



## CULTURAL HERITAGE LEGAL PROTECTION IN THE ALGERIAN LEGISLATION

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**Abstract:** Cultural heritage is indubitably one of the most indispensably necessary pillars of cultures and traditions in the Algerian society in its entirety. Owing predominantly to its colossal moral and material value, the legislative authority has been over the years fully committed to putting in place all the laws that will guarantee its sustainable maintenance and ongoing conservation. Framed more lucidly, the Algerian legislator has allocated an arsenal of legal texts to classify and manage all existing categories as well sub-categories of archaeological properties. It has, likewise, devoted an independent financial budget to repair and restore what was been lost or had had its historical value downgraded. To accomplish this ensuring the highest degrees of perfection, it has resorted to the assistance of experts, inspectors as well as regular members of the civil community. Additionally, the legislator imposed stern penalties for attacks on landmark antiquities, such as theft, conversion or smuggling.

**Keywords:** Cultural Heritage; Law; Protection; Crimes

### Introduction

Cultural heritage has over the years been a huge source of pride for nations, peoples and states up and down the globe. Thanks to the many varied values and meanings it holds, it is a radiant proof and conclusive evidence of nobility, originality, national identity, and cultural affiliation that creates the uncopiously matchless uniqueness and dazzlingly peerless distinction of any nation on the planet. After all, it relates to its identity per se, gives it its distinctive character and shape, and endows it with the means and the wherewithals to unambiguously express the liveliness and ability it possesses and can use to smoothly and intelligibly communicate with other nations. This reflects the discourse of the nations among themselves, as it is a circle connecting many countries and peoples, each boasting about the legacy of their ancestors and the palaces, cities, walls, songs and rituals they left behind and handed down to the coming generations. Heritage is, likewise, viewed as a major economic cornerstone of many countries as it unquestionably deemed one of the mega resources upon which tourism industry is established. This rich cultural heritage, which reflects a living, borderline eternal, culture rather than a merely petrified and bygone image, an indispensably crucial role in improving and inspiring the love of peoples and nations by enhancing the quality of the living environment and the provision of economic and cultural resources. It stands to reason, therefore, to view cultural heritage as an important component of awareness, planning and construction. Cultural heritage has established its value and place in the lives of peoples, nations and states until it has become their eternal asset of experience and the robust link holding between its generations and the challenges of its stances between the present and the future, and an urgent necessity to preserve its extended components in the roots of history. In view of the significant role of cultural heritage in the lives of peoples and nations alike, especially its exposure to several dangers that threaten its survival and continuity as a witness to human civilization in its stages as well as protecting it from theft, looting, destruction and illegal trade, we must think about conserving and safeguarding it from all manner of dangers that threaten it, whether they be natural or human dangers.

Algeria is one of the many countries that abounds in huge potentials of material as well as intangible cultural heritage elements, which carries the history and civilization of this country and the culture of its people, the roots of which go back to ancient times. These multifaceted cultural resources have been passionately waiting for the right person or entity that can remove the dust of time and neglect and deploys them to revive the culture of this country and the identity of its people through the constant, sustainable promotion of cultural tourism.

Algeria has been legislating its cultural sector laws for two overriding objectives, namely managing the inherited infrastructure ever since it gained its independence back in 1962 and to draw maximal benefits from a sector whose significance and value have been exponentially growing from the year of independence onwards. Decree No. 12-63, issued on January 08, 1963 on the organization of the Algerian theater, is considered one of the most symbolic earliest texts marking this cultural policy transition. It has indeed allowed the state to nationalize Dar Oudra of Algiers. This procedure's symbolic significance is patently depicted in the establishment of the Algerian National Theater, which eventually became the beating heart of cultural policy as such.

After that, Algeria, on several consecutive occasions, made remarkably big strides in upgrading the protection mechanisms of its cultural heritage. It enacted its internal legislation to ensure an ongoing conservation of its cultural belonging in an effort to keep pace with other countries and with joining many international conventions as these affiliations have the potential of empowering to gain greater

insight into how to maximize the protection outcomes. By way of example, the Algerian legislator enacted Law No. 04-98 of June 15, 1998 on the protection of the national cultural heritage.

We also find some other scattered texts concerned with strengthening and solidifying the protection of cultural heritage, such as texts for the establishment of museums, agencies and cultural houses and so forth. The importance of the present study lies principally in investigating from a variety of different perspectives the subject of cultural heritage per se as it is mandatory for the Algerian legislator to give adequate protection to the cultural property of which the country abounds. It has also endeavored to demonstrate the salient importance of identifying the range of protection mechanisms which have been put in place to reduce the phenomenon of assault on cultural heritage property in Algeria.

The study aims to disclose the basic concepts bearing directly or otherwise on heritage, antiquities and cultural property as well as the content and limits of the rules of national protection along with the means and mechanisms adopted. It has also set out to highlight the efforts of the most important institutions concerned in this field. Similarly, chief amongst the objectives of our undertaking is drawing the attention of those in charge to the need to carry out thorough studies evaluating in more deadly earnest the reality of protecting cultural heritage in our country.

Our undertaking is premised upon answering the following question: How adequate is the protection pathways established for cultural heritage in Algerian legislation? In order to answer this question, the legal analytical approach, which is fundamentally hallmarked by extrapolation and comparison, was relied on. Put more patently, we have reviewed the legal texts mentioned by the legislator. We have, by the same token, taken an analytical look at the set of articles and provisions of Law No. 04-98 and the various texts contained in laws pertaining to antiquities and heritage. The overriding aim underpinning these meticulous analyses and indepth discussions is to show the adequacy of this law as such to provide the necessary legal protection for this important cultural heritage.

With also aim to unearth the sets of legal instruments and concepts related to the subject matter under scrutiny and indicate the degree of protection and the restrictions contained therein. Similarly, and to arrive at profounder scrutiny of the subject matter at hand we relied on the descriptive approach that is in line with the study of the subject by describing protection as well as the varieties of cultural heritage and estimating the extent of the allocated protection. This has been accomplished through the presentation of the following study methodology:

- 1) First: the conceptual framework of cultural heritage
- 2) Second: National legal protection for cultural heritage

### **1.the conceptual framework of cultural heritage**

Understanding the concept of cultural heritage constitutes an important part of the study. There are many notions associated with this theme, be they linguistic or jurisprudential in nature. It was necessary for us to clarify what is meant by cultural heritage linguistically, jurisprudentially, and idiomatically, as we included it in the concept of heritage. Then, we discussed in detail the issue of the legal nature of cultural heritage from the perspective of law 04/98 <sup>1</sup>.

#### **1.1The concept of cultural heritage**

Cultural heritage of every nation is deemed the foundation on which it builds its renaissance and the historical roots which constitutes its originality and continued existence. In its broadest sense, it represents the living memory of the individual and society, saves for the nation its identity and belonging and gives it its unique character. It, likewise, determines the level of artistic taste, creative generosity, and civilizational affiliation for individuals<sup>2</sup>. Therefore, heritage has several diverse and overlapping jurisprudential, conventional, linguistic and legal denotations. We will try to present the concept of heritage as follows:

##### **1.1.1 The terminological and jurisprudential definition of heritage**

Heritage has several jurisprudential, idiomatic, and linguistic definitions, which I will explain below<sup>3</sup>.

**From the cultural side:** According to the Anthropological Encyclopedia, culture is defined as: “as a set of social traditions invented by human groups and transmittable from generation to generation, like language, religious customs, traditions. dress and crafts. Cultural anthropology’s research scope

<sup>1</sup> - Law No. 98-04, dated 20 Safar 1419 AH, corresponding to June 15, 1998, deals with the cultural heritage of the nation, establishes general rules for its protection, preservation, and development, and sets the conditions for its implementation. This law was published in the Official Gazette of the People's Democratic Republic of Algeria in June 1998.

<sup>2</sup> - Abdul Karim Azouq, Heritage of Antiquity, its concept, types, importance, protection, and its economic exploitation, University of Algiers 02, January 11, 2017, page 1.

<sup>3</sup> - Imam Allamah Abi al-Fadl. Jamal Eddine Muhammad Ibn Mandoor, Lisan al Arab, Dar Sader, Beirut – Lebanon, 1992, volume 05, page 132.

revolves fundamentally around getting to the bottom of the earliest origins of human culture most peculiarly the ones which went extinct<sup>4</sup>.

Some jurists have called for the inclusion of the term folklore in antiquities laws along with the two terms antiquities and heritage. Folklore is defined as: any culture, traditions or customs of a group<sup>5</sup>. While the famous American anthropologist Bascom William opts for defining folklore as a verbal art and that it is in all its different forms related to literature and the arts<sup>6</sup>.

It is worthy of mention at this very juncture that some analysts and thinkers in this domain contend that the most logical definition was presented by Dr. Mahmoud Naguib Zaki in his book *The Reasonable and the Unreasonable in our Culture*. He maintains that: "The term heritage is applied in a broad sense to the product of civilization in all fields of human activity, like science, thoughts, literature, art, folklore, antiquities, architecture, as well as social and economic heritage<sup>7</sup>".

### 1.1.2 The legal definition of heritage.

There exists a constellation of legal definitions of cultural heritage. Some such definitions are stipulated in the national legislation whilst others are enshrined in international agreements. We will, in the following page space, elucidate this as follows:

#### 1.1.2.1 Definition of cultural heritage in Law No. 04/98.

Article 2 of Law No. 04-89 of June 15, 1998, relating to the protection of heritage<sup>8</sup>, defines the term as all real estate cultural property as well as movable real estate property existing on the land of the national estates and within them. Referring to the text of Article 2 of the same law. that states that "The intangible cultural property resulting from social interactions is also deemed an integral constituent of the national cultural heritage. The creative productions of individuals and groups through the ages, which still express themselves from ancient times to the present day, also neatly fall into this category".

#### Cultural property includes:

- a. Real estate cultural property.
- b. Movable cultural property.
- c. Intangible cultural property<sup>9</sup>.

It is noteworthy that cultural property includes several important components of the tangible and intangible heritage, movable and intangible real estate cultural property<sup>10</sup>.

#### 1.1.2.2 Definitions of cultural heritage in international conventions.

Needless to say, the international agreements bearing on the safeguarding of the intangible cultural heritage, dated October 17, 2003, is indubitably amongst the most important international agreements that contributed significantly to establishing a concept of cultural heritage. It, among an array of other things, says that "The phrase intangible cultural heritage refers to the set of practices, perceptions, expressions, knowledge, skills and all associated cultural tools, pieces, artifacts, and places that express groups."<sup>11</sup> In the light of the definition contained in the text of the above article, intangible cultural heritage is particularly evident in the following areas<sup>12</sup>:

1. Traditions and popular expressions, including language as a medium for the expression of intangible cultural heritage
2. The arts and traditions of doing performances
3. Social practices, rituals and ceremonies
4. Knowledge and practices related to nature and the universe
5. Skills associated with traditional craft arts

<sup>4</sup> - Filali Suleima, *The Structure of Algerian Identity in the Era of Globalization*, Doctoral Thesis, Faculty of Humanities and Social Sciences, Mohamed Khider University in Biskra, 2014, page 110.

<sup>5</sup> - Jassem Al-Azzawi, "Ways to Protect Cultural and Civilizational Heritage in the Arab World," *Historical Journal*, Publishers of Electronic Publishing House, Kuwait, Issue 30, Year 8, December 2015, p. 157.

<sup>6</sup> - Muhammad Al-Juhari, *Folklore Studies, Theoretical and Methodological Foundations*, Part 1, 4th Edition, Dar Al-Ma'arif, Cairo, Egypt, 1981, page 38.

<sup>7</sup> - Moussa Boudhan, *The Legal System for Protecting Cultural Heritage*, Dar Al-Huda, Ain M'lila, Algeria, 1st Edition, 2013, page 18.

<sup>8</sup> - Article 02 of Law No. 98-04, dated 20 Safar 1419 AH, corresponding to June 15, 1998, deals with the cultural heritage of the nation, establishes general rules for its protection, preservation, and development, and sets the conditions for its implementation, mentioned above.

<sup>9</sup> - Article 3 of Law 98-04, Concerning the Protection of Cultural Heritage.

<sup>10</sup> - Zaid Muhammad, *Legal Protection of Cultural Properties in Algeria*, *Human and Space Journal*, Nour El Bachir University, El Bayadh, Volume 4, Issue 8, 2018, Page 141.

<sup>11</sup> - The Convention for the Safeguarding of the Intangible Cultural Heritage is a treaty affiliated with UNESCO, adopted by the General Conference of UNESCO on October 17, 2003. It entered into force in 2006

<sup>12</sup> - Bakhoya Driss, *the legal protection of Algerian cultural heritage*, *Journal of Legal and Political Sciences*, University of Ouargla, Algeria, Volume 5, Issue 2, 2016, pp. 96-97

We also find the international agreement regarding the range of measures that ought to be taken to prohibit and prevent the illegal import, export and transport the ownership of cultural property. For the purposes of this agreement, cultural property is defined as, "Those properties that are decided by each state for religious or secular considerations, like<sup>13</sup>

- a. Rare collections and models from the animal and plant kingdom, minerals, anatomy, and important pieces from
- b. fossils
- c. History property, including the history of science and technology, military history and social history. and the life of leaders, thinkers and scholars
- d. Results of archaeological excavations (legal and illegal) and archaeological discoveries
- e. Pieces that were part of artistic or archaeological monuments
- f. Antiquities that are more than 100 years old, such as inscriptions, coins and engraved seals.
- g. Objects of anthropological significance
- h. Important properties

## 1.2. Establishing the legal nature of cultural heritage

It is readily observable by virtue of a meticulous analysis of the second article of the provisions of Law 04/98 that the Algerian legislator made the cultural heritage stand out by giving it the status of the property of the nation as a whole. This will be transparently spelt out in what follows.

### 1.2.1 Cultural heritage is a public interest

The progress of nations and societies depends largely on their respect for their heritage and identity, without being stuck in the past at the sheer expense of making present progress or dropping the legacy and demolishing it for the sake of the future. But the issue remains in striking the right balance between respecting the heritage and looking forward to the future<sup>14</sup> (W).

The remarkable significance of cultural heritage has made it a genuinely fortunate recipient of great attention to protect it, ensuring that it remains a living witness of the emergence and continuous development of human civilization, its various progress roles, and the extent of the contribution of each of them to the creation of human civilization in its entirety.

Thus, cultural heritage is rated a colossal source of national wealth, and the public interest necessitated granting it legal protection, as it is considered one of the most important images of public money. It is a part of the valuable preserved funds that must never be attacked and any menace it may be subjected to is a threat to the interests of society and its gains and various properties<sup>15</sup>. Law 04/98 led to the protection of cultural heritage and cultural property and made them conserved by public ownership for countries. They are the ones that estimate their value, classification, and material and moral importance as it considers public money as it is the sole legitimate owner of cultural heritage.

### 1.2.2 The cultural heritage is a public domain.

We find that the Algerian legislator, in the text of Article 14 of Law 30/90 of 01/1990/12, related to national property, stated that public national property consists, in the concept of this law, of public property, whether it be natural and synthetic public property. Furthermore, among the properties that make up the artificial properties we find public antiquities, museums, places and archaeological hangars, as mentioned in Article 07 of the amended and supplemented law to the law incorporating national property<sup>16</sup>.

Referring to the text of Article Two of Law 04/98, we find that the legislator has given the character of public money to cultural heritage. It is stated therein that, "All cultural property is considered the nation's cultural heritage. This includes movable real estate and real estate cultural property allocates existing on the land of the real estate of national property and within it, owned by natural or legal persons, subject to private law and also located in the national territorial aquifers inherited from various successive civilizations from the prehistoric era to the present day."

By the same token, the Algerian legislator has given legal protection supported by Law 04/98, and this is by reference to the provisions of Article 689 of the Civil Code which says that "It is by no means permissible to dispose of state funds, seize or own it by statute of limitations." Thus, we find that public money has the following legal characteristics:

- inalienability.

<sup>13</sup> - Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, April, 1972.

<sup>14</sup> -Tareq Wali, the Issue of Heritage Preservation, the Material and Cultural Continuity of Architectural Heritage through the Application of Architectural Heritage Rehabilitation Approach, Proceedings of the First Arab Cultural Heritage Forum, Regional Office for Cultural Heritage Preservation in the Arab World, Sharjah, United Arab Emirates, February 4-6, 2018, page 132.

<sup>15</sup> -Article 3 of Law 98-04, Concerning the Protection of Cultural Heritage.

<sup>16</sup> -The Law 18/04 dated July 20, 2008, concerning the protection of national properties, Official Gazette Number 44, Year 2008.

- Irreversibility.
- Inability to seize

## 2. National legal protection for cultural heritage

The issue of focusing on cultural heritage and shedding light on its civilizational significance crystallized at the beginnings of the national liberation movement and the departure from colonial control during the twentieth century. This was conducted within the framework of affirming and highlighting nationalism for the newly independent people or prove the existence of ethnic minorities or pinpoint the cultural fusion of homogeneous groups in the same country or lay the foundation for development renaissance projects<sup>17</sup>.

### 2.1 Legal protection of cultural heritage in Law 04/98.

The text of Article 1 of Law 04/98 aims to introduce the cultural heritage of the nation and issue the general rules for its protection and appreciation as well as preserving its varieties, like antiquities and historical sites. It, likewise, aims to leave historical evidence and other components of heritage wholly intact without making modifications or changes that affect its essence. It also aspires to protect it from theft and indeed all manner of potential hazards that may threaten its existence<sup>18</sup>.

The issue of protecting cultural heritage in Law No. 04/98 leads us to talking about cultural materials or property covered by legal protection. We find them classified as follows:

Cultural property includes:

- i. Real estate cultural property
- ii. Movable cultural property
- iii. Intangible cultural property<sup>19</sup>.

#### 2.1.1 The protection of cultural property in general in Law 04/98

##### 2.1.1.1 Protection of real cultural property

The legislator singled it out in Part Two of Law 98/04 under the title "Real Estate Cultural Property and its Protection." We find therein the text of Article 08, which enumerated for us the types of real estate cultural property by saying<sup>20</sup>: "The real estate cultural property includes:

- a. Historical monuments
- b. Historical location
- c. Urban or rural group"

With regard to the historical monuments in particular we find the major architectural achievements, painting, engraving and decorative art, Arabic calligraphy and luxurious buildings or educational complexes of a religious, military, civil, agricultural nature or prehistoric industrial structures, funeral monuments or tombs, caves, paintings and rocky drawings and memorials, structures or isolated items that are relevant to major events in national history.

According to the provisions of Law 98, its classification is carried out by a decision of the Minister of Culture after consulting the National Committee for cultural property. This can be started out by the initiative of anyone who sees interest in it. The classification decision includes built or non-built features located in a protected area.

Archaeological sites are the places where remains are found that indicate activities carried out by man during the ancient times. These sites are buried in the ground or submerged under water and are subject to classification by a decision issued by The Minister of Culture after consulting the National Committee for Cultural Properties<sup>21</sup>. This is implemented by setting up a plan for the protection and reclamation of archaeological sites wherein the various activities which can be practiced by urban groups are conspicuously determined.

The cultural park is established by a decree taken on the basis of a joint report between The Minister of Culture, Local Communities, the Environment, Urban Development and Forests after consulting the National Cultural Property Commission. The task of protecting the cultural park is entrusted to a public institution of an administrative nature placed under the guardianship of the Minister of Culture, like the Cultural Park of the Saharan Atlas<sup>22</sup>.

<sup>17</sup> -Kebash Hussein Qasimah, Heritage, Cultural Significance, and its Impact on Globalization." It was published in the "Al-Adl Magazine, Issue 47, Ministry of Justice, Sudan, December 2016, Page 194.

<sup>18</sup> - Herib stoffel, Heritage Steward, Guide for Managing World Cultural Heritage on Preparedness for Threats to Cultural Heritage, Italy, Page 76.

<sup>19</sup> - Article 3 of Law 98-04, Concerning the Protection of Cultural Heritage.

<sup>20</sup> - Article 8 of Law 98-04, Concerning the Protection of Cultural Heritage.

<sup>21</sup> - Executive Decree No. 01/104, concerning the formation and regulation of the National Committee and the Provincial Committee for Cultural Properties, Official Gazette, Issue No. 27, dated April 23, 2001.

<sup>22</sup> - Executive Decree No. 407/09, regarding the establishment, organization, and operation of the National Office for the Cultural Heritage of the Saharan Atlas, Official Gazette dated November 29, 2009.

### 2.1.1.2 Protection of movable cultural property

This is included in Part Three of Law 04/98 under the title “Protection of Movable Cultural Property”, where we find the text of Article 50, which enumerates the types of movable cultural property. They include the following<sup>23</sup>:

- The output of archaeological explorations and research on land and under water
- Antique objects, like tools. ceramic crafts, writings, currencies, seals, ornaments, traditional clothing, weapons and burial remains
- Elements resulting from the fragmentation of historical monuments
- Anthropological equipment
- Cultural property related to religion and the history of science and technology. and the history of social, economic and political development.

- Properties of technical importance that include the following:

- a) Oil paintings and hand-made drawings on any support of any material
- b) Original drawings, posters and photographs of authentic creativity
- c) Original art assemblies and installations from all materials, like figurative art products and engraving of all materials, applied art masterpieces on materials, such as glass, porcelain, metal, and wood
- d) Manuscripts and introductory publications, books, documents and publications of specific interest
- e) Numismatics (medals and coins) or postage stamps
- f) Archive documents, including transcript recordings, maps and other drawing equipment, photographs, movies, audio recorders, and machine-read documents

A classification of movable cultural property of interest-from the point of view of history, art, archeology, science. or religion or the technologies that make up the nation’s cultural wealth-can be put forward. Alternatively, it can be classified or listed in a supplementary inventory list by a decision issued by the Minister in Culture after consulting the National Committee for Cultural Property as their own initiative or at the request of any person who finds interest in it. It can also be registered in the supplementary inventory list by a decision issued by the governor after consulting the Cultural Property Commission in the province concerned. It is worthy of mention that whenever the transferred cultural property has significant historical, artistic or cultural value culture at the local level, the Minister of Culture or the governor, according to the national or local value of the cultural property, takes full charge of communicating a Registration Decision in the supplementary inventory list of the public or private owner who possesses the cultural property in question.

The registration of any movable cultural property in the supplementary inventory list shall have all effects of classification for a period of ten (10) years; its application expires if the movable cultural property is not classified by the end of this period<sup>24</sup>.

The classification of movable cultural property or its recording in an supplementary inventory list does not entail forceful law-imposed compliance with the public property system. Additionally, it can remain in the ownership of its proprietor and subject to their use as any movable cultural property gets merged into the national collection as soon as it has been classified<sup>25</sup>.

### 2.1.1.3 Protection of intangible cultural property

It is mentioned in Chapter Four of the same law (Law 04/98), but the legislator has fallen short of imparting equitable attention to it as what is directed to the protection of real estate property as well as movable property principally because this type of heritage is far more susceptible to disappearing from others.

The Algerian legislator has defined intangible cultural property as “A body of knowledge, social perceptions, skill, competencies or techniques that are founded on traditions in various fields of cultural heritage. It represents the true connotations of connection to cultural identity, and is possessed by a person or group of persons”<sup>26</sup>.

Intangible cultural property is considered one of the most important heritage assets and is in dire need for urgent protection due to its vulnerability to loss and extinction. The legislator has allocated a device in this regard and labelled it the National Data Bank. This is stated in Executive Decree No. 325/03 of October 5, 2003. It specifies the methods of storing intangible cultural property in the National Data Bank Official Journal No. 60 Issued on October 08, 2003 .

Some jurisprudence considers it necessary to reconsider the allocation of more protection to this type of heritage by virtue of updating some existing legal instruments, like human rights treaties in particular and the various UNESCO conventions related to the preservation of cultural heritage .

<sup>23</sup> - Article 50 of Law 98-04, Concerning the Protection of Cultural Heritage.

<sup>24</sup> - Article 51 of Law 98-04, Concerning the Protection of Cultural Heritage.

<sup>25</sup> - Article 52 of Law 98-04, Concerning the Protection of Cultural Heritage.

<sup>26</sup> - Article 67 of Law 98-04, Concerning the Protection of Cultural Heritage.

## 2.2 Penalties for assaulting cultural heritage

The Algerian legislator has stipulated a set of penalties imposed on anyone who incurs any form of damage on the nation's archaeological property; Chapter Eight of Law 04/98, entitled Surveillance and Punishments, is entirely dedicated to this issue per se:

- Anyone who commits the following violations shall be punished with a fine of between 10,000 DZD and 100,000 DZD and imprisonment from one (1) to three (3) years without prejudice to any compensation for damages:

- a) Conducting archaeological research without a license from the Minister of Culture
- b) Not declaring sudden discoveries
- c) Failure to declare objects discovered during authorized archaeological research and not handing them over to the state.

Additionally, The Minister of Culture may request the restoration of places to their original condition at the perpetrator's own expense. Further, the penalty is doubled in case of recidivism (Article 94 of Law 04/98). Whoever commits these violations shall be punished with imprisonment from two (2) to five (5) years and a fine of 100,000 DZD to 200,000 DZD or with only one of the two penalties without prejudice to any compensation for damages and confiscations:

- a) Selling or concealing items resulting from drilling or excavation operations discovered by sheer chance or while carrying out licensed antiquities research
- b) Selling or concealing items derived from seawater research
- c) Selling or concealing cultural property classified or registered in the supplementary inventory list as well as cultural property resulting from cutting or fragmenting it
- d) Selling or hiding architectural elements resulting from the division of cultural real estate property or cultural property by allotment or division<sup>27</sup>.
- e) Conducting acts of sabotage and destruction of real estate cultural property.

### Conclusion

We noted through our study of the vitally important legal protection of cultural heritage issue in Algerian legislation that the legislator has stipulated a set of legal texts bearing on it in Law 04-98 on the Protection of Cultural Heritage. However, by scrutinizing the texts of this law, we observed that it attached greater importance to the tangible cultural heritage, while it overlooked immaterial cultural heritage. Stated differently, it covered all aspects concerned with tangible cultural heritage in a text "On Security Systems and Protection Devices," as well as an extensive list of actions and violations affecting the tangible cultural heritage. It criminalized them and set up the appropriate penalties in this regard. On the other hand, it did not stipulate at all the range of potential violations that could cause damage to intangible cultural heritage. However, this was remedied through a set of complementary decrees and decisions linked to the aforementioned Law 04-98, which dealt with everything related to the intangible cultural heritage, whether it be intellectual or social. The legislator has thus provided ways to conserving and safeguarding intangible cultural heritage.

### Recommendations:

The following are a set of worthwhile recommendations that our current undertaking has empowered us to put forward:

- a. The significant role of recording and inventorying intangible cultural heritage can by no means be overstated.
- b. Policy makers should quadruple their efforts vis-à-vis allocating greater attention to intangible cultural heritage by enacting new laws that ensure its sustainable preservation and protection
- c. . Activating the role of international organizations in charge of protecting and preserving cultural heritage is a major international necessity that should be taken much more seriously.

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