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Implementing Archaeological Conservation During American Nation-Building Efforts

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Implementing Archaeological Conservation During American Nation-Building Efforts

Abstract

This thesis seeks to define best practices for implementing the conservation of archaeological sites as part of a broader system of cultural heritage protection within the framework of United States nation-building efforts. The ransacking of the Baghdad Museum, plus the widespread looting of the Iraq's archaeological sites, makes it clear that measures for cultural property protection within the United States government military framework deserve a critical analysis. First, the importance of protecting cultural property during armed conflict will be examined from a historical and military perspective. Next, previous American nation building attempts are discussed to give a sense of the general circumstances within which conservation activities are to be conducted. Specifically, Iraq will be analyzed as a prime example of the necessity of cultural heritage protection and the damage that can be inflicted on archaeological heritage when such protection is not included as part of larger operational planning framework. Then, what the United States has done and is currently doing in response to the ratification of the Hague Convention and the destruction of cultural property in Iraq are explored. After that, internationally-accepted best practices of archaeological conservation are provided as a framework for evaluating current endeavors and planning those for the future. Finally, recommendations will be made on how the government, specifically the Department of Defense and the State Department, can institute measures for the conservation of archaeological heritage during the planning process of nation building operations.

Keywords

Historic Presevation, Archaeological Conservation, Nation-Building

Disciplines

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Comments

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IMPLEMENTING ARCHAEOLOGICAL CONSERVATION DURING AMERICAN NATION-BUILDING EFFORTS

Meaghan Colahan

A THESIS
in
Historic Preservation

*Presented to the Faculties of the University of Pennsylvania in Partial Fulfillment of the Requirements of
the Degree of*

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Meaghan Colahan

May 2010

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Cultural Heritage Protection

Background

The protection of cultural heritage is the mission of many international organizations throughout the world, for example UNESCO and the International Committee of the Blue Shield, and has inspired legislation in virtually all countries. "Cultural heritage," by its vast and subjective nature, is difficult to define. It encompasses physical objects, structures, landscapes, and remains as well as practices, beliefs, and rituals that are more difficult to document. UNESCO is considered a standard-setter in the field of cultural heritage protection because they shape national and international attitudes and legislation through their conventions and declarations. In the 1954 *Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict*, UNESCO defines tangible cultural heritage, more commonly known as cultural property, as "monuments, groups of buildings, and sites of outstanding universal value from the point of view of history, art, or science."¹ UNESCO's efforts are founded on the concepts that all cultures contribute to the heritage of mankind as a whole, and that cultural property is one of the most basic elements of a civilization, so that cultural property is an irreplaceable physical record of mankind's heritage.²

¹ Toman, Jiri. *The Protection of Cultural Property in the Event of Armed Conflict*. Paris: UNESCO Publishing, 1996. p 41. Though the Hague Convention deals with immovable property, there are other provisions for the protection of movable property, such as works of art and archives (cf. UNESCO, *Convention on the Means of Prohibiting the Illicit Import, Export, and Transfer of Ownership of Cultural Property*. Adopted at the Sixteenth Session of the General Conference, November 14, 1970.).

² Toman, 40-41.

Cultural heritage is generally associated with the nation within whose borders it is located, although localized indigenous groups who claim descendency from past cultures are often considered stewards of that heritage. Beyond national identity, however, there is also international recognition of the idea of “world heritage,” specific sites or landscapes that are of “outstanding interest” to the heritage of humankind as a whole, and thus belong more to the world rather than any single nation or cultural group.³ Archaeological sites are often looked at with such importance for many reasons. For instance, many different modern cultures can trace their history and influence back to a single ancient culture, so the remains of such cultures retain a sense of history that surpasses modern borders. In addition, archaeological sites often represent civilizations that no longer exist, and their physical record may offer the only direct way to learn about their people and culture.

The protection of cultural property is considered an issue of international importance because the “deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world.”⁴ UNESCO’s Hague Convention and its Additional Protocols are the most relevant documents concerning the protection of cultural property, including archaeological sites, in times of armed conflict.

³ UNESCO, Preamble to the *Convention Concerning the Protection of the World Cultural and Natural Heritage*. Adopted at the Seventeenth Session of the General Conference, November 23, 1972.

⁴ Ibid.

Historical Perspective

There has been broad recognition in Europe of the international importance of monuments and works of antiquity since the sixteenth century.⁵ Philosophers at the time generally believed that any means were justified in the pursuit of military victory, including the intentional destruction of enemy sites and monuments, but it was stressed that any wanton destruction not directly related to securing victory was abhorrent and contrary to “natural law.”⁶ During Napoleon’s campaigns, France was often criticized for appropriating the artistic and cultural works of the countries they conquered based on the idea of a pan-European culture of arts and sciences, the physical remains of which could not be said to belong to any one nation.⁷

As tourists began pouring into Egypt and Mesopotamia during the late eighteenth century, the value placed on historic and architectural sites and monuments in Europe expanded to include those of the rest of the world as well. The 1874 *Draft International Regulations on the Laws and Customs of War* (also known as the Brussels Declaration), the first (nonbinding) intergovernmental code of conduct for actions during the course of armed conflict, upheld the views of previous generations that attacking undefended civilian areas was to be avoided whenever possible unless their destruction was crucial to the cause of

⁵ O’Keefe, Roger. *The Protection of Cultural Property in Armed Conflict*. Cambridge: Cambridge University Press, 2006. p 8.

⁶ *Ibid.*, 10.

⁷ *Ibid.*, 15.

victory.⁸ Even during such bombardments, though, monuments and sites of cultural or artistic significance were to be protected as much as possible, and the pillaging of important works or artifacts was considered “particularly contrary to international law.”⁹ In addition, the Brussels Declaration compelled Member States under siege to place distinctive emblems upon any buildings of exceptional significance, and to inform the enemy of the emblem before fighting broke out.¹⁰ Works of cultural heritage were to be considered private property, and thus ineligible for seizure by an attacking or occupying army, and yet also occupied a position in the public domain as the property of all mankind.¹¹ The Brussels Declaration, though widely accepted and followed, received additional legitimacy when it was studied and adopted almost verbatim by the Institut de Droit International in 1880, whose version became known as the Oxford Manual.¹²

As military strategy and technology continued to evolve in the early twentieth century, so did the rules protecting cultural heritage. In 1907, the *Regulations Concerning the Laws and Customs of War on Land* (a.k.a. the Hague Rules; a preliminary version had been prepared at the First Hague Peace Conference in 1899) added binding legal weight to the Brussels Declaration and included an article (Article 27) demanding the avoidance of direct or indirect

⁸ Ibid., 19.

⁹ Ibid., 21.

¹⁰ Toman, 9.

¹¹ O’Keefe, 21-2.

¹² Toman, 9-10.

damage to cultural and historic sites during attacks, but again an exception was made in the case of military necessity.¹³ Nevertheless, it is worth noting that commanders, when choosing a course of action, are not required to keep the military gain proportional to the damage inflicted on cultural property; as long as any amount of gain is achievable, any damage or destruction is considered legally acceptable.¹⁴ In addition, the Hague Rules stipulate that it is the duty of those under attack to put distinctive signs on their protected monuments for the clarification of their attackers; however, if a country fails to do so, the attackers cannot claim that as a valid excuse for either the purposeful or accidental destruction of those monuments.¹⁵

The Hague Rules also lay out ground rules for protecting cultural heritage during belligerent occupation. It repeats that cultural property, even when owned by a government, is to be considered private property, and thus beyond seizure, destruction, or damage, even in the case of military necessity.¹⁶ Further, it states that any occupying power must follow the letter of the law within the country it occupies; this, of course, applies to regulations regarding preservation, too.¹⁷

¹³ O'Keefe, 24. The *Convention Concerning Bombardment by Naval Forces in Time of War* (1907) included an article (Article 5) identical in purpose to Article 27 of the Hague Rules.

¹⁴ *Ibid.*, 24.

¹⁵ *Ibid.*, 30.

¹⁶ *Ibid.*, 31. Toman, 11.

¹⁷ O'Keefe, 32.

The realization of the idea of “total war” during World War I, where civilian centers often became the primary targets of extensive aerial bombardment, raised a critical need for more stringent measures of protection for sites of cultural heritage. Churches, specifically, were often targets because their steeples and bell towers made them ideal positions for snipers.¹⁸ Armies on all sides were guilty of taking advantage of the provision for military necessity by using it as an excuse to justify any damage inflicted on cultural property, avoidable or not.¹⁹ In 1923, a set of relatively stringent rules were drafted governing aerial bombardment (the *Hague Draft Rules of Aerial Warfare*) that demanded a proportionate military gain for inflicting damage on cultural and civilian centers, but these rules were never formally recognized.²⁰ Also introduced in the so-called Air Rules was the option for nations, in times of peace, to institute areas of special protection up to 500 meters wide around areas of particular cultural richness that would render them immune to any sort of attack; the only caveat is that nothing in the area could relate in any way to the home nation’s military activity (including armament storage, operating military industrial factories, etc.).²¹

Even before World War I, Nikolai Roerich, the renowned Russian artist, writer, and philosopher, advocated international legislation specifically aimed at

¹⁸ Ibid., 37-8.

¹⁹ Ibid., 38.

²⁰ Ibid., 45-6. Toman, 14-6.

²¹ O’Keefe, 47.

the protection of cultural property (in times of peace and war) rather than tacking articles to that effect onto broader guidelines for military conventions.²² In 1930, Georges Chklavar, inspired by Roerich's views and encourage by him, circulated a draft of such a treaty to the League of Nations and the Pan-American Union (now known as the General Secretariat of the Organization of American States); in 1935, the latter ratified the *Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments*.²³ Known more commonly as the Roerich Pact, it remains in effect in eleven American nations today, including the United States.²⁴ The Roerich Pact is similar to previous treaties with certain key differences. Most importantly, attacks against protected sites are allowed only in such cases where the site is used in direct support of a nation's military; attacks based on the grounds of simple military necessity are prohibited.²⁵ It also required member nations to identify and report on protected sites within its boundaries in time of peace, a list of which would be circulated to the other member nations.²⁶

The vast destruction of cultural property during the Spanish Civil War (1936-39) finally spurred the League of Nations into following the example of the Pan-American Union and preparing a treaty protecting cultural property during conflict, called the *Preliminary Draft International Convention for the Protection of*

²² Ibid., 51.

²³ O'Keefe, 52. Toman, 16.

²⁴ O'Keefe, 52.

²⁵ Ibid., 52.

²⁶ Ibid., 52.

Historic Buildings and Works of Art in Times of War (1938). Learning from World War I and the inability of the Hague Rules at the time to properly prevent the destruction of important cultural property as military technology continued to evolve, the new legislation sought to render such destruction moot by removing any military advantage it could generate.²⁷ It did this first by narrowing the scope of protection from moveable cultural property and any building devoted to the arts, sciences, or education to strictly moveable cultural property (and presumably the building where it was located) and important historic monuments.²⁸ Further, it included articles requiring member nations to file a report of their protected sites, similar to the system included in the Roerich Pact, but went further by requiring them to also develop plans during peacetime for the emergency protection of those sites in the event of war.²⁹ In addition, the Preliminary Draft also drew on the Air Rule's idea of a 500 meter buffer zone around demilitarized areas of cultural significance; however, it was acknowledged that urban centers of high artistic or architectural value could never be completely protected by such buffer zones without neutralizing the entire city, so damage in these areas was almost inevitable.³⁰ The Draft was also the first legislation to attempt to protect cultural property during internal conflicts by entitling member nations to offer their assistance in housing

²⁷ *Ibid.*, 55.

²⁸ *Ibid.*, 56.

²⁹ *Ibid.*, 56-7.

³⁰ *Ibid.*, 58.

moveable objects or providing technical support to protect sites and monuments to any other member nation experiencing a civil war.³¹

Unfortunately, the conference scheduled for the adoption of the Preliminary Draft was prevented by the German invasion of Poland in 1939, and the Hague Rules (and the equivalent measures regarding naval and aerial attacks) remained the only binding legal accord for the protection of cultural property for the duration of World War II. The drastic increase both in the destructive capabilities of aerial bombardment and its use by both sides in attacking civilian centers laid waste to cultural property across Europe and Japan.³² While the Allies and the Axis all claimed to be avoiding the deliberate destruction of the others' cultural property, incidental damage, especially during aerial attacks, was accepted as a necessary side effect of waging a war where military targets included anything that would diminish the enemies' war-waging capabilities in the slightest.³³ The idea of military gain being proportional to damage inflicted was not discarded completely, but the proportionality was based largely on the perceived (and obviously subjective) importance of the property in question and the political repercussions of damaging it.³⁴

The Allies instituted certain special protective measures designed to increase the protection of cultural property, especially during belligerent

³¹ Ibid., 60.

³² Ibid., 62.

³³ Ibid., 64.

³⁴ Ibid., 65-6.

occupation, with mixed success.³⁵ Largely, these measures prohibited Allied armies from using designated artistically important buildings in occupied areas for any purpose without the express written consent of the Allied Commander-in-Chief or the General Officer Commanding-in-Chief, and also enabled Commanders to protect, at their discretion, historic sites in their areas by declaring them off-limits.³⁶ The German looting and devastation of monuments, museums and private collections in their occupied territories, especially the Soviet Union, was widespread and has been well-documented;³⁷ nevertheless, at the beginning of their occupation of Western Europe (namely France and the Netherlands) they also took pains to protect certain historic buildings and sites similar to the measures taken by Allied forces.³⁸ After the war, Alfred Rosenberg was chief among German officials charged (and, in this case, convicted) of actions contrary to the Hague Rules regarding the treatment of cultural property, specifically the confiscation of private art and antiquity collections and the deliberate destruction of public monuments.³⁹

The *Convention for the Protection of Cultural Property in the Event of Armed Conflict* (the Hague Convention) was drafted as the fallout was still settling from World War II. Today, 123 nations spanning the globe have ratified the Hague

³⁵ Ibid., 77-9.

³⁶ Ibid., 78-9.

³⁷ cf. Nicholas, Lynn. The Rape of Europa. New York: Knopf Doubleday Publishing Group, 1994.

³⁸ O'Keefe, 83.

³⁹ Ibid., 88-9.

Convention, including the United States (the most recent nation to join).⁴⁰ It is the most recent of a long line of treaties and conventions that sought to protect cultural property as the rules and realities of war shifted over time. Many of these earlier legislative tools are still legally binding and relevant today, and are referred to explicitly in the Hague Convention as such; therefore, knowledge of them (and of the earlier documents that, in turn, informed their creation) confers a more thorough understanding of the rules and regulations contained in the Convention.⁴¹

Militaristic Perspective

The experiences of the Department of Defense in the culturally-rich nations of Iraq and Afghanistan have given the organization as a whole a broader appreciation for the intrinsic operational benefits of protecting cultural property during nation-building.

An excellent example of how cultural property protection directly benefits American troops is the military's efforts to stem the illegal antiquities trade in Iraq. It is widely accepted within the Department that the illegal trafficking of antiquities in Iraq funds the insurgency there in the same way that the opium trade directly funds Al Qaeda in Afghanistan.⁴² Providing archaeological sites

⁴⁰ UNESCO keeps an ongoing tally of Member States online at <http://portal.unesco.org/la/convention.asp?KO=13637&language=E>

⁴¹ Toman, 13.

⁴² Rush, Laurie and Matthew Bogdanos. "Protecting the Past to Secure the Future: The Strategic Value of Heritage Training." *Joint Forces Quarterly*. Issue 53 (2nd quarter, 2009). pp. 126-7. p 126.

with better protection, then, directly inhibits the insurgents' ability to obtain antiquities, and thus deprives them of funding.

Much of the benefits, though nevertheless important, are more indirect than that. For instance, insurgents in Afghanistan were proven to be using cemeteries as locations for weapons caches as recently as 2008.⁴³ This takes advantage of the rules of engagement of American troops which directs them to avoid operations which could potentially damage culturally sensitive locations.⁴⁴ By conducting drills in mock-ups of cemeteries and other cultural sites built on American bases, soldiers can gain experience operating in those locations which enables them to better perform their missions once deployed and removes the insurgents' advantage.⁴⁵

The advantages extend off the battlefield as well. The American embassy in Kabul was forced to stop construction on the U.S.-funded Afghan Defense Intelligence Headquarters in 2007 upon the expressed outrage of the international community at the damage inflicted on the c. 5th century citadel at Bala Hissar.⁴⁶ The delays lasted months and caused over \$2 million to be misspent.⁴⁷ Mistakes like that compromise not just the Department's reputation

⁴³ Ibid., 126.

⁴⁴ Ibid., 126.

⁴⁵ Ibid., 126.

⁴⁶ Ibid., 126.

⁴⁷ Ibid., 126.

among the general public, but its ability to open new military installations abroad.⁴⁸

All of these experiences have led Maj. Gen. Robert Scales (Ret.) to believe that the wars in Iraq and Afghanistan, and likely the next several wars to come, are “psycho-cultural” wars shaped by human amplifiers, as opposed to the technology-driven wars of the 20th century.⁴⁹ “Culture awareness and the ability to build ties of trust will offer protection to our troops more effectively than body armor.”⁵⁰ He states that future wars will be won by capturing the high ground of public perception as much as the geographical high ground, and envisions a military that heavily emphasizes cultural immersion in pre-deployment training.⁵¹

Most interestingly from the point of view of conservation, Scales envisions partnerships between the military and members of the social sciences (i.e. psychologists, sociologists, anthropologists) on par with those currently found between the military and physicists, chemists, and other members of the “hard” sciences.⁵² There is potential to incorporate archaeologists and conservators within a broader range of academics recruited to provide the military with information on the “psycho-cultural” aspects of a given military theater.

⁴⁸ Ibid., 126.

⁴⁹ Scales, Robert, Maj. Gen. (ret.). “Clausewitz and World War IV.” *Military Psychology*. Vol. 21, No. S1 (January 2009). pp. S23-S35. p S26.

⁵⁰ Ibid., S27.

⁵¹ Ibid., S27, S28.

⁵² Ibid., S34-5.

Legal Mechanisms for the International Protection of Cultural Property

The National Historic Preservation Act and its Application Overseas

The National Historic Preservation Act of 1966 (NHPA) is federal legislation designed to protect historic sites and monuments in the United States and during American actions abroad.¹ It established the National Register of Historic Places and lays out the process for getting sites or monuments inscribed on the Register. The best-known part of the Act is Section 106. The declaration of the policy of the federal government, outlined in Section 2, states clearly that the United States, “in cooperation with other nations... and in partnership with... private organizations and individuals,” will

- (1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;
- (2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations...
- (3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations; [and]
- (4) contribute to the preservation of non-federally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means.

¹ Much of the NHPA relates directly to the administration of historic resources inside the United States, and thus falls outside the scope of this paper. Only sections relating to international activities will be discussed in this paper.

In the United States, most of the policies laid out in Section 2 are carried out in each state by a State Historic Preservation Office (SHPO). The SHPO is responsible for submitting National Register nominations, ensuring Section 106 compliance in its respective state, administering Federal preservation assistance grants, and providing public information and education on preservation issues.² The Secretary of the Interior is empowered to grant money for the preservation of World Heritage buildings, demonstrations of professional preservation techniques, and training programs to increase professional preservation skills.³ Section 101(h) requires the Secretary to consult with other federal offices, like the Department of Defense, to create professional preservation standards within those organizations. Section 101(i) requires the Secretary to make available “training in, and information concerning, professional methods and techniques for the preservation of historic properties” to other nations and international organizations pursuant with the World Heritage Convention (see National Center for Preservation Technology and Training). However, Section 102(a) stipulates that all grants must be congruent with a requesting state’s comprehensive preservation plan; there is no mention of the process for foreign nations or international organizations. The National Trust for Historic Preservation, though, is waived from those requirements; presumably any

² National Historic Preservation Act of 1966. 16 U.S.C. 470 (2006), Section 101 (b)(3)

³ Ibid., Section 101 (e)(3)(A)

international grants, then, would need to go through them.⁴ Section 106 states that all projects implemented by Federal agencies, or those which require Federal licensing, must analyze the effect of that project on any and all historic resources prior to any Federal funds being released.

Section 110(2) requires Federal agencies to establish a program within their organizations responsible for the preservation of historic resources. Section 110(2)(j) provides a waiver for compliance with the Act if the respective program or project is designed to mitigate a threat to national security. Section 112(a) states that Federal agencies are responsible for seeing that the preservation activities of its employees and contractors meet the standards set by professional organizations in fields like archaeology, planning, and conservation, as well as standards set by the Office of Personnel Management (OPM), the government organization tasked with setting standards for the qualifications pay grades of federal employees. They do this by defining job series, for example Engineer, which are then broken down into specializations, i.e. Civil or Structural Engineer.

Strangely, there is no categorization for conservators, archaeological or architectural, under the current OPM classification system. The classification description for the Archaeology Series, which lacks any specializations, states that Federally-employed archaeologists “develop, administer, supervise, or conduct scientific studies of the tangible products (artifacts, structures, sites, etc.)

⁴ Ibid., Section 102(b)

of the past seeking to develop valid knowledge of the how and why of human behavior of the past within the context of the natural and cultural settings in which it occurred.”⁵ This includes conducting excavations, performing traditional research and interpretive functions, and performing laboratory analysis of artifacts. An archaeologist’s actual tasks within a Federal agency could include drafting scopes of work for and monitoring the work of contracted archaeologists, ensuring Section 106 compliance, or serving in an advisory capacity.⁶

The classification also says archaeologists can be responsible for the physical preservation of historic ruins and buildings.⁷ However, the official qualifications listed for an archaeologist do not include any measures for either preservation or conservation; the requirements are a four-year archaeology degree that includes field work training and the study of archaeological theories and methods, as well as analytical techniques for the study of artifacts and sites.⁸ In addition to listing qualifications, the classification includes a section on positions that are officially excluded from the Archeology Series. Often, though, they include the caveat that if a position’s required skills are used in conjunction with archaeological skills, that position can be classified as Archeology. (For example, surveyors are normally classified under the Survey Technician Series,

⁵ U.S. Office of Personnel Management. “Position Classification Standard for Archeology Series, GS-0193.” July 1983. p 3.

⁶ Ibid., 3.

⁷ Ibid., 3.

⁸ Ibid., 9.

but if the position calls for someone to survey an archeological site and thus requires a strong knowledge of archeology, that position would be classified under Archeology.)⁹ Nevertheless, it is possible to be a professionally-qualified archaeological conservator without having completed a four-year degree in archaeology; adding a specialized classification for conservation under the broader Archeology Series (and under the Architecture Series, which lacks any measure for architectural conservators) would enable Federal agencies employing conservators to better evaluate them.¹⁰

Section 113 demands that the Secretary research and report on methods to stem the rampant international trade in antiquities after consulting with pertinent Federal and private organizations by 1994. Section 201 establishes the Advisory Council on Historic Preservation whose duties, outlined in Section 202, including advising the President and Congress on preservation issues and reviewing the preservation policies of Federal agencies.

Section 403 establishes the National Center for Preservation Technology and Training, tasked with cooperating with professional organizations like ICOMOS to “develop and distribute preservation and conservation skills and technologies for the identification, evaluation, conservation, and interpretation of prehistoric and historic resources” among Federal employees involved in

⁹ Ibid., 5-9.

¹⁰ In addition, the NHPA requires the OPM to update their qualifications for all applicable fields, including archaeology. However, the date on the classification found on the OPM’s website is dated 1983.

preservation efforts. Section 405 authorizes the Center to distribute grants for projects or programs related to preservation technology or training.

An Addendum, added in 1980, relates to international Federal preservation concerns and contains two additional sections. Section 401 states that the Secretary is in charge of facilitating United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage.

Section 402 states that “Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.” The full legal extent of this Section was tested in the United States District Court, Northern District of California in 2008 in the case *Dugong v. Gates*.¹¹ The Department of Defense planned to build a military air station in Okinawa, Japan within the boundaries of the habitat of the Okinawan dugong. The dugong, a critically-endangered marine mammal, is listed as a Natural Monument on Japan’s Register of Cultural Properties due to its long-standing cultural importance to the people of Okinawa. The Department of Defense

¹¹ *Okinawa Dugong v. Gates*. N.D.Cal. C-03-4350 (2008).

argued that since the American National Register does not include animals, it is not equivalent to the Japanese Register of Cultural Properties. However, Judge Marilyn Hall ruled in favor of the dugong, stating that the Japanese Register is equivalent in intent, and thus subject to Section 402 of the NHPA. The ruling set the precedent that Federal agencies, even at the highest level, are responsible for complying with the NHPA during all overseas projects, and implies that agencies would benefit from a thorough understanding of the national measures for cultural heritage protection in all of the areas where they operate.

Advent of the Hague Convention

The United Nations Educational, Scientific, and Cultural Organization (UNESCO) was founded in 1946, not long after the end of World War II and barely a month after the charter of the United Nations took effect. Article 1(c) of its constitution mandates that it “maintain, increase, and diffuse knowledge” through the protection and conservation of the world’s cultural property “and recommending to the nations concerned the necessary international conventions.”¹² In 1949, the Director-General was tasked by the General Conference to develop just such an international convention; after five years and three gatherings of experts, a draft convention was prepared, based largely on the *Preliminary Draft International Convention for the Protection of Historic Buildings*

¹² United Nations Educational, Scientific, and Cultural Organization. *Constitution of the United Nations Educational, Scientific, and Cultural Organization*. Adopted November 16, 1945.

and Works of Art in Times of War.¹³ The Intergovernmental Conference on the Protection of Cultural Property in the Event of Armed Conflict convened at The Hague in the Netherlands on April 21, 1954.

The main point of contention at the conference recalled the strategy of the creation of the Preliminary Draft of 1938: figuring out the best way to maximize participation in the treaty by minimizing restraints on military activity while still providing the maximum possible protection to cultural property.¹⁴ The end result, as the president of the conference described it during his closing remarks, is not a detailed map but a series of coordinates that will help Member States guide their own way.¹⁵ The *Convention for the Protection of Cultural Property in the Event of Armed Conflict*, along with the *Regulations for the Execution of the Convention* and an optional Protocol (known as the First Protocol), was signed on May 14, 1954.

Summary of the Convention for the Protection of Cultural Property in the Event of Armed Conflict

Preamble

The Preamble of the Convention lays out UNESCO's justification for the protection of cultural heritage. It begins with a reference to the devastation experienced during the two World Wars due to the increase in the destructive

¹³ O'Keefe, Roger. *The Protection of Cultural Property in Armed Conflict*. Cambridge: Cambridge University Press, 2006. p 92-3

¹⁴ *Ibid.*, 93.

¹⁵ *Ibid.*, 93.

capabilities of military technology. Further, it states that the cultural heritage of any people is a contribution to the heritage of the world, and thus is deserving of national and international protection, preparation for which should begin in times of peace. Specific reference is made to the Hague Rules and the Roerich Pact as guiding principles in the drafting of the Convention.

Chapter I

Article 1 defines “cultural property” as it is to be understood for the purposes of the Convention:

movable or immovable property... 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.

Also included are the buildings within which the moveable property is contained, for example a museum. The second Article goes further in defining the “protection” of such property, believing it comprises both the physical safeguarding and the attitude of respect extended towards cultural property. Safeguarding is to be undertaken by each Member Party within its own territory during times of peace; however, should a Member fail to accomplish this, it is not a valid excuse for any damage caused by another nation. Extending respect towards cultural property, as defined in Article 4, means refraining from using such property for purposes that would expose it to damage or from causing

deliberate damage through acts of hostility; however, as in previous legislation, allowances are made for military necessity. It also means preventing the theft or looting of cultural property. A prohibition on reprisals against an enemy's cultural property is also included; one assumes this is a specific reference to the incredible damage caused by the retaliation of armies during both World Wars, as any intentional damage caused by reprisals would already be barred unconditionally by the conditions of Article 4(1) regarding the deliberate damaging of cultural property.

Actions during the occupation of one Member Party by another are regulated by Article 5. The occupying power is required to respect and support, as far as possible, the efforts of the national authorities of the occupied Member Party in regards to the protection of cultural property. Should these authorities be unable to carry out those efforts, the occupying power is obligated to provide the necessary measures of protection. Further, the government of the occupied power is compelled to communicate to any resistance groups in the occupied territory the necessity of complying with the rules of protection outlined in the Convention.

Article 7 reinforces the idea of preparing for compliance during peacetime by requiring Member Parties to properly educate the members of their armed forces in the importance of respecting cultural property during war, and to designate specialists within their military whose purpose is to coordinate

protection efforts both within the armed forces and between the military and civilian authorities whose task is the protection of cultural property.

Chapter II

Similar to previous treaties on cultural heritage protection, Article 8 of the Hague Convention allows for certain properties to be granted special protection, provided they are not used for military purposes and they are not located near anything that could be considered a military objective (i.e. important transportation centers or munitions factories). Exceptions can be made in the latter case if the objective is clearly and consistently not engaged in any military enterprises; this would include, in the case of ports, railway stations, etc., diverting traffic away from the area. Using armed guards on-site to protect cultural property is not enough to render that property a military objective. A center containing a high population of cultural property, however, can be classified as a military objective for several reasons, for example using the area as a transit route for armed forces or munitions, as housing for military personnel, or for the production of war materials. If property applies for special protection status, it is entered on the International Register of Cultural Property under Special Protection in accordance with the Regulations for the Execution of the Convention.

If a Member Party violates the regulations regarding special protection after a property has been inscribed on the International Register, for example by

using it for crucial military purposes, Article 11 states that its protection can be withdrawn. The Article stipulates that only a commander in charge of a division or more¹⁶ can establish if such purposes are truly necessary; if the decision is made by a Member Party that special protection is to be withdrawn, they are required to notify (in advance, if possible) the opposing party as well as UNESCO's Commissioner-General for cultural property. A Member Party can also choose to waive special protection status for a property, opening it up for military use, if it is attacked by the opposing party, although they are not required to do so.

Chapter III

The domestic or international transport of cultural property qualifies for special immunity under Article 12, according to the procedure laid out in the Regulations for the Execution of the Convention. In urgent cases where the Regulations cannot be followed, addressed in Article 13, the opposing party should be notified of the transport as far in advance as possible. All precautions should be taken by the Member Party and the opposing party to avoid damage to the items in transport. Article 14 assures that property protected by Articles 12 and 13, along with its necessary transportation equipment, are immune from seizure by the opposing party; however, the Article explicitly states that there is no prevention against searching the property.

¹⁶ In the United States, a division encompasses 17,000-21,000 soldiers and is led by a Major General.

Chapter IV

Article 15, the only Article in this Chapter, addresses personnel assigned to the protection of cultural property. If they are under the control of the opposing party, their duties are not to be interfered with as long as the properties they are responsible for are also in under the control of the opposing party. Nevertheless, Member Parties are only required to abide by this as long as it does not conflict with their security interests.

Chapter V

This Chapter defines and regulates the application of a special protective emblem that can be applied to properties qualifying under Articles 6, 10, and 12. Member Parties are allowed, under Article 6, to apply the emblem to any cultural property they choose, but Articles 10 and 12 require them to apply it to properties and transports under special protection, respectively. In relation to Article 13, the urgent transport of cultural property can use the emblem even if special protection has not been granted as long as it was not applied for and denied. The emblem can also be used, according to Article 17, to designate the personnel addressed in Article 15. When it indicates special protection, as in Articles 10 and 12, the emblem is repeated three times; otherwise, it is used singularly. The emblem must be accompanied with a signed and dated authorization from the relevant member of the government of the Member Party. The use of the emblem in any other manner is expressly forbidden.

Chapter VI

Article 18 describes the application of the Hague Convention. Its rules govern any armed conflict involving two or more Member Parties, whether there is an official declaration of war or not. In addition, the Convention is in effect during occupation by a Member Party, even if there is no armed resistance to the occupation. The Convention also applies to the actions of Member Parties during conflicts where one or more of the nations are not a signatory, but only the actions of the Member Party. However, if a non-Member Party declares during a conflict that they agree to and accept the provisions of the Convention, the Member Party is required to respect their actions as those of another Member Party; for example, the Member Party would be bound to honor special protection signaled by three emblems even if the opposing party is not technically a Member.

If a domestic conflict occurs within the borders of a Member Party, addressed in Article 19, both sides are considered bound, in the very least, to the provisions of the Convention that relate to respecting cultural property. The Article also urges both sides to reach special agreements instating the rest of the provisions. Further, it allows UNESCO the right to offer its assistance to either side without effect to their legal status.

Chapter VII

{Articles 21 and 22 address the role of Protecting Powers. Allowances are made through Article 24 for Member Parties, during a conflict, to make special agreements regarding cultural property protection providing the agreements do nothing to decrease the level of protection given by the Convention.}

Member Parties, as stated in Article 23, have the option of requesting UNESCO's assistance in developing and implementing their plans for executing their compliance with the Hague Convention, and UNESCO reserves the right to offer its assistance unsolicited. After its implementation, Article 25 requires Member Parties to make the text of the Convention publicly available in their respective countries and to encourage its study both in the military and in civilian institutions with the aim of making its principles widely known among the general population. Article 28 stipulates that any infractions of the Convention are to be handled by the judicial branches of the Member Party within whose jurisdiction the offense took place.

Parties must submit their official translations of the reports to the Director-General of UNESCO, as stated in Article 26. That article also obligates Member Parties to submit reports at least once every four years that detail any measures being contemplated or enacted that relate to the execution of the Convention or its Regulations. The Director-General has the right, at any time, to convene a meeting of the Member Parties to discuss any problems or issues regarding the Convention or its application, and he is compelled to do so if a

minimum of one-fifth of the Members request a meeting. This is laid out in Article 27, which also adds that a meeting can also be undertaken for the revision to the Convention if a majority of the Member Parties attends. However, Article 39 allows that if all Member Parties agree to accept or reject a proposed revision without convening, the decision will be respected and communicated by the Director-General. If at least one-third desire a meeting, though, the Director-General is required to convene one.

Final Provisions

According to Article 33, the Convention is enforced in a Member Party three months after its instrument of ratification is submitted to UNESCO. The Convention will be enforced immediately after ratification by a Member Party involved in any of the hostilities outlined in Articles 18 and 19, or if such hostilities begin before the allocated three months has expired, as explained by Article 34. Article 35 allows a Member Party to extend the provisions of the extension to any territories whose foreign relations the Party controls, with the same timetable for enforcement. Should a Member Party wish to denounce the Convention at any time, Article 37 says they must submit its denouncement to the Director-General in writing, and they will be released from its provisions after three months. If, however, the Party is involved in a conflict as defined in Articles 18 or 19, the Convention will remain in effect until the end of hostilities.

The Hague Rules and the Roerich Pact are addressed in Article 36. It states that all Parties who are also signatories of those conventions are required to abide by them, the only exception being that the emblems representing those treaties are to be replaced by that of the Hague Convention, should the need arise.

Summary of the *Regulations for the Execution of the Convention*

Chapter I

This chapter addresses a Member Party's appointment of personnel responsible for overseeing cultural heritage protection if that Party should enter into an armed conflict subject to the rules of the Hague Convention. Many of the Articles contained herein refer to a Member Party's appointed Protecting Power, a method of diplomacy common at the time of the Convention's creation, but which has since fallen largely out of use; it is worth noting that the office of Protecting Powers has never been used in the context of the Hague Convention.¹⁷ If two parties sever diplomatic ties, they have the option of appointing a Protecting Power, or a third state that serves as a go-between for conducting necessary business or relaying messages between the two parties, though they are not required to do so. For example, Switzerland serves as a Protecting Power between the United States and Cuba, who officially do not have any diplomatic relations. The Swiss embassy in each country has a section especially devoted to

¹⁷ Toman, Jiri. The Protection of Cultural Property in the Event of Armed Conflict. Paris: UNESCO Publishing, 1996. p 224. O'Keefe, 167.

the execution of that office. Internationally recognized rules regulating the appointment and role of Protecting Powers are can be found in a number of treaties, including the Vienna Convention on Diplomatic Relations (1961).¹⁸

Before the outbreak of hostilities, all Member Parties must submit to the Director-General of UNESCO a list of possible nominees in their country who are qualified to hold the post of Commissioner-General for Cultural Property, as laid out in Article 1. The Commissioner-General's job is to oversee the representatives for the cultural property situated in the Member Party's territory and for every foreign territory it occupies; the appointment of those representatives is required by Article 2(a). In addition to the representatives and the Commissioner-General, Article 2(b) and Article 3 state that if the Parties to the conflict have appointed Protecting Powers, that Power must appoint delegates from among its diplomatic or consular staff (or other persons, should the respective Member Party approve) to each Member Party it represents. In summation, then, the first part of Chapter 1 creates three representative positions for each Member Party: the Commissioner-General, territorial representatives, and a delegate for the Protecting Party.

Article 6 lays out the duties of the Commissioner-General, which are essentially supervising any and all matters relating to the application of the Hague Convention within all territories under the control of his or her Member

¹⁸ Toman, 224.

Party. This includes ordering and conducting investigations, writing and filing reports, and, most importantly, executing the responsibilities assigned to Protecting Parties by the Convention if the Member Party chooses not to designate one. Should a Member Party find itself without a Protecting Party, Article 9 requires the Commissioner-General to appoint inspectors to carry out the functions assigned to the delegates of a Protecting Party.

Chapter II

The application of the special protection referred to in the Convention is covered in Chapter II. Article 11 expands on the responsibilities of the Commissioner-General begun in Article 6, specifically relating to the establishment of emergency refuges for moveable cultural property. Should a Member Party find it necessary to create such a refuge, it is up to the Commissioner-General to decide whether it is merited and to authorize the placement of the special emblem described in Article 16 of the Convention. He must let the delegates of the Protecting Powers that are involved know of his decision, and they have 30 days to object. Assuming the delegates agree to the special protection or if the 30 day time limit expires, the Commissioner-General is responsible for contacting UNESCO's Director-General to have the refuge inscribed on the International Register of Cultural Property under Special Protection.

The creation of that Register, which is the duty of the Director-General after he has received a list of nominations from the Member Parties, is mandated by Article 12. After its creation, the Director-General must divide the list into sections by Member Party, and then subdivide it into sections for Refuges, Centers Containing Monuments, and Other Immovable Cultural Property. As laid out in Article 13, all Member Parties, as well as the Secretary-General of the UN, receive a copy on the Register, and Member Parties also receive any applications for registration to comment on as they are received by the Director-General.

There are only two valid reasons, listed in Article 14, for objecting to inscription on the Register: that it is not cultural property or that it does not comply with the guidelines given in Article 8 of the Convention. In either case, the objection must be filed with the Director-General within four months, and then the Member Party seeking registration (or the Director-General himself) has a chance to make a case for the property's inscription. If their objection is not withdrawn, the Parties involved have the option to begin arbitration or to allow the rest of the Member Parties to vote on the matter either through a meeting of all the Parties or via sealed letters sent to the Director-General. If a Member Party should enter into an armed conflict while a decision on its registration request is still being made, the property is entered provisionally on the Register until a final decision can be reached. Article 16 lists two ways an officially inscribed

property can be removed from the Register: at the request of the Member Party who controls it, or if that Member Party denounces the Convention.

Chapter III

In addition to the duties laid out above, Article 17 describes the responsibilities of the Commissioner-General in terms of arranging the emergency transport of cultural property as allowed by Article 12 of the Convention. The request for special transport originates from the appropriate government officials of the Member Party, and must include the complete logistics for the transport; this includes what precisely is to be transported, how, when, where it is currently located and its eventual destination. Should he approve, the Commissioner-General must then communicate the plan to the Member Parties and the delegates of the Protecting Powers. Then, he appoints inspectors who will verify the contents and transport methods and accompany the property on its travels.

Article 18 affects the transportation of the property out of the territory of the responsible Member Party. The property can only be returned at the end of the armed conflict which necessitated its removal. If the property's destination is within a nation that is not a Member Party to the Convention, that nation must accept, at the very least, the provisions of the articles concerning the transport and housing of the property in question. Further, it "shall extend to it as great a measure of care as that which it bestows upon its own cultural property of

comparable importance,”¹⁹ including the decision to responsibly move the property to a third party if its safety warrants it, following the rules of its original transport. Under Article 19, however, Member Parties occupying territory within the boundaries of another Party are allowed to move property from the occupied territory to somewhere within their original territory if the safety of the property is in question, even if they are not able to follow the procedures laid out in Article 17 of the Regulations.

Chapter IV

The final chapter of the Regulations regards the application of the special protective emblem. Article 20 leaves degree of visibility and manner of affixing the emblem to each Member Party, though it requires that it be visible from both the ground and the air when it is used on vehicles transporting cultural property. It must be placed at regular intervals around the perimeter of a center containing monuments and at the entrance to cultural property under special protection. Personnel responsible for the protection of cultural property, as mentioned in Article 17 of the convention, can be issued armbands and photographic identification cards bearing the emblem to ensure they are allowed access and rights to the property under their supervision, even if it is under the control of the opposing Party.

¹⁹ United Nations Educational, Scientific, and Cultural Organization. *Regulations for the Execution of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*. The Hague, 1954. Article 18(a).

Ratification of the Hague Convention by the United States

The United States signed the Hague Convention on the first day it was open for signature (May 14, 1954) but it was not put in front of the Senate Foreign Relations Committee to ratify until January 6, 1999.²⁰ At that time, the First Protocol was also presented for ratification, although that still has not been achieved. The Convention was originally submitted to President Bill Clinton on May 12, 1998 by Strobe Talbot, representing the Department of State and the Department of Defense.²¹ He stated, very clearly, that “U.S. military forces have not only followed but exceeded [the Convention’s] terms in the conduct of military operations.”²² He quoted General Dwight D. Eisenhower in regards to the importance of protecting cultural property during conflict, as long as it is not at the cost of American lives: “Nothing can stand against the argument of military necessity... But the phrase ‘military necessity’ is sometimes used where it would be more truthful to speak of military convenience or even personal convenience.”²³ This sentiment is certainly in perfect keeping with the spirit and focus of the Convention. Talbot continued to promote the protective measures instituted by the armed forces, citing specifically the creation of a “no-strike” list of cultural property in Iraq during the First Gulf War.²⁴

²⁰ U.S. Congress Senate Foreign Relations Committee. “Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.” May 14, 2008. Treaty 106-1. p iii.

²¹ Ibid., p vii, x.

²² Ibid., p vii.

²³ Ibid., p viii.

²⁴ Ibid., p viii.

Talbot included in his letter four understandings that were included in the eventual ratification instrument delivered to UNESCO by the United States:

“1. It is the understanding of the United States of America that ‘special protection’, as defined in Chapter II of the Convention, codifies customary international law in that it, first, prohibits the use of any cultural property to shield any legitimate military targets from attack and, second, allows all property to be attacked using any lawful and proportionate means, if required by military necessity and notwithstanding possible collateral damage to such property.

2. It is the understanding of the United States of America that decisions by military commanders and others responsible for planning, deciding upon, and executing attacks can only be judged on the basis of their assessment of the information reasonably available to them at the relevant time.

3. It is the understanding of the United States of America that the rules established by the Convention apply only to conventional weapons, and are without prejudice to the rules of international law governing other types of weapons, including nuclear weapons.

4. It is the understanding of the United States of America that, as is true for all civilian objects, the primary responsibility for the protection of cultural objects rests with the party controlling that property, to ensure that it is properly identified and that it is not used for an unlawful purpose.”²⁵

After reading Talbot’s submittal, the President chose to write a Letter of Transmittal putting the matter before the Senate. In it, he fully endorsed Talbot’s views and urged the Senate to ratify the treaty immediately. He further explained that the perceived problems with the Hague Convention that kept the United States from ratifying it for fifty years never materialized in the application

²⁵ Ibid., p ix-x. The understandings are almost identical to those submitted to UNESCO in 2009; Paragraph 2 contains a minor change in wording, but its meaning is the same.

of the Convention internationally over that time, and the small issues remaining raised by certain ambiguities in the language of the Convention were not enough to delay its ratification any longer.²⁶ The Letter also expressed his belief that ratifying the Convention would further legitimize the military's long-standing commitment to the respect of cultural property, which was already in practice in many of their policies.²⁷ Included as an additional incentive, the President reminded the Committee that a review process of the Convention was underway at UNESCO, and ratifying it ensured that the United States would have a voice in steering any revisions that may be proposed; as it turns out, that review led to the creation of Protocol II of the Hague Convention on March 26, 1999.²⁸ To date, the United States has not begun consideration of the ratification of Protocol II.

On April 15, 2008, the Senate Foreign Relations Committee held a public hearing regarding and heard two official testimonies concerning the ratification of the Convention. Neither testimony endorses ratification of the First Protocol, and it is unclear at what point its ratification was abandoned. One was by Charles A. Allen, a Deputy General Counsel for International Affairs for the Department of Defense. Allen repeated Talbot's claims that the policies and practices of the United States military were in complete compliance with the Hague Convention, despite its lack of ratification because of certain concerns

²⁶ Ibid., p iv.

²⁷ Ibid., p iv.

²⁸ Ibid., p iv.

regarding its application.²⁹ He noted that the Department of Defense changed its mind and became a supporter of ratification in 1992 after the experience of the First Gulf War and informed the State Department as much.³⁰ Lastly, he endorsed ratification subject to the inclusion of the understandings laid out previously by Talbot.³¹

The second official testimony was by John B. Bellinger, a Legal Adviser for the State Department. He began by addressing the fact that it had taken over fifty years for the Hague Convention to reach the Senate, despite the United States having signed it in 1954.³² He simply stated that such complex legal documents required a great deal of thought and review to make sure they were truly in the country's best interest, and essentially implied that it was better late than never.³³ Bellinger put a great deal of stress on the notion that ratifying the treaty would increase our presence and improve our reputation in the broader field of international humanitarian law, which includes laws relating to cultural heritage protection, and noted the Convention's endorsement by the American Bar Association.³⁴ He also specifically pointed out that ratification would encourage other nations to sign as well, and support the United State's position as an

²⁹ Allen, Charles A. "Testimony on the Law of Armed Conflict Treaties before the Senate Foreign Relations Committee." April 15, 2008. p 2.

³⁰ *Ibid.*, 2.

³¹ *Ibid.*, 3.

³² Bellinger, John. "Testimony on the Law of Armed Conflict Treaties before the Senate Foreign Relations Committee." April 15, 2008. p 2.

³³ *Ibid.*, 3.

³⁴ *Ibid.*, 3.

international leader.³⁵ He mentioned, briefly, both the First and Second Protocols, but says only that they require further review and thus could not be recommended at that time.³⁶ As of this writing, neither has been ratified.

³⁵ Ibid., 3.

³⁶ Ibid., 5.

Modern American Nation-Building Operations

Defining “Nation-Building”

The United States has a strong record of involvement in nation-building operations around the world, starting with the reconstruction of Germany and Japan after World War II. Generally defined, “nation-building operations” comprise all foreign operations wherein large numbers of American troops are deployed with the aim of overthrowing an existing foreign regime – or supporting it against armed opposition – and American military and civilian personnel become involved in the political administration of the target country.¹ Because the United States plays such an integral role in the reform or establishment of administrative departments within those countries, however, it is important that the protection of cultural property is considered a priority not just during the initial armed conflict, but during redevelopment efforts as well.

Nation-building operations can be multilateral, involving multiple individual countries or an international organization like the United Nations, or unilateral, where one country takes on all or most of the cost and troop commitments. Usually, though, nation-building operations fall somewhere along a spectrum between the two rather than being strictly one or the other. For example, the United States has taken primary responsibility for military

¹ After Minxin Pei, et al. “Building Nations: The American Experience,” in Nation-Building: Beyond Afghanistan and Iraq. Francis Fukuyama, ed. Baltimore: Johns Hopkins University Press, 2006.

operations in Afghanistan, but the United Nations has contributed police and humanitarian aid.

Modern nation-building began with the restructuring of West Germany and Japan in 1945-1952 after the close of World War II. Both achieved a level of success unparalleled by any subsequent operations. During the Cold War, competition between the United States and the Soviet Union led most military operations to be containment measures to maintain stability in geographically strategic locations or to prevent the spread of Soviet influence. Other than the prolonged wars in Korea and Vietnam, most US missions were short-term peacekeeping missions, like those in Panama and Grenada. Peacekeeping is much more limited in scope than nation-building, as it focuses primarily on halting the conflict, separating and disarming the combatants, and monitoring ceasefires without the broader goals of national reform. Between the end of World War II and the end of the Cold War in 1989, the United States launched a new military objective, on average, once a decade. Since 1989, however, that rate has increased to about once every two years. The average length of these recent interventions is between five and ten years. Nation-building operations comprise the bulk of these modern interventions.

American Nation-Building Operations since the Cold War

Every nation-building operation, whether successful or not, imparts lessons, many of which are applicable to the protection of cultural heritage, that

should be learned and applied to future operations. However, there has been a puzzling disconnect between the lessons of the last operation and planning for the next. This is confusing since, though the situations in every nation to be rebuilt are unique, the resources and methodologies that can be employed by the intervening powers are mostly fixed. It would seem to make the most sense, then, to focus efforts and resources within the American government not on developing a new strategy for each operation, but to create a generalized, adaptable strategy that can be tailored to each new situation. That strategy should be based on the lessons learned in previous operations, starting with the ultimately unsuccessful American intervention in Somalia from 1992-1994.

The stated objective in Somalia was to monitor a ceasefire between two leading militants based in Mogadishu and to provide security for humanitarian operations that were under the control of the United Nations; the American government was very clear that they would not engage in security operations outside those necessary to protect humanitarian missions. However, it was soon apparent that the resources assigned to accomplish that mission were inadequate, and equally as apparent that the objective's scope would need to be expanded to ensure that Somalia would not slip back into anarchy. Furthermore, a lack of coordination between American- and UN-led efforts stymied the success of many of them because there was no clear unity of command to direct those efforts. Inadequately equipped and without the necessary domestic

political support to continue funding the operation, the United States removed their troops in 1993 before Somalia was properly stabilized.

The next year, the United States intervened in Haiti following a military coup led by General Raul Cedras that ousted the country's president, Jean-Baptiste Aristide, in 1991. Three years of diplomatic pressure and economic sanctions were not enough to ensure the restoration of the Aristide administration, though they did cause a further decline in Haiti's already troubled economy. Finally, the threat of an imminent invasion led General Cedras to permit an American-led multinational force (MNF) to enter the country and reinstate Aristide in 1994. The primary goal of the MNF was to provide a secure operating environment for the Aristide administration to reestablish itself, working on a two-year timeline of commitment. The army – "corrupt, abusive, and incompetent"² – was providing the country's civil security in the absence of a civilian police force. Corruption and inefficiency were also rife in the Haitian parliament, bureaucracy, and judicial system, even inside the Aristide administration. Unfortunately, the two-year timeline, though successful in reinstating Aristide, was not long enough to accomplish the judicial, bureaucratic, and economic reforms needed to put Haiti on a path to political legitimacy and economic stability. Today, it remains the poorest nation in the Western Hemisphere.

² Dobbins, James, et al. America's Role in Nation-Building: From Germany to Iraq. Santa Monica: RAND, 2003. p 72.

The United States was a leading member in the NATO force deployed to Bosnia in 1995, while the operation in Haiti was still underway. After Bosnia-Herzegovnia declared independence from Yugoslavia in 1992, a civil war erupted between Serbs, Bosniacs (Muslims), and Bosnian Croats, with the former instituting a policy of “ethnic cleansing” against the others and seizing 70% of the country. In 1995, the warring parties signed The General Framework Agreement for Peace in Bosnia and Herzegovnia (known as the Dayton Accord). The agreement created two entities within Bosnia-Herzegovnia: the Federation of Bosnia and Herzegovnia (controlled by Bosniacs and Croats) and the Republika Srpska (a predominantly Bosnian Serb area).

The long-term goal of the intervening multilateral peacekeeping force was to establish Bosnia-Herzegovnia as “a fully functioning and sustainable democracy that could integrate itself as a member of democratic Europe.”³ Politically, reintegrating the country seemed almost impossible. It had self-segregated into regions controlled by Croats, Bosniacs, or Serbs and the first elections returned wartime leaders to office. An additional challenge faced by the intervening forces was in stamping out the network of organized crime with ties to paramilitary groups that rose to power in the political, economic, and security vacuums born at the end of active fighting.

³ Ibid., 92.

The UN and NATO, responsible for civil and military affairs respectively, did not share a unity of command, which led to gaps in the reconstruction strategy and a case of the left hand not knowing what the right was doing. Eventually, the Office of the High Representative to the United Nations was forced to implement political reforms that have put Bosnia-Herzegovnia on track towards a market economy and political stability. However, the central government remained constitutionally weak and UN peacekeeping forces remained in the country until 2004.

The objective of the multilateral mission in Kosovo was to force the Serbian military out of Kosovo and provide an international administration for the country until its final status could be determined. The high degree of international collaboration, combined with a successful unity of command during reconstruction operations, has made Kosovo one of the most successful modern American-led nation-building operations. After years of armed resistance against Serbian rule by the Kosovo Liberation Army, the international community felt compelled to intervene in 1998, first through diplomatic and economic sanctions, then through an intense NATO bombing campaign. The next year, Milosevic agreed to relinquish Serbian control of Kosovo, at which time it entered the stewardship of the UN (civilian affairs) and NATO (military affairs); learning from the lack of command unity in Bosnia, NATO and the UN worked closely together to synchronize their efforts. However, NATO had been

preparing for its intervention in Kosovo for months, and thus was able to deploy within a matter of hours; the UN, on the other hand, was only given a few days to prepare itself for its role in the reconstruction, and as a result was far less prepared. The protection of significant cultural and historic sites was put under the aegis of the military. Since the intervention, the country has drastically improved economically and is now a member of the IMF and the World Bank. Kosovo's independence as the Republic of Kosovo, officially declared in 2008 and recognized by China and 65 UN member states, is under dispute from Serbia and Russia, among others. Kosovo's Serbian minority also opposes independence. The International Court of Justice, following a UN General Assembly resolution, is currently in the process of determining an advisory opinion on the matter. The European Union maintains a civil administrative staff within Kosovo serving an advisory role to the government.

The United States intervention in Afghanistan, launched less than a month after the September 11, 2001 terrorist attacks, was largely unilateral, although it enjoyed tacit international support. Its goal was to eliminate al Qaeda's network in the country and eliminate its ability to plan and execute any future terrorist acts. Al Qaeda used its money and influence to support the Taliban regime, receiving in return a safe haven to train operatives and plan operations for their ongoing jihad against Western nations. The Northern Alliance, a Taliban resistance group within Afghanistan, was able to topple the Taliban regime in

November, 2001 with resources and aid from the American military. The government needed to be rebuilt virtually from the ground up at the local and national levels, and ethnic tensions further complicated the matter. Insurgency activities were rampant and much of the country remained unstable. The amount of the initial civil and military resources deployed proved largely inadequate to provide a stable and secure environment outside of Kabul. Despite a relatively swift return to democracy, widespread accusations of election fraud and a feeling of disenfranchisement among certain ethnic groups continue to provide a certain amount of political instability. The Taliban and al Qaeda exploit this instability to garner their own support and recruit new members. Furthermore, the executive branch, particularly President Hamid Karzai, engaged in a series of inflammatory actions in early 2010 designed to distance itself from the American government. Taliban remnants and al Qaeda still form a potent security threat, and the American military is in the process of increasing their presence throughout the country. Overall, the future success of Afghanistan as a prosperous, secure democracy free of the influence of the Taliban and al Qaeda remains very much in question.

Many of the resources that could have made a difference in Afghanistan were redirected towards the American invasion of Iraq.⁴ The operation was implemented in 2003 with the mandate to overthrow Saddam Hussein and

⁴ Dobbins, James, et al. The Beginner's Guide to Nation-Building. Santa Monica: RAND, 2007. p 221-2.

replace his regime with democracy that would hopefully spread throughout the rest of the region. A lack of international support put the brunt of the responsibility on the United States and the United Kingdom. Unfortunately, the US underestimated both the level of armed resistance they would encounter and the amount of governmental infrastructure that would need to be reorganized.

Furthermore, the Department of Defense took almost sole responsibility for planning not just the military phase of the operation, but that of civil restructuring as well, even though they lacked the knowledge and experience of the State Department in that area.⁵ Following the occupation of Baghdad, critics of the operation, like France and Germany, who now offered their assistance in rebuilding Iraq, were generally confined to marginal roles.⁶ However, the lack of a secure and stable environment in which to rebuild stymied any reconstruction efforts until 2007 after the well-publicized “surge” of American troops was able to turn the tide against organized insurgency.

Although power was turned over from the Coalition Provisional Authority to the Iraqi Interim Government in 2004, the elections held since then have been fraught with accusations of fraud that have called the legitimacy of the new government into question in the minds of many Iraqis. Much of this comes from ethnic tensions among Iraq’s Sunni, Shiite, and Kurdish populations and

⁵ Diamond, Larry. “What Went Wrong and Right in Iraq.” In Nation-Building: Beyond Afghanistan and Iraq. Francis Fukuyama, ed. Baltimore: The Johns Hopkins University Press, 2006. p 175. Dobbins 2007, 222-3.

⁶ Dobbins 2007, 225.

concerns in each group over their representation in the new government. Despite continued challenges, the effort to rebuild continues with a large a degree of success, and a timeline has been instated to remove virtually all American troops by the end of 2011.

Lessons Learned

Analyzing previous American-led nation-building operations provides a host of lessons learned that can be applied to the planning and execution of future operations, many of which affect the area of cultural property protection. First, a lack of initial preparation will inevitably manifest itself during the execution phase, most likely during the reconstruction efforts. Planning should include analysis not just of the governmental and military capabilities of the target nation, but also of ethnic or tribal boundaries and issues. Furthermore, analysis of the sensitivity of these issues should be conducted throughout the mission, not just at its outset. For instance, ethnic tensions between Albanians and Serbs in Kosovo led to the destruction by Albanians of scores of historic Serbian Orthodox churches, many dating to the 14th century, during a spurt of violence in March 2004.⁷ The churches, along with other cultural monuments, were purposefully targeted for destruction despite the presence of UN peacekeeping forces at several of them. There were allegations at the time that some of the forces did not do as much as they could have to protect the churches

⁷ Bjelajac, Branko and Felix Corley. "Kosovo: Nobody charged for destruction of Orthodox churches and monasteries." *Forum 18 News Service* <<http://www.forum18.org>>. Reported May 6 2004.

from attack.⁸ Regardless, the widespread devastation only served to further inflame ethnic tensions and to delay the onset of peace.

During the planning phase, the operation's objectives should be proportional to the military, economic, and political resources of the committed nations, or organizations of nations (i.e. UN, NATO). Operations have failed because political leaders failed to garner and maintain the popular support of the American people or because they did not allocate the necessary amount of troops to succeed. The American occupation of Iraq is an example of both. At the onset of the operation, governmental officials assured the American people, international allies, and the UN that Iraq possessed weapons of mass destruction. That claim was never substantiated, and it cost a great deal of popular trust and support. In addition, the amount of troops initially deployed was enough to successfully invade and occupy the country, but not enough to maintain a secure environment afterwards to foster the growth of democracy that was the operation's stated goal. Organized looting operations at archaeological sites have been linked back to the insurgency effort in Iraq, who sell the stolen artifacts to fund their anti-American ventures. Providing security at those sites, then, directly deprives the insurgency of a source of income, besides the obvious benefit of protecting archaeological heritage.

⁸ Ibid.

When planning for security, however, it should be remembered that there is a marked difference between military forces and civil security forces (police); they have different strengths and weaknesses, and deploying the proper level of both is necessary. The purpose of civil security forces is to enforce law and order, whereas the military's purpose is to create a secure environment wherein law and order can be enforced. Law enforcement is particularly important in nations with a strong element of organized crime. At archaeological sites, it makes the most sense to provide security via police instead of military forces. Looters will be the primary problem, but they can be deterred by a small security presence responsible for patrolling the site, which can also look for signs of looting and record any damage they come across.

Interagency cooperation and a unity of command are crucial to efficiently share information and coordinate efforts among the numerous actors on the military and civilian sides. There are few existing mechanisms for facilitating such cooperation.

Furthermore, authority should be transitioned from the intervening authorities to the target nation's authorities as quickly as is prudently possible - but it should by no means be rushed. Military and police forces must be reformed and trained, and the civil authorities at the local and national levels must be adequately paid to avoid corruption.

Iraq: The Catalyst for American In-Theater Preservation Efforts

The looting and ransacking of the National Museum in Baghdad in 2003 was a catalyzing event in the evolution of cultural property protection. Thieves took advantage of the immense security vacuum created after the fall of Saddam Hussein to strip the museum's collection of over 15,000 priceless pieces.⁹ In the opinion of Maj. James Cogbill of the Army, the destruction "represented a failure to adequately plan and prepare for protecting cultural sites during combat operations."¹⁰ It was not as if the military lacked warning: in 2002, prior to the invasion, Dr. Maxwell Anderson and Ashton Hawkins, then presidents of the American Association of Art Museum Directors and the American Council for Cultural Policy, respectively, wrote an article for the *Washington Post* calling on the American government to take all possible measures to protect the immense archaeological resources of Iraq.¹¹ During subsequent meetings following the article's publication, with Department of Defense officials at the Pentagon, the two men stressed the importance of preventing looting and expressed concern over the fate of the National Museum, which they considered "the most important cultural institution in Iraq."¹² The Department of Defense also met with Dr. McGuire Gibson, an expert on Near Eastern archaeology at the Oriental

⁹ Cogbill, James, Maj. "Protection of Arts and Antiquities during Wartime: Examining the Past and Preparing for the Future." *Military Review*. Jan-Feb 2008. p 30.

¹⁰ *Ibid.*, 31.

¹¹ Anderson, Maxwell L. and Ashton Hawkins. "Preserving Iraq's Past." *The Washington Post*, 29 November 2002. A43.

¹² Cogbill, 32.

Institute in Chicago, who recalls a state of disorganization and miscommunication regarding cultural property protection within the Department just prior to the invasion.¹³

The successful occupation of Baghdad happened more quickly than many in the Department of Defense expected, and the result was a complete security vacuum without the necessary coalition troops stationed there to fill it.¹⁴ The military allowed looters to run rampant as they dealt with the last remaining pockets of resistance.¹⁵ The response, or lack thereof, from senior Pentagon officials (especially from then-Secretary of Defense Donald Rumsfeld), has been criticized almost as well as it has been documented.¹⁶ The incident put a black eye on Operation Iraqi Freedom that was hard to recover from.

Nevertheless, under an interagency taskforce headed by Col. Matthew Bogdanos, which included members of the FBI, New York Police Department, and Immigration and Customs Enforcement, approximately one-third of the stolen antiquities had been recovered as of 2008.¹⁷ The State Department has been instrumental in securing the resources necessary to rebuild and modernize the museum.¹⁸

¹³ Ibid., 32-3.

¹⁴ Ibid., 32.

¹⁵ Ibid., 32.

¹⁶ Cf. Bogdanos, Matthew. Thieves of Baghdad. New York: Bloomsbury Publishing, 2005.

¹⁷ Cogbill, 33.

¹⁸ Ibid., 34.

Following the lessons learned during previous nation-building campaigns could potentially have saved the National Museum. For instance, it is widely accepted that the initial troop deployment to Iraq was too small for the job; it has been noted that initially there were barely enough troops in Baghdad to secure ammunition dumps and weapons caches, let alone the museum.¹⁹ The necessity of matching the available resources (money, manpower, political support) to the mission that needs to be accomplished is a lesson learned as far back as Somalia.

Furthermore, the Department of Defense should have sought more input from civilian agencies, especially the State Department.²⁰ At the time of his meetings at the Pentagon prior to the invasion, Dr. Anderson also met with State Department officials and felt that they had a much stronger grasp on the importance of protecting cultural sites, as one might expect, than their counterparts in the Department of Defense.²¹ The necessity of coordination between the civilian and military efforts during nation-building is a lesson dating from Bosnia.

Unfortunately, though, the National Museum was not the only cultural site damaged during the invasion. The site of Babylon, 60 miles south of Baghdad, Iraq, is an excellent case study for the unique challenges facing archaeological sites during all stages of the nation-building process.

¹⁹ Ibid., 34.

²⁰ Ibid.32, 34.

²¹ Ibid., 34.

Babylon is recognized as “one of the world’s most significant archaeological sites.”²² It is perhaps most widely known as the location of the biblical Tower of Babel as well as the Hanging Gardens built by Nebuchadnezzar (604-562 BCE), once considered one of the Seven Wonders of the World.²³ As a city, it rose to prominence under the reign of Hammurabi (1792-1740 BCE), the creator of one of the world’s earliest recorded legal codes.²⁴ During the Neo-Babylonian period (626-539 BCE), it grew to become the largest known city at that time.²⁵ Most of the excavations at the site, which have been going on in spurts since the turn of the 20th century, have focused on this period, though there are remains of earlier and later settlements as well.²⁶

Saddam Hussein, who ruled Iraq as president from 1979 until he was ousted in 2003 during the American occupation, increased his power through tactics like associating himself with historical figures from Iraq’s past.²⁷ Babylon was perhaps his most outrageous display of archaeological propaganda. The Iraqi government had begun its “Archaeological Restoration of Babylon” project

²² Gerstenblith, Patty. “From Bamiyan to Baghdad: Warfare and the Preservation of Cultural Heritage.” *Georgetown Journal of Law*. 37, 2. Winter 2006, p 295.

²³ United Nations Educational, Scientific, and Cultural Organization. *International Coordination Committee for the Safeguarding of the Cultural Heritage of Iraq, Sub-Committee on Babylon: Report on Damage Assessments at Babylon*. July 2009. Accessed at <http://unesdoc.unesco.org/images/0018/001831/183134e.pdf>. p 5.

²⁴ *Ibid.*, 5.

²⁵ *Ibid.*, 5.

²⁶ *Ibid.*, 5.

²⁷ Arnold, Bettina. “The Faustian Bargain of Archaeology Under Dictatorship.” In *Archaeology Under Dictatorship*, Michael L. Galaty and Charles Watkinson, eds.. New York: Kluwer Academic Publishing, 2004. p 203.

in 1978, before Hussein even took office, though it was not completed until he took a personal interest in the project in the 1980s.²⁸

Despite Babylon's wide acceptance as a site of world heritage, Hussein never applied for world heritage status during his reign, probably because his planned reconstructions had compromised its integrity.²⁹ The reconstructions, undertaken before the inaugural Babylon arts festival in 1987, pay little heed to archaeological evidence and are largely conjecture.³⁰ When he discovered that a previous ruler, Nebuchadnezzar II (c. 6th century BCE) had stamped his name and the year into the bricks of the portions of the site that he constructed, Hussein decided to do the same thing. He had bricks inscribed naming himself as "the guardian of the great Iraq and renovator of its renaissance," and even mentioned Nebuchadnezzar II.³¹ The reconstructions were on an enormous scale and also included modern amenities like a gift shop and restaurants. Giant mounds were also constructed so that gardens, reminiscent of Babylon's famous hanging gardens, could be built on top of them.³² Hussein allocated \$5 million for the project and had men working three shifts to finish it by his deadline.³³ At this time, before the Gulf War and UN sanctions because of Iraq's invasion of Kuwait, approximately 150,000 people a year visited Babylon (most of them

²⁸ *Damage Assessments*, 6.

²⁹ Gerstenblith, 295.

³⁰ MacFarquhar, Neil. "Hussein's Babylon: A Beloved Atrocity." *The New York Times*. August 19, 2003. A-11.

³¹ *Ibid.*

³² Barkho, Leon. "Iraq to Revive Babylonian Festival." *The Independent*. September 21, 1992. Accessed at <<http://www.independent.co.uk/news/world/iraq-to-revive-babylonian-festival-1552717.html>>

³³ MacFarquhar.

foreigners).³⁴ A few years later, in 1991, Hussein had a palace constructed on an artificial mound overlooking the site.³⁵ In 1992, during the Gulf War, he attempted to raise morale in a show of resistance against American attacks by reinstating the Babylon arts festival. The slogan, emblazoned on signs all over the site, was “From Nebuchadnezzar to Saddam Hussein, Babylon rises again.”³⁶

The American invasion of Iraq in 2003 resulted in the installation of an American military base, Camp Alpha, adjacent to the ruins and reconstructions of Babylon. The military installation at the site has served as the primary base for troops in central Iraq throughout the Second Gulf War.³⁷ The site of Babylon itself was only occupied until 2004 when it was returned to the State Board of Antiquity and Heritage (SBAH), but the neighboring base remains active.³⁸ It is worth noting that because the United States was not a party to the Hague Convention at the time of the invasion, they were not legally bound to protect the site. Troops stationed at the site rebuilt the gift shop and the looted museum as personal projects to improve the site.³⁹ But in July 2009, UNESCO released a report detailing the damage that had been done to the resources at the site.⁴⁰

³⁴ Barkho.

³⁵ MacFarquhar.

³⁶ Barkho.

³⁷ MacFarquhar.

³⁸ *Damage Assessments*, 6.

³⁹ MacFarquhar

⁴⁰ *Damage Assessments*

While it focuses mainly on damage inflicted after the occupation, it also details the problems caused by all of the extensive recreations.⁴¹

As the rebuilding of Iraq continues, American authorities have begun to transition power to the Iraqi government. Unfortunately, they appear unprepared to administer to the country's heritage. The UNESCO report claims there has been severe deterioration at the site stemming from SBAH's inability to maintain its buildings.⁴²

Today, the site finds itself embroiled in political controversy. The local provincial government of Babil has claimed ownership of the site and built a park that is popular with tourists.⁴³ However, the State Board of Antiquities and Heritage has the actual legal rights to the site, just not the power to exercise its rights.⁴⁴ The SBAH is also fighting against the Ministry of Tourism and Antiquities in a classic battle of preservation vs. tourism development. Former Prime Minister Nuri Kamal al-Maliki tended to support the Ministry's stance, looking to reopen historic and cultural sites "to convey the real, civilized image of Iraq" to increasing numbers of international tourists.⁴⁵ Little was done to prepare the site before reopening it in June, including building fences and signs

⁴¹ Ibid., 9-12

⁴² Ibid., 18.

⁴³ Myers, Steven Lee. "Babylon Ruins Reopen in Iraq, to Controversy." *The New York Times*. May 2, 2009. p A-14.

⁴⁴ Ibid.

⁴⁵ Ibid.

to guide visitors, so tourists rely on themselves when exploring the site.⁴⁶ Qais Hassan Rashid, acting head of the State Board of Antiquities and Heritage, sees the lack of preparation by the government as a symptom of ignorance. “Most of the people and some officials have no respect for heritage,” he claims. “They think archaeological sites are just a bunch of bricks that have no value at all.”⁴⁷ Archaeologists around the world protested the reopening, saying it just opens the site up to further damage without adequate security measures in place.⁴⁸

The Babil provincial government has also opened Saddam Hussein’s former palace as a museum-cum-hotel with much economic success.⁴⁹ Iraqi visitors to the site, who are the majority since foreigners are still hesitant to visit the country, are far more interested in the remains and reconstructions from Hussein’s era than they are in the ruins of Nebuchadnezzar. This heavily complicates interpretation at Babylon. Hussein stamped his mark heavily on Babylon (sometimes literally) to the point where it is hard to separate the remaining physical fabric. This speaks to the larger issue, though, of interpreting the history of conflict, especially one that is not yet officially over. The entire Iraqi occupation, and the United States in particular, was well-criticized internationally at its inception. Perceptions around the world are still mixed today.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

Resources for Best Practices in Archaeological Conservation

Background

As a discipline, the conservation of immovable heritage is relatively new. Its principles, though only formally established in the 20th century, date back to the 19th century debate over restoration: whether it is a necessary process of restoring aesthetic unity (whether or not such a unity ever actually existed), as espoused by Eugene Emmanuel Viollet-le-duc, or whether, as advocated by John Ruskin and William Morris, it should be discarded entirely in favor of preserving all chapters in the history of the building.¹ Cesare Brandi, a prominent art historian and critic, was one of several writers to tackle this discrepancy of reconciling historical and aesthetic values and whose work heavily influenced the evolution of modern conservation theory and practice.²

Today, several national and international organizations exist to provide standards and best practices to conservation professionals working in a variety of specializations. One of the most important is the International Council on Monuments and Sites (ICOMOS), founded in 1964, which is the only international non-governmental organization dedicated to the protection and conservation of architectural and archaeological heritage with national chapters found in countries around the world. ICOMOS has also established committees

¹ Matero, Frank. "Conservation of Immovable Cultural Property: Ethical and Practical Dilemmas." *Journal of the American Institute for Conservation*. Vol. 32, No. 1 (Spring, 1993). pp. 15-21. p 15.

² Cf. Brandi, Cesare. Theory of Restoration. Giuseppe Basile, ed. Cynthia Rockwell, trans. Florence: Nardini, 2005.

dedicated to specific areas of conservation; for instance, the International Council of Archaeological Heritage Management (ICAHM). That council was established by ICOMOS in 1985 at the urging of Henry Cleere, a leading theorist and practitioner of archaeological conservation.³

UNESCO has also served an important role in disseminating the importance of cultural heritage preservation among its Member States, both through the Hague Convention and through other, non-legislative standards and documents. The organization's 1972 *Convention concerning the Protection of the World Cultural and Natural Heritage*, created with the assistance of ICOMOS, established the World Heritage List that recognizes sites of international cultural importance. Inscription on the list makes financial and technical assistance for preservation available to the Member State who is responsible for the site.

National non-governmental organizations like the American Institute for Conservation of Historic and Artistic Works in the United States and the Institute for Conservation in the United Kingdom provide standards and training for conservators working within their respective countries. There are also several private organizations, prominent in the conservation field, offering similar resources to professionals. The Getty Conservation Institute in California is an internationally-focused foundation within the J. Paul Getty Trust that works collaboratively with governments and other organizations on field projects that

³ Biornstad, Margareta. In Archaeology and Society: Large scale rescue operations – their possibilities and problems. Gustaf Trotzig and Gunnel Vahlne, eds. Stockholm: ICAHM, 1989. p 13.

address a recognized need within the conservation community. They also regularly publish bibliographies, case studies, and articles free on their website and host public lectures and workshops.

General Principles for the Conservation of Immovable Heritage

The conservation of historic buildings, sites, landscapes, and monuments – the general categories of immovable heritage – is part of the broader field of historic preservation. Given the extensive number of activities that fall under the category of “preservation,” however, it can be difficult to arrive at any single definition of its purpose. It is certainly “more than simply the protection of older buildings,” in the words of one author, as modern preservation practice really seeks to protect the values (historical, cultural, spiritual) associated with a building as opposed to the building itself.⁴ Conservation science is the branch of preservation that acts directly upon the physical remains of a structure.

Salvador Munoz-Villa clearly stated the basic assumptions on which the practice of conservation is based: “that Truth must prevail, and that Truth must be determined by scientific methods.”⁵ It is certainly true that a conservator must employ proper scientific methodology during all steps of the conservation process. First, scientific investigation and analysis of materials on-site and in a laboratory verifies the appearance and performance of a structure used to look at

⁴ Tyler, Norman, Ted Ligibel, and Ilene Tyler. Historic Preservation: An Introduction to its History, Principles, and Practice. New York: W. W. Norton & Co., 2009. p 15.

⁵ Munoz-Villa, Salvador. “Contemporary Theory of Conservation.” In Streeton, Noelle, ed. *Reviews in Conservation*. No. 3 (2002). pp. 25-34. p 27.

a given point in time, which in turn affects its methods of intervention. Next, the published results of case studies and lab analyses must be referenced to determine which treatments and techniques are most appropriate. Lastly, ongoing to monitoring is necessary to assess the success or failure of a given intervention after its application.⁶

Before that first step can begin, however, the conservation team must determine the appropriate historical interpretation. Often this is driven by the significant values applied to a site in discussion with the culture, or cultures, it is associated with; this is most often the country within which the site is located or, in some cases, indigenous groups associated with the site or culture. The values are derived from a number of sources, most commonly the site's history, context, use, or design. It is the responsibility of the conservator to ensure that no part of the conservation process at a site has a harmful effect on its integral values.⁷

At an archaeological site, however, conservators need to be involved before the excavation process even begins.⁸ This may seem difficult as archaeologists are rarely able to predict what they will uncover during an excavation. Nevertheless, environmental hazards, like rain or even simple exposure to the atmosphere, can have immediate deleterious effects on exposed

⁶ After Munoz-Villa, 27.

⁷ American Institute for Conservation of Historic and Artistic Works. "Defining the Conservator: Essential Competencies." 2003. Available at http://www.conservation-us.org/_data/n_0001/resources/live/definingcon.pdf. p 4.

⁸ Stubbs, John H. "Protection and Presentation of Excavated Structures." In Conservation on Archaeological Excavations, N. P. Stanley Price, ed. Rome: ICCROM, 1984. p 79.

materials.⁹ Involving a conservator from the very first stages ensures that the proper resources are earmarked for potential conservation activities once excavation begins.¹⁰

Documents have been created by several conservation organizations that provide best practices for the conservation of immovable heritage, including some dedicated specifically to archaeological sites. In addition, further guidance can be secured by looking at the best practices established for other disciplines, for instance archaeology. Some of these have been summarized and discussed below.

International Charter on the Conservation and Restoration of Monuments and Sites

The *International Charter on the Conservation and Restoration of Monuments and Sites*, better known as the Venice Charter, was created during the Second Congress of Architects and Specialists in Historic Buildings in 1964. Its goal was to codify principles relating to the preservation of ancient monuments and sites to serve as a uniform guide for professionals in the growing field of historic preservation. The Second Congress also led to the creation of the International Council on Monuments and Sites (ICOMOS). The Venice Charter continues to

⁹ Price, Nicholas Stanley. "Excavation and Conservation." In Conservation on Archaeological Excavations, N. P. Stanley Price, ed. Rome: ICCROM, 1984. p 2.

¹⁰ *Ibid.*, 3.

serve as the foundation for their work and is widely accepted as the standard for the practice of architectural and archaeological conservation.

Preamble

The Preamble provides the underlying values informing the creation of the Charter and is similar to the Introduction of the Hague Convention. It states that the importance of monuments and sites, along with the responsibility to protect them for future generations, is commonly recognized; however, it places the impetus on individual nations for implementing such protection within the frameworks of their own governments and cultures. It acknowledges the contributions of the Athens Charter (1931), the first document to lay out those principles and to which the Venice Charter was meant to be a successor.

Definitions

The first Article defines a historic monument as not just a single architectural work, but as any landscape, urban or rural, that provides evidence of the developments or events of past cultures. Article 2 states that conservation and restoration are inclusive of all methods, in all disciplines, that relate to the study and protection of the heritage of the built environment.

Aim

The point of this section is to make clear that the value of monuments, that which is to be conserved and protected, lies as much in the historical evidence they provide as in their aesthetic merit.

Conservation

This is the first of two sections that deal explicitly with regulations regarding professional practice. It begins by stating that the conservation of a monument is dependent on its ability to be permanently maintained. Next, Article 5 asserts that while finding a useful purpose for a building or monument makes its conservation easier, the significant physical fabric should never be sacrificed to accommodate such use. Nor, according to Article 6, should the context of the site be changed by new construction or demolition, as a monument according to Article 1 is not just a singular work but a landscape dependent on “the relations of mass and color” surrounding it. By the same token, a monument should never be moved from its setting, and its significant decorative elements (paintings, sculpture, reliefs) should always be left intact, unless it is imperative to the monument’s safety.

Restoration

Restoration is carefully regulated by this section. It begins in Article 9 by defining restoration as the act of physically altering fabric “to preserve and reveal the aesthetic and historic value of the monument” based on historical evidence. All restoration, it further states, should begin and end with archaeological and historical studies. Any materials that must be recreated should be visually distinct from the original fabric and marked as modern in some way, actions that are reinforced by Article 12. Article 10 espouses the use of

traditional techniques during restoration activities where it is possible; where it is not, any proven modern technique is acceptable. However, Article 13 disallows the addition of any elements that detract from the monument itself, its site, or the relationship between the two.

Stylistic unity is rejected as an appropriate goal of restoration in Article 11, which states that “the valid contributions of all periods to the building of a monument must be respected.” In cases where there are layers of work from different periods, the removal of upper layers should only be conducted in cases where the underlying layers are of greater historical or artistic significance and are in a decent enough condition to warrant preservation. Such a determination should not be made by an individual alone, even if he is solely responsible for the monument.

Historic Sites

This section seeks to provide the same levels of care in the conservation and restoration of monuments, defined above, to any similar actions performed during the preservation of the rest of the site surrounding a specific monument.

Excavations

The first part of Article 15, the only Article in this section, points to UNESCO’s *Recommendation on International Principles Applicable to Archaeological Excavations* (1956) as the leading standard on conducting archaeological excavations. It then states that provisions for the permanent protection and

maintenance of architectural ruins are of the utmost importance, as is reaching an understanding of the monument that “reveal[s] it without ever distorting its meaning.” Reconstructions are prohibited, except in the case where existing materials can be reassembled; in such a case, all modern integration materials must follow the guidelines laid out by the previous sections.

Publications

In keeping with the principle that the importance of historic monuments lies in the knowledge they contain, Article 16 asserts that documentation in the form of publicly-available illustrated reports is a crucial step “in all works of preservation, restoration or excavation.” All steps should be documented along with the knowledge they uncover.

UNESCO’s Recommendation on International Principles Applicable to Archaeological Excavations

This Recommendation was drafted by the Ninth Session of The General Conference of UNESCO in 1956 to set international standards for domestic policies regarding archaeological excavations in each of the Member States. While much of the Recommendation applies to specific steps in the archaeological process that are outside the scope of this paper, there are several Articles applicable to the practice of archaeological conservation.

For the purposes of the Recommendation, an archaeological excavation is “any research aimed at the discovery of objects of archaeological character.”¹¹ The exact nature of the archaeological remains subject to protection by the Recommendation is left up to individual Member States, although it recommends that, at the very least, “any monuments and movable or immovable objects of archaeological interest considered in the widest sense” should be protected.¹²

Though the Recommendation admits that it is impossible to expect all Member States to adopt the same method of organizing archaeological protection within their borders, it does offer a list of qualities essential to the success of a nation’s archaeological administration. During nation-building, the national authority in charge of archaeology should be compared to this list to check for compliance; if one does not exist, any newly-created bureau should include all of the following qualities.

First, the administration must be endowed by national law with the authority to carry out the tasks assigned to it. It should cooperate with national universities and institutions who train archaeologists to ensure proper standards are maintained. A central database of documentation from the nation’s archaeological sites, historic monuments, and moveable cultural property should be established and maintained. The administration should be adequately funded

¹¹ Article 1

¹² Article 2

to support its services.¹³ The Recommendation also states that Member States occupying the territory of another nation should not undertake archaeological excavations in the occupied territory, but in the event of chance finds being made, all necessary steps should be taken to ensure their protection, preservation, and documentation. The latter is to be turned over to the authorities of the territory after the conflict, along with all artifacts.

In 1983, the International Centre for the Study of the Preservation and Restoration of Cultural Heritage (ICCROM) held a conference to discuss the Recommendation and its applicability to the field of conservation, and to suggest any changes to the Recommendation the participants felt were necessary.¹⁴ The first issue challenged was the definition of “excavation,” which they felt was inappropriate because it places emphasis on the discovery of objects, not the discovery of the information those objects provide.¹⁵ The participants also felt that field surveys, as an increasingly common non-destructive alternative to excavation, should be accounted for.¹⁶

Furthermore, the participants believed that the Recommendation implied that all excavated sites would remain exposed; as previously discussed, backfilling is the best way to preserve archaeological structures and only

¹³ Article 6

¹⁴ Cf. Price, N. P. Stanley, ed. Conservation on Archaeological Excavations. Rome: ICCROM, 1984.

¹⁵ Price, Nicholas Stanley. “Conservation on Excavations and the 1956 UNESCO Recommendation.” In Conservation on Archaeological Excavations, N. P. Stanley Price, ed. Rome: ICCROM, 1984. p 146.

¹⁶ *Ibid.*, 146.

significant sites that are to be presented to the public should be preserved above the ground.¹⁷ It was expressed that the Recommendation should address the need to evaluate whether or not a site should be left exposed.¹⁸

Better clarification was requested for Paragraph 8 within the official document, which states that “Prior approval should be obtained from the competent authority for the removal of any monuments which ought to be preserved ‘in situ.’”¹⁹ It was pointed out that the draft document clearly indicates that the point of this article is to prohibit the removal of layers above those of the most significance to researchers without proper documentation first; the problem stems mostly from the narrow English definition of the word “monument.”²⁰

Despite the flaws they found, the Cyprus conference participants were adamant in their belief that the Recommendation is a crucial document that has inspired legislation in a number of countries and is certainly a standard-bearer for the conduction of archaeological investigations around the world.²¹

ICOMOS: Charter for the Protection and Management of the Archaeological Heritage

As previously mentioned, the International Council on Monuments and Sites (ICOMOS) was founded as a result of the Second Congress of Architects and Specialists in Historic Buildings in Venice in 1964. Since then, ICOMOS has

¹⁷ Ibid., 148.

¹⁸ Ibid., 148.

¹⁹ Recommendation, para. 8.

²⁰ Price, 148.

²¹ Ibid., 145.

remained a standard-setter on the preservation of the historic built environment. Due to its nature as a non-governmental organization, however, its charters and other documents are not legally binding and serve only as guidelines and best-practices for ICOMOS's Member States. The *Charter for the Protection and Management of the Archaeological Heritage*, also known as the Lausanne Charter, was drafted in 1990 for ICOMOS by ICAHM.

Introduction

The Introduction reiterates an important theme of archaeological heritage conservation: "The protection of this heritage cannot be based upon the application of archaeological techniques alone." It also states a belief that, in situations where archaeological remains are tied to the beliefs of existing indigenous groups, those groups should be involved in its protection and conservation. The goal of the Charter is to serve as a "[guideline] and source of ideas for policies and practice of governments as well as scholars and professionals."

Article 1

"Archaeological heritage," for the purposes of this Charter, is defined as all moveable and immovable physical remains of human activity that are primarily studied through archaeological methods.

Article 2

Due to the finite and nonrenewable nature of archaeological remains, their protection must be considered to be of the highest importance. Its protection should be considered in land use, development, planning, educational, and environmental policies at local, national, and international levels. The general public should be engaged as widely as possible in that protection, especially when indigenous groups with ties to the heritage in question are involved.

Article 3

The moral obligation and collective responsibility of all nations and peoples to protect archaeological heritage should be reflected in national legislation and the appropriation of the necessary funds to enact and enforce those laws. The legislation should ensure in situ protection of and research at archaeological sites for the benefit of all people, not just a nation or people with historic ties to the heritage being protected. Protective measures “should forbid the destruction, degradation or alteration through changes of any archaeological site or monument or to their surroundings without the consent of the relevant archaeological authority.” If damage to a site is deemed necessary, for instance during the construction of a dam or other infrastructural development, a full archaeological investigation should be concluded first. Measures for the maintenance, management, and conservation of legally protected archaeological sites should also be provided by law. Lastly, Article 3 stresses that development is the biggest threat to archaeological heritage, so it is of the utmost importance

that developers are legally obligated to design development schemes that minimize their effect on known archaeological sites, and to conduct full impact studies on archaeological heritage before any construction begins.

Article 4

This article stresses the importance of surveying archaeological resources to determine their extent and nature, a process which “should be a basic obligation in the protection and management of the archaeological heritage.” In addition, an inventory of that heritage should be created and continuously updated.

Article 5

Archaeological investigations, whether through excavations or surveying, should never damage or destroy any more of the physical remains than is absolutely necessary. Excavation should always be the last choice of investigative techniques since it is destructive by nature, but it “should be carried out on sites and monuments threatened by development, land-use change, looting, or natural deterioration.” Documentation, in the form of a report made available to the academic community, is a crucial product of any archaeological excavation. Any excavation should follow the guidelines laid out in UNESCO’s *Recommendation on International Principles Applicable to Archaeological Excavations* (1956).

Article 6

This Article reinforces the need for adequate management, maintenance, and conservation of archaeological sites, which should again be guided by the UNESCO Recommendation. The involvement of the local community is an important step in promoting the importance of a site along with the necessity of its continued maintenance. However, if the available resources are too scarce to provide active maintenance at all recognized sites, priority should be given to a diverse group of sites that are chosen for “their significance and representative character.”

Article 7

Allowing the public access to an archaeological site or monument broadens their understanding of the significance of and the importance of protecting that site. It is important that any interpretation of the site is based on the most recently available data and is updated regularly to reflect any changes in that data. While reconstructions can serve an important interpretive function, the utmost care should be taken to minimize the impact on extant remains and to differentiate them from original materials.

Article 8

Any professional responsible for the management of archaeological heritage should be conversant in a number of different fields, including archaeological practice, conservation, heritage interpretation, and possibly even anthropological research. The Article recommends the development of specific,

multi-disciplinary curricula for postgraduate degrees in archaeological heritage management to ensure that professionals remain conscious of the best practices in a number of different relevant fields.

Article 9

Due to the common human heritage embodied in archaeological remains, “international cooperation is... essential in developing and maintaining standards in its management.” ICOMOS tasks itself with fostering that cooperation through its national and various scientific committees and the development of international workshops, conferences, and technical assistance programs.

“Rescue” Archaeology

A large part of most reconstruction efforts is the extensive rebuilding or improvement of the target nation’s physical infrastructure. The construction of dams, major roadways, and other public infrastructure projects, however, can often pose a serious threat to archaeological heritage. Unfortunately, the desire of developers and politicians to complete those projects as quickly, easily, and cheaply as possible often undervalues the importance of protecting that heritage.

The practice of “rescue,” or “salvage,” archaeology evolved to address the pressures of protecting cultural property during the drive for progress. It should be stated at the outset, however, that rescue archaeology is considered a measure of last resort to be used in cases where all alternatives to destroying the site are

exhausted, or the public good provided by the proposed project exceeds the value of keeping the site intact.²² Furthermore, it is a different kind of archaeology than the traditional archaeologist is probably used to: whereas most excavations are research-based, meaning their scope and duration are dictated by the research question under investigation, rescue archaeological excavations are often limited in how long they can take; the object is total recovery, not concentration on a specific subject.²³ Nevertheless, the problem of time constraint means that the archaeologist will likely not be able to conduct as thorough an investigation as he or she would be able to do under more amenable circumstances.²⁴ This is why it must be stressed again that rescue archaeology is an important tool, but one that should be kept behind glass except in case of emergencies.

One of the first, largest, and most well-known interventions was the international effort to record and preserve archaeological sites threatened by the creation of the Aswan Dam in southern Egypt, built in 1970. As plans for the dam and the repercussions of its construction became known, archaeologists voiced their concern over the fate of the archaeological sites that would soon be underwater, many of which were considered highly significant. In 1960, UNESCO initiated a rescue operation that surveyed and documented sites

²² Lipe, William. "A Conservation Model for American Archaeology." In Conservation in Archaeology: A Guide for Cultural Resource Management Studies. Michael Schiffer and George Gumerman, eds. New York: Academic Press, Inc., 1977. p 30.

²³ Ibid., 31.

²⁴ Ibid., 32.

throughout the affected area and moved particularly important monuments to higher ground (like Abu Simbel, now a World Heritage Site), or gave them to institutions that participated in the operation (like the Metropolitan Museum of Art, which received the Temple of Dendur).

Rescue archaeology, namely its perceived importance among the archaeological and preservation communities and its lack of broad public recognition, was the topic of the first symposium held by the International Council for Archaeological Heritage Management (ICAHM), a scientific committee formed under ICOMOS. The symposium, called “Archaeology and Society: Large-Scale Rescue Operations – their possibilities and problems,” was held in Stockholm in 1988 and featured participants from around the world. Its goal was to facilitate the sharing of field experiences from those participants that could lead to the development of strategies to improve the practice of rescue archaeology and improve cooperation between archaeologists and planners, developers, politicians, and the public at large. The conclusions drawn by the participants, as well as developments in the field since that time, are applicable to rescue archaeology conducted during the course of development projects supporting a broader nation-building operation.

Many, though by no means all, countries have enacted legislation designed to necessitate the consideration of adverse effects to cultural heritage

during the planning stages of infrastructure development.²⁵ However, a nation emerging from conflict whose government and laws are also being rebuilt (and which has more motive than most to ensure the speedy completion of infrastructure projects) may lack such measures of protection. In nations without legal mechanisms protecting archaeological heritage, an understanding of the importance of that heritage, if it does not already exist, must be established from the bottom up.²⁶ Politicians, in turn, will not be slow to adapt to the public mood; if the destruction of archaeological sites will be deleterious to their support base, they will be far more likely to advocate its protection. Developers bidding for contracts who do not include measures to mitigate the effects of the project on archaeological heritage will find themselves without work, and they, too, will adapt.

Measures for archaeological site protection are most successful when they are incorporated at the very beginning of a large-scale development project while planning and budgeting are still underway.²⁷ A cursory initial survey of the proposed construction site should be completed to determine if there are any archaeological sites that could be affected. If any are found, alternative construction sites should be sought out. Sometimes, however, there simply is no feasible alternative site, but the benefit of the project to the local community still

²⁵ Andersson, Hans. "How to Create an Understanding for the Need of Rescue Operations." In Archaeology and Society: Large scale rescue operations – their possibilities and problems. Gustaf Trotzig and Gunnel Vahlne, eds. Stockholm: ICAHM, 1989. p 25.

²⁶ Ibid., 25.

²⁷ Ibid., 27.

renders construction necessary. In such cases, the significance and extent of the archaeological remains will dictate how to proceed. It may be sufficient to conduct more extensive surveys designed simply to document and record a site, or a full-scale excavation may be required. Determining the necessary steps before a project goes underway ensures that the necessary time and resources are allocated for their successful completion. If archaeological remains are not discovered until construction begins, the project must be halted at the expense and inconvenience of the developer. Furthermore, due to pressure to continue the project as quickly as possible, any resulting investigations will likely be of a lesser quality than if they were conducted beforehand.

The dissemination of the results of the necessary investigations, specifically to the general public, is as important as the actual completion of the investigations.²⁸ There are many ways of accomplishing this, though one of the easiest is through various forms of public media: newspapers, magazines, television, and the internet.²⁹ Archaeological feature stories are relatively common in news media, especially in local media.³⁰ A basic website, updated as the investigation progresses, is a simple and cost-efficient way to disseminate information to a very broad audience and can serve as a digital record of the

²⁸ Ibid., 30.

²⁹ De palma, Giovanna. "Reflections on Conservation in Rescue Archaeology: An Example." In Archaeology and Society: Large scale rescue operations – their possibilities and problems. Gustaf Trotzic and Gunnel Vahlne, eds. Stockholm: ICAHM, 1989. p 201.

³⁰ Andersson, 30.

investigative process. Excavations sometimes include on-site exhibitions of the materials found or guided tours of the site, which are often very popular.³¹

While archaeologists associated with universities or other academic institutions will likely publish their findings publicly in academic journals or through monographs, the reports produced by private sector archaeologists are often far less accessible to the public. The reports, known as “gray literature,” are often held by the firm that conducted the investigation instead of being made publicly available through libraries or archives.³² They often contain a great deal of information that can be invaluable to archaeologists. Dr. Richard Bradley, an archaeologist with the University of Reading in England, recently rewrote the prehistory of Great Britain after tracking down and reading gray literature produced by commercially-run excavations around the country.³³ There is an ongoing effort in the United Kingdom, where 93% of archaeological research is conducted by private firms, to digitize gray literature and make it more widely available.³⁴ If private rescue archaeology firms are involved in the development projects of a target nation, they should be required to publicly disseminate their findings, whether through physical publications distributed to libraries or digitization. Regardless of the status of academic publications, however, a separate report designed to be read by the general public should also be

³¹ Ibid., 30.

³² Ford, Matt. “Hidden treasure.” *Nature*. Vol. 464. April 8, 2010. p 826-7. p 826.

³³ Ibid., 826.

³⁴ Ibid., 826.

produced, especially if the intervention occurs in an area where the population lacks access to the internet and any information that may have been posted online.³⁵

In his paper presented at the ICAHM symposium, Dr. Hans Andersson of Sweden advocated the use of physical reconstructions as a way of communicating excavation results to the public.³⁶ However, one should recall that The Venice Charter, a touchstone of current best practices in the conservation of archaeological heritage, expressly discourages physical reconstructions unless they can be accomplished with extant original materials.³⁷ However, technology, and especially its applicability to archaeological research, has evolved a great deal since 1988. Digital reconstructions are now commonly created for archaeological remains, whether they are posted online or provided through museum exhibits.

It may seem, at first blush, that the fields of rescue archaeology and archaeological conservation have little to do with each other. After all, the brunt of rescue archaeology interventions are focused on removing significant finds out of the way of destruction, whereas archaeological conservation usually focuses on preserving sites and monuments in situ. However, the very hurried nature of rescue archaeological excavations makes planning for conservation that

³⁵ Andersson, 30.

³⁶ Ibid., 31.

³⁷ International Council on Monuments and Sites. *International Charter for the Conservation and Restoration of Monuments and Sites*. 1964. Article 15.

much more important.³⁸ Planning for the conservation of immovable archaeological remains before excavation can make the difference between their survival and destruction.

In Italy, for instance, conservators worked in conjunction with archaeologists to remove entire graves for off-site excavation and conservation from necropoli threatened by development.³⁹ There may also be cases where only part of a larger complex will be impacted by a development project; remains that are exposed through excavation, but will remain intact and above the surface even after the project is completed, will need to be properly conserved. Therefore, while not every rescue archaeology operation will require conservation, the question must still be asked in every situation.

³⁸ Price, 4.

³⁹ De Palma, 203.

Outline of Current Governmental Activities

Current Efforts within the Department of Defense

While both the State Department and the Department of Defense have implemented programs designed to protect and promote the cultural heritage of Iraq, the efforts of the latter have been far less publicized. After the United States and coalition forces in Iraq suffered intense negative international publicity following the looting of the Baghdad Museum and the damage inflicted at Babylon, the Department of Defense looked for ways to prevent such mistakes from occurring again.

In 2006, a project to develop a pre-deployment cultural heritage protection training curriculum for soldiers received funding from the Department of Defense's Legacy Resource Management Program.¹ The Legacy Program is designed to support projects that protect or support the cultural, historical, and environmental resources on Department of Defense-controlled lands around the world, including domestic and international military bases. The project, known as the In-Theater Cultural Resource Training Program, was developed in 2006 by Dr. Laurie Rush, a trained archaeologist and the Cultural Resources Program

¹ Rush, Laurie and Matthew Bogdanos. "Protecting the Past to Secure the Future: The Strategic Value of Heritage Training." *Joint Forces Quarterly*. Issue 53 (2nd quarter, 2009). pp. 126-7. p 127.

Manager at Fort Drum, New York.² Its goal is “to provide practical training materials that are easily available to military personnel at all levels.”³

The program seeks to educate soldiers before and during deployment. Slide presentations and scripts were written, designed for use by anyone responsible for delivering training, not just for cultural property experts. The presentation discourages intentional and accidental damage caused by military operations by convincing soldiers that protecting cultural heritage is a crucial part of the overall campaign to “win hearts and minds,” and thus should not be discounted as unimportant to the mission at hand. The legal constraints imposed by the Hague Convention are discussed, along with tips for identifying archaeological sites and the proper methods of securing them.

At Fort Drum, Dr. Rush built mock-ups of several types of cultural sites that soldiers will likely experience in-theater so that training can extend beyond the classroom into the field. The built structures include a traditional Islamic cemetery, which are often used as firing points by insurgents, and a typical archaeological ruin. Several other military bases, including Fort Riley, Kansas, have contacted Dr. Rush about creating such mock-ups at their own installations. In addition, Dr. Rush contributed to a workshop at the 2009 Sustaining Military

² Ibid., 127.

³ Unless otherwise noted, all information regarding the In-Theater Cultural Resource Training Program was provided via correspondence with Dr. Rush.

Readiness Conference, held by the Department of Defense, which advocated the construction of realistic training environments on bases around the country.

Before deployment, each soldier is issued an information card summarizing the rules of engagement regarding cultural property, as well as additional information like recognizing the Blue Shield emblem at a site. One of the most engaging products created by the program, however, is a deck of playing cards, inspired by the popularity of the well-known “Most Wanted” deck distributed to soldiers following the initial invasion that had pictures of sought after high-ranking officials from Saddam Hussein’s government. The new cards feature information on cultural property protection instead of wanted Iraqi officials. Each card features a fact about rules for cultural property protection, individual artifacts and sites, or the importance of cultural heritage in “winning hearts and minds.”

Beyond the creation of these training materials, the program is seeking to foster relationships between the Department of Defense and various scientific and academic institutions throughout the country.⁴ Dr. Rush hopes that these relationships will make both sides more aware of the efforts of the other, and that partnerships can be developed that will lead to more effective preservation efforts in the future. The Archaeological Institute of America (AIA) the United States Committee of the Blue Shield (USCBS) have both been extensively

⁴ Rush, 127.

involved in the program so far. Professionals from both organizations have given lectures and training courses to Civilian Affairs personnel and soldiers at all levels. Work is currently underway to create a section on the AIA's website that will keep track of archaeological protective measures being undertaken by the Department of Defense.

In addition to these partnerships, Dr. Rush has spoken about the program at international conferences and held workshops training military personnel stationed around the world to provide in situ training. She attended an environmental conference in Kabul where she addressed, along with Fred Heibert of National Geographic, the protection of natural and cultural resources during the planned expansion of forward operating bases (FOB). The United Kingdom's Ministry of Defence invited her to their Army Training Estate at Salisbury Plain to consult on the construction there of mock-ups like those found at Fort Drum. She also conducted a workshop in Egypt for soldiers attending the 2009 Brightstar Wargames which was the first on-site cultural resource protection training held in the Middle East. This was arranged through the US Central Command Historical Cultural Initiative, founded in 2008 through the Defense Environmental International Cooperation (DEIC) program. Central Command (CENTCOM) is responsible for administering to military operations throughout the Middle East, including Iraq and Afghanistan.

The continued success and international recognition of the In-Theater Cultural Resource Training Program has led to the expansion of protective measures for cultural property at all levels of the US military. Most recently, Dr. Rush successfully lobbied for the inclusion of measures to protect cultural resources under Army Regulation 200-2 (Environmental Effects of Army Actions), signed in the summer of 2009. She continues to add information to the curricula of the program, and is focusing now on improving the maps of cultural property provided to military personnel in-theater. Meanwhile, training is expanding beyond the program as the Department of Defense develops partnerships with institutions like the University of Kansas to create courses within military colleges on cultural property protection.

Brief Overview of Current State Department Initiatives

The State Department handles issues of cultural heritage protection through its Cultural Heritage Center (CHC). That office is primarily concerned with facilitating memoranda of understanding between the United States and foreign countries designed to prevent the trade of black market cultural property.⁵ In addition, the Ambassadors Fund for Cultural Preservation, established in 2001, invites American embassies on behalf of a partner institution to apply for grants for cultural preservation projects within their host nation. The object of the Fund is to illustrate American consciousness for the protection of

⁵ "International Cultural Property Protection." <http://exchanges.state.gov/heritage/culprop.html>.

cultural property.⁶ Since its inception, 550 projects have been funded in an over 100 countries, with a total of \$20 million granted thus far. Somalia, without any American diplomatic relations since 1991, is the only subject of a recent nation-building operation not to receive a grant.⁷

The Cultural Heritage Center also launched the Iraq Cultural Heritage Initiative (ICHI) in October 2008 in partnership with the American Embassy in Baghdad, the Iraq State Board of Antiquities & Heritage (SBAH) and International Relief and Development, an NGO that provides developmental assistance projects around the world.⁸ The goal of the Initiative is to engage collaboration between American and international institutions and the SBAH to create projects designed to protect cultural property within Iraq.⁹ The ICHI was established in the aftermath of the looting of the Baghdad Museum. Its current primary project is the creation of a National Training Institute for the Preservation of Iraqi Cultural Heritage in Erbil, Iraq in conjunction with the Walters Art Museum, the University of Delaware's art conservation education program at the Winterthur Museum, the Historic Preservation Program at the University of Pennsylvania, and the US National Park Service.¹⁰

⁶ "Ambassador's Fund for Cultural Preservation." <http://exchanges.state.gov/heritage/afcp.html>.

⁷ Accurate as of April 13, 2010. A searchable project database can be found on the State Department's website at http://eca.state.gov/culprop/afcp/project_listings/index.cfm.

⁸ "Iraq Cultural Heritage Project (ICHP) Fact Sheet." <http://exchanges.state.gov/heritage/iraq/pdfs/ichpfactsheet.pdf>

⁹ "Iraq Cultural Heritage Initiative." <http://exchanges.state.gov/heritage/iraq.html>

¹⁰ "Iraq Cultural Heritage Project (ICHP) Fact Sheet."

The other current major undertaking is the Future of Babylon project, meant to provide a comprehensive site management plan for Babylon that can serve as a model for management plans at sites around the country.¹¹ The project is a partnership between the SBAH, the World Monuments Fund, and the Getty Conservation Institute.¹² In following with best practices in site management, the plan for the site will be based on the site's extraordinary significance and the feedback of Iraqi stakeholders.¹³ Conserving the site now means nothing if the country is unable or unwilling to support the final plan. Despite all of the international organizations and national legislation designed to protect cultural heritage, it is useless if people do not feel a connection with that heritage in the first place.

Despite the outstanding efforts from the State Department on behalf of the cultural heritage of Iraq, it must not be forgotten that for its protection to be most effective, measures must be put in place before an operation commences, not after the damage is done. Fortunately, the State Department has founded an office within the Department to facilitate planning for complex nation-building operations.

The Office of the Coordinator for Reconstruction and Stabilization (S/CRS) was established in 2004 following the recognition that formalized,

¹¹ "The Future of Babylon." <http://www.wmf.org/project/future-babylon>

¹² Gamel, Kim. "Attack on Ancient Babylon." Associated Press, as reported by CBS News. July 10, 2009. Accessed at <http://www.cbsnews.com/stories/2009/07/10/world/main5150397.shtml>

¹³ "Iraq Cultural Heritage Initiative." <http://exchanges.state.gov/heritage/iraq.html>

institutionalized foreign policy tools informed by the lessons of previous reconstruction and stabilization would allow the federal government to more efficiently respond to such scenarios in the future. The Office's official mandate is "to lead, coordinate and institutionalize U.S. Government civilian capacity to prevent or prepare for post-conflict situations, and to help stabilize and reconstruct societies in transition from conflict or civil strife, so they can reach a sustainable path toward peace, democracy and a market economy."¹⁴

S/CRS draws staff from across the interagency community: the Department of Defense, USAID, CIA, Army Corps of Engineers, Joint Forces Command, Joint Chiefs of Staff, and the Treasury Department have all contributed personnel.¹⁵ The organizational chart is a continuous circle: employees from different agencies work in one of the divisions of the Office, who then forward their information to the Regional Coordination teams, who in turn brief the other agencies on their findings.¹⁶ Protecting and securing religious and cultural sites is a considered an initial response task in the S/CRS Post-Conflict Reconstruction Essential Tasks Matrix.¹⁷ The goal is to create the capacity to protect them within the population of the host nation.

¹⁴ "Office of the Coordinator for Reconstruction and Stabilization: Mission Statement."

<http://www.crs.state.gov/index.cfm?fuseaction=public.display&shortcut=4QXJ>

¹⁵ "Office of the Coordinator for Reconstruction and Stabilization:

Structure." <http://www.crs.state.gov/index.cfm?fuseaction=public.display&shortcut=CKIH>

¹⁶ "Office of the Coordinator for Reconstruction and Stabilization: Organizational Chart." October 2009.

<http://www.crs.state.gov/index.cfm?fuseaction=public.display&shortcut=CRPF>

¹⁷ "Post-Conflict Reconstruction Essential Tasks." April 2005.

<http://www.crs.state.gov/index.cfm?fuseaction=public.display&shortcut=J7R3>. P I-4.

Recommendations and Concluding Remarks

The Next Step: Establishing Planning Mechanisms

The efforts of the Department of Defense and the State Department in reaction to the destruction of cultural property in Iraq are admirable. However, the hard lesson learned is that proper planning and outreach can prevent catastrophes in the first place. Both Departments have proven themselves capable of planning and undertaking conservation activities during nation-building operations; the focus should now be on establishing procedures and offices designed to plan for those activities at the earliest stages of operational planning, and making sure that best practices are brought to bear.

The long-term goal of the In-Theater Cultural Resource Protection Program is to establish a permanent office for cultural resource protection within the Department of Defense. The creation of that office would go a long way towards ensuring that next time a nation-building operation is implemented, which unfortunately must be considered inevitable, cultural property will be considered and protected from the earliest to the latest stages of the operation. The State Department already features offices dedicated to cultural heritage, and a corresponding branch within the Department of Defense would give those offices a single point of contact. Interagency cooperation is a crucial component of executing a “best practices” nation-building operation, which promotes the formation of an interagency task force (IATF) like the State Department’s Office

of the Coordinator for Reconstruction and Stabilization (S/CRS). That office is designed to coordinate the programs of and the sharing of information between government offices like the Department of Defense and the State Department.

The Office of the Coordinator for Reconstruction and Stabilization seems a natural choice to coordinate the efforts of State Department and the Department of Defense in terms of cultural property protection in general and archaeological conservation specifically. Looking at the Office's organizational chart, it is clear that every division needs to play a role in protecting archaeological heritage.

The Academic Outreach and Diplomatic Outreach branches of the Strategic Communications division should reach out to archaeologists and conservators who are familiar with the target nation. The Diplomatic Outreach branch should, in turn, involve the cultural affairs staff of the U.S. embassy within that nation. Scholars who work in the region and diplomatic staff should be able to provide important and accurate information on the laws regarding cultural heritage protection within that country, as well as details of known archaeological sites. The Geographic Information Systems branch of the Knowledge Management & Information Technology division, meanwhile, should provide up-to-date satellite imagery of archaeological sites to help detect any signs of looting. This has already proven extremely helpful in Iraq.¹

¹ Rush, Laurie. "Archaeology and the Military: An Introduction. In Archaeology, Cultural Property, and the Military. Laurie Rush, ed. Rochester: Boydell & Brewer, 2010. Unpublished.

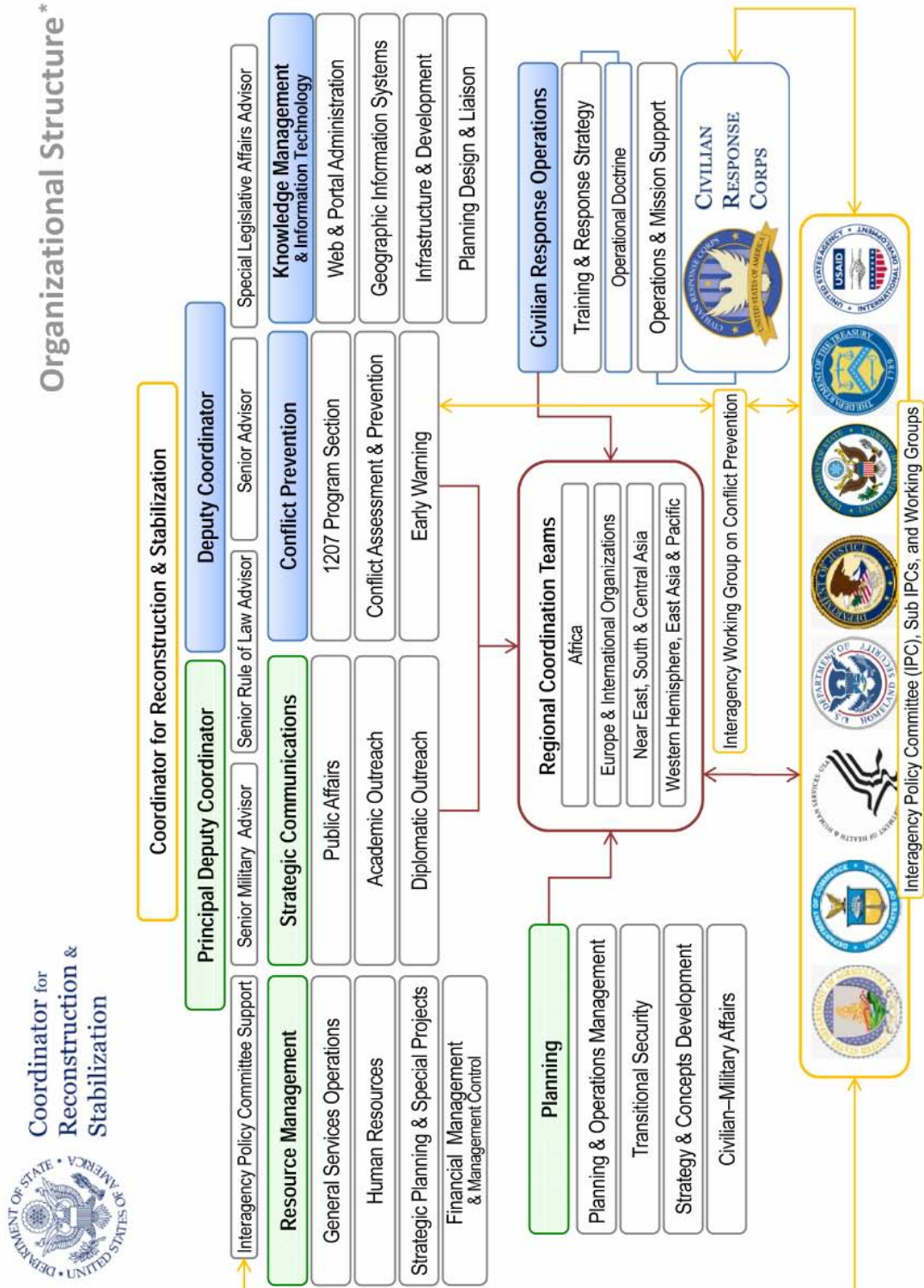


Figure 1: Organizational structure of the Office of the Coordinator for Reconstruction and Stabilization. Courtesy: <http://www.crs.state.gov/index.cfm?fuseaction=public.display&shortcut=CRPF>

* Pending HR Approval

The Civilian-Military Affairs branch of the Planning Division should coordinate with the Department of Defense to plan for military personnel (preferably civil security forces, if they are being deployed in sufficient numbers) to provide on-site protection against looters. In addition to those personnel, though, the Department of Defense should seriously consider a long-term training program designed for troops willing and able to serve as specially-designated "heritage officers," modeled on the successful Monuments Officers deployed by Great Britain and the United States during World War II.²

John Marshall, who served as Director General of Archaeological Survey of India (ASI) for Great Britain in India during its occupation, implemented a creditable management system in that position that could be applied by the American government during future nation-building operations where the host country lacks an adequate governmental system for the administration of archaeological heritage. He divided India into five "circles," each controlled by an Archaeological Surveyor, plus an additional officer to oversee the Islamic architecture in the northern part of the country.³ When he failed to attract archaeologists to serve as survey officers, he recruited European academics who were inadequate to the position.⁴ Then, since there were no ethnic Indian archaeologists yet practicing at that time, he established a scholarship system to

² Ibid.

³ Thapar, B.K. "Policies for the Training and Recruitment of Archaeologists in India." In Archaeological Heritage Management in the Modern World., Henry Cleere ed. London: Unwin Hyman, 1988. p 286.

⁴ Ibid., 286.

provide the country's top academics with intensive training in archaeology and conservation.⁵ Several of them went on to hold the post of Director General themselves over time, and the program was so successful that in 1921, the British occupational government resolved that 60% of the posts in the ASI would be filled with Indians from then on.⁶

Marshall published a manual in 1923 to guide the efforts of the officers within the ASI on conserving archaeological sites. As with his management structure, it too could still be relevant to the American military today. He defines the goals of such officers as:

- (a) To advise on the proposals for conservation or restoration works submitted by the officers of the Public Works Department (or other Departments) and to recommend the order of precedence in which these as well as any works suggested by themselves should be undertaken.
- (b) To submit proposals for the protection, conservation or repair of ancient buildings of interest requiring preservation which have come to their own notice during their tours.
- (c) To pass plans and estimates for all works of conservation and repair whether suggested by themselves or by the Public Works or other Departments. It will not be the duty of the Archaeological officer to criticise rates, but to approve and advise on the character of the work to be carried out.
- (d) To assist in the supervision of the works of conservation while they are in progress. The degree of assistance required must depend upon the nature and importance of the work. It will be the duty of the Archaeological officer to assist the Engineer with his advice and to bring

⁵ Ibid., 287.

⁶ Ibid., 287.

to the notice of the proper authority any alterations or repairs which in his opinion are likely to affect the architectural or historical interest of the building.⁷

Much of the manual espouses conservation principles advocated by modern conservations standards today. For instance, he warns the officers that, when preserving a monument, its historical value is intrinsically tied to its authenticity, so the goal is “not to renew them but to preserve them.”⁸

Currently, the American military has the US Army Civil Affairs Program which could easily accommodate officers like those discussed by Marshall. Their current responsibilities are to provide support for joint civil-military operations. Cori Wegener, currently President of the U.S. Committee of the Blue Shield, is a retired Major from the Civil Affairs Program, and was dispatched to Baghdad during mitigation after the ransacking of the Baghdad Museum.

The Civilian Response Corps (CRC) will also play an active role in protecting archaeological heritage. The CRC recruits civilian personnel to deploy on specific in-theater reconstruction and stabilization projects, for example restructuring the target nation’s treasury department or constructing public works projects. There are Active and Standby components consisting of federal employees and a reserve component for volunteers from the private sector and state/local governments. The Civilian Response Operations division, through its Training & Response Strategy branch, should ensure that members of the CRC

⁷ Marshall, John. Conservation Manual. Calcutta: Superintendent Government Printing, 1923. p 4.

⁸ Ibid., 10.

receive training similar to that found in the In-Theater Cultural Resource Protection Program regarding recognizing and documenting archaeological sites. Furthermore, the CRC should try to recruit rescue archaeologists to serve projects for new construction or the expansion of an existing structure in areas of potential archaeological remains.

American authorities responsible for executing or supporting development projects throughout the government should ensure that an archaeologist capable of executing salvage archaeology is included in all projects, and that best practices are applied at all stages. This can be difficult as those authorities are likely experiencing their own pressures to produce results, whether from the residents of the target nation itself, from American citizens at home whose money and support are important to the successful completion of the overall mission, or from national and international development companies whose investments directly fund the projects.

Of course, projects on federally-owned land or funded by a federal agency must comply with Section 106 of the National Historic Preservation Act: investigations must be conducted prior to construction to determine the effects of the project on sites of cultural heritage, and any adverse effects must be mitigated before the project can begin.⁹ However, projects funded by private investments or by the government of the target nation, which should increase as

⁹ National Historic Preservation Act of 1966. 16 U.S.C. 470 (2006). Section 106.

American influence decreases, would not be bound by legal compliance unless a similar measure is already in place in the target nation. The amount of support for the protection of archaeological sites among the general population will dictate how quickly politicians move to establish such measures.

If support is lacking, efforts should be made to increase the population's awareness of their country's archaeological heritage, as well as the general principles surrounding its protection. This can be done several ways, for example through school curricula, public seminars held by subject matter experts, and the dissemination of published and digital materials. Identifying a site that could qualify for World Heritage status and working towards its inscription could foster a sense of pride in their heritage among the general population.

In addition to recruiting archaeologists, however, obviously conservators should be recruited to preserve significant buildings and monuments, especially if the target nation lacks a tradition of historic preservation. The actual tasks of an in-theater archaeological conservator will vary greatly depending on the state of the target nation. A nation with well-developed governmental institutions most likely had an office responsible for managing and protecting heritage. That office may have established site management plans for the significant sites within its borders; if so, all work should fall within the overall site plan. Access to a site by visitors should also be enforced in line with its plan.

In nations lacking many governmental institutions, including one for heritage protection, it may be necessary to focus efforts on documentation and emergency interventions to stabilize sites until such a time as the target nation's government is capable of establishing a heritage office. Once that office is able to function independently, the administration of heritage protection should reside with the host nation government. However, in order for it to function independently it must rely on a network of professionals within the country capable of carrying out conservation- and preservation-related activities according to international standards. For this reason, conservators within the host nation should be trained by international conservators familiar with the profession and its best practices. The sustainable conservation of archaeological sites relies on the ability of the host nation to conduct the necessary work after the withdrawal of foreign personnel.

The State Department is already accomplishing this in Iraq through the establishment of a conservation and historic preservation training center in Erbil.¹⁰ Establishing a new institute may not always be feasible, though, so it may be important to establish partnerships with educational institutions and conservation organizations in the region.

The Resource Management division should ensure that the necessary resources for the protection of cultural property, from training materials to

¹⁰ "Iraq Cultural Heritage Project (ICHP) Fact Sheet." <http://exchanges.state.gov/heritage/iraq/pdfs/ichpfactsheet.pdf>

personnel salary, are included in the overall budget estimate. As potential conservation projects are identified, their funding can be addressed by the Strategic Planning & Special Projects branch. The Conflict Assessment & Prevention branch of the Conflict Prevention division should provide information on any ethnic tensions in the target nation that may lead to certain classes of cultural heritage to be targeted by opposition groups. Additional protection can then be assigned to any affected sites.

Once all of the information for the protection of cultural property has been collected and reviewed, a comprehensive report on the findings can be forwarded to the responsible Regional Coordination Team. The team can then circulate the findings to all agencies involved in the operation. Feedback from those agencies is funneled back through the team to the necessary division within S/CRS. For example, if a military battalion somewhere in the Middle East comes across a previously unknown archaeological site, they can send photographs and the exact location back through the chain of command, through the Department of Defense, through Near East, South & Central Asia Regional Coordination Team. The Knowledge Management & Information Technology division can gather satellite footage of the site to determine its scope and possibly identify features. The Strategic Communications branch can then reach out to a subject matter specialist that can examine the photographs and satellite imagery and provide more information on the site: its nature, significance, etc.

Depending on that analysis, the CRC can deploy archaeologists and/or conservators to the site. Furthermore, establishing initiatives like ICHI in future areas of operation should be simpler with the S/CRS streamlined interagency framework.

With the complicated interagency framework within the United States' own government, it can be easy to forget that there is the people and government of the host nation to also consider. Nicholas Stanley Price suggests that the complications of archaeological conservation are best managed if both archaeology and conservation fall under the aegis of a single governmental agency that can regulate the activities, training, and legislation for both.¹¹ After looking at the ongoing struggle for control of Babylon by different Iraqi authorities, one can see why intervening authorities should bear this in mind when restructuring the bureaucracies of the host nation.

Beyond bureaucratic concerns, though, there are economic factors at work as well. Many host countries emerging from nation-building are looking for ways to help jumpstart their economies, often backed by the desires of the intervening authorities to see the host nation financially independent as soon as possible. As has been the case in Iraq, using cultural resources to attract tourists can be an appealing choice. Site museums enable visitors to see the artifacts of a site displayed more closely to their original context than if they are housed in

¹¹ Price, 8-9.

another museum. Further, the conservation of artifacts and of the structural remains can be conducted under one roof.

Nevertheless, not every site can or should be converted into a museum, and care should be taken in deciding which will be chosen. The first consideration should be if the excavated remains are significant enough to deserve presentation to the public.¹² Accessibility should also be considered: sites far-removed from population centers will be less likely to draw visitors and will be more prone to theft or damage, and the security of the site and its collection must be the highest priority.¹³ Along the same lines, it must be possible to construct adequate laboratory facilities to manage the conservation tasks required by the artifacts and remains at the site.¹⁴

If a site is chosen for public presentation, there are a variety of ways to provide interpretive features for visitors that have a minimum effect on the site. For example, landscape restoration can be a useful alternative to architectural restoration. John Stubbs suggests using grass or gravel to define the floor plan of an unexcavated or backfilled feature; backfilling is widely accepted as the most effective means for protecting archaeological remains.¹⁵ Franklin Court, run by the National Park Service in Philadelphia, arrived at a similar solution. As only the foundations of Benjamin Franklin's house remain on the site, architect

¹² Price, 7.

¹³ Price, 7.

¹⁴ Price, 7.

¹⁵ Stubbs, John. "Protection and Presentation of Excavated Structures." In Conservation on Archaeological Excavations. N. P. Stanley Price, ed. Rome: ICCROM, 1984. 83.

Robert Venturi designed a frame “ghost structure” for the site instead.¹⁶ It is important to seek creative, feasible solutions that do not sacrifice the remaining structures.

Conclusion

The goal of this thesis was to define best practices for implementing the conservation of archaeological sites as part of a broader system of cultural heritage protection within the framework of United States nation-building efforts. This has been accomplished through a discussion of the broad recognition of the need to protect cultural property; an overview of the legal mechanisms guiding heritage protection; an analysis of past American nation-building efforts and their lessons learned; an explanation of best practices within the field of archaeological conservation; and a summary of current initiatives at work in the State Department and Department of Defense. It is meant as a guide in two ways: for archaeological conservators working within the framework of a nation-building operation, and for government officials tasked with ensuring the protection of archaeological heritage.

The intense international publicity stirred by the looting of the National Museum in Baghdad and the damage inflicted on Babylon have made it clear that the international community, as a whole, values the protection of cultural property. Beyond that, recent years have seen an increased awareness in

¹⁶ Ibid., 88.

academia on the issue of cultural heritage protection during conflict. Several international conferences have addressed the subject specifically with the support of respected and influential organizations like ICCROM and the Archaeological Institute of America.¹⁷ This places additional pressure on the American government to improve its measures for cultural property protection within nation-building operational planning, but also enables more willing allies.

Archaeological sites are considered significant for what makes them unique. Unfortunately, their individuality also makes it impossible to develop a single conservation approach applicable to all of them. Sprawling sites with international significance like Babylon will require a very different approach than, say, midden discovered during the construction of a highway. What is important is that the actors involved in deciding those approaches fully comprehend the stakes.

¹⁷ Cf. “Archaeology in Conflict,” held in Vienna on April 6-10, 2010. (<http://www.archaeologyinconflict.org/index.html>) and “Heritage in Conflict and Consensus: New Approaches to the Social, Political, and Religious Impact of Public Heritage in the 21st Century,” held in Amherst, MA on November 9-13, 2009.

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The Convention for the Protection of Cultural Property in the Event of Armed Conflict

Preamble

The High Contracting Parties,

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

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

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

Guided by the principles concerning the protection of cultural property during armed conflict, as established in the Conventions of The Hague of 1899 and of 1907 and in the Washington Pact¹ of 15 April, 1935;

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

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

Have agreed upon the following provisions:

Chapter I. General provisions regarding protection

Article 1. Definition of cultural property

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

(a) movable or immovable property of great importance to the cultural heritage

¹ NB: This refers to the Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments ratified by the Pan-American Union, also known as the Roerich Pact.

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'.

Article 2. Protection of cultural property

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

Article 3. Safeguarding of cultural property

The High Contracting Parties undertake to prepare in time of peace for the safeguarding of cultural property situated within their own territory against the foreseeable effects of an armed conflict, by taking such measures as they consider appropriate.

Article 4. Respect for cultural property

1. The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility, directed against such property.

2. The obligations mentioned in paragraph 1 of the present Article may be waived only in cases where military necessity imperatively requires such a waiver.

3. The High Contracting Parties further undertake to prohibit, prevent and, if

necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property. They shall refrain from requisitioning movable cultural property situated in the territory of another High Contracting Party.

4. They shall refrain from any act directed by way of reprisals against cultural property.

5. No High Contracting Party may evade the obligations incumbent upon it under the present Article, in respect of another High Contracting Party, by reason of the fact that the latter has not applied the measures of safeguard referred to in Article 3.

Article 5. Occupation

1. Any High Contracting Party in occupation of the whole or part of the territory of another High Contracting Party shall as far as possible support the competent national authorities of the occupied country in safeguarding and preserving its cultural property.

2. Should it prove necessary to take measures to preserve cultural property situated in occupied territory and damaged by military operations, and should the competent national authorities be unable to take such measures, the Occupying Power shall, as far as possible, and in close co-operation with such authorities, take the most necessary measures of preservation.

3. Any High Contracting Party whose government is considered their legitimate government by members of a resistance movement, shall, if possible, draw their attention to the obligation to comply with those provisions of the Convention dealing with respect for cultural property.

Article 6. Distinctive marking of cultural property

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

Article 7. Military measures

1. The High Contracting Parties undertake to introduce in time of peace into their military regulations or instructions such provisions as may ensure observance of

the present Convention, and to foster in the members of their armed forces a spirit of respect for the culture and cultural property of all peoples.

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

Chapter II. Special protection

Article 8. Granting of special protection

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

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

(b) are not used for military purposes.

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

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

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

5. If any cultural property mentioned in paragraph 1 of the present Article is

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

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

Article 9. Immunity of cultural property under special protection

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

Article 10. Identification and control

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

Article 11. Withdrawal of immunity

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

2. Apart from the case provided for in paragraph 1 of the present Article, immunity shall be withdrawn from cultural property under special protection only in exceptional cases of unavoidable military necessity, and only for such time as that necessity continues. Such necessity can be established only by the officer commanding a force the equivalent of a division in size or larger.

Whenever circumstances permit, the opposing Party shall be notified, a reasonable time in advance, of the decision to withdraw immunity.

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

Chapter III. Transport of cultural property

Article 12. Transport under special protection

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

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

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

Article 13. Transport in urgent cases

1. If a High Contracting Party considers that the safety of certain cultural property requires its transfer and that the matter is of such urgency that the procedure laid down in Article 12 cannot be followed, especially at the beginning of an armed conflict, the transport may display the distinctive emblem described in Article 16, provided that an application for immunity referred to in Article 12 has not already been made and refused. As far as possible, notification of transfer should be made to the opposing Parties. Nevertheless, transport conveying cultural property to the territory of another country may not display the distinctive emblem unless immunity has been expressly granted to it.

2. The High Contracting Parties shall take, so far as possible, the necessary precautions to avoid acts of hostility directed against the transport described in paragraph 1 of the present Article and displaying the distinctive emblem.

Article 14. Immunity from seizure, capture and prize

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

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

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

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

Chapter IV. Personnel

Article 15. Personnel

As far as is consistent with the interests of security, personnel engaged in the protection of cultural property shall, in the interests of such property, be respected and, if they fall into the hands of the opposing Party, shall be allowed to continue to carry out their duties whenever the cultural property for which they are responsible has also fallen into the hands of the opposing Party.

Chapter V. The distinctive emblem

Article 16. Emblem of the convention

1. The distinctive emblem of the Convention shall take the form of a shield, pointed below, persaltire blue and white (a shield consisting of a royal-blue square, one of the angles of which forms the point of the shield, and of a royal-blue triangle above the square, the space on either side being taken up by a white triangle).

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

Article 17. Use of the emblem

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

(a) immovable cultural property under special protection;

(b) the transport of cultural property under the conditions provided for in Articles 12 and 13;

(c) improvised refuges, under the conditions provided for in the Regulations for the execution of the Convention.

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

(a) cultural property not under special protection;

(b) the persons responsible for the duties of control in accordance with the Regulations for the execution of the Convention;

(c) the personnel engaged in the protection of cultural property;

(d) the identity cards mentioned in the Regulations for the execution of the Convention.

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

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

Chapter VI. Scope of application of the Convention

Article 18. Application of the Convention

1. Apart from the provisions which shall take effect in time of peace, the present Convention shall apply in the event of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by, one or more of them.

2. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

3. If one of the Powers in conflict is not a Party to the present Convention, the

Powers which are Parties thereto shall nevertheless remain bound by it in their mutual relations. They shall furthermore be bound by the Convention, in relation to the said Power, if the latter has declared, that it accepts the provisions thereof and so long as it applies them.

Article 19. Conflicts not of an international character

1. In the event of an armed conflict not of an international character occurring within the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as, a minimum, the provisions of the present Convention which relate to respect for cultural property.
2. The parties to the conflict shall endeavor to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.
3. The United Nations Educational, Scientific and Cultural Organization may offer its services to the parties to the conflict.
4. The application of the preceding provisions shall not affect the legal status of the parties to the conflict.

Chapter VII. Execution of the Convention

Article 20. Regulations for the execution of the Convention

The procedure by which the present Convention is to be applied is defined in the Regulations for its execution, which constitute an integral part thereof.

Article 21. Protecting powers

The present Convention and the Regulations for its execution shall be applied with the co-operation of the Protecting Powers responsible for safeguarding the interests of the Parties to the conflict.

Article 22. Conciliation procedure

1. The Protecting Powers shall lend their good offices in all cases where they may deem it useful in the interests of cultural property, particularly if there is disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention or the Regulations for its execution.

2. For this purpose, each of the Protecting Powers may, either at the invitation of one Party, of the Director-General of the United Nations Educational, Scientific and Cultural Organization, or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for the protection of cultural property, if considered appropriate on suitably chosen neutral territory. The Parties to the conflict shall be bound to give effect to the proposals for meeting made to them.

The Protecting Powers shall propose for approval by the Parties to the conflict a person belonging to a neutral Power or a person presented by the Director General of the United Nations Educational, Scientific and Cultural Organization, which person shall be invited to take part in such a meeting in the capacity of Chairman.

Article 23. Assistance of UNESCO

1. The High Contracting Parties may call upon the United Nations Educational, Scientific and Cultural Organization for technical assistance in organizing the protection of their cultural property, or in connection with any other problem arising out of the application of the present Convention or the Regulations for its execution. The Organization shall accord such assistance within the limits fixed by its program and by its resources.

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

Article 24. Special agreements

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

2. No special agreement may be concluded which would diminish the protection afforded by the present Convention to cultural property and to the personnel engaged in its protection.

Article 25. Dissemination of the Convention

The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the text of the present Convention and the Regulations for its execution as widely as possible in their respective countries. They undertake, in particular, to include the study thereof in their programs of military and, if possible, civilian training, so that its principles are made known

to the whole population, especially the armed forces and personnel engaged in the protection of cultural property.

Article 26. Translations reports

1. The High Contracting Parties shall communicate to one another, through the Director-General of the United Nations Educational, Scientific and Cultural Organization, the official translations of the present Convention and of the Regulations for its execution.

2. Furthermore, at least once every four years, they shall forward to the Director-General a report giving whatever information they think suitable concerning any measures being taken, prepared or contemplated by their respective administrations in fulfillment of the present Convention and of the Regulations for its execution.

Article 27. Meetings

1. The Director-General of the United Nations Educational, Scientific and Cultural Organization may, with the approval of the Executive Board, convene meetings of representatives of the High Contracting Parties. He must convene such a meeting if at least one-fifth of the High Contracting Parties so request.

2. Without prejudice to any other functions which have been conferred on it by the present Convention or the Regulations for its execution, the purpose of the meeting will be to study problems concerning the application of the Convention and of the Regulations for its execution, and to formulate recommendations in respect thereof.

3. The meeting may further undertake a revision of the Convention or the Regulations for its execution if the majority of the High Contracting Parties are represented, and in accordance with the provisions of Article 39.

Article 28. Sanctions

The High Contracting Parties undertake to take, within the framework of their ordinary criminal jurisdiction, all necessary steps to prosecute and impose penal or disciplinary sanctions upon those persons, of whatever nationality, who commit or order to be committed a breach of the present Convention.

Final provisions

Article 29. Languages

1. The present Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.
2. The United Nations Educational, Scientific and Cultural Organization shall arrange for translations of the Convention into the other official languages of its General Conference.

Article 30. Signature

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

Article 31. Ratification

1. The present Convention shall be subject to ratification by signatory States in accordance with their respective constitutional procedures.
2. The instruments of ratification shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 32. Accession

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

Article 33. Entry into force

1. The present Convention shall enter into force three months after five instruments of ratification have been deposited.
2. Thereafter, it shall enter into force, for each High Contracting Party, three months after the deposit of its instrument of ratification or accession.

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

Article 34. Effective application

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

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

Article 35. Territorial extension of the Convention

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

Article 36. Relation to previous conventions

1. In the relations between Powers which are bound by the Conventions of The Hague concerning the Laws and Customs of War on Land (IV) and concerning Naval Bombardment in Time of War (IX), whether those of 29 July, 1899 or those of 18 October, 1907, and which are Parties to the present Convention, this last Convention shall be supplementary to the aforementioned Convention (IX) and to the Regulations annexed to the aforementioned Convention (IV) and shall substitute for the emblem described in Article 5 of the aforementioned Convention (IX) the emblem described in Article 16 of the present Convention, in cases in which the present Convention and the Regulations for its execution provide for the use of this distinctive emblem.

2. In the relations between Powers which are bound by the Washington Pact of 15 April, 1935 for the Protection of Artistic and Scientific Institutions and of Historic Monuments (Roerich Pact) and which are Parties to the present

Convention, the latter Convention shall be supplementary to the Roerich Pact and shall substitute for the distinguishing flag described in Article III of the Pact the emblem defined in Article 16 of the present Convention, in cases in which the present Convention and the Regulations for its execution provide for the use of this distinctive emblem.

Article 37. Denunciation

1. Each High Contracting Party may denounce the present Convention, on its own behalf, or on behalf of any territory for whose international relations it is responsible.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.
3. The denunciation shall take effect one year after the receipt of the instrument of denunciation. However, if, on the expiry of this period, the denouncing Party is involved in an armed conflict, the denunciation shall not take effect until the end of hostilities, or until the operations of repatriating cultural property are completed, whichever is the later.

Article 38. Notifications

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

Article 39. Revision of the Convention and of the Regulations for its execution

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

- (a) desires that a Conference be convened to consider the proposed amendment;
- (b) favors the acceptance of the proposed amendment without a Conference; or

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

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

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

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

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

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

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

Article 40. Registration

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

IN FAITH WHEREOF the undersigned, duly authorized, have signed the present Convention.

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

Regulations for the Execution of the Convention for the Protection of Cultural Property in the Event of Armed Conflict

Chapter I. Control

Article 1. International list of persons

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

Article 2. Organization of control

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

- (a) It shall appoint a representative for cultural property situated in its territory; if it is in occupation of another territory, it shall appoint a special representative for cultural property situated in that territory;
- (b) The Protecting Power acting for each of the Parties in conflict with such High Contracting Party shall appoint delegates accredited to the latter in conformity with Article 3 below;
- (c) A Commissioner-General for Cultural Property shall be appointed to such High Contracting Party in accordance with Article 4.

Article 3. Appointment of delegates of Protecting Powers

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

Article 4. Appointment of Commissioner-General

1. The Commissioner-General for Cultural Property shall be chosen from the international list of persons by joint agreement between the Party to which he

will be accredited and the Protecting Powers acting on behalf of the opposing Parties.

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

Article 5. Functions of delegates

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

Article 6. Functions of the Commissioner-General

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

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

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

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

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

6. If there is no Protecting Power, the Commissioner-General shall exercise the

functions of the Protecting Power as laid down in Articles 21 and 22 of the Convention.

Article 7. Inspectors and experts

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

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

Article 8. Discharge of the mission of control

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

Article 9. Substitutes for Protecting Powers

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

Article 10. Expenses

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

Chapter II. Special protection

Article 11. Improvised refuges

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

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

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

Article 12. International Register of Cultural Property under Special Protection

1. An 'International Register of Cultural Property under Special Protection' shall be prepared.

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

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

Article 13. Requests for registration

1. Any High Contracting Party may submit to the Director-General of the United Nations Educational, Scientific and Cultural Organization an application for the entry in the Register of certain refuges, centers containing monuments or other immovable cultural property situated within its territory. Such application shall contain a description of the location of such property and shall certify that the property complies with the provisions of Article 8 of the Convention.
2. In the event of occupation, the Occupying Power shall be competent to make such application.
3. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall, without delay, send copies of applications for registration to each of the High Contracting Parties.

Article 14. Objections

1. Any High Contracting Party may, by letter addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization, lodge an objection to the registration of cultural property. This letter must be received by him within four months of the day on which he sent a copy of the application for registration.
2. Such objection shall state the reasons giving rise to it, the only, valid grounds being that:
 - (a) the property is not cultural property;
 - (b) the property does not comply with the conditions mentioned in Article 8 of the Convention.
3. The Director-General shall send a copy of the letter of objection to the High Contracting Parties without delay. He shall, if necessary, seek the advice of the International Committee on Monuments, Artistic and Historical Sites and Archaeological Excavations and also, if he thinks fit, of any other competent organization or person.
4. The Director-General, or the High Contracting Party requesting registration, may make whatever representations they deem necessary to the High Contracting Parties which lodged the objection, with a view to causing the objection to be withdrawn.

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

6. If, within a period of six months from the date of receipt of the letter of objection, the Director-General has not received from the High Contracting Party lodging the objection a communication stating that it has been withdrawn, the High Contracting Party applying for registration may request arbitration in accordance with the procedure in the following paragraph.

7. The request for arbitration shall not be made more than one year after the date of receipt by the Director-General of the letter of objection. Each of the two Parties to the dispute shall appoint an arbitrator. When more than one objection has been lodged against an application for registration, the High Contracting Parties which have lodged the objections shall, by common consent, appoint a single arbitrator. These two arbitrators shall select a chief arbitrator from the international list mentioned in Article 1 of the present Regulations. If such arbitrators cannot agree upon their choice, they shall ask the President of the International Court of Justice to appoint a chief arbitrator who need not necessarily be chosen from the international list. The arbitral tribunal thus constituted shall fix its own procedure. There shall be no appeal from its decisions.

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

Article 15. Registration

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

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

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

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

Article 16. Cancellation

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

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

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

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

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

Chapter III. Transport of cultural property

Article 17. Procedure to obtain immunity

1. The request mentioned in paragraph I of Article 12 of the Convention shall be addressed to the Commissioner-General for Cultural Property. It shall mention the reasons on which it is based and specify the approximate number and the importance of the objects-to be transferred, their present location, the location now envisaged, the means of transport to be used, the route to be followed, the date proposed for the transfer, and any other relevant information.
2. If the Commissioner-General, after taking such opinions as he deems fit, considers that such transfer is justified, he shall consult those delegates of the Protecting Powers who are concerned, on the measures proposed for carrying it out. Following such consultation, he shall notify the Parties to the conflict concerned of the transfer, including in such notification all useful information.
3. The Commissioner-General shall appoint one or more inspectors, who shall satisfy themselves that only the property stated in the request is to be transferred and that the transport is to be by the approved methods and bears the distinctive emblem. The inspector or inspectors shall accompany the property to its destination.

Article 18. Transport abroad

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

- (a) while the cultural property remains on the territory of another State, that State shall be its depositary and shall extend to it as great a measure of care as that which it bestows upon its own cultural property of comparable importance;
- (b) the depositary State shall return the property only on the cessation of the conflict; such return shall be effected within six months from the date on which it was requested;
- (c) during the various transfer operations, and while it remains on the territory of another State, the cultural property shall be exempt from confiscation and may not be disposed of either by the depositor or by the depositary. Nevertheless,

when the safety of the property requires it, the depositary may, with the assent of the depositor, have the property transported to the territory of a third country, under the conditions laid down in the present article;

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

Article 19. Occupied territory

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

Chapter IV. The distinctive emblem

Article 20. Affixing of the emblem

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

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

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

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

Article 21. Identification of persons

1. The persons mentioned in Article 17, paragraph 2(b) and (c) of the Convention

may wear an armlet bearing the distinctive emblem, issued and stamped by the competent authorities.

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

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

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

International Charter on the Conservation and Restoration of Monuments and Sites

Preamble

Imbued with a message from the past, the historic monuments of generations of people remain to the present day as living witnesses of their age-old traditions. People are becoming more and more conscious of the unity of human values and regard ancient monuments as a common heritage. The common responsibility to safeguard them for future generations is recognized. It is our duty to hand them on in the full richness of their authenticity.

It is essential that the principles guiding the preservation and restoration of ancient buildings should be agreed and be laid down on an international basis, with each country being responsible for applying the plan within the framework of its own culture and traditions.

By defining these basic principles for the first time, the Athens Charter of 1931 contributed towards the development of an extensive international movement which has assumed concrete form in national documents, in the work of ICOM and UNESCO and in the establishment by the latter of the International Centre for the Study of the Preservation and the Restoration of Cultural Property [ICCROM]. Increasing awareness and critical study have been brought to bear on problems which have continually become more complex and varied; now the time has come to examine the Charter afresh in order to make a thorough study of the principles involved and to enlarge its scope in a new document.

Accordingly, the IInd International Congress of Architects and Technicians of Historic Monuments, which met in Venice from May 25th to 31st 1964, approved the following text:

Definitions

Article 1.

The concept of an historic monument embraces not only the single architectural work but also the urban or rural setting in which is found the evidence of a particular civilization, a significant development or an historic event. This applies not only to great works of art but also to more modest works of the past which have acquired cultural significance with the passing of time.

Article 2.

The conservation and restoration of monuments must have recourse to all the sciences and techniques which can contribute to the study and safeguarding of the architectural heritage.

Aim

Article 3.

The intention in conserving and restoring monuments is to safeguard them no less as works of art than as historical evidence.

Conservation

Article 4.

It is essential to the conservation of monuments that they be maintained on a permanent basis.

Article 5.

The conservation of monuments is always facilitated by making use of them for some socially useful purpose. Such use is therefore desirable but it must not change the lay-out or decoration of the building. It is within these limits only that modifications demanded by a change of function should be envisaged and may be permitted.

Article 6.

The conservation of a monument implies preserving a setting which is not out of scale. Wherever the traditional setting exists, it must be kept. No new construction, demolition or modification which would alter the relations of mass and color must be allowed.

Article 7.

A monument is inseparable from the history to which it bears witness and from the setting in which it occurs. The moving of all or part of a monument cannot be allowed except where the safeguarding of that monument demands it or where it is justified by national or international interest of paramount importance.

Article 8.

Items of sculpture, painting or decoration which form an integral part of a monument may only be removed from it if this is the sole means of ensuring their preservation.

Restoration

Article 9.

The process of restoration is a highly specialized operation. Its aim is to preserve and reveal the aesthetic and historic value of the monument and is based on respect for original material and authentic documents. It must stop at the point where conjecture begins, and in this case moreover any extra work which is indispensable must be distinct from the architectural composition and must bear a contemporary stamp. The restoration in any case must be preceded and followed by an archaeological and historical study of the monument.

Article 10.

Where traditional techniques prove inadequate, the consolidation of a monument can be achieved by the use of any modern technique for conservation and construction, the efficacy of which has been shown by scientific data and proved by experience.

Article 11.

The valid contributions of all periods to the building of a monument must be respected, since unity of style is not the aim of a restoration. When a building includes the superimposed work of different periods, the revealing of the underlying state can only be justified in exceptional circumstances and when what is removed is of little interest and the material which is brought to light is of great historical, archaeological or aesthetic value, and its state of preservation good enough to justify the action. Evaluation of the importance of the elements involved and the decision as to what may be destroyed cannot rest solely on the individual in charge of the work.

Article 12.

Replacements of missing parts must integrate harmoniously with the whole, but at the same time must be distinguishable from the original so that restoration does not falsify the artistic or historic evidence.

Article 13.

Additions cannot be allowed except in so far as they do not detract from the interesting parts of the building, its traditional setting, the balance of its composition and its relation with its surroundings.

Historic Sites

Article 14.

The sites of monuments must be the object of special care in order to safeguard their integrity and ensure that they are cleared and presented in a seemly manner. The work of conservation and restoration carried out in such places should be inspired by the principles set forth in the foregoing articles.

Excavations

Article 15.

Excavations should be carried out in accordance with scientific standards and the recommendations defining international principles to be applied in the case of archaeological excavation adopted by UNESCO in 1956.

Ruins must be maintained and measures necessary for the permanent conservation and protection of architectural features and of objects discovered must be taken. Furthermore, every means must be taken to facilitate the understanding of the monument and to reveal it without ever distorting its meaning.

All reconstruction work should however be ruled out "a priori." Only anastylosis, that is to say, the reassembling of existing but dismembered parts can be permitted. The material used for integration should always be recognizable and its use should be the least that will ensure the conservation of a monument and the reinstatement of its form.

Publication

Article 16.

In all works of preservation, restoration or excavation, there should always be precise documentation in the form of analytical and critical reports, illustrated with drawings and photographs. Every stage of the work of clearing, consolidation, rearrangement and integration, as well as technical and formal features identified during the course of the work, should be included. This record should be placed in the archives of a public institution and made available to research workers. It is recommended that the report should be published.

The following persons took part in the work of the Committee for drafting the International Charter for the Conservation and Restoration of Monuments:

Piero Gazzola (*Italy*), **Chairman**
Raymond Lemaire (*Belgium*), **Reporter**
Jose Bassegoda-Nonell (*Spain*)
Luis Benavente (*Portugal*)
Djurdje Boskovic (*Yugoslavia*)
Hiroshi Daifuku (*UNESCO*)
P.L de Vrieze (*Netherlands*)
Harald Langberg (*Demmark*)
Mario Matteucci (*Italy*)
Jean Merlet (*France*)
Carlos Flores Marini (*Mexico*)
Roberto Pane (*Italy*)
S.C.J. Pavel (*Czechoslovakia*)
Paul Philippot (*ICCROM*)
Victor Pimentel (*Peru*)
Harold Plenderleith (*ICCROM*)
Deoclecio Redig de Campos (*Vatican*)
Jean Sonnier (*France*)
Francois Sorlin (*France*)
Eustathios Stikas (*Greece*)
Mrs. Gertrud Tripp (*Austria*)
Jan Zachwatovicz (*Poland*)
Mustafa S. Zbiss (*Tunisia*)

**Recommendation on International Principles Applicable to
Archaeological Excavations**

Preamble

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting at New Delhi, from 5 November to 5 December 1956, at its ninth session,

Being of the opinion that the surest guarantee for the preservation of monuments and works of the past rests in the respect and affection felt for them by the peoples themselves, and persuaded that such feelings may be greatly strengthened by adequate measures inspired by the wish of Member States to develop science and international relations,

Convinced that the feelings aroused by the contemplation and study of works of the past do much to foster mutual understanding between nations, and that it is therefore highly desirable to secure international co-operation with regard to them and to further, in every possible way, the fulfillment of their social mission,

Considering that, while individual States are more directly concerned with the archaeological discoveries made on their territory, the international community as a whole is nevertheless the richer for such discoveries,

Considering that the history of man implies the knowledge of all different civilizations; and that it is therefore necessary, in the general interest, that all archaeological remains be studied and, where possible, preserved and taken into safe keeping,

Convinced that it is highly desirable that the national authorities responsible for the protection of the archaeological heritage should be guided by certain common principles which have been tested by experience and put into practice by national archaeological services,

Being of the opinion that, though the regulation of excavations is first and foremost for the domestic jurisdiction of each State, this principle should be brought into harmony with that of a liberally understood and freely accepted international co-operation,

Having before it proposals concerning international principles applicable to archaeological excavations, which constitute item 9.4.3 on the agenda of the session,

Having decided, at its eighth session, that these proposals should be regulated at the international level by way of a recommendation to Member States,

Adopts, this fifth day of December 1956, the following Recommendation:

The General Conference recommends that Member States should apply the following provisions by taking whatever legislative or other steps may be required to give effect, within their respective territories, to the principles and norms formulated in the present Recommendation.

The General Conference recommends that Member States should bring the present Recommendation to the knowledge of authorities and organizations concerned with archaeological excavations and museums.

The General Conference recommends that Member States should report to it, on dates and in a manner to be determined by it, on the action which they have taken to give effect to the present Recommendation.

I. Definitions

Archaeological excavations

1. For the purpose of the present Recommendation, by archaeological excavations is meant any research aimed at the discovery of objects of archaeological character, whether such research involves digging of the ground or systematic exploration of its surface or is carried out on the bed or in the sub-soil of inland or territorial waters of a Member State.

Property protected

2. The provisions of the present Recommendation apply to any remains, whose preservation is in the public interest from the point of view of history or art and architecture, each Member State being free to adopt the most appropriate criterion for assessing the public interest of objects found on its territory. In particular, the provisions of the present Recommendation should apply to any monuments and movable or immovable objects of archaeological interest considered in the widest sense.

3. The criterion adopted for assessing the public interest of archaeological remains might vary according to whether it is a question of the preservation of

such property, or of the excavator's or finder's obligation to declare his discoveries.

(a) In the former case, the criterion based on preserving all objects originating before a certain date should be abandoned, and replaced by one whereby protection is extended to all objects belonging to a given period or of a minimum age fixed by law.

(b) In the latter case, each Member State should adopt far wider criteria, compelling the excavator or finder to declare any object, of archaeological character, whether movable or immovable, which he may discover.

II. General principles

Protection of the archaeological heritage

4. Each Member State should ensure the protection of its archaeological heritage, taking fully into account problems arising in connection with excavations, and in conformity with the provisions of the present Recommendation.

5. Each Member State should in particular:

(a) Make archaeological explorations and excavations subject to prior authorization by the competent authority;

(b) Oblige any person finding archaeological remains to declare them at the earliest possible date to the competent authority;

(c) Impose penalties for the infringement of these regulations;

(d) Make undeclared objects subject to confiscation;

(e) Define the legal status of the archaeological sub-soil and, where State ownership of the said sub-soil is recognized, specifically mention the fact in its legislation;

(f) Consider classifying as historical monuments the essential elements of its archaeological heritage.

Protecting body: archaeological excavations

6. Although differences of tradition and unequal financial resources make it

impossible for all Member States to adopt a uniform system of organization in the administrative services responsible for excavations, certain common principles should nevertheless apply to all national archaeological services

(a) The archaeological service should, so far as possible, be a central State administration - or at any rate an organization provided by law with the necessary means for carrying out any emergency measures that may be required. In addition to the general administration of archaeological work, this service should co-operate with research institutes and universities in the technical training of excavators. This body should also set up a central documentation, including maps, of its movable and immovable monuments and additional documentation for every important museum or ceramic or iconographic collection, etc.

(b) Steps should be taken to ensure in particular the regular provision of funds:

(i) to administer the services in a satisfactory manner;

(ii) to carry out a program of work proportionate to the archaeological resources of the country, including scientific publications ;

(iii) to exercise control over accidental discoveries;

(iv) to provide for the upkeep of excavation sites and monuments.

7. Careful supervision should be exercised by each Member State over the restoration of archaeological remains and objects discovered.

8. Prior approval should be obtained from the competent authority for the removal of any monuments, which ought to be preserved in situ.

9. Each Member State should consider maintaining untouched, partially or totally, a certain number of archaeological sites of different periods in order that their excavation may benefit from improved techniques and more advanced archaeological knowledge. On each of the larger sites now being excavated, in so far as the nature of the land permits, well defined 'witness' areas might be left unexcavated in several places in order to allow for eventual verification of the stratigraphy and archaeological composition of the site.

Formation of central and regional collections

10. In as much as archaeology is a comparative science, account should be taken,

in the setting up and organizing of museums and reserve collections, of the need for facilitating the work of comparison as much as possible. For this purpose, central and regional collections might be formed or, in exceptional cases, local collections on particularly important archaeological sites-in preference to small scattered collections, accessible to comparatively few people. These establishments should command, on a permanent basis, the administrative facilities and scientific staff necessary to ensure the preservation of the exhibits.

11. On important archaeological sites, a small exhibit of an educational nature-possibly a museum-should be set up to convey to visitors the interest of the archaeological remains.

Education of the public

12. The competent authority should initiate educational measures in order to arouse and develop respect and affection for the remains of the past by the teaching of history, the participation of students in certain excavations, the publication in the press of archaeological information supplied by recognized specialists, the organization of guided tours, exhibitions and lectures dealing with methods of excavation and results achieved, the clear display of archaeological sites explored and monuments discovered, and the publication of cheap and simply written monographs and guides. In order to encourage the public to visit these sites, Member States should make all necessary arrangements to facilitate access to them.

III. Regulations governing excavations and international collaboration

Authority to excavate granted to foreigners

13. Each Member State on whose territory excavations are to take place should lay down general rules governing the granting of excavation concessions, the conditions to be observed by the excavator, in particular as concerns the supervision exercised by the national authorities, the period of the concession, the reasons which may justify its withdrawal, the suspension of work, or its transfer from the authorized excavator to the national archaeological service.

14. The conditions imposed upon a foreign excavator should be those applicable to nationals. Consequently, the deed of concession should omit special stipulations which are not imperative.

International collaboration

15. In the higher interest of archaeology and of international collaboration, Member States should encourage excavations by a liberal policy. They might allow qualified individuals or learned bodies, irrespective of nationality, to apply on an equal footing for the concession to excavate. Member States should encourage excavations carried out by joint missions of scientists from their own country and of archaeologists representing foreign institutions, or by international missions.

16. When a concession is granted to a foreign mission, the representative of the conceding State - if such be appointed - should, as far as possible, also be an archaeologist capable of helping the mission and collaborating with it.

17. Member States which lack the necessary resources for the organization of archaeological excavations in foreign countries should be accorded facilities for sending archaeologists to sites being worked by other Member States, with the consent of the director of excavations.

18. A Member State whose technical or other resources are insufficient for the scientific carrying out of an excavation should be able to call on the participation of foreign experts or on a foreign mission to undertake it.

Reciprocal guarantees

19. Authority to carry out excavations should be granted only to institutions represented by qualified archaeologists or to persons offering such unimpeachable scientific, moral and financial guarantees as to ensure that any excavations will be completed in accordance with the terms of the deed of concession and within the period laid down.

20. On the other hand, when authority to carry out excavations is granted to foreign archaeologists, it should guarantee them a period of work long enough, and conditions of security sufficient to facilitate their task and protect them from unjustified cancellation of the concession in the event, for instance, of their being obliged, for reasons recognized as valid, to interrupt their work for a given period of time.

Preservation of archaeological remains

21. The deed of concession should define the obligations of the excavator during and on completion of his work. The deed should, in particular, provide for guarding, maintenance and restoration of the site together with the conservation,

during and on completion of his work, of objects and monuments uncovered. The deed should moreover indicate what help if any the excavator might expect from the conceding State in the discharge of his obligations should these prove too onerous.

Access to excavation sites

22. Qualified experts of any nationality should be allowed to visit a site before a report of the work is published and with the consent of the director of excavations, even during the work. This privilege should in no case jeopardize the excavator's scientific rights in his finds.

Assignment of finds

23. (a) Each Member State should clearly define the principles which hold good on its territory in regard to the disposal of finds from excavations.

(b) Finds should be used, in the first place, for building up, in the museums of the country in which excavations are carried out, complete collections fully representative of that country's civilization, history, art and architecture.

(c) With the main object of promoting archaeological studies through the distribution of original material, the conceding authority, after scientific publication, might consider allocating to the approved excavator a number of finds from his excavation, consisting of duplicates or, in a more general sense, of objects or groups of objects which can be released in view of their similarity to other objects from the same excavation. The return to the excavator of objects resulting from excavations should always be subject to the condition that they be allocated within a specified period of time to scientific centers open to the public, with the proviso that if these conditions are not put into effect, or cease to be carried out, the released objects will be returned to the conceding authority.

(d) Temporary export of finds, excluding objects which are exceptionally fragile or of national importance, should be authorized on requests emanating from a scientific institution of public or private character if the study of these finds in the conceding State is not possible because of lack of bibliographical or scientific facilities, or is impeded by difficulties of access.

(e) Each Member State should consider ceding to, exchanging with, or depositing in foreign museums objects, which are not required in the national collections.

Scientific rights; rights and obligations of the excavator

24. (a) The conceding State should guarantee to the excavator scientific rights in his finds for a reasonable period.

(b) The conceding State should require the excavator to publish the results of his work within the period stipulated in the deed, or, failing such stipulations, within a reasonable period. This period should not exceed two years for the preliminary report. For a period of five years following the discovery, the competent archaeological authorities should undertake not to release the complete collection of finds, nor the relative scientific documentation, for detailed study, without the written authority of the excavator. Subject to the same conditions, these authorities should also prevent photographic or other reproduction of archaeological material still unpublished. In order to allow, should it be so desired, for simultaneous publication of the preliminary report in both countries, the excavator should, on demand, submit a copy of his text to these authorities.

(c) Scientific publications dealing with archaeological research and issued in a language which is not widely used should include a summary and, if possible, a list of contents and captions of illustrations translated into some more widely known language.

Documentation on excavations

25. Subject to the provisions set out in paragraph 24, the national archaeological services should, as far as possible, make their documentation and reserve collections of archaeological material readily available for inspection and study to excavators and qualified experts, especially those who have been granted a concession for a particular site or who wish to obtain one.

Regional meetings and scientific discussions

26. In order to facilitate the study of problems of common interest, Member States might, from time to time, convene regional meetings attended by representatives of the archaeological services of interested States. Similarly, each Member State might encourage excavators working on its soil to meet for scientific discussions.

IV. Trade in antiquities

27. In the higher interests of the common archaeological heritage, each Member State should consider the adoption of regulations to govern the trade in

antiquities so as to ensure that this trade does not encourage smuggling of archaeological material or affect adversely the protection of sites and the collecting of material for public exhibit.

28. Foreign museums should, in order to fulfill their scientific and educational aims, be able to acquire objects which have been released from any restrictions due to the laws in force in the country of origin.

V. Repression of clandestine excavations and of the illicit export of archaeological finds

Protection of archaeological sites against clandestine excavations and damage

29. Each Member State should take all necessary measures to prevent clandestine excavations and damage to monuments defined in paragraphs 2 and 3 above, and also to prevent the export of objects thus obtained.

International co-operation in repressive measures

30. All necessary measures should be taken in order that museums to which archaeological objects are offered ascertain that there is no reason to believe that these objects have been procured by clandestine excavation, theft or any other method regarded as illicit by the competent authorities of the country of origin. Any suspicious offer and all details appertaining thereto should be brought to the attention of the services concerned. When archaeological objects have been acquired by museums, adequate details allowing them to be identified and indicating the manner of their acquisition should be published as soon as possible.

Return of objects to their country of origin

31. Excavation services and museums should lend one another assistance in order to ensure or facilitate the recovery of objects derived from clandestine excavations or theft, and of all objects exported in infringement of the legislation of the country of origin. It is desirable that each Member State should take the necessary measures to ensure this recovery. These principles should be applied in the event of temporary exports as mentioned in paragraph 23(c), (d) and (e) above, if the objects are not returned within the stipulated period.

VI. Excavations in occupied territory

32. In the event of armed conflict, any Member State occupying the territory of

another State should refrain from carrying out archaeological excavations in the occupied territory. In the event of chance finds being made, particularly during military works, the occupying Power should take all possible measures to protect these finds, which should be handed over, on the termination of hostilities, to the competent authorities of the territory previously occupied, together with all documentation relating thereto.

VII. Bilateral agreements

33. Member States should, whenever necessary or desirable, conclude bilateral agreements to deal with matters of common interest arising out of the application of the present Recommendation.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization during its Ninth Session, which was held at New Delhi and declared closed the fifth day of December 1956.

IN FAITH WHEREOF we have appended our signatures this fifth day of December

The President of the General Conference
The Director-General

Charter for the Protection and Management of the Archaeological Heritage

Introduction

It is widely recognized that a knowledge and understanding of the origins and development of human societies is of fundamental importance to humanity in identifying its cultural and social roots.

The archaeological heritage constitutes the basic record of past human activities. Its protection and proper management is therefore essential to enable archaeologists and other scholars to study and interpret it on behalf of and for the benefit of present and future generations.

The protection of this heritage cannot be based upon the application of archaeological techniques alone. It requires a wider basis of professional and scientific knowledge and skills. Some elements of the archaeological heritage are components of architectural structures and in such cases must be protected in accordance with the criteria for the protection of such structures laid down in the 1966 Venice Charter on the Conservation and Restoration of Monuments and Sites. Other elements of the archaeological heritage constitute part of the living traditions of indigenous peoples, and for such sites and monuments the participation of local cultural groups is essential for their protection and preservation.

For these and other reasons the protection of the archaeological heritage must be based upon effective collaboration between professionals from many disciplines. It also requires the cooperation of government authorities, academic researchers, private or public enterprise, and the general public. This charter therefore lays down principles relating to the different aspects of archaeological heritage management. These include the responsibilities of public authorities and legislators, principles relating to the professional performance of the processes of inventorization, survey, excavation, documentation, research, maintenance, conservation, preservation, reconstruction, information, presentation, public access and use of the heritage, and the qualification of professionals involved in the protection of the archaeological heritage.

The charter has been inspired by the success of the Venice Charter as guidelines and source of ideas for policies and practice of governments as well as scholars and professionals.

The charter has to reflect very basic principles and guidelines with global validity. For this reason it cannot take into account the specific problems and possibilities of regions or countries. The charter should therefore be supplemented at regional and national levels by further principles and guidelines for these needs.

Article 1. Definition and Introduction

The "archaeological heritage" is that part of the material heritage in respect of which archaeological methods provide primary information. It comprises all vestiges of human existence and consists of places relating to all manifestations of human activity, abandoned structures, and remains of all kinds (including subterranean and underwater sites), together with all the portable cultural material associated with them.

Article 2. Integrated Protection Policies

The archaeological heritage is a fragile and non-renewable cultural resource. Land use must therefore be controlled and developed in order to minimize the destruction of the archaeological heritage.

Policies for the protection of the archaeological heritage should constitute an integral component of policies relating to land use, development, and planning as well as of cultural, environmental and educational policies. The policies for the protection of the archaeological heritage should be kept under continual review, so that they stay up to date. The creation of archaeological reserves should form part of such policies.

The protection of the archaeological heritage should be integrated into planning policies at international, national, regional and local levels.

Active participation by the general public must form part of policies for the protection of the archaeological heritage. This is essential where the heritage of indigenous peoples is involved. Participation must be based upon access to the knowledge necessary for decision-making. The provision of information to the general public is therefore an important element in integrated protection.

Article 3. Legislation and Economy

The protection of the archaeological heritage should be considered as a moral obligation upon all human beings; it is also a collective public responsibility. This obligation must be acknowledged through relevant legislation and the provision

of adequate funds for the supporting programs necessary for effective heritage management.

The archaeological heritage is common to all human society and it should therefore be the duty of every country to ensure that adequate funds are available for its protection.

Legislation should afford protection to the archaeological heritage that is appropriate to the needs, history, and traditions of each country and region, providing for in situ protection and research needs.

Legislation should be based on the concept of the archaeological heritage as the heritage of all humanity and of groups of peoples, and not restricted to any individual person or nation.

Legislation should forbid the destruction, degradation or alteration through changes of any archaeological site or monument or to their surroundings without the consent of the relevant archaeological authority.

Legislation should in principle require full archaeological investigation and documentation in cases where the destruction of the archaeological heritage is authorized.

Legislation should require, and make provision for, the proper maintenance, management and conservation of the archaeological heritage. Adequate legal sanctions should be prescribed in respect of violations of archaeological heritage legislation.

If legislation affords protection only to those elements of the archaeological heritage which are registered in a selective statutory inventory, provision should be made for the temporary protection of unprotected or newly discovered sites and monuments until an archaeological evaluation can be carried out.

Development projects constitute one of the greatest physical threats to the archaeological heritage. A duty for developers to ensure that archaeological heritage impact studies are carried out before development schemes are implemented, should therefore be embodied in appropriate legislation, with a stipulation that the costs of such studies are to be included in project costs. The principle should also be established in legislation that development schemes should be designed in such a way as to minimize their impact upon the archaeological heritage.

Article 4. Survey

The protection of the archaeological heritage must be based upon the fullest possible knowledge of its extent and nature. General survey of archaeological resources is therefore an essential working tool in developing strategies for the protection of the archaeological heritage. Consequently archaeological survey should be a basic obligation in the protection and management of the archaeological heritage.

At the same time, inventories constitute primary resource databases for scientific study and research. The compilation of inventories should therefore be regarded as a continuous, dynamic process. It follows that inventories should comprise information at various levels of significance and reliability, since even superficial knowledge can form the starting point for protectional measures.

Article 5. Investigation

Archaeological knowledge is based principally on the scientific investigation of the archaeological heritage. Such investigation embraces the whole range of methods from non-destructive techniques through sampling to total excavation.

It must be an overriding principle that the gathering of information about the archaeological heritage should not destroy any more archaeological evidence than is necessary for the protectional or scientific objectives of the investigation. Non-destructive techniques, aerial and ground survey, and sampling should therefore be encouraged wherever possible, in preference to total excavation.

As excavation always implies the necessity of making a selection of evidence to be documented and preserved at the cost of losing other information and possibly even the total destruction of the monument, a decision to excavate should only be taken after thorough consideration.

Excavation should be carried out on sites and monuments threatened by development, land-use change, looting, or natural deterioration.

In exceptional cases, unthreatened sites may be excavated to elucidate research problems or to interpret them more effectively for the purpose of presenting them to the public. In such cases excavation must be preceded by thorough scientific evaluation of the significance of the site. Excavation should be partial, leaving a portion undisturbed for future research.

A report conforming to an agreed standard should be made available to the scientific community and should be incorporated in the relevant inventory within a reasonable period after the conclusion of the excavation.

Excavations should be conducted in accordance with the principles embodied in the 1956 UNESCO Recommendations on International Principles Applicable to Archaeological Excavations and with agreed international and national professional standards.

Article 6. Maintenance and Conservation

The overall objective of archaeological heritage management should be the preservation of monuments and sites in situ, including proper long-term conservation and curation of all related records and collections etc. Any transfer of elements of the heritage to new locations represents a violation of the principle of preserving the heritage in its original context. This principle stresses the need for proper maintenance, conservation and management. It also asserts the principle that the archaeological heritage should not be exposed by excavation or left exposed after excavation if provision for its proper maintenance and management after excavation cannot be guaranteed.

Local commitment and participation should be actively sought and encouraged as a means of promoting the maintenance of the archaeological heritage. This principle is especially important when dealing with the heritage of indigenous peoples or local cultural groups. In some cases it may be appropriate to entrust responsibility for the protection and management of sites and monuments to indigenous peoples.

Owing to the inevitable limitations of available resources, active maintenance will have to be carried out on a selective basis. It should therefore be applied to a sample of the diversity of sites and monuments, based upon a scientific assessment of their significance and representative character, and not confined to the more notable and visually attractive monuments.

The relevant principles of the 1956 UNESCO Recommendations should be applied in respect of the maintenance and conservation of the archaeological heritage.

Article 7. Presentation, Information, Reconstruction

The presentation of the archaeological heritage to the general public is an essential method of promoting an understanding of the origins and development

of modern societies. At the same time it is the most important means of promoting an understanding of the need for its protection.

Presentation and information should be conceived as a popular interpretation of the current state of knowledge, and it must therefore be revised frequently. It should take account of the multifaceted approaches to an understanding of the past.

Reconstructions serve two important functions: experimental research and interpretation. They should, however, be carried out with great caution, so as to avoid disturbing any surviving archaeological evidence, and they should take account of evidence from all sources in order to achieve authenticity. Where possible and appropriate, reconstructions should not be built immediately on the archaeological remains, and should be identifiable as such.

Article 8. Professional Qualifications

High academic standards in many different disciplines are essential in the management of the archaeological heritage. The training of an adequate number of qualified professionals in the relevant fields of expertise should therefore be an important objective for the educational policies in every country. The need to develop expertise in certain highly specialized fields calls for international cooperation. Standards of professional training and professional conduct should be established and maintained.

The objective of academic archaeological training should take account of the shift in conservation policies from excavation to in situ preservation. It should also take into account the fact that the study of the history of indigenous peoples is as important in preserving and understanding the archaeological heritage as the study of outstanding monuments and sites.

The protection of the archaeological heritage is a process of continuous dynamic development. Time should therefore be made available to professionals working in this field to enable them to update their knowledge. Postgraduate training programs should be developed with special emphasis on the protection and management of the archaeological heritage.

Article 9. International Cooperation

The archaeological heritage is the common heritage of all humanity. International cooperation is therefore essential in developing and maintaining standards in its management.

There is an urgent need to create international mechanisms for the exchange of information and experience among professionals dealing with archaeological heritage management. This requires the organization of conferences, seminars, workshops, etc. at global as well as regional levels, and the establishment of regional centers for postgraduate studies. ICOMOS, through its specialized groups, should promote this aspect in its medium- and long-term planning.

International exchanges of professional staff should also be developed as a means of raising standards of archaeological heritage management.

Technical assistance programs in the field of archaeological heritage management should be developed under the auspices of ICOMOS.

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