

**CD 2003 – 8.5/1**  
**Original: English**  
**For information**

**COUNCIL OF DELEGATES**  
**Geneva, 30 November - 2 December 2003**

**THE PROTECTION OF CULTURAL PROPERTY**  
**IN THE EVENT OF ARMED CONFLICT**

**Follow-up Report on Resolution 11 of the**  
**2001 Council of Delegates**

**(Item 8.5 of the provisional agenda)**

**Document prepared by**  
**the British Red Cross**  
**in consultation with**  
**the International Committee of the Red Cross**

**Geneva, July 2003**

## Executive Summary

Recent armed conflicts have continued to demonstrate the importance of the protection of cultural property in such circumstances. Public awareness of the issue has increased, and it has also been evident that more remains to be done to ensure effective implementation of the relevant rules.

Resolution 11 of the 2001 Council of Delegates, "Protection of Cultural Property in the Event of Armed Conflict", gave the International Committee of the Red Cross (ICRC) and National Red Cross and Red Crescent Societies a specific, formal basis for their work in this field. Useful actions have been taken by the ICRC and by National Societies to implement the resolution.

The ICRC has organised, in co-operation with UNESCO, regional seminars in Southern Africa and Latin America specifically addressing the topic, with a view to increasing ratification of the 1954 Hague Convention and its Protocols of 1954 and 1999, and to promoting their effective implementation at national level. The protection of cultural property in the event of armed conflict has also been systematically included in seminars at the regional and national levels on the general implementation of International Humanitarian Law (IHL).

The ICRC's Advisory Service on IHL has also produced a book on the topic, containing very helpful "Practical Advice for the Protection of Cultural Property in the Event of Armed Conflict".

A sampling of activities undertaken by National Societies is also encouraging. National Societies have included cultural property protection in their IHL training courses and in other dissemination events; have encouraged their governments to become a party to the 1954 Hague Convention and/or its Protocols; worked to promote effective measures to implement these treaties at the national level, in particular, by protecting the distinctive emblem of cultural property, and co-operated with relevant organisations in carrying out such tasks.

One National Society has also promoted the inclusion of protection of cultural property in the country's new law on National Disaster Policy.

Much work remains to be done to encourage States to become parties to the 1954 Hague Convention and the 1999 Second Protocol, and to implement these treaties effectively at the national level.

2004 is the 50<sup>th</sup> Anniversary of the adoption of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. Components of the International Red Cross and Red Crescent Movement are encouraged to use this special year to promote interest in the general topic and to make progress on the different areas identified for improvement.

It is hoped that as a result of Resolution 11, an increasing number of Movement components will regard the protection of cultural property in the event of armed conflict as a normal and proper part of their unique work in the field of IHL, and where appropriate, consider developing their activities in the area.

The link with the Movement's work in disaster preparedness and response should also not be overlooked.

# THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT

## 1. REMINDER OF THE CONTENT OF THE RESOLUTION

Resolution 11 of the 2001 session of the Council of Delegates was the first resolution adopted by the Council to give Red Cross and Red Crescent organisations a specific formal basis for their work in the field of cultural property protection in the event of armed conflict.

The preamble noted the importance of preserving cultural heritage during armed conflict; the fact that protection is enhanced by adherence to the relevant rules of International Humanitarian Law (IHL); that many of these rules require implementation in peacetime to be effective during situations of armed conflict, and the special role of the International Committee of the Red Cross (ICRC) and of National Red Cross and Red Crescent Societies in the promotion, dissemination and implementation of IHL.

The operative paragraphs covered three aspects:

- i) The increasing role of the ICRC, in co-operation with UNESCO, in encouraging ratification and implementation of the relevant treaties, namely, the 1954 Hague Convention and its two Protocols of 1954 and 1999;
- ii) Encouragement to National Societies to include the Hague Convention and its Protocols in their activities to promote, disseminate and implement IHL, either on their own initiative or in co-operation with their governments;
- iii) An invitation to States that had not yet done so to become parties to the relevant treaties.

This report will provide a short account of some of the measures undertaken to give effect to the resolution. It is written on the basis of available information, and it is not an exhaustive assessment of follow-up action throughout the International Red Cross and Red Crescent Movement (Movement).

## 2. STATE PARTICIPATION IN THE RELEVANT TREATIES

Although increasing State participation in the Hague Convention and its Protocols was the final action in the operative paragraphs of Resolution 11, it seems logical to begin with a record of that matter: Not only is it of great legal, diplomatic and practical importance, but it is also the objective of some of the activities undertaken by components of the Movement in the field of cultural property protection.

Since the session of the Council of Delegates in November 2001, there have been the following additions (as at March 2003):

- a) Four States became parties to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (Barbados, Botswana, Denmark and Honduras);

- b) Four States became parties to the First Protocol of 1954 (Denmark, Dominican Republic, El Salvador and Honduras);
- c) Seven States ratified or acceded to the Second Protocol of 1999 (Argentina, Austria, El Salvador, Serbia and Montenegro [formerly the Federal Republic of Yugoslavia], Former Yugoslav Republic of Macedonia, Honduras and Lithuania).

There are 105 States parties to the 1954 Convention, and 87 States parties to the 1954 First Protocol. The 1999 Second Protocol is not yet in force; 20 ratifications or accessions (etc...) are required and as of March 2003, there have been 16.

The National Societies of some of the above States, and/or the ICRC, played a part in encouraging the relevant governments to become party to one or more of the above treaties. This role in promoting participation in IHL agreements is an important one. National Societies can use their special status as auxiliary to the public authorities in the humanitarian field to work with their government in a co-operative and supportive way. The government, and/or the National Society, can also call upon the expertise and experience of the ICRC, notably, the Advisory Service on IHL, in their consideration of the advantages, requirements and consequences of participation.

2004 will be the 50<sup>th</sup> Anniversary of the adoption of the 1954 Hague Convention. This special event will provide an opportunity to promote widespread ratification of the Hague Convention, and an increase in the number of States parties to the two Protocols, in particular, the Second Protocol, so as to enable it to enter into force.

### **3. ACTION BY THE ICRC**

The ICRC increased its activities in the three main areas outlined below.

#### **3.1 Co-operation with relevant organisations**

The ICRC stepped up its co-operation with UNESCO on the specific issue of the protection of cultural property in the event of armed conflict. The Advisory Service delivered a statement at the Meeting of States Parties to the 1954 Hague Convention convened by UNESCO in Paris in November 2001. There were also frequent contacts with the UNESCO Division responsible for managing the 1954 Hague Convention and its Protocols on behalf of the Director-General of UNESCO, who is the depositary of these treaties.

Representatives of the International Committee of the Blue Shield (ICBS) visited the ICRC in Geneva to discuss possibilities for collaboration. The ICBS, which is specifically referred to in the 1999 Second Protocol (e.g. see Articles 11(3) and 27(3)), has decided to invite the ICRC to be represented as an observer at its regular meetings.

#### **3.2 Regional activities**

The ICRC's Advisory Service on IHL ensured that the topic of the protection of cultural property in the event of armed conflict was addressed both in regional seminars specifically dedicated to the topic, and in national and regional seminars covering implementation of IHL more generally.

### 3.2.1 Specific seminars

The Advisory Service organised, in co-operation with UNESCO, a regional seminar on the protection of cultural property in the event of armed conflict in Pretoria, South Africa, between 19 – 21 June 2001. The seminar was attended by representatives from countries in Southern Africa and the Indian Ocean. It focused on increasing the level of ratification and implementation of various IHL and cultural property instruments by participating countries, in order to foster momentum within the region for full implementation of those treaties. A report of the meeting was produced and distributed among the authorities concerned.

A similar event took place in Lima, Peru on 13 – 14 May 2002. Participants included representatives of all the Latin American countries and of Spain. Experts on the protection of cultural heritage, professionals from archives and museums, archaeologists, architects, legal advisers and military personnel met to discuss how to improve implementation of the 1954 Hague Convention and its two Protocols at the national level. A report of this seminar was also produced and distributed among the concerned authorities in the region, and in Spain.

Both meetings showed that generally, national structures and legislation addressing the protection of cultural property already exist in different regions of the world. Nevertheless, they need to be expanded or up-dated in order to fulfil the obligations included in the relevant treaties. The view was also expressed that more interaction should be developed between relevant organisations, including National Red Cross and Red Crescent Societies, in order to enhance protection.

### 3.2.2 General seminars: Systematic inclusion of the topic

The subject of the protection of cultural property in the event of armed conflict was systematically included in national and regional seminars on the implementation of IHL. This contributed to sensitising authorities to the importance of State participation in the relevant treaties and to the national implementation measures which must be adopted to give effect to those agreements.

## 3.3 National implementation

In February 2002, the ICRC's Advisory Service published a book entitled "Protection of Cultural Property in the Event of Armed Conflict". Part Two of this publication contains practical advice, which will help facilitate the work of authorities in establishing implementation of the rules of the 1954 Hague Convention and its two Protocols at the national level. In addition to describing the legal obligations and proposing measures to be adopted by States, the text presents the advantages of participating in the relevant treaties, and the role that National Societies and other existing bodies and structures (such as National IHL Committees) could play in disseminating knowledge of the obligations and in assisting States in implementing the law. For example, National Societies, as part of their recognised role protecting the integrity of the red cross and red crescent emblems, could help the public authorities in ensuring respect for and proper use of the distinctive emblems for the protection of cultural property.

#### **4. SELECTED ACTIONS BY NATIONAL SOCIETIES**

For practical reasons, it was impossible to consult all National Societies on the actions, if any, they have undertaken to follow-up Resolution 11. It is hoped that the following examples will give a fair reflection of the present position. National Societies will have an opportunity to elaborate orally upon the measures which follow, and/or to include new ones, during the proceedings of the 2003 Council of Delegates.

##### **4.1 Dissemination activities**

Many National Societies are including information on the protection of cultural property in the event of an armed conflict in dissemination activities. This is done primarily by including introductory information on cultural property protection in existing IHL training programmes for National Society staff, members and volunteers, and for external audiences, including armed forces. Some give particular emphasis to creating an awareness of, and respect for, the distinctive emblem for the protection of cultural property (the blue and white shield).

The link between the distinctive emblem and dissemination can be quite helpful. One National Society remarked that participants in their dissemination courses are usually interested in the very brief information provided about cultural property protection. This is because in their country, many buildings are protected as being cultural property, and everyone has already seen the distinctive emblem.

The IHL Adviser from another Society chaired a session and made a presentation on the topic of the protection of cultural property in the event of armed conflict in an IHL seminar organised by the Ministry of Culture and the Academy of National Defence. This same National Society supported a university conference on the topic, and included the subject in its high level IHL training courses for law students, students from military and police academies and their own regional dissemination officers. The fact that these courses took place in an 18<sup>th</sup> century palace made practical illustration of the issue much easier.

Information has been included on websites, and it has also been an area for research and publication.

A National Society is planning to hold an international IHL school in December 2003, for local and foreign law students. The protection of cultural property will be a separate topic on the programme.

One sister Society says that they plan to include the issue in all their dissemination sessions, together with the ICRC, which target the general public, armed forces and government officials at all levels. Another reports that no special follow-up has been given to Resolution 11 because the State has already ratified the relevant treaties and the rules are an integral part of government, army and Red Cross activities to promote and disseminate IHL.

One National Society uses the ICRC's fact sheet on the 1954 Hague Convention and its Protocols, while another has produced their own special fact sheet.

##### **4.2 Encouraging the State to become a party to the relevant treaties**

Several National Societies have used their respective National IHL Committee to encourage their government to participate in the 1954 Hague Convention or its 1999 Second Protocol. Others have had bi-lateral contacts, or both used the National IHL Committee and had direct consultations.

The Commonwealth Red Cross and Red Crescent Conference on IHL, held in February 2003, had discussion groups which identified challenges to participation in the treaties, and suggested ways to address them.

One National Society helped to translate the 1999 Second Protocol into the local language to assist the government in its consideration of the Protocol with the view to the State's accession.

#### **4.3 National implementation measures**

National IHL Committees have also been used to promote the adoption of measures to implement the treaties at national level. This has included recommending to the government that all cultural property in the country should be properly identified and marked, and encouraging the establishment of a system of national protection of the cultural property emblem (as well as of the international distinctive sign of civil defence).

The protection of cultural property in the event of armed conflict has been included in the Model Report on the Establishment of an Information Exchange System on National Implementation of IHL.

Another National Society reported that the existing legislation in the country was satisfactory, so there was no need for them to take additional action in that area.

#### **4.4 Co-operation with other organisations**

Due to the expertise and roles of other relevant organisations, co-operation with others is perhaps particularly desirable in the area of the protection of cultural property in the event of armed conflict. A number of National Societies have contacts with relevant government ministries, including Culture, Defence and Foreign Affairs, as well as with the armed forces. A few also have contacts with the National UNESCO Committee, the National Blue Shield Committee and with organisations and individuals in the local culture community. One Society has also had direct contact with UNESCO.

#### **4.5 Part of plans for disaster preparedness and response**

One National Society is promoting the inclusion of cultural property protection in the new law on National Disaster Policy. This is being done through the National Disaster Committee, which the National Society co-chairs with the Office of the President.

#### **4.6 2004: Commemoration of the 50<sup>th</sup> Anniversary of the adoption of the 1954 Hague Convention**

Several Societies are considering ways to use next year's 50<sup>th</sup> Anniversary of the signing of the 1954 Hague Convention to promote the issue of cultural property protection during armed conflicts. One Society does not plan to undertake its own special activities, owing to a shortage of resources, although it will contribute to the events already scheduled by university students and by the Ministry of Culture. Another has agreed to support a conference by the National Blue Shield Committee, in part, through the provision of a speaker from the ICRC.

There will also be a collective pledge registered for the 28<sup>th</sup> International Conference of the Red Cross and Red Crescent, committing to use the Hague Convention Anniversary in 2004 to promote interest in protecting cultural heritage, and where necessary, encouraging States to become parties to the relevant treaties and to implement them effectively at the national level. It is hoped that as many members of the International Conference as possible (both Movement components and States) will feel able to endorse this collective pledge.

## **5. THE FUTURE**

The 2001 Council of Delegates resolution seems to have served a useful purpose. It has given recognition and support for the ICRC to continue its work in the field of cultural property protection. Resolution 11 has also provided helpful encouragement to National Societies to consider the issue as a natural part of their regular work in promoting, disseminating and implementing IHL. More remains to be done, however: only about 55% of the international community is a party to the 1954 Hague Convention (States with a common law legal tradition are particularly absent); the 1999 Second Protocol is not yet in force; and as seen from recent armed conflicts, more needs to be done to implement the treaties effectively at the national level, and to ensure respect for the relevant rules.

The 50<sup>th</sup> Anniversary of the adoption of the Hague Convention in 2004 is an ideal opportunity for all components of the Movement, individually and in co-operation with governments, to promote the issue and to make progress on the areas for improvement. It is also a reason to initiate contacts with other relevant organisations at the national and international levels, and to work with them to raise public awareness of the importance of protecting cultural property in the event of armed conflict. Such co-operation could also prove helpful in promoting ratification and in giving practical effect to the treaty rules.

\* The British Red Cross would like to thank the ICRC's Advisory Service on IHL, and the sister National Red Cross and Red Crescent Societies, which kindly contributed the information upon which this report is based.