

THE STRATEGIES AND FUNCTIONS OF THE UNITED NATIONS ORGANIZATION AND INTERNAL LAW IN ORDER TO SUPPORT CULTURAL HERITAGE

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ABSTRACT: *This study was an attempt to examine the support of ownership, transfer and restitution of Cultural heritage according to the international and internal laws in Iran. Cultural heritage is a compound word. Heritage is defined that something is inherited and culture is knowledge and wisdom. Cultural heritage indicates all remain of national monuments from the past and also indicates the human's life in the history. Cultural heritage can be categorized into two groups; the first one is mundane cultural heritage for instance ancient monuments and spiritual cultural heritage includes customs, music and song. Many conventions were approved in the international law level that the membered country must observe the approved rules of the cultural heritage. This study aimed to provide practical solutions to support cultural properties. The study was a qualitative research and collected data from books, papers and internet sources. The findings of the study revealed that different rules and conventions were approved according to international and internal laws, but they are not sufficient in order to protect cultural properties. Import and export of cultural heritage are considered as a crime and the criminals will be prosecuted by judicature. Moreover, intensive conventions and laws should be approved and all governments are convinced to meet international and internal laws in order to protect cultural legacy and prevent demolition of it.*

KEYWORDS: ownership, restitution, cultural heritage, international and internal laws, conventions.

INTRODUCTION

Totally everything that can be valuable is called properties. Property consists of a) public, private, state ownership. (Katozian, 1995).

Cultural heritage and property

Cultural heritage and property are called mundane and spiritual monuments from the past and implicated cultural identity of human society. Moreover, it is useful and effective on the life of bygone. (Asadi, 2002). Cultural properties are called movable property and real property (immovable) that are important in the cultural heritage. (Feagh, 2001). The convention was approved in order to support world cultural heritage. Cultural heritages consist of cultural

heritage, natural heritage and cultural-natural heritage. (Cultural heritage organization, 1995). The law of cultural, historical monuments and antiques were developed and approved by Hartsfield in 1309 for the first time in Iran. (Mosavi, 1990). Recently parliament members approved a regulation that state and public institutions are obliged to prepare a list from movable and immovable properties of cultural legacy and cultural heritage. (Nasiradeh&etal, 2009).¹

Cultural heritage is a property and regarding to the displacement can be divided into two categories the first one is movable and immovable. Movable properties consist of golden bowl and house appliances. Immovable properties are historical and cultural places.

Restitution of cultural properties

Restitution of cultural properties was considered when they are occupied by illegal transfer, smuggling, theft and trade by meddlers. Restitution means that restore the properties to the original owners. Hartsfield (1987) approved a law in order to protect and restore the cultural legacy to the original owners. Nasirzadeh and etal, (2011) examined the quality of cultural property protection in criminal law. The results of this study revealed that it is necessary to protect industrial and artistic progress. Legal relationships, political communication, religious, and customs through international and national tourism. Moreover, religious and philosophical reasons were known for protection of cultural heritage as a duty of the governments. Zaheri (2011) investigated and applied moral behavior for selling antiques in Iran. The results of this study revealed that it is possible to implement international and moral behavior of UNESCO in Iran and won't face with any problems. Adabi (2011), examined the restitution of property in the crimes that are related to smuggling regarding to the areas of Internal Law in Iran. The results of this study showed that the rules of smuggling crime are widespread to recognize them so as to seize the properties. Hence the matter of this study was the support of cultural properties and the research question is going to be address: to what extent the international and internal legal system can be effective on the protection and restitution of cultural properties. The purpose of this study is to introduce practical solutions in order to support cultural properties.

METHODOLOGY

The present study sets out to investigate the support of ownership, transfer and restitution of cultural heritage according to the international and internal law. The study is qualitative and descriptive.

The data was collected from books, papers and internet sources restitution of cultural properties are considered that properties are transferred through affricating, smuggling, ransacking, and business by meddler (Langeroodi, 1995).

Restitution

Restitution means regain. Restitution of properties are transferred through smuggling, ransacking, and business by meddler. (Langeroodi, 1995).

The support can be effective that the governments have a good relationship all over the world. Restitution is one of the laws to support cultural legacy in the law of Iran. Before 1987, there weren't any sufficient laws about cultural legacy and historical properties. In 1990, a law was approved that buying and selling of antique monuments were banned. Restitution of historical and cultural legacy occurs through different ways in order to return smuggling consignment of

cultural legacy. Cultural legacy organization can make complaint about a country that has stolen the properties and it takes a long time, on the other hand the easier way is to negotiate through diplomacy and embassy.

Important historical monuments

Important historical monuments that have been restituted including two steel swords, grave stone that was for 900 years ago. Stone and soapy, jiroft and Bakat gallery, Sasanian coins, ormolu historical monuments of Lorestan. Earthen Riton, and the others. On the other hands, there are some suspense files that have not had any results including Semin bowl, Takhte Gamshid monuments, chaghamish historical monuments. (Mosavi, 1990).

According to the convention (1970), every monument has to be restituted to the original country but Iran has no achievement in the suspense files.

Legal support of cultural properties in the internal law in Iran

According to the law (12) in 1987, all national monuments and cultural heritage; including, movable and immovable are protected and monopolized by government.

Legal support of cultural properties in the international laws

Hague Tribunal convention (1954): this convention supports and protects cultural properties when the war happens in a country. This convention obliges the governments to bind the cultural legacy of their own countries and the enemy countries. Paris convention (1972 Paris): this convention supports natural and cultural legacy all over the world and concentrates on common humanity legacy. Under water convention (2001): the main aim of this convention is to protect and insurance of protecting cultural legacy in the bottom of water or coast lines. Uniura convention (1995): the convention aims are to coordinate and coincide with the international laws in order to restitute stolen properties.

RESULTS

The present study scrutinized the commanding laws in internal and international level for protection and restitution cultural and historical properties of Iran. The main objective of the study was: to investigate international and internal laws are sufficient to support the historical properties in Iran. The findings of this study strongly and positively are the same as the precious studies.

DISCUSSIONS

The study was an attempt to examine the introduction of practical solution in order to support the cultural heritage according to the international and internal law in Iran. The main objective of this study is to provide a practical solution and support cultural heritage. The previous study revealed that the approved conventions were not more effective to support historical monuments. These studies revealed that the countries should cooperate with each other so as to approve effective conventions and preserve the cultural heritage.

CONCLUSION

The study attempts to investigate the support of ownership, transfer and restitution of Cultural heritage according to the international and internal laws in Iran. The findings of study reveal that the laws of Iran are not sufficient to support the cultural heritage. The study revealed that

some suggestions can be submitted to protect cultural legacy in a country especially Iran as follows:

- 1) Laws and constitutions are approved in different times precipitately in order to protect and restitute stolen cultural legacy form Iran but these laws do not have efficient power for restitution cultural and historical properties.
- 2) The researchers, counselors, and also defend attorneys of cultural legacy are allowed to present appropriate solution to protect and restitute the cultural legacy properties.
- 3) The government must prevent the illegal activities of smugglers to export and import the historical monuments.
- 4) Intensive conventions and laws should be approved and all governments are convinced to meet the laws in order to protect cultural legacy and prevent the demolition of it.
- 5) The smugglers are prosecuted as criminal persons due to exporting, importing, and manipulating and changing the cultural properties according to the international and internal commanding laws.

REFERENCES

- Adabi A. The restitution of property in the crimes that are related to smuggler regarding to the areas of internal law in Iran. 2011. P. 35-37
- Asadi, E. Definition of words. Tehran. Ministry of culture.2002. P. 57
- Faegh, V. Getting familiar with cultural heritage. Third version. 2001. P. 34
- Langeroodi, M. Property Law. Ganj Press. Fourth publish. 1995. P. 65
- Katozian, N. Ownership and property. Tehran. Yalda Press. First publish. 1995. P. 64
- Mosavi, A. Ernest Hartsfield and the evolution of archeology. Archeology and historical Journal. 1990. 1. 25-26
- Mosavi, M. Historical Properties. Cultural Legacy Journal. 1990. 2.23- 25
- Nasirzadeh, B, Abdolahi,M, Sayebani, A. the quality of cultural property protection in criminal law. Political and Law Journal. 2009. 3 (5). 70
- Zaheri, A. Moral behavior for selling antiques in Iran. Central Tehran University. Faculty of law. 2011. 65-70

Acknowledgments

I wish to express my thanks and appreciation for the continuous support received from Dr. Hassani and Mrs. Khademi without whose help this paper would not have been possible.