



United Nations
Educational, Scientific and
Cultural Organization



The Protection of the
Underwater Cultural Heritage

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ANGOLA

National Report on Underwater Cultural Heritage

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Introduction:

My presentation will be to show how in Angola we are studying the cultural heritage, mainly the underwater one. In brief, I will present four (4) chapters according conference's rule as:

1. National report about Protection of underwater cultural heritage;
2. Reporting Legal issues
3. Adopted Measures
4. Process to ratification

About it, the most important to say is that in Angola there are few investigators in culture area. Worried with the protection of underwater cultural heritage, the Institute of Cultural Patrimony of the Ministry of Culture is developing a process to know the underwater areas to investigate and protect against non authorized people.

Besides, the Ministry of Culture is preparing and will send in this year to the Foreign Relations Ministry the process of ratification of four UNESCO's conventions including to protect the underwater cultural heritage. In special, this process according the law of International Treated of Angola must be appreciated by Minister's Council, approved as a Resolution and signed in by the President of the Republic.

The main instrument to protect the underwater cultural heritage is the Law of Cultural Heritage, approved in 2005. In this legal instrument the Angolan legislator didn't talk about underwater cultural heritage, but "archeological cultural heritage" including in this expression the ground and underwater cultural objects.

There are many references about wrecks and objects from last centuries in our underwater. At this moment, isn't possible talk about it, because the national report didn't finish.

After a long war period, Angola is growing toward the development and the protection of all existent cultural heritages is a priority of the Government.

Of course there are many questions about the convention that countries must prevent. That's why we think will be useful this initiative of UNESCO's Bureau to discuss the Convention.

I. General Situation

According with the Convention is considered Underwater Cultural Heritage the all traces of the human existence being a cultural, historical or archaeological character that have been partially or total underneath of water, periodically or continuously, during at least 100 years.

Africa for being considered as the cradle of the humanity conserves not only in its underground, as in its maritime canals, an immense reserve of the history of the continent and the world. However, this cultural heritage is not object of scientific exploration and spreading's, as the made ones in other continents. However, of between these cultural heritage relics, we meet architectonic objects that are part of the memory of our people.

In Angola, as in some developing countries, the recent armed conflict delayed the scientific inquiry, it propitiated the sprouting of hunting-treasures and the disrespect for the collective memory, or, in other words, of the underwater cultural heritage.

In a period as to the current one where the States falls again for the regional integration, the Convention for the protection of Underwater Cultural Heritage establishes the celebration possibility, between the States Parts, of bilateral, regional agreements and until multilateral, with sight to preserve the requested, common cultural heritage or in cause (it is seen redaction of the Article 6.^o).

They are foreseen in this Treating, disposals that impel the states Parts to take measured to forbid the entrance in the territory, the illegal commerce and the ownership and over all the exportation or illicit use it underwater cultural heritage. For this reason, we think that nothing it hinders the States to exert the right of following on this cultural heritage, when embezzled.

Preservation and conservation of cultural heritage, over all when it involves the taking of measures that foresaw the breaking of its structure and material integrity, is only efficient when effectively it has knowledge of the places where if they find located or intent the underwater cultural heritage.

Therefore, in the domain of the cooperation between the States Parts, the formation in underwater archaeology is basic, in the measure where it endows the country with technology for protection and technician formed to continue to exert this task of check lists.

It must be taken care of equally to the possibility of the ratification of this convention to be able to demand of the part of the Ministry of the Culture the creation of competent services, nominated a Public Institute, that will have for specific attributions the maintenance, protection, conservation, presentation and management of the cultural heritage, the inquiry and the education on the underwater cultural heritage.

II. Legal Issues

In the accomplishment of its external politics, Angola being a sovereign and independent State, respect the United Nation's principles of the Letters of the Organization, of the Letter of the African Union (old Organization of African Unit) respectively; aiming at the establishment of friendship relations and cooperation with the too much citizens of International law, in the base of the principles of the mutual respect for the sovereignty and territorial integrity, equality, not mediation in the internal subjects of each country and reciprocity of advantages.

The present Constitution of Angola didn't foresee explicit legal rules about the protection of cultural heritage. Meanwhile, culture is an area foreseen in the future constitution that are been discussing. In this instrument, there's a duty to preserve and defend the cultural heritage, giving emphasis to the State's rule do preserve this heritage.

The Convention on the protection of underwater cultural heritage is regulated by the Law n.º 6/90 of May 5h, the Law of the International Treated. It is understood for the Treat International, in the legal definition, to any agreement whichever its assignment - in the case in to a Convention - concluded in wrote instrument between the Angolan State and other citizens of international law of which legal effect happen.

The most important law in terms of protection of cultural heritage is the Law of Cultural Heritage (Law n.º 14/05). There isn't a specific legal rule to protect of underwater cultural heritage. In this Law, this protection is understood by the "specific regime for archaeological cultural heritage".

In this terms, are archaeological works all investigations aimed to discover objects considered as a cultural heritage, which include the soil and underground explorations, and the underwater explorations inside the national land.

It shows, that there are a few rules about matter, and the adoption of the Convention it's an important pass toward the definition of this area of tangible heritage.

The row behind the cultural heritage and the environment is short. In Angola, the Law of Basis of Environment (Law n.º 5/98) it's an important instrument to protect the natural resources and all around it. This law refers that the Government must "assure the protection of environmental, historical and cultural patrimony" and should take always measures to defence it (article 12.º).

Of course, are not taking about directly of underwater cultural heritage. But, without a special law we must use the general ones.

III. Practical measures

The first measure to protect the underwater cultural heritage is to know how it's regulated the underwater exploration in Angola. As we saw before, there's no specific rule to cultural patrimony. But, we should apply subsidiary the regulation of scientific investigation on biological resources in the Angolan water, and the Law of Cultural Patrimony.

The second pass is the ratification of the main Conventions of UNESCO namely:

- Protection and Promotion of the Diversity of Cultural Expressions (2005)
- Safeguarding of the Intangible Cultural Heritage (2003)
- Protection of the Underwater Cultural Heritage (2001)
- Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property (1970)
- Protection of Cultural Property in the Event of Armed Conflict (1954)
- Universal Copyright Convention (1952, 1971)

The third pass is to make efforts to regulate the Law of Cultural Patrimony of Angola, which is necessary.

The fourth pass is to value the stage of our institutions to put in practice what is foreseen in the Conventions we intent to subscribe.

The fifth pass is to create in the internal jurisprudence a legal package that allows setting normative actions.

The sixth pass is to bet in the formation of public employees.

At the same time, we are making efforts to have a list of all classified cultural heritage, tangible and intangible, trying to have cooperation with states in the culture domain.

IV. Ratification of the UNESCO 2001 Convention by Angola

According with the article 4.^o ex vi article 2.^o b) of the Law n.^o 6/90 of 5 of May, the Governmental Treated is those that being concluded under the solemn form it's validity in the internal jurisprudence are subject of approval of the Government.

The Convention in analysis is subjects to the Ratification of Angola and justifies that it's classified as a Treated Governmental, in the measure that the Convention of the Protection of the underwater Cultural heritage is a treated that include cultural questions (art. 4.^o b) in finishes of the Law n.^o 6/90).

In accordance with the Article 26.^o of the Convention on the Protection of the Underwater Cultural Heritage, the Convention is subjects to the ratification, acceptance, approval and adhesion of the States members of UNESCO. Angola is member of UNESCO. The Law n.^o 6/90 on the International Treated establishes the transaction of these two forms of conclusion of the Treated.

The ability for negotiation of the Convention on the Protection of the Underwater Cultural Heritage is of the Ministry of the Culture that, in contribution with the Foreign Relation's Ministry, **unchains it** (Article 6.^o of the Law n.^o 6/90).

Ratification

In the terms of the Law n.^o 6/90 the transaction of the procedure for the Ratification of the Convention on the Protection of the underwater Cultural heritage consists of the following one:

- the Foreign Relation's Ministry guides the preparation of the process of ratification of the treated one in narrow contribution with the Ministry of the Culture;
- the process is submitted to the appreciation of the Cabinet, in a period of 15 days;
- the Cabinet approves Treat through as a Resolution in the terms to the Article 110.^o c) of the Constitutional Law;

After the approval for the Cabinet, the process is sent to the Parliament that, in the use of its faculties foreseen in the Article 88.^o k) of the Constitutional Law, ratifies the Convention through a Resolution (vide Article 8.^o of the Law n.^o 6/90), which will be annexed the respective texts, in Portuguese language and one any original language of the Treated.

The President of the Republic will sign the instruments of adhesion of the treated ones under the form of Letter that will be sent later to the Department of state, in the terms of Article 13 n.^o1, Law n.^o 6/90 and of the Article 66.^o x) of the Constitutional Law.

Approval

In the terms of the Law n.^o 6/90 the transaction of the procedure for the Approval of the Convention on the Protection of the Underwater Cultural Heritage consists of the following one:

- the Foreign Relation's Ministry guides the preparation of the process of ratification of the treated one in narrow contribution with the Ministry of the Culture;
- the process is submitted to the appreciation of the Cabinet, in the stated period of 15 days;
- the Cabinet approves the Treat one through as a Resolution, in the terms of the Article 110.^o c) of the Constitutional Law, which will be annexed the respective texts, in Portuguese language and one any original language of the Treated.

The President of the Republic will sign the instruments of approval of the treated ones under the form of Letter that will be sent later to the Department of state, in the terms of the Article 13.^o n.^o1, Law n.^o 6/90 and of the Article 66.^o x) of the Constitutional Law.

The instruments of ratification, acceptance or approval will have to be deposited next to Director-General of UNESCO, in compliance with the respective constitutional rule.

V. Final Thought

Besides in English language we say “cultural heritage”, in Portuguese and in Angola we prefer to call cultural patrimony and not, for example, cultural property, which senses are different of our understood about the theme, and it’s more than a literal translation. It’s how it called the institute of Ministry of Culture competent for this: institute of cultural patrimony.

We have little information about what is the situation of protection of underwater cultural heritage in Angola. The Institute of Cultural Patrimony hasn’t finish it work about this, that’s why we can’t present details about which patrimony we have in the underwater of Angola. Of course we know about a wreck far away from Luanda, and some places in other around the country. We know also, that the war in Angola was an handicap to this kind of work.

In synthesis, the Convention of Underwater Cultural Heritage for not wounding the legal principles nor the internal legal system on the other hand, and for another one for bringing one disciplines new to the Right of the internal Cultural Patrimony, whose legislation does not foresee this protection, thus covering this legislative vacuum and conferring bigger positivism to the constant norms of sub Section III (Areas of Aquatic Protection) of the Law of the Aquatic and Biological Resources (New Law of Fishing), Law n.º 6-A/04).

Angola, has I could say, hasn’t an explicit rules to protect the underwater cultural heritage. So, what to do? How can it be protected? My answer is simple: while the normative actions are to be prepared, while the law of Cultural Patrimony doesn’t foresee an explicit rule, for criminal damage nobody can be make responsible for this or be judged for this, according the criminal law.

For the civil and state law, making an extensive interpretation perhaps we can apply the international rules to the case, as UNESCO’s member state.

Finally, to say that the culture and is new areas of study is a challenge for everybody. In Angola we know that and our opinion is that the protection of cultural heritage stats in the school. The rules of cultural heritage must be part of policy of state, as fortunately is happen in Angola.

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