

Stolen Heritage

Multidisciplinary Perspectives on Illicit Trafficking of Cultural Heritage in the EU and the MENA Region

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Attacks against Cultural Heritage and Organized Crime UNESCO's Mobilization and Action

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Abstract Through attacks on cultural heritage and the deliberate looting of archaeological sites on 5 continents, particularly in Eastern Europe, the Middle East, Latin America and South-East Asia, terrorist organisations can take advantage of illicit income deriving from the sales of 'blood' antiquities, leaving behind only the ruins of our shared history. This is the cultural haemorrhage that UNESCO and its partners have been facing for decades and in a more prominent way nowadays.

Keywords UNESCO. Organised Crime. Resolution. Preservation. Heritage.

Summary 1 Destruction of Cultural Heritage, the Context. – 2 The Protection of Cultural Heritage According to Resolution 2199. – 3 Joint Efforts: The Role of UNESCO in the Implementation of the Resolution. – 4 Prospects.

1 Destruction of Cultural Heritage, the Context

For many years, the destruction, looting and illicit trafficking of cultural property have been, and will with no doubt continue to be, important sources of income for organized crime entities and for terrorist groups. This phenomenon is neither recent nor limited to a particular region, on the contrary: no continent is immune from these reprehensible acts, described by former UNESCO Director-General Irina Bokova as "war crimes".

Many believe that the destruction in 2001 of the sixth-century Buddhas in Bamiyan, Afghanistan, marked the start of a new era, where the deliberate destruction of cultural heritage is associated with a political stake and a desire to morally destroy the opponent by attacking his deepest beliefs. This is nothing new.



Antichistica 29 | Archeologia 6

e-ISSN 2610-9344 | ISSN 2610-8828

ISBN [ebook] 978-88-6969-517-9 | ISBN [print] 978-88-6969-518-6

Open access

Published 2021-03-31

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DOI 10.30687/978-88-6969-517-9/001

During the dissolution of Yugoslavia in the mid-nineties, the world recognized that the bombing of cultural sites was also a military tactic aimed at demoralizing the enemy. The looting committed during the 2003 intervention by the United States in Iraq and the trafficking that followed are still very much in our collective memory. In particular, two-thirds of the Baghdad museum collection has still not been found. In response, the United Nations Security Council (UNSC) adopted a major instrument, Resolution 1483 (2003), to protect Iraqi cultural heritage by retroactively prohibiting trade and in particular placing this prohibition on cultural property. UNSC Resolution 2100 (2013), equally important for the protection of cultural heritage in the event of armed conflict, spurred the creation of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), which provides for the deployment in this country of peacekeeping troops, including peacekeepers trained by UNESCO in the protection of cultural heritage.

This brings us to the recent situation in Syria and Iraq, where the destruction of cultural heritage has been on an unprecedented scale since the Second World War, not to mention the situation in Libya and Yemen. These groups have deliberately targeted monuments and sites in order to destroy the adversary in its most intimate identity and contribute to financing their terrorist activities. This barbarism, as intense as it is massive, leads to the annihilation of the common history of humanity and aims to deprive millions of people of their identity. The Director-General of UNESCO has described these acts as “cultural cleansing”.

UNESCO is the only intergovernmental organisation and United Nations agency with a specific mandate in the protection of cultural heritage and has many years of experience in this field. With strategic partners such as INTERPOL, UNIDROIT, the World Customs Organisation, UNODC, the European Union, and the Council of Europe, UNESCO repeatedly and strongly condemns threats and attacks targeting cultural heritage as a means of combat in the Middle East and elsewhere. The UNSC also brought the international community at UNESCO’s side with the unanimous adoption of Resolution 2199 (February 12, 2015).

2 The Protection of Cultural Heritage According to Resolution 2199

In many ways, Resolution 2199 is revolutionary. As explained above, the UNSC has become a prominent actor involved in the fight against illicit trafficking, which led to the adoption of this resolution. The numerous references to the illicit traffic and the inclusion of a para-

graph dedicated to cultural heritage and the criminal activities related to it were not acquired from the start of negotiations on the text.

In summary, Resolution 2199 is an anti-terrorism resolution that includes, among other things, a ban on the trade in cultural goods. It “condemns the destruction of cultural heritage” (par. 15), “notes with concern” that the income generated by the smuggling of cultural property is used to organise and carry out “terrorist attacks” (par. 16), and “decides” to banning the trade in “illegally removed objects” (par. 17).

The Security Council also mandates UNESCO to support the effective implementation of this resolution. In other words, the Resolution prohibits member states from importing “cultural heritage objects from archaeological sites, museums, libraries, archives and other sites in Syria and Iraq”.

But more precisely, to what cultural goods does it apply and under what circumstances? What is the link between trafficking in cultural property and terrorist activities?

The temporal scope of the Resolution is defined by historical events, respectively the invasion of Kuwait in 1990 and the start of the civil conflict in Syria in 2011. Its material scope is, however, less precise. Par. 16 lists the categories of items subject to the ban; in the same sentence, the UNSC establishes an explicit link between these objects and the financing or support of terrorist activities. Although, a systemic analysis of the Resolution highlights as the main topic the development of terrorism as a whole; also, the preamble clauses insist on the link to terrorism.

Nevertheless, a thorough reading of the text gives rise to doubts in the interpretation since we notice that in par. 17 the UNSC refers to Resolution 1483 (2003), which makes no explicit link to terrorism. It is indeed a matter of interpretation to establish whether this prohibition applies to cultural property in general, or exclusively to those related to terrorism: for example, par. 17 of Resolution 2199 mentions the prohibition of trade in Iraqis cultural property, as decided in par. 7 of Resolution 1483, without a clear link to terrorism. As a matter of fact, Resolution 1483 helps better understanding how Resolution 2199 deals with the prohibition of trade in cultural goods.

Overall, the purpose of this kind of resolutions (in terms of oil exports, trafficking in cultural goods and humanitarian objectives) is to weaken terrorist groups. On the other hand, the provisions relating to cultural heritage also aim to protect it as such, independently of other issues. Above all, by reading Resolution 2199 in connection with Resolution 1483, it is clear that it firmly calls for a strict and widespread ban on the trade in cultural goods from Iraq and Syria.

3 Joint Efforts: The Role of UNESCO in the Implementation of the Resolution

The wider the material scope of the Resolution, the less it is necessary to demonstrate a link between the financing of terrorism and how each object left the country – and the easier it will be to implement the Resolution itself.

In the course of the summer 2015, the member countries had to report on the countermeasures adopted in accordance with par. 29 of Resolution 2199;¹ likewise, UNESCO wrote its own report on the activities carried out during this period. A series of emergency measures applied in Syria and Iraq features among the most important.

Even before the approval of this Resolution, especially since 2014, UNESCO has set the fight against illicit trafficking of cultural property as a priority on the political agenda concerning South-East Europe (SEE) Culture. Actually, since 2006, UNESCO Regional Bureau for Science and Culture in Europe (Venice) has been active in discussing, promoting and supporting regional cooperation on the subject. Outcomes and recommendations drawing from the first meetings called for the enhancement of awareness-raising and capacity-building initiatives at the national and regional levels in SEE countries – with a special focus on the coordination among relevant institutional stakeholders, including police forces, ministries of culture, customs agencies, and judiciary bodies, in line with UNESCO's action in this field.

Alongside these principles, UNESCO, through this Regional Bureau, developed a programme of activities that included a series of workshops,² in cooperation with the Italian Carabinieri – Command for the Protection of Cultural Heritage. They aimed at developing capacities of institutions, staff from police forces, ministries of culture, customs agencies, and judiciary officers of different countries in SEE region, as well as reinforcing the inter-institutional and international cooperation through the implementation of relevant international standards,³ tools and best practices. Such activities and workshops benefited the former Yugoslav Republic of Macedonia (2014); Albania (2015); Bosnia and Herzegovina (2016); Montenegro and Serbia (2017), the Republic of Moldova and Romania (2018).

1 For example, the development of law enforcement and judicial cooperation in preventing and countering all forms of trafficking in cultural property and related offences that may benefit organised criminal groups or terrorists; the active collaboration in investigation, return and restitution; and the implementation of judicial proceedings through appropriate channels and in accordance with domestic, regional and international legal frameworks.

2 UNESCO supports capacity development to protect cultural heritage in the Republic of Moldova and Romania.

3 UNESCO 1970 Convention and 1995 UNIDROIT Convention.

Theft and illicit trade continue to affect many archaeological sites (both land and underwater sites), public and private collections, museums, galleries and places of worship, notwithstanding the ratification of 1970 UNESCO Convention by all the countries from SEE region and the participation of seven of them to the 1995 UNIDROIT Convention.⁴ Today, mobilizing public opinion, educating, sharing information and good practices through regional and international cooperation is still a pressing need.

In 2011, the UNESCO Regional Bureau produced a 15-minute video on sensitisation and awareness-raising on the fight against the illicit traffic of cultural property. Realized in close cooperation with SEE Ministries of Culture and National Commissions, the video is accessible in both English and the nine languages of the Region on YouTube channel.⁵

UNESCO also assists Member States by providing them with technical and operational assistance for the effective implementation of Resolution 2199. Offering an overview of the applied measures, the reports show that Member States are following the broad lines of the recommendations proposed by the United Nations Sanctions Monitoring Team. It is important to remark that, in all of their reports, most member states refer to existing national legislation instead of presenting new measures adopted to actually implement the mandate of Resolution 2199. States should continue considering to apply their counter-terrorism legislation to business concerning cultural property, and revise the national legislation to include the concept of illicit trade in cultural property financing terrorism.

4 Prospects

It is clear that a more coherent monitoring of the potential link between illicit trafficking of cultural heritage and organised crime is necessary. This involves sharing information between all stakeholders: law enforcement; source, transit and destination countries; art market players; and international institutions. The essential strategy, the only one that will guarantee lasting success, is raising awareness among end-buyers to stifle the demand. It is only when all buyers and sellers comply with international guidelines and standards that this unscrupulous trade can be collectively stopped. This approach is more productive than the mere condemnation of terrorist groups for their massacres and the damage caused to cultural heritage.

⁴ Bosnia and Herzegovina, Cyprus, Greece, Montenegro, North Macedonia, Romania and Slovenia.

⁵ *Fighting illicit traffic of cultural property in South-East Europe*. <https://www.unesco.org/archives/multimedia/document-2410>.

The keys to the effective regulation of the art market consist of updated inventories of cultural goods, appropriate due diligence, accurate provenance researches, and the standardisation of import/export certificates. International Conventions, notably that of UNESCO in 1970 and UNIDROIT in 1995, define such essential aspects that are also complemented by the provisions of the 2017 Council of Europe Convention on Offences relating to Cultural Property (“Nicosia Convention”). By decreasing the demand, cultural heritage will also be less exploited as a resource for looters and criminal networks. To go further in terms of legislation, judges and prosecutors should also broaden their scope to include not only heritage regulations, but also anti-terrorism laws and criminal codes.

At the moment, while we are witnessing the implementation of a more global approach, the involvement of more actors and the increase of public awareness, we can discuss how to rationalise the work of UNESCO on this topic. We must strive to create lasting models of protection, before and after conflicts, a better regulation of the art trade and thematic resolutions of the UNSC, in order to consolidate universal standards similar to those that governments have adopted in other important fields, such as the protection of animal and plant species (Washington Convention known as CITES, 2000). Only on this condition, we can fulfil our mandate.

Much work remains to be done and UNESCO will continue to guide the international community in the fight against the destruction of cultural heritage and the preservation of the identity of peoples.