

UNDERWATER CULTURAL HERITAGE IN ASIA PACIFIC AND THE UNESCO CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

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ABSTRACT

Underwater cultural heritage (UCH) is a precious part of humanity's shared history and heritage as it provides vital evidence and information about the interaction of humans with oceans, lakes and rivers. The Convention on the Protection of the Underwater Cultural Heritage was adopted by the General Conference of UNESCO (United Nations Educational, Scientific and Cultural Organization) in 2001 to protect this heritage which has become significantly vulnerable to threats such as pillaging, commercial exploitation and the development of the seabed with the evolution of marine technology in the latter half of the 20th century. The Convention celebrates its 20th anniversary in 2021 and has been ratified by 68 countries. Its annex, which provides rules about the activities directed at UCH, has become a major reference and is recognised as the established scientific standard for underwater archaeology and research today. Despite the growing recognition and application by the international community, the Convention has been ratified only by four countries in the Asia-Pacific region. Many underwater sites and shipwrecks have been commercially salvaged, particularly in Southeast Asia, and numerous artefacts recovered from the sites were often put up for auction, leading to irrevocable damage and loss of this valuable cultural heritage to future generations. This article as one of the themed articles dedicated to the UCH in Asia Pacific argues the roles of the Convention and the challenges and opportunities

for the protection of UCH particularly in Southeast Asia. UCH contributes to the achievement of the Sustainable Development Goals and can play an important role in sustainable community and economic development. Its values and importance deserve to be widely recognised and advocated. Efforts for safeguarding cultural heritage in Asia Pacific needs to be pursued and enhanced through joining the 2001 Convention and with international support and cooperation.

Keywords: underwater cultural heritage, Asia Pacific, UNESCO 2001 Convention, sustainable development

INTRODUCTION

Over the last decades especially since the end of World War II and the creation of UNESCO (United Nations Educational, Scientific and Cultural Organization), cultural heritage has become a matter of international concern and an increasingly studied and discussed topic. Over 1,100 cultural and natural sites have been registered in the World Heritage List and some 600 cultural practices have been inscribed in the Intangible Cultural Heritage List of UNESCO. There has been an exponential growth in heritage preservation and visitation worldwide and cultural heritage has become so present in our daily life and in many forms such as historic sites, monuments, museums, traditions, dances and arts. Despite such a heritage boom, underwater cultural heritage (UCH) still remains an unfamiliar subject to many. This low interest and awareness of UCH is often linked to the difficulties attached to the access of the submerged heritage, which are often located in deep water, invisible to many. This low visibility together with the lack of appropriate legal measures for protection has allowed unethical or illegal exploitation of UCH by commercial salvaging companies and looters, rendering many important shipwrecks and sites irreversibly destroyed in the past.

The Convention on the Protection of the Underwater Cultural Heritage (the 2001 Convention) was adopted in 2001 by the General Conference of UNESCO to fight against commercial exploitation of UCH and assure its protection and sustainability at the same level as those provided to land-based heritage. However, its application is still far from being universal and uneven among regions. Asia Pacific holds the lowest ratification rate of the Convention while many countries in this region possess a long history of maritime trade and rich underwater cultural heritage.

Coinciding with the 20th anniversary of the 2001 Convention since its adoption, this article sets out to argue the pertinence and importance of the 2001 Convention to Asia and the Pacific, in particular Southeast Asia where a number of commercial salvages and pillages have taken place to the critical detriment of the historically rare and important shipwrecks and archaeological sites. In an attempt to argue the relevance and benefits of the 2001 Convention to the region, this article is structured in three parts. First, it provides an overview of the 2001 Convention as the background information. Secondly, it looks at the efforts and progress made in Southeast Asian countries in the protection of UCH, particularly in light of the UNESCO meetings and workshops taken place in the region. Lastly, the article sets out to argue the benefits and advantages for Southeast Asian countries in being a state party to the Convention as well as to underline the growing relevance and recognition of UCH in the 2030 agenda for sustainable development, in particular the United Nations Decade of Ocean Science.¹

The statements and analysis contained in this article are primarily based on different information sources including published books, journals and articles on the theme of UCH, as well as the author's participation in relevant meetings and information collected therefrom. While these methods helped the author to collect pertinent information and generate findings, it may contain certain limitations related to understanding and perspectives.

UNESCO CONVENTION ON THE PROTECTION OF THE UCH

UCH is “an integral part of the cultural heritage of humanity and a particularly important element in the history of peoples, nations and their relations with each other concerning their common heritage” (UNESCO 2001: Preamble). It provides vital evidence and information about human history and the interaction of civilisations with all kinds of waters, e.g. oceans, lakes, rivers, flooded caves and swamps. While cultural heritage on land has increasingly gained importance and benefitted from safeguarding legislative measures and instruments over the past decades, UCH has been paid little attention and is poorly recognised if not neglected. It is partly due to the fact that UCH, submerged in water, is not easily seen or accessed by the public. The difficult environmental conditions have resulted in the low visibility of this heritage; at the same time, they serve as a form of natural protection from human interference and help better

conserve archaeological sites and remains compared to those buried on land.² However, since the 1950s, a revolution in marine technology has led to the expansion of scuba diving and marine exploitation operations such as the laying of pipelines, dredging, oil/gas drilling, fish farming and trawling. Many shipwrecks and other archaeological remains began to be discovered and, in the absence of legal regulations in most countries,³ numerous submerged archaeological sites became irrevocably damaged, and the artefacts recovered from water were commercially exploited and dispersed to private collectors. With the arrival of sophisticated equipment and remotely operated vehicles (ROVs), shipwrecks on the deep ocean floor are no longer exempted from exploration. The discovery of the Titanic found at the depth of 3,800 m in the North Atlantic Ocean in 1985 with 1,800 artefacts salvaged two years later “proved to be a pivotal moment for the development of international legal protection for UCH” (Dromgoole 2013: 5). Without adequate means to protect UCH against growing threats, the question of legal protection for UCH began to be raised and argued first in Europe. In 1978, the Council of Europe’s Committee on Culture and Education published the Roper Report, which studied UCH and its legal issues in detail. Recommendation 848 of the report, urging Member States of the Council of Europe to review their domestic legislation and set up a European convention on the protection of UCH, was adopted by its Parliamentary Assembly. The Council of Europe’s Committee of Ministers then set up a committee of experts which drew up the draft of the European convention; it was finalised in 1985 but never adopted by the committee⁴ (Dromgoole 2013). It however provided valuable groundwork for designing the international legal and technical instruments for protecting UCH such as the 2001 Convention and the International Charter on the Protection and Management of Underwater Cultural Heritage (or Sofia Charter), which was adopted by the International Committee on Underwater Cultural Heritage (ICUCH) of the International Council on Monuments and Sites (ICOMOS) in Sofia, Bulgaria, in 1996; the Charter was later incorporated as the Annex of the 2001 Convention.

The Convention on the Protection of Underwater Cultural Heritage, adopted by the General Conference of UNESCO on 2nd November 2001, is an international treaty and the first legal instrument providing comprehensive standards and measures for the protection and research of such heritage, which the United Nations Convention on the Law of the Sea (UNCLOS) did not adequately cover. UNCLOS, the mammoth international treaty on the regulation and management of the sea and marine resources

adopted in 1982 and entered into force 12 years later in 1994, contains only two articles (Articles 149 and 303) relating to UCH and obliges its States Parties to protect “submerged objects of an archaeological and historical nature” without providing specific protection measures and definition of UCH. Furthermore, its Article 303 (3) stipulates “nothing in this article affects the rights of identifiable owners, the law of salvage or other rules of admiralty, or laws and practices with respect to cultural exchanges”, allowing room for commercial salvage and the exploitation of UCH. With the concern over the growing threats and lack of effective legislation, the 2001 Convention was adopted by the international community with the foremost objective of protecting UCH against pillaging and unethical commercial exploitation by the means of legal protection, information sharing, and research and training through international cooperation. The 2001 Convention regulates site protection measures and obliges its States Parties to impose sanctions in cases of violations of the measures. It also provides ethical principles such as *in situ* (i.e., in the original location of a site) preservation and the respect of all human remains located in maritime waters. The 2001 Convention moreover contains in its Annex 36 rules for activities directed at UCH, including practical guidelines for underwater scientific and archaeological interventions, based on the International Charter on the Protection and Management of Underwater Cultural Heritage.

Article 1 of the 2001 Convention provides the definition of UCH:

Underwater cultural heritage means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally underwater, periodically or continuously, for at least 100 years.

By definition, UCH comprises not only shipwrecks and aircraft lying on the ocean floors but also sunken sites, submerged archaeological materials and artefacts, human remains, and sacred places and offerings found in any types of water including rivers, lakes, flooded caves and swamps, as well as their archaeological and natural contexts. The convention sets up the benchmark of 100 years old in its definition of UCH but this benchmark can be lowered in practice and in domestic legislations to assure the broader protection of UCH at local and national level.

The 2001 Convention went into force in 2009 with the ratification by 20 states. Over the past two decades since its adoption, it has been ratified slowly but steadily, reaching 68 States Parties⁵ out of the 193 Member States

of UNESCO. The Annex of the 2001 Convention, containing the rules about the activities directed at UCH, has become a major reference and the established scientific standard for underwater archaeology and research worldwide.

While the 2001 Convention has progressively gained influence as the international scientific standard and effective legal instrument for UCH protection, its ratification and application remain uneven among regions. The ratification in number of States Parties concentrates in Latin America and the Caribbean, followed by Europe and North America, Africa and Arab States. The region of Asia Pacific remains the smallest in number and rate of ratification among all regions (as shown in Table 1). Like Asia Pacific, Latin America and the Caribbean possess extremely rich UCH which has continuously suffered from commercial exploitation and destruction by treasure hunters. However, the region today has been most successful in the ratification and implementation of the 2001 Convention with reinforced human capacity and infrastructure, owing to growing awareness and efforts made by the states to enhance regional collaboration and adopt a roadmap to prioritise the protection of UCH through the ratification of the 2001 Convention (UNESCO 2015).

Table 1: Number of States Parties and ratification rate by UNESCO regional groups (electoral)

	Europe and North America	Latin America and Caribbean	Asia and Pacific	Africa	Arab states	Total
Number of States Parties	19	20	4	13	12	68
Number of Member States	50	33	44	47	19	193
Ratification rate (%)	38	61	9	28	63	35

Source: UNESCO (2015)

Ratifications in Asia Pacific

In Asia Pacific, the 2001 Convention has been ratified by only four countries (Cambodia, Iran, Federated States of Micronesia and Niue).⁶ The region has the lowest number of States Parties to the 2001 Convention among all regions, which represents 9% out of the total UNESCO Member States in Asia Pacific. The low ratification of the region may be attributed to multi-factors such as the lack of understanding of the convention, unclarity on its relations with the 1982 UN Convention on the Law of the Sea, the UCH not being a priority on the political and national agenda, insufficient resources

to set up the dedicated services and facilities for proper UCH management, the lack of visibility, public support and understanding of the values attached to UCH, and the incompatibility with economic development projects.⁷ The low ratification has led to the low presence and participation of the Asian and Pacific countries in the intergovernmental debate and policy discussions relating to the 2001 Convention and the protection of UCH.

Recently, there have been some positive signs in the Pacific: the Federated States of Micronesia and Niue have ratified the 2001 Convention in 2018 and 2019, respectively. The Parliament of Australia has passed the new Underwater Heritage Act to broaden UCH protection in 2018 and is committed to protecting its UCH based on the requirements of the 2001 Convention (Australian Government 2018). There is also indication that the 2001 Convention is increasingly viewed as an effective tool for the protection of UCH and a potential driving force for economic and sustainable development in the Pacific. For example, the ratification resolution of the Federated States of Micronesia recognises that the “purpose of the Convention is consistent with how sites in the Federated States of Micronesia...should be managed, given the scuba diving tourism is an important industry in the economy of the region” (Congress of the Federated States of Micronesia 2018). The resolution further makes reference to the shipwreck’s sites in the Chuuk Lagoon from the World War II which have suffered from insufficient and ineffective management and may pose serious and hazardous impacts, as well as threaten marine species and the livelihood of the people of Chuuk due to the potential oil leakage from the shipwrecks (Congress of the Federated States of Micronesia 2018).

UCH has been increasingly integrated in the regional policies and initiatives such as the Small Island Developing States (SIDS) Accelerated Modalities of Action (SAMOA) Pathway, Climate Change, Disaster Resilience and Environmental Protection of the United Nation Pacific Strategy 2018–2022, and the Regional Culture Strategy: Investing in Pacific Cultures 2010–2020.⁸ With numerous unexplored submerged sites, ranging from sunken villages, prehistorical dwellings to the shipwrecks from World War II, UCH in the Pacific has begun to receive attention, and is increasingly researched and recognised as a driver for sustainable development and as an effective means for community engagement and economic incentive through tourism (UNESCO 2017).

UCH in Southeast Asia

With its long history of maritime trade and exchanges among civilisations, Southeast Asia contains an extremely rich underwater cultural heritage. Along with the Indian and Arabian ports, it dominated the Indian Ocean trade until the 12th century and many ships traversing the Indian and Pacific Oceans have sunk with their cargoes of precious materials and commodities such as gold, silver, ceramics, precious stones, spices and religious artefacts. However, due to the absence of political will and appropriate legal measures as well as inadequate human and financial resources, this significant underwater cultural heritage in Southeast Asia has been the target of treasure hunters and numerous precious submerged sites and artefacts have been commercially salvaged and critically damaged in an irrevocable way. Over 70 shipwrecks were reported to have been looted and/or commercially exploited in the region from 1963 to 2010, of which 8 were conducted with engagement of local government and archaeologists from relevant agencies (Curtis 2011).

As has been the case in the most notorious commercial exploitation ventures such as the Geldermalsen, the Belitung and the Cirebon wrecks,⁹ the lack of appropriate legal protection allowed the commercial salvage companies to obtain a contract or permission from government authorities to recover the artefacts for commercial sales, which resulted in selective cost-efficient recovery of commercially sellable, high valued artefacts but without the benefit of proper scientific and archaeological research and conservation (Kimura and McCann 2019; Pearson 2019). Such commercial exploitation ventures often result in the critical destruction of the wreck sites, which limit opportunities for new archaeological discoveries and local development. Had they been kept on the site, the shipwrecks would have provided important scientific information and may have led to the discovery of new historical and archaeological evidences that can enrich our understanding of human history. Moreover, had they been conserved properly, sites such as the Belitung shipwreck could have fostered the local economy through sustainable tourism and raised public awareness on the values of UCH and sustainably managed sites.

Many successful cases of responsible sustainable tourism using UCH can be seen today especially in Europe, including the underwater diving trails in Baia (Italy),¹⁰ and maritime museums such as the Mary Rose Museums (UK), Viking Ship Museum (Denmark) and the Vasa Museum (Sweden); all have positive economic indicators. For example, the Vasa Museum

where the entire 17th century warship excavated off Stockholm harbour is displayed, has become the most visited museum in Scandinavia with around 1.5 million visitors every year (Vasa Museet n.d.) contributing to the development of the local economy and tourism. The city of Stockholm where the museum is located also gained over 200 million Euros in annual revenue from tourists who spent on hotel accommodation, meals and other expenses, not counting the museum entry fees (UNESCO 2013a). In the Pacific, the Yongala shipwreck in Australia attracts over 10,000 scuba divers per year and brings over USD2 million to the local economy for diving tours only, while the Chuuk Lagoon in the Federated States of Micronesia, containing a number of spectacular warships and aircraft from World War II, is one of the most famous places for wreck diving and provides the major source of income to the local community (UNESCO 2013a). The commercial exploitation ventures are not only detrimental to the underwater cultural sites but also deprive countries and local communities of opportunities to benefit from the long-term sustainable management of the submerged heritage and development of local tourism and economy.

UNESCO has organised a series of regional meetings and technical trainings in Southeast Asia to promote the Convention and help build regional capacity in underwater archaeology. Two training workshops, including one on trainers in underwater archaeology, were organised in Galle, Sri Lanka in 2007 and 2009. Between 2009 and 2011, five UNESCO training workshops, including three foundation courses and two advanced training courses, were organised at the regional training centre on UCH in Chanthaburi, Thailand, to build regional capacities in the management and protection of underwater heritage. In 2012, a UNESCO regional meeting to promote the ratification of the 2001 Convention took place in Ko Kong, Cambodia. Two policy and thematic meetings were held in Indonesia in 2017 and 2019 in cooperation with ASEAN to promote the 2001 Convention and raise awareness on the importance of UCH protection in the region. The training workshops organised between 2007 and 2011 trained nearly 100 underwater archaeologists from over 15 countries in Asia (UNESCO 2013b). Building on the training workshops, UNESCO published the *Training Manual for the Foundation Course on the Protection and Management of Underwater Cultural Heritage in Asia and the Pacific* in 2012, to strengthen the capacity building programme of underwater archaeology in the region (UNESCO 2012). Several large-scale conferences were undertaken at the initiative of governments, universities and non-governmental stakeholders in the region, including the Asia-Pacific

Conference on Underwater Cultural Heritage (APCONF)¹¹ in Manilla (2011), Honolulu (2014) and Hong Kong (2017), which provided a regional platform for academic exchange and information dissemination regarding underwater archaeology and UCH (Kimura and McCann 2019).

The UNESCO-ASEAN meeting held in Jakarta, Indonesia, in 2019 gathered the representatives and experts of eight Southeast Asian countries (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Thailand and Vietnam) to take stock of the activities and progress made related to the safeguarding of UCH.¹² Many of the underwater archaeology experts at the meeting were the beneficiaries of the UNESCO trainings conducted between 2007 and 2011. During the meeting, the national reports on the status of safeguarding UCH were presented by the country representatives, which clearly showed that progress and efforts have been made in the region to fight against commercial exploitation through various measures, e.g. the adoption of national laws to ban commercial salvage or to reinforce national capacity building and awareness-raising activities of the submerged cultural heritage (UNESCO 2019c). For example, underwater heritage, today, is part of the policy for integrated coastal zone management in Indonesia, and since 2010, the country has stopped UCH salvaging activities by imposing a moratorium on Ministerial Decree No. 30/2000¹³ which permits commercial salvage of UCH in the country. A marine heritage gallery is permanently held inside the Ministry of Marine Affairs and Fisheries of Indonesia, open to the public and used for awareness-raising seminars and activities. In Thailand, the Underwater Archaeology Division of the Fine Arts Department in the Ministry of Culture, established in 1974, systematically undertakes a series of underwater archaeological surveys according to proper scientific and archaeological standards. The Southeast Asian Ministers of Education Organization, with its Special Programme for Archaeology and the Fine Arts (SEAMEO-SPAFA) in Bangkok, Thailand, has been actively promoting regional cooperation on underwater archaeology and organising technical and policy workshops on UCH issues. Malaysia introduced three legislations affecting UCH, i.e. Merchant Shipping Ordinance 1952, Antiquities Act of 1976 and National Heritage Act 2005. The 2005 National Heritage Act defines underwater heritage and authorises the Heritage Commissioner to regulate salvage or excavation activities. In Vietnam where a great number of UCH was commercially salvaged and most archaeological sites had been seriously damaged and deformed over the years, the government has established the Department of Underwater Archaeology in 2013, which was later changed to the Centre of Underwater Archaeology at the Institute of Archaeology in

2016 to enhance its capacity in underwater archaeology and management of submerged historical sites. The Vietnamese government officials are more conscious of the historical and cultural value of its UCH (Dissanayake 2014).

While positive developments to protect UCH have been observed, and the national legislative measures to halt commercial exploitation have begun to be put in place in Southeast Asia, there still remains many challenges to overcome. Despite the increasing recognition of the importance and the potential attached to this heritage in the recent years, there is the general absence of political will and adequate financial support to research and protect UCH in the region. Many countries still lack the capacity and expertise to undertake systematic research on their own with the exception of a few countries that have adequately trained national underwater archaeologists such as Thailand, Indonesia and the Philippines, albeit with limited financial means. Lacking funding and expertise, certain countries have also chosen to work with commercial salvage companies to carry out archaeological research and excavation in exchange of a share of recovered artefacts, which are then distributed to the commercial companies and eventually to auction sales. There are also issues with legal legislation and law enforcement which are not always strictly applied in practice, leaving room for unlicensed excavation and commercial exploitation. Even today, 15th century Vietnamese ceramics from the Hoi An shipwreck or 19th century Chinese porcelain bowls from the Tek Sing shipwreck can be purchased through commercial websites.¹⁴ In the southern coast of Cambodia, a man was recently arrested for illegally collecting and possessing some 281 ancient jars recovered from the sea.¹⁵ In Vietnam, many artefacts were clandestinely recovered from the 7th to 8th century Châu Tân shipwreck and kept by a private collector (Kimura 2016). Low visibility of this heritage and the lack of public awareness and ethical conscience are also factors to overcome while more awareness-raising efforts are necessary at local and national levels to gain public support to better protect this heritage for future generations.

To protect and establish a good management of UCH in Southeast Asia, many courses of action can be envisaged and encouraged in line with the principles and rules contained in the 2001 Convention, e.g. the establishment of competent national authorities, the provision of adequately trained underwater heritage specialists, the establishment of national research agenda and national inventories, public awareness raising and the development of solid research and training programmes together with the elaboration of the

national need assessments and capacity building strategies. In recent years, the contributions of UCH to sustainable development have been underlined in the development agenda, such as the 2030 Sustainable Development Goals (SDG), in particular SDG 14, which sets up 10 targets to conserve and use the oceans in a sustainable manner, and the UN Decade of Ocean Science (2021–2030). By joining the Convention, Southeast Asian countries can benefit from various advantages and assistance the Convention can offer to establish good practice and management of UCH through international cooperation, and to better engage with the emerging global challenges by safeguarding UCH for future generations.

Advantages of Ratification

The 2001 Convention is the first and only international instrument for UCH protection. Ratifying the 2001 Convention provides not only legal protection to the submerged heritage, but also opportunities to adopt common approaches and standards to protect and preserve underwater heritage as well as develop national capacity on its protection and management with international assistance. It also sets up practical regulations and measures for States Parties to protect UCH such as entry control and seizure of illicitly exported or recovered submerged artefacts, and sanctions for pillaging and unethical recovery of UCH. Furthermore, by joining the 2001 Convention, the States Parties pledge to cooperate, share information and assist in capacity building, and the sound management and protection of UCH.

One of the most distinct advantages of the 2001 Convention relates to the provision of the mechanism for international cooperation to protect UCH beyond territorial sea, i.e. the Exclusive Economic Zone (EEZ), the Continental Shelf and the Area.¹⁶ In recognition of their sovereignty, States Parties are given the exclusive right to manage and regulate the activities directed at UCH in their territorial seas (UNESCO 2001: Article 7). However, beyond the territorial seas, a national jurisdiction cannot be reached to protect UCH. To offer a solution to this jurisdiction gap, Articles 9 to 13 of the Convention provide practical schemes for States Parties to protect UCH located outside of their territorial seas through the act of information sharing and joint cooperative efforts. The convention defines the procedures of this cooperation scheme comprising the: (1) discovery of a site or activity, (2) notification of the discovery, (3) declaration of interest in being consulted, (4) consultation on protective measures and (5) implementation of the measures. The first application of this cooperation

scheme was launched in 2018 with Italy's notification of the discovery of the underwater archaeological site, Skerki Bank, which is situated in the Mediterranean Sea between Italy and Tunisia, where a large concentration of ancient shipwrecks was found in an area of over 210 km² (Ballard et al. 2000). As of October 2020, eight Mediterranean States Parties¹⁷ have expressed their interest in joining this cooperation scheme to protect the site of Skerki Bank on the basis of their historical or cultural links to the site. As the site is on its continental shelf, Tunisia has assumed the role of coordinating state of the international cooperation in conformity with the provision of the convention. Following the declarations of interest, a coordination committee, constituted by the nominated representatives of the eight states, was established in 2019 and met in 2020 for the first time to discuss the future course of action in this endeavour. A series of consultative meetings and scientific investigations of the site have been scheduled in 2021 to clarify technical, scientific, and legal issues and discuss protective measures applicable to the site.

With the growing importance attached to the ocean and its marine resources, the protection of the Skerki Bank site in the framework of the 2001 Convention is certainly an interesting case for international observation. Hopefully, there will be other applications to this cooperation scheme to protect underwater cultural sites (beyond those under national jurisdiction) from the threats of pillaging and commercial exploitation. In the waters around Indonesia, Singapore and Malaysia, the World War II shipwrecks have continuously been the target of commercial salvage due to its low background radiation-free metals, which are sought after for scientific and medical equipment (Holmes et al. 2017; Manders et al. 2021; Pearson 2019). In the coming few decades, the World War II shipwrecks will become subject to the provisions of the 2001 Convention. Many shipwrecks from both World Wars I and II are still lying at the bottom of the ocean, including those located beyond the territorial seas where national jurisdiction cannot reach to enforce protection measures. The war shipwreck sites that contain the mortal remains of many soldiers hold not only historical and archaeological value but also intangible and emotional value. Following the principles of the 2001 Convention, such sites should be safeguarded by all means with due respect to the human remains while the cooperation scheme provided in the 2001 Convention could serve as an effective tool to mobilise joint efforts and international cooperation to protect the UCH sites located in international waters.

Another advantage of being a state party to the 2001 Convention is the UNESCO Register for Best Practices of UCH. With the limited access to underwater heritage as a major obstacle to the recognition of UCH, the Meeting of States Parties at the 2001 Convention introduced the UNESCO Register for Best Practices of UCH initiative in 2017 to encourage the responsible non-intrusive access of the public to UCH in a sustainable manner. Currently, 12 best practices have been designated and promoted as good practice to follow and increase the visibility of UCH sites and institutions (UNESCO n.d.). This nomination to the Register, exclusively open to the States Parties to the 2001 Convention and renewable every four years, would significantly help raise awareness and visibility of the UCH at both international and national levels. The process for nomination encourages the States Parties to be involved and to cooperate with the appropriate local and national stakeholders in their promotion and application; therefore, the process also helps enhance local awareness and support to safeguard and promote this heritage as an important national heritage and an enabler for sustainable development of local communities.

The States Parties to the 2001 Convention can receive technical and scientific advice and assistance from the Scientific and Technical Advisory Body (STAB),¹⁸ an advisory body of the Convention composed of 14 international high standard experts in the fields of management and protection of UCH, who are elected for a period of four years by the Meeting of States Parties. STAB can organise a mission for scientific and technical intervention and research when their expertise is requested by a state party.¹⁹

The Convention also works with a wide range of experts and partners and allows the States Parties to benefit from its wide network, including specialised research and training centres, universities, NGOs and numerous professional associations of underwater archaeologists that have officially endorsed the principles and guidelines provided in the 2001 Convention and its Annex. The ICOMOS-ICUCH, an NGO accredited to and a historical partner of the 2001 Convention, is composed of leading international experts in underwater archaeology and management of UCH. The UNESCO UNITWIN Network for Underwater Archaeology²⁰ gathers universities worldwide that hold the established educational and research programmes and courses in underwater archaeology. Together with the International Centre for Underwater Archaeology in Zadar, Croatia (Category II Centre under the auspices of UNESCO),²¹ they are active partners of UNESCO and the States Parties in conducting training and research in underwater

archaeology, and can offer opportunities and expertise to the countries in need to develop national and local capacity in UCH management and underwater archaeology.

In 2019, the UNESCO Internal Oversight Service (IOS) carried out an evaluation of the 2001 Convention to assess the “effectiveness and efficiency” of the UNESCO’s support to its member states in the ratification and implementation of the 2001 Convention. During the evaluation, a survey was conducted with the states for the ratification of the Convention.²² The results of the survey with the respondent rate are as follows (UNESCO 2019a: 25):

1. State cooperation mechanism for the protection of UCH created by the Convention (articles 10 and 12) — 77%
2. Guidance for the protection of UCH contained in the Rules of the Annex to the 2001 Convention — 62%
3. Access to UNESCO’s expertise and networks in UCH – 56%
4. Protection of UCH in water outside the exclusive jurisdiction of a state (i.e. EEZ, the continental shelf and area) — 51%
5. Possibility of a STAB mission to their country — 31%

The results indicated that the benefits of the 2001 Convention discussed earlier were mostly valued and deemed as incentives for ratification by the States Parties. Based on the results too, several recommendations were made to strengthen the work of the 2001 Convention, including the development of a long-term strategy to support countries in the implementation of the 2001 Convention, which should be elaborated based on a strategic result framework²³ and linked to the sustainable development goals. In the current context where the ocean has become a heated subject in the international arena, the 2001 Convention can gain global relevance as the UCH is recognised as a contributor to the achievement of the 2030 Agenda for Sustainable Development, in particular the United Nations Decade of Ocean Science for Sustainable Development (2021–2030).

UCH and Sustainable Development

In recent years, the use and management of marine space and resources have gained much relevance and importance for many states, which resulted in a series of new global initiatives and policies related to the ocean such as the Sustainable Development Goal (SDG) 14, the UN Decade of Ocean Science,

the Marine Spatial Planning and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ).²⁴

The 2030 agenda contains 17 ambitious objectives, including SDG 14 to “conserve and sustainably use the oceans, seas and marine resources for sustainable development” (<https://sdgs.un.org/goals/goal14>); there are also SDG 4 on quality education, SDG 5 on gender equality, SDG 8 on economic growth, productive employment and decent work, SDG 11 on safe and sustainable cities and human settlements, SDG 12 on sustainable consumption and production, SDG 13 on action to battle climate change, SDG 16 on peaceful and inclusive societies and institutions, SDG 17 on global partnership for sustainable development, among others,²⁵ to which UCH and underwater archaeology may contribute (Henderson 2019). Within the 2030 agenda, the Decade of Ocean Science for Sustainable Development (2021–2030) was established to “provide a common framework to ensure that ocean science can fully support the actions of countries to manage the oceans in a sustainable way and, more particularly, to achieve the 2030 agenda for sustainable development” (UNESCO 2019c). On the occasion of the Decade, the link between the ocean sciences and marine archaeology is focused and challenged, underlining the argument that marine heritage and archaeology contribute to the sustainable management of the oceans and coastal zones and play an important role to achieve the development goals. Trakadas et al. (2019) argue that the archaeological sites in the coastal and underwater areas are indeed valuable sources of information to understand the history of the ocean and human. It is also closely connected to tangible and intangible coastal heritage and diverse maritime communities which are important players in developing the sustainable economy and welfare for local communities. The Decade has been seized as an opportunity to engage cultural and social elements as valuable resources for the understanding of the ocean and its sustainable management.

In the spring of 2019, the National Museum of Denmark hosted the first global planning meeting of the Decade in Copenhagen. During the meeting, it was made evident that marine archaeology and UCH have important relevance to the achievement of the Decade, and UCH was better recognised as a contributor to achieve the objectives of the Decade, resulting in the inscription of positive statements about cultural heritage in the summary report of the meeting (Trakadas et al. 2019). The Ocean Decade Heritage Network, created as the result of the meeting, helped gather international researchers, universities, experts and advocates in marine archaeology

and UCH management to “facilitate greater connectivity with coastal and environmental social sciences and humanities” (Trakadas et al. 2019: 162). At the same time, the UNESCO International Conference on UCH was hosted by France on 17th–19th June 2019 at Brest, with the presence of the representatives of states, the Executive Secretary of the Intergovernmental Oceanographic Commission (IOC) and UCH experts who all together underlined the important role that UCH can play in the Ocean Decade. In the same vein, the Meeting of States Parties to the convention in 2019 as well as its STAB in 2020 adopted the recommendations to strengthen joint collaboration among underwater archaeologists, the secretariat of the 2001 Convention, STAB and IOC to support and implement the Decade. These series of efforts and meetings led to the recognition of UCH sites as areas of particular significance and as a contributor to attaining the objectives of the Decade in the Implementation Plan 2.0 of the UN Decade, published in July 2020. The Decade’s implementation plan includes seven outcomes that describe the “ocean we want”:

- (1) A clean ocean where sources of pollution are identified and reduced or removed;
- (2) A healthy and resilient ocean where marine ecosystems are understood, protected, restored and managed;
- (3) A productive ocean supporting sustainable food supply and a sustainable ocean economy;
- (4) A predicted ocean where society understands and can respond to changing ocean conditions;
- (5) A safe ocean where life and livelihoods are protected from ocean-related hazards,
- (6) An accessible ocean with open and equitable access to data, information and technology and innovation and
- (7) An inspiring and engaging ocean where society understands and values the ocean in relation to human wellbeing and sustainable development.

(Intergovernmental Oceanographic Commission 2020: 18–19)

The management and study of UCH has important relevance and can contribute to the achievement of these outcomes in many ways. For example, underwater archaeology can bring scientific evidence related to the behavioural evolution of human societies that interacted with the oceans, or how it affects or will impact the ocean ecosystem and marine environment, including climate change. It can also help better identify the risks of oil leakage and pollution from shipwrecks and mitigate the threats to the ocean, or show the responses to changes at sea level as well as the sedimentation processes and previous catastrophes. UCH can also contribute to the blue

economy and when managed properly, brings sustainable and economic development to local communities through tourism and recreation (Rey da Silva 2020; Trakadas et al. 2019). In November 2020, IOC and STAB convened to discuss how UCH and underwater archaeology can engage in the UN Decade of Ocean Science, and STAB decided to develop a strategic framework to set up its vision and define priority areas of action for engaging UCH in the UN Decade of Ocean Science for Sustainable Development.

The Decade, without a doubt, is a great opportunity to uphold UCH and underwater archaeology as well as the social sciences and cultural, human and economic dimensions in the Decade (Trakadas et al. 2019). Its implementation plan moreover includes the keepers of invaluable local and indigenous knowledge who “will contribute to highlighting the multitude of cultural values of the ocean” (Intergovernmental Oceanographic Commission 2020: i). At the same time, the discourse of UCH, which has mostly focused on the protection of shipwrecks and artefacts from treasure hunters, has been challenged and is reconsidering the links to other relevant themes, such as environmental issues, maritime cultural traditions and social and economic development of local communities, which would eventually help gain more visibility and support for UCH from broader stakeholders (UNESCO 2019a). UCH is not only about shipwrecks but also constitutes part of the identity and daily way of life for local and coastal communities (UNESCO 2019a: 21). It is vital to the marine environment and the carrier of intangible and social values, which can “provide the conceptual framework that unites, stimulates and informs interdisciplinary responses to the challenges set out in SDG 14” (Henderson 2019: 17). Efforts should therefore be enhanced to safeguard this heritage as an enabler of social and cultural growth as well as economic well-being in national policies and development plans (Rey da Silva 2020: 117) so as to better respond to the challenges ahead for the achievement of the 2030 agenda for sustainable development.

CONCLUSION

As 70% of the earth’s surface or more is covered with water, very little is known about the ocean and underwater cultural heritage even though they contain invaluable information about human history. As Scott-Ireton and McKinnon point out, the “interpreted shipwreck can tell a compelling story

about maritime heritage, social history, ecological conservation and generate knowledge” (2015: 161).

Over the past two decades since its adoption, the UNESCO Convention on the Protection of the UCH gradually paved its path and has been ratified by 68 states that have cooperated in enhancing heritage protection. There are nevertheless still many issues and challenges for maritime and underwater heritage protection, especially the areas where UCH and underwater archaeology have not gained sufficient attention or the momentum they deserve. In Asia Pacific, this phenomenon is still eminent, with only four countries having ratified the 2001 Convention. Many countries in the region still do not have effective legal frameworks in place, sufficient resources or political will to protect and preserve UCH for future generations.

This article sets out to argue the importance of UCH and the 2001 Convention with the aim of raising awareness and understanding of the 2001 Convention, particularly in Southeast Asia where a number of unethical salvage ventures and commercial exploitation of UCH took place and where the ratification of the 2001 Convention remains a huge challenge. In view of the recent developments in relation to the UN Decade of Ocean Science, the contribution of UCH to the Sustainable Development of the Ocean is increasingly evident and can lead to the economic, social as well as cultural development of national and local stakeholders. At the same moment, the discourse of UCH is being reviewed to enlarge its scope by involving other actors and wider disciplines related directly or indirectly to UCH. By the year 2100, it is predicted that 136 sites on the UNESCO World Heritage list will be inundated due to the rise of sea level related to climate change (Marzeion and Levermann 2014; Perez-Alvaro 2016). As such, the link between UCH, the Ocean science, and the World Heritage sites could be further considered and enhanced to better prepare for environmental challenges, including mitigations and adaptation to the impact of climate change.

At this crucial moment where such important reflections and discussions are taking place to meet global challenges and to design the future orientation of UCH and the 2001 Convention, the Asia-Pacific region, with only four countries having ratified the Convention, is barely present in the international policy debate related to UCH. In addition, no member from Asia Pacific is currently sitting in the Scientific and Technical Advisory Body to the 2001 Convention, composed of 14 international experts, due to the lack of candidates proposed by the States Parties in the region.

The 2001 Convention was adopted as a response of the international community to protect and safeguard UCH for future generations as the heritage of humanity (UNESCO 2001). The current imbalance and low presence of the Asian and Pacific countries in the international discussions related to UCH and the 2001 Convention need to be addressed by wider ratification in the region. The 2001 Convention can bring states together to discuss, cooperate and support each other and provide them with the tools and advantages to meet the challenges ahead and to protect and continue this heritage of humanity for future generations. Efforts for safeguarding UCH in Asia Pacific need to be pursued and enhanced by joining the 2001 Convention, the only international treaty to effectively safeguard and soundly manage UCH through joint cooperative efforts.

NOTES

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- ¹ See <https://www.oceandecade.org/>.
- ² This is due to the anaerobic (low oxygen levels) conditions, which have slowed the rate of decay.
- ³ There are exceptions, such as France and Australia which have adopted national legislations for UCH protection as early as in 1960s and 1970s.
- ⁴ This is due to objections by Turkey, which did not consent to the provisions on jurisdiction in the draft of the Convention.
- ⁵ They include the latest ratifications by Mali and Malta, which will enter into force on 2nd June 2021 and 7th July 2021 respectively, three months after the deposit of their legal instruments of ratification.
- ⁶ Cambodia was ratified in 2007, Iran in 2009, the Federated States of Micronesia in 2018 and Niue in 2019.
- ⁷ The issue of low ratification in the region deserves another independent article with the study of the perspectives of different parties involved at the national level: local communities, local governments, heritage authorities, treasure hunters and policy makers.
- ⁸ The documents are accessible at: SAMOA Pathway (<https://sustainabledevelopment.un.org/samoapathway.html>); Disaster Resilience and Environmental Protection of

the UN Pacific Strategy 2018–2022 (https://unsdg.un.org/sites/default/files/2019-12/UNDP_WS_FINAL_UNPS_2018-2022.pdf); and the Regional Culture Strategy: Investing in Pacific Cultures 2010–2020 (<https://europaregina.eu/wp-content/uploads/2015/02/Regional-culture-strategy-2010-2020.pdf?019f9b&019f9b>).

- ⁹ The Geldermalsen, a Dutch East India Trading Company (VOC) vessel, sank in Indonesian waters in 1752. Its cargoes of tea, ceramics and gold were salvaged by Michael Hatcher in 1985 without proper archaeological methods or concern for the conservation of the artefacts. The recovered cargoes were auctioned in 1985 and the Dutch government received a share of the profits made from the auction sales (Pearson 2019). The Belitung was an extremely rare wreck of an Arab Dhow from the 9th century, but was commercially exploited and destroyed in 1998. The rare artefacts recovered were requisitioned by a Singapore museum and displayed there (UNESCO 2016). The Cirebon wreck held unique artefacts such as ceramics and religious offerings from the 10th century; in 2004, some 500,000 pieces were recovered from its cargo by a private salvage company, half of which however were thrown back into the ocean and destroyed in an attempt to prevent local pillagers from recuperating and selling them (UNESCO 2016).
- ¹⁰ Under the EU-funded BLUEMED project, the site was recently renovated and is now open to the public; it uses new IT technologies such as 3D reconstruction and electronic information panels with underwater internet connection.
- ¹¹ <https://www.apconf.org/>.
- ¹² The author attended the meeting.
- ¹³ However, this moratorium was recently revoked in Indonesia through the Jobs Creation Law in March 2021. By reversing course, Indonesia has allowed treasure hunting by private investors and foreigners again. See <https://www.southeastasianarchaeology.com/>.
- ¹⁴ Examples can be found on Etsy (<https://www.etsy.com/search?q=shipwreck+ceramic+antiques>) and Ebay (https://www.ebay.com/sch/i.html?_from=R40&_trksid=p2047675.m570.11313&_nkw=antique+tek+sing+shipwreck&_sacat=0).
- ¹⁵ See *The Independent*, 29 September 2020.
- ¹⁶ “The Area” means “the seabed and ocean floor and subsoil thereof, beyond the limit of national jurisdiction” (UNESCO 2001: Article 1.5).
- ¹⁷ The countries are Algeria, Croatia, Egypt, France, Italy, Morocco, Spain and Tunisia.
- ¹⁸ See <http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/2001-convention/advisory-body/>.
- ¹⁹ STAB has so far organised five missions: Haiti 2014, Madagascar 2015, Panama 2015, Bulgaria 2018 and Guatemala 2019. See <http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/2001-convention/advisory-body/missions/>.
- ²⁰ The acronym of UNITWIN stands for “University Twinning and Networking Programme”. Please refer also to <http://underwaterarchaeology.net/>.
- ²¹ See <https://icua.hr/en>.
- ²² In total, 39 Member States responded to the questionnaire.
- ²³ A result framework is a strategic planning tool that captures the logical and expected cause-effect relationships among inputs, outputs, outcomes and impact, and has been increasingly used in the United Nations system.

- ²⁴ In New York, the Intergovernmental Conference was formed by the UN General Assembly in 2018 to prepare a draft of an “international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction” (United Nations n.d., see <https://www.un.org/bbnj/>).
- ²⁵ See <https://sdgs.un.org/>.

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