Profit and Principle: A Case Study of the Conflict between the International Protection of the Underwater Cultural Heritage and Domestic United States Law and Policy Concerns

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Problem Statement
As autonomous and human-piloted underwater technology has developed over the past half-century, shallow and deep-water cultural resource sites have increasingly come under threat. Only a small percentage of the estimated three million undiscovered shipwrecks throughout the world ocean are of interest to the non-archaeological community. Salvors are very interested, however, in the relatively small percentage that are thought to contain gold, silver, currency, precious stones, or other valuable cargos. The cultural resource sites of greatest salvor interest are typically less than two thousand years old, with the greatest percentage dating subsequent to the advent of the Age of Exploration in the early Fifteenth Century. These cultural resource sites are not solely located in one geographical region, but are spread throughout the world ocean, with concentrations occurring in those areas located near historic trade routes. There is great debate between those individuals and states who favor allowing salvors access to these sites and those who argue for in situ preservation.

At the international level, the protection of marine cultural resources falls directly under the aegis of two international agreements: the United Nations Convention on the Law of the Sea and the UNESCO Convention on the Protection of the Underwater Cultural Heritage, which has only been adopted by five states since being opened for signature in 2001. Preliminary research has identified a profound conflict between these two international agreements and a reluctance of states to sign the UNESCO Convention because of this conflict as well as the treatment of sunken warships and state owned vessels. The United States has not signed the UNESCO Convention because of these concerns and the lead US negotiator recently called for the Convention to be renegotiated to address these problematic provisions.

Research Objectives
This dissertation is based upon three corollary, but fundamentally related, lines of inquiry. The first seeks to examine the interrelationship and contradictions between the United Nations Convention on the Law of the Sea and the UNESCO Convention on the Protection of the Underwater Cultural Heritage, while considering applicable United States federal laws and regulations regarding submerged cultural resources. The second will seek to discover what implications the UNESCO Convention has in regards to the present, and also for the future, protection of the underwater cultural heritage. Last, this dissertation will seek both to suggest policies and measures to remedy any identified regime incompatibility and also to assess whether other measures for protecting the underwater cultural heritage might be more appropriate and/or legally in line with currently existing regimes that govern the underwater cultural heritage.

Tools and Techniques
The methodology used in this dissertation research project will be a case study, as developed by Robert Yin. A case study has five important components: 1) research questions, 2) hypothesis, 3) unit of analysis, 4) logic linking ascertained data to central theory of research, and 5) criteria for interpretation of findings. This writer has also added a sixth category called data. This project’s emphasis will be on semi-structured personal interviews with legal and policy experts who work in the field and document textual analysis. Obtained data from interviews will be analyzed using grounded theory to extract key concepts.

This project will be based upon policy and legal analysis and couched in the greater concerns of the United States. The specific analytic tool that will be used will be explanation building for all research questions. In addressing possible other methods for the international protection of the underwater heritage, this project will utilize key elements of Regime Theory as a framework to guide its analysis.

Proposed Research and Current Results
This area will be developed upon the commencement of research.

Source: Discovery Channel & Kbismarck.com

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