Book Reviews

Nout van Woudenberg (2012).

Strong links exist between cultural property and diplomacy. Cultural objects are often referred to as ‘goodwill ambassadors’, since international art loans can play an important role in fostering diplomatic relations. Immunity from seizure facilitates art loans. With an increasing number of legal disputes over the ownership of cultural objects, the issue of immunity from seizure for cultural objects on loan has become a real concern for states and museums. Basically, the reason for granting immunity is to overcome the lenders’ reluctance to send their cultural objects abroad when trade and ownership disputes may result in the objects being seized. Yet is this immunity required by a rule of (customary) international law? Are states providing immunity because they feel there is a legal obligation to do so, or just for reasons of courtesy or pragmatism? Nout van Woudenberg’s new book on immunity from seizure for cultural objects on loan provides a response to these questions and examines whether there is any rule of (customary) international law stipulating that cultural objects belonging to foreign states that are on loan for temporary exhibitions are immune from seizure, or whether such a rule is emerging. Van Woudenberg is the Legal Counsel at the Dutch Ministry of Foreign Affairs, an external researcher at the University of Amsterdam, and an expert on the international protection of cultural property.

The book is divided into twelve chapters, the first three of which have an introductory nature. After defining the main concepts used (for example, ‘cultural objects’, ‘state’, ‘immunity from seizure’, etc.), van Woudenberg explains his working methods and the structure of the study (chapter 1). He then tackles the notion of customary international law (chapter 2) and state immunity and cultural objects with an interesting analysis of the 2004 UN Convention on Jurisdictional Immunities of States and their Property, and the 1972 European Convention on State Immunity, plus some other relevant instruments and draft agreements (chapter 3).
In the subsequent chapters (4 to 10), Van Woudenberg examines relevant state practice and the reasons behind it. Chapter 4 elucidates the situation in the United States, which in 1976 was the first country to introduce legislation on immunity from seizure for cultural objects, and is also the state where the most case law can be found. He then examines the situation in Canada and Central and South America (chapter 5), in the European Union (chapter 6), in the United Kingdom (chapter 7), the Netherlands (chapter 8), in some other European countries (France, Germany, Austria, Belgium, Switzerland, Liechtenstein, Finland, the Czech Republic, Italy, Hungary and Russia) (chapter 9), and in countries of Asia, Oceania and Africa (Israel, Iran, the United Arab Emirates, Pakistan, Singapore, Japan, Australia, Egypt and South Africa) (chapter 10).

At the end of this interesting and thorough overview, which is full of valuable information on the practice of states and their *opinio iuris*, van Woudenberg examines immunity from seizure in relation to other conflicting international law obligations. His attention is mainly devoted to the obligations of restitution to the country of origin, and to possible violations of fundamental human rights (chapter 11).

In the final chapter, Van Woudenberg concludes that there is a growing national practice towards protecting against the seizure of cultural objects on loan that belong to foreign states. Many states consider such objects to be immune from seizure, as state property in use or intended for use for government non-commercial purposes. They sometimes rely on the general rule of customary international law that state property in use or property intended to be used for government non-commercial purposes is immune from measures of constraint, but a considerable number of countries also rely on the existence of a specific rule of international law that grants immunity from seizure to state-owned cultural property on loan. Regarding the existence of such a separate specific rule, van Woudenberg finds that an emerging rule of customary international law exists. That rule is not yet fully secured or well defined in all its aspects, but a clear trend is developing. The rule only applies to cultural objects in use or intended for use by the state for government non-commercial purposes. This means, on the one hand, that the cultural objects abroad to be placed on sale are not covered, but on the other hand, the rule applies not only to state-owned property, but also to property in the possession or control of a state.

A remarkable feature of the book is the wide range of materials and sources, which form the basis of Van Woudenberg's analysis and conclusions. He not only examines the relevant treaty law and literature, but also addresses