

# Contemporary International Legal Framework For The Protection Of Cultural Heritage Under Unesco Conventions

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## Abstract

*This article analyzes the modern system of international cultural heritage law, formed on the basis of conventions adopted by UNESCO. Within the framework of the study, the structure, content, and practical significance of the 1970 Convention on the Prevention and Prohibition of the Illicit Import, Export, and Transfer of Ownership Rights of Cultural Property, the 1972 Convention for the Protection of the World Cultural and Natural Heritage, and the 2003 Convention for the Protection of the Intangible Cultural Heritage were examined. The main problems of the modern international system of cultural heritage law and ways to solve them are also analyzed. The article is intended for researchers, practicing lawyers, and civil servants in the fields of international law, cultural heritage law, and UNESCO activities.*

**Keywords:** UNESCO conventions, cultural heritage, intangible cultural heritage, World Heritage, illegal trade in cultural property, 1970 convention, 1972 convention, 2003 convention, UNIDROIT.

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## 1. Introduction

The modern system of international cultural heritage law began to take shape as a result of the activities of UNESCO and other international organizations established after World War II. This system embodies a comprehensive and multi-layered mechanism for the protection of cultural heritage. A number of conventions adopted within the framework of UNESCO form the basis of the system of cultural heritage law. Seven conventions, monitored by UNESCO in Paris and UNIDROIT in Rome, establish the legal framework in this field [1].

This article attempts to understand the modern system of international cultural heritage law and identify its main problems by analyzing the main UNESCO conventions of 1970, 1972, and 2003. The relevance of the study is manifested in the fact that in the context of globalization,

where the illegal trade of cultural heritage, destruction resulting from military conflicts, and the threats of digitalization are intensifying, requiring new legal solutions, the need to evaluate and improve modern conventional protection mechanisms is increasing.

From the perspective of research methodology, the article employs analytical-legal, comparative-legal, and systemic approaches. The source base consists of the texts of UNESCO conventions, their official commentaries, monographic studies by specialists in the field of international law, scientific articles, and statistical data.

It should be noted that the interconnection between science and practice is of immense importance in matters of cultural heritage and its protection. Academic research should facilitate the formation of legal norms and provide a theoretical basis for practical processes. This approach

served as the basis for preparing the article.

### 1. Structure and significance of the 1970 UNESCO Convention

The 1970 Convention on Measures to Prevent and Prohibit the Illegal Import, Export and Transfer of Ownership of Cultural Property (abbreviated as the 1970 Convention) is recognized as the first large-scale international legal mechanism in the fight against the illegal trade of cultural heritage. As noted on the official UNESCO website, this convention encourages state parties to take measures to prohibit the illegal trade of cultural property and ensure its return [2].

There are a number of factors that prompted the adoption of the Convention. The growth of newly independent states in the 1950s and 60s and their desire to restore their cultural heritage, as well as the widespread dissemination of archaeological finds obtained through illegal excavations on the international market, laid the foundation for the development of this convention. As Heritage for Peace (2022) notes, the convention specifically states that "the export of cultural property from an occupied state under duress or pressure is illegal."

The 1970 Convention relies on three main pillars: first, preventive measures (inventory, export certificates, liability sanctions); second, restitution procedures (return of illegally removed objects); and third, international cooperation (cooperation between states) [3]. Articles 7 and 13 of the Convention, in particular, establish the obligations of states to seize and return cultural property stolen from museums and public institutions.

Since its adoption, the Convention has been ratified by more than 149 states. However, initially, the convention had limited effect due to the difficulty of ensuring a balance between "source countries" (countries from which works originate) and "market countries" (countries from which works are purchased). Until the 2000s, countries with major art markets, such as the USA, the UK, Japan, and Germany, had not ratified the convention [4].

Over the past 50 years, the practical significance of the convention has increased. As noted by the Institute of Art and Law (2020), since the 2000s, major art market countries have begun to ratify the convention: the United Kingdom (2002), Japan (2002), Switzerland (2003), and Germany (2007). Since then, the process of returning cultural values has been revitalized through a system of bilateral treaties within the framework of the convention, in particular the agreements concluded by the United States with a number

of countries.

In order to supplement the 1970 Convention, UNESCO instructed UNIDROIT (International Institute for the Unification of Private International Law) in 1995 to develop a convention regulating private law issues. As a result, the UNIDROIT Convention on Stolen or Illegally Exported Cultural Property (1995) was adopted. These two conventions are complementary in nature and perform a secondary function in the fight against the illegal trade of cultural heritage [5].

### 2. World Heritage Convention 1972

The 1972 Convention for the Protection of the World Cultural and Natural Heritage (abbreviated as the World Heritage Convention) is one of the central documents of the modern international system of cultural heritage law. As noted on the official website of UNESCO, "a distinctive feature of this convention is that, for the first time, the concepts of nature protection and the preservation of cultural objects are combined in a single document" [3].

The Convention was adopted at the UNESCO General Conference on November 16, 1972, and entered into force on December 17, 1975. As of 2024, the convention has been ratified by 196 countries - making it one of the most widely ratified international documents in history [3]. Within the framework of the Convention, the World Heritage List is maintained, which currently includes more than 1,223 sites from 168 countries.

The Convention classifies cultural heritage into three categories: cultural objects (monuments, groups of monuments, objects), natural objects (physico-biological formations, geologically significant territories, natural landscapes), and mixed cultural and natural objects. By ratifying the Convention, States undertake to identify, protect, preserve, and pass on as inheritance to future generations the World Heritage sites located on their territories.

The World Heritage Committee (an elected body consisting of 22 states) oversees the implementation of the convention. The Committee is authorized to include objects in the World Heritage List, maintain the "List of World Heritage in Danger," and manage the funds of the World Heritage Fund. In 2002 and 2007, the Committee adopted the "Five C" strategic goals: credibility, conservation, capacity-building, communities, and communication.

In 1979, the Galapagos Islands of Ecuador were the first to be included in the World Heritage List. In Uzbekistan, the

Samarkand – Crossroads of Cultures site was included in the World Heritage List in 2001, the historical center of Shahrīsabz in 2000, and the Kyzylkum Desert and the Ayaz-Kala historical complex in 2024. This fact is of great importance in the international promotion and protection of Uzbekistan's cultural heritage.

Among the problems in the implementation of the Convention, a number of issues attract special attention. The increase in the number of objects included in the list (over 1,223) and their geographically uneven distribution (dominance of European objects) and tourism pressure raise concerns that listing is becoming a political and economic tool rather than genuine recognition.

### 3. Convention on the Intangible Cultural Heritage of 2003

The 2003 Convention for the Safeguarding of the Intangible Cultural Heritage expanded the concept of cultural heritage beyond tangible monuments to a much broader scope - living cultural expressions, customs, traditions, rituals, performing arts, and traditional crafts. The Convention was adopted at the UNESCO General Conference on October 17, 2003, and entered into force on April 20, 2006 [6].

The main objectives of the Convention are: protection of intangible cultural heritage; ensuring respect for it by communities, groups, and individuals who are the owners of cultural heritage; explaining and increasing the value of intangible cultural heritage at the local, national, and international levels; and ensuring international cooperation and support [6]. The convention defines five areas: oral traditions and expressions; performing arts; social practices, rituals, and celebrations; knowledge and practices about nature and the universe; and traditional crafts.

Within the framework of the Convention, the Representative List of the Intangible Cultural Heritage of Humanity, the List of Intangible Cultural Heritage in Need of Urgent Protection, and the List of Good Conservation Practices are maintained. As of 2022, the convention has been ratified by 180 states [6]. The upward trend continues, and the convention is currently the most widely ratified convention on cultural heritage rights.

A number of elements of the intangible cultural heritage of Uzbekistan are included in the Representative List of the Intangible Cultural Heritage of Humanity. In particular, Navruz holiday (2016, a number of countries together), Uzbek dutar art (2021), Bakhshi art (2021), Chakan embroidery art (2022) and others are included in this list. This fact demonstrates the importance of protecting

intangible cultural heritage in Uzbekistan and promoting it at the international level.

In the implementation of the Convention, states undertake to identify and register intangible cultural heritage elements in their territories, take necessary measures for their protection, and ensure the active participation of communities, groups, and individuals [7]. Financial assistance will be provided through the Emergency Relief Fund and the Intangible Cultural Heritage Fund within the Committee.

From a critical perspective, the 2003 Convention faces a number of structural limitations. As a scientific study by Ortiz & Jiménez de Madariaga showed, there are significant shortcomings in the democratic functioning of the bodies governing the census process and the universality of the objects included in the list [9]. In particular, it is noted that inclusion in the list is geographically specific to certain regions - relatively high participation of Asian countries and less participation of African countries.

### 4. Cultural heritage and human rights: legal integration

In the first quarter of the 21st century, the protection of cultural heritage in the context of international public law has acquired a "human dimension." International human rights law has begun to significantly influence the legal framework for the protection of cultural heritage. In this new order, a bilateral relationship has emerged between individuals and the protection of cultural heritage [10].

Article 27 of the Universal Declaration of Human Rights of 1948 states that "everyone has the right to freely participate in social and cultural life, enjoy the arts, and participate in scientific progress and its results." Article 15 of the International Covenant on Economic, Social and Cultural Rights (1966) enshrines the right to participate in cultural life. This normative framework allows for the consideration of cultural heritage not only as the right of a community of peoples but also as the right of an individual.

The intentional destruction of cultural heritage as a result of occupation, genocide, and ethnic cleansing was also considered within the framework of criminal law. In 2016, the International Criminal Court, in the Al Mahdi Ahmad case for the destruction of the Timbuktu Mausoleums in Mali, for the first time prosecuted intentional destruction of cultural heritage as a separate war crime. This is considered an extremely important precedent in the history of international criminal law.

A number of UN Security Council resolutions (for example,

Resolution No. 2347 of 2016) defined the destruction of cultural heritage as a threat to peace and security, increasing the responsibility of states and the international community for the protection of cultural heritage. Consequently, the protection of cultural heritage is not only a cultural or humanitarian issue but also a security issue [12].

### 5. The main problems of the modern international system of cultural heritage law

The modern international legal system for the protection of cultural heritage has undoubtedly undergone significant development. However, a number of systemic problems remain unresolved. The research results show that these problems can be divided into three main groups: institutional, material-legal, and practical.

Firstly, institutional problems. International cultural heritage law is based on three basic systems: UNESCO conventions, UNIDROIT (Rome) conventions, and regional conventions. The compatibility and interconnection between these systems are not sufficiently ensured. The ratification status of states varies: for example, the United States ratified the 1972 Convention but has not ratified the 2003 Convention. This situation limits the expanded scope of legal mechanisms.

Secondly, material and legal problems. The 1970 Convention has a limited capacity to ensure a balance between "source" and "market" states. The Institute of Art and Law (2020) notes that the text of the convention is "diluted": many norms are not binding and there is a wide range of interpretation. Furthermore, the breadth of the concept of "cultural wealth" and its differing interpretations by states reduce the effectiveness of the fight against illegal trade.

Third, practical problems. The loss of cultural heritage through digital and cyber threats, climate change, and illegal excavations is not fully regulated within the existing legal framework. While digitalization has created new opportunities for the protection of cultural heritage, legal protection mechanisms for digital copies of cultural heritage (3D scans, images on social media) have not been sufficiently established.

Global terrorism and organized crime are utilized to generate financial income through the trade of cultural property. According to UNESCO [3], the illicit trafficking of cultural heritage has become part of a broader system related to the legalization of criminal proceeds, drug trafficking, and arms trafficking. This problem requires effective cooperation between law enforcement agencies,

cultural heritage specialists, and international organizations.

### 6. Directions for long-term development and recommendations

A number of important directions can be identified for improving the system of modern international cultural heritage law.

First, it is necessary to strengthen compliance and mutual compliance between international conventions. Strengthening institutional ties between UNESCO, UNIDROIT, INTERPOL, and the UN Security Council allows for the creation of a unified effective mechanism.

Secondly, it is necessary to clarify and harmonize the concept of "cultural wealth." In existing conventions, the concepts of "cultural property," "cultural heritage," and "cultural object" are used differently, which leads to legal ambiguity. As Franzoni points out, these concepts are of significant conceptual importance in the evolving international legal system and require clarification [11].

Thirdly, it is advisable to introduce relevant additions to separate international documents or existing conventions on the digitalization of cultural heritage and digital heritage rights. The lack or ambiguity of norms for the protection of digital cultural heritage in many countries increases the need for international legal regulation on this matter.

Fourth, it is necessary to expand the legal database and strengthen international exchange. According to UNESCO (2025), the fight against the illegal trade of cultural property depends primarily on the exchange of information and cooperation between states. An effective measure could be the unification and expansion of the INTERPOL database and the UNESCO list of illegal objects.

Fifthly, it is urgent to strengthen the relationship between cultural heritage and sustainable development within legal mechanisms. The UN Sustainable Development Goals of 2015 defined cultural heritage as a resource for development, which requires harmonizing the right to cultural heritage with economic development and environmental legislation.

### CONCLUSION

The modern international system of cultural heritage law is a comprehensive, multi-layered, and constantly evolving mechanism. The foundation of this system consists of the Conventions of 1970, 1972, and 2003, adopted within the framework of UNESCO. Each of them focuses on specific aspects of cultural heritage protection: combating illegal

trade, listing and protecting cultural and natural heritage on a global scale, and preserving intangible cultural heritage.

The results of the study showed that the modern system of international cultural heritage law has achieved a number of positive achievements: the universal significance of cultural heritage is internationally recognized; institutional structures (UNESCO, UNIDROIT, the World Heritage Committee) are functioning effectively; the link between cultural heritage and human rights has been legally strengthened; and a criminal liability mechanism has been formed (using the example of the International Criminal Court). At the same time, institutional, material-legal, and practical problems remain unresolved.

To address these challenges, the international community must intensify efforts in several priority areas: ensuring compliance and harmonization between conventions; clarifying the concept of cultural heritage; improving the legal protection of digital cultural heritage; and strengthening cooperation between law enforcement agencies and cultural heritage specialists.

These issues are also relevant for Uzbekistan. In Uzbekistan, it is necessary to harmonize national legislation on the protection of cultural heritage with international standards, fully fulfill obligations under participating conventions, and strengthen international cooperation in the fight against illegal trade in cultural property. At the same time, Uzbekistan should purposefully use the opportunity to present its unique cultural treasury to the world community through objects and elements of intangible cultural heritage included in the World Heritage List.

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