

**Convention for the protection of Cultural Property
in the Event of Armed Conflict**

Four-Year Cycle
2017 – 2020

National report on the implementation of the 1954
Hague Convention and its two (1954 and 1999)
protocols.

**Ministry of Arts and Cultural Heritage
Republic of Mauritius**

A. **Background**

- A.1 The Ministry of Arts and Cultural Heritage of the Republic of Mauritius as state party to the Convention for the protection of Cultural Property in the Event of Armed conflict has ratified the convention on 22 September 2006.
- A.2 However, it has enforced laws and regulations through the National Heritage Fund Act for the protection and preservation of Cultural Heritage in the main island and its outer island.
- A.3 As a Republic Mauritius is protected under existing laws. Our country has a para military service and it enjoys peace and harmony as a multi-cultural island.

B. **Steps undertaken for implementation of the Convention**

- B.1 The National Heritage Fund (NHF) which operates under the aegis of the Ministry is the body responsible for the protection of Cultural Heritage.
- B.2 Laws and regulations already exist irrespective of the National Heritage Fund Act for the protection of Cultural Heritage and prevention of illicit trafficking. However, there is a need to enforce additional laws to enable marking of cultural properties and carry out an inventory that can be accessed digitally so as to ensure protection of same at all instances.
- B.3 Action is being taken to amend the National Heritage Fund Act of 2003 to enable appropriate enforcement required for the implementation of the convention.

C. **Difficulties Encountered**

- C.1 Mauritius has not yet domesticated the convention and not acceded to the 1st and 2nd protocol of the convention. Therefore, there is a need to domesticate the Hague Convention in its totality and ensure that a proper inventory of Cultural Heritage is carried out.
- C.2 There is also a need to disseminate information on the Hague Convention to the major stake holders in Mauritius and public at large.
- C.3 Training and capacity building is required through the technical support of UNESCO so as to ensure complete implementation of the Hague Convention and its two protocols.

D. **Pictures taken during stakeholder's meeting.**





















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Protection of
Cultural Property in
the Event of Armed Conflict

**Four-year cycle
2017-2020**

**Questionnaire
National report on the implementation of the 1954 Hague
Convention and its two (1954 and 1999) Protocols**

GENERAL INFORMATION

1. Region:

State Party:

Mauritius

2. Submission of previous national reports

Yes

No

2.1. 2013-2016 cycle

3. Actors involved in the preparation of the national report

3.1. Government institutions responsible for the protection of cultural property

3.2. National Commission for UNESCO

3.3. Military expert

3.4. Independent experts

If other actors have been involved, please indicate them

4. National Focal Point

According to paragraph 120 of the Guidelines for the Implementation of the Second Protocol: *"Unless a Party requests otherwise, the presumed focal point would be its Permanent Delegation to UNESCO."* If you do not consider the Permanent Delegation as a focal point, you are invited to provide the Secretariat with the name and address of a national focal point who will receive all official documents and correspondence related to the national periodic reporting.

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I. The Hague Convention of 1954

1. Article 3 - Safeguarding of cultural property

This Article provides for the obligation of the High Contracting Parties to adopt relevant peacetime safeguarding measures against the foreseeable effects of an armed conflict.

- *Has your State undertaken such measures?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

The 1954 Hague Convention has not yet been domesticated in Mauritius. Hence, there are no specific provisions in our existing legislation as regards safeguarding of cultural property against the effects of an armed conflict.

As regards cultural property more generally, section 6 of the existing National Heritage Fund Act provides that the Board of the National Heritage Fund shall, inter alia, *“regulate and authorize activities pertaining to the exploration, excavation, salvage of national heritage or any object or structure of cultural significance”*

Under section 2 of the said Act, the terms “cultural significance” and “monument” are defined as follows –

“Cultural significance” means aesthetic, anthropological, archaeological, architectural, botanical, ethnological, geological, historical, linguistic, palaeontological, scientific, social, spiritual or technological value;

“Monument” means –

a) Any structure of cultural significance, remains of such a structure, building or group of buildings, which, because of its homogeneity or its place in the landscape, is of outstanding value; and

b) Architectural work, work of monumental sculpture and painting, an element or structure of an archaeological nature, an inscription or a cave dwelling which is of outstanding value;

The National Heritage Fund under the aegis of the Ministry of Arts and Cultural Heritage is in the process of reviewing its act which will enable it to carry out an inventory of Cultural Heritage in Mauritius.

2. Article 6 - Use of the distinctive emblem for the marking of cultural property

The 1954 Hague Convention creates a distinctive emblem for the exclusive marking of cultural property, with a view to ensure its recognition, particularly in the event of armed conflict. The marking of cultural property is one of the preparatory measures that can be undertaken in time of peace.

- *Has your State **marked cultural property** by using the distinctive emblem of the Convention?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

The 1954 Hague Convention has not yet been domesticated in Mauritius. However, as regards the marking and recognition of cultural property in general, section 12 of the National Heritage Fund Act provides as follows –

“12. Designation of national heritage

- (1) *The Minister may, on recommendation of the Board, designate, by regulations –*
- a) *Any monument;*
 - b) *Any object or site of cultural significance;*
 - c) *Any intangible heritage;*
 - d) *Any natural feature consisting of physical and biological formation or group of such formations which are of outstanding value; and*
 - e) *Any geological and physiographical formation or precisely delineated area which constitutes the habitat of animals and plants of outstanding value, in Mauritius to be a national heritage.”*

The state party is holding discussions with parties concerned to come up with a distinctive emblem for the exclusive marking of Cultural Property.

3. Article 7 - Military measures

This Article provides for the obligations of the High Contracting Parties with regard to the introduction in their regulations or instructions for the use of their armed forces of provisions to ensure compliance with the Convention, as well as to plan or establish within their armed forces, services or specialist personnel whose purpose will be to secure respect for cultural property and to co-operate with the civilian authorities responsible for safeguarding such property. These are obligations to be implemented in time of peace.

- *Has your State introduced provisions in the **regulations and instructions for your armed forces** to ensure compliance with the Convention?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

The 1954 Hague Convention has not yet been domesticated in Mauritius.

The State Party is working in collaboration with the Commissioner of Police to ensure the introduction of regulations or instructions for the use of the armed forces of provision to ensure compliance with the Convention.

Appropriate capacity building is required for the armed forces to be equipped for compliance.

It is to be noted that there are no armed forces in the Republic of Mauritius but a paramilitary force and the Special Mobile Force (SMF) which falls under the Mauritius Police Force.

- *Has your State established **services** or designated specialist personnel within your armed forces to ensure respect for cultural property?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

Consultations and meetings are being held to designate specialist personnel in our paramilitary force.

4. Article 25 - Dissemination of the Convention

Regulations relating to the protection of cultural property in time of armed conflict must be included into the programmes of military and, if possible, civilian training. The objective is to ensure that the principles of the Convention are known by the whole population, especially the armed forces and personnel engaged in the protection of cultural property.

- *Has your State **disseminated the provisions of the Convention** within the armed forces as well as among target groups and the general public?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

We are in the process of preparing a campaign for dissemination of the provisions of the Convention within our paramilitary force as well as among target groups and the general public.

5. Article 26(1) - Official translations

This Article requires that the High Contracting Parties communicate to one another, through the Director-General of the United Nations Educational, Scientific and Cultural Organization, the official translations of the present Convention and of the Regulations for its execution:

Please submit a copy / copies of such translation(s), in electronic format, if possible, to the Secretariat"

Please annex an *electronic copy of your translation(s) to this report:*

N/A

6. Article 28 - Sanctions

This Article provides for the obligations of the High Contracting Parties to take, within the framework of their ordinary criminal jurisdiction, all necessary steps to prosecute and impose penal or disciplinary sanctions upon those persons, regardless of their nationality, who commit or order a breach of the Convention.

- *Has your State introduced in your domestic legislation all necessary steps to prosecute and impose penal or disciplinary sanctions against a conduct contrary to the obligations set out in the Convention?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

Although the 1954 Hague Convention has not yet been domesticated in Mauritius, legal provisions already exist in our national legislation with regard to prohibitions on exports and imports of illicit trade and trafficking of goods which include cultural property and other items of archeological, historical and cultural importance and are as follows:-

- (1) Sections 40, 40A, 41, 65, 66 and 301 of the Criminal Code;
- (2) Sections 63 to 66, 156 and 158 of the Customs Act; and
- (3) Sections 16 of the National Heritage Fund Act 2003;

The above provisions deal with offences which entail fines and imprisonment or penal servitude for life upon conviction of offenders by the competent courts.

II. Resolution II of the 1954 Conference

- *Has your State established a **National Advisory Committee** in accordance with the wish expressed by the Intergovernmental Conference (1954) in [Resolution II](#)?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

There is an International Humanitarian Law Committee of Mauritius set up under the aegis of the Ministry of Foreign Affairs, Regional Integration and International Trade (Human Rights Division) and a summary of its composition is as follows:

1. Head of Human Rights Division and/or his/her representative;
2. A representative of the Prime Minister's Office (Home Affairs Division);
3. A representative of the Mauritius Fire Rescue Service;
4. A representative of the Ministry of Gender Equality and Family Welfare;
5. Commissioner of Police or his/her representative;
6. Solicitor-General or his/her representative;
7. Financial Secretary or his/her representative;
8. Secretary for Foreign Affairs and his/her representative;
9. A representative of the Ministry responsible for Social Security and National Solidarity;
10. A representative of the Ministry responsible for Health and Wellness;
11. A representative of the Ministry responsible for Education, Tertiary Education, Science and Technology;
12. A representative of the Ministry responsible for Arts and Cultural Heritage;
13. Director-General, Mauritius Red Cross Society or his/her representative;
14. A representative of the Ministry responsible for Local Government, Disaster and Risk Management;
15. A representative of the Ministry responsible for Environment and Climate Change;
16. A representative of the National Disaster Risk Reduction and Management Centre;
and
17. A Secretary to the Committee designated by the Human Rights Division.

- *In the event that you have established a National Advisory Committee, has it been incorporated into a national commission for the implementation of international humanitarian law?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

Documents attached.



List of IHL instruments (ratified :



Terms of Reference

III. 1954 (First) Protocol

[To be completed only by the High Contracting Parties to the 1954 Protocol]

The main purpose of the 1954 Protocol is the protection of cultural property in **or stemming from** occupied territory.

- *Has your State undertaken **measures to implement** these international obligations, including the adoption of relevant legislation?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

Mauritius has not acceded to the First and Second Protocols.

IV. The 1999 Second Protocol

[To be filled in only by the Parties to the 1999 Second Protocol]

The 1999 Second Protocol supplements the 1954 Hague Convention in many respects. In case the information has already been presented in the context of questions relating to the 1954 Hague Convention, you can directly refer to it.

1. Article 5 - Safeguarding of cultural property

Article 5 of the Second Protocol supplements Article 3 of the Hague Convention by providing concrete examples of preparatory measures to be undertaken in time of peace, such as the preparation of inventories of cultural property or the designation of competent authorities responsible for the safeguarding of cultural property.

- *Has your State undertaken such measures?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

Mauritius has not acceded to the First and Second Protocols.

2. Article 9 - Protection of cultural property in occupied territory

Article 9 of the Second Protocol complements Article 5 of the 1954 Hague Convention by imposing specific obligations on the occupying power. Paragraph 119 of the Guidelines for the Implementation of the 1999 Second Protocol requires Parties that are occupying powers to provide information in their national reports on how the provisions relating to the protection of cultural property in occupied territory are being respected.

- *Do you ensure compliance with the provisions relating to the **protection of cultural property in the context of military occupation**?*

YES: NO: Not applicable:

You can complete your answer below, taking into account the guidelines in the model report.

3. Article 10 - Enhanced protection

The 1999 Second Protocol establishes an enhanced protection regime. Enhanced protection is granted by the Committee for the Protection of Cultural Property in the Event of Armed Conflict (composed of 12 Parties).

- *Do you **intend to request the granting** of enhanced protection for cultural property within the next four years or, if appropriate, to submit a **national tentative list** under Article 11 (1) of the 1999 Second Protocol?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

MONITORING OF CULTURAL PROPERTY UNDER ENHANCED PROTECTION

[If some cultural property in your State benefits from enhanced protection, please also fill in this part of the questionnaire].

The benefit of enhanced protection implies the continued fulfilment of the conditions provided for in Article 10 of the 1999 Second Protocol.

- *Is a **specific mechanism for monitoring cultural property under enhanced protection** in place? For example, are the measures undertaken to ensure the highest level of protection periodically reviewed to ensure their full adequacy in all circumstances?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

Pursuant to paragraph 94 of the Guidelines, a distinctive emblem is created for the exclusive marking of cultural property under enhanced protection.

- *Has your State **marked with the distinctive emblem** cultural property under enhanced protection?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

4. Article 15 - Serious violations of the 1999 Second Protocol

“Article 15 obliges Parties to **establish as criminal** offences in their domestic law offences constituting serious breaches of the Second Protocol, **and to make such offences punishable by** appropriate penalties”.

- *Has your State **implemented this obligation**? If yes, what measures have been undertaken?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.



5. Article 16 - Jurisdiction

Pursuant to Article 16 of the Second Protocol, the Parties shall take the necessary legislative measures to establish their jurisdiction over offences set forth in Article 15 of the 1999 Second Protocol in certain cases.

- *Has your State **implemented this obligation**?* If yes, what measures have been undertaken **to grant jurisdiction to your courts** over serious offences under the 1999 Second Protocol?

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.



6. Article 21 - Measures regarding other violations

The 1999 Second Protocol obliges Parties to adopt legislative, administrative or disciplinary measures as may be necessary to **suppress certain other violations of the Second Protocol**:

- a. any use of cultural property in violation of the 1954 Hague Convention or the 1999 Second Protocol;
- b. any illicit export, other removal or transfer of ownership of cultural property from occupied territory in violation of the 1954 Hague Convention or the 1999 Second Protocol.

- *Has your State implemented such measures?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.



7. Article 30 - Dissemination

Article 30 of the Second Protocol complements Articles 7 and 25 of the 1954 Hague Convention. In this regard, Article 30 it asks the Parties, to endeavour by appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect for cultural property by their entire population, to ensure the dissemination of the 1999 Second Protocol, and to incorporate in their military regulations' guidelines and instructions for the protection of cultural property.

- *Has your State **disseminated the provisions of the Convention and the Second Protocol** within the armed forces as well as to target groups and the general public?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

8. Article 33 – Assistance of UNESCO

Pursuant to paragraph 151 of the Guidelines for the Implementation of the 1999 Second Protocol, the Parties having activities at bilateral or multilateral level are invited to inform the Committee, in their periodic reports, of their activities in order to share their experiences or good practices.

- *Has your State shared, in particular through the Secretariat of UNESCO, your experiences and good practices in implementation of the 1954 Hague Convention and / or its Protocols?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

9. Article 37 - Official translation of the 1999 Second Protocol to the 1954 Hague Convention

Pursuant to Article 37 of the Second Protocol, the Parties shall translate the 1999 Second Protocol into their official language(s) of their countries and shall communicate these official translations to the Director-General.

Please submit a copy / copies of such translation(s), in electronic format, if possible, to the Secretariat.

Please annex an *electronic copy of your translation(s) to this report.*

V. Other questions relating to the 1954 Hague Convention and its two Protocols

1. Ratification of / accession to other international treaties having provisions of the protection of cultural property

- Can you indicate the other international instruments to which your State is a party?

International instruments	Ratification/Accession
1970 UNESCO Convention on the means on Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property	Acceptance 27 February 1978
1972 UNESCO Convention on the Protection of the World, Cultural and Natural Heritage	Ratification 19 September 1995
2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage	Not Party
2003 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage	Ratification 04 June 2004
2005 UNESCO Convention for the Protection and Promotion of Diversity of Cultural Expressions	Ratification 29 March 2006
Additional Protocol (I) to the Geneva Conventions, 1977	Ratified on 22 March 1982
Additional Protocol (II) to the Geneva Conventions, 1977	Ratified on 22 March 1982
Additional Protocol (III) to the Geneva Conventions, 2005	Not Party

2. National practice relating to the implementation of the Hague Convention and its two Protocols

The Secretariat would be grateful if you could annex a copy of the following documents in French and/or English:

- Relevant **civil and military administrative regulations**:
 PDF Document Website
- **National laws** relating to the protection of cultural property, as well as criminal provisions adopted in the context of the implementation of Article 28 of the Hague

Convention and Articles 15, 16 and 21 of the Second Protocol, and case law relating to the protection of cultural property.

PDF Document

Website

- Documents relating to awareness-raising activities (seminar programme, brochures, etc.), as well as any other document (legislative, judicial or administrative) relevant to the dissemination of the 1954 Hague Convention and its 1999 Second Protocol.

PDF Document

Website

3. Effectiveness of cooperation mechanisms at the national level

- The implementation of the Hague Convention and its two Protocols requires cooperation at the national level between the various authorities (civil, military, etc.). Can you assess the degree of cooperation, at the national level, in your State?

There is no cooperation between the different authorities

There is limited cooperation between the different authorities

There is cooperation between the various authorities, but there are still improvements to be made

There is a perfectly functional cooperation between the different authorities

Other (specify)

VI. Self-assessment forms

In order to reflect in the synthesis document of the national reports the status of implementation of the 1954 Hague Convention and its 1999 Second Protocol in key areas, please fill in the two tables below.

1. Assessment of the degree of implementation

[To do this, please use the following rating scale]

1. Not at all implemented;
2. Partially implemented and the process is at standstill;
3. Partially implemented, the process following its course; and
4. Fully implemented.

Implementation of the safeguarding obligation through the adoption of preparatory measures	3
Military training on regulations for the protection of cultural property	1
Use of the distinctive emblem to mark cultural property	1
Implementation of the obligation to disseminate, through the implementation of awareness-raising activities for target audiences	1
Adoption of relevant criminal legislation	3
<i>For Parties with cultural property under enhanced protection only.</i> Establishment of a monitoring system for cultural property under enhanced protection at the national level

2. Assessment of the difficulties encountered

[To do this, please use the following rating scale]

1. Difficulties are encountered, but there are no plans to seek technical assistance from the UNESCO Secretariat;
2. Difficulties are encountered, nevertheless, it is planned to make use of the technical assistance of the UNESCO Secretariat;
3. Difficulties were encountered, but thanks to the technical assistance of the Secretariat they could be resolved;
4. Difficulties were encountered at first, but they turned into challenges that were overcome; and
5. No difficulties were encountered.

Implementation of the safeguarding obligation through the adoption of preparatory measures	2
Military training on regulations for the protection of cultural property	2
Use of the distinctive emblem to mark cultural property	2
Implementation of the obligation to disseminate, through the implementation of awareness-raising activities for target audiences	2
Adoption of relevant criminal legislation	2
<i>For Parties with cultural property under enhanced protection only.</i> Establishment of a monitoring system for cultural property under enhanced protection at the national level

VII. Enhanced protection mechanism – Opinion survey

Pursuant to Chapter 3 of the 1999 Second Protocol, enhanced protection is granted by the Committee for the Protection of Cultural Property in the Event of Armed Conflict if three criteria are cumulatively met:

- ✓ Cultural property is of the greatest importance to humanity;
- ✓ Cultural property is protected by adequate domestic, legal and administrative measures recognising its exceptional cultural and historical value and ensuring the highest level of protection; and
- ✓ Cultural property must not be used for military purposes or to shield military sites. And the Party which has control over the cultural property has to make a declaration confirming that it will not be used for military purposes or to shield military sites.

As these conditions are set out in an international treaty, their interpretation cannot be made independently of State practice, which is of fundamental importance under international treaty law. Therefore, this national report is an opportunity for the national authorities of the Parties to express their views on the conditions under which enhanced protection is granted.

For each of the conditions set out in Article 10 of the Second Protocol, please answer the following questions, taking into consideration the relevant paragraphs of the Guidelines for the Implementation of the Second Protocol.

- Article 10, paragraph (a) - "The greatest importance for humanity"

Please list the main factors to be undertaken into consideration in determining whether a cultural property is of the greatest importance for humanity?

- Article 10, paragraph (b) - "The highest level of protection"

Please mention the national authorities to be consulted in determining the choice of measures to be adopted to ensure the highest level of protection for a cultural property for which enhanced protection is requested. What measures can ensure the highest level of protection?

- Article 10, paragraph (c) - "Not-used for military purposes"

Please mention the national authorities to be consulted in order to take the decision not to use the proposed cultural property for granting enhanced protection for military purposes or to shield military sites?