

Protection of cultural property during hostilities: Meeting of experts in Latin America

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The Advisory Service on International Humanitarian Law of the International Committee of the Red Cross (ICRC) organized a Regional Expert Meeting for Latin American Countries on 13 and 14 May 2002 in Lima (Peru) on the subject "To protect cultural property in the event of armed conflict: implementation of international regulations in this field at national level". The meeting was held with the support of the Peruvian authorities, the National Institute of Culture and the National Commission for the Study and Application of International Humanitarian Law. After a previous expert meeting on the protection of cultural property during hostilities, which took place in Chavannes-de-Bogis (Geneva) on 5 and 6 October 2000,¹ this was the first decentralized meeting.

The main aims of the meeting were to spread knowledge of international regulations on the protection of objects and cultural property in the event of armed conflict; to share information and consider technical methods used by certain countries with a view to identifying and inventorying cultural property and adopting measures to safeguard and protect it during such situations, as well as sanctions for violations of the relevant rules; to facilitate exchanges of information between the competent national authorities and entities in Latin America; and to disseminate the *Practical Advice for the Protection of Cultural Property in the Event of Armed Conflict*, published by the ICRC as a result of the October 2000 expert meeting in Geneva.² This advice is an essential aid to motivate and guide the national authorities and committees in the implementation of humanitarian law in this field.

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Of the Latin American countries, Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru and Venezuela took part in the meeting.³ It was also attended by Spain.⁴

The first day was devoted to general presentations and the national experience of Argentina, El Salvador and Spain. It was brought to a close with a presentation on the dissemination within armed forces of rules on the protection of cultural property in the event of armed conflict.

The second day of the meeting was assigned to the deliberations of three working groups: Working Group I dealt with the division of competences and responsibilities and regional and sub-regional cooperation; Working Group II considered the legal protection of cultural property, national legislation and penal issues; and Working Group III discussed dissemination and promotion of the provisions of the Convention and its Second Protocol within the general public and target groups such as the armed forces or civil servants.

Working Group II focused on specific legal issues such as legislative measures, definition of cultural property, implementation of the provisions of the Hague Convention in the event of natural disasters, use of the distinctive sign of the Hague Convention and penal sanctions for violations against cultural property. During the discussion a very interesting legal issue arose – the possibility of application of the Hague Convention to the intangible cultural heritage, a subject on which the attention of a number of Latin American countries, mindful of their oral traditions, is centred. It is not for the UNESCO Secretariat to provide an “official” interpretation of the Convention. That prerogative belongs only to States Parties thereto, and possibly to the International Court of Justice if asked to exercise its jurisdiction in a legal dispute concerning the interpretation of a treaty.⁵ However, it may be argued that the definition of cultural property in Article 1 of the

1 For a more detailed report on the Geneva 2000 expert meeting, see my article “Expert Meeting on the National Implementation of Rules for the Protection of Cultural Property in the Event of Armed Conflict”, *International Journal of Cultural Property*, Vol. 10, No. 1, 2001, pp. 134-136.

2 See note 1 above.

3 Of these States, Argentina, Brazil, Colombia, Cuba, El Salvador, Guatemala, Mexico, Nicaragua, Panama and Peru are party to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict; Brazil, Colombia, Cuba, Guatemala, Mexico, Nicaragua, Panama and Peru are party to the 1954 Protocol; and Argentina, Nicaragua and Panama are party to the 1999 Second Protocol.

4 Spain is party to the Hague Convention and its two Protocols.

5 See Article 36(2)(a) of the Statute of the International Court of Justice.

Convention (movable or immovable property of great importance to the cultural heritage of every people, buildings aimed at preserving and exhibiting movable cultural property, and centres containing monuments) does not extend to the intangible cultural heritage.

The deliberations of the working groups resulted in a presentation of recommendations.

To sum up, the Regional Expert Meeting held in Lima in May 2002 on the protection of cultural property in the event of armed conflict helped to make the Hague Convention and its Second Protocol better known in Latin America. It also provided an opportunity for information-sharing and networking by the region's cultural heritage professionals, civilian and military lawyers and civil servants. It furthermore showed the paramount importance of the close cooperation between UNESCO, the depositary of the Hague Convention and its two Protocols and the implementing agency of those agreements, and the ICRC, the implementing agency of the four Geneva Conventions of 1949 for the protection of war victims and their 1977 Additional Protocols, with a view to promoting and implementing legal instruments on protection of the cultural heritage during hostilities. Lastly, three Latin American countries (Bolivia, Costa Rica and Honduras) announced during the meeting that they are about to join the Second Protocol, thus increasing the rate of participation of Latin American countries in this agreement.