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

& The Second Protocol of 1999



ICOMOS Sites & Monuments Day Dr Cathy Daly INCBS Committee 17th April 2014



- 1. Brief overview of the 1954 Convention and 1999 Protocol
- 2. Measures & obligations peacetime



#### 1. 1954 Convention

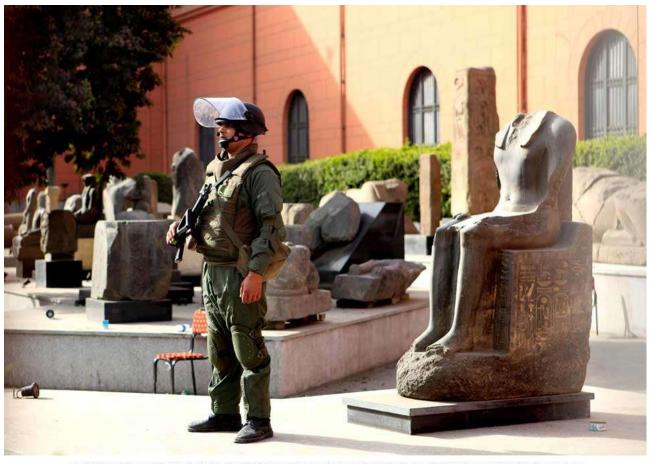
- Massive destruction WWII
- •First international treaty exclusively to protect cultural heritage during armed conflict
- Applies to armed conflicts of an international & national character
- Applies to moveable and immoveable cultural heritage
- 1st protocol relates to exportation & return of cultural property (1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property )



126 States Parties

# 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.

(Preamble 1954 Hague Convention)



An Egyptian army soldier stands guard near antiquities of the Egyptian Museum in Cairo, Egypt, Saturday, Jan. 29, 2011. Hundreds of anti-government protesters returned Saturday to the streets of central Cairo, chanting slogans against Hosni Mubarak and attacking police just hours after the Egyptian president fired his Cabinet and promised reforms. (AP Photo / Amr Nabil)

#### **Under Article 4 of the Convention forces:**

- Should not target, attack or direct any act of hostility against the cultural property of another nation.
- Should not use cultural property in a way that might expose it to destruction or damage during hostilities.
- Should not direct any act of reprisal against cultural property.

**1954:** State Parties undertook to protect and safeguard cultural property in their own territory and in the territory of another State during armed conflicts and/or occupation – exception for 'military necessity'



**1999:** 2<sup>nd</sup> Protocol supplements 1954 provisions with enhanced systems, clarifications and measures for enforcement

#### 1999 2<sup>nd</sup> Protocol

- Failure of 1954 Convention (2<sup>nd</sup> Gulf War, former Yugoslavia etc.)
- Issues: 'military necessity', precautionary measures, special protection, individual criminal responsibility
- Established Committee and Fund



Intentional Destruction of Cultural Property Without Imperative Military Necessity is Considered a War Crime.

 Military leaders have been prosecuted under the Hague Conventions and under customary international law for the targeting and destruction of cultural property when not justified by imperative military necessity.

e.g. Serbian General Pavle Strugar was convicted by the International Criminal Tribunal for the former Yugoslavia for

"the destruction or willful damage of institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science"

in the shelling of the Old Town of Dubrovnik, a World Heritage site.

Strugar was sentenced to eight years in prison

#### 2. Obligations during peacetime

#### **Emergency Planning**

Prepare in time of peace for the safeguarding of cultural property (1954, Art. 3)



- The preparation of inventories
- The planning of emergency measures for protection against fire or structural collapse
- Preparation for removal of moveable cultural property to designated *refuges* or provision of adequate in situ protection
- Designation of authorities responsible for the safeguarding of cultural property

(1999, Art 5)

#### **Education & Training**

- Training of military personnel in the securing of cultural heritage and liaising with appropriate civilian authorities
- Fostering respect of the cultural heritage of all peoples within the armed forces
- Dissemination of the convention widely and especially amongst military personnel



#### **Use of the Blue Shield Emblem**



**Trefoil** 

- Immoveable cultural property under 'Special/Enhanced Protection'
- Cultural Property in transit
- Refuges for moveable cultural property



Single

- Cultural property
- Persons involved in work of convention and/or protection of heritage



Prior to the 2003 invasion, staff at the Iraq National Museum in Baghdad painted a giant Blue Shield symbol on the roof of the building.

## Precautions in relation to military objectives

- Remove cultural property from vicinity of military objective
- Avoid locating military objectives near cultural property







#### **In Conclusion**

60 years on - Continued relevance though the nature of current conflicts is different.

#### The Future:

- Ratification
- Recognition
- Enforcement



# Thank You

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