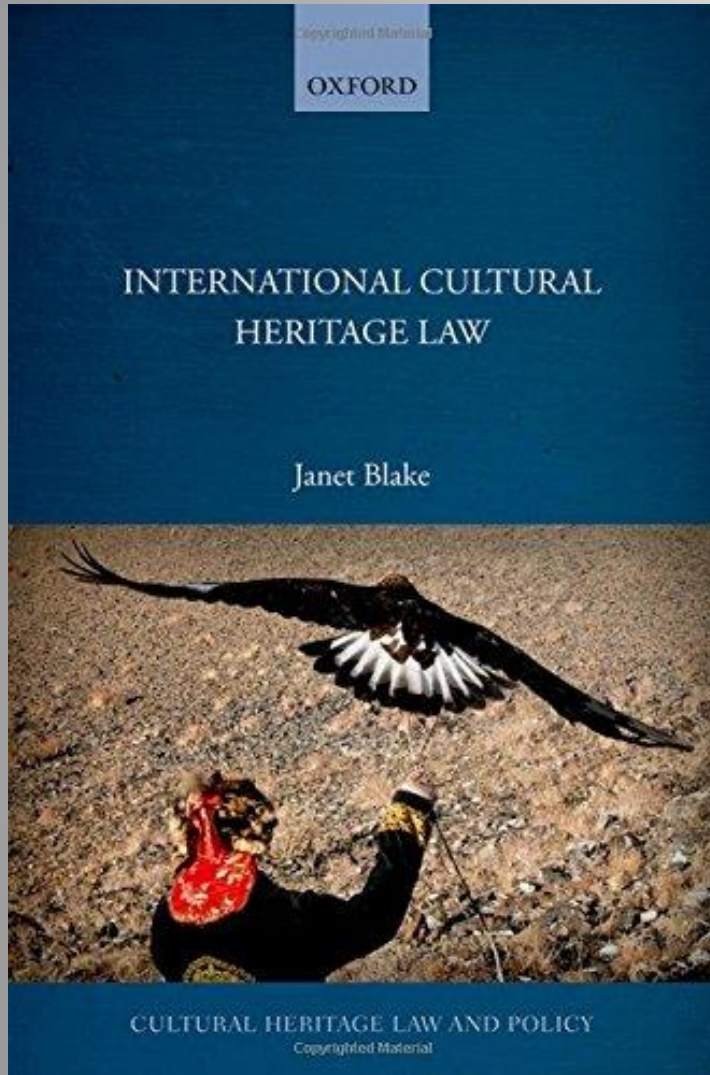
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- Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro) (Judgment) [2007] ICJ Rep 43.
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- Certain Property (Liechtenstein v Germany) (Preliminary Objections) [2005] ICJ Rep 6.
- Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 145 BSP 805.
- COE ‘Convention on Offences relating to Cultural Property’ (adopted 3 May 2017, not yet in force) CETS No 221.
- Constitution of the United Nations Educational, Scientific and Cultural Organization (signed 16 November 1945, entered into force 4 November 1946) 4 UNTS 275.
- Convention respecting the Laws and Customs of War on Land and its Annex: Regulations concerning the Laws and Customs of War on Land (signed 18 October 1907, entered into force 26 January 1910) (1907) 205 CTS 277.

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- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (adopted 14 November 1970, entered into force 24 April 1972) 823 UNTS 231.
- Convention for the Protection of Cultural Property in the Event of Armed Conflict (signed 14 May 1954, entered into force 7 August 1956) 249 UNTS 240, with Regulations for the Execution of the Convention in Standard-Setting in UNESCO vol II Conventions, Recommendations, Declarations and Charters Adopted by UNESCO (1948–2006) (Nijhoff Leiden/Boston/Paris 2007) 44.
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- Convention for the Protection of the World Cultural and Natural Heritage (adopted 16 November 1972, entered into force 17 December 1975) 1037 UNTS 151.

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- Council Directive 93/7/EEC of 15 March 1993 on the Return of Cultural Objects Unlawfully removed from the Territory of a Member State [1993] OJ L74/74.
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- Directive 2014/60/EU of the European Parliament and the Council of 15 May 2014 on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State and amending Regulation (EU) No 1024/2012 [2014] OJ L159/1.
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- Institut de Droit International ‘Les lois de la guerre sur terre’ (1882) 5 AnnIDI 157.
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- UNESCO ‘Recommendation on the Safeguarding of Traditional Culture and Folklore’ (15 November 1989) Records of the General Conference 25th Session vol 1, 238.
- UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (signed 24 June 1995, entered into force 1 July 1998) (1995) 34 ILM 1322.
- United Nations Convention on the Law of the Sea (concluded 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3.
- UNSC ‘Statute of the International Tribunal for the Former Yugoslavia’ UNSC Res 827 (1993) (25 May 1993) SCOR 48th Year 29.

ON-LINE RESOURCES TO FUNDAMENTAL TEXTS

- <http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/unesco-database-of-national-cultural-heritage-laws/>
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- Convention Concerning the Protection of the World Cultural and Natural Heritage, Paris. 16 November 1972: http://portal.unesco.org/en/ev.php-URL_ID=13055&URL_DO=DO_TOPIC&URL_SECTION=201.html
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- UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, Rome. 24 June 1995. <https://www.unidroit.org/english/conventions/1995culturalproperty/1995culturalproperty-e.pdf>
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- International Council of Museums Code of Ethics: <https://icom.museum/en/resources/standards-guidelines/code-of-ethics/>
- UNESCO International Code of Ethics for Dealers in Cultural Property. <http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/legal-and-practical-instruments/unesco-international-code-of-ethicsfor-dealers-in-cultural-property/>
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- Operational Guidelines for the Implementation of the World Heritage Convention, 10 July 2019, WHC.19/01: <https://whc.unesco.org/en/guidelines/>
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2. BRIEF HISTORICAL OVERVIEW



CULTURAL HERITAGE:

- Embedding value on monuments and artefacts which represent the cultural, social and religious expressions of a society or community is not a modern concern.

CULTURAL HERITAGE:

Cultural Property, as a term and notion or object of legal protection, was conceived into a distinct subdivision of international law only in very recent times. The notion of Cultural Property, in fact, is not to be found in legal texts before the second half of the 19th century. Early conceptions and apparatuses were embraced in the second half of the 19th century and at the beginning of the 20th century to lessen the violence of war, such as:

- the *Final Protocol of the Brussels Conference on the Rules of Military Warfare* (*'Brussels Declaration'*) in 1874,
- The two *1907 Hague Conventions*: the *1907 Hague Convention Respecting the Laws and Customs of War on Land* (*'1907 Hague Convention IV'*) and its Regulations—which are annexed to the *1907 Hague Convention IV* (*'1907 Regulations'*; Arts 27 and 56 *1907 Regulations*)—and the *1907 Hague Convention on Bombardment by Naval Forces in Time of War* (*'1907 Hague Convention IX'*; Art. 5 *1907 Hague Convention IX*).

CONVENTION (IV) RESPECTING
THE LAWS AND CUSTOMS OF WAR
ON LAND AND ITS ANNEX:
REGULATIONS CONCERNING THE
LAWS AND CUSTOMS OF WAR ON
LAND. THE HAGUE, 18 OCTOBER
1907

The Second Hague Conference in 1907.

For the text of the convention:

[https://ihl-
databases.icrc.org/ihl/INTRO/195](https://ihl-databases.icrc.org/ihl/INTRO/195)



CULTURAL HERITAGE:

These documents do not refer to a single accepted category of cultural property but instead to an empirical and heterogeneous list which included '*buildings dedicated to religion, art and science, or charitable purposes ... historic monuments*', as well as places that have little to do with culture, such as hospitals and places dedicated to the care of the general population. It is only with the Constitution of the United Nations Educational, Scientific and Cultural Organization ('**UNESCO Constitution**') that cultural property begins to be seen as a specific object of international protection, because of its inherent importance as an expression of the different cultural traditions, and by virtue of the constitutional mandate of the United Nations Educational, Scientific and Cultural Organization (UNESCO) to promote peace through education and culture—because '**it is in the minds of men that the defences of peace must be constructed**' (:Preamble UNESCO Constitution))

HISTORICAL NOTIONS (EXAMPLES):

Ennigaldi, daughter of King Nabonidus of UR (6th century BCE)

- She established a “museum” of antiquities for the protection of cultural artefacts and is said to have acted as a museum curator.

Thucydides and ancient Delos (Greece, 5th century BCE)

- Thucydides used archaeological finds as the basis for historical explanation when he considered that Delos had been settled by Carians since the type of armour and weapons found in many of the graves there resembled those of the Carians of his day

Cicero and the Verres Affair (Rome, 1st century BCE)

- In the late Roman Republic, Cicero attacked Verres, the Roman Proconsul of Sicily between 71 and 73 BCE, in his court orations for removing looted artworks to Rome.

ENNIGALDI (UR)

Bel-Shalti-Nanna or Bel-Shalti-Nannar, named also Ennigaldi-Nanna, was a Babylonian princess who flourished around 554 BCE. She was the daughter of Nabonidus, the last Neo-Babylonian king and ruler of the city of Ur (modern Tell el-Muqayyar, Iraq). She had 3 careers. One was as a school administrator, running a school for priestesses that was already over eight centuries old when she took over. Another was as a museum curator. And still another was as a high priestess. While excavating in Ur, Sir Leonard Woolley discovered a room built for Bel-Shalti-Nannar around 550 B.C.E. The room is known as the Palace of the High Priestess Bel-Shalti-Nannar. The palace shares some design features with the South palace at Babylon, but on smaller scale. It is located on a trapezoidal plot by North Harbor of Ur.

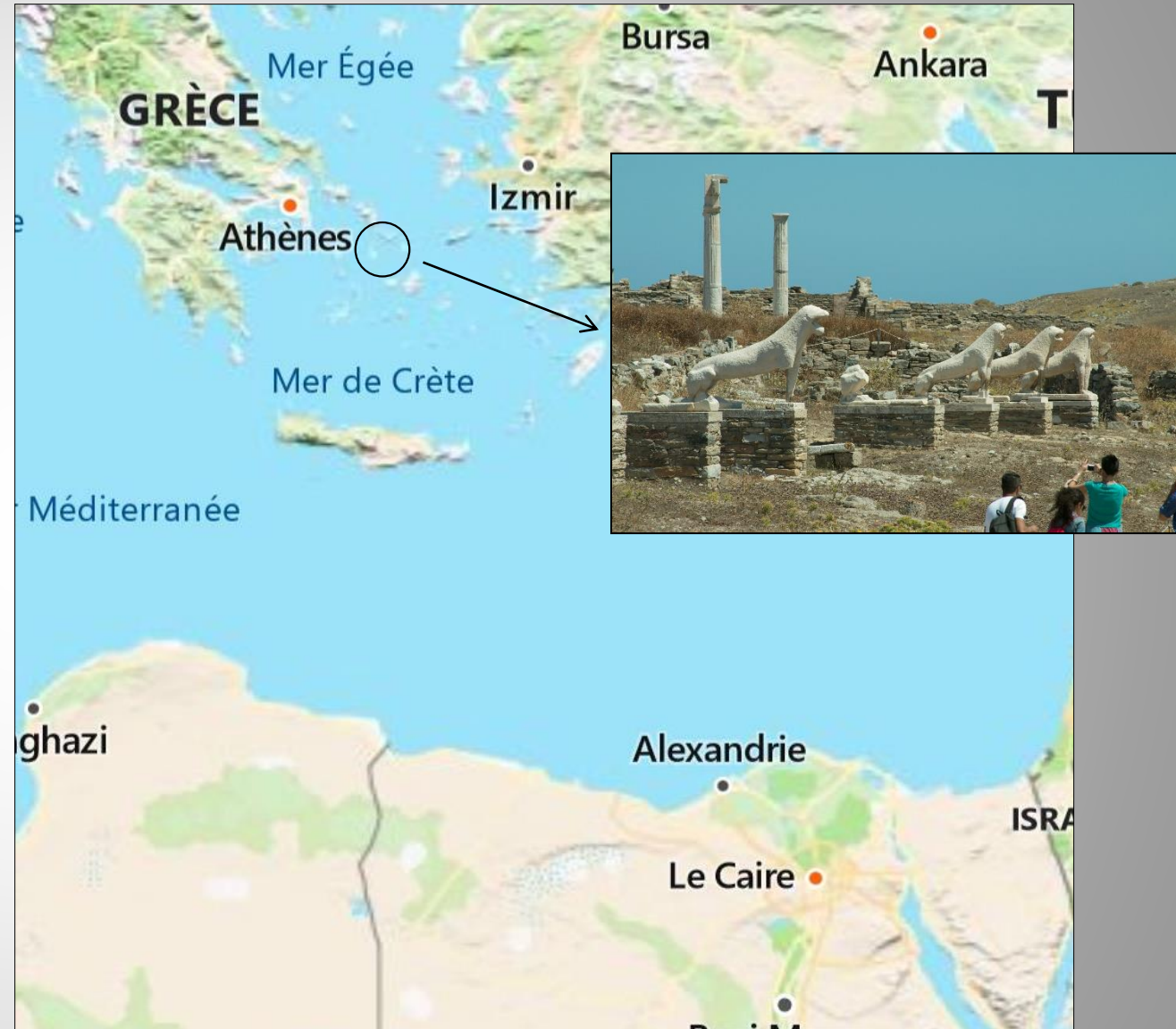
It contained objects dating back to 1400 B.C.E., 1700 B.C.E., and 2050 B.C.E. A clay tablet bore copies of very ancient inscriptions together with another inscription explaining that the earliest ones had been found and copied out “for the marvel of the beholders.” These clay tablets are considered the oldest museum catalogue.



DELOS 6TH CENTURY BCE

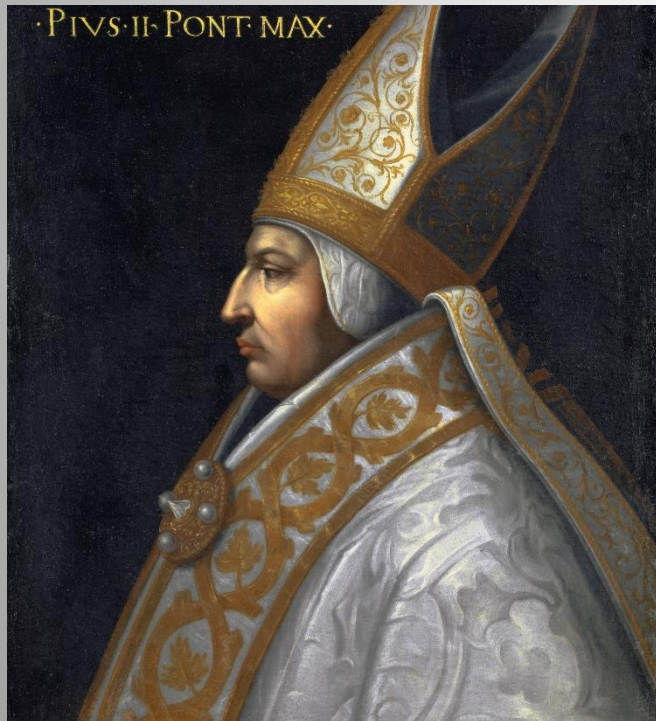
Thucydides tells us that on two occasions the island of Delos was purified by the clearing of graves. The first clearance by Pisistratus was limited to the area visible from the sanctuary. The second in 426/5 B.C.E. was comprehensive. During this later clearance the character contents of the graves were observed, and Thucydides comments:

“This is proved by the fact that when the Athenians purified Delos during the Peloponnesian War and the tombs of the dead were opened, more than half of them were found to be Carians. They were known by the fashion of their arms which were buried with them, and by their mode of burial, the same which is still practised among them”.



FIRST EXAMPLES OF HERITAGE LEGISLATION

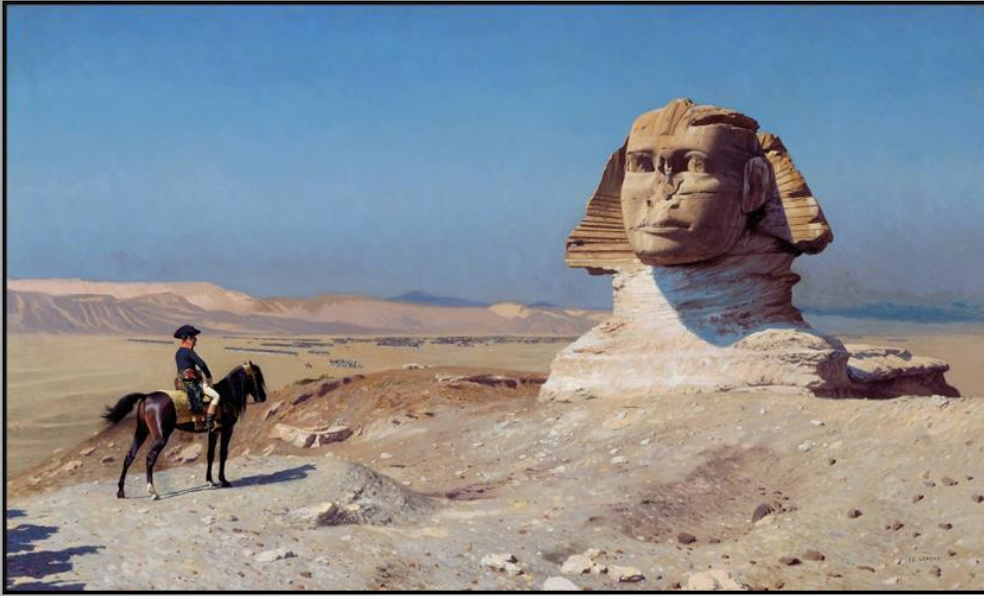
POPE PIUS II (1462): PAPAL BULL AIMED AT THE PRESERVATION OF ANCIENT MONUMENTS LOCATED IN PAPAL STATES



IN 1684, KING GUSTAVUS ADOLPHUS OF SWEDEN ISSUED A ROYAL DECREE AIMED AT PROTECTING ARCHAEOLOGICAL REMAINS



EXAMPLES OF "COLONIAL" ATTITUDES TO OTHER'S HERITAGE



3. CULTURAL PROPERTY IN TIME OF WAR AND OF BELLIGERENT OCCUPATION





Antonio Canova (1 November 1757 – 13 October 1822) was an Italian Neoclassical sculptor and one of most celebrated artist in Europe at his time.

In 1802, Canova was assigned the post of 'Inspector-General of Antiquities and Fine Art of the Papal State'. In 1815, he was named 'Minister Plenipotentiary of the Pope,'and was tasked with recovering various works of art that were taken to Paris by Napoleon.



A military review during the Empire, showing the horses of Saint Mark (looted from Venice by Napoleon) on top of the Arc de Triomphe du Carrousel in Paris, by Joseph-Louis-Hippolyte Bellangé and Adrien Dauzatz, 1862

1923 Hague Rules of Air Warfare

https://wwi.lib.byu.edu/index.php/The_Hague_Rules_of_Air_Warfare

ARTICLE XXV:

“In bombardment by aircraft all necessary steps must be taken by the commander to *spare as far as possible buildings dedicated to public worship, art, science, or charitable purposes, historic monuments, hospital ships, hospitals, and other places where the sick and wounded are collected, provided such buildings, objects or places are not at the time used for military purposes*. Such buildings, objects and places must by day be indicated by marks visible to aircraft. The use of marks to indicate other buildings, objects or places than those specified above is to be deemed an act of perfidy. The marks used as aforesaid shall be in the case of buildings protected under the Geneva Convention the red cross on a white ground, and in the case of other protected buildings a large rectangular panel divided diagonally into two pointed [*sic*] triangular portions, one black and the other white.

A belligerent who desires to secure by night the protection for the hospitals and other privileged buildings above mentioned must take the necessary measures to render the special signs referred to sufficiently visible”



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

<http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/convention-and-protocols/1954-hague-convention/>

The [Convention for the Protection of Cultural Property in the Event of Armed Conflict](#) was adopted at The Hague (Netherlands) in 1954 in the wake of massive destruction of cultural heritage during the Second World War. It is the first international treaty with a world-wide vocation focusing exclusively on the protection of cultural heritage in the event of armed conflict.

It covers immovable and movable cultural heritage, including monuments of architecture, art or history, archaeological sites, works of art, manuscripts, books and other objects of artistic, historical or archaeological interest, as well as scientific collections of all kinds regardless of their origin or ownership.

The Convention foresees the implementation of the following measures:

- **Adoption of peacetime safeguarding** measures such as 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;
- **Respect for cultural property** situated within their own territory as well as within the territory of other States Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes 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;
- **Consideration of the possibility of registering** a limited number of refuges, monumental centres and other immovable cultural property of very great importance in the International Register of Cultural Property under Special Protection order to obtain special protection for such property;
- **Consideration of the possibility of marking of certain important buildings** and monuments with a distinctive emblem of the Convention;
- **Establishment of special units within the military forces** to be responsible for the protection of cultural property;
- **Sanctions for breaches of the Convention**; and,
- **Wide promotion of the Convention** within the general public and target groups such as cultural heritage professionals, the military or law-enforcement agencies.



WHAT TYPES OF LEGAL INSTRUMENT DOES UNESCO USE AT THE INTERNATIONAL LEVEL TO PROTECT THE CULTURAL HERITAGE?

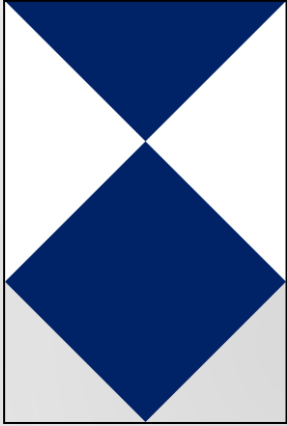
- International legal instruments enable States to protect all forms of culture more effectively. UNESCO elaborates legal instruments in the form of declarations, recommendations and conventions, which are adopted by UNESCO's Member States.
- Operational principles of such legal instruments:
- **Declaration:** a purely moral or political commitment, binding States on the basis of good faith.
- **Recommendation:** addressed to one or more States, a Recommendation is intended to encourage them to adopt a particular approach or to act in a given manner in a specific cultural sphere. In principle, a Recommendation does not create a legally binding obligation on Member States.
- **Convention:** synonymous with treaty, this term refers to any agreement concluded by two or more States. Such an agreement is based on the joint will of the parties upon whom the convention imposes binding legal commitments.

THE ADDITIONAL SECOND PROTOCOL TO THE 1954 CONVENTION ON 26 MARCH 1999 ('SECOND PROTOCOL', IN FORCE FORM 2004)

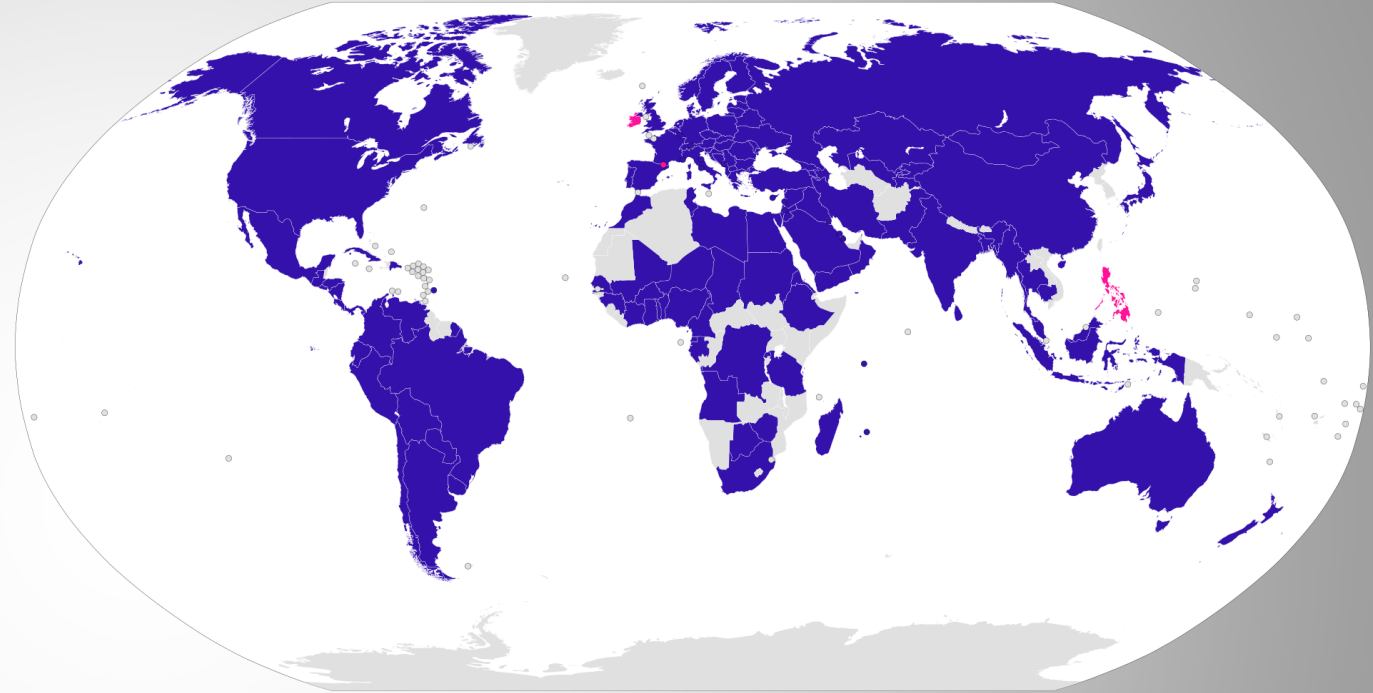
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The difficulties on implementing the 1954 Convention encouraged in the early 1990s a enhancement on the protection of cultural heritage against acts of war and of intentional destruction. Promoted by Italy, the Netherlands, and Russia the Executive Board of UNESCO approved Decision 5.5.1 of May 1993 aimed at widening the scope and strengthening the application of the 1954 Convention. A diplomatic conference convened in the Hague in the spring of 1999 adopted the **additional Second Protocol to the 1954 Convention on 26 March 1999 ('Second Protocol')** which entered into force in 2004. This Second Protocol does not modify the original 1954 Convention, but rather **adds a further layer of norms, procedures, and institutions that have effect only for the States Parties to it**. This entails that the relations between States Parties to the Second Protocol and States Parties only to the 1954 Convention will be governed by the 1954 Convention, unless the latter consent to the application of the more demanding rules of the Second Protocol.



Countries Members of the Hague Convention



THE ADDITIONAL SECOND PROTOCOL TO THE 1954 CONVENTION ON 26 MARCH 1999 ('SECOND PROTOCOL', IN FORCE SINCE 2004)

Art. 22

- **protection of cultural property to non-international conflicts:** this entry has been challenged by some parties as being contrary to customary international law). However, this opinion does not take into account that the limits of the 1954 Convention became apparent in non-international conflicts, and especially in inter-ethnic conflict where cultural objects were targeted as symbols of the adversary's identity (Ethnicity).

Art. 10,
24-27

- a new system of '**Enhanced Protection**' has replaced the old and ineffective regime of Special Protection, with different operational rules and the establishment of an Intergovernmental Committee of 12 members responsible for the listing under Enhanced Protection of any cultural object of the greatest importance for humanity.

Art. 16

- introduction of a detailed regime of **individual criminal responsibility:** For the most serious violations, such as the attack against cultural property under enhanced protection, Art. 16 Second Protocol establishes the universal jurisdiction over the offender provided that the accused is found in the territory of the prosecuting State.

FURTHER PROVISIONS

Rome Statute of the International Criminal Court (ICC) (Arts 8 (2) (b) (ix) and (c) (iv) ICC Statute)

which entails specific provisions criminalizing offences against cultural property. In 2016 the ICC applied for the first time the above provision of the Rome Statute to convict and sentence an individual jihadist responsible for war crimes consisting of acts of intentional destruction of cultural property during the 2012 conflict in Mali. This judgment was followed by an order charging Al Mahdi with the obligation to pay 2.7 million Euros for damage caused to the cultural heritage of Mali

General Conference of the Declaration on Intentional Destruction of Cultural Heritage

in response to the despicable and gratuitous destruction by the Taliban of the Great Buddhas of Bamiyan. This Declaration confirms that the safeguarding of cultural heritage of great importance for humanity can become an element of the general interest of the international community and can correspondingly restrict the ambit of domestic jurisdiction of the State on whose territory the heritage is located.

International Court of Justice (ICJ)

The systematic destruction of cultural heritage may be evidence of the specific intent to commit (cultural) genocide.

4. ILLICIT TRAFFIC IN MOVABLE CULTURAL OBJECTS

<https://en.unesco.org/fighttrafficking>
<https://en.unesco.org/fighttrafficking/1970>
<http://www.unesco.org/new/en/culture/themes/illegal-trafficking-of-cultural-property/1995-unesco-convention/>

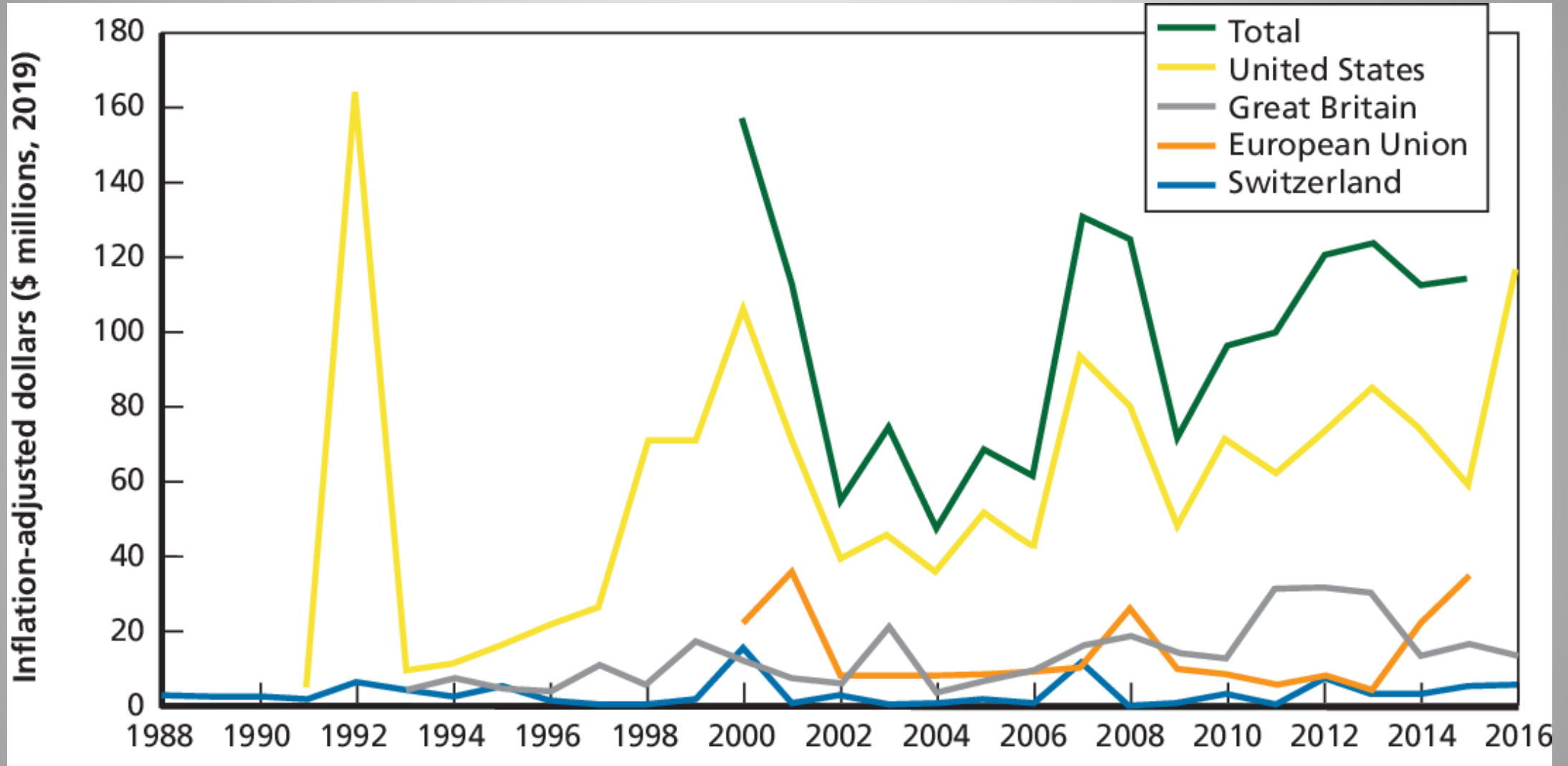


ILLICIT ANTIQUITIES TRAFFICKING EXAMPLES



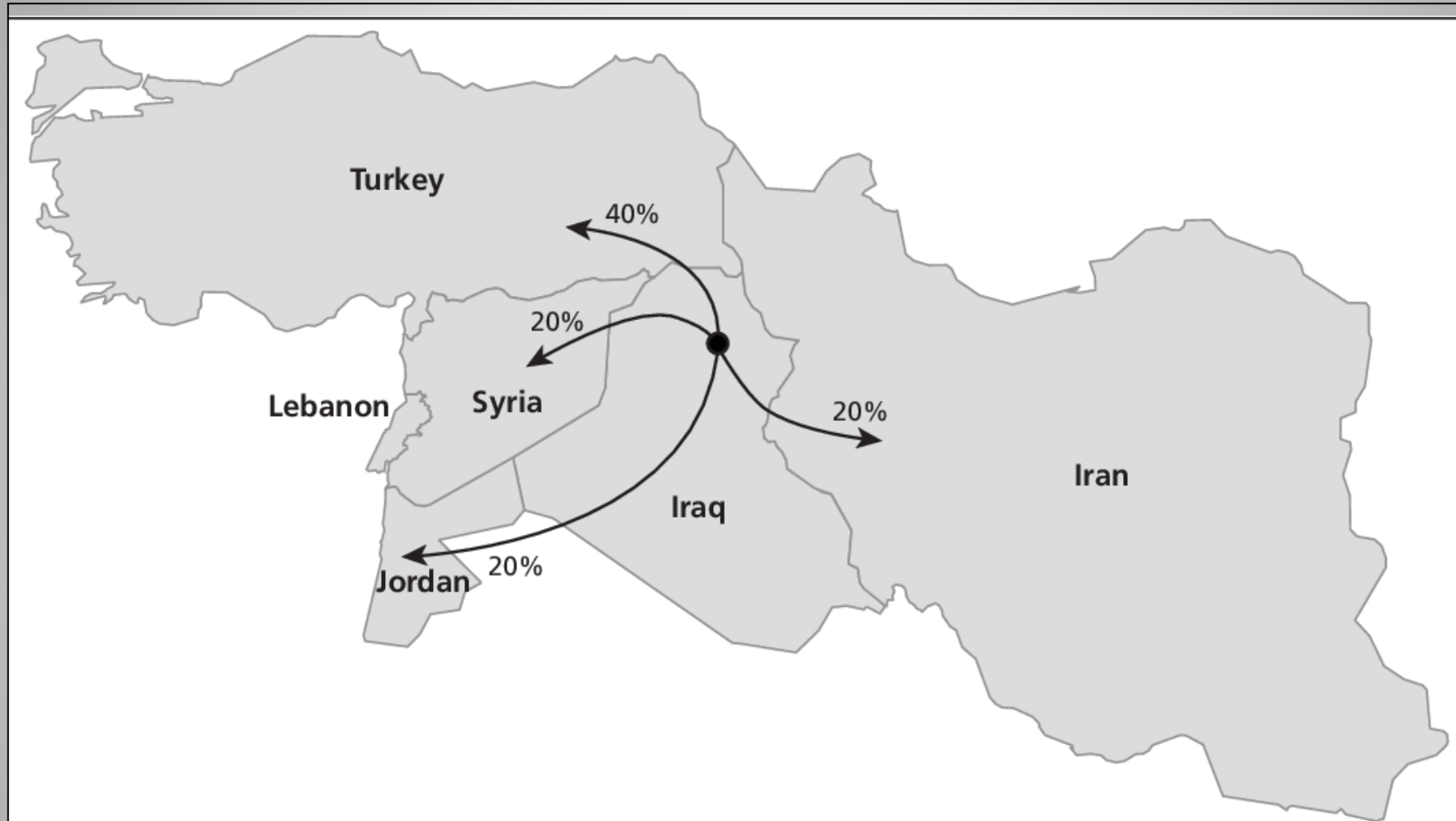
Illicit excavations in Apamea (from Google MAPS). Source: Sargent, M. et al. “Tracking and Disrupting the Illicit Antiquities Trade with Open Source Data.” (2020).

ILLICIT ANTIQUITIES TRAFFICKING EXAMPLES



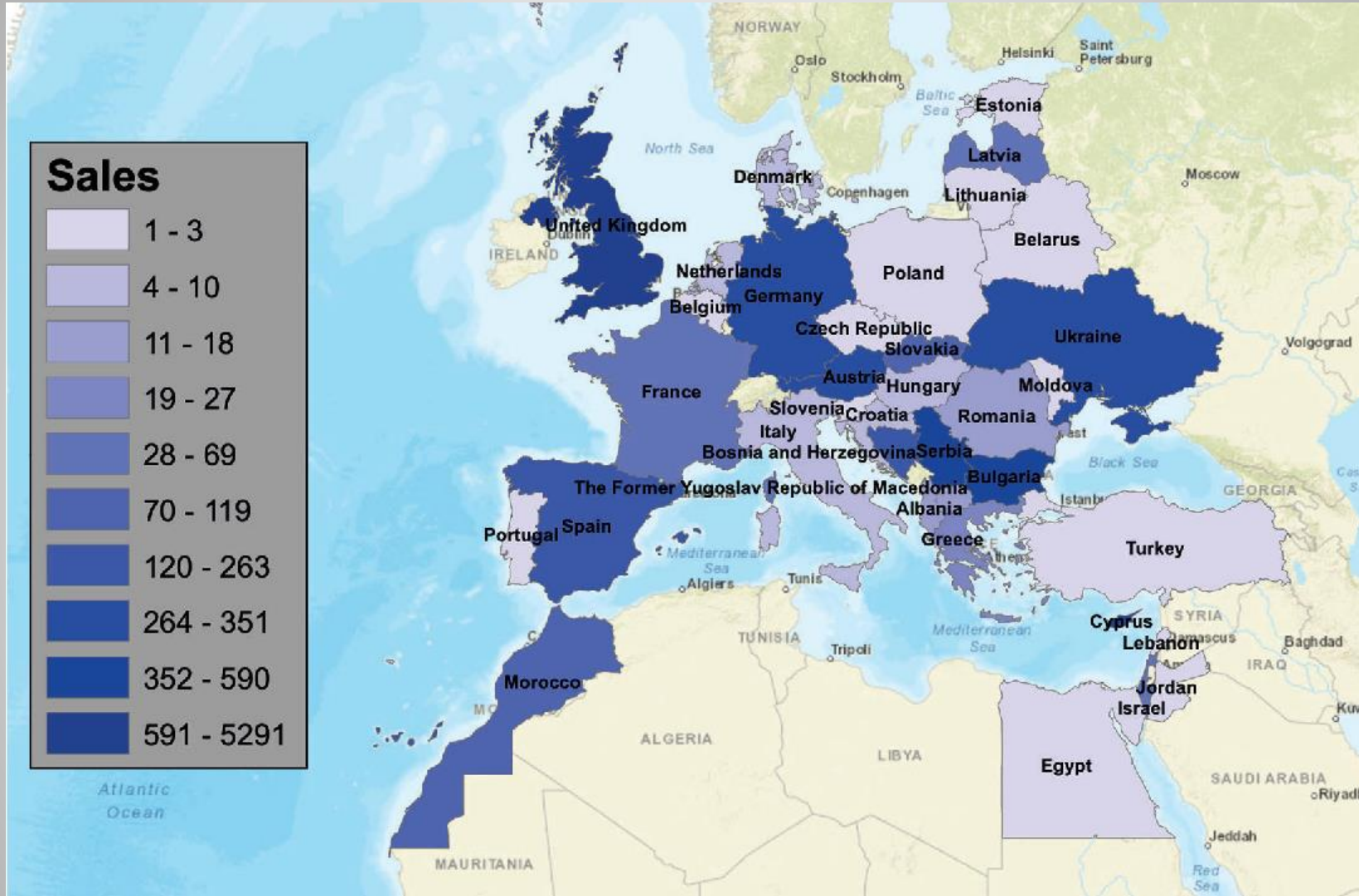
Total Reported Antiquities Imports to Various Countries from Egypt, Turkey, Jordan, Lebanon, Syria, Iraq, Israel, and the United Arab Emirates. Source: Sargent, M. et al. "Tracking and Disrupting the Illicit Antiquities Trade with Open Source Data." (2020).

ILLICIT ANTIQUITIES TRAFFICKING EXAMPLES



Kurdish Smugglers Reported Destinations for Smuggled Antiquities. Source: Sargent, M. et al. “Tracking and Disrupting the Illicit Antiquities Trade with Open Source Data.” (2020).

ILLICIT ANTIQUITIES TRAFFICKING EXAMPLES

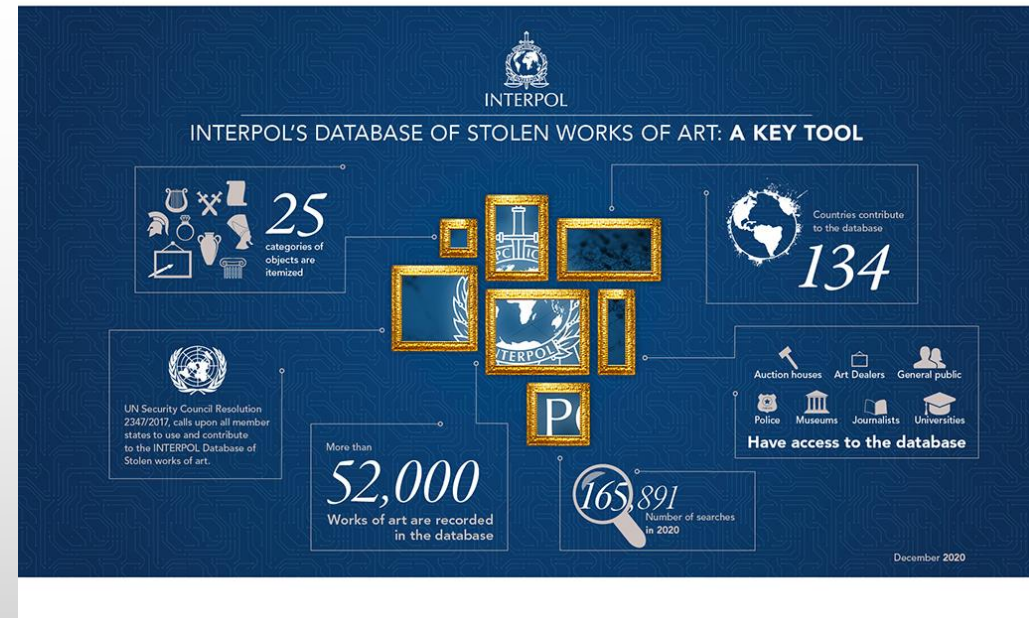


eBay Antiquities Sales by Country in 30-Day Period. Source: Sargent, M. et al. “Tracking and Disrupting the Illicit Antiquities Trade with Open Source Data.” (2020).

INTERPOL AND CULTURAL HERITAGE CRIME

<https://www.interpol.int/Crimes/Cultural-heritage-crime/The-issues-cultural-property>

[https://www.interpol.int/Crimes/Cultural-heritage-crime/Stolen Works-of-Art-Database](https://www.interpol.int/Crimes/Cultural-heritage-crime/Stolen-Works-of-Art-Database)

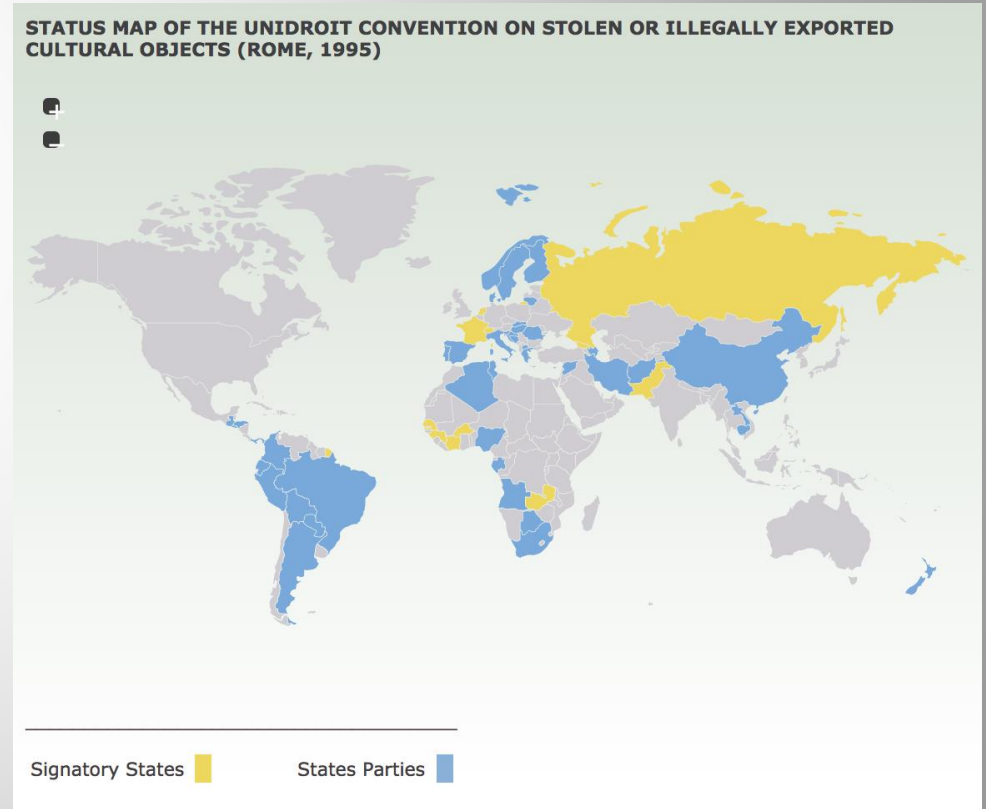


UNESCO CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY OF 1970 ('1970 CONVENTION')

A first answer to this issue was the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970 ('1970 Convention'). This Convention establishes a **system of international cooperation** to prevent and reduce theft and illicit transfer of cultural objects on the basis of: a detailed definition of the notion of cultural property (Art. 1); the **introduction of a system of export certificates** (Arts 3 and 6); the **obligation to introduce measures aimed at preventing the acquisition by museums and similar institutions of cultural property illegally exported** from the territory of other contracting parties (Art. 7); and the obligation to **return, upon request of the State of origin, the cultural property illegally exported**, provided that equitable compensation is paid to the innocent purchaser (Art. 7 (b) (ii)). Art. 9 1970 Convention also provides for an enhanced **form of cooperation by way of bilateral agreements** meant to forestall emergency situations where the illicit traffic reaches a level such as to endanger a particular sector of the cultural heritage of a country.

UNIDROIT CONVENTION ON STOLEN OR ILLEGALLY EXPORTED CULTURAL OBJECTS ('1995 CONVENTION')

Considering these problematic aspects, a new UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects ('1995 Convention') was entered into place in order to address possible solutions. The UNIDROIT Convention grasps the problem of legal title over stolen or illegally transferred cultural objects and establishes innovative legal notions on the subject.



UNIDROIT CONVENTION 1995: EXAMPLES OF CORRECTION ON THE 1970 CONVENTION

ART 3 (1)

- the 'possessor of a cultural object which has been stolen shall return it'

Art. 3 (2)

- the 1995 Convention treats archaeological objects which have been unlawfully excavated, or unlawfully retained after excavation, as 'stolen objects'

Art. 4

- objective criterion of due diligence in the acquisition of cultural objects

5. INTERNATIONAL RULES AND
INSTITUTIONS AIMED AT
SAFEGUARDING CULTURAL
PROPERTY OF OUTSTANDING
UNIVERSAL VALUE FOR ALL
HUMANITY:

THE WORLD HERITAGE
CONVENTION (1972)



THE WORLD HERITAGE CONVENTION (1972)

- The idea of creating an international movement for protecting heritage emerged after World War I. The 1972 Convention concerning the Protection of the World Cultural and Natural Heritage developed from the merging of two separate movements: the first focusing on the preservation of cultural sites, and the other dealing with the conservation of nature.
- The event that aroused particular international concern was the decision to build the Aswan High Dam in Egypt, which would have flooded the valley containing the Abu Simbel temples , a treasure of ancient Egyptian civilization. In 1959, after an appeal from the governments of Egypt and Sudan, UNESCO launched an international safeguarding campaign. Archaeological research in the areas to be flooded was accelerated. Above all, the Abu Simbel and Philae temples were dismantled, moved to dry ground and reassembled. The campaign cost about US\$80 million, half of which was donated by some 50 countries, showing the importance of solidarity and nations' shared responsibility in conserving outstanding cultural sites. Its success led to other safeguarding campaigns, such as saving Venice and its Lagoon (Italy) and the Archaeological Ruins at Moenjodaro (Pakistan) , and restoring the Borobodur Temple Compounds (Indonesia). Consequently, UNESCO initiated, with the help of the International Council on Monuments and Sites (ICOMOS), the preparation of a draft convention on the protection of cultural heritage.
- The idea of combining conservation of cultural sites with those of nature comes from the United States of America. A White House Conference in Washington, D.C., in 1965 called for a 'World Heritage Trust' that would stimulate international cooperation to protect 'the world's superb natural and scenic areas and historic sites for the present and the future of the entire world citizenry'. In 1968, the International Union for Conservation of Nature (IUCN) developed similar proposals for its members. These proposals were presented to the 1972 United Nations conference on Human Environment in Stockholm.
- Eventually, a single text was agreed upon by all parties concerned. The Convention concerning the Protection of World Cultural and Natural Heritage was adopted by the General Conference of UNESCO on 16 November 1972.
- The same General Conference adopted on 16 November 1972 the Recommendation concerning the Protection, at National Level, of the Cultural and Natural Heritage.

THE WORLD HERITAGE CONVENTION (1972)

• **Benefits of Ratification**

- The overarching benefit of ratifying the World Heritage Convention is that of belonging to an international community of appreciation and concern for universally significant properties that embody a world of outstanding examples of cultural diversity and natural wealth.
- The States Parties to the Convention , by joining hands to protect and cherish the world's natural and cultural heritage, express a shared commitment to preserving our legacy for future generations.
- The prestige that comes from being a State Party to the Convention and having sites inscribed on the World Heritage List often serves as a catalyst to raising awareness for heritage preservation.
- A key benefit of ratification, particularly for developing countries, is access to the [World Heritage Fund](#) . Annually, about US\$4 million is made available to assist States Parties in identifying, preserving and promoting World Heritage sites. Emergency assistance may also be made available for urgent action to repair damage caused by human-made or natural disasters. In the case of sites included on the List of World Heritage in Danger , the attention and the funds of both the national and the international community are focused on the conservation needs of these particularly threatened sites.
- Today, the World Heritage concept is so well understood that sites on the List are a magnet for international cooperation and may thus receive financial assistance for heritage conservation projects from a variety of sources.
- Sites inscribed on the [World Heritage List](#) also benefit from the elaboration and implementation of a comprehensive management plan that sets out adequate preservation measures and monitoring mechanisms. In support of these, experts offer technical training to the local site management team.
- Finally, the inscription of a site on the World Heritage List brings an increase in public awareness of the site and of its outstanding values, thus also increasing the tourist activities at the site. When these are well planned for and organized respecting sustainable tourism principles, they can bring important funds to the site and to the local economy.

THE WORLD HERITAGE CONVENTION (1972)

- **Benefits of Ratification**

- The Convention on the Protection of World Cultural and Natural Heritage concerns properties of such outstanding and universal value as to deserve a system of collective cooperation for their conservation and protection.
- The originality of this convention is in its holistic approach to culture and nature—both seen as parts of the common heritage of humanity—in its establishment of two ‘lists’ (Art. 11 World Heritage Convention), one comprising the great cultural and natural treasures of humanity, the other including the properties that from time to time are in need of special conservation measures—world heritage in danger;
- We have the establishment of strong institutional support, provided by an intergovernmental committee—the World Heritage Committee (Art. 8)—and a trust fund, consisting of compulsory and voluntary contributions from the States Parties as well as contributions from private entities and resources from the UNESCO budget (Art. 15; Trust Funds).
- These features have made the World Heritage Convention the most successful of the UNESCO instruments on the protection of cultural heritage, with 193 States now parties to it and an ever-increasing list of more than 1,000 sites spread all over the world. Underlying this success is the careful balance struck by the World Heritage Convention between the national interest of the territorial State to give the maximum visibility to its cultural and natural treasures and the general interest of humanity in their preservation.
- Sites inscribed on the list remain subject to the sovereignty of the territorial State and to the property rights of private owners, if any (Art. 6). However, inscription on the list signals the interest of humanity in the conservation of the listed site and triggers the mechanism of international cooperation, which includes monitoring and reporting on the state of conservation (Art. 29), international assistance (Arts 19–26), and, in cases of urgent need the placing of the site on the List of World Heritage in Danger, which signals the necessity of ‘major operations’ to ensure the preservation of the world heritage value of the site concerned (Art. 11 (4)).

THE WORLD HERITAGE CONVENTION (1972)

ICOMOS

INTERNATIONAL COUNCIL ON MONUMENTS AND SITES

- ICOMOS is a non-governmental international organisation dedicated to the conservation of the world's monuments and sites..
- ICOMOS works for the conservation and protection of cultural heritage places. It is the only global non-government organisation of this kind, which is dedicated to promoting the application of theory, methodology, and scientific techniques to the conservation of the architectural and archaeological heritage.
- ICOMOS is a network of experts that benefits from the interdisciplinary exchange of its members, among which are architects, historians, archaeologists, art historians, geographers, anthropologists, engineers and town planners.
- The members of ICOMOS contribute to improving the preservation of heritage, the standards and the techniques for each type of cultural heritage property: buildings, historic cities, cultural landscapes and archaeological sites
- ICOMOS facts and figures (December 2020):
 - 10 489 Individual Members in 151 countries
 - 248 Institutional Members
 - 104 National Committees
 - 28 International Scientific Committees

THE WORLD HERITAGE CONVENTION (1972)

ICCROM

THE INTERNATIONAL CENTRE FOR THE STUDY OF THE PRERSERVATION AND RESTORATION OF CULTURAL PROPERTY

ICCROM is an intergovernmental organization working in service to its Member States to promote the conservation of all forms of cultural heritage, in every region of the world. It operates in the spirit of the 2001 UNESCO Universal Declaration on Cultural Diversity, which states that “Respect for the diversity of cultures, tolerance, dialogue and cooperation, in a climate of mutual trust and understanding are among the best guarantees of international peace and security.” For more than six decades, ICCROM has partnered with Member States to support them in safeguarding heritage within their borders and beyond. Working at the international and governmental levels, and with institutions and professionals on the ground, the organization engages and informs new generations of professionals and the general public with an interest in heritage. The only institution of its kind in the world, ICCROM is small and agile, enabling it to respond swiftly to the needs of its Member States. At the same time, as an intergovernmental organization with a vast network of conservation experts, ICCROM relies on formal institutional collaborations with organizations such as UNESCO, both Headquarters and Regional Offices together with its World Heritage Committee to which ICCROM is an Advisory Body; non-governmental organizations such as ICOMOS, ICOM, ICA and IIC; and scientific institutes and universities in Member States. Those working on the front lines of heritage preservation, including scientists, conservators, museum curators, site managers, archivists, researchers and archaeologists rely on ICCROM for its world-class initiatives in conservation training, information, research, cooperation and advocacy.

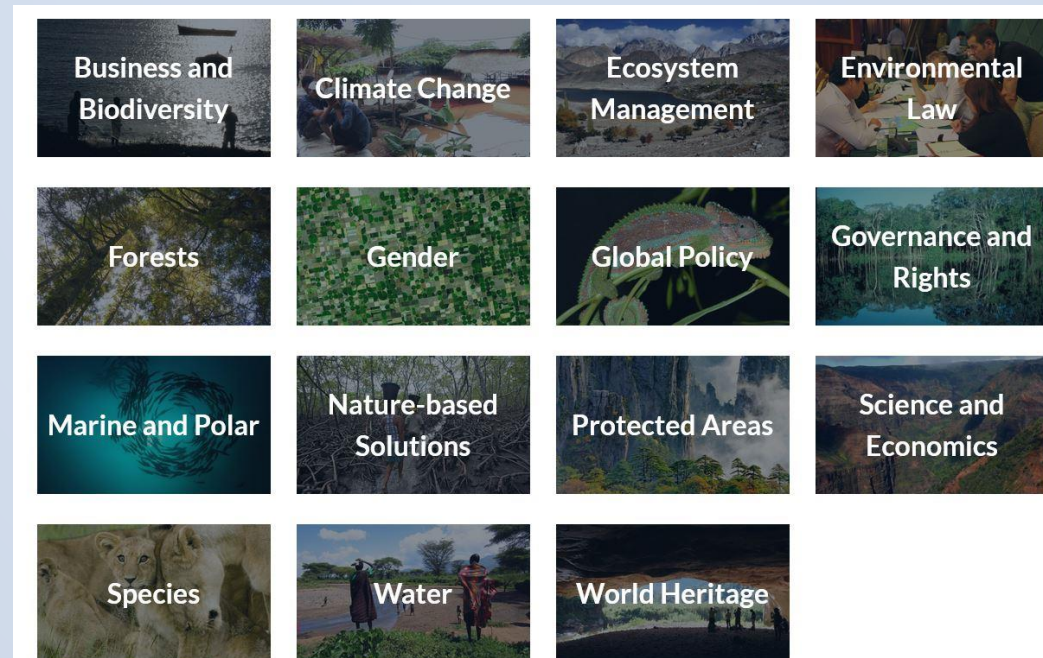
- **TRAINING:** ICCROM develops innovative educational programmes, tools and materials for conservation and restoration, and organizes professional training activities around the world. Since 1956, ICCROM has been engaged in delivering state of the art training to generations of conservators around the world.
- **INFORMATION:** ICCROM has one of the world’s leading conservation libraries. The catalogue contains over 120 000 books, reports and specialized journals in more than 70 languages. ICCROM also has a collection of over 200 000 images of sites and objects and various testimonies of its training, scientific and field activities over the years. In addition, this website offers comprehensive information on international events and training opportunities in the field of conservation-restoration.
- **RESEARCH:** ICCROM influences the research agenda of cultural conservation institutions, coordinates the knowledge sharing, and creates stimulating and collaborative environments where researchers can meet.
- **COOPERATION:** ICCROM encourages international, interregional and interdisciplinary cooperation by gathering diverse experts and institutions from around the world to offer technical advice, education and training, and to carry out site visits.
- **ADVOCACY:** ICCROM is dedicated to raising awareness and support for conservation and restoration at all levels, from global bodies to governments to communities. The organization provides technical assistance to its Member States through sharing teaching materials, information, workshops and training opportunities.

THE WORLD HERITAGE CONVENTION (1972)

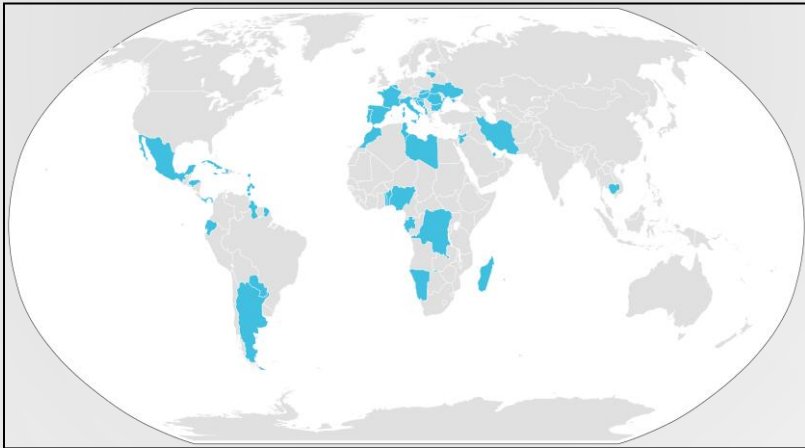
IUCN

INTERNATIONAL UNION FOR THE CONSERVATION OF NATURE

- IUCN is the official advisor on nature to the UNESCO World Heritage Committee. IUCN evaluates sites nominated for the World Heritage List and monitors the state of conservation of listed sites. IUCN aims to improve the management of World Heritage sites and enhance the role of the World Heritage Convention in nature conservation and sustainable development
- “IUCN is a membership Union composed of both government and civil society organisations. It harnesses the experience, resources and reach of its more than 1,400 Member organisations and the input of more than 18,000 experts. This diversity and vast expertise makes IUCN the global authority on the status of the natural world and the measures needed to safeguard it.
- IUCN works across a wide range of themes related to conservation, environmental and ecological issues.



6. THE JURIDIC FRAMEWORKS ON UNDERWATER CULTURAL HERITAGE



<http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/>



CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE (2001)

The UNESCO Convention on the Protection of the Underwater Cultural Heritage, adopted in 2001, is intended to enable States to better protect their submerged cultural heritage.

The Convention

- sets out basic principles for the protection of underwater cultural heritage;
- provides a detailed State cooperation system
- provides widely recognized practical rules for the treatment and research of underwater cultural heritage.

The Convention consists of a main text and an annex, which sets out the "Rules for activities directed at underwater cultural heritage".

Main principles

•**Obligation to Preserve Underwater Cultural Heritage** - States Parties should preserve underwater cultural heritage and take action accordingly. This does not mean that ratifying States would necessarily have to undertake archaeological excavations; they only have to take measures according to their capabilities. The Convention encourages scientific research and public access.

•***In Situ* Preservation as first option** - The *in situ* preservation of underwater cultural heritage (i.e. in its original location on the seafloor) should be considered as the first option before allowing or engaging in any further activities. The recovery of objects may, however, be authorized for the purpose of making a significant contribution to the protection or knowledge of underwater cultural heritage.

•**No Commercial Exploitation** - The 2001 Convention stipulates that underwater cultural heritage should not be commercially exploited for trade or speculation, and that it should not be irretrievably dispersed. This regulation is in conformity with the moral principles that already apply to cultural heritage on land. It is not to be understood as preventing archaeological research or tourist access.

•**Training and Information Sharing** - States Parties shall cooperate and exchange information, promote training in underwater archaeology and promote public awareness regarding the value and importance of Underwater Cultural Heritage.

The 2001 Convention neither regulates the ownership of wrecks nor does it change existing maritime zones.

CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE (2001)

Art. 1

- provides a definition of underwater cultural heritage in accordance with a temporal criterion of 100 years of underwater permanence

Art. 2 (3)

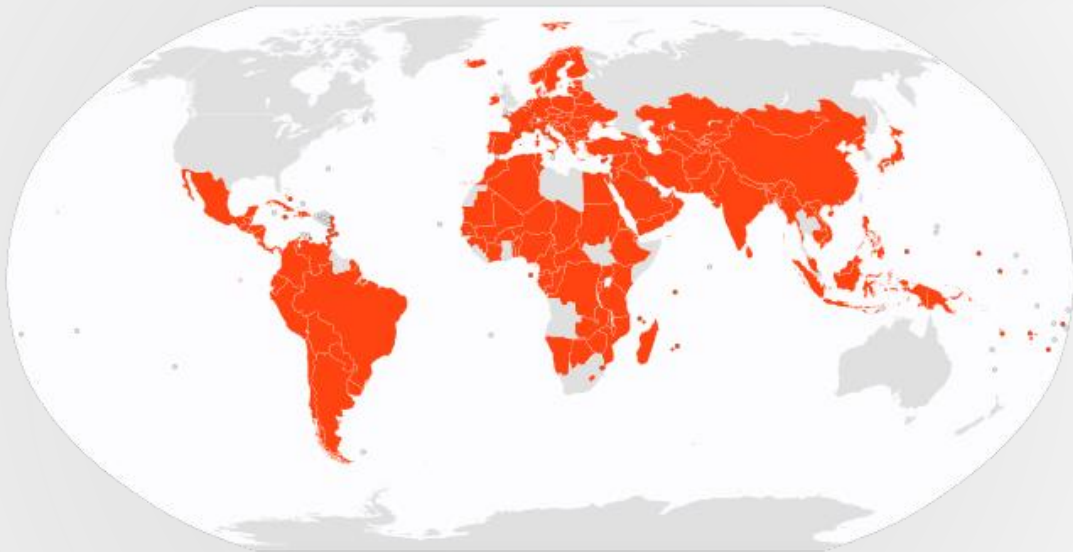
- underwater cultural heritage is to be protected in situ in the general interest of humanity and that State Parties must cooperate to this end

Art. 9 and 11

The Underwater Heritage Convention does not alter the system of coastal zones established by UNCLOS (Territorial Sea, contiguous zone, Archipelagic Waters, Continental Shelf and Exclusive Economic Zone) but commits States Parties to regulate activities related to underwater heritage in accordance with the code of best practices fixed in the Annex Underwater Heritage Convention. The Underwater Heritage Convention also requires that States Parties shall ensure that ships flying their flag notify the discovery of cultural heritage (Flag of Ships), or the intention to proceed to underwater archaeological research, to a designated national authority—in the case of activities in the continental shelf or in the exclusive economic zone (Art. 9), or to the Director General of UNESCO, in the case of discoveries or research activities located in the area (Art. 11; Marine Scientific Research). These notifications are intended to enable the Director General of UNESCO to inform all States Parties of the discovery or of the engagement in research so as to permit all potentially interested States to make a statement of interest and to be consulted.

<http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/>

7. THE IMMATERIAL/INTANGIBLE ASPECTS OF CULTURAL HERITAGE



<https://ich.unesco.org/en/home>



FIRST MEASURES ON THE ICH BY THE UNESCO



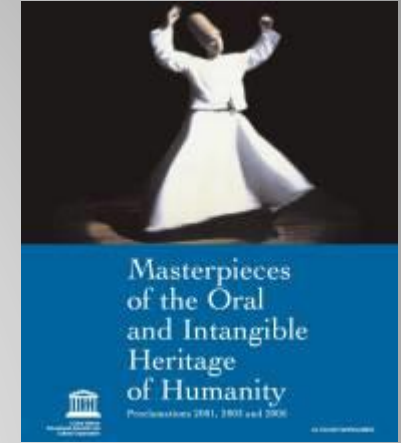
Recommendation on the Safeguarding of Traditional Culture and Folklore, 1989

- http://portal.unesco.org/en/ev.php_URL_ID=13141&URL_DO=DO_TOPIC&URL_SECTION=201.html



Guidelines for Human Living Treasures, 1994

- aimed at stimulating national legislation to safeguard ancient skills, arts, and crafts in danger of disappearing:
<https://ich.unesco.org/en/living-human-treasures>



Programme on the Proclamation of the Masterpieces of Oral and Intangible Heritage, 1997

- aimed at selecting forms and places of celebration of cultural traditions of outstanding value for humanity:
<https://ich.unesco.org/en/proclamation-of-masterpieces-00103>

CONVENTION FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE, 2003

<https://ich.unesco.org/en/convention#>

Definition of intangible heritage provided by Art. 2

- the “intangible cultural heritage” means the practices, representations, expressions, knowledge, skills—as well as the instruments, objects artefacts and cultural spaces associated therewith—that communities, groups and, in some cases individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity’.

Establishment of a Committee (Art. 5)

- “An Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, hereinafter referred to as “the Committee”, is hereby established within UNESCO. It shall be composed of representatives of 18 States Parties, elected by the States Parties meeting in General Assembly”.

List representative of the intangible heritage of humanity, and of a list of items in need of ‘urgent safeguarding’

- “Article 16 – Representative List of the Intangible Cultural Heritage of Humanity: In order to ensure better visibility of the intangible cultural heritage and awareness of its significance, and to encourage dialogue which respects cultural diversity, the Committee, upon the proposal of the States Parties concerned, shall establish, keep up to date and publish a Representative List of the Intangible Cultural Heritage of Humanity.”

THE CONVENTION ON THE PROTECTION AND PROMOTION OF THE DIVERSITY OF CULTURAL EXPRESSIONS, 2005

The adoption of the 2005 Convention for the Protection and Promotion of the Diversity of Cultural Expressions was a milestone in international cultural policy. Through this historic agreement, the global community formally recognised the dual nature, both cultural and economic, of contemporary cultural expressions produced by artists and cultural professionals. Shaping the design and implementation of policies and measures that support the creation, production, distribution of and access to cultural goods and services, the 2005 Convention is at the heart of the creative economy.

The **cultural and creative industries** are among the fastest growing sectors in the world. With an **estimated global worth of 4.3 trillion USD per year, the culture sector now accounts for 6.1% of the global economy**. They generate annual revenues of US\$ 2,250 billion and nearly **30 million jobs worldwide, employing more people aged 15 to 29 than any other sector**. The cultural and creative industries have become essential for inclusive economic growth, reducing inequalities and achieving the goals set out in the 2030 Sustainable Development Agenda.

Recognizing the sovereign right of States to maintain, adopt and implement policies to protect and promote the diversity of cultural expression, both nationally and internationally, the 2005 Convention supports governments and civil society in finding policy solutions for emerging challenges.

Based on human rights and fundamental freedoms, the 2005 Convention ultimately provides a new framework for informed, transparent and participatory systems of governance for culture.

<https://en.unesco.org/creativity/convention/texts>

THE CONVENTION ON THE PROTECTION AND PROMOTION OF THE DIVERSITY OF CULTURAL EXPRESSIONS, 2005

The 2005 Convention aims to support:



GOVERNANCE
FOR CULTURE

National policies and measures promote creation, production, distribution and access with regard to diverse cultural goods and services and contribute to informed, transparent and participatory systems of governance for culture.



FLOWS AND
MOBILITY

Preferential treatment measures facilitate a balanced flow of cultural goods and services and promote the mobility of artists and cultural professionals around the world.



SUSTAINABLE
DEVELOPMENT

Sustainable development policies and international assistance programmes integrate culture as a strategic dimension.



HUMAN
RIGHTS

International and national legislation related to human rights and fundamental freedoms promote both artistic freedom and the social and economic rights of artists.

<https://en.unesco.org/creativity/convention/texts>