

# PROTECTION OF THE UNDERWATER CULTURAL HERITAGE OF SRI LANKA.

## Keynote Address

by

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Hon. Mrs. Kumari Balasooriya, Governor of the Southern Province, Mr. Richard Engelhardt, UNESCO Regional Advisor for Culture in Asia and the Pacific, Ms Minja Young, Director of UNESCO New Delhi Office, Mr. Prithi Perera, Secretary-General, Sri Lanka National Commission for UNESCO; friends, colleagues, ladies and Gentleman. Thank you for affording me an opportunity to share some thoughts with you today.

Madame Governor, although what I speak is for the benefit of all the eminent persons present here, it is to you that I address myself, as you alone, of all those present here, represent the decision makers of this country. Pardon me for appearing to be too personal, and too impassioned at times. It is because desperate times call for desperate measures. You will soon understand what I mean by this cryptic statement.

The only reason for my being qualified to speak here today is that I have been trying to promote the protection of our heritage under water since the middle 1960s, when my target group was our newly formed Naval Diving Unit. I knew precious little about maritime archaeology then. But, fortunately for me, my listeners knew much less than I did. Unfortunately, however, I do not have that advantage today. The very idea of addressing a gathering of Experts on the Underwater Cultural Heritage (UCH) fills me with trepidation; and when they are sitting together – as they are now – with eminent persons whose expertise lies in the more pragmatic parameters of Culture, Heritage and Archaeology, I had to ask myself: “What on earth am I going to say?”

And so I decided to only touch on what Underwater Cultural Heritage, (or UCH) is, and to place before you certain down-to-earth observations. These observations, I think, would be good for all the distinguished persons present today to bear in mind, think about and, hopefully, do something about

First, let me deal with the UCH, as it is always useful to remind ourselves of what we are talking about, namely, the UNESCO Convention on the Protection of the Underwater Cultural Heritage of 2001, which we will be talking about in depth during the next few days. What is UCH? The Convention says that it:

- means all traces of human existence
- having a cultural, historical or archaeological character

- which have been partially or totally under water, periodically or continuously, for at least 100 years such as:
  - sites, structures, buildings, artefacts and human remains, together with their archaeological and natural context;
  - vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and
  - objects of prehistoric character.”

This is a very brief definition, for purposes of the legal aspects of the Convention. Let us now extract its key concerns.

- Its main concern is traces of human existence.
- These traces are all material ones: not immaterial ones.
- All these traces are submerged by the waters of the world.

What is not specifically stated, but which is obvious to any reasonable person, is that such material traces can be accessed in their present setting – or *in situ* – only by maritime archaeologists.

How do we see these in our own laws? The Antiquities Act that governs our 117 year-old Archaeological Dept. defines the Archaeological Heritage as:

“that part of the **material heritage** of mankind in respect of which archaeological methods provide primary information and includes all vestiges of human existence and places relating to all manifestations of human activity, abandoned structures and remains of all kinds (**including subterranean and underwater sites**), together with all the portable cultural material associated with them”

In terms of our laws, therefore, “underwater sites” are the province of the Department of Archaeology. The point I am trying to make is that we cannot practice maritime archaeology, without the Archaeological Dept. taking the lead. Unfortunately that Department and the Ministry of National Heritage which administers it are not here: I do not know why. The Hon. Minister of Cultural Affairs, who has generously hosted this conference, would only have been too happy to have invited his Cabinet colleague, had he been so advised.

We are, in fact, playing “Hamlet” without the Prince: this is my first observation. Now, for the rest.

Friends, let me take you back sixty years, to the year 1948, when this country was loosed of the shackles of colonial rule. It was a heady time for all of us. It was also a special year in my family too: because, after thirty years as a school teacher, my father was appointed Assistant Commissioner of Archaeology. D.T.Devendra, born in the village of Kalegana in Galle, was a self-taught archaeologist, who mined the world of the past, to mould the world of the future. We, his children, were the major beneficiaries of his wide-ranging interests, particularly in the expanding frontiers of knowledge. It is these that we cut our teeth on, in our nightly conversations round the dining table. He believed very strongly in taking archaeology along uncharted paths. It was during these dining table seminars that we discovered maritime archaeology and SCUBA diving. I was captivated by Jacques-Yves Cousteau’s book “*The Silent World*”: after all, what boy would not be seduced by such a phrase as “the rapture of the deeps”?

Yes, I must admit I was seduced. I never dreamt that, some day, I would help introduce this discipline to this country. But that day did, eventually, come, some thirty years later, and I feel both humility and satisfaction when I look back on the twenty years of my life which I devoted to the development of maritime archaeology in Sri Lanka. For me, it was a labour of love. Never did I accept a cent from the government and the people of my country for the furtherance of this discipline that, more than any other, will be necessary to protect our UCH.

Although the Antiquities Act, from its very inception, had the power to conduct archaeology underwater – in lakes, rivers and lagoons – it was a scant ten years ago that the Department was accorded jurisdiction over our territorial waters.

*(Map of Sri Lanka's maritime zones)*

Apart from this Act, there are a large number of legislative enactments that have a bearing on Archaeology, Culture, Heritage and the territorial sea. Some are the Cultural Properties Act, the National Aquatic Resources Act, the Merchant Shipping Act, the Coast Conservation Act, the National Museums Act, the Maritime Zones Law and Proclamation. I do not intend to deal with them, beyond telling you that, in terms of laws, our UCH is quite adequately protected for a country in our stage of development.

What this means that we already have the necessary domestic laws to afford protection to the UCH, and also that we have amicably agreed upon our maritime boundaries with our neighbour, India. There is no dispute over our territorial sea or contiguous zone to cause concern. Further, we have a Maritime Archaeology Unit to access this heritage, protect, preserve and exhibit it. Our problem is something different. For laws are only as good as the will of the State, its officials and of the People to respect and uphold them.

We must carry our Heritage in our hearts and in our heads: certainly not in our purse, nor in the deeps of our ignorance.

I say that because here, as in many another country – if not all – both State institutions and the Public diligently search for and find reasons to observe laws in the breach. In the course of the next three days, we will discuss the international ramifications of this statement. But today I will talk of only my country and ask my government and my fellow citizens one uncomfortable question: are we serious about our Heritage?

Let me explain.

We have just concluded an international Field School conducted by the UNESCO Asia-Pacific on the subject of Cultural Impact Assessments, with particular reference to the UCH. The participants have talked among themselves about their respective countries and about other countries not represented at the school. They have tried to see how they can help correct this attitude. Sitting on a side, listening to all this talk, I tried to put my thoughts together, and I decided to share with you some uncomfortable truths about what is going wrong with our country. You might well ask why I may appear to be critical only of my country. My answer is simple: "I cannot change the world, but I can change myself."

So, here are the uncomfortable truths I confronted, and which I now confront you with.

- The UCH is part of the heritage of Mankind. It is Sri Lanka's heritage, of course, but certainly not of Sri Lanka alone. So, we must join hands with peoples from all over the world ratify and sign into domestic law all UNESCO instruments concerning this matter. In January Mr. Matsuura, Secretary-General of UNESCO expressed his concern about the slowness with which countries are ratifying it. A month earlier, a UN General Assembly Resolution "**Recognize(d) the importance of the UNESCO Convention on the Protection of the Underwater Cultural Heritage adopted on 2 November 2001**".

I am happy to hear that the Ministries of Culture and Foreign Affairs are working on the ratification of the Conventions on the Protection of the Underwater Cultural Heritage, on the Safeguarding of the Intangible Cultural Heritage, on the Protection and Promotion of the diversity of Cultural Expressions and the Convention on Stolen and Illegally Exported Cultural Objects. But I am unhappy to note that, once again, we seem to be playing "Hamlet" without the Prince. In the late 1980s I worked with an inter-ministerial group to draft a "Maritime Heritage Protection Authority" Act. It has, twenty years later, yet to see the light of day. About four years later we in the International Committee on the Underwater Cultural Heritage (ICUCH) of the International Committee of Monuments and Sites (ICOMOS) its embarked on a voyage that brought us the UNESCO Convention. Sri Lanka started long before UNESCO, but we still do not have the necessary Act in place to enable us to sign the UNESCO Convention. What went wrong?

- It is easy for us to mouth the words that we are a country with a rich and ancient heritage. The problem is that we have also a rich and ancient heritage of robbing the heritage. One has only to look at the number of Temples and Buddha images that are being destroyed by vandals in search of mythical treasure.

It is the same attitude that makes us look at our UCH as treasure troves. The first offenders are the citizens of this country – both educated and uneducated.

The other offenders are "treasure hunters" who sell stolen artifacts in the illicit markets of the world. This is something that we can mitigate only by joining hands with the international community – by ratifying the Conventions.  
*(Illustrations of the Treasure Auction Catalogue)*

But, what is of urgency is that we must deal, according to prevailing law, with our own citizens who are wrongdoers, however respectable or disreputable they seem to be and whether they are common criminals, petty thieves or state officials.

- In the name of National Development, project proponents – State institutions among them – consider the UCH a nuisance. A few weeks ago, the Director-General, Archaeology, had to halt the construction of a Fisheries Harbour in Ambalangoda: a project that had been undertaken without consultation with the Archaeological Department. Fisheries all over the island have been built without Archaeological Impact Assessments being done. He is a state official who we can be proud of.  
*(Illustrations of artifacts seen with fishermen at the destroyed Ambalangoda wreck site, in 1998)*

There is a distinct possibility that it is an Asian shipwreck has been re-wrecked by dredgers, its artifacts stolen and sold by citizens, and the site exploited by Sirasa TV in callous disregard of the Director-General's ruling, thus committing a criminal act by proxy. If any of the artifacts shown on TV is now found to be missing, it is the project proponent and Sirasa TV who should be the first suspects. Instead, the Director-General, Archaeology, is the one who is being asked to explain.

I ask you, if the Galle Harbour Development Scheme, the South Colombo Port Project and the Proposed Hambantota Port can conduct EIAs, why can't the Fisheries Harbour developers do the same? Why are they not answerable?

Then, let us look at Galle. Certainly, the Sri Lanka Ports Authority conducted an EIA but has not yet asked the Director-General, Archaeology, to conduct the mandatory Archaeological Impact Assessment (AIA). But now it appears that Galle is already taking the first steps for construction. Again, in contravention of the law. I sincerely hope I am wrong.

Then there is Hambantota, too, that must be preceded by an AIA. But will this happen?

Do we, in fact, really care about our heritage? Are we, in fact, law abiding citizens and institutions?

- State officials, themselves, have been found wanting in knowledge of the laws that they administer. Not very long ago, the official in Galle who exercises the powers of the Receiver of Wrecks in this area under the Merchant Shipping Act, issued a permit to a ship breaker to break-up a historic wreck. The objections raised by the Archaeological officials in the area were brushed aside and these officials were subjected to administrative investigation.

But the recreational diving stations had no such inhibitions: the story hit the press, public ire was roused and the state official who had issued the permit had to eat humble pie and recall his permit. Ignorance of the law is not accepted as a plea in Courts: in this case, too, how can we accept such a plea?

But this story has a silver lining. On the one hand, the official accepted his error and has assured us that it will not happen again. To him go our grateful thanks. There was also a link forged between the Diving stations and members of our Maritime Archaeological Unit (MAU) – something that will have great significance in the future. Congratulations, MAU, on your initiatives.

Let me end, however, on a more encouraging note. The Director-General, Archaeology, has asked a few of us to help him try to set it right. We have been planning and come up with Phase I – to tackle the problems of training our MAU, to sensitize and educate State officials and institutions in the provisions of the Antiquities Act, and to do the same for the community of Diving Station personnel whom we will try to make our partners and not our adversaries. This is a beginning, only: certainly not the end.

Today I ask you all – Sri Lankan citizens, representatives of all institutions and Ministries, the international institutions represented here and particularly those who are the decision makers in this country – to lay aside all their preconceived notions and your misbegotten misconceptions and help us carry this initiative forward.

As for me, as my father did, I have tried to mine the past to mould the future. I have carried my labour of love so long that it has now become a burden, it is time that I lay it down. Thankfully, the next generation is here and capable of carrying the work forward. So, to those who helped me, worked with me and encouraged me, I now say with honesty, “Thank you for the music” and from all of you I ask: “Do not let the music die”.

Thank you, friends and colleagues, for listening to me. May your deliberations over the next few days prove fruitful.