

Promoting the Comprehensive Protection of Cultural Property: The 8th Regional Conference on International Humanitarian Law in Asia-Pacific, 24-26 September 2019, Bali, Indonesia

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ABSTRACT

This article provides an overview of the 8th Regional Conference on International Humanitarian Law in Asia-Pacific, which carried the umbrella theme of protection of cultural property. Co-hosted by the International Committee of the Red Cross (ICRC) and the United Nations Education, Scientific, and Cultural Organisation (UNESCO), the Regional Conference served as an avenue for the participating States to discuss and exchange views as well as good practices on the comprehensive protection of cultural property. The sub-themes covered during the Regional Conference were inter alia the international protection regime of cultural property, how cultural property is protected in times of emergency such as armed conflict or natural disaster, the importance of national implementation to protect cultural property, and the roles of government agencies and non-government organisations in protecting cultural property both at national, regional, and international levels. Besides sessions on the cultural property protection, the participating States also commemorated the seventieth year of the 1949 Geneva Conventions adoption by reflecting the relevance and importance of international humanitarian law to the Asia-Pacific region, and they were briefed on the thirty-third International Conference of the Red Cross Red Crescent Movement. In addition, this article will outline several concluding recommendations from the ICRC and the UNESCO which may be useful in assisting efforts to protect cultural property in various contexts.

Keywords: cultural property protection, international humanitarian law, national implementation, Geneva Conventions

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Introduction

In 2019, the International Committee of the Red Cross (ICRC) and the United Nations Educational, Scientific and Cultural Organization (UNESCO),¹ with the support of the Government of the Republic of Indonesia, co-organized the Eighth Regional Conference on International Humanitarian Law on the theme of cultural property protection (hereinafter, the “Regional Conference”). Attended by more than fifty State officials from fourteen countries in the Asia-Pacific region², the regional conference was initiated out of the strong interest for sharing good practices on the protection of cultural property. Previous to this edition of the conference, participating countries to the Seventh Regional Conference³ expressed a wish to better understand issues surrounding the protection of cultural property.

Taking place in Indonesia, which is home to nine World Heritage Sites,⁴ the Regional Conference had the following objectives:

- to strengthen the capacity of State representatives, with a view to putting in place in their respective countries comprehensive policies to (a) protect cultural property in the event of armed conflict and other emergency situations associated with disasters caused by natural and human-induced hazards, and (b) to prevent illicit trafficking of cultural property;
- to raise awareness about the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols;
- to identify effective national mechanisms to implement the previously mentioned treaties;

¹ This conference was the first major collaboration between the ICRC and the UNESCO for the promotion of the protection of cultural property in the Asia-Pacific region, following the signing of a Memorandum of Understanding in 2016.

² Representatives from the relevant ministries and departments on foreign affairs, defence, justice and cultural affairs of the following countries participated in the regional conference: Brunei Darussalam, Cambodia, People’s Republic of China, Fiji, Republic of Indonesia, Republic of Korea, Lao PDR, Malaysia, Mongolia, Myanmar, the Philippines, Thailand, Timor-Leste and Viet Nam.

³ Organized by the ICRC with the support of the Government of Indonesia, the 7th Regional Conference on International Humanitarian Law in Asia-Pacific was held in Jakarta, Indonesia on 26-27 September 2018. The participating countries were: Australia, Brunei Darussalam, Cambodia, Republic of Indonesia, Lao PDR, Malaysia, Myanmar, New Zealand, the Philippines, Singapore, Thailand, Timor-Leste and Viet Nam.

⁴ For more information on the World Heritage Sites in Indonesia, see UNESCO, “World Heritage List”, *World Heritage Convention*, available at: <https://whc.unesco.org/en/list/> &order=country#alphaI (accessed 24 February 2021).

- to share best practices on the protection of cultural property from participating States;
- to provide a platform for exchange on current developments in International Humanitarian Law (IHL) generally, and on IHL related to Cultural Property Protection specifically; and
- to assist States in constituting and developing National IHL Committees as a key means for effective IHL implementation.

As reflected in the above objectives, the Regional Conference discussed encompassing issues on IHL with cultural property protection as an anchor. The forum also commemorated the seventieth anniversary of the adoption of the 1949 Geneva Conventions⁵ and the twentieth anniversary of the adoption of the 1999 Protocol to the 1954 Hague Convention.⁶ The participating countries were able to exchange best practices and share experiences on the protection of cultural property, with insights from experts and practitioners. In their opening remarks, representatives of the Government of Indonesia, the ICRC and the UNESCO all agreed that protecting cultural property means protecting and preserving humanity's legacy, identity, memory and knowledge.

A representative of the Ministry of Foreign Affairs of Indonesia underlined that the protection of cultural property in times of emergency is not of lesser importance than the protection of people. Likewise, the ICRC viewed the conference as a forum not only to discuss the protection of cultural property during armed conflict, but also in times of natural disasters and against illicit trafficking. A representative of UNESCO's Culture Sector recalled the landmark United Nations (UN) Security Council Resolution 2347,⁷ adopted in March 2017, which called on all UN Member States to ratify the 1954 Hague Convention and its two Protocols as one of the essential measures to ensure better protection of cultural heritage without discrimination.

⁵ Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, 75 UNTS 31 (entered into force 21 October 1950); Geneva Convention (II) for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea of 12 August 1949, 75 UNTS 85 (entered into force 21 October 1950); Geneva Convention (III) relative to the Treatment of Prisoners of War of 12 August 1949, 75 UNTS 135 (entered into force 21 October 1950); Geneva Convention (IV) relative to the Protection of Civilians in Time of War of 12 August 1949, 75 UNTS 287 (entered into force 21 October 1950).

⁶ Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, 249 UNTS 215 (entered into force 7 August 1956); Second Protocol to The Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict of 26 March 1999, 2253 UNTS 172 (entered into force 9 March 2004).

⁷ UNSC Res. 2347, 24 March 2017, Operational Paragraph 7.

Given the comprehensive coverage of the Regional Conference, this article will focus on the highlights of the conference, including best practices in the field of cultural property protection. The article is structured into three parts. The first will be on the sessions that looked at cultural property protection from a comprehensive point of view, covering issues related to the international protection regime for cultural property, national implementation measures to protect cultural property, civil-military relations in the protection of cultural property and the role of law enforcement agencies in protecting cultural property. Second, discussions during the three general sessions on IHL will be reviewed—specifically these are the commemorative session on the seventieth year of the adoption of the four 1949 Geneva Conventions, an introductory session on the thirty-third International Conference of the Red Cross Red Crescent Movement, and an experience-sharing session on best practices to implement IHL at national level. Lastly, the article will outline concluding recommendations from UNESCO and ICRC, which may be useful in assisting efforts to protect cultural property in various contexts.

Sessions on the Protection of Cultural Property

The Regional Conference was tailored to provide a comprehensive outlook on the protection of cultural property. Sub-topics covered include: an overview of the international protection regime for cultural property; the 1999 Protocol to the 1954 Hague Convention; a comprehensive policy for cultural property protection; national implementation measures for cultural property protection; the role of the Armed Forces and civil-military relations in the protection of cultural property and the role of law enforcement agencies in protecting cultural property.

Overview of the International Protection Regime for Cultural Property

Cultural property protection is often discussed through a prism of situations of conflict, though this may not be applicable to all scenarios. With this starting point, a representative of UNESCO's Culture Sector discussed the various international frameworks for the protection of cultural properties. The 1954 Hague Convention and its two Protocols, which are at the core of cultural property protection during armed conflict, are complemented by other international instruments including the 1970 UNESCO Convention,⁸ the 1972 Cultural Heritage Convention,⁹ and the 2001

⁸ Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 14 November 1970, 823 UNTS 231 (entered into force 24 April 1972).

⁹ Convention for the Protection of the World Cultural and Natural Heritage of 16 November 1972, 1037 UNTS 151 (entered into force 17 December 1975).

Underwater Heritage Convention.¹⁰ These treaties are further strengthened by relevant UN Security Council Resolutions, in particular, Resolution 2199 (2015) condemning the destruction of cultural heritage in Iraq and Syria by the Islamic State of Iraq and the Levant (ISIL), Al-Nusrah Front and related entities¹¹, Resolution 2249 (2015) condemning the destruction and looting of cultural heritage by ISIL,¹² and Resolution 2347 (2017) also condemning the destruction, looting and smuggling of cultural properties by parties to the conflict.¹³

Given the specific contexts where attacks by non-State armed groups against cultural heritage sites have taken place in Syria, Iraq, Yemen and other territories, the importance of viewing the protection regime under the 1954 Hague Convention together with the 1970 UNESCO Convention has been underscored. It is also necessary to engage domestic agencies such as the military, police and customs officials, in the implementation of the conventions. International cooperation is also necessary, and institutions such as UNESCO, ICRC, International Criminal Police Organization (INTERPOL), the International Criminal Court and other regional organisations could play a role in cultural property protection during armed conflict. The second speaker, a representative for the ICRC, emphasized that dialogue between States and other relevant actors should be sustained, to ensure accountability. A representative of the World Customs Organisation (WCO) underlined the practical consideration that prosecution becomes impossible when the lines of responsibility among relevant agencies are unclear. Strong cooperation between law enforcement officials and cultural heritage experts is necessary for putting a stop to the rapid movement of cultural property across borders, during times of emergency.

It was further raised during the discussion that attacks against cultural property in armed conflict are often precursors to other humanitarian and human rights law violations. To mitigate this situation, measures for protection should be prepared and implemented before the outbreak of an armed conflict, otherwise there would be insufficient time to take measures effectively. To do so, local actors' expertise on cultural property would also need to be galvanized to ensure that measures taken are implemented well within the context of local practices and values. A representative of the Government of Indonesia provided the example of how its Ministry of Education and Culture works with local experts to classify heritage sites to receive cultural property protection under the applicable national legislation.

¹⁰ Convention on the protection of the underwater cultural heritage of 2 November 2011, 2562 UNTS (entered into force 2 January 2009).

¹¹ UNSC Res. 2199, 12 February 2015, Operational Paragraph 15.,

¹² UNSC Res. 2249, 20 November 2015, Operational Paragraph 3.

¹³ UNSC Res. 2347, 24 March 2017, Operational Paragraph 11.

Twenty Years of the 1999 Second Protocol: Relevance and Effectiveness

This session commemorates the relevance and effectiveness of the 1999 Second Protocol to the 1954 Hague Convention, on the occasion of its twentieth anniversary. As pointed out by an academic expert on international cultural heritage law, there are two key elements to the Second Protocol's complementing and strengthening the protection regime under the 1954 Hague Convention. First, States Parties are required to establish serious violations of the Second Protocol as criminal offences under domestic law, a significant pillar in ensuring the accountability of alleged perpetrators. Second, the Second Protocol extends the protection of cultural property to non-international armed conflicts, which had not been the case under the 1954 Hague Convention and its First Protocol. In addition to these two elements, the same expert elaborated several specific preparatory measures that should be carried out in peacetime, such as the development of military regulations, training of military personnel, recruitment of specialized military personnel and inventory of cultural property sites. The Second Protocol also introduced the concept of "enhanced protection status", which requires a specific military rank for the application of the military necessity waiver, and which has also served to strengthen the protective regime for cultural property.

To further understand the relevance and effectiveness of the Second Protocol, conference participants were able to listen to stakeholder experiences from Cambodia and France.¹⁴ Cambodia has established various legal measures to protect cultural heritage sites, including through the creation of the Authority for the Protection of the Site and Management of the Region of Angkor in 1995. Besides designating an entity for this task, Cambodia has also benefited from international cooperation: more than sixty temple restorations have been implemented for the Angkor archeological site through partnership with over seventeen States and twenty-eight international organisations. For France, on the other hand, the French Code of Defense specifies military and civil sanctions for violations of provisions related to the protection of cultural property. Similar sanctions can also be found in the French Criminal Code and the Criminal Procedural Code. In practice, the Second Protocol is routinely applied by the French Armed Forces by establishing lists of non-targetable objects in the preparation of attacks, as was seen during Operation Chammal in Iraq and Syria, where such exercise was carried out in cooperation with UNESCO. It was also noted that while a strong cooperation among relevant national

¹⁴ Both Cambodia and France are parties to the 1999 Second Protocol. Cambodia became a State party in 2013 and France in 2017. The full list of States Parties to the 1999 Protocol is available at https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp_viewStates=XPages_NORMStatesParties&xp_treatySelected=590 (accessed 12 March 2021).

agencies is important, identification of key counterparts within each institution is also necessary.

Cultural Property Protection as a Matter of Comprehensive Policy

As part of the 2019 regional conference's objectives to look at the protection of cultural property comprehensively, this session heard recommendations and good practices from different contexts. A representative of the UNESCO Secretariat reiterated the key message that cultural property protection is multifaceted, whether during armed conflict or periods of natural disaster. First, there is the inter-temporal dimension which is focused on the risk management cycle before, during and after an emergency. It is important for States to have the necessary capacity to prevent, diminish and overcome the loss of cultural property, which could all be avoided with adequate preparedness. Second, cooperation and coordination among the relevant actors are crucial for the inter-sectoral dimension. For instance, cooperation between UNESCO and relevant cultural and emergency actors in Mali in 2018 for capacity-building emphasized the added value of integrating first aid into cultural heritage in traditional emergency operations. The integration of cultural heritage protection elements is also evident in the peacekeeping regime i.e., as is shown by the cultural property protection mandate of the UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).¹⁵ The third dimension is multi-level—one that requires cultural property protection efforts to be conducted at the international, national and sub-national levels. This is seen in community engagement in search and rescue and the implementation of safeguarding measures following the April 2015 earthquake in Nepal.¹⁶ Another example looks at transnational efforts at the UN to the combatting of illicit trafficking of cultural objects.¹⁷ For instance, States are urged to develop and implement broad law enforcement as well as judicial cooperation with the assistance of United Nations Office on Drugs and Crime and in cooperation with UNESCO and INTERPOL to combat illicit trafficking of cultural objects.¹⁸

¹⁵ See UN Security Council Resolution 2100, UN Doc. S/RES/2100 (2013), 25 April 2013, Operational Paragraph 16(f).

¹⁶ UNESCO, "On anniversary of Nepal earthquake, a new partnership for heritage", undated, available at: <https://en.unesco.org/news/anniversary-nepal-earthquake-new-partnership-heritage> (accessed 11 August 2021); UNESCO Kathmandu Field Office, "Recovery and rehabilitation of cultural heritage", undated, available at: <https://en.unesco.org/fieldoffice/kathmandu/culturalheritage> (accessed 11 August 2021).

¹⁷ See UN Security Council 2249, UN Doc. S/RES/2249 (2015), 20 November 2015 and UN Security Council 2347, UN Doc. S/RES/2347 (2017), 24 March 2017.

¹⁸ UNSC Res. 2347, 24 March 2017, Operational Paragraph 11.

Reflections on cultural property protection policies were also shared from the national perspective of Thailand and China. In Thailand, authorities have recently decided to revise legislation to provide a more comprehensive coverage for cultural property protection. Working with local communities where cultural heritage sites are located is also important, as this would help ensure respect for religious or cultural sensitivities, and guarantee mutual respect *vis-à-vis* national actors. In China, on the other hand, cultural property protection during times of armed conflict is anchored on the Constitution, the Law on the Protection of Cultural Relics and its implementing regulations, the Law on National Defense, the Law on Public Security Management and Punishment¹⁹ and the Law on the Protection of Military Facilities.²⁰ Having created a national committee in 2007 to work on IHL dissemination and capacity-building, China also strengthens this legal regime by incorporating elements of cultural property protection into military regulations, decrees and orders, as well as by engaging cultural property professionals who can advise the military on protection measures. China has also integrated elements of cultural property protection into its international agreements with other States on military exercises.

It appeared from the discussions during this session that all States represented in the conference has an existing legal framework on the protection of cultural property. However, these often do not distinguish between situations of armed conflict and peacetime. Another element that is central to achieving a comprehensive policy for the protection of cultural property is inter-ministerial cooperation at the domestic and international levels (e.g., between the Ministry of Culture, armed forces, and law enforcement officials). To this end, the Association of Southeast Asian Nations (ASEAN) has previously initiated a cooperation framework in protecting cultural property and mitigating the impacts of climate change and natural disasters through the ASEAN Vientiane Declaration on Reinforcing Cultural Heritage²¹ and the ASEAN Declaration on Culture of Prevention for a Peaceful, Inclusive, Resilient, Healthy and Harmonious Society.²²

¹⁹ This law regulates minor illegal acts towards cultural property.

²⁰ This law distinguishes between objects of cultural property and military objects.

²¹ Vientiane Declaration on Reinforcing Cultural Heritage of 6 September 2016, available at: <https://asean.org/wp-content/uploads/2016/09/Vientiane-Declaration-endorsed-by-7th-AMCA-24Aug2016.pdf> (accessed 11 August 2021).

²² Declaration on Culture of Prevention for a Peaceful, Inclusive, Resilient, Healthy and Harmonious Society of 13 November 2017, available at: https://asean.org/wp-content/uploads/2021/01/9.-ADOPTION_12-NOV-ASCC-Endorsed-Culture-of-Prevention-Declaration_CLEAN-1.pdf (accessed 11 August 2021).

National Implementation Measures to Protect Cultural Property

This session drew conference participants' attention to national implementation measures on cultural property protection. A representative of the UNESCO Secretariat highlighted several national implementation measures which must be respected both in peacetime and during armed conflict, pursuant to the 1954 Hague Convention and its two Protocols. These measures are *inter alia* (i) ensuring that cultural properties are not used for military purposes and not to be attacked, (ii) placing peacetime safeguarding measures such as the preparation of inventories and the preparation of emergency measures for protection against fire or structural collapse, (iii) ensuring the military receive adequate training and instructions on cultural property protection, and (iv) adopting adequate criminal legislation to deter and sanction crimes against cultural properties. These measures reiterate that while the protection of cultural property is not an active obligation, it is the ultimate objective of the 1954 Hague Convention regime.

National implementation measures in Japan and China were also discussed at this session. Japan implemented the 1954 Hague Convention through its Law on the Protection of Cultural Properties²³ and the Law on the Protection of Cultural Properties in the Event of Armed Conflict²⁴ (and its Implementing Regulations). These instruments provide the legal framework on the definition of cultural property, the distinctive emblems and sanctions for their violation. The inventory of cultural property in Japan is carried out at the national and sub-national levels and is recorded in the "Cultural Heritage Online" database. Japan has also ensured the inclusion of training on cultural property protection in the teaching curricula of the Ministry of Defence and the Self-Defence Forces.

China, on the other hand, actively protects cultural properties for its value to the State and to all of humanity. Chinese authorities have invested in the upgrading of internal systems, manpower and resources as well as updating laws for the protection of tangible and intangible cultural relics. Due to the large number of cultural properties and sites in China, cooperation between the central government and local governments, as well as social organisations, is essential. The protection of

²³ Law No. 214 of 30 May 1950 as amended by Law No. 7 of 30 March 2007 on the Protection of Cultural Property, available at: https://en.unesco.org/sites/default/files/japan_law_protectionproperty_entno.pdf (English translation) (accessed 11 August 2021).

²⁴ Law for the Protection of Cultural Property in the Event of Armed Conflict of 2007, available at: https://en.unesco.org/sites/default/files/jap_law_protection_cultural_property_jporof.pdf (in Japanese) (accessed 11 August 2021). Other national implementation measures on the protection of cultural property in Japan are available at: <https://en.unesco.org/cultnatlaws/list>.

cultural properties is also integrated with regulations on the construction of roads and other infrastructure.

Participants to this session also emphasized how ratifications of the 1954 Hague Convention and its two Protocols reflect and strengthen political commitment among States, which is especially beneficial for small States. The use of technology to protect cultural properties was also discussed, and how it could help raise awareness on the subject through social media and the recording of data on cultural sites destroyed by conflicts.

The Role of the Armed Forces and Civil-Military Cooperation

The first speaker in this session presented the British Army's experience on the protection of cultural property. Even before its ratification of the 1999 Protocol in 2017, the United Kingdom had adopted a policy for its military on cultural property protection and the collection of cultural property geospatial information. More importantly, in 2018, the military established a Cultural Property Protection Unit that consisted of fifteen reserve officers. This unit is tasked to perform training, liaising and support for the planning of military activities, investigate international crimes and support post-conflict cultural property recovery. The Unit's establishment was welcomed by the military early on due to the high level of awareness among the ranks about the importance of cultural property protection for all stakeholders. The United Kingdom also has a specific military working group on cultural property protection, composed of military officers, law enforcement officials, international organisations and non-governmental organisations.

The second speaker, a representative of Blue Shield Pasifika (BSP), presented an overview of its activities on cooperation with the military to protect cultural properties. From its inception, the BSP aimed to enhance civil-military cooperation on cultural property protection by bringing together some fifty senior officials of the Republic of Fiji's Military Forces, law enforcement agencies, cultural institutions and civil society organisations. Outside Fiji, the BSP has also been active in raising awareness in other Pacific Island countries. Besides working together with international partners such as Blue Shield International, UNESCO, and the International Council of Museums (ICOM), the BSP also networks with civil society organisations in the Pacific region. BSP also has experience in using popular media to show the importance of protecting cultural property and the military's role therein, through the screening of films such as *Monuments Men*.²⁵

²⁵ UNESCO, "Screening of the film *Monuments Men*", undated, available at: <https://en.unesco.org/events/screening-film-monuments-men>; ICRC, "Ten must-see films and series for IHL buffs", 2

A legal expert from the Republic of Korea also shared its national experience, where the legal frameworks on the cultural property protection has greatly evolved since 1962. In 2002 a law was adopted to expand the concept of cultural heritage to encompass not only moveable objects, but also the intangible ones. Due to political considerations, the Republic of Korea has not been able to ratify the 1954 Hague Convention as well as specific legislation on the protection of cultural property in the event of armed conflict. However, its domestic legislation has been consistent with the Convention's objectives.

The Role of Law Enforcement Agencies in Countering Illicit Trafficking of Cultural Property

The first speaker in this session represented the WCO, which has identified the control of fragile borders affected by violence and conflict, as one of the biggest challenges in countering the illicit traffic of cultural property. It is thus important to raise customs administrations' awareness on the various issues influencing illicit trade in cultural objects. Since protecting cultural objects from illicit trafficking cannot be left only to customs agencies, it is therefore critical for relevant ministries such as the Ministry of Culture and the Ministry of Foreign Affairs to work together in ensuring that law enforcement agencies have the necessary mandate to operate. The WCO also conducts a specialized training for frontline customs officers to prevent illicit trafficking of cultural property.

An expert from the UNESCO Bangkok Regional Office also reiterated the need for an active collaboration between institutions in charge of cultural heritage and law enforcement agencies. Theft, the dismantling of monuments and illegal ground and underwater excavations particularly affect cultural heritage in the Asia-Pacific region. To further aid stakeholders, practical tools also exist such as the UNESCO database on national cultural heritage laws, the INTERPOL Stolen Works of Art Database, and the ICOM's Red List of Cultural Objects at Risk.

The third speaker from Indonesia spoke of the country's challenging experience in countering illicit trafficking of cultural property across its 17,000 islands. Indonesian legislation includes a specific definition of what constitutes a cultural property. It stresses that, legally, cultural properties can only be removed from Indonesian territory in the interest of research, cultural promotion, and/or exhibition. Indonesia also maintains a national register of cultural property, which includes databases and interactive maps.

November 2017, available at: <https://www.icrc.org/en/document/colombia-ten-must-see-films-and-series-ihl-buffs> (accessed 11 August 2021).

General Sessions on IHL

The Regional Conference also presented an opportunity for the participating delegations to take stock of other important issues in IHL. The three general sessions looked at (1) the continued relevance of IHL in Asia-Pacific seventy years after the adoption of the 1949 Geneva Conventions, (2) the contribution of the International Conference of the Red Cross and Red Crescent Movement to IHL and (3) the best practices from the Asia-Pacific region on the implementation of IHL at national level. These sessions were geared at laying down avenues and best practices for IHL implementation in general, but also assisted in enriching the discussion on cultural property protection.

The Continued Importance of IHL in the Asia-Pacific

Seventy years after the adoption of the 1949 Geneva Conventions, there remain questions on the bearing of IHL in the Asia-Pacific. An IHL expert from China asserted that from the beginning of the diplomatic conference that negotiated the 1949 Geneva Conventions, countries from the region have been familiar with humanitarianism in war. In fact, 13% of the participating States in the diplomatic conference are from the Asia-Pacific. Nevertheless, Asia-Pacific States need to be more open in documenting the implementation of IHL within their borders. This effort would contribute to increasing the understanding of IHL among Asia-Pacific States, and provide opportunities for academic experts to broaden such knowledge base through research and public discussions.

On the subject of implementation and promotion of IHL by different States from the region, delegates from the Philippines and Indonesia shared their national experience. IHL is particularly important to the Philippines given ongoing armed conflicts in the country and their humanitarian consequences. The Philippines has enacted legislation on IHL, including Republic Act 9851 of 2009 giving court's jurisdiction to punish serious IHL violations, and Republic Act 11188 of 2019 providing for the Special Protection of Children in Situations of Armed Conflict. Furthermore, the Philippines has also ratified or acceded to a number of IHL treaties, including the Convention on Cluster Munitions, in 2019. Actual implementation of these legal instruments is key to the reduction of suffering for non-combatants. Indonesia, on the other hand, has also contributed to IHL at the national, regional and international levels. On the national level, it established an inter-ministerial committee on IHL in 1980, and in 2018 enacted legislation to protect the distinctive emblems of red cross and red crescent. Regionally, Indonesia hosted two conferences in 2019 on humanitarian assistance in emergencies and on the protection of civilians in peacekeeping operations. At the international level, Indonesia initiated an open

debate on the protection of civilians in armed conflicts during its UN Security Council presidency in May 2019, which concurrent with the seventieth year of the Geneva Conventions.

During this session, conference participants noted the importance of having States join IHL treaties, so that they can participate in the formulation of international policy frameworks. The role of the ASEAN in the region was also discussed, including the organisation in 2017 of the Regional Conference on Convergences of Humanitarian Actions by the ASEAN Institute for Peace and Reconciliation and the ICRC. The session was concluded with a consideration of the role of the academe in enhancing public awareness on IHL.

The 33rd International Conference of the Red Cross and Red Crescent Movement

The 33rd International Conference of the Red Cross and Red Crescent Movement (33rd IC) was scheduled to be held from 9-12 December 2019.²⁶ Through this session, the ICRC gave conference participants a preview of the issues that will be covered at the forthcoming IC, which is the highest deliberative platform of the Red Cross and Red Crescent Movement for discussing humanitarian issues and setting forth the roadmap for humanitarian actions.

The 33rd IC was to have two main types of outcome documents, the first of which are resolutions to be adopted by the international conference.²⁷ Resolution 1 on “Bringing IHL Home” is focused on strengthening the IHL implementation at national level.²⁸ Resolution 1 also provided suggestions to assist States in implementing IHL, such as defining a roadmap on IHL implementation. The IC’s second type of outcome documents are Pledges, which can be made by States, National Societies and observer organisations. Pledges serve as a voluntary expression of commitment to take action in a certain area, including IHL implementation, which could be reported in the next cycle of the international conference. The ICRC also published a report on “IHL and the Challenges of Contemporary Armed Conflicts” to assist delegations’ preparations for the

²⁶ As one of the statutory meetings of the Red Cross and Red Cross Movement, the 33rd IC gathers all pillars of the Movement, namely the ICRC, the International Federation of the Red Cross and Red Crescent Societies and all National Societies, as well as representatives of the 1949 Geneva Conventions States Parties. More information on the 33rd IC can be found at: <https://rcrcconference.org/about/33rd-international-conference/> (accessed 24 February 2021).

²⁷ Resolutions adopted in the international conference are not legally binding. Adopted resolutions from the 33rd IC can be found at: <https://rcrcconference.org/about/33rd-international-conference/documents/> (accessed 24 February 2021).

²⁸ The full version of Resolution 1 can be accessed at: https://rcrcconference.org/app/uploads/2019/12/33IC-R1-Bringing-IHL-home_CLEAN_ADOPTED_FINAL-171219.pdf (accessed 24 February 2021).

Conference. This report reflects the ICRC's view on contemporary challenges to IHL such as new technologies and the urbanization of conflicts.²⁹

Best Practices on National Implementation of IHL

In the last substantive session, the conference participants were given a brief overview on the best practices for achieving a comprehensive policy on IHL. A member of the Indonesian Permanent Committee of IHL shared the view that a sustained consolidation process is essential, to allow the bridging of different perspectives from relevant ministries into a common ground. This was the practice of the Indonesian Permanent Committee of IHL when considering the possibility of the State's ratification of the 1999 Protocol and working towards consolidating views from different ministries. Cooperation among stakeholders is also an important pillar for a comprehensive policy to work. For instance, various exercises organized by the ICRC and/or UNESCO, including the instant regional conference, had been very helpful in assisting Indonesia to understanding the 1999 Second Protocol. The mammoth task in certifying cultural properties is also another instance in which cooperation becomes a necessity as authorities need to join forces with cultural property experts to complete the certification process.

Recommendations from UNESCO and the ICRC

At the end of the conference, UNESCO and ICRC formulated five recommendations³⁰ for the conference participants:

1. Encourages countries to consider ways to strengthen protection of cultural property as part of their ongoing efforts to implement a comprehensive policy on IHL at the national level;
2. Encourages States to consider the relevance of ratifying or acceding to the relevant international treaties, particularly the 1954 Hague Convention and its two Protocols;
3. Encourages States to take all appropriate implementing measures, including but not limited to legislative, administrative and practical measures, that a ratification or accession entails;

²⁹ The 2019 report can be found at: <https://www.icrc.org/en/publication/4427-international-humanitarian-law-and-challenges-contemporary-armed-conflicts> (accessed 24 February 2021).

³⁰ The recommendations do not, in any nature, bind the conference participants or the participating countries. Instead, they serve as a set of proposals from the ICRC and UNESCO to guide the conference participants or their countries in areas discussed during the conference.

4. Encourages participating countries to bring the protection of cultural property to the agenda of their national committees of IHL and National Commissions for UNESCO to ensure good cooperation between these entities; and
5. Encourages peer-to-peer exchanges between States to allow for share of information and good practices on the protection of cultural property.

In the span of three days, the 8th Regional Conference was able to provide a forum for several Asia-Pacific States to share their views and practices, and discuss ways forward towards better protection of cultural property in the region, through the lens of IHL.