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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:
Palestine

2. Submission of previous national reports

2.1. 2013-2016 cycle

Yes

No

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.

In 2018, the State of Palestine approved a new law for the protection and conservation of the Palestinian Tangible Heritage (No.11, 2018). It replaced the 1966 Jordanian Law of Antiquities, number 51, which used to be applied in the West Bank, and the 1929 Antiquities Law used to be applied in Gaza.

From 2-5 December 2018, the Ministry of Tourism and Antiquities in cooperation with the UNESCO Ramallah Office, the Secretariats of the 1970 and 1954 Conventions, the Italian Carabinieri Police, and the Interpol Organization conducted a capacity-building training on the 1970 Convention on Fight Against Illicit Trafficking of Cultural Property, and the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its protocols, both ratified by the State of Palestine in March 2012. The training targeted all institutions and stakeholders working in the protection and conservation of the Palestinian heritage, including the Ministry of Tourism and Antiquities (MoTA), the Ministry of Interior, the Tourism and Antiquities Police, Customs Control Authority, National Security, the General Administration of Crossings and Borders, the Ministry of Culture, Museums Curators, non-governmental and private institutions, and heritage professionals.

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 distinctive emblem of the Convention is not used in Palestine yet. However, the State of Palestine plans to use it to mark important cultural properties that might be threatening or endangered status.

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.

- *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.

The state of Palestine has established the Tourism and Antiquities Police since the 1990s to protect the Palestinian cultural heritage and to enforce the implementation of the law.

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.

The Tourism and Antiquities police have the basic knowledge about the domestic law, the 1954 convention and its protocols, and the obligations of other ratified related conventions by the State of Palestine.

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:

Attach the document

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.

The protection law (no 11, 2018) of the Tangible Cultural Heritage in the state of Palestine is corresponding with the international law and conventions. It includes deterrent penalties against anyone who might destroy and/ or cause any damage or pillage to the cultural heritage.

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.

The Ministry of Tourism and Antiquities is in the process to establish a National Advisory Committee in accordance with the wish of the Intergovernmental Conference (1954).

- *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.

When the National Advisory Committee is being established, its scope and obligations will be going in line with the international humanitarian law.

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.

The state of Palestine adopted the law of protection of Tangible Cultural Heritage (No.11, 2018). Its Articles from 26-30 include a set of comprehensive provisions on the protection, management, and promotion of Palestinian cultural heritage. The Law was adopted after an extensive four-year consultative process led by the Ministry of Tourism and Antiquities (MoTA), with the technical and financial support of UNESCO and in consultation with civil society and main actors specialized in cultural heritage preservation. The Law is one of the most valuable achievements in the field of cultural heritage in Palestine, providing cultural heritage in Palestine with the necessary legal protection, in line with international standards and in compliance with the provisions of international conventions ratified by Palestine, such as 1954 Hugu convention, 1970 convention of illicit trafficking of cultural property, and 1972 convention.

The importance of the decree is to expand the time frame for the protection of the heritage to include every building built before 1917 after it was limited to the pre-1700s in the previous legislation. It also provides a broader framework for extending the protection of material cultural heritage elements if the cultural or economic values Or natural, and provides for the establishment of a comprehensive national register of material cultural heritage in Palestine and aims to prepare the necessary regulations stipulated to provide the necessary protection of the Palestinian cultural heritage to be well protected for present and future generations.

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.

Although the Tangible Cultural Heritage Law (No.11, 2018 stipulates the establishment of a comprehensive national registry for tangible immovable and movable heritage, the established registry is still in its initial stage due to the shortage of human and financial resources needed to complete the registry, making it a comprehensive documentary tool for the protection of Palestinian cultural heritage.

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.

Palestine still under occupation, therefore cultural heritage suffers from threatened, destroyed, stolen, and loot.

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.

The State of Palestine intends to request the granting of enhancing protection for its endangered cultural heritage, especially for those sites under the daily threaten by the Israel Occupation Power.

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.

The articles of the Tangible Cultural Heritage Law (No.11, 2018) comply with the 1999 Second Protocol are:

Article (33)

1. The Ministry shall take the following procedures in order to protect the heritage in the event of armed conflict:

a. document and photograph the heritage subject to protection;

b. develop plans for emergency measures;

c. build refuges intended to preserve the heritage;

d. provide enhanced protection to the heritage, in accordance with the international mechanisms of heritage protection in armed conflicts; and

e. evacuate the movable heritage away from armed clashes or military targets, or ensure appropriate protection of such heritage in its location;

2. The Ministry may submit a request to the United Nations Educational, Scientific and Cultural Organization (UNESCO) to include a cultural heritage of universal or national value under the system of special or enhanced protection.

Article (27) It is prohibited for any person to undertake any of the following acts:

1. to illegally possess a movable heritage item;
2. to counterfeit a movable heritage item;
3. to destroy, damage, or distort any movable heritage;
4. to trade in or conduct commercial activities related to movable heritage, including foreign heritage;
5. to smuggle movable heritage out of the State or be involved in activities resulting in such act;
6. to undertake any act that causes the movable heritage to lose the significance for which it was inscribed.

Article (28)

1. The movable heritage may be introduced to the State after obtaining a written permit from the Ministry or its representative abroad.
2. The issuance of permit for the entry of movable heritage to the State requires the fulfillment of the following conditions:
 - a. the country of origin must be identified;
 - b. the exportation of the movable heritage from the country of origin must be authorized; and
 - c. the movable heritage shall be introduced to the State for one of the following reasons:
 - 1) it shall be used for the purposes of lending or exhibition in museums or galleries;
 - 2) it is part of private collections of members of diplomatic corps;
 - 3) it is part of amateur collections;
 - 4) it was acquired by a Palestinian national by inheritance.

Article (29) The Ministry shall have the right to return the movable heritage to its country of origin upon request from the latter, provided that:

1. the movable heritage has been illicitly introduced to the State;
2. the principle of reciprocity is observed;
3. the country of origin produces the necessary evidence and documentation proving the validity of its request of restitution;
4. the country of origin bears all the expenses arising from the return of the movable heritage;
5. no customs duties or other fees shall be imposed on the return of such heritage; and
6. the country of origin pays a fair compensation to the bona fide purchaser.

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	2012
1972 UNESCO Convention on the Protection of the World, Cultural and Natural Heritage	2012
2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage	2012
2003 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage	2012
2005 UNESCO Convention for the Protection and Promotion of Diversity of Cultural Expressions	2012
Additional Protocol (I) to the Geneva Conventions, 1977	2014
Additional Protocol (II) to the Geneva Conventions, 1977	2014
Additional Protocol (III) to the Geneva Conventions, 2005	2014

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	2
Military training on regulations for the protection of cultural property	2
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	2
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?

The criteria of the cultural property which will be undertaken into consideration in determining the greatest importance for humanity will apply to the 1972 Convention. The same as the Guidelines for the implementation of the Second Protocol in III A and the granting of enhanced protection is follow with criteria 31- 43.

- 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?

Ministry of Tourism and Antiquities
Ministry of Interior
Ministry of Foreign Affairs

- 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?

Ministry of Tourism and Antiquities
Ministry of Interior
Ministry of Foreign Affairs