



# Crimes Against Cultural Heritage of Humanity

Vincent Negri

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# Cultural Heritage at Risk



*Edited by*  
KURT ALMQVIST  
LOUISE BELFRAGE

*Axel and Margaret  
Ax:son Johnson Foundation*



Axel and Margaret Ax:son Johnson Foundation

Stureplan 3  
SE-103 75 Stockholm  
SWEDEN

Tel: int+46 (0)8-788 50 00  
Fax: int+46(0)8-788 50 60

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and the authors

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## Crimes Against Cultural Heritage of Humanity

*Issues of international law*

VINCENT NEGRI

★

Since the beginning of the 20th century an idea has emerged in the field of international law: the protection of cultural heritage concerns the whole of humanity. Beyond the sovereignty of states, some sites and monuments which are of outstanding interest should be preserved as part of the heritage of mankind as a whole, whatever people they belong to. One of the first expressions of this principle was formulated in 1931 by Euripide Foundoukidis; he declared that a new concept was emerging in international law, considering that some artistic monuments belongs to humanity as a whole and therefore should be recognised as the common cultural heritage of mankind.<sup>1</sup>

This concept – beyond the sovereignty of states the cultural heritage belongs to all the peoples of the world – and the reference to mankind in the field of the protection of cultural heritage is the result of a political and historical process.

In the 18th century, the works of Emer de Vattel, a Swiss philosopher, diplomat, and legal expert, became a reference work for writers in international law. In his book *Le droit des gens, ou Principes de la loi naturelle, appliqués à la conduite et aux affaires des Nations et des Souverains*, he focused on the rights and obligations of citizens and states. He developed a theory of 'just war' and set specific principles for the protection of cultural properties belonging to the enemy to be respected during war-

time. He considered that it was the duty of every nation to work for the preservation of the properties of other nations, and to secure them from ruin and destruction. In this way the wanton destruction of historic monuments, temples, tombs, statues, paintings, etc. should be prohibited and condemned.<sup>2</sup>

In 1874, the draft of an international agreement on the laws and customs of war was adopted. Article 8 of this draft prescribed that all seizure or destruction of, or wilful damage to cultural property should be subject to legal prosecutions by the competent authorities. The text also provided that in the event of a siege or bombardment, statements must be taken to spare, as far as possible, buildings dedicated to art, science, or charitable purposes. But this draft never came into force.

### The making of concerted international law to protect cultural heritage in armed conflict

Finally, at the turn of the 20th century, the European nations agreed to enact international law that set up principles governing war. Two conventions were adopted in 1899 and 1907. These conventions established a general codification of the laws governing war on land. Two articles of these conventions focus on cultural property and on the need to protect it. Article 27 asserts: 'In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes.' It also states: 'It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand'; and article 56 enacts: 'The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property. All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art

and science, is forbidden, and should be made the subject of legal proceedings.' More broadly, article 47 states: 'Pillage is formally forbidden.'

This goal, immunity of cultural property during war, was developed by the Treaty of April 15, 1935 concerning the protection of artistic and scientific institutions and historic monuments, known as the Roerich Pact. This Pact introduces in international law the concept of collective responsibility of states to protect cultural heritage of all peoples. This Pact also sets the premises for the principle of general interest to humanity in protecting and safeguarding cultural heritage. Its preamble refers to the need to 'preserve in any time of danger all nationally and privately owned immovable monuments which form the cultural treasure of peoples'.

Today, the protection of cultural heritage is of general interest to humanity – the conceptual matrix of the legal instruments adopted by Unesco in the cultural heritage field – and articles 27, 47 and 56 of the regulations concerning the laws and customs of war on land of the Hague Conventions of 1899 and 1907, reflect now customary international law. In 1946, the Nuremberg International Military Tribunal declared that the regulations of the Hague Convention of 1907, including the obligations set out in articles 27 and 56 protecting cultural property and in article 47, shall be 'recognized by all civilized nations and ... regarded as being declaratory of the laws and customs of war'. Hence, all states are bound by these provisions, regardless of whether they become parties to these conventions.

Regarding this international legal context, the Unesco Convention for the Protection of Cultural Property in the Event of Armed Conflict, and its first Protocol, adopted in the Hague on May 14, 1954 combined with the second Protocol adopted in the Hague on March 26, 1999, are the strongest expressions of the international obligations of states to protect cultural heritage during armed conflicts. The 27th session of the General Conference of Unesco (Paris, 1993) adopted Resolution 3.5 on the Convention for the Protection of Cultural Property in the Event of Armed Conflict, which reaffirmed that 'the fundamen-

tal principles of protecting and preserving cultural property in the event of armed conflict could be considered part of international customary law.' This mainly concerns the principles contained in articles 3 and 4 of the Unesco Convention for the Protection of Cultural Property in the Event of Armed Conflict. These two articles concern the safeguarding of and the respect for cultural property.<sup>3</sup>

The general interest of humanity in protecting and safeguarding cultural heritage takes place in international humanitarian law too. Two additional protocols to the 1949 Geneva Conventions, adopted on June 8, 1977, contain two provisions dedicated to the 'protection of cultural objects and of places of worship'. In particular, article 43 of Protocol I relating to the protection of victims of international armed conflicts asserts: 'Without prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of May 14, 1954, and of other relevant international instruments, it is prohibited: (a) to commit any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples; (b) to use such objects in support of the military effort; (c) to make such objects the object of reprisals'; and another provision considers it a grave breach to make such historic monuments, works of art or places of worship the object of attack. In the same way, article 16 of Protocol II relating to the protection of victims of non-international armed conflicts states that it is prohibited 'to commit any acts of hostility directed against historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples and to use them in support of the military effort'.

These principles have inspired the statute of the International Criminal Tribunal for the former Yugoslavia (ICTY). During the war in former Yugoslavia, a new threat to cultural property emerged; the goal was clearly to destroy the enemy's or the opposing ethnic group's cultural heritage, the destruction of which is facilitated by the spatial proximity and knowledge of the monuments, the sites and the culture of the enemy. The

historical monuments were deliberately targeted in the war in an attempt to destroy the symbols of the enemy's identity and to ruin the lives of the enemies. Examples of such attempts include the bombing of the old town of Dubrovnik in Croatia and the destruction of the Mostar Bridge in Bosnia-Herzegovina. These new challenges reveal the need to improve protection of cultural heritage in the case of international conflicts, as well as in cases of internal crisis or ethnic conflicts. The ICTY stated that, over and above the damage and loss suffered by a people affected in its culture and religious identity, 'all of humanity is ... injured by the destruction of a unique religious culture and its concomitant cultural objects'.<sup>4</sup>

The ICTY jurisprudence also emphasised the link between the destruction of the expressions of the culture of a people and a genocide. The conflict in former Yugoslavia shows that genocide of one ethnic group goes together with the destruction of all traces and symbols of culture and religion of this group. The ICTY has therefore given an important contribution to the cultural dimension of genocide.<sup>5</sup> In the case *Prosecutor v. Radislav Krstić*, the Trial Chamber stated in particular that the destruction of cultural and religious properties may constitute *mens rea*<sup>6</sup> to identify a genocide:

The Trial Chamber is aware that it must interpret the Convention with due regard for the principle of *nullum crimen sine lege*. It therefore recognises that, despite recent developments, customary international law limits the definition of genocide to those acts seeking the physical or biological destruction of all or part of the group. Hence, an enterprise attacking only the cultural or sociological characteristics of a human group in order to annihilate these elements which give to that group its own identity distinct from the rest of the community would not fall under the definition of genocide. The Trial Chamber however points out that where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group. In this case, the Trial Chamber will thus take into account as evidence of intent to destroy the group the



deliberate destruction of mosques and houses belonging to members of the group.<sup>7</sup>

The inclusion of the deliberate destruction of cultural heritage in the definition of genocide reinforces the principle that cultural property forms part of the common cultural heritage of mankind and that every state has a responsibility in this respect, not only towards its population but also towards the international community as a whole.

This goal is reiterated by the Declaration concerning the intentional destruction of cultural heritage, adopted in Paris on October 17, 2003. This Declaration was adopted in response to the destruction of the two giant Buddhas of Bamiyan in 2001. Its Preamble affirms that the 'destruction of the Buddhas of Bamiyan ... affected the international community as a whole' in connection with 'the fundamental principles of the Preamble of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict providing 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'. This Declaration is a document with no legally binding obligations; it expresses only a relative normativity. But this Declaration lays down a set of principles aimed at preventing and discouraging the intentional destruction of cultural heritage: article 1 states that 'The international community recognizes the importance of the protection of cultural heritage and reaffirms its commitment to fight against its intentional destruction in any form so that such cultural heritage may be transmitted to the succeeding generations' and its article 3 mentions that 'States should take all appropriate measures to prevent, avoid, stop and suppress acts of intentional destruction of cultural heritage, wherever such heritage is located'. Article 6 aims to establish the international responsibility of the 'State that intentionally destroys or intentionally fails to take appropriate measures to prohibit, prevent, stop, and punish any intentional destruction of cultural heritage of great importance for humanity'; this state 'bears the

responsibility for such destruction, to the extent provided for by international law'. States should also take appropriate measures, in accordance with international law, to establish jurisdiction over, and provide effective criminal sanctions against, those persons who commit, or order to be committed, acts of intentional destruction of cultural heritage of great importance for humanity.

### The concerted international law overturned by the United Nations Security Council

In parallel, since 2001, the United Nations Security Council has increased the production of standards aimed at fighting terrorism. Although this concern is not new for the Security Council, the terrorist attacks of September 11, 2001 marked a turning point in the way the Security Council's resolutions have been formulated. The Security Council has developed a new approach that not only fights against terrorism through military means and coercive measures, but also takes into account the conditions that favour the spread of terrorism. On this basis, the challenges and means for fighting against terrorism have integrated the preservation of cultural heritage and measures against illicit traffic of antiquities. This process reached its climax in the Security Council's resolution 1483 of May 22, 2003 on the situation in Iraq. After calling on 'all parties concerned to comply fully with their obligations under international law including in particular the Geneva Conventions of 1949 and the Hague Regulations of 1907', the 7th point of the resolution focused on cultural property removed from Iraqi institutions.<sup>8</sup>

More recently, Security Council resolution 2199 of February 12, 2015 reinforced the protection of Iraqi and Syrian cultural heritage. Points 15 to 17 of this resolution express the substance of the protection of cultural heritage.<sup>9</sup>

Resolution 2199, in particular paragraph 17, and before that, paragraph 7 of resolution 1483, overturned the classic overall scheme of international law. This resolution introduces unilat-



eral international law in the field of cultural heritage protection, whilst this field is traditionally covered by a normative action of Unesco focused on the formulation of concerted international legislation.

Resolution 2199 brings the international protection of cultural heritage into the Security Council's normative sphere. This conversion of the international law on cultural heritage places the onus of responsibility to ensure the protection and safeguarding of cultural heritage on the Security Council. This new form of international responsibility in the protection and safeguarding of cultural heritage is based on Chapter VII, articles 39 to 51 of the United Nations Charter, which authorises the Security Council to enforce measures with the sole aim of maintaining international peace and security.

Paragraph 7 of resolution 1483 and paragraph 17 of resolution 2199 forge the collective responsibility of member states to fight against the dispersion of Iraqi and Syrian cultural property and to facilitate their recovery. The Security Council requires that states should take measures to prevent the sale of Iraqi and Syrian cultural property through a ban on transnational trade in these objects. Acting as an international legislator, the Security Council imposes a mandatory model of conduct on a specific issue: namely, the looting and illegal traffic of cultural property, linked to the financing and development of terrorism.

The scope of such an obligation may be challenged in the light of the Unesco Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflicts and the Unesco Convention of 1970 on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. These conventions established a general framework based on two aspects: the first concerns the protection of cultural property during armed conflicts; the second deals with the prevention of looting, illegal trafficking of cultural property, and the return of looted objects to the countries of origin. Although the provisions of these conventions can be implemented in the Iraqi and Syrian contexts, their effectiveness continues to be conditioned by the acceptance of member states

to comply with them, formally expressed by their adhesion or ratification. In this context, the normative power of the Security Council sets up a paradigm shift: paragraph 7 of resolution 1483 and paragraph 17 of resolution 2199 create a new peremptory norm for member states. While an international treaty takes effect only after the consent of the parties, a resolution of the UN Security Council is a unilateral act. Its legality and its primacy result from Chapter VII of the UN Charter; the International Court of Justice (ICJ) specified in 1992 that 'the obligations of the Parties in that respect prevail over their obligations under any other international agreement'.<sup>10</sup>

Member states do not have the capacity to interpret or to assess these decisions; compliance with the Security Council's decisions, under Chapter VII, is a strict obligation. Any other approach that would allow states to interpret or to assess these decisions would indirectly reintroduce the principle of the consent of member states and therefore would reduce, or even annihilate the impact of the Security Council's decisions. It would diminish the primacy of the unilateral act over the treaties.<sup>11</sup>

Without the capacity to interpret or assess the peremptory norm issued from paragraph 7 of resolution 1483 and paragraph 17 of resolution 2199, states are obliged to incorporate into domestic law the conditions for giving effect to the peremptory norm. A similar requirement is placed on an institution for regional integration, such as the European Union, whose prerogatives replace those of member states in regulating the trade and circulation of property and goods.

In the EU, the Council Regulation (EC) No. 1210/2003 of July 7, 2003 concerning specific restrictions on economic and financial relations with Iraq, imposes rules that bind all the member states of the EU:<sup>12</sup> they are obliged to apply these rules as they have been defined at the European level.<sup>13</sup> These European rules are directly applicable in domestic law and are binding for all public bodies and private individuals – art collectors, art market professionals, member states, museums, institutions, etc. There is no need to incorporate this European regulation,

based on the prescriptions of paragraph 7 of resolution 1483, into the domestic law of EU member states.

Other member states have incorporated the obligations set out by paragraph 7 of resolution 1483 into their domestic law. In Switzerland, the Act of August 7, 1990 implemented economic measures against Iraq.<sup>14</sup> The United States adopted the *Emergency Protection for Iraqi Cultural Antiquities Act of 2004*<sup>15</sup> and in the wake of resolution 1483, Australia adopted Regulation No. 97 in 2003 on Iraq Reconstruction.<sup>16</sup>

Essentially states have the final responsibility for compliance with the requirements of the Security Council; the wording of the resolution, under Chapter VIII, should not allow differences of normative intensity in incorporating or implementing the resolution's statement in domestic law.

### Conclusions

Resolution 2199, and in particular paragraph 17 of that resolution, which reiterates the decisions of paragraph 7 of resolution 1483 on Iraqi cultural property, formulates new obligations to preserve Syrian and Iraqi cultural heritage, in connection with the fight against terrorism. These resolutions instil a collective discipline, which, far from releasing member states from their responsibility, should channel their actions to ensure the primacy of the general interest to humanity of the protection of the cultural heritage of peoples.

This collective discipline, laid down by paragraph 17 of resolution 2199 reinforces the customary law dimension of the obligation to respect the heritage of peoples – normative outcome of the general interest to humanity – and consolidates this obligation as *erga omnes*. The impact of this customary law standard must be assessed in the light of the principles on the international responsibility of member states as they result from the project to codify the state's responsibility for internationally illicit acts adopted by the International Law Commission of International Law.<sup>17</sup> Article 48, which covers the invocation of the responsibility by a state other than an injured state, specifies

that 'any State other than an injured State is entitled to invoke the responsibility of another State, if ... the obligation breached is owed to the international community as a whole.'

In addition, the intentional destruction of monuments and cultural property is sanctioned by the Rome Statute of the International Criminal Court. In particular, article 8 (2)(b)(ix) applicable to international conflicts and article 8 (2)(e)(iv) applicable to non-international conflicts include these acts and behaviours in war crimes.

### Notes

1. Euripide Foundoukidis was Secretary-General of the International Museums Office at the International Institute of Intellectual Cooperation under the auspices of the League of Nations. In the journal *Museion*, 1931, no. 15, p. 97, he mentioned 'la nouvelle conception qui se fait jour depuis quelque temps et qui tend à considérer certains monuments d'art comme appartenant au patrimoine commun de l'humanité', considering that this conception expressed 'un nouveau principe de droit international dans le domaine artistique'.
2. Emer de Vattel wrote: 'Pour quelque sujet que l'on ravage un pays, on doit épargner les Édifices qui font honneur à l'humanité, ... les Temples, les Tombeaux, les Bâtiments publics, tous les Ouvrages respectables par leur beauté. Que gagne-t-on à les détruire ? C'est se déclarer l'ennemi du Genre-humain, que de le priver de gaieté de Cœur, de ces Monuments des Arts, de ces Modèles du Goût' (For whatever cause a country be ravaged, one ought to spare those edifices which do honour to human society, and do not contribute to the enemy's power: temples, tombs, public buildings, and all other constructions that are respected for their beauty. What can be gained by destroying them? It means declaring oneself an enemy of humanity to cheerfully deprive it of these monuments of art, these models of taste), in *Le droit des gens, ou Principes de la loi naturelle, appliqués à la conduite et aux affaires des Nations et des Souverains*, 1758.
3. *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.
4. ICTY, 2/26/2001, *Prosecutor v. Dario Kordic and Mario Cerkez*.
5. In this regard, it should be recalled that the definition of genocide, as enshrined in the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the UN General Assembly in 1948, excludes cultural genocide. On this issue, see: V. Mainetti, 'De Nuremberg à La Haye: l'émergence des crimes contre la culture et la pratique des tribunaux internationaux', in *Le patrimoine culturel, cible des conflits armés. De la guerre civile espagnole aux guerres du 21<sup>e</sup> siècle*, ed. V. Négri, Bruylant Publishing, 2014, p. 176 s.
6. Criminal intent or guilty mind as element of criminal responsibility.
7. *Prosecutor v. Radislav Krstić*, Trial Chamber Judgement, 8/22001 (case no. IT-98-33-T), § 580. The Appeals Chamber (Judgment, 4/19/2004) confirmed the Trial Chamber Judgement, 8/2/2001.

8. *The Security Council*,  
... Acting by virtue of Chapter VII of the United Nations Charter,  
...7. Decides that all Member States shall take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 6 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed, and calls upon the United Nations Educational, Scientific, and Cultural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph;
9. *The Security Council*,  
... Acting under Chapter VII of the Charter of the United Nations,  
... *Cultural Heritage*  
15. Condemns the destruction of cultural heritage in Iraq and Syria particularly by ISIL and ANF, whether such destruction is incidental or deliberate, including targeted destruction of religious sites and objects;
16. Notes with concern that ISIL, ANF and other individuals, groups, undertakings and entities associated with Al-Qaida, are generating income from engaging directly or indirectly in the looting and smuggling of cultural heritage items from archaeological sites, museums, libraries, archives, and other sites in Iraq and Syria, which is being used to support their recruitment efforts and strengthen their operational capability to organize and carry out terrorist attacks;
17. Reaffirms its decision in paragraph 7 of resolution 1483 (2003) and decides that all Member States shall take appropriate steps to prevent the trade in Iraqi and Syrian cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from Iraq since 6 August 1990 and from Syria since 15 March 2011, including by prohibiting cross border trade in such items, thereby allowing for their eventual safe return to the Iraqi and Syrian people and calls upon the United Nations Educational, Scientific, and Cul-

tural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph[.]

10. ICJ, 4/14/1992, *Libya v. United Kingdom*, § 39.

11. Ibid.

12. Article 3 of the Council Regulation (EC) no. 1210/2003 of 7/7/2003 specifically deals with the protection of Iraqi cultural property as set out in resolution 1483 of the Security Council:

*Article 3*

1. The following shall be forbidden:

- a) the import of or the introduction into the territory of the Community;
- b) the export of or removal from the territory of the Community of, and
- c) the dealing in, Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific and religious importance including those items listed in Annex II, if they have been illegally removed from locations in Iraq, in particular, if:
  - i) the items form an integral part of either the public collections listed in the inventories of Iraqi museums, archives or libraries' conservation collection, or the inventories of Iraqi religious institutions, or
  - ii) there exists reasonable doubt that the goods have been removed from Iraq without the consent of their legitimate owner or have been removed in breach of Iraq's laws and regulations;

2. These prohibitions shall not apply if it is shown that either:

- a) the cultural items were exported from Iraq prior to 6 August 1990; or
- b) the cultural items are being returned to Iraqi institutions in accordance with the objective of safe return as set out in paragraph 7 of UN Security Council resolution 1483 (2003).

13. Article 288 of the Treaty on the Functioning of the European Union.

14. *Article 1a – Cultural property*

1. The import, transit, export, trade, brokerage, acquisition and any other form of transfer of Iraqi cultural property stolen from the Republic of Iraq, taken away from the control of beneficiaries

in Iraq or otherwise lost against the will of the owner, or illicitly exported out of the Republic of Iraq since 2 August 1990.

2. The illegal export of Iraqi cultural property is presumed to have taken place when it can be established that it was still in the Republic of Iraq after 2 August 1990.

15. *H.R. 1047, Title III – Iraqi Cultural Antiquities*

Sec. 3001. Short Title.

This title may be cited as the 'Emergency Protection for Iraqi Cultural Antiquities Act of 2004'.

Sec. 3002. Emergency Implementation of Import Restrictions.

- a) Authority – The President may exercise the authority of the President under section 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603) with respect to any archaeological or ethnological material of Iraq without regard to whether Iraq is a State Party under that Act, except that, in exercising such authority, subsection (c) of such section shall not apply.

- b) Definition – In this section, the term 'archaeological or ethnological material of Iraq' means cultural property of Iraq and other items of archaeological, historical, cultural, rare scientific, or religious importance illegally removed from the Iraq National Museum, the National Library of Iraq, and other locations in Iraq, since the adoption of United Nations Security Council Resolution 661 of 1990.

16. Regulation 7 provides that a person must not transfer an item of cultural property that was illegally removed from a place in Iraq (including the Iraq National Museum or the National Library of Iraq) after the adoption of Resolution 661, or that the person ought reasonably to suspect had been so removed;

Regulation 8 provides that a person who is in possession or control of an item of cultural property mentioned in regulation 7 must, as soon as practicable, give the property to:

- a) a member of the personnel of the United Nations; or
- b) a member of the Defence Forces; or
- c) a representative of the Authority mentioned in Resolution 1483; or
- d) a representative of the Iraq National Museum or the National Library of Iraq; or

- e) a representative of the place from which the item was removed, or is reasonably suspected of having been removed; or
  - f) a member of the Australian Federal Police, or of a police force of a State or Territory;
17. Resolution 56/83 adopted on 12/12/2001 by the General Assembly of the United Nations [A/RES/56/83 (2001)] 'Takes note of the articles on responsibility of States for internationally wrongful acts, presented by the International Law Commission ... and commends them to the attention of Governments without prejudice to the question of their future adoption or other appropriate action'.