

Role of the international community in the fight against
the illicit trafficking of cultural property
(The case of Iraq)

دور المجتمع الدولي في مكافحة الاتجار غير المشروع بالممتلكات
الثقافية (حالة العراق)

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Abstract :

Cultural heritage, in its variety of forms, is the manifestation of a peoples' knowledge, identity, and history, and targeting this heritage aim to annihilate another group's cultural identity and history. As the list of atrocities committed against cultural heritage in the Middle East, it is clear that Iraq being the most affected by these atrocities, over the past quarter of a century. In this regard, we find this cultural heritage has been subjected to cultural cleansing directly through destruction or indirectly through systematic looting and illicit trafficking.

This article reviews key aspects of Iraq's cultural heritage, including damage to heritage as a result of illicit site looting and traffic in looted antiquities and the role played by international organizations and international governmental and non-governmental professional organizations to combat this dangerous phenomenon for the future of Iraq's globally significant cultural heritage...

Keywords: Iraq, cultural objects, UNESCO, Illicit Trade, International professional organizations

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التراث الثقافي، بأشكاله المختلفة ، هو مظهر من مظاهر معرفة الشعوب وهويتها وتاريخها ، ويهدف استهداف هذا التراث إلى القضاء على الهوية والتاريخ الثقافي لجماعة أخرى. وكفائمه من الأعمال الوحشية المرتكبة ضد التراث الثقافي في الشرق الأوسط ، من الواضح أن العراق هو الأكثر تضرراً من هذه الأعمال الوحشية ، على مدار ربع القرن الماضي. في هذا الصدد ، نجد أن هذا التراث الثقافي تعرض للتطهير الثقافي مباشرة من خلال التدمير أو بشكل غير مباشر من خلال النهب المنهجي والاتجار غير المشروع.

يستعرض هذا المقال الجوانب الرئيسية للتراث الثقافي العراقي ، بما في ذلك الأضرار التي لحقت بالتراث نتيجة لنهب المواقع غير المشروعة والاتجار بها في الآثار المنهوبة والدور الذي تلعبه المنظمات الدولية والمنظمات المهنية الحكومية وغير الحكومية الدولية لمكافحة هذه الظاهرة الخطيرة في المستقبل من التراث الثقافي العراقي المهم عالمياً.

الكلمات المفتاحية: العراق ، الممتلكات الثقافية ، اليونسكو ، التجارة غير المشروعة ، المنظمات المهنية الدولية.

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I. INTRODUCTION

For the purposes of the fight against illicit trafficking, the definition of “cultural property” is at present unified among the States Parties to the 1970 UNESCO Convention of the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereafter the 1970 UNESCO Convention) and the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (hereafter the 1995 UNIDROIT Convention). Both international Conventions define cultural property or objects as property which, on religious or secular grounds, is of importance for archaeology, prehistory, history, literature, art or science and which belongs to one of the categories specifically listed in the Conventions(UNESCO, 2006, p. 4).

In reality, crime related to cultural property and works of art is steadily rising worldwide. It is a worrying crime with losses of \$ 6 billion a year. Interpol believes that international illegal trade is one of the top five activities of organized crime. Obviously, looting is not a minor offense, but a threat to society. Organized crime affects both developed and developing countries. The countries where these objects are stolen are mostly developing countries. In addition, countries suffering from natural disasters or violent conflicts are very vulnerable, such as Iraq and Afghanistan. The countries where buyers live are most of the time countries of the developed world. Hence, looting and trafficking of cultural property is not a country-specific problem, but it concerns the whole world(Teijgeler, 2012).

However, there are some countries rich in cultural heritage, such as Iraq being the most affected by this crime following the outbreak of hostilities; Iraq’s cultural heritage has suffered for decades from a range of destructive impacts, which have received widespread coverage in international media. Geopolitical causes of such impacts over the past 30 years include the Iran-Iraq War (1980–1988), the Kuwait War (1990–1991), the spring 1991 insurrections in south and north Iraq, the imposition of devastating UN and international sanctions on Iraq (1990–2003), the 2003 US/UK-led invasion of Iraq and the subsequent breakdown in law and order across much of the country, the occupation of parts of north and west Iraq by Daesh (2014–2017) and the expulsion by force of Daesh from all of Iraq in 2017. Furthermore, the destruction of heritage in Iraq has consistently been underpinned by the expansion

of the illegal trade in antiquities, despite the sanctions imposed on such activities at national and international levels(Matthews, 2019, p. 1).According to Koïchiro Matsuura, in reference to the looting after the arrival of the Americans in Baghdad on April 9, 2003, "it is quite impossible to estimate the number of objects illegally removed from archaeological sites.It is an inestimable loss for Iraq, but also for the whole of humanity"(UNESCO, 2005).

In fact, this phenomenon has proliferated enormously in recent decades, has been encouraged by the valorization of artistic, ethnographic, archaeological, historical, etc.Statistics point out that today the problem is immense and occurs almost universally around the world.It currently ranks third in international crimes, after arms and drug trafficking, and its impact does not seem to be diminishing.This has led to the emergence of strong international responses by UNESCO and other professional international organizations to combat this phenomenon.

II. THE GROWTH OF ILLICIT TRAFFICKING IN CULTURAL PROPERTY IN IRAQ

Since the First Gulf War, a real antiques trade has indeed been established in Iraq.This country is considered a "source nation" that feeds the international antique market. The end of this war marked the beginning of an international market for Iraqi antiquities and the development of the smuggling routes needed to supply this market, where looters came in search of specific objects, often related to a period, that collectors had ordered them.The objects were buying overpriced and rising prices fueled the looting that has intensified during this period.Since then, the supply of antiquities from Iraq has increased, especially after the invasion in 2003, when this trade has reached enormous proportions today. Indeed, the causes that have led to the rise of illicit trafficking in antiquities in Iraq are manifold. There are four reasons: economic (A), intellectual (B), terrorism (C) and legal (D).

A. The economic reasons

The economic factor is considered to be one of the important factors that led to the increase in the illicit trafficking of cultural heritage in Iraq because the economic state was damaged especially after the war between Iraq and Iran over the years 1980.The worst was to follow in

the turmoil that followed in 1991 the Gulf War. Eleven regional museums were robbed. In 1995, illegal excavations of archaeological sites were generalized. The economic collapse that followed the trade embargo (Security Council Resolution 661), which lasted 13 years after the first Gulf War in 1990, aggravated this situation. Indeed, the embargo has led to terrible results in all areas of public health, the environment, social, educational, scientific and economic development. The rate of inflation at the end of 1994 was 24,000% per year. The government was unable to guarantee public jobs in industrial sectors that had ceased as a result of the embargo. Demobilization of almost two-thirds of the workforce has contributed to rising unemployment and damage to family life. The destruction of the country's economic infrastructure has existed. The GDP per capita was before the war in 1988 of \$ 3510, it decreased to \$ 1500 in 1991 than \$ 1036 in 1998. Other sources indicate that the decline in GDP per capita reached \$ 450 in 1995. This eventually led to the search for other resources to boost income levels, such as illicit trafficking in cultural objects (Farchakh, 2003, p. 27).

These problems increased after the US occupation in 2003, when they were fired hundreds of thousands of government employees by Paul Bremerhead Iraq's interim administration. Nearly half a million workers in state-owned enterprises (SOE) who were functioning in a wide range of industries including cement, fertilizer and steel were out of work. In addition to the spread of corruption, incompetence, and misuse in the expenditure as a result of the government's wrong policies (Iraq, Iraq Corruption Report).

At the same time, it is found that the majority of the inhabitants, particularly in the regions that are rich in cultural heritage, such as southern Iraq, are simple peasants whose main resources come from agriculture or the cattle trade. In recent years, especially after the fall of the regime of Saddam Hussein, the state of tension in the country has exacerbated the negative effects on economic life. The lack of money then pushes to participate in underground excavations. The sites are full of items that sell at very attractive prices because of their great historical importance. This leads the peasants, logically to illicit traffic of cultural objects and to bring these treasures to the borders to sell them (Farchakh, 2001, p. 31). Indeed, these circumstances led to the intensification of the

looting operations. Looters sites have had time to organize their traffic and to create an international clientele.

Most of the looting of these archaeological sites was done by Iraqis, but its funding was international (Farchakh, 2001, p. 34) with foreign clients (Holst, 1983, pp. 94-112). Distributors receive goods from spoilers; they are liaison agents between the spoilers and merchants. These distributors are of two types: intermediaries and merchants. The intermediaries are the link between the looters and the big merchants. They too break up into two groups. The first group is responsible for making the necessary displacements throughout the state territory to buy what the looters have found or the robbers stolen. Although they do not themselves participate in looting, they encourage this by buying looted or stolen cultural property. They make profits far greater than the looters without access to wealth. The second group is responsible for illegally removing stolen or looted property from the state territory by violating national regulations and selling them to large merchants, particularly in Jordan, Syria, Iran or even Lebanon, towards Europe and Japan (Farchakh, 2001, p. 34). Indeed, the crossing of the territory allows this second group of intermediaries to benefit from high prices thanks to the general rise of prices on the art market.

As for the role of large merchants or interested institutions with considerable funds and prestige, they deal with the second group of intermediaries. They can even hire agents in the territory of one or more "exporters" countries that are self-employed and pay bribes to customs and police services or sometimes to influential people in the state.

On the other hand, at the institutional level, we note that the Department of Iraqi Antiquities with these bad economic circumstances can hardly maintain adequate staffing levels or acquire and maintain the equipment and vehicles necessary for the protection of the sites (J.-M. Russell, 2008, p. 31). This means that Iraq has become unable to effectively protect its cultural heritage due to lack of financial and technical means to protect its heritage or to conduct archaeological excavations. In this regard, we find that there are more than 10,000 officially declared archaeological sites while the unknown sites are estimated at several thousand and protected by a small number of guards. This leads to the intensification of looting operations for lack of effective control. There are many archaeological sites not known by the

Department of Antiquities. They are considered fertile ground for thieves who carry out illicit excavations and impoverish Iraqi cultural wealth.

Alongside these national conditions, there are also at the international level, certain reasons which led to the increase of the illicit traffic of cultural heritage. We notice that mentalities have changed and morality on this subject has greatly diminished. The desire for material possession of these cultural objects has increased. The international market for cultural goods has spread to new layers of the population. The rise in the standard of living and intellectual level in the developed countries has had an influence in this direction. Bankers, insurance companies and business people are increasingly interested in art and its profits because acquiring works of art, especially in rich countries, is a very safe investment given their rarity in the market and the exceptional exchange value they can achieve (Cervera, 2008, p. 564). Indeed, "capital investment in cultural property has proved so profitable that even businesses and banks have begun to invest part of their profits either in the direct purchase of cultural goods or in gallery actions" (Holst, 1983, p. 123). With regard to the economic benefits to States, museums, which contained many cultural properties of outstanding value, such as Iraqi works of art, can serve as a driving force for tourism development with the establishment of infrastructure and generates a sustainable source of employment. The long-term benefits of cultural tourism to the economy have rarely been quantified (Nashef, 2004, p. 160). We cite, for example, the British Museum, the Louvre Museum and the Near East in Berlin; these museums have obtained since the nineteenth century a large part of the Iraqi heritage. There are also other museums such as the Metropolitan Museum of Art in New York, which has organized, after two months of looting the Iraqi Museum and Mosul, galleries presenting a large number of Iraqi cultural objects.

During the years following the 2003 invasion, there are approximately 400,000 to 600,000 Iraqi cultural objects valued at a total of \$ 10-20 million per year. They entered the international antique market during the next two years (Patron, 2008, p. 471).

B. The intellectual reasons

As for intellectual reasons, we find that most of the civilian population in Iraq ignores or does not have a sufficient intellectual and cultural of the importance of these cultural properties to humanity. This

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is due to the lack of adequate dissemination of information on the importance of the protection of the national cultural heritage to the population whether in peacetime or war. This has, in fact, been the result of the scientific and technological backwardness of the state in all fields, in particular, the intellectual domains, after the recent events (from 1990 to today)(Farchakh, 2001, p. 26) .

Among the most important reasons that led to the weakness of the intellectual aspect is related to the erroneous policy pursued by the government, which includes the entry into the many wars that have led to many political, security and economic problems at the national level. This has logically led the state to have an interest in solving these problems in order to preserve citizens' lives and neglect with regard to the cultural aspect, in particular the dissemination of information relating to the identification of cultural heritage with civil institutions and the population and the need to protect them.

On the other hand, at the international level, there is an increase in the intellectual level in the developed countries especially, thanks to scientific and technological progress which has contributed to the advancement and dissemination of knowledge in all fields, including cultural heritage. Indeed, these advances have facilitated the exchange of information and ideas related to cultural heritage. It allows the knowledge of civilizations and cultures of other peoples. Nevertheless, we find, at the same time, that this has led to increased desire by these communities to own cultural property from other countries. Because of their exceptional value, in addition, these objects allow access to the highest levels in the social hierarchy. Therefore, it seems to us that this development has been used to promote the growth of the illicit trafficking of cultural property, in this respect we can observe, for example, the use of the Internet in these countries, which has greatly facilitated the sale of cultural property outside the auction market, especially those that were illegally obtained, such as Iraqi artifacts. As of December 2006, at least 55 websites offered antiques for sale, including Iraqi artifacts. In fact, 23 of these sites have sold or recently sold cylinder seals and / or cuneiform tablets. In total there were 78 cylinder seals and 137 cuneiform tablets listed (Brodie, 2011, p. 123) . Most of these objects were stolen in Iraq.

In fact, the development of scientific knowledge has, in a certain way, encouraged the expansion of the illicit trafficking of cultural property in the world, especially in Iraq.

C. The reasons relating to terrorism

Political unrest in Iraq, especially after the war, has rendered the country incapable of deterring looting and criminal activity. The state often has to rebuild its government, restructure the law and refinance the police force. But during this period, the absence of law, of government to create laws and police to enforce them, with in addition, the existence of porous borders, large sophisticated networks of contraband established under the previous regime to circumvent UN sanctions, have effectively led to the spread of organized crime and terrorist groups. These exploited the lack of law and the weakness of penal institutions within the state (UN, 2003), which contributed to actively increasing the illicit trafficking of cultural property in the country. In this regard, in a speech by US Attorney General John Ashcroft at the Interpol meeting on the looting of cultural property in Iraq, it has been claimed that most looting operations in Iraq have been the result of organized crime groups who have capitalized on the chaos in Iraq to gain great illicit profits (McCalister, 2005, pp. 24-28). A good example is the two main art galleries in Munich, Germany, belonging to a Kurdish family associated with smuggling operations. Identified as a member of a "Turkish mafia", the owners were able, through their links with Kurdish looters and smugglers at the Turkish-Iraqi border, to facilitate acquire, transport and sell the looted objects to museums in the world and their collectors (McCalister, 2005, p. 28). This proves that there is a link between organized crime and the illicit trafficking of cultural property (Proulx, 2010).

On the other hand, there was also a clear relationship between terrorism and the illicit trafficking of cultural property in Iraq, especially after the control of oil smuggling in Iraq, which was considered the main source for financing operations and terrorist groups in Iraq. This led them to look for another source of financing, namely the illicit traffic in cultural property. In this sense, FBI director Robert S. Muller III, said in a speech in November 2004, that "there is a link between the abduction and transportation of cultural objects and the financing of terrorism" (Thurlow, 2005, p. 180). Cultural properties that

have been smuggled out of Iraq every day can fuel tens of millions of dollars in Iraq's underground economy and provide weapons and funds for the insurgents (E. Patron, 2008, pp. 478-479). It seems to us that the new trend is the exchange of art for money and for weapons (Vreeke, 2006, p. 21). In this regard, for example, the US Marines arrested five suspected terrorists in underground bunkers. Among the objects found in the possession of these people, thirty objects had been stolen from the National Museum. This trend is the result of the effective freezing of assets and the cutting of traditional means of financing for terrorists. Bogdanos explains the relationship between terrorism and trafficking in Iraqi antiquities:

« Just as Taliban leaders in Afghanistan have begun to finance their activities through the opium trade, insurgents in Iraq have discovered a new source of income in the supposedly genteel world of antiquities » (Vreeke, 2006, pp. 7-8).

D. The legal reasons

Other reasons have led to the expansion of the illicit traffic in cultural property. These legal reasons relate to national and international legislation. With regard to national legislation, each State faces difficulties in solving the problem of illicit trade, although many of them have adopted standards of control of their patrimony. In this respect we can distinguish between two types of States. The first includes countries with a rich cultural heritage and "exporting countries" such as developing countries that are unable to protect their heritage. These are countries that suffer enormously from illicit trafficking (Cervera, 2008, p. 561). The real problem for these countries lies in their legislation. There are two obstacles. First, most of these states have established very rigid and harsh texts restricting exports of cultural goods and transfers, with the introduction of heavy sanctions up to the execution. For example, in the Law of Antiquities and Heritage of Iraq No. 55 of 2002 provides that:

« Anyone who intentionally exports an object of antiquity - or tries to export it - out of Iraq is punished by the death penalty » (Article 41 § 1 of the Law of Antiquities and Heritage of Iraq N°55, 2002)

Through this behavior, these states believe that they can really prevent the trafficking of cultural property, but we observe that the

rigidity of these laws only encourages the use of illegal methods. The result in these conditions can only be negative given the state of demand that continues to increase. For this reason, it would be preferable for these laws to be more flexible with regard to the trafficking of cultural property, with the creation of effective control mechanisms on this traffic, especially if the pieces of archaeological discoveries were duplicated in the country. Why deprive other countries to benefit from these pieces? This behavior would contribute in particular to the cultural exchange between the nations. The second problem is related to the application of the legislation. In fact, most of these laws, especially in the Third World, do not apply to people who hold important positions in the state or when they are close to the ruling family in the country even though they directly participate in the illicit trafficking of cultural property to other foreign countries. With regard to the second type of State, they are those considered poor in cultural heritage and often "importing countries". Most are industrialized and have great economic resources, such as the United States and Japan (Cervera, 2008, p. 651) (E. Patron, 2008, p. 470). These countries have adopted very liberal legislation, because they do not feel on the one hand the need to adopt a protectionist policy since they are not very concerned by this scourge and secondly because they do not want to prevent the development of the lawful market of art. They have encouraged traffickers to liquidate stolen goods at home since they only provide light procedures or do not provide for any procedures for importing cultural property. For example, in the United States, legislation is dominated by the idea of free trade in cultural property. Imports are subject only to being declared to customs. However, most imports into the United States are often in violation of the laws of the countries of origin (Holst, 1983, pp. 163-166). Indeed, this has allowed the creation, in those countries with the most liberal laws, of international markets for stolen, illicitly exported or unidentified cultural goods. As a result, this allows people who trade in cultural property illegally, selling these objects easily in these markets due to lack of effective control.

As for the international level, it is noted that in the absence of a single international regulation on jurisdiction or international arbitration applicable to these cases, the recovery of cultural property is done individually on the basis of rules of private international law which designate the judge competent authority and the applicable law. This can

lead to contradictory situations, even unfair ones, which leave the owners legally dispossessed and defenseless(Cervera, 2008, p. 565).

III. COLLECTIVE RESPONSES TO THE PROBLEM OF ILLICIT TRAFFICKING IN CULTURAL PROPERTY

On an international level, responses have been received from international organizations such as UNESCO (A) and professional organizations (B).

A. UNESCO

The problem of the illicit trafficking of cultural property is a global problem and is not limited to the context of Iraq.UNESCO's response takes many forms, with international conventions and several recommendations to establish general rules and special responses to deal with certain cases such as Iraq.

1. The general response of UNESCO

The international community, especially in the aftermath of the Second World War, became aware of the need for a collective response to protect the cultural heritage of all nations.It was from 1945 that the problem required a real international dimension, which coincided with the birth of contemporary international law and with the progressive institutionalization of international society through the proliferation of international organizations(Cervera, 2008, pp. 566-567).The growing need to preserve the collective interests of the international community explains the role played by UNESCO since 1946.Inasmuch as it is the only international organization specialized in cultural matters,it stimulated the process of raising awareness for the protection of the common cultural heritage of mankind and elaborated several recommendations and facilitated the adoption of the only global-level conventional text addressing the problem of illicit traffickingand obliges states to follow certain international rules while limiting their sovereign powers.This is the recommendation defining the international principles to be applied in archaeological excavations established on December 5, 1956. On November 19, 1964, a recommendation was issued concerning the measures to be taken to prohibit and prevent the import, export and transfer of movable cultural property, illicit property.A recommendation was made on 28 November 1978 for the protection of movable cultural

property. In fact, these recommendations, although not of the same value as a convention, enjoy a great deal of authority inasmuch as they are adopted by the supreme organ of UNESCO. They create obligations for Member States to vote for or against their adoption. Each State is required to submit the recommendations to the competent national authorities within one year of their adoption. They should also send UNESCO regular reports on the measures they have taken to implement the recommendations (Holst, 1983, p. 241).

With regard to the convention that was established by UNESCO, namely the Convention of 14 November 1970, it is part of the approach initiated by the recommendation adopted on 19 November 1964 by the UNESCO General Conference entitled "Recommendation on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property". This Convention is aimed at the repression of the movements of cultural property that result from misappropriation in peacetime. It tends to stem the trend of impoverishment of the heritage of some States. Its greatest contribution to international standards is the introduction of new protection criteria and the idea of a collective benefit linked to historical or cultural heritage. States are regarded as custodians of cultural property belonging to the international community (E. Clément A. Ségurola, 2004, pp. 93-101).

Indeed, UNESCO's role is not limited to the elaboration of this Convention. In 1984, UNESCO asked the UNIDROIT Institute to reflect on the rules applicable to the illicit trafficking of cultural objects in order to complement the 1970 UNESCO Convention. UNIDROIT has succeeded in developing a text which has been adopted on 24 June 1995 by the delegates of 70 nations, at a Diplomatic Conference convened by the Italian Government, the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (E. Clément A. Ségurola, 2004).

2. The special role of UNESCO (case of Iraq)

Next to this general role, we also note that UNESCO has a special role in dealing with particular cases that urgently require an international response, such as the recent events in Iraq. During the last war, UNESCO's response to the looting in the Iraqi National Museum was prompt. In this connection, the Director-General of the Organization, Koïchiro Matsuura, addressed the United States and British authorities

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and urged them to take immediate steps to ensure the protection and monitoring of Iraq's archaeological sites and cultural institutions (Unesco, 2003). In order to prevent the illicit export of Iraqi cultural property, the Director-General liaised with the authorities of Iraq's neighboring countries and with the international police and customs services, requesting them to comply with the Convention of UNESCO on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970). UNESCO invited Interpol, the World Customs Organization, the International Confederation of Art Dealers (CINOA), the International Council of Museums (ICOM), the International Council on Monuments and Sites (ICOMOS) and the main players in the art market to join forces with those of UNESCO to prevent the purchase or acquisition of stolen property. Among the measures envisaged, UNESCO established at the 167th session (decision 9.2), an International Coordinating Committee for the Safeguarding of the Cultural Heritage of Iraq under the auspices of UNESCO. This decision was based on the experience of UNESCO in Cambodia, Bosnia and Afghanistan (UNESCO).

UNESCO, on the other hand, contacted Interpol's headquarters in Lyon. A meeting was held on May 5 and 6 of approximately 70 persons, including experts, art dealers and museum representatives and customs officers. Its central theme was the question of stolen cultural property in Iraq and the means that had to be used to find them. At the same time, the conclusions of the meeting underscored the importance of global cooperation in locating stolen objects and the need to build databases.

Finally, because of UNESCO's efforts, the Security Council on 23 May 2003 voted unanimously to adopt United Nations Security Council Resolution 1483 which emphasized the need to protect the country's heritage. Iraq, especially paragraph 7, on the specific issue of the illicit trafficking of stolen cultural property and requested UNESCO to take action in this regard. Indeed, this paragraph has extended to all United Nations Member States the obligation to protect the cultural heritage in Iraq.

Also, in 2015, the UN General Assembly adopted a resolution 69/281 (Saving the cultural heritage of Iraq) (A/RES/69/281) condemns the barbaric acts of destruction and looting of the cultural heritage of Iraq carried out by the Islamic State in Iraq and the Levant (ISIL), and deplores the rising incidence of intentional attacks against and threats to

the cultural heritage of countries affected by armed conflict as well as damage to cultural property resulting from indiscriminate attacks and the organized looting of and trafficking in cultural objects; and calls upon all States to assist the Iraqi authorities in fighting against trafficking in cultural property illegally excavated from archaeological sites and taken from museums, libraries, archives and manuscript collections, as required under Security Council resolutions 1483 (2003) and 2199 (2015).

B. International professional organizations

There are international governmental and non-governmental professional organizations involved in the fight against the illicit trafficking of cultural property either through their individual initiatives or through close international cooperation with UNESCO. These organizations include, for example, ICOM, INTERPOL ICPO, UNIDROIT, ICOMOS, WCO and ICCROM. We will consider joint action by the Organization of Police Services (ICPO INTERPOL), the World Customs Organization (WCO) and the Organization of Museum Professionals (ICOM) that can be considered as the keystone in the international fight against crime of the illicit trafficking of cultural property.

1. The role of INTERPOL

The International Criminal Police Organization, whose main objective is to “to contribute effectively to the prevention and suppression of ordinary law crime” (Article 2 (b) of INTERPOL’s Constitution), has no power of constraint on States. It is strictly forbidden for the Organization to undertake any intervention or activities of a political, military, religious or racial character (Article 3 of INTERPOL’s Constitution).

In the field of cultural property, INTERPOL has been particularly active in the fight against the illicit trade in cultural property since 1947, when the first international notice on stolen art objects was published. According to its Statute, each country designates an organization that functions in the country as the National Central Bureau (NCB). It is responsible for the search for cultural property, missing on the national level, this is the first step in any research and the NCB can request the assistance of other Member States in this context (Article 32 of

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INTERPOL's Constitution). This office then communicates all information in its possession, including that relating to a possible failure in the search for stolen property, the international office of the organization, domiciled in Lyon, France. The International Bureau being alerted, it shall promptly disseminate the information to all NCBs of the Member States. This information is forwarded to the national police in the form of detailed notices containing the date, the place of these thefts and the description of the missing property with a photograph if possible (P. Askerud et E. Clément, 2000, p. 41). Then, each State is responsible for transmitting the contents of these notices to all institutions and people involved in this fight, especially, art galleries, auction houses, antique shops, museums and customs services. INTERPOL has very advanced techniques and a highly efficient information system with a database for antiquities and cultural property, accessible by all INTERPOL member countries and the INTERPOL CD-ROM "Stolen Works of Art" is regularly updated and the website publishes information about the missing and recovered works of art. These tools allow people operating in the art market "antique dealers, museums, auction houses, collectors, etc." to access certain police information. Also, these tools allow future purchasers of cultural property to have the opportunity to check whether the property they want to buy is stolen or not. Will be an element that facilitates the proof of their good faith and that they acted with due diligence.

To fulfill its tasks of information and mutual consultation, it has also signed numerous international collaboration agreements with other international intergovernmental or non-governmental organizations (Article 41 of INTERPOL's Constitution) devoted to combating the trafficking of cultural property. INTERPOL maintains relations with UNESCO. A special agreement between the two institutions was signed in Paris on July 8, 2003, to establish international standards for the cataloging of collections of cultural goods that have been stolen (UNESCO, 2003, p. 8).

In the context of Iraqi cultural property, INTERPOL has been particularly active in the fight against illicit trade. As early as July 2003, following the first assessments of the looting of Iraqi institutions and sites, Interpol and UNESCO met to strengthen their cooperation in the fight against the trafficking of cultural property in Iraq. His role has taken various forms. First, INTERPOL began holding meetings and

conferences to coordinate international efforts to find stolen art and antiques. The first conference on stolen cultural property in Iraq, at the invitation of UNESCO, was held on 5-6 May 2003 at INTERPOL. The purpose of this conference was to strengthen cooperation. It recommended the establishment of a panel of experts on stolen cultural property and a special multinational unit to turn information into action. In accordance with the latter's recommendations, Interpol has established a group of experts on stolen cultural property. It created a special "ITTF" cell to trace stolen cultural property in Iraq and to fight against the illicit trafficking of these objects. This Unit has been designed to be the main platform for coordinating the international exchange of police information on stolen Iraqi cultural property and criminal networks engaged in the trafficking of such objects. It is composed of representatives of specialized services from Iraq, Jordan, the United Kingdom, the United States, Italy and France working in the field of law enforcement at the operational level (INTERPOL, 2003).

It has also created, under the scientific guidance of UNESCO, a database on stolen cultural objects in Iraq, which aims to establish a network of scientific institutions that have already published their data on Iraq's cultural heritage.

2. The role of Customs (WCO)

This Organization plays an important role in the fight against the illicit trafficking of cultural property. Its mission has three main activities: to sensitize members, draft legal instruments for cooperation and set up a system of centralization of information (P. Askerud et E. Clément, 2000, p. 286).

The first of these tasks led the Council in June 1976 to adopt a resolution concerning measures to be taken against the smuggling of works of art and antiquities. This resolution draws the attention of WCO members to the growing number of cases of smuggling and theft of cultural property, as well as the serious harm that these crimes bring to countries in the preservation of their cultural heritage. It also invites the WCO members to accede to the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

As for the second task, the WCO plays its role in two ways: The first by providing assistance for other international organizations to draft

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an international convention. This was the case when she assisted UNESCO in the drafting of the 1970 Import and Export Convention. The second is the direct adaptation of international instruments, such as the International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Punishment of Crimes, also known as the Nairobi Convention of 9 June 1977. It is considered the most significant instrument in the fight against the illicit trade in works of art.

Annex XI of this text deals more specifically with assistance in combating the smuggling of cultural property. As far as customs is concerned, the annex supplements the provisions of the 1970 UNESCO Convention. It is an important legal instrument that covers both the smuggling of cultural property and related financial transactions. Among other things, it provides for the spontaneous exchange of information between customs administrations, the development of a special surveillance system on the movements that take place at the borders of its partner States, the possibility of conducting certain research on the smuggling of objects of art and antiques in the territory of other WCO members and certain mechanisms of judicial collaboration. In this respect, Annex XI allows customs officials of one Contracting Party to intervene in the territory of another Contracting Party. In cases where evidence provided solely in the form of a written declaration is not sufficient, a Contracting Party may, at the request of the Customs Administration of another Contracting Party, and to the extent of its ability, authorize its officials to appear before a court or tribunal in the territory of the Contracting Party making the request as witnesses or experts in the smuggling of cultural property (Cervera, 2008, pp. 575-576).

The establishment of a centralized information system is the third major initiative of the WCO. Several WCO instruments provide for the establishment of a central index covering various types of customs fraud. For several years until now, the Secretariat has a computer database, the Central Information System "CIS", the purpose of which is to provide information and intelligence support to the fraud prevention services of member administrations. The database contains details provided by members regarding cases of trafficking in cultural property as well as information provided by UNESCO and ICPO / Interpol. The data contained in this database is used to prepare abstracts and studies of new or affirmed trends in the smuggling of cultural property. This

information is then disseminated to members, and sent to UNESCO and ICPO / Interpol through the WCO Anti-Fraud Bulletin.

When it becomes necessary to disseminate certain information to emergencies, the WCO sends its members a special "warning message". This is generally the case for theft of cultural property notified to the Secretariat by UNESCO and ICPO / Interpol. To increase the effectiveness of its work, the WCO has adopted a new decentralization policy to enable more rapid exchange of information between customs administrations and established a number of regional offices. By the end of 1996, there were nine such regional offices (P. Askerud et E. Clément, 2000, p. 288).

With regard to the case of Iraq, it is observed that all the customs services had been called upon to undergo an internship in order to be able to identify with more precision all the works of art which belong to Mesopotamia. Also, a meeting was held with the director of museums in Iraq to try to secure a large number of small museum objects. Also, on March 17, 2003, the attention was drawn to the provisional measures to stop this traffic and to alert those responsible for these commercial companies on the judicial risks they incur in marketing objects of looting and theft from the Near East, especially from Iraq. The responses were that the Customs Service made 51 findings, resulting in the seizure of some 1,750 works and artifacts imported or smuggled or illegally detained (Farchakh, 2003, pp. 32-33).

3. The role of the International Council of Museums (ICOM)

ICOM considers the fight against illicit trafficking to be one of the essential objectives of its program of activities, which also includes the strengthening of regional cooperation networks, vocational training and exchanges, the promotion of professional ethics and the protection of cultural heritage of humanity.

ICOM puts an important arsenal of measures at the service of the fight against illicit trafficking, based mainly on the 1970 UNESCO Convention and the ICOM Code of Professional Conduct adopted in 1986. This code, which is adhered to as soon as one becomes a member of ICOM, gives a particularly wide place to the problems of illicit traffic and sets out precise ethical rules concerning the acquisition and the transfer of collections, the cooperation between museums and the

inventory of collections. These general rules are complemented by the work done by ICOM's international committees to define professional standards in their respective fields of competence. This is particularly the case of the International Committee for Documentation, the International Committee for the Safety of Museums, the International Committee for Education and Cultural Action and the International Committee for staff training (P. Askerud et E. Clément, 2000, p. 296).

Generally, ICOM's actions against trafficking in cultural property can be classified in three areas. The first is the protection of collections. This fundamental measure to combat the trafficking of cultural goods is linked to the security of the collections itself, for which inventories are an essential step. Indeed, only the inventory sheet can both prove the belonging of an object to the museum and help identify it. For too many museums still, these inventories are non-existent or incomplete. The "ICOM International Committee for Documentation" helps museums prepare their inventories. Through the work of its international working groups working on the development of international professional standards, a first list of minimum information standards or "fields" was established in 1978. This means facilitating the exchange and collaboration of professionals, the only key to establishing an effective network.

The second action concerns publications. When an object has been stolen, rapid identification is necessary to give it a greater chance of being found. ICOM news, a quarterly newsletter distributed free of charge to ICOM's 13,000 members worldwide, reproduces photographs and records of missing objects that have been cataloged by INTERPOL. Several objects have been found thanks to this section of ICOM News. In view of these successes, ICOM reinforces this policy by publishing a series entitled "100 Missing Objects" series of publications presents a selection of objects that have been illegally removed from public collections or archaeological sites. Excerpts from the relevant laws of the countries concerned are also provided. The series helps raise public awareness as well as identify objects. As of March 2006, the series includes four publications: Looting in Angkor (1997); Looting in Africa (1997); Looting in Latin America (1997); and Looting in Europe (2001), with a fifth publication focusing on Arab countries. Following the publication of these works, several objects were found on the art market and returned to their country of origin.

Among the important tools used by ICOM is the Red List. Is a representative list of general types or categories of objects, generally protected by legislation, that are severely threatened by and most likely to be subjected to illicit trafficking. It is designed to help customs officials, police officers, art dealers and collectors to recognize such objects: it cautions potential buyers from purchasing them if no provenance papers are available, and it should cause the authorities to seize them when there is presumption of illicit provenance pending further enquiries. Drawn up by international experts, the Red List is in no way exhaustive in terms of objects at risk and requiring particular attention. Since 2000, ICOM has published Red Lists for 6 different countries and regions.

In the case of Iraq, ICOM has been able to develop a red list. This document, printed in English, French and Arabic, and presented on the Internet (ICOM, 2003). It gives a description of the most prized objects on the illegal market of antiquities so that they can be identified and seized. It recalls that these objects are protected by legislation, that it is forbidden to export them and that they must not under any circumstances be imported or put on sale. It recalls that these objects are protected by legislation, that it is forbidden to export them and that they must not under any circumstances be imported or put on sale. Unlike "One hundred missing objects" the "Urgent Red List of Iraqi Antiquities at Risk", like the other red lists, does not list specific objects, but establishes general categories, eleven in this case for Iraq, objects particularly at risk and likely to be stolen, and does not purport to be comprehensive (M. Petzet et J. Perot, 2003, p. 125).

IV. CONCLUSION

Today, the dimension of the problem of the illicit traffic has amplified exponentially in all the worlds, particularly in Iraq, for certain reasons, notably the wars in the region. This led the states to qualify their a priori, by adhering to international instruments to fight against the illicit trafficking of cultural property. In recent decades, there has been a slow realization of the real scope of a problem that is affecting almost every country in the world. International organizations and museums have greatly contributed to this evolution. The work of international organizations fighting crime through police and customs actions, such as UNESCO, INTERPOL and the WCO, has made the operations against

the illicit trafficking of cultural property more effective. The latest technological breakthroughs also bring new and exciting tools to raise public awareness and recover assets taken from victims of theft and illegal exports.

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