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ISSN (ONLINE) 2598 9928



INDONESIAN JOURNAL OF LAW AND ECONOMIC

PUBLISHED BY
UNIVERSITAS MUHAMMADIYAH SIDOARJO

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Indonesian Journal of Law and Economics Review

Vol 20 No 2 (2025): May

DOI: <https://doi.org/10.21070/ijler.v20i2.1292>

Article type: (Private Law)

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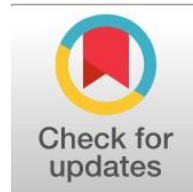
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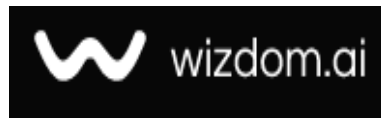
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Strengthening Legal Frameworks for Managing Iraq's Cultural Heritage Revenues

Memperkuat Kerangka Hukum untuk Mengelola Pendapatan Warisan Budaya Irak

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Abstract

Background: The protection of cultural heritage revenues in Iraq has become increasingly critical due to widespread looting, smuggling, and illegal exploitation, exacerbated by the country's shifting security and economic conditions. **Specific Background:** Although Iraq possesses both domestic and international legal frameworks designed to safeguard its cultural heritage, their practical effectiveness remains hindered by implementation weaknesses and legal gaps. **Knowledge Gap:** There is limited research analyzing how existing laws can be optimized to ensure sustainable management and protection of revenues derived from cultural heritage assets. **Aim:** This study aims to evaluate the effectiveness of legal measures governing the protection and management of Iraqi cultural heritage revenues, while proposing reforms to strengthen these frameworks. **Results:** The findings reveal that despite a robust legislative foundation, weak enforcement mechanisms and insufficient inter-agency coordination impede optimal resource management. The research highlights the necessity of modernizing legislation and enhancing administrative processes. **Novelty:** By employing a comparative analytical approach, the study integrates insights from international practices to propose actionable reforms tailored to Iraq's context. **Implications:** The study underscores the importance of legislative updates, enhanced transparency, international collaboration for asset recovery, and the establishment of a national fund to ensure the conservation and sustainable utilization of cultural heritage revenues.

Highlights:

1. Legal gaps weaken cultural heritage revenue protection.
2. Global models guide legislative reform efforts.
3. National fund ensures sustainable heritage management.

Keywords: cultural heritage, Iraq, legal framework, revenue protection, sustainable management

Published date: 2025-05-01 00:00:00

Introduction

Cultural heritage revenues are one of the important pillars that contribute to the national economy and achieve sustainable development. Iraq's cultural heritage includes many archaeological sites, such as museums, arts, and traditional practices that reflect the history and civilization of Iraq. The Iraqi heritage also witnesses a great diversity between ancient monuments such as the cities of Babylon, your and Assyria, in addition to artistic and architectural traditions that span thousands of years, benefiting from this heritage through cultural tourism, holding exhibitions, festivals and cultural events through which important financial revenues can be achieved, in addition to providing job opportunities and strengthening the identity of society, despite the challenges faced by Iraq in the field of heritage protection, it constitutes an important resource for the development of the national economy if these resources are invested effectively and sustainably.

However, this cultural heritage often faces many threats to its survival and existence, such as armed conflicts, as well as the illegal trade in antiquities, all of this may lead to damage and erase their existence, therefore, States often resort to protecting their cultural heritage by resorting to domestic legislation, ensuring the imposition of penalties for anyone who tries to harm the culture of the state or through international agreements that ensure the prevention of trafficking in what represents the heritage of the state.

The administration has broad authority to preserve cultural heritage through the means of administrative control granted to it by law in order to maintain public order, as the administration is obligated to protect cultural property and cultural heritage in all its forms from any attack or encroachment on it, it represents a preventive authority with an effective role in preserving cultural heritage.

Research Importance

This research acquires great importance in shedding light on the role of laws in protecting Iraq's cultural heritage, attention is drawn to the need to develop these legislations in line with economic and social transformations, the research also makes practical contributions that can help improve the financial returns generated by cultural tourism.

Research Problem:

The problem of the research is the effectiveness of legal procedures to preserve cultural heritage revenues under the current legislation and legal texts in order to preserve cultural heritage from looting and theft.

Methods

In order to take note of the subject of the research, we have adopted in the research the comparative analytical approach, this is done by relying on what is found in the legislative texts, extrapolating them, analyzing the experiences of contemporary countries, and trying how to benefit from the trend of some countries in order to preserve cultural heritage.

Research Structure:

This plan aims to develop a comprehensive framework to study the effectiveness of legal procedures in protecting and managing the revenues of the Iraqi cultural heritage, this helps to improve policies and ensure sustainable utilization of these valuable resources, therefore, we will divide our research into two axes, we dealt in the first axis with the theoretical framework of the Iraqi cultural heritage by taking note of linguistic definitions as well as the terminological definition of cultural heritage and legal definition, as for the second axis of the research, we dealt with activating legal measures in protecting the revenues of the Iraqi cultural heritage.

Discussion

The First Axis: The Theoretical Framework of Cultural Heritage

Cultural heritage is one of the most important things that peoples cherish in order to show what their civilization is and everything that has passed in their history, so we find the wide interest of countries to give their heritage great importance, the concept of the term cultural heritage varies according to the connotations to which it refers, whether through the time period to which it refers or through the character it symbolizes, whether this character is artistic, historical, religious or even political [1].

In order to surround the concept of cultural definition, we will address the linguistic and terminological definition, then we will address the legal and international definition of cultural heritage through the following:

First: Linguistic and Terminological Definition of Cultural Heritage

The term cultural heritage refers linguistically derived from the verb inherit inherits and is said inheritance is inheritance and is the original, which has been for a long period of time, that approximately fifty years or more [2].

As for the terminological meaning, it revolves around likening inheritance to money, so that it is passed down from generation to generation, as it indicates the various human productions, whether it is an idea or a specific production or what was added by the previous humanity or what was included in that culture of antiquities, creations or buildings that refer to a cultural, civilized or human symbol, so that we find ourselves in front of the old productions of human beings, whether this production is material or moral.

Cultural heritage also includes reference to historical evidence, including various holdings such as theater, clothing, etc.

It can be said that cultural heritage is a set of cultural values that impose on everyone respect them and exert the necessary care for them and often be a title for peoples to indicate the civilization that belongs to those countries, heritage is a term given to what different civilizations produce, and it has multiple meanings and different terms, it can be referred to the term antiquities or the term cultural property or cultural or popular heritage or customs or natures that distinguish a people of peoples over other peoples, therefore, we find that the term can evolve with the development of different concepts, whether we refer to this term to cultural or natural heritage, and we mean the latter, which results from natural forces such as gardens such as waterfalls and natural reserves.

Second: Legal Definition of Cultural Heritage

Many legislations have tried to develop a specific definition of cultural heritage, the Algerian legislator in Law 98 of 1998, where it pointed out that cultural heritage is all cultural real estate property and real estate by allocation and movable located on land belonging to natural or legal persons affiliated with private law, also pointed out that the part that the cultural heritage of the nation is intangible cultural property resulting from social interactions and the creations of individuals and groups through the ages, but we note that the Algerian legislator was not specific as it did not settle on a specific term [3].

As for the Iraqi legislator, we find that its position on the concept of cultural heritage even before the issuance of the current law is not clear and specific, either after the issuance of the current Antiquities and Heritage Law No. 55 of 2002 we find that it has stipulated specific texts, where we find that the Iraqi legislator in Article IV, paragraph VIII of the Antiquities and Heritage Law No. 55 of 2002 Heritage Materials (It is movable property and immovable property that is less than 200 years old and has a historical, national, national or artistic value declared by a decision of the Minister) [4] If we look at the Law on Natural Reserves No. 2 of 2014, we notice that it referred to natural heritage in the first article as natural heritage Natural features consisting of physical, biological or geological formations or formations, which have exceptional universal value from an aesthetic or scientific point of view and precisely defined areas that are home to endangered animal and plant species).

At the international level, we find that international legislation, and in most cases, does not use the term cultural heritage, referring to the definition of the Arab League, it pointed out in one of its conferences that it is considered an antiquity of anything left by civilizations and what previous generations left behind or what has been previously revealed, whether fixed or movable, whether it is related to art, science, literature, religious beliefs, public events and others [5].

As for the scope of international organizations, we find that some international organizations such as UNESCO, which referred in its Convention for the year 2001 cultural heritage is the one that is keen on the need for diversification, distinction and uniqueness in human identity and societies, considering cultural diversity as a source of exchange, innovation and diversity.

There are also many conventions that have given multiple definitions of cultural heritage in different names, such as the specific definition said by the Hague Convention for the Protection of Cultural Property of 1954, in its first article, it referred to the types of cultural property, whether movable or fixed, or if it belonged to antiques and manuscripts, it is also considered an archaeological, historical or traditional heritage, every trace left by civilizations or left by previous generations, it is also revealed or found by land or sea, whether real estate, movable, documents or manuscripts related to the arts, sciences, beliefs, traditions, daily life, events, etc. [6]

Third: Cultural Heritage Sections

A. Tangible Cultural Heritage

Cultural heritage of all kinds is what expresses the civilized existence of any country, as this heritage may appear in any form of diverse heritage and in any different period of time, it is also an expressive description of the nature of this heritage, whether this expression is printed with an artistic, religious or historical tendency, whether it is movable or fixed, and we will cite in this place of research the most important sections of cultural heritage.

Tangible cultural heritage means everything related to or related to the land or who was in its subsoil or what was located in the internal or territorial waters of the State, where this heritage cannot be transferred without damage as it occupies a space so that its place cannot be changed and we can explain the most important of this heritage.

As for natural areas, it means those that contain nature features, a landscape while that added a kind of heritage patterns that reflected special patterns of culture or a certain type of life, where this type of heritage included specific qualities that made it linked to heritage from the cultural side such as sacred lakes, waterfalls or even forests [7].

a. Archaeological and natural sites - Archaeological sites are represented by areas that are built or not built without having a specific function, where these sites have existed by themselves and by nature or by human intervention, where these places often contain physical remains indicating human settlement of humans in a period such as caves, caves, walls or ancient cities, or the archaeological site may include artifacts of artifacts and plant remains [8].

b. Historical architecture - historical architecture means everything related to the structure, monument or building that bears a historical character, it includes all buildings that appear on the surface of the earth, such as temples, mosques or churches, where the construction of these places has been a long period of time, which may be close to that period by a hundred or two hundred years, or these buildings may have become cultural heritage because they are associated with a specific situation or person, which gave it an important heritage character, thus, these places have a historical orientation that gives them an archaeological character that makes them works of heritage and cultural heritage, this type of antiquities is very important because it remains a clear and explicit evidence of the historical existence of different civilizations, so countries often resort to preserving it and continuing to maintain it [9].

Considering the importance of underwater cultural heritage as an integral part of cultural heritage and a crucial element in the history of peoples and nations and the history of relations with each other with regard to their common heritage, Iraq acceded to the UNESCO Convention on the Protection of the Underwater Cultural Heritage under Law No. (20) of 2019. This agreement aims to:

a. States Parties shall, individually or jointly, take all appropriate measures in accordance with this Convention and the provisions of international law necessary for the protection of underwater cultural heritage, using the best means to that end.

b. Preserving underwater cultural heritage for the benefit of humanity.

c. Ensure and promote the protection of underwater heritage.

d. States Parties to the Convention shall cooperate in the protection of heritage.

e. Not to allow any activities targeting this heritage.

d. Not to exploit heritage commercially.

B. Intangible Cultural

Intangible cultural heritage is a certain type of property addressed by the UNESCO Convention after 2003 in Article II, which relates to the preservation of cultural heritage which is intangible, it has been described as cultural folklore, which consists of a set of items such as traditions, arts, social practices, manifestations of a celebration held by a group of peoples or other traditional industries [10].

The protection of intangible cultural heritage is one of the basics that we find in fact based on international agreements and in the event of their ratification by states, this type of intangible cultural heritage is often spread by various means, such as publications, meetings, through contact with its various forms, or by placing this type of intangible heritage in places designated for it, in order to identify it by public display or recruit people who possess this intangible culture in order to disseminate this intangible cultural heritage [11].

Intangible cultural heritage may also include ancient objects such as coins, seals, ancient ornaments, cultural property related to religion or science, art manuscripts, historical publications, maps, etc. [12]

From the foregoing, we note that the criterion on which international conventions are based in the statement of intangible cultural heritage is what constitutes importing, exporting, tampering with or possessing it as an infringement on cultural heritage and an attempt to rob the state of part of its civilizational heritage, the importance of the statement of this type of heritage and its inclusion within international conventions is to protect this type of cultural heritage from export, import, sale, purchase, looting or looting as it is easy to be exposed to this type of dealings, which violates the cultural heritage of the owner state and an attempt to infringe on cultural heritage, and this is what many conventions have referred to, including the Geneva Convention of 1977 or the Hague Convention that preceded it in 1954 as well as what was referred to by the UNESCO Conference held in 1980 it pointed out that cultural heritage is that which is an expression of human creativity or that results from the development of nature or that has archaeological, historical or artistic value.

The Second Axis: Activating Legal Measures in Protecting the Revenues of the Iraqi Cultural Heritage.

Iraqi antiquities were subjected to a major catastrophe during the Gulf War and the US occupation of Iraq in 2003, through looting and looting, the looting of the Iraqi Museum, which was not protected, caused an irreparable loss of a cultural heritage that belonged not only to Iraq but to humanity as a whole, one of its results was the erasure of Iraqi civilization and emptying the treasury of its cultural and economic content, the images of the looting of the Iraqi Museum in 2003 shocked the whole world because of the assault on the history of human civilization, [1 3], [1 4] therefore, the Iraqi government has turned to a series of measures and the issuance of many laws in an attempt to return the stolen antiquities and preserve the archaeological sites from the looting of criminal gangs, since cultural heritage constitutes an important source of national income, this is our subject area in this research.

Cultural heritage is a source of national income related to tourism, in addition, it is a source of job creation, it may be used to serve the purposes of control and political influence, there are many forms in which cultural heritage (such as museums and archaeological sites) can contribute directly or indirectly as an important economic resource, this is through contributions to business activities and employment, regional and urban renewal and the development of cultural skills of citizens.

The preservation and protection of cultural heritage in the present and future is important for the national economy, for several reasons [15]:

In order to promote the tourism movement, create better conditions for the tourism and antiquities sectors, and achieve more specialization in tourism and heritage activity, in order to develop tourist attractions and archaeological areas as a tributary of the national economy, and to enhance the role of the private sector and encourage national and foreign investments in them, several laws have been enacted in Iraq, among the most prominent of them, the Law of the Ministry of Tourism and Antiquities No. (13) of 2012, which aims to manage, direct and control tourism activity by following the following means:

1. Tourism: Where cultural heritage is a tourist attraction, it is visited by tourists and archaeologists from all over the world to discover historical archaeological sites and rare cultural monuments, this stimulates economic activity in the region through hotel accommodation, eating, shopping, and buying gifts and souvenirs.
2. Supervising and controlling state-owned tourism facilities and the private and mixed sectors in line with tourism purposes in accordance with the laws in force, and stimulating national and foreign investments.
3. Supervising the services of a tourist nature in archaeological and heritage sites in order to ensure the security of revenues for the public treasury, and at the same time ensure the protection of these sites from the risk of compromising their landmarks.
4. Managing the tourism facilities owned by the Ministry to ensure the achievement of tourism goals and the development of those facilities and tourist guidance services to attract tourists to them.
5. Developing tourism and archaeological cooperation relations between Iraq and national and international countries and tourism and archaeological organizations, and working to return stolen Iraqi antiquities.

The preservation and protection of cultural heritage in the present and future is important for the national economy, for several reasons:

- a. Designation, protection, maintenance and excavation of archaeological sites and the establishment of modern museums in order to introduce the cultural and historical heritage of Iraq.
 - b. Develop tourism plans and policies that suit the economic, social and cultural conditions of the country.
 - c. Upgrading the efficiency of tourist and archaeological staff and qualifying them through the establishment and development of specialized institutes and centers for the preparation and training of those staff.
2. Jobs and economic growth: The preservation of cultural heritage leads to employment and income opportunities for the local population; when cultural heritage is developed and exploited, there is a need for many skilled people in the fields of handicrafts, the formation of artistic teams to present dances and folk songs, translation, and tourist guidance, and the restoration of historical monuments, and the organization of local and international events and festivals to attract tourists and increase residence and spending in the region, this is what we notice from many Arab countries that are characterized by their ancient civilization, such as Iraq and Egypt (Babylon Festival and many historical and cultural sites that characterize our country), this leads to an increase in economic activities, enhancing employment opportunities and increasing the resulting revenues.
 3. Sustainable development: Cultural heritage plays a major role in achieving sustainable development in many areas, it can push for sustainable development with all its cultural, social and economic elements and contribute as a key factor in determining social roles and passing them on to generations and preserving cultural identities.

In light of the above, the criminal protection of antiquities is achieved through penal legislation, and these texts are developed by the legislator to protect antiquities and heritage, where the theft of heritage and antiquities is a very serious crime, and the belief of the Iraqi legislator in the importance of preserving heritage, article (40) of the Antiquities and Heritage Law No. (55) of 2002 stipulates a prison sentence of not less than 5 years and not more than 15 years for anyone who steals antiquities or heritage material in the possession of the archaeological authority, it is also forbidden to sell or gift antiquities and archaeological materials or take them out of Iraq.

Through some provisions in the Iraqi Penal Code No. 111 of 1969, as amended, by criminalizing some acts that represent an attack on the public interest and public money and destroying it, in addition to criminalizing the violation of the sanctity of the property of others, these provisions can be applied to crimes committed against heritage in the absence of provisions in the Antiquities Law, or in the event that it includes more severe penalties than those in the Antiquities Law, these articles include (477, 478, 456 and 457), and some of them concern the national economy, in which it is criminalized to sabotage funds related to the economy (304, 306, 315, 316) [16].

The Iraqi legislator also authorized the state under the Expropriation Law No. (12) of 1981, when there are justifications for the public interest, to expropriate to achieve the public benefit, in return for compensation for real estate, including land, for the implementation of public projects; The legislator has granted the state the power to expropriate or expropriate lands or sites where the state deems protection of the antiquities in these sites or lands, under this the Ministry of Tourism and Antiquities is allowed to expropriate the ownership of antiquities owned by persons as well as manuscripts delivered to it or seized by it, provided that it compensates the owner fairly.

The Iraqi Civil Code No. (40) of 1951, as amended in Article (2/1029), also included that the ownership of the land includes what is above and below to the extent useful in enjoying it, however, this right is restricted to whether the land contains antiquities in its interior and that this right is not granted to the owner or whoever authorizes him the right to excavate for the antiquities, article 248 of the Civil Procedure Law No. 83 of 1969 also stipulates that "it is not permissible to seize or sell funds to require debt, whether the attachment is precautionary or executive." Among these funds are antiquities and cultural heritage, which may not be seized to require a debt, whether this debt is on the state or the archaeological authority, it is also not permissible to decide any ancillary rights in rem in order to ensure that the benefit remains in accordance with what was allocated to it and not to disrupt its specialization for the public benefit.

The implementation of legal procedures in this area depends on the comprehensiveness of the laws and their practical application. Effectiveness can be assessed by the following points:

1. Legal framework for the protection of cultural heritage revenues in Iraq.
2. The Iraqi Constitution and National Laws: Article (113) of the Iraqi Constitution stipulates that antiquities and heritage sites are considered public property, which places obligations on the state to protect them, the Antiquities and Heritage Act No. 55 of 2002 also contains provisions regulating the excavation, protection and financial disposal of heritage revenues.
3. Penal Codes: The Iraqi Penal Code No. 111 of 1969 criminalizes the smuggling and assault of antiquities, which contributes to legal deterrence.
4. Financial legislation: Some financial legislation determines how cultural heritage revenues should be invested, but it needs to be developed to increase sustainable economic benefit.
5. International Treaties and Conventions
6. The Hague Convention of 1954: obliges signatory states to protect cultural heritage during armed conflict.
7. UNESCO Convention of 1970: Prohibition of the illicit export and import of cultural property, to which Iraq is a party.
8. United Nations Convention against Transnational Organized Crime of 2000: Provides legal tools to trace funds generated by crimes related to antiquities.

Conclusion

Results:

1. The protection of revenues of Iraq's cultural heritage is a vital challenge that requires the concerted efforts of legal and administrative authorities to strike a balance between preserving historical identity and developing the financial resources that heritage derives.
2. Through this research, it is clear that the local and international legislative framework provides a solid foundation, however, the weak mechanisms of implementation and coordination between the concerned authorities

is an obstacle to the optimal utilization of these revenues. Hence the urgent need to reform and modernize laws.

Recommendations:

1. Updating legislation to include clear policies for the management of cultural heritage revenues.
2. Activating international cooperation to recover funds resulting from the smuggling of Iraqi antiquities.
3. Enhance transparency and accountability in revenue management.
4. Establishing a national fund for heritage revenues to be allocated for conservation and development programs.

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