

Cultural Property Protection Makes Sense

A Way to Improve Your Mission



Civil-Military Cooperation
Centre of Excellence



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First Edition

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Title: Cultural Property Protection Makes Sense: A Way to Improve Your Mission

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Printed in the Netherlands
ISBN: 978-90-813165-7-6

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This publication represents the views and opinions of CCOE, as an independent organisation and a subject matter expert in its domains. Drafts of this publication have been peer-reviewed by military and civilian experts from different organizations, governments and universities worldwide.

The author would like to thank the peer-group for their valuable contributions. A special thanks goes to Prof. Peter Stone and Dr. Laurie W. Rush.

On the cover: “De Nachtwacht”, a 1642 painting by Rembrandt van Rijn, it is displayed in the Rijksmuseum in Amsterdam, The Netherlands.

“The awareness of Beauty will save the world”

Nicolas Roerich, 1874-1947.

Abstract

Lessons learned from the operations in Iraq and Afghanistan show that culture is a fundamental element of, and plays an essential role in, modern day conflict. The identity of a group of people is often connected to symbols that are reflected in cultural property (CP) - buildings, monuments, artefacts and documents. Destroying such symbols can shatter links to the past thus erasing an identity from (local) historical memory. Damage to and destruction of cultural heritage can undermine a community's hope for the future.

CP can be destroyed or damaged through collateral damage; military negligence; and be attacked for the specific cultural, political or religious affiliations it displays. A lack of awareness and appropriate action on the part of an (international) military intervention affecting the value and status of certain CP can lead to a decline in goodwill from the wider international community and can have a serious negative effect on public opinion about an operation, in theatre, at home, and worldwide. In addition, in times of unrest or war, artefacts are a prime target for looting and the trade in illicit antiquities is known to be associated with the trade in drugs and to fund the arms trade and terrorist activities. The illicit trade in antiquities is a source of income for illegal armed groups and as such is directly connected to the duration of an armed conflict. Cultural Property Protection (CPP) is not only a tool to deny an opponent financial resources but also a primary component for the creation of long term stability, for instance in re-establishing economic security following a conflict as cultural heritage is important for tourism and related job generating industries such as hotels, tour guides and souvenirs shops.

The international community has recognised the value of cultural heritage and cultural properties as (inter) national resources and for many years efforts have been made to implement legally binding guidelines for CPP. In practice these rules have had a very limited effect. Bound by international law, and in order to create a safe and secure environment, the military, and especially CIMIC, must take both a support position and a proactive stand regarding CPP.

To demonstrate the importance of CPP for the military, this publication will answer three leading questions:

1. What are CP and CPP?
2. How can CPP improve a military mission?

3. What are CPP tasks for armed forces, especially CIMIC, and what part should non-military experts play?

To answer these questions, a brief overview of CPP will be given. This includes the historical developments leading to the current legal framework as well as an overview of the different legal instruments dealing with CPP. Given that, in contemporary conflicts, coordination and cooperation with International Organisations (IOs) and (non)-governmental Organisations ((N)GOs) is essential, the various organisations working with CP and CPP will be described. Lastly, the practical implications of CPP for the armed forces will be outlined. Throughout the publication, various textboxes provide good and bad examples of CPP.

Preface

Introduction

The NATO accredited Civil Military Cooperation Centre of Excellence (CCOE) is the acknowledged body for conceptual, doctrinal, and educational expertise on the civil-military interface, addressing the main issues that are relevant and important to the soldier who has to deal with the civil-military interface at the strategic, operational, and tactical level. These soldiers therefore not only include civil-military officers but also commanding officers, staff officers, specialized personnel, and non-commissioned officers working in the civil-military domain.

Due to its multidisciplinary character, CIMIC and civil-military interaction (CMI)¹ finds itself at the crossroads of several different professional domains. CCOE places special emphasis upon cultural competence as part of the capabilities which soldiers need to operate.

There are thousands of popular, professional, academic, and other definitions of the concept culture. Two definitions by very well respected scholars are:

“Culture is the collective programming of the human mind that distinguishes the members of one human group from those of another. Culture in this sense is a system of collectively held values.” - *Geert Hofstede*

“A shared set of traditions, belief systems, and behaviours. (...). Culture evolves in response to various pressures and influences and is learned through socialization; it is not inherent. In short, a culture provides a lens through which its members see and understand the world.”- *William D. Wunderle*

Culture contains many different elements that might be of relevance to a soldier who is deployed in a mission area, particularly when their familiarity with a specific culture is limited. “Entering a new, unfamiliar culture often involves high anxiety and, initially, only superficial knowledge of the location and people. A cultural schema may include features or concepts that have proved salient or useful in previous intercultural situations.

¹ The term civil-military interaction is used to refer to the civil-military interface.

Generalizing from these specific past experiences may help guide appropriate behaviour, reduce anxiety, and facilitate learning the specific culture.”²

From cultural understanding to cross cultural competence

Cultural understanding is a necessary but insufficient component for the cultural capability needed by military personnel to meet current and future challenges. “Military personnel also need the ability to use situational cues to determine when and how culture is relevant, as well as other skills for interacting with individual members of the culture. For example, cultural knowledge may have limited utility if rigid interpersonal behaviour or ethnocentric attitudes are not addressed”³. This ability is referred to as cross cultural competence.

“The ability to quickly and accurately comprehend, then appropriately and effectively engage individuals from distinct cultural backgrounds to achieve the desired effect.

- Despite not having an in-depth knowledge of the other culture, and
- Even though fundamental aspects of the other culture may contradict one’s own taken-for-granted assumptions/deeply-held beliefs.”⁴

Three components are necessary to provide the capabilities required to work in a foreign culture. The first component is ‘cultural knowledge’. Such knowledge begins with an awareness of one’s own culture and includes an understanding of culture and cultural differences using schemata or frameworks, progressing towards an increasingly complex understanding of the sources, manifestations, and consequences of a particular culture.

The second component is ‘affect’ and includes attitudes toward other cultures and the motivation to learn about and engage with them. In this component openness and empathy are of particular importance.

2 J.R.A. Rentsch, Gundersen, G.F. Goodwin and A. Abbe (2007). Conceptualizing multicultural perspective taking skills. (TR 1216). Arlington: United States Army Research Institute for the Behavioral and Social Sciences.

³ A. Abbe and S.M. Halpin (2009). “The Cultural Imperative for Professional Military Education and Leader Development”. In *Parameters*, Winter 2009-2010, p. 20-31.

⁴ B.R. Selmeski (2007). *Military Cross-Cultural Competence: Core Concepts and Individual Development*. Royal military College of Canada Centre for Security, Armed Forces & Society Occasional Paper Series.

The third component is 'skills' which encompass the ability to regulate one's own reactions in a cross-cultural setting, interpersonal skills, and the flexibility to assume the perspective of someone from a different culture".⁵

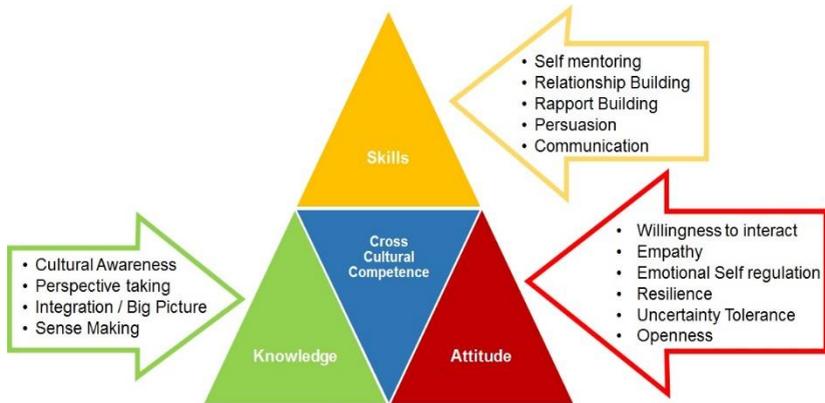


Figure: Based on the model of Abbe & Halpin, 2009

In short cross-cultural competence is a set of culture-general knowledge, skills, abilities, and attributes (KSAAAs) developed through education, training, and experience that provide the ability to operate effectively within any culturally complex environment. It is further augmented through the acquisition of cultural, linguistic, and regional proficiency and by its application in cross-cultural contexts.

The CCOE model

One of CIMIC's principle tasks is collecting cultural information and transforming it by adding greater meaning as understanding deepens. Culture is a useful, yet difficult, concept to grasp. Everything is continuously influencing everything else and culture is not a static concept.

The CCOE's model⁶ utilizes a three tier perspective approach to understand culture in a mission area and at the same time integrates

⁵ A. Abbe and S.M. Halpin (2009). "The Cultural Imperative for Professional Military Education and Leader Development". In *Parameters*, Winter 2009-2010, p. 20-31.

⁶ The model is derived from a document written for the CCOE by Dr. Bas Rietjens, *Coping with Culture: Towards Cultural Understanding and Competency*.

the PMESII⁷ assessment tool in order to keep the model functional and practical. The three perspectives (Cultural Shaping Factors, Cultural Phenomena, and Cultural Manifestations) on culture provided by the model will help troops to understand the deeper meaning and complexity of the cultural environment. The ‘why’ (Cultural Shaping Factors and Cultural Phenomena) explain the ‘what’ (Cultural Manifestations), meaning that both the Cultural Shaping Factors and the Cultural Phenomena indicate the ways and reasons members of a certain group have adapted to life in a specific manner. This model may be applied not only to national culture, but also to organizational culture.

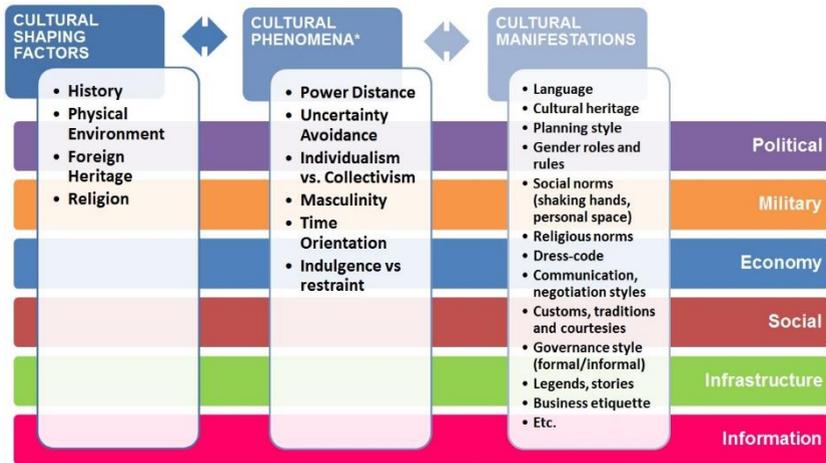


Figure: CCOE model “Coping with Culture”

Integrating the PMESII domains

Culture can be identified in all of the different dimensions of PMESII. At the same time these sectors will influence culture themselves, and are manifestations of how a culture deals with the five basic problems expressed in the Cultural Phenomena.

⁷ PMESII is an acronym which stands for Political Systems, Military Systems, Economic Systems, Social Systems, Infrastructure Systems and Information Systems. It is a tool which is essentially used IOT organize information within a mission area and a methodology to insert assessed information in the planning process of an operation.

The way a society is organized within these dimensions is a reflection of the Cultural Shaping Factors, the Cultural Phenomena and the Cultural Manifestations (see figure: CCOE model “coping with Culture”).

The dimensions can be analysed through the 3 cultural perspectives provided by the model. PMESII will help the integration of isolated data into a usable body of information and relationships. The three perspectives (Cultural Shaping Factors, Cultural Phenomena, Cultural Manifestations), help with the interpretation of data and information giving them new meaning in a cultural context.

Although it is obvious that the model is not intended to be a quick solution to be used in the field, it provides ways of interpreting and understanding cultural aspects in the mission area. The major point being made is that troops deployed to a particular country must try to view the host community’s culture through the lenses that its members possess naturally. Not being a member of the culture means that outsiders will often make mistakes when attributing meaning to manifestations of that culture. It goes without saying that this is a natural learning process, but by keeping our minds open and trying to understand the deeper meaning behind behaviours, manifestations and thought processes we will find it much easier to cope with all the new information being presented to us.

CIMIC and Cultural Property Protection

The CCOE promotes cross cultural competence, not only through the educational process, but also by publishing easy guidelines on specific topics, if not covered in other publications or doctrines. The current publication explains the relationship and relevance of CIMIC with cultural heritage, which can be critical in defining a culture’s ethnic and national identity. The military have an essential task and responsibility to protect cultural heritage in times of armed conflict when others cannot take on this task to protect the remains of previous generations. The complexity of the integration of cultural property protection into a military mission is not only identifying cultural property within engagement parameters, but also looking at the significance of cultural property for the identity and culture of the population.

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List of Abbreviations

ANCBS	Association of National Committees of the Blue Shield
CIMIC	Civil-Military Cooperation
CCHAG	Combatant Command Cultural Heritage Action Group
CCOE	Civil-Military Cooperation Centre of Excellence
COPD	Comprehensive Operational Planning Directive
CP	Cultural Property
CPP	Cultural Property Protection
DoD/MoD	Department of Defence/Ministry of Defence
EU	European Union
GIS	Geographic Information Systems
GO	Governmental Organisation
ICBS	International Committee of the Blue Shield
ICC	International Criminal Court
ICCROM	International Centre for the Study of the Preservation and Restoration of Cultural Property
ICL	International Criminal Law
ICOMOS	International Council on Monuments and Sites
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the former Yugoslavia
IHL	International Humanitarian Law
IMCuRWG	International Military Cultural Resources Working Group
IO	International Organisation
IUCN	International Union for Conservation of Nature
LoAC	Law of Armed Conflict
MINUSMA	UN Multidimensional Integrated Stabilisation Mission (Mali)
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental Organisation
OOD	Operation Odyssey Dawn
OUP	Operation Unified Protector
PfP	Partnership for Peace
STANAG	Standardised Agreement
TCA	Theatre Civil Assessment
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation
US	United States

1. Introduction

1.1 The importance of Cultural Property Protection

Textbox 1: The tank shot at the Children's Museum in Baghdad

"The American's mere presence was drawing direct fire from the Children's Museum. This forced one of the tanks to fire a single round in return from its 120 mm main gun, which took out the RPG position, put a hole in the Children's Museum, captured the world's attention, and inflamed the critics. What critics fail to consider is that when you take direct fire, under anyone's rules of engagement you fire back – no further discussion. No need to check with the boss. And because the Iraqis had fortified



this cultural site and were firing at him from it, the Lieutenant [...] would have been entirely justified in taking any steps necessary to eliminate the threat. With the approval of the task force commander, he could have called in air support, dropped a two-thousand-pound bomb, and turned the entire compound and its contents to rubble. But even if they had simply stood their ground and fought back with ground-based supporting fire, there would have been nothing left of the museum either to save or to loot. Instead of conducting such an assault, in order to "save" the museum, the moment that [the Commanding officer] was informed of the situation, he made the tactically wrong but culturally brilliant decision to pull back those tanks from the museum. This was the only way to avoid the [...] choice between endangering his men and destroying the institution. It took real courage to pull back. It took real courage in the face of a hundred Special Republican Guard soldiers to hold fire."⁸

Picture 1: Hole in Children's Museum

Throughout history, armed conflicts have led to loss of civilian life and the destruction of property. As part of this wider destruction, CP has not been spared, and countless works of art, historic buildings and monuments have been destroyed and artefacts looted in times of unrest.

⁸ M. Bogdanos, *Thieves of Baghdad*, Bloomsbury New York, 2005, pp.205-206.

Simplistically, CP is destroyed through collateral damage; military negligence; and specific targeting for the cultural affiliations it displays. Examples are found throughout history and in every armed conflict the world has faced. During the Second World War, large numbers of often Jewish art works were pillaged across Europe; in the conflict in the former Yugoslavia, the old city of Dubrovnik and the Mostar Bridge were targeted (and in the latter case destroyed) specifically because of their cultural relevance, while the national library in Sarajevo was burned to the ground; in Kabul, objects from Afghanistan's national museum have been damaged, destroyed, and looted; and the National Museum of Iraq was looted in 2003. In 2012 warring sides destroyed the antique central souk, or marketplace, of Aleppo in Syria. Two years later, the famous mosque in Timbuktu, Mali was destroyed. In 2014 forces of the so-called Islamic State of Iraq and the Levant (ISIS) destroyed Shia religious sites and are believed to have looted archaeological sites and destroyed millennia-old remains.

The deliberate destruction of CP has not always been one of the primary goals of war. Buildings and other objects qualifying as CP have frequently been destroyed through collateral damage. They have been neglected in times of war, with no-one in place to preserve them, often as the result of large segments of the population being forced to leave their homes. On the other hand, when conflicts were linked to people's identity, CP has been intentionally targeted to destroy national or religious identity. During the Kosovo conflict, Serbian Kosovars intentionally destroyed Islamic heritage while Albanian Kosovars did the same to the Serbian orthodox heritage. Furthermore, CP has been subject to widespread looting and plundering. Works of art have been taken as trophies of war or used as compensation for damages. This has the potential to deepen the trenches and frictions between the different groups of population or even contributes to the radicalisation of part of the population.

The whole issue of the importance to the military of CP and CPP came to prominence following the 2003 invasion of Iraq. This followed the failure of Coalition planners to make sufficient provision for CPP which led to devastating damage to and looting of CP in Iraq, which in turn led to widespread bad publicity for the Coalition⁹.

The failure in 2003 was by no means unique and history has shown that CPP has not been regarded as a priority during armed conflict, despite the many arguments that support the value and relevance of

⁹ P.G. Stone & J. Farchakh Bajjaly (eds) 2008. *The Destruction of Cultural Heritage in Iraq*, Woodbridge: Boydell.

CPP¹⁰. There are, in particular, four good reasons for the protection of cultural property: First, CP is often regarded as the common property of humankind and the protection of CP preserves both national identity and this common heritage; protection is therefore an international responsibility. Second, the looting and illegal sale of antiquities and historic documents is often associated with the funding and therefore the perpetuation of an armed conflict. CPP cuts off this source of illegal funding for opposing forces, especially illegal armed groups. Third, while for a military force, the benefits of CPP and restriction of illegal funding will probably not be immediately apparent, the effect of not protecting CP can have a direct, visible, and negative, effect on a military mission. When people in need of protection see their symbols of nationality and religion being destroyed, accompanied by, or because of, a lack of action from the international community and the military in-theatre, this can lead to a decline of goodwill from the local population toward the military¹¹. Public opinion of the military mission at home can also be negatively influenced by a failure to protect CP. Lastly, providing adequate protection of CP is important for the country in question as a source of income from a return to, and possibly an increase in, tourism after the armed conflict. To conclude, military contributions to the protection of CP can have a significant positive impact on the military mission.

1.2 Methodology

The overarching goal of this publication is for the CIMIC Centre of Excellence (CCOE) to show clearly, to both armed forces and civil society, that CPP is of significant importance in military missions.

The publication is however not a complete guide for the military on how to protect CP in times of war, it is merely an introduction.

The primary audience for this publication are military staff and field workers operating in the field of civil-military cooperation and civil military interaction. The publication focuses on the tactical and operational level and can be used to inform various military exercises and operations, including UN, EU and NATO missions.

¹⁰ M. Miles. 2011. 'Still in the aftermath of Waterloo: a brief history of decisions about restitution', in P.G. Stone (ed.) *Cultural heritage, ethics and the military*: pp.29–42. Woodbridge: Boydell.

¹¹ G.S. Corn, 2005. 'Snipers in the Minaret - What Is the Rule?' *The Law of War and the Protection of Cultural Property: A Complex Equation*
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=908605 (accessed 19 July 2014).

The publication also aims to provide civilian organisations with an awareness and understanding of the military approach towards CPP.

The publication will answer the following three questions:

1. What are CP and CPP?
2. How can CPP improve a military mission?
3. What are CPP tasks for armed forces, especially CIMIC, and what part should non-military experts play?

First, a common understanding of CP and CPP is created by defining the terms in chapter 2. The historic and current legal framework for CPP, are described in chapter 3. Because CPP requires a comprehensive approach¹² and cooperation between national, international organisations (IOs), (non) -governmental organisations ((N)GOs) and the armed forces, especially CIMIC, chapter 4 provides an overview of the relevant organisations. Lastly, chapter 5 describes CPP during military missions and the role of the military, as well as the role of CIMIC, with regard to CPP. Throughout the publication, various textboxes give practical examples of good and bad practice within CPP. The publication ends with a conclusion answering the three questions, followed by a list of recommendations.

¹² There is neither a common definition within NATO nor an internationally agreed term but can be explained as: "Comprehensive Approach is the synergy amongst all actors and actions of the International Community through the coordination and de-confliction of its political, development and security capabilities to face today's challenges including complex emergencies."

2. Definitions

In order to ensure a common understanding of CP and CPP, it is important to define these terms.

2.1 Cultural Property

In line with international law¹³, CP, irrespective of origin or ownership, is defined as:

- a) Movable or immovable property of great importance to the cultural heritage of every people.

Examples: monuments of architecture, art or history, whether religious or secular, archaeological sites, groups of buildings which, as a whole, are of historical or artistic interest, works of art, manuscripts, books and other objects of artistic, historical or archaeological interest, scientific collections and important collections of books or archives or reproductions of CP.

- b) Buildings whose main and effective purpose is to preserve or exhibit movable CP.

Examples: museums, large libraries and depositories of archives.

- c) Centres containing a large amount of CP.

- d) Places of worship which constitute the spiritual or cultural heritage of peoples.¹⁴

CP can thus be seen in the:

- Built environment (immovable CP)
- Artefacts (movable CP)

¹³ Article 1 1954 Hague Convention, http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html (accessed 19 July 2014).

¹⁴ This element was added by the 1977 Additional Protocols of the Geneva Conventions; article 53 Additional Protocol I and article 16 Additional Protocol II.



Picture 2: The Brandenburger Tor in Berlin, the *Nachtwacht* in the Rijksmuseum in Amsterdam and a jeweller in Qatar, stringing pearls to order using ancient methods are all examples of CP.

Even though the definition sets the framework for CP, several factors complicate the actual designation of property being CP.

First, changes in society, religion and politics continuously influence the status of CP. For example, after the Soviet Union fell apart, statues of Lenin and Stalin were no longer considered CP worthy of preservation.

The same can be argued about statues of Saddam Hussein when they were destroyed during, and immediately following, the 2003 invasion.¹⁵

¹⁵ It should be noted that not all individuals consider objects not worthy of preservation after changes in society.

Former President Gaddafi argued that archaeology was a colonial activity and dismissed it as unimportant leaving Libya's ancient sites to be neglected.¹⁶ In addition, CP may not always be recognisable for outsiders: grave sites in cemeteries look very different all over the world. Furthermore, the ways in which way particular societies remember the past also influences their relationship to CP. For example, so-called memorial or traumascapes, such as concentration camps from the Second World War or former battlefields, are now considered CP.¹⁷ A clear recent example of a trauma-landscape is ground zero in New York.



Picture 3: Ground Zero in New York City can be regarded as a traumandscape

CP has also been subject to manipulation because of its strong link to the identity of a group. The Nazi's redefined Rembrandt's paintings as 'Germanic' which meant they would be part of the future identity and culture of the Third Reich and the SS unit Ahnenerbe (Ancestral Inheritance) actually carried out excavations in order to prove and document "German greatness and the German past"¹⁸.

¹⁶ J.D. Kila, *Heritage under Siege: Military Implementation of Cultural Property Protection in the Event of an Armed Conflict*, 2003.

¹⁷ M.M. Tumarkin, *Traumascapes: The Power and Fate of Places Transformed by Tragedy*, Melbourne Univ. Publishing, 2005

¹⁸ W.J. McCann "'Volk und Germanentum': the presentation of the past in Nazi Germany", in P. Gathercole & D. Lowenthal (eds) *The Politics of the Past*. Routledge, London, pp. 74-90.

In general, debates surrounding CP consist of three elements: identity, authenticity, and uniqueness and are subjective and frequently contentious.¹⁹

The key to effective protection of cultural heritage at risk is advanced planning and preparations in peacetime.

Preparing a national inventory of cultural heritage, a national government responsibility, should be the first step. Since these inventories serve as the key instrument necessary for effective emergency planning, they should be kept up to date, easily accessible, and spatially related by using geographic information systems (GIS). During emergency operations for threats to cultural assets from floods, fires, landslides or earthquakes, GIS enables policy makers and planners to create an accurate picture. National inventories often include documentation on previous disaster-related incidents and maintain records on the structural conditions of the individual assets and their historic significance.²⁰

To compile a complete and accurate list of CP in a specific country, with which all would agree, is almost impossible. However, this does not mean that the attempt should not be made, as a common core of CP, agreed on by the majority, is probably an achievable outcome. Of central importance in any such attempt to identify important CP are the opinions and values of local communities, particularly as military forces in contemporary conflicts often have to depend on them for their goodwill and support for their mission.

2.2 Cultural Heritage

CP is sometimes referred to as cultural heritage. UNESCO defines cultural heritage as “the legacy of physical artefacts and intangible attributes of a group or society that are inherited from past generations, maintained in the present and bestowed for the benefit of future generations”.²¹ A difference is thus made between tangible (“physical artefacts”) and intangible heritage (non-physical aspects of heritage).

Tangible heritage (CP) refers to material artefacts of archaeology, architecture, science, or technology of a specific culture and identified as being worthy of preservation for the future. Intangible heritage refers

¹⁹ J.D. Kila, *Heritage under Siege: Military Implementation of Cultural Property Protection in the Event of an Armed Conflict*, 2003

²⁰ Source: http://siteresources.worldbank.org/INTCHD/Resources/430063-1250192845352/NOTE_14_Disaster_Preparedness_for_CH.pdf (accessed 27 August 2014).

²¹ UNESCO, www.unesco.org (accessed 24 September 2014).

to the cultural identities and therefore the cultural diversity of humankind such as traditional festivals, crafts and customs.²² CP can be regarded as the physical manifestation of intangible cultural heritage – the stage upon, and around, which such heritage is enacted: without CP, much cultural heritage cannot survive.

The terms “property” and “heritage”, also such terms as “patrimony”, “goods” and “objects”, are not defined by one universally accepted definition. As well as the above distinction between cultural property and cultural heritage, generally speaking, the term heritage stresses the conservation and transfer from generation to generation whereas property has a more legal connotation. In this publication, the term CP is used because it is the term used in the 1954 Hague Convention (see below).

2.3 World Heritage

In 1972 UNESCO adopted the *Convention Concerning the Protection of the World Cultural and Natural Heritage*²³, commonly known as the *World Heritage Convention*. A UNESCO World Heritage site is a place, which may vary from a monument to a lake, listed by UNESCO as a place with “outstanding universal value” for all people based on clearly defined sets of criteria for cultural, natural, and mixed sites.

It should be noted that almost all UNESCO World Heritage Sites qualify as CP but that CP is by no means limited to World Heritage Sites.

Currently (as of July 2014) there are 1007 World Heritage Sites located in 161 states, of which 779 are cultural, 197 are natural, and 31 are mixed. More sites are added each year. While the sites remain part of the legal territory of the State, and the State continues to have responsibility for the site’s conservation. UNESCO considers it in the interest of the international community to help to preserve each site.²⁴

²² J.D. Kila, *Heritage under Siege: Military Implementation of Cultural Property Protection in the Event of an Armed Conflict*, 2003.

²³ <http://whc.unesco.org/en/about/> (accessed 17 July 2014)

²⁴ J.D. Kila, *Heritage under Siege: Military Implementation of Cultural Property Protection in the Event of an Armed Conflict*, 2003.

Textbox 2: How does a place become UNESCO World Heritage?

First a country makes an inventory of its significant cultural and natural places and identifies the most important to be placed on a Tentative List for eventual nomination to the World Heritage List. From this Tentative List, the country chooses places to be nominated for the World Heritage List and produces an extensive Nomination File for each place in order of priority. The International Council on Monuments and Sites (ICOMOS) and/or the International Union for Conservation of Nature (IUCN) evaluate the file, visit the nominated place, and make recommendations to the World Heritage Committee. Once a year, the Committee meets to determine whether nominated places will be inscribed onto the World Heritage List. A place can only be inscribed when it meets at least one of the following ten criteria – that it must:

- a. Represent a masterpiece of human creative genius;
- b. Exhibit an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning or landscape design;
- c. Bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared;
- d. Be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history;
- e. Be an outstanding example of a traditional human settlement, land-use, or sea-use which is representative of a culture (or cultures), or human interaction with the environment especially when it has become vulnerable under the impact of irreversible change;
- f. Be directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance. (The Committee considers that this criterion should preferably be used in conjunction with other criteria);
- g. Contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance;
- h. Be outstanding examples representing major stages of earth's history, including the record of life, significant on-going geological processes in the development of landforms, or significant geomorphic or physiographic features;
- i. Be outstanding examples representing significant on-going ecological and biological processes in the evolution and development of terrestrial, fresh water, coastal and marine ecosystems and communities of plants and animals;
- j. Contain the most important and significant natural habitats for in-situ conservation of biological diversity, including those containing threatened species of outstanding universal value from the point of view of science or conservation.²⁵

²⁵ <http://whc.unesco.org/en/criteria/> (accessed 17 July 2014).



Pictures: Taj Mahal, Mount Fuji, Angkor Wat and a Buddhist Temple in Korea are all examples of World Heritage Sites.

2.4 Cultural Property Protection

International law defines CPP as “the safeguarding and respect of such property”.²⁶ A distinction is made between the actions States should undertake in times of peace and in the event of an armed conflict.²⁷

2.5 Principles of the Law of Armed Conflict

The Law of Armed Conflict (LoAC) is the body of law which set the limits of acceptable conduct during armed conflict.²⁸ The most important relevant treaties are the Hague Conventions of 1907 and 1954, and the latter’s two Protocols of 1954 and 1999, and the Geneva Conventions of 1949 and their 1977 Additional Protocols.

²⁶ Article 2 1954 Hague Convention.

²⁷ When referring to ‘States’, it should be noted that only States-Parties to the specific Treaty or Convention in question are bound by the rules concerned. See, paragraph 3.2.2, Scope of application.

²⁸ LoAC could also be referred to as International Humanitarian Law (IHL). “It a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare”, www.icrc.org (accessed 24 September 2014).

Much of this IHL has become part of Customary International Law (CIL), binding upon all states, irrespective of whether they have ratified a particular convention. The principles of IHL and CIL form the basis of the LoAC and are central to military CPP responsibilities.

2.5.1 Military necessity

What exactly falls under 'military necessity' has been debated over the centuries. In 1863, Francis Lieber described military necessity as "those measures which are indispensable for securing the ends of war, and which are lawful according to modern laws and usages of war".²⁹ Today, military necessity is best defined as the requirement, in any given set of circumstances, for the application of armed force (in accordance with the other rules of the law of armed conflict) to achieve legitimate military objectives.³⁰

Military objectives are those places which by their nature, location, purpose or use make an effective contribution to the military action and whose partial or total destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.³¹

2.5.2 Humanity

The principle of humanity is directly connected to the principle of military necessity. It forbids unnecessary suffering, injuring or destruction. Only those actions are allowed which are necessary to achieve legitimate military objectives.

Therefore, the principle of humanity has a restrictive effect on military necessity. Individuals who are not participating in the conflict and/or are outside the scope of the conflict deserve protection and need to be treated humanely. Closely intertwined with the principle of humanity is the principle of non-discrimination.³²

2.5.3 Distinction

The principle of distinction holds that all military forces and commanders are obliged to make a distinction between legitimate military objectives and civilian places as well as between combatants

²⁹ Lieber Code, art. 14

³⁰ D. Turns, 'Military Necessity', *Oxford Bibliographies Online*, 2012.

³¹ *ICRC Study of Customary International Humanitarian Law*, 2005, Rule 8, <http://www.icrc.org/eng/war-and-law/treaties-customary-law/customary-law/> (accessed 19 July 2014).

³² P.J.J. v.d. Kruit, *Handboek Militair Recht*, Wolf Legal Publishers Nijmegen, 2009, p. 451.

and civilians.³³ As such, the principle protects civilian places (including CP) and civilians from the effects of military operations – notwithstanding the assessment on mission relevance.

2.5.4 Proportionality

The principle of proportionality attempts to strike a balance between military necessity and humanity. It is most evident in connection with the reduction of incidental damage caused by military operations.³⁴

The principle holds that harm to civilians or damage to (civilian) property must be proportional and not excessive in relation to the concrete and direct military advantage anticipated by an attack on a military objective.

³³ P.J.J. v.d. Kruit, *Handboek Militair Recht*, Wolf Legal Publishers Nijmegen, 2009, p.451-452.

³⁴ A.P.V. Rogers, *Law on the Battlefield*, Manchester University Press, 2004, p.17.

3. Legal Framework for Cultural Property Protection

3.1 Short Historical Overview

To understand the current legal framework for CPP, it is helpful to understand its background and chronological development.

Throughout history CP has been destroyed during armed conflict or for political ends. Examples can be traced back to Ancient Egypt where the names of Kings and Queens who fell out of favour were removed from several bas-reliefs and statues.³⁵ During the middle ages, it was accepted, standard practice that CP would be either destroyed, or taken as a war trophy, or used as compensation. During the Crusades, plundering of CP was almost standard procedure. In Europe, in the sixteenth century, and in particular during the so-called “iconoclastic fury”, Protestants caused widespread damage to Catholic Church interiors and monasteries. Later, attempts were made to regulate the destruction and plundering of CP and the idea that CP deserves a universal status was born and very gradually gained support.³⁶

The Dutch legal scholar Grotius addressed CPP in 1625. In his famous work *The Law of War and Peace (De Jure Belli ac Pacis)* Grotius stated “reason compelled the sparing of those things which, if destroyed do not weaken the enemy nor bring gain to the one who destroys them such as colonnades, statues and the like”.³⁷ Legal scholars agreed that CP should be spared and that damaging CP was only allowed when it was indirect or unavoidable when attacking a military objective.³⁸ However, the looting of CP was, as such, not directly addressed and continued to be the norm. During the Napoleonic wars, for example, mass plundering of CP took place. The antiquities taken by Napoleon from Egypt and later captured from the French by British troops are still the subject of debate over their legal ownership.³⁹

³⁵ J.D. Kila, *Heritage under Siege: Military Implementation of Cultural Property Protection in the Event of an Armed Conflict*, 2003.

³⁶ S.v.d. Auwera, ‘Bescherming van culturele goederen tijdens gewapende conflicten’, *Internationaal Humanitair Recht in de Kijker*, 2008.

³⁷ Hugo de Groot – Grotius, 1573-1654, *De Jure Belli ac Pacis*, Paris 1625.

³⁸ S.v.d. Auwera, ‘Bescherming van culturele goederen tijdens gewapende conflicten’, *Internationaal Humanitair Recht in de Kijker*, 2008.

³⁹ For example, J. Downs, *The Rosetta Stone: the Controversy, the Solutions*, <http://jdownsrosetta.wordpress.com/about/> (accessed 19 July 2014).



Picture 5: The Rosetta Stone in the British Museum

In the 19th Century, the first attempts were made to draft legally binding rules on CPP. During the American Civil War, the *Lieber Code* was developed. This was the first military document which officially determined that CP deserved protection during war. Specifically, it noted that “Classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury”.⁴⁰ Through the Lieber Code, the armed forces involved in a conflict became a stakeholder in CPP. The *Brussels Declaration* of 1874 and the *Oxford Manual* of 1880 reflected the same idea.⁴¹

These documents formed the basis for the Hague Peace Conferences of 1899 and 1907 which resulted in the adoption of the Conventions regulating the conduct of Warfare. In these it was stated that enemy property should not be damaged unnecessarily and that every effort should be taken to spare CP except in the case of military necessity and that “All seizure of, destruction or wilful damage done to... historic

⁴⁰ Article 31 of *Instructions For The Government Of Armies Of The United States In The Field*; General Order 100 (The Lieber Code)

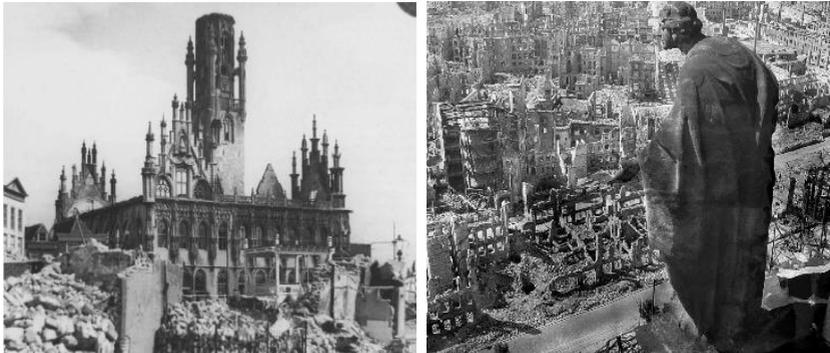
http://avalon.law.yale.edu/19th_century/lieber.asp (accessed 14 July 2014).

⁴¹ J.D. Kila, *Heritage under Siege: Military Implementation of Cultural Property Protection in the Event of an Armed Conflict*.

monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings⁴².

The First World War showed the ineffectiveness of these early legal codes and, with the increased use of long distance artillery, an enormous amount of CP was damaged, especially in Belgium and eastern France.⁴³ As a result, two further attempts were undertaken to develop legally binding and effective rules for CPP.

In 1935, the Roerich Pact was signed by representatives of American states. This inter-American treaty, based on the ideas of the Russian painter and philosopher Nicolas Roerich, suggested that the defence of cultural objects should be more important than military defence and CPP should always have precedence over military necessity.⁴⁴ The second attempt was the drafting of a universal Convention under the auspices of the League of Nations.



Picture 6: The city of Middelburg and Dresden destroyed during the Second World War

Due to the outbreak of the Second World War, the Preliminary Draft of the *Convention for the Protection of Historic Buildings and Works of Art in Time of War* was never adopted.

After the Second World War, once the scale of destruction and looted CP fully came to light, it was clear that existing international law

⁴² Articles 23, 27, & 59 *Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land*. The Hague, 18 October 1907.
http://www.opbw.org/int_inst/sec_docs/1907HC-TEXT.pdf (accessed 14 July 2014).

⁴³ J.D. Kila, *Heritage under Siege: Military Implementation of Cultural Property Protection in the Event of an Armed Conflict*, 2003.

⁴⁴ <http://www.roerich.org/roerich-pact.php> (Accessed 14 July 2014).

provided little effective protection for CP. As a result, the international community took steps to adopt more robust rules on CPP which would provide better protection. A diplomatic conference was organised in The Hague which resulted in the adoption of the most important document on CPP to date; the Convention on the Protection of Cultural Property in the Event of Armed Conflict (the 1954 Hague Convention). The first Protocol, dealing primarily with CP in occupied territory, was adopted at the same time. The 1954 Hague Convention provides a comprehensive protection regime addressing the rights and duties of states relating to CP, not only during armed conflict but also prior to and following conflict.



Picture 7: After the Second World War, the scale of looted CP came to light. Several works of art were found and returned.

The *1954 Hague Convention* was not ratified, however, by many states, and so other legal documents included rules on CPP in order to oblige all states to take actions regarding CPP. In 1977, the *Additional Protocols to the Geneva Conventions* were adopted which contain rules on CPP during international and non-international armed conflict.⁴⁵

Furthermore, CPP is part of the Protocol of the *Convention on Certain Conventional Weapons* regarding prohibitions and restrictions on, among others, mines and booby-traps.⁴⁶

⁴⁵ Article 53 and 16 Additional Protocols to the Geneva Conventions <http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/> (accessed 19 July 2014) .

⁴⁶ Article 7 (1) (i) Protocol II of the *Convention on Certain Conventional Weapons* regarding prohibitions and restrictions on, among others, mines and booby-traps [http://www.unog.ch/80256EE600585943/\(httpPages\)/4F0DEF093B4860B4C1257180004B1B30?OpenDocument](http://www.unog.ch/80256EE600585943/(httpPages)/4F0DEF093B4860B4C1257180004B1B30?OpenDocument) (accessed 19 July 2014).

Another important measure towards effectively implementing CPP was taken with the creation of international criminal tribunals and courts and through these the notion of individual criminal responsibility. The 1993 *Statute for the International Criminal Tribunal for the Former Yugoslavia* (ICTY) and the 1998 *Rome Statute for the International Criminal Court* (ICC) include the destruction of CP as a war crime. Through these mechanisms individuals can be held accountable at an international level for intentionally destroying CP.⁴⁷

Despite the inclusion of rules on CPP in various legal documents, the destruction of CP continued for example, in Afghanistan following the Soviet invasion, in the Iran-Iraq war, in the First Gulf War (1991), and during the conflict in former Yugoslavia. These incidents highlighted a number of inadequacies in the 1954 *Hague Convention* resulting in the creation of the 1999 Second Protocol, which came into force on 9 March 2004.⁴⁸

In 2005, the International Committee of the Red Cross (ICRC) issued its study on *Customary International Law*. The rules identified are considered binding upon all states regardless of whether they have ratified a particular convention. Herein, the ICRC also addressed CPP as CIL.

Even with today's existing legal framework, effective protection of CP is still not always the norm. Recently CP across Syria has been very badly damaged and rebels destroyed mosques and tombs in Mali, as well as in Iraq.⁴⁹

⁴⁷ Article 3 ICTY <http://www.icty.org/sections/LegalLibrary/StatuteoftheTribunal> and article 8 Rome Statute http://www.icc-cpi.int/nr/rdonlyres/ea9aef7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf (accessed 19 July 2014).

⁴⁸ C. Forrest, *The Doctrine of Military Necessity and the Protection of Cultural Property during Armed Conflict*, The University of Queensland, TC Beirne School of Law Legal Studies Research Paper Series, 2007. Posner, Eric, A. The International Protection of Cultural Property: Some Skeptical Observations <http://www.law.uchicago.edu/files/files/141.pdf> (accessed 6 September 2014).

⁴⁹ See for example, UN New Centre, 'Mali: Timbuktu's cultural heritage more damaged than first estimated, UN agency says', June 2013, <http://www.un.org/apps/news/story.asp/html/story.asp?NewsID=45118&Cr=+mali+&Cr1#.UxcPh3KYaic>. How ISIS Pillages, Traffics And Sells Ancient Artifacts On Global Black Market, <http://www.ibtimes.com/how-isis-pillages-traffics-sells-ancient-artifacts-global-black-market-1605044>(accessed 24 September 2014).

3.2 Current International Legal Framework

3.2.1 Legal instruments

In summary and chronological order, the current internationally binding legal instruments containing rules for CPP are:

- 1907 Hague Regulations;
- 1954 Hague Convention and First Protocol;
- 1977 Additional Protocols to the Geneva Convention;
- 1998 Rome Statute;
- 1999 Second Protocol to the 1954 Hague Convention; and
- 2005 Study of Customary International Humanitarian Law by the International Committee of the Red Cross.

3.2.2 Scope of application

To determine which law is applicable in a conflict, whether international or internal, the ratified legal instruments of the state(s) in question have to be examined.⁵⁰ Most NATO and Partnership for Peace (PfP) Members, except the United Kingdom and Iceland, have ratified or acceded to the *1954 Hague Convention*. Some rules are part of CIL, such as the *1907 Hague Convention* and parts of the *1954 Hague Convention*, and, as such, are binding upon all states regardless of ratification. NATO and other international organisations are also bound by this CIL.

3.3 Protection

3.3.1 Basic protection

All CP deserves protection, which means that states have to take various measures in time of peace and in the event of an armed conflict.

In peacetime states should undertake measures, as considered appropriate, against the foreseeable effects of an armed conflict to safeguard CP in their own national territory.⁵¹

⁵⁰ In general the question which body of law is applicable is depending on the actual situation on the ground, e.g. whether the circumstances aggravate to an armed conflict and thus trigger the Law of Armed Conflict.

⁵¹ Article 3 1954 Hague Convention.

These actions vary from preparing inventories, developing emergency measures, to prosecuting transgressions, and imposing penal or disciplinary sanctions with respect to looting or vandalism.⁵²

Respect for CP in the event of an armed conflict entails that states shall:

- refrain from any use of CP and its immediate surroundings or the appliances in use for its protection for purposes which are likely to expose it to destruction or damage, i.e. not using CP for the purposes of war;
- refrain from any act of hostility against CP;
- undertake actions to prohibit, prevent and if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against CP;
- refrain from requisitioning movable CP situated in the territory of any other state; and
- refrain from any reprisals against CP.⁵³

3.3.1 Special and enhanced protection

The *1954 Hague Convention* introduced the system of ‘special protection’ which can be granted for CP by entry in the ‘International Register of Cultural Property under Special Protection’.

However, only the Vatican City has been registered and the system does not function properly.

Therefore, the 1999 Second Protocol introduced the system of ‘enhanced protection’.⁵⁴ An object can be given enhanced protection when it fulfils all of the three criteria that it is:

- cultural heritage of the greatest importance for humanity;
- protected by adequate domestic legal and administrative measures recognising its exceptional cultural and historic value and ensuring the highest level of protection; and
- not used for military purposes or to shield military sites and a declaration has been made by the party which has control over the CP, confirming it will not be used.

⁵² Among others, articles 5, 8, 30, 1999 Second Protocol to the 1954 Hague Convention.

⁵³ Article 4 1954 Hague Convention.

⁵⁴ There is no difference in the level of protection for CP under general or enhanced protection. The only difference is that the holder cannot change CP under enhanced protection into a military objective whereas CP under general protection may be converted, if absolutely necessary, into a military objective

As with 'Special Protection', CP identified as having 'Enhanced Protection' has to be registered and a special Committee is in place for maintaining the list and supervising the implementation of the Protocol: the Committee for the Protection of Cultural Property in the Event of an Armed Conflict⁵⁵.

3.3.3 Waiver of protection

3.3.3.1 Intentional attack

Despite the above, in the event of military necessity, respect for CP can be waived and/or CP can be used in military operations or can be subject to overt military action in limited circumstances. However, such a waiver can only be enacted when a Commander at a certain level gives his permission.

The principle of military necessity is fundamental to determining whether the protection of CP can be waived. Basic protection for CP can only be waived in cases where military necessity imperatively requires an attack on CP by an officer in command of a force of battalion level or equivalent or of smaller size when circumstances do not permit otherwise.⁵⁶

Past armed conflicts have shown that a conflict can arise between CPP and military necessity. It has been suggested that the argument of military necessity for the destruction of CP should no longer be accepted.⁵⁷ However, under the current legal framework, military necessity can still, *in extremis*, justify the destruction of CP.

General Eisenhower recognised this during the Second World War and stated:

“We are bound to respect monuments as far as war allows. If we have to choose between destroying a famous building and sacrificing our men, then our men’s lives count infinitely more

⁵⁵ <http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/the-committee/> (accessed 14 July 2014).

⁵⁶ CP under special protection can only be waived in exceptional circumstances of unavoidable military necessity by an officer in command of a force equivalent to the size of a division or larger. Enhanced CP can only be waived if, and for as long as the property has, by its use, become a military objective, and if ordered at the highest operational level of command. Many other conditions are attached to enhanced CP.

⁵⁷ K. Chamberlain, 'Military necessity under the 1999 Second Protocol', in N. V. Woudenberg & L. Lijnzaad (eds), *Protecting Cultural Property in Armed Conflict, An Insight into the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict*, Martinus Nijhoff, Leiden-Boston, 2010.

and the buildings must go. However, the choice is not always as clear-cut as that. In many cases, the monuments can be spared without detriment to operational needs. Nothing can stand against the argument of military necessity but the phrase is sometimes used where it would be more truthful to speak of military - or even personal - convenience".⁵⁸

Textbox 3: the Abby of Monte Casino and military necessity

The Battle of Monte Casino, or the Battle for Rome, was a series of four assaults by the Allies against the Gustav Line in Italy to create a breakthrough to Rome. On 15 February 1944, fearing the Abbey formed a part of the German defence line and that it was used as a look-out post, the Allies heavily bombed the Abbey based on the argument of military necessity.

However, the badly damaged buildings provided better protection against aerial and artillery attacks for the Germans who took up positions in the ruins.

The controversy about the bombings began two days later with the first US Government inquiry and continues until today.⁵⁹



⁵⁸ General Eisenhower, 29 December 1943 (Allied General Order issued by Eisenhower).

⁵⁹ D. Hapgood & D. Richardson, *Monte Casino: The Story of the Most Controversial Battle of World War II*, First Da Capo Press, 2002.



Picture 8: Monte Casino destroyed and rebuilt

3.3.3.2 Collateral damage

The principle of proportionality should be considered by the military when CP could be damaged as a result of targeting a military objective. In such a situation, CP is not the focus of an attack but may be damaged or destroyed and therefore becomes collateral damage.

One can imagine the political impact of damaging CP. Hence, in addition to the legal regime, other political factors should play a role when decisions regarding attacking CP are taken or when it is foreseen CP will be damaged as collateral damage.

3.3.4 Protective emblems

Protective emblems can be used during an armed conflict to mark individuals and objects under protection. The Red Cross is probably the most well-known emblem used under LoAC. Misuse of a protective emblem is a violation of the LoAC and punishable under international law.

The protective emblem for CP and cultural personnel identified in the 1954 Hague Convention is a blue and white shield –known commonly as the Blue Shield.

Although the emblem of a World Heritage Site is, as such, not mentioned in the LoAC as a protective emblem, it should be recognised and trigger protection for the site in question. There is no obligation for states to mark CP with the Blue Shield emblem.



Figure: blue/white shield



Figure: World Heritage Site

A group of three shields (triple emblem) can be used for immovable CP under special protection. No specific emblem exists, as yet, for enhanced protection.

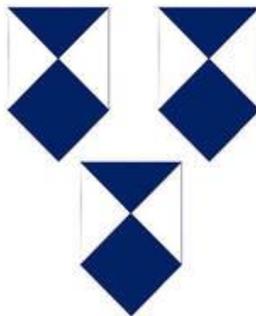


Figure: triple blue/white shield

The emblem from the Roerich Pact is officially still in use, however its actual use is very limited these days as it has been superseded by the Blue Shield.⁶⁰



Figure: Roerich Pact

3.3.5 Precautions

Whenever planning and conducting for example an offensive operation, all military personnel but specifically planners and targeteers⁶¹ are obliged to take precautions, verifying the target is indeed a military objective and the damage to civilian sites will be minimised. CP should be put on the No-Strike List and always be included in these precautions.⁶² In addition, in the situation where attacking or targeting CP has been decided to be justifiable, an effective warning should be given whenever the circumstances permit.

There is also an obligation to take precautions with regard to defence against attacks. These are:

- identity CP in the planning phase
- coordinate actions with the Host Nation (HN) as applicable
- remove movable CP from the vicinity of military objectives or provide adequate *in situ* protection;
- avoid locating military objectives near CP;
- avoid siting shelters for special protected CP near potential military targets;
- avoid the use of CP and its surroundings for military purposes;
- unilaterally declare a waiver of use for military purposes of what might otherwise be military objectives in the vicinity.⁶³

⁶⁰ J. Grimheden & R. Ring, *Human Rights Law: From Dissemination to Application: Essays in Honor of Goran Melander*, Brill, 2006, p.111.

⁶¹ targeteers are military specialist identifying targets

⁶² Article 13 1999 Second Protocol.

⁶³ Articles 4, 5, 7 and 8, 1999 Second Protocol The Hague 1954 Convention.

Textbox 4: The Old Bridge of Mostar

In November 1993, the Old Bridge of Mostar was deliberately targeted and destroyed. The Old Bridge could be seen as a symbolic connection and symbol of unity between the Islamic and Christian communities of Mostar. The communities were literally connected by the Bridge. In an attempt to justify this action, excuses were made that “the Bridge was just an ordinary Bridge”; that it was not marked as CP; and that it was destroyed due to military necessity. Even if the Bridge had been average and not special, it would still have been entitled to protection being a civilian site.

In addition, as the Bridge fell under ‘general’ protection, there was no obligation to mark it as CP.

With regard to the claim of military necessity, research has shown that although the Bridge was used for military purposes in the period preceding the attack, on the days of its actual destruction there was no fighting in the surrounding area nor any major movement of troops or supplies across the Bridge.

Furthermore even if that had been the case, military necessity requires that any activities pose a significant threat to the opposing forces. This latter argument has neither been proved nor accepted. As such, the conclusion follows that the failure to abide by the rules of LoAC does not seem to have been due to their lack of clarity but rather to have been wilful.⁶⁴



Picture 9: The Old Bridge of Mostar

⁶⁴ J. Petrovic, *The Old Bridge of Mostar and Increasing Respect for Cultural Property in Armed Conflict*, Martinus Nijhoff Publications, Leiden-Boston, 2013, pp.119-196.

Effective CPP requires a comprehensive approach and effective coordination between departments of national government, local government, and the armed forces. These include many efforts to be taken in peacetime, such as inventories, emergency plans, specific training of personnel, establishing refuges, duplicating important archives (digitization) and protecting of electronic data.



Picture 10: One of the monumental lamassu reliefs on display at the Iraq National Museum, Baghdad. Many people do not realize that the staff of the museum risked their lives to secure and save much of the collection prior to the US invasion in 2003.

Textbox 5: Preparations before the Second World War

One of the most important measures to protect CP during armed conflict is the preventive, risk management, planning done by institutions. Museums planned years in advance for the Second World War. They used the same emergency planning techniques as always but extended their worst-case scenario to the possibility of war.⁶⁵ When the war broke out, many museum staff evacuated their institutions and sent their most precious objects away for safe-keeping.

In Amsterdam, Rembrandt's Nightwatch was removed from the Rijksmuseum in September 1939, at the onset of World War II. The canvas was detached from its frame and rolled around a cylinder and hidden. In Italy, Michelangelo's David was bricked up in its own tower and workmen built a protective structure in situ around the Arch of Constantine. Da Vinci's The Last Supper fresco received a wooden wall reinforced with sandbags, saving it from a stray bomb.⁶⁶

3.3.6 Occupation

Various rules oblige an occupying force to support local authorities of an occupied territory in protecting their cultural property.⁶⁷ In case local authorities fail to do this the military occupants have to take responsibility. An example is found in 1956 when the Sinai was occupied by Israeli forces. The Israelis assisted in the daily management of the monastery of St Katharina. They looked after visitors, provided the monks with food and investigated an attempted break-into the treasury of the monastery church.⁶⁸

3.3.7 Personnel

Individuals working with CP and engaged in CPP can carry a special identity card and wear a special armband. If an individual is captured by the opposing forces and the CP under his responsibility is controlled by the same forces, he should be allowed to continue his cultural duties.⁶⁹

⁶⁵ C. Wegener & M. Otter, 'Cultural Property at War: Protecting Heritage during Armed Conflict', *The Getty Conservation Institute*, 2008 http://www.getty.edu/conservation/publications_resources/newsletters/23_1/feature.htm (accessed 14 July 2014).

⁶⁶ A.P.V. Rogers, *Law on the Battlefield*, Manchester University Press, 2004.

⁶⁷ First Protocol 1954 Hague Convention

⁶⁸ A.P.V. Rogers, *Law on the Battlefield*, Manchester University Press, 2004. p.147.

⁶⁹ Article 15 1954 Hague Convention.

3.4 Individual criminal responsibility

The 1993 Statute for the ICTY was the first legal document which linked the destruction of CP with individual criminal responsibility by determining the destruction of CP as a war crime.⁷⁰

Textbox 6: Convicted for destroying CP

During the conflict in the former Yugoslavia, a siege was conducted on the city of Dubrovnik. The old town in the city-centre was one of the most beautiful and perfectly preserved walled cities in Europe and is listed as a World Heritage Site. Nonetheless, it was hit by more than 500 rockets damaging approximately 45% of the buildings. Among them were the 15th century Rector's Palace and St Saviour's Church. In 2001, the ICTY brought charges against the General in charge Pavle Strugar. These included violating CIL and attacking a World Heritage Site. Strugar was found guilty and convicted of war crimes including the destruction and wilful damage done to historic monuments and works of arts in connection with the shelling of the World Heritage Site the Old Town of Dubrovnik. He received a 7 year prison sentence.⁷¹



Picture 11: Stradun (street) in Dubrovnik, shelling of Dubrovnik, Hotel Grand Kupari, Big Fountain of Onofrio and church of St Blaise (2013 -1991)

⁷⁰ Article 3 ICTY.

⁷¹ Source: <http://www.icty.org/cases/party/786/4> (accessed 24 September 2014).

In 1998 the International Criminal Court was established through the adoption of the Rome Statute. Herein, it is a war crime, in international and internal armed conflicts, when “intentionally directing attacks against buildings dedicated to religion, education, art, scientific or charitable purposes, historic monuments [...] provided they are not military objectives”.⁷²

The 1999 Second Protocol to the 1954 Hague Convention establishes a system of criminal responsibility by listing five serious violations:

1. extensive destruction of CP protected under the 1954 Hague Convention and Protocol;
2. making CP under the 1954 Hague Convention and Protocol the object of attack;
3. theft, pillage or misappropriation of, or acts of vandalism directed against, CP under the 1954 Hague Convention and Protocol;
4. making CP under enhanced protection the object of attack;
5. using CP under enhanced protection in support of military action.

Consequently, States Parties to the Protocol are obliged to treat violations as criminal acts under their domestic laws and establish appropriate penalties.⁷³

Textbox 7: Passive and active obligations

To sum up, the obligations regarding respecting CP imposed by international law with regard to CPP for military forces are:

- *Do not put CP in danger;*
- *Do not target CP;*
- *Do not damage CP;*
- *Looting of CP is not allowed.*

These obligations are:

- *valid for all CP, immovable and movable;*
- *not limited to CP itself but also the surroundings or objects used to safeguard CP;*
- *subject to the principles of the LoAC and precautions have to be taken whenever permitted and appropriate.*

As such, international law imposes many passive obligations on military forces that will require action from military forces.

⁷² Article 8 Rome Statute.

⁷³ Article 15 Second Protocol.

In order not to endanger CP do not turn CP into a military objective by setting up a command post inside a church or using a minaret as a firing position or observation post. In order not to target CP, CP must be included on any relevant No-Strike list. In order not to damage CP precautions must be taken when targeting a nearby military objective. To avoid the looting of CP, discipline must be imposed on your own troops in addition to relevant training in CPP. The mission's mandate and commanders' intent can impose more obligations regarding CPP.

In UN Security Council Resolution 2100, the mandate of the UN Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA), states: "To assist the transitional authorities in Mali, as necessary and feasible, in protecting from attack the cultural and historical sites of Mali, in collaboration with UNSCO". In the so-called article 100 Brief,⁷⁴ the Dutch Government informs the House of Representatives⁷⁵ about the Dutch contribution to MINUSMA. One of the stated objectives of the mission was to protect CP⁷⁶ which can entail that the military forces can be tasked specifically to actively protect CP. Such tasks could go further than the "do-not" obligations.

3.5 Other legal instruments relevant for CPP

- International Human Rights Law;
- 1970 UNESCO (illicit antiquities) Convention;
- 1972 World Heritage Convention;
- National legislation.

It is dependent on the type and scale of (armed) conflict which body of law is applicable. Whether International Human Rights Law (see 3.5.1 below) prevails over the LoAC depends on the circumstances on the ground. In addition other conventions related to CPP and national legislation can play an important role.

⁷⁴ Article 100 Constitution Kingdom of the Netherlands: "1. The Government shall inform the States General in advance if the armed forces are to be deployed or made available to maintain or promote the international legal order. This shall include the provision of humanitarian aid in the event of armed conflict. 2. The provisions of paragraph 1 shall not apply if compelling reasons exist to prevent the provision of information in advance. In this event, information shall be supplied as soon as possible".

⁷⁵ In Dutch: de Tweede Kamer der Staten-Generaal.

⁷⁶ Art. 100 Brief Mali 1 November 2013, www.tweedekamer.nl (accessed 24 September 2014).

3.5.1 International Human Rights Law

Before the Second World War, the idea of a right to culture being a basic human right was subject to discussion. Cultural rights have remained controversial over time and no consensus was reached during the negotiation of the Universal Declaration of Human Rights (UDHR). Agreement was reached on the right to participate in cultural life and protection of scientific, literary and artistic production.⁷⁷ As such, the UDHR holds a rather narrow definition of cultural rights. Currently this includes:

- the right to participate in cultural life;
- the right to enjoy culture;
- the right to choose to belong to a group;
- linguistic rights; and
- the protection of cultural and scientific heritage.⁷⁸

3.5.2 1970 UNESCO (illicit antiquities) Convention

During the 1960s thefts were increasing both in museums and at archaeological sites. Therefore, the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property was adopted to control the trade of cultural objects. It came into force on 24th April 1972.

The Convention requires its States Parties to make contingency provisions, such as making inventories, and it provides restitution provisions so appropriate steps can be taken to return CP to its rightful owner and strengthens the idea of international cooperation.⁷⁹

3.5.3 1972 World Heritage Convention

The idea for a Convention on World Heritage emerged shortly after the First World War and resulted finally in the adoption of the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage. The Convention links the concepts of nature conservation and the preservation of cultural properties.

⁷⁷ Article 27 UDHR <http://www.un.org/en/documents/udhr/> (accessed 19 July 2014).

⁷⁸ Article 27 UDHR; article 27 International Convention Cultural and Political Rights, article 15 ESC, article 31 Convention Rights of the Child, article 31 CMW, accessible via www.icrc.org (accessed 24 September 2014).

⁷⁹ http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html (accessed 24 September 2014).

It defines the kind of natural or cultural sites which can be considered for inscription on the World Heritage List, sets out the duties of States Parties in identifying potential sites and their role in protecting and preserving them. Furthermore, the Convention describes the functioning of the World Heritage Fund and obligates States Parties to report periodically to the World Heritage Committee on the management of World Heritage sites in their respective countries.⁸⁰

3.5.4 National legislation

National legislation often contains several rules on CPP, for example in the USA it is stated that the heritage of any area in the world under the responsibility of the US DoD should be protected⁸¹. In the case of a deployment, the national legislation of the country in question should be examined in order to understand any applicable legal framework. Websites of treaties and conventions often provide a list of those countries that have ratified the treaty/convention. Military legal advisors should be able to be of assistance in identifying relevant national laws.⁸²

⁸⁰ <http://whc.unesco.org/en/conventiontext/> (accessed 24 September 2014).

⁸¹ National Historic Preservation Act of 1966, Public Law 102-575, <http://www.cr.nps.gov/local-law/nhpa1966.htm> (accessed 24 September 2014).

⁸² The website of CCHAG offers a database of all host nation heritage laws with link to those laws, see <http://cchag.org/> (accessed 24 September 2014).

4. Organisations and CPP

4.1 NATO

The preamble of the North Atlantic Treaty states: “the Parties to this Treaty are determined to safeguard the freedom, common heritage and civilisation of their peoples”.⁸³ It can therefore be assumed that NATO intends to, whenever possible and appropriate, protect and safeguard CP. NATO as an entity is not directly bound by international treaties or conventions except by its responsibilities under CIL. Most NATO members are however, directly bound by the legal framework of CPP.

Currently, NATO has no approved definition of CP or CPP and has no separate policy or doctrine on CPP. Nevertheless CPP is addressed in three functional areas:

Targeting

In NATO’s guidance on targeting and collateral damage, detailed instructions describe how potential targets, which may be in the proximity of CP, have to be dealt with. This information is often classified and therefore not easy accessible by civilians outside the military or easy shared with IOs/NGOs.⁸⁴

Environmental Protection

Environmental Protection, as a specialist area for Military Engineering, addresses cultural resources and CP on a doctrinal level. Information on CP should be reflected in a Recognised Environmental Picture.⁸⁵

CIMIC

CIMIC is responsible for developing a Theatre Civil Assessment (TCA) which should contain a section describing CP in-theatre as well as an analysis of the importance for the mission. As such, CIMIC is well suited for obtaining, collecting and providing CP information from the early

⁸³ Preamble North Atlantic Treaty 1949.

⁸⁴ NATO Joint Analysis and Lessons Learned Centre, ‘Cultural Property Protection in the Operations Planning Process’, December 2012. (it should be noted this report hasn’t been endorsed by ACO and ACT (combined ACO/ACT letter SH/OPI/J9/2414-302353) but will remain a reference document in SHAPE’s and HQ SACT CPP process)

⁸⁵ STANAG 7141.

stages of operational planning, and to making this information available to all functional elements of the Staff and subordinate forces.⁸⁶

Gathering, collecting and disseminating CPP information could also be done by the Comprehensive Crisis and Operations Management Centre as they contribute to the Comprehensive Approach.⁸⁷

NATO training on targeting includes an extensive study of the Law of Armed Conflict and CPP is included herein. According to STANAG 2449, this is currently the responsibility of individual members.

Textbox 8: Operation Odyssey Dawn and Unified Protector

During the planning process of Operation Odyssey Dawn (OOD), information on possible targets and non-targets in Libya was gathered.

Civilian experts on CP from academia cooperated with the Blue Shield and contacted Libyan historians, archaeologists, IO and (N)GO's. Only five sites were listed on the World Heritage database from UNESCO. In the end, through international cooperation, approximately 1450 CP sites were listed, designated to be protected and considered for the No-Strike List. Later, when NATO led Operation Unified Protector, the information was transferred and used by NATO targeting experts. In particular, the protection of the Roman Fort at Ras Almageb, where forces loyal to the Gadhafi regime, presumably hoping that NATO would take damage to cultural property into consideration, had parked a mobile radar unit and five anti-aircraft guns next to the Roman fort, was seen as a significant success. The site was on the list of cultural sites submitted to NATO and was added to the No-strike list. As a result, NATO targeting staff were able to plan the precise destruction of the military targets with very minimal shrapnel damage the fort. To conclude, the NATO targeting process proved to be capable of supporting CPP.⁸⁸

The perceived success of Operation Unified Protector led to research into CPP within NATO. This concluded that, under the current systems,

⁸⁶ NATO Joint Analysis and Lessons Learned Centre, 'Cultural Property Protection in the Operations Planning Process', December 2012. (it should be noted this report hasn't been endorsed by ACO and ACT (combined ACO/ACT letter SH/OPI/J9/2414-302353) but will remain a reference document in SHAPE's and HQ SACT CPP process)

⁸⁷ See http://www.nato.int/cps/en/natolive/news_86912.htm (accessed 24 September 2014).

⁸⁸ NATO Joint Analysis and Lessons Learned Centre, 'Cultural Property Protection in the Operations Planning Process', December 2012. (it should be noted this report hasn't been endorsed by ACO and ACT (combined ACO/ACT letter SH/OPI/J9/2414-302353) but will remain a reference document in SHAPE's and HQ SACT CPP process)

NATO can fulfil its obligations with regard to CPP. However, it recommended further embedding CPP within NATO by:

- establishing a CPP policy and doctrine;
- defining a process for CPP planning and execution; and
- ensuring the concept of CPP is reflected in training.

The idea to appoint a CP officer was also initiated by the study.⁸⁹

4.2 European Union

The European Union (EU) acknowledges the importance of CP in the 2007 Lisbon Treaty, which states that “The Union shall respect its rich cultural and linguistic diversity, and shall ensure that Europe’s cultural heritage is safeguarded and enhanced”.⁹⁰ However, the EU itself does not have a specific competence in this area as the protection, conservation, and renovation of the cultural heritage is primarily a national responsibility.⁹¹ EU policies can have a direct impact on the cultural heritage sector however as the Commission does ensure that the protection and promotion of cultural heritage is given due consideration in sectors such as the economy and research. It is also committed to the fight against the illicit trafficking of cultural goods.⁹²

4.3 UNESCO

In 1945 in the aftermath of the Second World War the United Nations Educational, Scientific and Cultural Organisation (UNESCO) was founded, forged by a firm belief that political and economic agreements are not enough to create long-lasting peace. UNESCO, known as the ‘intellectual’ agency of the UN, operates on the premise that peace must be established on the basis of humanity’s moral and intellectual solidarity. Therefore, UNESCO strives to build networks among nations

⁸⁹ NATO Joint Analysis and Lessons Learned Centre, ‘Cultural Property Protection in the Operations Planning Process’, December 2012. (it should be noted this report hasn’t been endorsed by ACO and ACT (combined ACO/ACT letter SH/OPI/J9/2414-302353) but will remain a reference document in SHAPE’s and HQ SACT CPP process)

⁹⁰ Article 3.3 Lisbon Treaty http://europa.eu/lisbon_treaty/full_text/index_en.htm (accessed 19 July 2014).

⁹¹ According to article 167 of the *Treaty on the Functioning of the European Union*, the Union should be “encouraging cooperation between Member States and, if necessary, supporting and supplementing their action” in the field of culture. The EU does not have decision making power in the cultural heritage policy.

⁹² http://ec.europa.eu/culture/our-policy-development/cultural-heritage_en.htm (accessed 24 September 2014).

to enable this kind of solidarity and develops holistic policies capable of addressing the social, environmental and economic dimensions of sustainable development. In addition to efforts within education, pursuing scientific cooperation and protecting freedom of expression, UNESCO also strives to build intercultural understanding. This is done through the protection of heritage and support for cultural diversity. UNESCO has a number of cultural conventions in addition to the 1954 Hague Convention and it was UNESCO that created the idea of World Heritage to protect sites of outstanding universal value.⁹³



Figure: UNESCO

4.3.1 World Heritage Committee

UNESCO's World Heritage Committee establishes the sites to be listed as UNESCO World Heritage Sites. In addition, the Committee is responsible for the implementation of the World Heritage Convention and the World Heritage Fund, allocating financial assistance if needed and if available. The Committee also receives and holds data from countries with listed sites providing an overview of the implementation of the Convention and a 'snapshot' of the current condition of individual sites.

⁹³ www.unesco.org (accessed 24 September 2014).

4.4 International, governmental and non-governmental organisations

Apart from NATO, the EU and the UN, several other IOs and (N)GOs work specifically on CPP. Contemporary conflicts require cooperation with and between IOs and (N)GOs. In order for this to be achieved and for expectations to remain realistic, it is important that both sides, military and civilian, are aware of their mission, possibilities and limitations. It should be stressed that the military should also cooperate with national (governmental) authorities, including the security forces. In this section the key internationally operating organisations are described. It is thus not a comprehensive list of all the organisations dealing with CP and CPP.

4.4.1 The Blue Shield

As noted in 3.3.4 above the Blue Shield is the protective emblem authorised in the 1954 Hague Convention to identify CP and the personnel engaged in the protection of cultural property during armed conflict (Articles 16 & 17).

4.4.1.1 Historical note

The International Committee of the Blue Shield (ICBS) was founded in 1996 by the joint action of four cultural organisations: the International Council of Archives (ICA), the International Council of Museums (ICOM), the International Council on Monuments and Sites (ICOMOS), and the International Federation of Library Associations and Institutions (IFLA). The ICBS was comprised solely of four representatives of these organisations. The ICBS is named in the 1999 2nd Protocol as an advisory body to the Intergovernmental Committee created to oversee the implementation of the 2nd Protocol and, *de facto*, the implementation of the 1954 Hague Convention.⁹⁴ The ICBS encouraged the development of national committees of Blue Shield and a number of these joined together in 2008 to create the Association of National Committees of Blue Shield (ANCBS) with the purpose of coordinating and strengthening international efforts to protect cultural property at risk of destruction during armed conflicts or natural disasters. In 2014 the ICBS and ANCBS amalgamated as simply the Blue Shield.

⁹⁴ <http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/the-committee/> (accessed 18 July 2014).

The Blue Shield is committed to the protection of the world's CP, and is concerned with the protection of both cultural and natural heritage, tangible and intangible, in the event of armed conflict, natural- or human-made disaster. It is not restricted, as some believe, to the protection of archaeological sites but, as implicit in the founding organisations, is concerned with all CP – museums and their collections, libraries, archives, art galleries and their collections, as well as archaeological sites and intangible heritage. The Blue Shield respects the principles of joint action, independence, neutrality, professionalism, respect for cultural identity and diversity, and works on a not-for-profit basis. It promotes the ratification and implementation of, and respect for, the 1954 Hague Convention and its Protocols; raises awareness of the importance of protecting cultural property and heritage in emergency situations; promotes and provides relevant training; promotes community engagement with and participation in protecting cultural property; and encourages co-operation with, and between, other relevant entities involved in disasters.⁹⁵

4.4.1.2 Activities of the Blue Shield

The Blue Shield is, at present, an entirely voluntary organisation and currently has 17 national committees with another 9 under construction.

Through its international secretariat and national committees the Blue Shield aspires to raise the understanding of the importance of CPP with all relevant organisations and agencies and act as a forum for sharing information, good practice, and practical activities regarding CPP. In particular it has:

- provided lists of CP to be protected and added to national military and NATO 'No-strike' lists for Libya, Mali, Iraq, and Syria;
- carried out assessment missions on damage and threats to CP in Egypt, Libya, and Mali⁹⁶;
- assisted with post-flooding CPP in the Czech Republic⁹⁷ and with post-earthquake CPP in Haiti;

⁹⁵ (Draft) Statutes of the Blue Shield available <http://www.ancbs.org/cms/en/home> (accessed 18 July 2014).

⁹⁶ See <http://www.blueshield.at/> (accessed 19 July 2014).

⁹⁷ After a flood in Czech Republic in August 2002, the Dutch Ministry of Culture and Foreign Affairs financially aided the Blue Shield Nederland (founded in 2000) to buy equipment to preserve paper objects in several Czech museums. Two thousand cubic meters of paper were frozen to preserve these materials in advance of treatment. www.blueshield.nl (accessed 24 September 2014).

- assisted with the rescue of thousands of books from the collapsed Cologne archive;
- provided training programmes for the military (e.g. in the USA⁹⁸, Austria, and the Lebanon);
- liaised with military and other emergency organisations (e.g. on the production of this booklet);
- developed CPP Policy (e.g. the 4 Tier Approach – see below).

4.4.1.3 The 4 Tier Approach

Following the failure of the Coalition to identify CPP as an important element of the 2003 invasion of Iraq and the subsequent disastrous looting of museums, libraries, archives, and archaeological sites members of the Blue Shield worked with colleagues in the military to identify a basis framework to avoid such failure in the future. The 4 Tier Approach identifies four elements, that can be adapted and elaborated to suit particular national situations, that should embed an understanding of, and capability for, CPP in the armed forces:

- Long-term awareness training at all levels;
- Specific pre-deployment training regarding host country/region;
- During conflict CPP activity;
- Post conflict CPP activity⁹⁹.

This publication expands on this 4 Tier Approach below (5.2).

4.4.2 International Centre for the Study of the Preservation and Restoration of Cultural Property

The International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM) is an intergovernmental organisation dedicated to the conservation of cultural heritage. It is composed of individual states and currently has 132 member states. The decision to found ICCROM was made at the 9th UNESCO General Conference in New Delhi in 1956 and three years later it was established in Rome. With a worldwide mandate to promote the conservation of all types of cultural heritage, ICCROM aims to improve the quality of conservation practice as well as raising awareness about

⁹⁸ www.uscbs.org (accessed 24 September 2014).

⁹⁹ P. G. Stone, '4 Tier Approach in the Protection of Cultural Property', *The British Army Review*, 2013-14, pp. 40-51.

the importance of preserving cultural heritage. ICCROM focuses on five main areas: training, information, research, cooperation, and advocacy.



Figure: ICCROM

4.4.3 The Combatant Command Cultural Heritage Action Group

The Combatant Command Cultural Heritage Action Group (CCHAG) supports the war fighter and the military mission by developing reference, education and training tools for US Department of Defence (DOD) uniformed and civilian personnel and contractors. Its mission is to enhance military capacity by promoting Cultural Property Protection (CPP) as a force multiplier and an effective use of soft power.

CCHAG strives to improve cultural awareness within DoD at the senior leadership, command and tactical levels by helping to ensure that CPP is considered during full spectrum operations so that US personnel will perform in accordance with DoD policy and regulations, as well as US laws, host nation laws, and international laws and treaties that govern the protection of cultural property during military operations and undertakings.

CCHAG provides proactive mission support, CPP training products, curriculum development and technical expertise for Combatant Commands and Joint Force Planners and Engineers to enhance operational planning and improve soldier readiness. CCHAG's vision and long-term goal is to serve as the preferred provider of CPP training materials, products and services to instil CPP awareness at every level of command within DoD.

CCHAG stakeholders include key COCOM and Joint Force decision makers, international military partners, a broad range of professional and academic partners, and a growing network of subject matter experts with specialties in archaeology, architectural and cultural landscapes, GIS (Geospatial Information Systems), mapping, satellite imagery analysis, geography, anthropology and other disciplines.

5. Cultural Property Protection during military missions

5.1 Effective Liaison

The fundamental key to effective CPP is solid liaison between the military and the cultural heritage sector. In the first instance, the key organisation with which the military should liaise is the Blue Shield. Even if there is no national committee of the Blue Shield, the Blue Shield international secretariat should be able to help any military organisation find appropriate cultural heritage sector support.

5.2 Mission Relevance

For effective CPP much preparatory work needs to be done in peacetime. This is up to IOs, NGOs, GOs and the directors of museums and CP sites rather than the military. They need to cooperate in establishing inventories and emergency plans to cover various situations, including armed conflict. During this phase it would be wise however, if the military were consulted on the development of such plans, particularly as following the outbreak of an armed conflict or natural, or human-caused, disaster, the military are usually the first to arrive with the necessary logistic assets, capable of assisting in the evacuation or protection of CP. Such tasks must however be possible and appropriate in a given situation and be compatible with any given mission's mandate.

The primary message of this publication is that CPP can be beneficial for a military mission. As already established CP is always important to local populations, as well as to humankind in general. Ensuring its protection can therefore lead to greater local goodwill, greater force acceptance, and as such, contribute to winning hearts and minds. These benefits will almost certainly be hard to measure, or to attribute directly to CPP activity, however the negative effects of not protecting CP are far more likely to become visible and can have a devastating effect on a military mission both in the country of operations and at home. International condemnation of the failure to prevent the looting of the National Museum of Iraq, in Baghdad, is a prime example of this¹⁰⁰. Furthermore, the prevention of looting helps cut off a trade in illicit objects which can potentially fund many armed (illegal) groups, thus effective CPP can help to prevent the prolongation of a conflict. It

¹⁰⁰ P.G. Stone & J. Farchakh Bajjalay (eds) 2008. *The Destruction of Cultural Heritage in Iraq*, Woodbridge: Boydell.

can also help preserve national, ethnic and religious identity and more practically, as CP can serve as a source of income for a country, especially via tourism, it can help to achieve post-conflict economic regeneration. To conclude, CPP has strong mission relevance and there is a crucial role for the military.

Building on, and expanding, the Blue Shield's 4 Tier Approach the following areas are identified as a CP Awareness List in order to ensure that military forces are fully prepared for their responsibilities regarding CPP:

- generic training and education on CP and CPP;
- country specific education on CP and CPP during pre-deployment training;
- cooperation with relevant IOs, (N)GOs;
- appropriate Codes of Conduct;
- CPP during the planning and construction of military facilities;
- CP and CPP included in the whole planning process;
- CIMIC to support by including CP and CPP in the Theatre Civil Assessment;
- CIMIC to provide civilian-military liaison with relevant CP and CPP organisations;
- CIMIC to support civilian actors and their environment with CP and CPP project; and
- Deployment of CPP experts and reach-back capacity.

Responsibility for these areas varies: for example, the Code of Conduct is often drafted by the Personnel Branch and issued by the Commander whereas in the UK the G5 branch is in charge of the planning process. In the following paragraphs, each area will be discussed.

5.3 Training and education

Basic generic military training should include CPP. Elements to be included in the generic training are:

- the generic value of CP, cultural (natural pride, dignity, use of heritage), economic (healthy society, tourism) and military (CPP as a force multiplier);
- historic examples of CPP and a lack of CPP;
- legal obligation with regard to CP and CPP;
- trade in illicit antiquities and its implications; and

- relevant organisations with which the military need to liaise with respect to CPP.

Teaching CPP should be included in classes on the Law of Armed Conflict but it must be stressed that CPP is not limited to the legal framework. CPP is a force multiplier and can support long term mission success.

5.4 Pre-deployment training

In order to make forces aware of the importance of the CP in the country where they will be deployed, information concerning country-specific CP should be part of pre-deployment training. This can be delivered as part of cultural awareness training as these areas overlap partially. IOs, and in particularly the Blue Shield, and (N)GOs working in the country or with knowledge of the country should be called upon to support pre-deployment training. This is a good way to introduce cooperation with such bodies if this has not already been established.

Textbox 9: playing cards

The US Department of Defence (DoD) Legacy resource Management Program developed playing cards for troops which show examples of CP and good practice in CPP. The United Kingdom, the Netherlands, and Norway have followed this example and produced and disseminated playing cards. The playing cards can be country specific or general.



Picture 12: US playing cards for Afghanistan

5.5 Code of Conduct

In barracks, and on deployment, most military forces will adhere to a Code of Conduct (or Standards of Behaviour) in which rules regarding behaviour and integrity are laid down. In order to prevent military personnel contributing unwittingly to the destruction and illegal trade of CP, rules regarding CP must be included in these documents. Military personnel may not, for example, be aware of the full range of CP in a specific country. In this situation, they could easily buy artefacts, assuming them to be legal souvenirs, which are, in fact, illicit antiquities. It may also be necessary to increase awareness among troops based at home regarding their obligations towards CP and CPP¹⁰¹.

5.6 The construction of military facilities

When military forces are deployed, military camps and facilities need to be built. Often these facilities are constructed by military engineers and contractors who will be among the first personnel to enter the country, often finding themselves in a hectic, often dangerous, situation with limited or no first-hand information.

Later in the operations, original facilities may need to be enlarged and new ones constructed. It is important that CP is not destroyed when military facilities are constructed and there is therefore a need to examine any proposed site before any construction starts. As it can be difficult to recognise unfamiliar CP, advice from CP experts should be obtained – preferably before actual deployment.

Textbox 10: Camp Wolverine; Babylon, Protective trenches, and HESCOs

Camp Wolverine

When the US Forward Operation Base Wolverine in Afghanistan needed to be enlarged, the troops accidentally destroyed ancient water systems. These so-called Karez were hundreds of years old and are still used on a daily basis by the local population. However, the military personnel, analysts and planners, were not aware of this. As a result, the people of four neighbouring villages, with whom the military were trying to build positive relations, were understandably angry at the loss of their water supply. Extensive meetings with the village elders were required to save the relationship and rekindle goodwill. ¹⁰²

¹⁰¹ L. Rush (ed.) 2010. *Archaeology, cultural property, and the military*, Woodbridge: Boydell, for a range of current national military responses to CPP.

¹⁰² Example Dr Laurie Rush, <http://www.youtube.com/watch?v=rt08X2NswVM> (accessed 19 July 2014).

Babylon, Protective trenches, and HESCOs

In Iraq US troops dug trenches and used earth to fill thousands of HESCOs¹⁰³ in order to protect military bases. Unfortunately some of the trenches dug damaged archaeological deposits and the earth used to fill HESCOs came from ancient sites including Babylon. Earth layers are very important to archaeologists because they give information through stratigraphic data, such as pottery fragments, which can serve as a dating tool when the layers are undisturbed. Later the troops were ordered to fill the HESCOs with earth from outside this sensitive area. However, cultural experts explained that by bringing in large quantities of sand and earth from elsewhere they irrevocably contaminated the deposits in Babylon. In order to have avoided the extensive damage caused the US military should have been better informed and taken more thorough advice from experts prior to the construction work.¹⁰⁴



Picture 13: US Marines in front of the rebuilt site of Babylon in Iraq

¹⁰³ Large bags which are filled with sand or rubble to serve as barriers for military camps and fortifications, known as "Concertainer" Barriers and made by the UK Company Hercules Engineering Solutions Consortium (HESCO).

¹⁰⁴ J.E. Curtis, Report on Meeting at Babylon 11-13 December 2004, <http://www.britishmuseum.org/PDF/BabylonReport04.pdf> (accessed 19 July 2014) and R. McCarthy & M. Kennedy, 'US-led forces leave a trail of destruction and contamination in architectural site of world importance', *The Guardian* 15 January 2005.

5.7 Planning

In order to plan a military operation effectively and create the best protection for CP, information on CP must be introduced at the right time. NATO uses the Comprehensive Planning Directive (COPD). The planning process consists of six phases:

- 1 Situation awareness
- 2 Operational appreciation / assessment of options
- 3 Operational orientation
- 4a. Operational concept of operations development
- 4b. Operational plan development
- 5 Execution / Campaign assessment / Operation plan review
- 6 Transition

CP awareness and CPP must be part of this planning process from the very beginning. In this way, all planners involved should be aware of the CP Awareness List (see 5.2) and must take full account of CPP during the planning process. A special role herein lies with CIMIC and is discussed in Section 5.8 below.

It is important that CP should not be attacked, nor be used by the military, thus itself becoming a military objective for the enemy.¹⁰⁵ There are passive and active tasks that should result from the planning process with regard to CP. Passive tasks include, for example, refraining from using CP for military purposes; active tasks include, for example, planning patrol routes near CP sites to provide a protective presence for a vulnerable site. Obviously, and working in conjunction with the Blue Shield, as much CP as possible should be put on the No-Strike List to ensure it will not be targeted and when in the vicinity of a military objective a collateral damage estimate will be conducted. The Blue Shield is fully aware that there needs to be compromise over the number of sites that can be protected on a 'No-strike' list, or through military action on the ground, and that the successful completion of the military mission is paramount. However, the primary message of this publication is that protecting CP almost always helps the military achieve its mission.

¹⁰⁵ M. Hallet, 'Developing a NATO Cultural Property Protection Capability', in J.D. Kila & J.A. Zeidler (eds), *Cultural Heritage in the Crosshairs*, Brill, Leiden-Boston, 2013.

Textbox 11: Turning CP into a military objective

In 1991 during the Gulf War, Iraq placed aircraft, command posts and troops close to archaeological and religious sites and schools to protect the military material and personnel against bombing. The Allied target lists for the bombing campaign were restricted to military objectives. The US DoD reported to Congress about the steps undertaken to protect CP. Lists were drawn up with historical, archaeological and religious sites in Iraq and Kuwait, analyses were made for a six-mile radius around protected objects and the weapons systems, munitions, time and direction of attack were taken into account.¹⁰⁶

5.8 The role of CIMIC

NATO has defined CIMIC as “the coordination and cooperation, in support of the mission, between the NATO Commander and civil actors, including the national population and local authorities, as well as international, national and non-governmental organisations and agencies”.¹⁰⁷

The core functions of CIMIC are to:

- support the force;
- provide civil-military liaison; and
- support civil actors and their environment.

CPP plays a role in all three core functions.

5.8.1 Support the force

Commanders, depending on circumstances, will require significant support from within their Joint Operations Area as well as coordination of efforts to minimise disruption to military operations. For that reason CIMIC plays a proactive role by contributing to operational planning and participating in operations.¹⁰⁸

The contribution by CIMIC to the Comprehensive Operational Planning Directive (COPD) can be found in the BI-SC CIMIC Functional Planning Guide.

¹⁰⁶ Civil-Military Cooperation Centre of Excellence (CCOE), *CIMIC Field Handbook*, 3rd edition, 2013.

¹⁰⁷ Civil-Military Cooperation Centre of Excellence (CCOE), *CIMIC Field Handbook*, 3rd edition, 2013.

¹⁰⁸ Civil-Military Cooperation Centre of Excellence (CCOE), *CIMIC Field Handbook*, 3rd edition, 2013.

During phase 1 (situation awareness), CIMIC provides the Theatre Civil Assessment (TCA). The TCA is structured under the so-called PMESII headings: Political, Military, Economic, Social, Information, Infrastructure. As such, this document reviews and examines all of the civil conditions that might affect military activity in the area of operation. The information necessary to compile the TCA comes from several sources. As seen by the example of the No-strike list in OOD and OUP (see 4.1 Textbox), it is important to reach-out to the civil community to gain as much useful information as possible. As seen in OOD and OUP, through international cooperation with the Blue Shield, approximately 1450 sites were identified as CP and protected within targeting operations.

In phase 2 (Operational appreciation / assessment of options), CIMIC will create the Initial CIMIC Analysis which leads to the Full CIMIC Analysis in phase 3 (Operational orientation).

CP must be incorporated in the TCA, as it will then be taken into account during the rest of the planning process. It should be stressed that the TCA is a 'living document'.

If a CIMIC officer on a patrol talks to the local population and finds out that a certain site is very important to them, this can be added to the TCA in order to protect and respect that site.

Drafting assisting guidelines with do's and don'ts could be tasked to CIMIC to assist the forces in their operations in the field.

5.8.2 Civil-Military Liaison

Civil-Military Liaison aims to “establish and maintain liaison with civil actors at appropriate levels, facilitating cooperation, harmonisation, information sharing, concerted or integrated planning and conduct of operations”.¹⁰⁹ This includes a timely identification of stakeholders, the development of a liaison structure and the organisation of CIMIC information with regard to the whole spectrum of civil-military liaison including CPP. Important are national governmental authorities, security forces and other national organisations. The organisations listed in chapter 4 are of course also of key importance here and it is highly advantageous if each organisation makes an effort to get to know the others in peace time as then they can already be aware of

¹⁰⁹ Civil-Military Cooperation Centre of Excellence (CCOE), *CIMIC Field Handbook*, 3rd edition, 2013.

each other's mandate, mission, possibilities and limitations which will greatly enhance their ability to cooperate effectively in a crisis situation.

Textbox 12: Liaison.

Through Civil-Military Liaison, information about the CP in the Area of Operations can be used to compile a more complete and accurate list of CP to be included on, among other things, the TCA and the No-Strike List. Members of the Blue Shield visited Mali in January 2014 with the objective of evaluating the current situation of the cultural heritage in Northern Mali after the recent armed conflict, including monuments, archaeological and historical sites and archives.¹¹⁰ The information gathered was very helpful to the UN mission in Mali.

5.8.3 Support Civil Actors and their environment

Within the comprehensive approach, military support to civil actors and their interests will generally only be made available if it helps to create conditions that support the accomplishment of the military mission within the context of its mandate. This can include a wide spectrum of resources such as information, personnel, material, equipment, communications facilities, specialists' expertise and training.

The enabling of such support is a CIMIC responsibility but the actual support can be provided by any military unit or function. Support should be given in a staggered approach. This means that the support should be first enabled by means of capacity building, then by means of capacity sharing and, as a last resort, by military means.¹¹¹

Wherever possible, the completion of projects by military forces, whether of immediate or long term impact, should be considered whenever civil partners are unable to deliver any given project given the immediate situation. Such projects could, for example, be carried out to promote force acceptance, as a contribution to influencing positively civil society in the mission area, or facilitating access to civilian resources as needed.

It is important to bear in mind that just as CIMIC activities should always be undertaken in support of the Commander's military mission, so must CPP related activities fall within the boundaries of that mission and the Commander's intent.

¹¹⁰ www.blueshield.at/mali_2014/mission_report_mali.pdf (accessed 19 July 2014).

¹¹¹ Civil-Military Cooperation Centre of Excellence (CCOE), *CIMIC Field Handbook*, 3rd edition, 2013.

5.7 Cultural Property Experts

As a deployed military force will almost certainly not have all the knowledge about the CP of a specific country, it will be very useful to deploy CPP experts. Ideally these men and women will already be in uniform. Otherwise, these individuals could be reservist or militarised civilians. They should be able to document CP, assess its status, register damage, or advise on necessary actions with regard to protection or preservation. They could serve as project managers, library or archives experts, and archaeologists, restorers of all disciplines, conservators, curators, trainers or specialists in tracking down looted objects.¹¹² Also CPP experts should participate in the planning process. It is not always clear what is considered CP and sometimes to preserve important property one must go beyond the list. CPP experts can advise which property should be considered CP.¹¹³

As it is unlikely that any one individual will have a full understanding of the whole range of CP in any given theatre, such deployed CPP personnel should be supported by a clear and effective reach-back capacity to provide additional expertise where necessary.

Textbox 13: From the Monuments Men to the Thieves of Baghdad

“You can wipe out an entire generation, you can burn their homes to the ground and somehow they still find their way back but if you destroy their history, you destroy their achievements and it is like they have never existed. That is what Hitler wants and that is exactly what we are fighting for”. The Monuments Men – 2014

From the beginning of the Second World War, cultural heritage professionals and organisations in several Allied countries lobbied for comprehensive programmes to protect CP both at home and abroad.



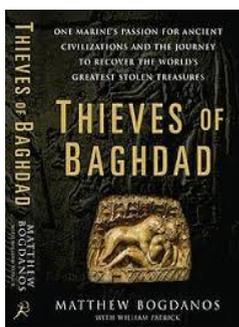
Picture14: Movie Monuments Men

¹¹² J. D. Kila, *Heritage under Siege: Military Implementation of Cultural Property Protection in the Event of an Armed Conflict*, 2003.

¹¹³ M. Hallet, 'Developing a NATO Cultural Property Protection Capability', in J.D. Kila & J.A. Zeidler (eds), *Cultural Heritage in the Crosshairs*, Brill, Leiden-Boston, 2013, pp.151-165.

One such US committee helped create the Monuments, Fine Arts, and Archives (MFAA) teams within the US Civil Affairs Division and this combined with a similar Unit that had been created in the British military. The teams were mostly composed of museum professionals, art historians and other CP experts already serving in the military in another capacity. They were responsible for identifying important cultural sites on military maps so that pilots and artillery could avoid them. Towards the end of the War, when it became clear the Nazis had looted thousands of objects, the MFAA teams were tasked with removing these objects to various collecting points for cataloguing and restitution to their countries of origin.¹¹⁴

Matthew Bogdanos, an Assistant District Attorney and a Colonel in the Marine reserves, was deployed to Iraq. In March 2003, when the Iraq Museum in Baghdad



was looted, Bogdanos became part of a team with the mission to recover the stolen artefacts. During the following years, approximately 10,000 artefacts were recovered, including the Warka Vase, the world's oldest known carved-stone ritual vessel, dating from circa 3200 B.C., and the Mask of Warka, generally believed to be the world's oldest known naturalistic sculpture of a human face, from circa 3100 B.C. Bogdanos wrote a memoir about his experiences and explains how his team cooperated with staff of the Iraq museum and other Iraqis.¹¹⁵

Picture 15: Book of Mathew Bogdanos

5.8 Towards transition and local ownership

Towards the end of any deployment the armed forces work towards enabling a transition of responsibility to national authorities. Responsibility for CPP should be handed over to local authorities at the earliest possible stage. As soon as the security situation allows the emphasis of CPP should be on stabilisation and emergency aid, repair and conservation to mitigate any damage inflicted by the conflict. Although these are not military responsibilities, they can require military facilitation. For example, armed forces can assist in providing safe access, liaison between local experts, IOs and (N)GOs.¹¹⁶

¹¹⁴ The Monuments Men, <http://www.monumentsmen.com/> & L.H. Nicholas, *The Rape of Europe: The Fate of Europe's Treasures in the Third Reich and the Second World War*, First Vintage Books Edition, 1995.

¹¹⁵ M. Bogdanos, *Thieves of Baghdad*, Bloomsbury New York, 2005.

¹¹⁶ P. G. Stone, '4 Tier Approach in the Protection of Cultural Property', *The British Army Review*, 2013-14, pp. 48.

Conclusion

This publication's goal was to outline why CPP is important for the military and for long-lasting mission success and how CIMIC can contribute to CPP. Therefore, three leading questions were identified to be answered through the publication.

1. What are CP and CPP?
2. How can CPP improve a military mission?
3. What are CPP tasks for armed forces, especially CIMIC, and what part should non-military experts play?

The definitions and framework for protection have been defined in chapters 2 and 3. The most important legal obligation to respect CP stems from the 1954 Hague Convention and its Second Protocol. In addition, individual criminal responsibility for intentionally destroying CP can be categorised as a war crime for which individuals can be prosecuted by the International Criminal Court.

The rationale for CPP can be summed up in the following three points:

- CP is connected to national, ethnic or religious identity and is thus important to the local community □ CPP is important to increase goodwill from the local community
- The illicit trade in CP fuels illegal armed groups □ CPP stops illegal funding for arms and the subsequent prolongation of an armed conflict
- CP is important for the country after the armed conflict □ CPP supports the development of a country post conflict

To conclude, CPP can be, and almost always is, a significant military force multiplier.

The different identified tasks for the military regarding CPP are as follows:

- **Generic training**
The importance of CP and CPP, including legal obligations, should be part of the generic training of all armed forces at various levels.
- **Country specific CP pre-deployment training**
Before deployment, forces should receive cultural awareness training of the country in which they will be deployed which should include the CP of that country so the military will recognise it and can show respect.

- **Code of Conduct**

To avoid looting, vandalism or other damaging activities, the Code of Conduct should include prohibitions on buying, selling or trading illicit artefacts. In addition, commanders should be aware that objects on sale on, for example, bazaars could be looted CP and subsequently inform and educate their troops.

- **CPP during the planning and constructing of military facilities**

In order to avoid damage to CP during the construction of military facilities, planners and construction personnel or contractors should examine whether the construction of military facilities will damage CP.

- **CP and CPP included in the whole planning process, CP included in the TCA and on the No-Strike List**

In order to respect and protect CP, a list of CP of the country should be included in the planning process. In this way, all forces will become aware of the list and ensure minimal possible damage will be done to the CP. CP should be part of the TCA and be put on the No-Strike List.

- **CIMIC, support the force, support to civil actors and their environment and civil-military liaison**

In all of the three core functions of CIMIC, CPP plays a role. First of all, CIMIC is responsible for the TCA. Second, CIMIC should establish and maintain contact with IO and (N)GOs. CIMIC should liaise with organisations dealing with CP and CPP. Third, CIMIC can support civil actors with regard to CPP.

- **Deployment of CPP experts**

Because the military will almost certainly not have all of the necessary expertise within its structure, CPP experts should be deployed in order to advise on CPP.

In sum, the military and CIMIC can and must play a vital and proactive role in CPP.

Recommendations

- Include the importance of CP and CPP in generic training for the military, including practical examples, organisations relating to, and with expertise in, CP and CPP, the framework for protection, and case studies.
- Include country specific CP in pre-deployment training.
- Include respect for CP and awareness and prohibition of the illicit trade in antiquities in the Code of Conduct.
- Include an accurate list of CP in the planning process through the TCA in order to ensure CP is on the No-Strike List. Update this list whenever additional information is made available.
- CIMIC personnel include CP in the TCA, liaise with organisations dealing with CP and CPP and support civil actors with regard to CPP.
- Establish contact with CPP experts, and in particular the Blue Shield, who can give advice where the military lacks certain expertise.
- Ensure a CPP capability in headquarters during any deployment.

Picture Sources

Cover page

Picture credit: http://commons.wikimedia.org/wiki/File:DeNachtwacht_01.jpgsh.

Picture 1:

Picture credit: Dr. Laurie W. Rush

Picture 2:

Picture credit:

- Brandenburger Tor: http://de.wikipedia.org/wiki/Brandenburger_Tor,
- De Nachtwacht: http://commons.wikimedia.org/wiki/File:De_Nachtwacht01.jpg,
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Picture 3:

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Picture 4:

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- Taj Mahal: http://pixabay.com/p-383097/?no_redirect,
- Mount Fuji: http://pixabay.com/p-423908/?no_redirect,
- Angkor Wat: http://upload.wikimedia.org/wikipedia/commons/4/41/Angkor_Wat.jpg.
- Temple Korea: <http://adventurejay.com/blog/index.php?entry=entry130912-195838>.

Picture 5:

Picture credit: [http://commons.wikimedia.org/wiki/File:Rosetta_Stone,_British_Museum_\(5679138532\).jpg](http://commons.wikimedia.org/wiki/File:Rosetta_Stone,_British_Museum_(5679138532).jpg)

Picture 6:

Picture credit,

- Middelburg: Edwin Maes
- Dresden: http://en.wikipedia.org/wiki/Bombing_of_Dresden_in_World_War_II.

Picture 7:

Picture credit: Edwin Maes.

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Picture 10:

Picture credit: Dr. Laurie W. Rush.

Picture 11:

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- Stradun and GrandKupari: https://en.wikipedia.org/wiki/Siege_of_Dubrovnik,
- Shelling Dubrovnik: <http://news.bbc.co.uk/2/hi/europe/4223859.stm>,
- Fountain of Onofrio: <http://www.zod.hr/eng/novost.php?id=78www.dubrovniknet.hr>,
- Church of St Blaise: <http://www.presidentsmedals.com/Entry-14260>

Picture 12:

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Picture 13:

Picture credit: <http://en.wikipedia.org/wiki/Babylon>

Picture 14:

Picture credit: http://www.forbes.com/fdc/welcome_mjx.shtml

Picture 15:

Picture credit: http://en.wikipedia.org/wiki/Thieves_of_Baghdad

Literature / Further Reading

M. Bogdanos, *Thieves of Baghdad*, Bloomsbury, New York, 2005

Civil-Military Cooperation Centre of Excellence (CCOE), *CIMIC Field Handbook*, 3rd edition, 2013

C. Forrest, *The Doctrine of Military Necessity and the Protection of Cultural Property during Armed Conflict*, The University of Queensland, TC Beirne School of Law Legal Studies Research Paper Series, 2007

Micaela Frulli 2011, The Criminalization of Offences against Cultural Heritage in Times of Armed Conflict: The Quest for Consistency European in Journal of International Law Volume 22, Issue 1 Pp. 203-217. Oxford 2011.

J.D. Kila & J.A. Zeidler (eds), *Cultural heritage in the Crosshairs*, Brill, Leiden-Boston, 2013

J.D. Kila, 'Heritage under Siege: Military Implementation of Cultural Property Protection in the Event of an Armed Conflict' Brill, Leiden-Boston, 2012

J.D. Kila, Herndon 2014. JFQ 74 | Military Involvement in Cultural Property Protection: An Overview by Joris D. Kila and Christopher V. Herndon | July 01, 2014 Joint Forces Quaterly

P.J.J. v.d. Kruit, *Handboek Militair Recht*, Wolf Legal Publishers Nijmegen, 2009

M. Miles, 'Still in the aftermath of Waterloo: a brief history of decisions about restitution', in P.G. Stone (ed.) *Cultural heritage, ethics and the military*: pp.29-42. Woodbridge: Boydell, 2011

NATO Joint Analysis and Lessons Learned Centre, *Cultural Property Protection in the Operations Planning Process*, December 2012 (it should be noted this report hasn't been endorsed by ACO and ACT (combined ACO/ACT letter SH/OPI/J9/2414-302353) but will remain a reference document in SHAPE's and HQ SACT CPP process)

L.H. Nicholas, *The Rape of Europe: The Fate of Europe's Treasures in the Third Reich and the Second World War*, First Vintage Books, 1995

J. Petrovic, *The Old Bridge of Mostar and Increasing Respect for Cultural Property in Armed Conflict*, Martinus Nijhoff Publications, Leiden-Boston, 2012

A.P.V. Rogers, *Law on the Battlefield*, Manchester University Press, 2004

L. Rush (ed.) *Archaeology, Cultural Property, and the Military*, Woodbridge: Boydell, 2010

P. G. Stone, '4 Tier Approach in the Protection of Cultural Property', *The British Army Review*, 2013-14

P.G. Stone & J. Farchakh Bajjaly (eds) *The Destruction of Cultural Heritage in Iraq*, Woodbridge: Boydell, 2008

P.G. Stone (ed.) *Cultural heritage, ethics and the military*. Woodbridge: Boydell, 2011

M.M. Tumarkin, *Traumascapes: The Power and Fate of Places Transformed by Tragedy*, Melbourne Univ. Publishing, 2005

C. Wegener & M. Otter, 'Cultural Property at War: Protecting Heritage during Armed Conflict', *The Getty Conservation Institute*, 2008

N. V. Woudenberg & L. Lijnzaad (eds), *Protecting Cultural Property in Armed Conflict, An Insight into the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict*, Martinus Nijhoff, Leiden-Boston, 2010

Relevant websites

CCOE, www.cimic-coe.org

CCHAG, <http://cchag.org/>

UNESCO, www.unesco.org

ANCBS, www.ancbs.org

US Blue Shield Committee, www.uscbs.org

The Netherlands Blue Shield Committee, www.blueshield.nl

Annex A: Appendix 4 to Annex W to the OPLAN

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APPENDIX 4 TO
ANNEX W TO
LCC OPLAN 80954
DATED 20 OCT 10

CIMIC SENSITIVE SITES

Sites within this category are not to be targeted without prior authority of the commander. Additional sensitive sites identified on the ground should be reported up through the chain of command.

a. **Sites of major CIMIC significance (SMCS).** These sites are of such significant religious or civil infrastructure significance that their destruction or damage would either:

- (1) Potentially undermine the Force.
- (2) Seriously threaten the post-operation recovery of the involved country.
- (3) Inflict widespread and indiscriminate impact on key civil life support that would affect a civil population.
- (4) Following sites can be deemed SMCS
 - (a) Power plants/substations
 - (b) Watertreatment/processing and diostribution plants/installations
 - (c) Dams and reservoirs
 - (d) Hazardous industrial and commercial installations (Chemical or nuclear)
 - (e) Key cultural or religious monuments or sites
 - (f) UNESCO sites
 - (g) IO/NGO sites (i.e. DPRE camps)

b. **Sites of CIMIC significance (scs).** These sites are of sufficient significance that their destruction or damage would either:

- (1) Alienate significant elements of the civil population.
- (2) Impact adversely on a civil populations key life support
- (3) Impede the post-operation recovery of a concerned country.

W-4-1
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W-4-2
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Cultural/Historical sites (SMCS)

Location	Facility Name	Description	Coordinates	Remarks
EST	UNESCO World Heritage Site	Historic Centre (Old Town) of Tallinn	N59 25 59.988 E24 43 60	
EST	UNESCO World Heritage Site	Struve Geodetic Arc	N58 3 28 E26 20 16	
EST	UNESCO World Heritage Site (Tentative List)	Kuressaare Fortress	58°14'53" N 22°28'32" E	
EST	UNESCO World Heritage Site (Tentative List)	Baltic Klint	Osmussaari: 23°23'38.185" E 59°17'13.922" N Ufina: 27°53'23.579" E 59°24'07.896" N	
EST	UNESCO World Heritage Site (Tentative List)	Wooded meadows (Lõõgatu, Kalli, Kallik, Nedrema, Maepäa, Allika, Tagamoisa, Loode, Koiva, Halliste)	Laelatu: 23°34' N / 58°35' E Kallik Nedrema: 24°04' N / 58°32' E Maepäa: 22°06' N / 58°18' E Allika: 23°48' N / 58°43' E Tagamoisa: 22° N / 58°28' E Loode: 22°26' N / 58°14' E Koiva: 26°11' N / 57°41' E Halliste: 25°02' N / 58°23'	

W-4-1

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Annex B: Format of a theatre civil assessment (Field handbook)

Annex 6

FORMAT OF A THEATRE CIVIL ASSESSMENT (TCA)

1. A TCA is the product of the process that CIMIC staffs undertake at the outset of phase one - Situation Awareness. It begins with the identification of likely areas of operation, and/or contingency areas, and aims to assemble as much raw data as possible. Whenever possible the assessment should be based on a ground reconnaissance and supported by information and data drawn from all sources, both open and classified.

2. It is important to note that other staff branches will contribute to this

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Section 3: GEOGRAPHY

1. Location and Size
2. Physical Geography
3. Climate
4. Political Geography
5. Geopolitical Status
6. Implications for NATO Forces

Section 4: CULTURAL AFFAIRS

1. History
2. People
 - a. Population
 - b. Culture and Social Structure
 - c. languages
 - d. Religion
3. Arts, Monuments and Archives
 - a. General Conditions and Problems
 - b. Arts
 - c. Monuments
 - d. Archives
4. Implications for NATO forces

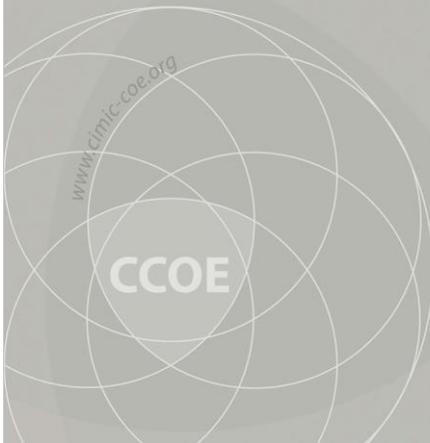
Section 5: HUMANITARIAN ASSISTANCE AND CIVIL EMERGENCY PLANNING

1. Civil Emergency Planning
 - a. Disaster Preparedness
 - b. Organization

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The CCOE fulfils its role as a multinational contribution to NATO's transformation efforts, by selecting key issues in the civil-military dimension and relations that can be further re-searched through seminars, workshops, conferences and publications like this one. By this, the CCOE will continue to promote and explore new ideas, findings, trends and developments together with relevant institutions and individuals, and emphasize the value of mutual understanding through a continued debate.

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