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**C**ultural property is a unique testimony to the culture and identity of a people. It reflects the life of a community, its history and identity. It is an invaluable asset for the future of a community, establishing a link between its past and its present. The cultural heritage of all humanity is made up of the contribution of cultural goods by different peoples. Loss of or damage to such property impoverishes humanity. It is thus important to take measures to ensure their protection.

The emergence of collections and museums as well as the development of research on the history of art and civilizations fostered the growth of the market for goods. The pillage of tombs and caves and clandestine archaeological excavations are becoming commonplace. This is precisely the origin of illicit trafficking in cultural property, which causes serious damage to the tangible heritage of countries in various regions of the world. Awareness-raising activities about this scourge began to be developed with the establishment of Nation States and the concept of national heritage. At the international level, legal provisions were taken to regulate the movement of cultural goods and transactions involving works of art. These standards in connection with the movement of goods cover four aspects: the acquisition and assignment of property and collections, the origin of such goods, professional conduct, and penalties for violations of standards.

#### Illicit trafficking in cultural property and legal standards

The Hague Convention, which was adopted on 14 May 1954 and applies only to armed conflict situations, is considered the first major multilateral instrument proposing common rules for the protection of cultural property.

Given the massive export of original cultural assets from certain countries and the resulting loss of their heritage, UNESCO developed a convention to regulate the import, export and international transfer of cultural goods between States.

This convention, which was adopted by the General Conference of UNESCO at its 16th session on 14 November 1970 in Paris, formulates the basic principles necessary for the protection of cultural property internationally and contains minimum provisions on the legislative, administrative and international law measures that States Parties should take to prevent illegal trafficking in cultural property. Its purpose is to encourage States to better protect their cultural heritage and collaborate globally for the enhanced protection of this heritage. It urges them, among other things, to establish cultural heritage protection services and set rules in accordance with the ethical principles in this instrument. In this regard, it is up to countries to provide their institutional frameworks with appropriate structures to ensure the safeguarding and promotion of their cultural property. These structures can range from simple prevention through repressive measures to international cooperation in police, customs and business coordination.

The UNIDROIT Convention, which was adopted on 24 June 1995 in Rome, establishes minimum uniform rules on the restitution of stolen cultural goods and the return of illegally exported cultural objects. It also fights the illicit export of cultural property. Thus, a State Party may request another State Party to order the return of a cultural object that has been illegally exported from its territory.



**Haiti and illicit trafficking in cultural property**

Haiti's cultural heritage includes remains of pre-Columbian, colonial and national periods as well as contemporary art, cultural objects, and handicrafts. As such, it plays a central role in the country's national identity.

Although protected by a national and international legislative body, the Haitian cultural heritage is being seriously affected by the illicit trafficking driven by international demand and by a precarious economic situation in the country.

The earthquake that struck Haiti in 2010 significantly increased the risk of illicit trafficking in cultural property. Whether it is museums, public buildings, private collections or objects belonging to individuals or families, this heritage was faced, more than ever, with a situation of vulnerability and defencelessness vis-à-vis plundering, theft and destruction.

The Emergency Red List of Haitian Cultural Property at Risk was the first response of the International Council of Museums (ICOM) to increased trafficking in goods that make up the Haitian cultural heritage. It was necessary to prevent these goods from being scattered at all costs.

The Red List is designed to help police and customs officials and heritage professionals to identify the categories of cultural objects that are most vulnerable to illicit trafficking. These categories are protected by a piece of legislation that prohibits their trade and export. It is worth mentioning that contemporary art and crafts are also included on the list.

A total of 42 Haitian cultural artefacts are on the list. They fall under different categories: Pre-Columbian art, cultural and spiritual objects, historical documents, coins, equipment, architecture and town planning, ancient crafts, folk traditions, and fine arts.

The list was launched at the Haitian National Pantheon Museum on October 13, 2010 by the International Council of Museum (ICOM) in collaboration with the National Committee of ICOM (ICOM-Haiti), under the sponsorship of the Ministry of Culture and Communications.


As the Emergency Red List of Haitian Cultural Objects at Risk is by no means exhaustive, any object from Haiti should be given the most serious consideration.

On May 15, 2012, on the occasion of the International Day for Museums, ICOM-Haiti and the Haitian National Pantheon Museum (MUPANAH) organized a meeting on the development of rules for the implementation of the Red List or any other mechanism that could be used by cultural institutions to fight illicit trafficking in cultural property, protect the cultural heritage and implement the UNESCO Convention against illicit trafficking.



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In my capacity as the General Director of MUPANAH and Executive Secretary of ICOM- Haiti, I proposed, as a first important step, inventorying all public collections (museums, monuments, squares, statues) for cataloguing purposes. Private collections should also be inventoried to be protected. To meet this challenge, it is necessary to overcome many obstacles, including the scarcity of human, material and financial resources.

In short, illegal trade in cultural property is a global phenomenon. All continents are being affected. The fight against illicit trafficking is crucial and requires priority attention, as it is strongly associated with the preservation of the history and identity of a people. 

**Haiti's cultural heritage is protected by:**

- Constitution of the Republic of Haiti (10 March 1987)

**National Legislation**

- Act of 23 April 1940 on the historical, artistic, archaeological and natural heritage
- Act of 1st July 1983 on the establishment of the Haitian National Institute of Culture and Arts
- Act of January 1995 on the establishment of the Ministry of Culture and Communications
- Decree-Law of 31 October 1941 on the establishment of the Bureau of Ethnology
- Decree of 4 August 1950

- on the National Museum
- Decree of October 1989 on the establishment of the National Heritage Commission
- **Order** on the designation of the building of and objects at the Printing Museum (project) as national heritage

**International Conventions**

- UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 14 November 1970)
- UNESCO Convention concerning the Protection of World Cultural and Natural Heritage (Paris, 16 November 1972)
- OAS Convention

- for the Protection of the Archaeological, Historical and Artistic Heritage of American Nations, known as the San Salvador Convention (Santiago, 16 June 1978)
- United Nations Convention on the Law of the Sea (Montego Bay, 10 December 1982) and Agreement of 30 July 1994 on the Implementation of Part XI thereof
- UNESCO Convention on the Protection of the Underwater Cultural Heritage (Paris, 2 November 2001)
- UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (Paris, 17 October 2003)
- UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Paris, 20 October 2005)



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