

UNESCO Expert Meeting on the Protection and Promotion of Museums and Collections



11-13 July 2012, Rio de Janeiro, Brazil

I. Introduction

36 C/Resolution 46

*“the Director-General to conduct an **assessment of the range of possible modalities for the protection and promotion of museums and collections in times of war and in times of peace** on the basis of the 1954 Convention (...) and the 1970 Convention (...), and to submit that assessment to the Executive Board for examination at its 190th session”.*

It also invites the Director-General “to convene a **meeting of experts**, in consultation with ICOM, to assist her in the preparation of the above-mentioned assessment, it being understood that such assessment should include exploring any concepts related to this topic” and “welcomes the offer from the Government of **Brazil** to host and finance the above-mentioned meeting”.

II. Protection and Promotion of Museums and Collections in times of war and in times of peace

- The 1954 Hague Convention for the Protection of Cultural Property in the event of armed conflict
→ « The Hague Convention »
- The 1970 Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property
→ « The 1970 Convention »

The Hague Convention and its two protocols

- **First** international agreement of universal vocation focused exclusively on the protection of tangible cultural heritage in the event of armed conflict
- Entry into force: **7 August 1956**
- High Contracting Parties : **123**



Article 1

covers, among other things, movable cultural property of great importance to the cultural heritage of every people, irrespective of origin or ownership, such as works of art, manuscripts, books and other objects of artistic, historical or archaeological interest, scientific collections, important collections of books or archives as well museums.

!!! Same definition of cultural property used by the 1954 and 1999 Protocols (agreements for the protection of museums and museum collections as well)



Both museums and museum collections are protected in peacetime and wartime by the Hague Convention and its Protocols

The 1970 Convention

- Entry into force: **24 April 1972**
- States Parties: **122**



Convention for the fight
against the illicit trafficking
of cultural property

Article 1

Provides for the protection of movable cultural property



It explicitly covers museum to the extent that the property included therein:

- *has been specially designated by a State Party as being of importance for archaeology, prehistory, history, literature, art or science; and,*
- *belongs to the categories mentioned.*

III. The importance of peacetime safeguarding measures under

- The 1954 and 1970 Conventions
- The Second Protocol to the Hague Convention

And other tools for the protection of museums and museum collections

- Object ID
- Codes of Ethics
- Police register

The Hague Convention

Article 3

provides for the obligation to take appropriate peacetime measures against the foreseeable effects of armed conflict.



Article 5

sets forth preparatory measures including the:

- preparation of inventories,
- planning of emergency measures for protection against fire or structure collapse, and
- preparation for the removal of movable cultural property or
- provision for adequate in situ protection of cultural property.



Both museums and museum collections profit from the implementation of such measures (particularly the establishment and update of inventories)

The 1970 Convention

Article 5

requires the establishment of national services dedicated to the protection of cultural heritage through the promotion and development of museums and museums collections.

paragraph (b)

Establishment and update of lists of important public and private cultural property, the export of which, would constitute an appreciable impoverishment of the national cultural heritage, such lists being based on inventories of protected property.

paragraph (c)

Promotion of the development or the establishment of scientific or technical institutions such as museums to ensure the preservation and presentation of cultural property



Obviously, the museums profit from the implementation of such measures



Object ID

An international standard for describing cultural objects

Application of Article 5(b) of the 1970 Convention
Collaboration between the Getty Information Institute and UNESCO

4-step process of documentation:

1. photographs
2. answers to specific questions about the object (distinguishing features, materials, etc.)
3. short description of the object, and
4. keeping the documented information in a secure place.



The Object ID helps combat the illegal appropriation of art objects by facilitating documentation of cultural property, by contributing to the search of provenance, by defining their clear and lawful origin, and by bringing together organizations around the world that can encourage its implementation.

Codes of Ethics

Application of Article 5(e) of the 1970 Convention
Adopted by the ICPRCP at its 10th session (1999)
Endorsed by the 30th session of the GC of UNESCO (1999)

→ UNESCO promotes this international code of ethics for traders in cultural property which builds on the principles laid down in the 1970 Convention.



ICOM Code of Ethics for Museums (adopted in 1986 and revised in 2004). It establishes the values and principles shared by ICOM and the international museum community.



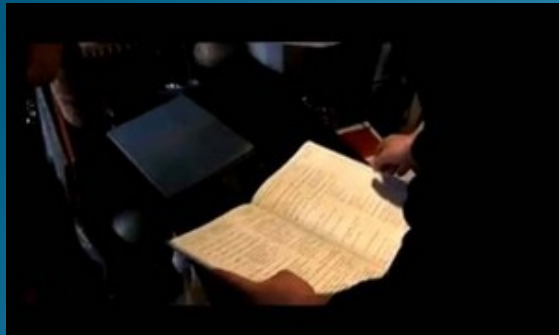
Both Codes has encouraged a number of museums to adopt ethical rules for their acquisitions.



Police register



Article 10 of the Convention obliges antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold as well as to inform the purchaser of the cultural property of the export prohibition to which such property may be subject.



Indirect contribution to the outstanding role of museums and the protection of their collections.

IV. Obligation of Museums under the 1970 and 1995 Conventions related to search of provenance and to stolen or illegally exported cultural property

1970 Convention Article 7 (a-b)

- Preventive measures to prevent museums from acquiring cultural property originating in another SP and illegally exported after entry into force of the Convention for both SP
- Obligation of information
- Prohibition of import of cultural property stolen from a museum in another State Party (if inventoried)

1995 Convention, Article 4

Explicit and detailed provisions regarding search of provenance and the exercise of due diligence when acquiring an object.



thus enhancing the level of guarantee and protection provided to museums and their collections against illicit traffic, illegal export and unlawful appropriation.



V. Complementary role of the ‘1995 UNIDROIT Convention on stolen or illegally exported cultural objects’ in return and restitution of cultural property including those from museums

Complement to the 1970 Convention by adding a stronger litigation framework and expanding standing for wronged parties.

- Focus on restitution of cultural property
- Private law provisions : physical persons and legal persons are allowed to seek restitution through courts or other competent authorities
- Clear time limits are setting

→ a balance between the needs of legal predictability and facilitating recovery by the original owner (case of theft) or interested state (case of illicit export).



This Convention attempts to deal with legal obstacles present in the return and restitution of cultural objects and to enhance the role of museums.

VI. Role of other UNESCO's standard-setting instruments for the protection of museums and museum collections

- The First Protocol
- The Second Protocol
- The 2001 Convention
- The 2003 Convention

The First Protocol

- Prohibition for States Parties which are Occupying Powers, from exporting movable cultural property from occupied territory.
- Other States Parties are required to:
 - take into custody cultural property imported into their territory either directly or indirectly from any occupied territory.
 - return, at the close of hostilities, to the territory previously occupied, cultural property which was originally in its territory, if such property has been exported from occupied territory.
- Cultural property may not be retained as war reparations → fundamental importance with regard to museum collections taken into custody by a belligerent power which wishes to exercise its right to war reparations.



contribution to the protection of museums collections

The Second Protocol

Article 9

Prohibiting and prevention of any illicit export in occupied territories, and other removal or transfer of ownership of cultural property.

Articles 6, 7 and 8

Specific obligations related to respect for cultural property, precautions in attack and precautions against the effects of hostilities.

Articles 15 and 21

Penal sanctions for serious and other violations.



contribution to the protection of museums and museums collections

The 2001 Convention on the protection of the Underwater Cultural Heritage

- Entry into force: **2 January 2009**
- States Parties: **41**



Article 2.7

Prohibition of commercial exploitation of this heritage

Article 2.6

Recovered underwater cultural heritage shall be deposited, conserved and managed in a manner that ensures its long-term preservation.

Rules annexed to the Convention (10,33,34,35)

Detailed regulations on the preservation and storage, as well as exhibition of underwater heritage



contribution to the protection and preservation of museum collections

The 2003 Convention for the Safeguarding of the Intangible Cultural Heritage

- Entry into force: **20 April 2006**
- States Parties: **143**



Article 2

Objects associated with expressions of intangible cultural heritage are included in the definition given in the Convention.

Museums may also participate in the conduct of inventories, in the implementation of other measures for safeguarding, as well as activities aiming at improving education, awareness-raising and capacity-building. Among the programmes inscribed in the Register of Best Safeguarding Practices, two are implemented by a museum, and one concerns the creation of a museum.



This Convention and its operational directives may imply the role of museums in the safeguarding of this particular cultural heritage.

VII. Mandate and role of the ICPRCP Committee

- Set up in 1978
- UNESCO Member States who have lost certain cultural objects of fundamental significance and who are calling for their restitution or return, in cases where international conventions cannot be applied, may call on the ICPRCP Committee
- Functions :
 - Advisory role (framework for discussion and negotiation, but its recommendations are not legally binding)
 - promotion of multilateral and bilateral cooperation
 - development of public information campaign
- Statutes, Article 4 (§4&6)
- Mandate for Mediation and Conciliation

- The Fund
 - Created in compliance with Recommendation No6 (10th session of the Committee in 1999)
 - Aim to support Member States in their efforts to pursue the return or restitution of cultural property and effectively fight illicit traffic in cultural property,
 - Rules for the functioning of the Fund Chapter IV (a) and (b)
 - Appeal by the Director-General to contribute to the Fund (2001)



This Committee and its Fund are another possible modality for the protection and promotion of museums and collections.

VIII. The UNESCO Recommendations

14 December
1960

- Recommendation concerning the Most Effective Means of Rendering Museums Accessible to Everyone

19 November
1964

- Recommendation on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property

19 November
1968

- Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private works

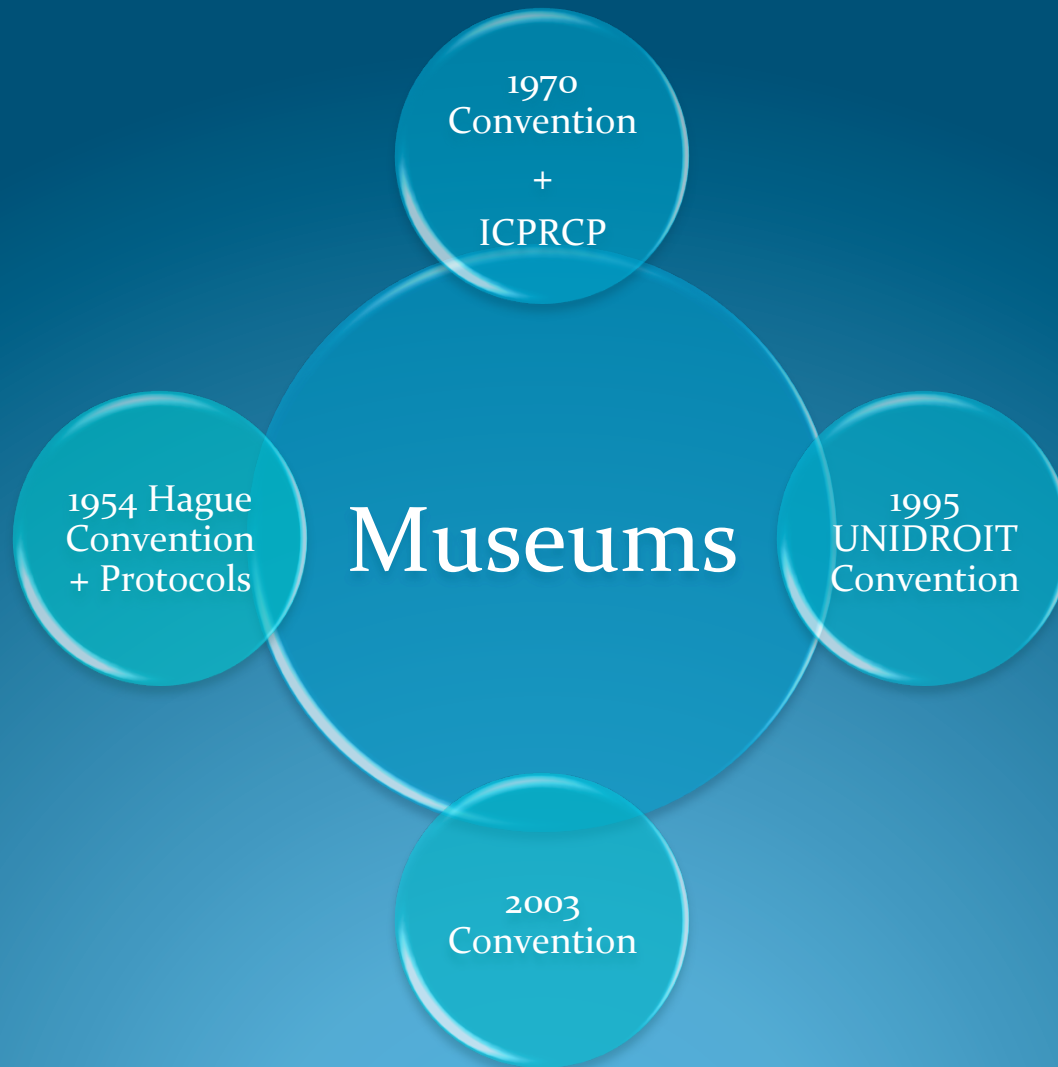
26 November
1976

- Recommendation concerning the International Exchange of Cultural Property

28 November
1978

- Recommendation for the Protection of Movable Cultural Property

IX. Conclusions



How the protection and the promotion of museums and museum collection can be improved?

- Ratify widely the existing international standard-setting instruments
- Make a significant effort to fully implement them at the national level through, in particular, adoption and update of the relevant national legislation, enforcement measures, information sessions and capacity-building training, targeting specially training on inventories, security of museums premises, training of relevant staff and, elaboration and adoption of codes of professional ethics.
- Develop and promote the use of practical tools that help protecting museum collections. In the area of the promotion of museums and museum collections, it is necessary to support all initiatives in this regard, particularly in countries where museums and museum activities may be threatened.

For more information

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United Nations
Educational, Scientific and
Cultural Organization



Convention for the fight
against the illicit trafficking
of cultural property