Heritage under siege: military implementation of the 1954 Convention for the Protection of Cultural Property

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Heritage under Siege is the result of a five year long multidisciplinary research focusing on military implementation of protecting and safeguarding Cultural Heritage in the event of conflict. The subject necessitated to involve legal obligations and implications. The main juridical framework in which cultural property protection (CPP) activities take place is the Convention for the Protection of Cultural Property in the Event of Armed Conflict to be referred to as The Hague Convention of 1954.

Apart from literary sources, unpublished documents and interviews the account is for a large part based on field research or to be more precise participating observation. The author joined the Dutch Armed Forces to be able to execute research in theatre and was send out to several conflict areas. This resulted in new case studies from Iraq, Macedonia (FYROM) and Egypt as well as cases from Afghanistan and Libya. Examples are not restricted to conflict areas but also comprise cases from exercises and preparations e.g. UK and the US.
Heritage under Siege
Military Implementation of the 1954 Convention for the Protection of Cultural Property

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aan de Universiteit van Amsterdam
op gezag van de Rector Magnificus
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Faculteit der Geesteswetenschappen
It is a pleasure to thank those who made this dissertation possible. Especially I want to thank my supervisor Prof. Dr. Bram Kempers and co-supervisor Prof. Dr. Rob van der Laarse, both from the University of Amsterdam's Department of Cultural Sciences, for their help and motivating ideas. Special appreciation goes to my old friend Rik Vos. He has made available his support in a number of ways during the entire research. He read many parts of my dissertation while simultaneously acting as a referee and supplier of inspiration without avoiding risks or being too politically correct. Also I would like to show my gratitude to Paul Koopman from the Institute for Culture and History for his support and to Prof. Dr. Irene Zwiep to make this dissertation possible by matching the funding for an appointment so I could do my last year of research and writing. The SNS Reaal fund that is highly appreciated for especially supporting cultural heritage research in the Netherlands generously donated the initial funding. Much valued is the work of Rene de Haan who did a tremendous job in designing the cover and a number of graphics and my US colleagues Dr. Laurie Rush, Jack Rush and Dr. Jim Zeidler who helped with language problems and provided their perspectives on several issues addressed in this study. Professor Jacques van Nieuwenhove and Dr. Berma Klein Goldewijk were of big help in the beginning of the project. Karl von Habsburg, Dahpne Daponte, Laura Taverne, Winnie Zwetsloot and Frits Nordsiek provided moral support and technical assistance. Brigadier General Hans Bosch ret. supplied military moral support. Lastly, I offer my gratitude to my mother and all who supported me in any respect during the completion of the project.

Joris Kila
"A nation that draws too broad a difference between its scholars and its warriors will have its thinking being done by cowards and its fighting done by fools"


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1Attributed to Thucydides <http://www.quotes.net/quote/38537>[2 September 2011].
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Heritage under Siege
Military Implementation of the 1954 Convention for the Protection of Cultural Property

Introduction:
Personal reflections of a Dutch Cultural Property protection Officer

It was 17 February 2004 when I arrived at Baghdad Military airport dressed in a Dutch military uniform with the rank of Lieutenant Colonel and armed with a Glock 9 mm pistol. My mission was to assess the needs of the Iraqi and Coalition Forces in relation to Cultural Property Protection (CPP). At this time, public attention was drawn to Iraq mainly through the Dutch media and triggered by an incident that happened 27 December 2003 in the area of responsibility of the Dutch Stabilization Force Iraq (SFIR) Battalion in South Iraq’s Al Muthanna province. The incident involved a Dutch Marine Sgt. Major who apparently fired two warning shots when Iraqis wanted to loot a container that had fallen off a truck. One of the shots fired killed an Iraqi. The Dutch Military Police arrested the Sgt. Major and he had to stand trial in the Netherlands. This event caused a public discussion focused on the rules of engagement (ROE) for Dutch Military when on a mission restricted by mandates. It became clear that public opinion did not give much room for the military to use their weapons in cases where they felt threatened. Because of this, I wanted to behave as correctly as possible and comply with any rules of engagement.

At the airport, a US military convoy that would escort me to the so-called Green Zone met me. We had to take the dangerous road from the airport leading through the Red Zone. I asked one of the officers in charge of the convoy what the rules of engagement were. He answered, while pointing at a suburban car with a driver that had his M16 positioned over the steering wheel, "Colonel, you go sit in the back of this vehicle with your pistol, next to you there will be a sniper, the driver has his own fire power, and next to him there is another guy with a gun. Now for the rules of engagement if something happens you have to start firing immediately, there is no time to aim so don’t bother, there is also no point in opening the window just shoot right through it as many times as possible. How much ammunition do you have sir?" I answered that I had five bullets in one clip. In fact, I had to sign for the receipt of these bullets handed over by a Dutch officer in Kuwait where I switched planes; I had to give back the five bullets on my return. The American officer started to laugh and gave me some 500 bullets “that will keep you going for a few days.” This personal experience is symptomatic of the practical behavior of the interwoven fabric of interests, cultural backgrounds, and in this case, rankings that can affect attempts to protect Cultural Property in the event of, and under the threat of armed conflict.

In the anecdote, different perceptions concerning deployment of military experts influenced by geographical and cultural origins play a role. National political strategies, often not unambiguous, and corporate cultures as well as military traditions are critical. Overall, communication problems deriving from differences in perception and appreciation linked to cultural backgrounds are a challenge for implementing the military version of Cultural Property Protection. It raises the question whether Cultural Property experts, while safeguarding cultural heritage according to obligations deriving from international humanitarian law (or their own national law), should have a status like the Red Cross, or when they are military or militarized, at least like military medical personnel. In other words within existing legal frameworks they should be able to operate more independently from direct military command structures. This of course can only happen if commanders and politicians first see the significance of military CPP. I hope that this study will help to raise their awareness on the subject. Having said this it seems important to stress that the added value of this investigation is that the subject is approached and measured from a military perspective. The core topic is an inquiry into the military attitude towards CPP driven by the initial observation that most military organizations seem not very eager to implement CPP in
accordance with International Humanitarian Law (IHL). Nevertheless during the course of the research it was questioned and debated by civil colleagues whether abstract, contemplative and reflective dimensions from the civilian cultural heritage debate as conducted by the scientific establishment should have a more prominent position. To put it first bluntly the answer is no. This needs clarification, of course the picture, generated by this research is to a degree supplemented or influenced by civilian perspectives deriving from the realms of law, politics, sociology, conflict studies, ethics, archaeology and philosophy, to mention a few. Nevertheless when concepts are mentioned it is from a military point of view, if for instance reference is made to asymmetric conflict the context is more legal and practical than the wider civilian scientific contemplation on post modern conflict. To make a comparison, when conflict is addressed the issue is more 'who's it between' than a reflection on the emergence of another, alternative system of profit and power. Still within the scope of this study certain asymmetric elements will be taken into consideration such as intrastate aspects of conflict since these are directly connected to practical and legal implications that are of importance for safe-guarding cultural property. The military scope does not mean that abstract reflections can not be of value to this inquiry. Some examples, when Zygmunt Bauman in Society under siege mentions asymmetric war in the context of Global insecurity he notices that an important feature of this type of war is that 'it will not be waged by a grand alliance united to defeat hostile powers but will involve floating coalitions of countries which may change and evolve'. Later this aspect is fine tuned into 'Shifting Coalitions'. This type of information is extremely relevant for both the military and CPP experts because shifting coalitions contain shifting military cultures as well as changing perceptions and notions of cultural property especially in case such property is connected to identity or has political connotations. The influence of shifting coalitions is visible in the anecdote above about my arrival in Baghdad. On the other hand a lot of ethical considerations and abstract reflections are totally or partly beside the case because at this time there is too little field experience and consequently caseload to trigger more profound thoughts as are discussed in the international heritage debate. When for instance the term "urbicide" meaning literally the killing of a city is used we touch upon matters that have military strategic and tactic connotations and relevance as well as theoretical, ethical, sociological and architectural implications. In the context of this book there is a risk that bringing in such a concept will create confusion amongst parties that should deal with both elements (civil and military). This needs more clarification: Bevan mentions in the Destruction of Memory urbicide in connection with Carthage's destruction in antiquity, the English bombardments of Dresden and the destruction of Hiroshima. His book makes a connection or at least a comparison between material destruction and genocide. This is already a natural connection one would make when reading or hearing the term urbicide, when labelling the Carthage case an example of urbicide he justifies this by mentioning that the city was demilitarized when destructed. This is not clearly proven in the other cases, at least not from a military (scientific, historical) perspective. This is the point where for instance military scientists and legal experts drop out or get confused since matters are not additionally argued from legal (IHL especially law of armed conflict) perspectives not to mention arguments about supposedly decreasing casualties by certain military actions that involve damaging or destroying the urban fabric. Nevertheless the topic of urbicide should be (and is) researched further and will enter the CPP discourse referring to newer situations like Beirut, the Twin Towers destruction and the current situation in Libya. As for now we are first and foremost facing unnecessary and illegal destruction of cultural property in the world's oldest cultural spheres. The conflict situations that comprise cultural property in Egypt, Libya, Syria and Cambodia speak for themselves. For now,

2 Duffield 1998, p. 66.
4 Bevan 2006, pp. 18 and 82.
pro-active strategies to tackle protection and cooperation problems should have priority over reflections. Experiences gained in such strategies should co-determine my position in the debate which will hopefully emerge and mature in the reactions, critique and with a bit of luck, expanding investigations triggered by this dissertation.

Let me begin to tell how I became affiliated with the military and what led me to start scientific research on military responsibilities regarding Cultural Property protection. Being educated as an art historian and classical archaeologist, I got involved in an attempt to create a unit of militarized cultural specialists for the Dutch Ministry of Defense (MoD).

In 1999, NATO asked the Netherlands to establish a framework for a CIMIC (Civil-Military Cooperation) Group and to invite other nations of the northern region to participate. Initially a CIMIC officer invited me. The idea was to assist in establishing a cultural affairs network within a newly found multinational CIMIC organization called CIMIC Group North (CGN), a no longer existing, multinational military organization at the time based in the Netherlands under Dutch/German command. After accepting the invitation, I was offered the reserve military rank of Lieutenant Colonel and the positions of network manager for Cultural Affairs and advisor to the Commander of CGN for all five CIMIC areas.6

In the beginning, there was much enthusiasm to get the CIMIC organization including the section cultural affairs on the map. To achieve this goal the CIMIC staff organized courses and seminars in which I participated as both student and lecturer. Initially the focus was to get understanding of the CIMIC concept. After a while I tried to specialize on possibilities and challenges connected with implementing CPP. At the same time, I had to study in order to become acquainted with the military culture and fundamental issues that included basic military training. Understanding of such matters is essential before being able to work in a military environment. At first glance, CIMIC looked like a perfect structure to house military Cultural Property protection. As will be argued later this is a subject for debate. It became clear in an early stage that the only military connection with Cultural Property in the Netherlands, apart from a number of legal rules, consists of older and historic real estate such as bunkers and fortifications, military terrains and military museums. Apart from this there was (and still is) wide spread confusion about the meaning of the term culture as well as a mix-up between CPP and Cultural Awareness and what these terms stand for.

These complicated but interesting circumstances provided a stimulus to work on developing educational materials. In particular, there is a need for CPP training tools containing examples from contemporary conflict situations. Contributing to the shortage is the fact that organizations that normally should provide training materials are not quite able to do so due to insufficient experience in working with the military and lack of expertise regarding civil military cooperation.7 However, it should be said that there is no shortage of juridical studies and educational materials suitable for use by military legal advisors as provided for instance by the ICRC and UNESCO.8

To summarize matters: there was a need for research to gain knowledge fit to serve as a basis for improvement and adaptation of current practices while at the same time creating educational materials. To distinguish and analyze outcomes in a qualitative, sustainable, and credible manner

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6 These are Civil Administration, Humanitarian Aid, Civil Infrastructure, Economy and Commerce and Cultural Affairs.
7 Examples are ICOMOS, ICOM, and IFLA these are all introduced in the section on taxonomy.
8 ICRC is the International Committee of the Red Cross based in Geneva. UNESCO is the United Nations Educational, Scientific, and Cultural Organization. See also the Glossary.
an appropriate scientific approach was required. Throughout the entire research and especially while exploring suitable methods choices had to be made concerning spending more time on theoretical or practical issues. Consequently, a scientifically accepted but still practice-based research method would suit best which led me to participant research. Participant research necessitates working from the inside, in this case as a reservist within the Netherlands armed forces. This brought the challenge that in the armed forces cultural activities are not considered part of the military core business. What's more, individuals, normally reserve officers, not really belonging to the military community, practice CPP in the Dutch military perception.

Reservists share no common past like friendships and networks built during studying at military academies and schools. As a result, the status of a relative outsider makes it difficult to get access to information, which was a challenge for the research. In other countries, e.g. the US, the military community is more receptive to participant research by militarized individuals since the status of a reserve officer is perceived higher than in the Netherlands making it easier for reservists to function as was confirmed during my contacts with foreign military in the field. The described challenges were a first indication of problems encountered during the entire research process about military involvement in Cultural Property protection. Overall, many of these nuisances seem triggered by lack of awareness of the subject among parties involved such as the different military services and military personnel of dissimilar ranks and various departments. There were cases in which unawareness even led to some degree of antipathy for the topic. Strong opposition comes for instance from the (civilian) head of the Dutch MoD section responsible for cultural historical backgrounds and information. Resistance against CPP is apparently not only rooted in cultural differences but correlates with diverse phenomena typically found in corporate cultures. Most apparent are matters of distinction culminating in identity and competence issues combined with bureaucratic inspired and career driven risk avoidance. Such issues are often disguised as being part of financial cutback measures. Strange as it may seem all these challenges for a part, inspired me to explore matters from a scientific point of view. The research should focus on the handling and protection of cultural heritage in all its aspects e.g. heritage as a cultural resource, as cultural property and seen from both practical as well as theoretical perspectives. Finally yet importantly, it had to include a description of parties, processes, and mechanisms involved.

Early evaluation included art historical and archaeological points of view but showed that more dimensions needed exploration to get a complete picture. The full picture required a multidisciplinary approach. For instance sociological and military aspects like identity, security, operational planning and law of war had to be analyzed while looking for correlations and interactions. Seen from a methodical perspective the multidisciplinary approach contained participant research evolving into what I would like to call initiating research or the instigation of opportunities to observe and test CPP in practice. In other words, participation in real missions was essential to identify capabilities, specialists, and players. This resulted in field research using observation and interviews. Sometimes exchange of ideas also took place via correspondence, during conferences, panels, and paper discussions. Apart from this investigating the practical functioning of structures and mechanisms that either proved to facilitate or restrain implementation of the Hague Convention of 1954 in contemporary conflicts turned out to be quite essential.

CAI is an acronym for Cultuurhistorische Achtergronden en Informatie, a section predominantly occupied with cultural awareness and Human Terrain. This department's management is highly risk avoidant, no research or pro-active measures concerning CPP are undertaken. On several occasions the management blocked CPP initiatives coming from other departments. In my case the head of the department made attempts to block foreign presentations I gave on personal title. Sources i.e. internal and external correspondence dated December 7th 2006, February 28th 2008.

Another term used is avoidance of uncertainty, Hofstede & Hofstede 2003.
When my research started in 2003, no cultural property projects were under execution in military mission areas so the only way to go out in theatre was to begin cultural property assessments. This was not easy to realize, first I had to get the topic on the military and political agendas. To achieve this goal, creative solutions were vital as well as exploiting opportunities. A first opportunity was seized when I managed to do research in theatre during a Dutch military mission in Macedonia or as it is officially called FYROM. An even bigger opportunity was to participate in a Dutch CIMIC assessment mission that included indentifying cultural needs in Iraq’s Al Muthanna province. The section of the mission report that deals with cultural affairs is included as an appendix. A second mission followed to Baghdad in 2004, which enabled me to make international military contacts in this case with the Americans. As from 2005, I more or less forced CPP education on the curricula of different military courses from the Netherlands Defense Academy’s Instituut Defensie Leergangen (IDL) and advised the MoD on CPP matters.

In the course of time and while being repeatedly confronted with opposition that slowed down proper implementation of CPP in the Dutch military organization I began to be invited and to speak at international seminars and conferences in New York, Chicago, Baeza (Spain), Jordan, Cairo, Anaheim (California), Tangiers and Tallinn, to mention a few. From 2008, the number of conferences and seminars on Cultural Property protection and conflict increased faster indicating growing international interest in the subject. This brought opportunities to present papers and meet colleagues (including opponents) and to initiate interviews with experts. Crucial was the Pocantico Hills seminar which I attended, organized by the University of Chicago in August 2006. For the first time military and civil officials and specialists met and discussed matters. This event led to an important multidisciplinary publication Antiquities under Siege. At this stage, I was no longer part of the Dutch CIMIC because the head of the MoD embedded cultural awareness department claimed my position and managed to get me sidetracked. Later through cooperation with the Dutch MoD’s operational readiness department, I could organize a seminar about CPP and the military. The event took place 25 March 2009 in the Peace palace in The Hague. Part of the activity was the creation of an educational deck of cards about CPP for the military. The deck was developed together with the Dutch State Inspectorate for cultural heritage and the Ministry of Culture and was based on the original initiative of the United States Department of Defense (DoD).

As a follow-up to the MoD seminar in The Hague, I wrote a report on its outcomes that included a description of the status of CPP in the Dutch Armed Forces as well as recommendations for the way ahead. Professor Peter Stone from Newcastle University made some valuable contributions to this document. The report was meant for the Dutch Chief of Defense. The most significant conclusions were the need for international cooperation and the creation of a small team embedded in the Dutch MoD to assess and implement CPP policies. Regrettably, the document ended up in a drawer. Recent enquiries with the Dutch MoD confirm

11 Later I found that the Carabinieri and the Polish CIMIC implemented CPP in Iraq.
12 The Amber Fox mission that included Task Force Fox (TFF) took place in 2002 in the Former Yugoslav Republic of Macedonia (FYROM). As from June until the end of the mission in December TFF was under Dutch Command.
13 Kila 2003.
14 Rothfield 2008.
15 This event was followed by a conference called Protecting Cultural Heritage, International Law after the War in Iraq in February 2006 organized by the University of Chicago Law School focusing on juridical matters.
16 Kila 2008.
17 The Seminar was called Cultural Property Protection in Times of Conflict and included several international speakers.
18 Made possible by the DoD Legacy Resource Management Program and Laurie Rush (DoD), Jim Zeidler and Tracy Wager (CEMML Colorado state University).
that CPP still has low priority in the Netherlands and no funds will be made available to support CPP activities. This research will show if this also the case in other countries.

"STUFF HAPPENS" said Secretary of Defense Donald Rumsfeld in a news briefing on 11 April 2003 following the looting and violence that broke out in the aftermath of Baghdad's fall in 2003. Actually, Rumsfeld paraphrased the expression "shit" happens and used a so-called minced oath to diminish the offensive character of the original to appear politically correct. He added, "Freedom's untidy and free people are free to make mistakes and commit crimes and do bad things, looting is not uncommon during significant social upheaval". Secretary Rumsfeld was not the first to play down the subject of destroying and looting of cultural belongings; he stands in a long tradition. Two years before the leader of the Taliban Mullah Omar said about the destruction of the Bamiyan Buddha's in Afghanistan "all that we are breaking are stones". Rumsfeld's statement suggests that in certain situations people are justified to loot. On this occasion individuals removed objects they did not rightfully own. Normally national or subsidiary international legislation applies. In this case, at least for Iraq, the Convention for the Protection of Cultural Property in the Event of Armed Conflict also referred to as The Hague Convention of 1954 applies. However in the event of a foreign invasion an occupying force i.e. the United States is not completely responsible for every looting in the territory it controls but should exercise due diligence to avoid such looting. Still one can wonder if proper diligence was

19 Minced oath is a pseudo-profanity.
22 A legal pact stating that Cultural Property must be safeguarded and respected in times of conflict. See Article 2 of the convention. Iraq is a signatory to the Convention and its first Protocol since 1967 at the time of Rumsfeld's statement the US was not an official signatory; they became a States Party in 2008. Before that, the US acted in the spirit of the Hague Convention.
exercised to prevent or restrain the Baghdad pillaging especially in the case of the Iraq National Museum looting on 10 April 2003. In general looting is considered a violation of International Humanitarian Law and is eligible for punishment. However when setting aside legal implications Rumsfeld's words are, in a strange way true for my research as will become clear in this dissertation.

In today's society, many military still see protection of Cultural Heritage as a new and unnecessary responsibility that has nothing to do with their core-business. Occasionally terms like mission-creep are used however; it seems more likely that 'tasks not part of a specific culture are not attended to with the same energy and resources as tasks that are part of such a culture'.

In this book, several aspects of military CPP involvement will be investigated. One of them is CPP implementation within the context of the so-called 3 D, or comprehensive, approach as practiced by the Dutch Military. The 3 D's (Dimensions) stand for defense, development, and diplomacy. Curiously, I found that my research necessarily turned out to be multi-dimensional too. Actual field implementation of Cultural Property protection and development of training tools as well as coordination of international cooperation to conduct research had to be initiated. Seen from this perspective the 3 D's in my research stood for disputed, dare and doing things as will be argued.

Cultural Property Protection as a relevant topic vanished after World War II, but reappeared on the international agendas triggered by cultural heritage disasters in former Yugoslavia, Iraq, and Afghanistan. This did not automatically mean that CPP returned to military curricula and operational planning schemes. Lack of interest and limited expertise concerning CPP prevented this. In that light, it came as no surprise that start-up issues and implementation problems as experienced in the past by military predecessors e.g. the US Monuments, Fine Arts, and Archives (MFAA) officers from World War II re-appeared.

Examples of such problems are scarcity of (assigned) transportation means for CPP officers, low priority of CPP within military organizations, souvenir hunting or theft of artifacts by own troops and shortage of funding for CPP implementation in the field and for research and education. All these old challenges recurred during my missions in Iraq: L’Histoire se répète. Nevertheless with the start of my investigations a remarkable exploration began that included encounters with a variety of characters who are nearly caricatures such as the Indiana Jones explorer type including their typical hats, warriors of different categories and anti-military demonstrators at conferences.

Within this turmoil core law. Source: Keynote address by Dr. Jakob Kellenberger, President of the International Committee of the Red Cross. San Remo, 2 September 2004. [17 July 2011].

Four basic principles of international law underlie an occupation:
1) The occupying power does not gain sovereignty over the occupied territory through occupation.
2) Occupation is considered a transitory phase in which the rights of the population must be respected by the occupying power until formal authority is restored.
3) When exercising authority, the occupying power must take into account the interests of the inhabitants as well as military necessity.

24 The Iraq National Museum in Baghdad was looted in April 2003; see Bogdanos 2006 and Rothfield 2008 and 2009.

25 This applies when the courts of the occupied territory shall continue to function. Where this is not possible, the occupying power may set up "properly constituted, non-political military courts" with local or foreign judges to sit in the occupied country; such courts must apply international fair trial standards. Source: The War in Iraq and International Humanitarian Law <http://www.hrw.org/campaigns/iraq/ihlfaqoccupation.htm> Last updated May 16, 2003. [17 July 2011].


27 Nicholas 1994.

28 Dr. Zahi Hawass was, at the time, the Egyptian Minister (of state) of Antiquities. He and some of his staff members literally wear Indiana Jones hats that are marketed and sold under the name Zahi Hawass Explorer Hat.
issues of the investigation became manifest through a number of recurring questions or better reservations that are identified and addressed in this dissertation. These more or less continual challenges were of direct influence to both the research process and the practical implementation of CPP. Originating from all parties, they appear to be triggered by the central question whether the military have to be involved at all in Cultural Property protection. As will be demonstrated this compares to asking if the fire brigade should be involved when planning capacity and strategies for fire fighting.

The title *Heritage under Siege* was especially chosen for this dissertation because it contains key aspects of the subject and the processes and strains surrounding it. The key concepts are cultural heritage and the notions siege, conflict and military implementation of international legal obligations. In fact there are three clusters that need further clarification by taking a closer look at their connotations within the framework of this research. It has to be specified though that the third cluster is de facto The Hague Convention of 1954. The impact of this treaty, either weak or strong, on all parties involved positions the subject of this study in a polemic perspective asking to what extent parties implement the convention. As will be described I found myself in a position to pose this question because I actually worked in the field and was therefore able to experience and test whether directives and tools that IHL gives for CPP land on fertile ground.

The expressions heritage, cultural heritage, or Cultural Property, when used in the context of CPP, contain juridical and material aspects. In the legal sense, cultural heritage is often referred to as Cultural Property in which case cultural heritage should be seen as a *specialis* under a *generalis*. This is important to consider within the context of rules and legislation like environmental law. Cases and problems addressed in this study involve cultural properties such as monuments, archaeological sites, artifacts, archives and libraries.29 As will be explained later, the terms property and heritage can indicate the presence of matters like ownership, disputes and claims of individuals or certain groups or in a wider more reflective perspective the legacy of humankind. These associations can play a role in a legal and, especially in case of conflicts, a political sense. A different, more conceptual approach emphasizes what is called by some the idea of heritage.30 In this context, the idea is constructed so to the same extent subject to change as related or connected, also constructed notions of identity, status, social values, philosophical significance, and economic exploitation. Perception, appreciation, and sometimes even the appearance of specific cultural property fluctuate in time, space, and social political environment. This book refers to the international situation about CPP and the research about CPP in the wider sphere of heritage studies. Nevertheless, it is useful to elucidate on the Dutch heritage studies research perspective. In The Netherlands, the already mentioned conceptual perspective includes the study of tangible and intangible heritage and the meaning of heritage in relation to both national and supranational identities. Furthermore, the new media that preserve and/or visualize heritage and the memory of war for instance concentration camps, as sites of memory, trauma, and remembrance for various groups are subject of research of different Dutch scholars.31

For CPP the influence of the especially new media is important because information on looting and destruction are currently widely spread in relatively short time, while GIS techniques contribute to obtaining information or evidence that is more reliable. Concerning the memory of war, it was especially the German occupation of The Netherlands during World War II that contributed to

They can be bought at: [http://store.exhibitmerchandising.com/emllc/product.asp?s_id=0&pf_id=PAAAIAHILPMLCFAE] [17 July 2011]. The strange thing is that after the Egyptian regime change the hats are still advertised with a statement that the profits go to the Susan Mubarak children's hospital. Demonstrations against military cultural property specialists during 6th World Archaeological Congress (WAC) held at University College Dublin, 29 June – 4 July 2008.

29 Emberling, Hanson 2008 and Kila 2008a and b.

30 Gillman 2010.

the need to put matters in perspective by paying attention to heritage studies. Directly after the World War II all attention went to reconstruction efforts and bad memories were suppressed while in the sixties attention was focused on anti authoritarian and anti war matters. A reaction came in the mid seventies accompanied by a renewed interest for history. Significant for the Dutch research is to investigate to what extent World War II influenced today's Dutch identity and to determine what expressions and objects represent such an identity. Consequently, related cultural properties have to be maintained and preserved while taking into account that they are at risk of being appropriated by groups or entities that want to enforce their own identities. Further research explores and analyzes the idea and developments behind different expressions of memento or "lieux de memoires" and the impact of (new) media. In performing the past the authors present the perspective that the past is first framed and made usable and than performed sometimes in different stages and via various media including cinema, documentaries and museums. It bears a resemblance to the Sound and Light Spectacles still to be found for instance in Egypt. Here the public is directed or guided through history actually walking in the monuments and stops at different stages where a presentation with light, music, and narration takes place in situ. This touches upon the extending experience, theme-parking or disneyfication, and 'scapeing' aspects of history and the consuming of heritage as framed in a statement of Rob van der Laarse "Instead of the presence of the past, heritage might better be understood as the present presented as the past". It certainly applies to the type of cultural heritage that is subject to damage and looting in conflict areas but there is one difference those cultural properties under siege often do not function as such due to the war or internal conflict situation. This makes it difficult for the military that are not too familiar with civil cultural heritage to appreciate value, enjoy, consequently protect, and safeguard objects and sites.

There is a tendency to attach different meanings to the term culture. "The term culture creates immediate difficulties. It is notoriously vague and slippery possessing several different meanings". Nevertheless, the vagueness of the term culture combined with lack of awareness of the relevance of CPP can sometimes be advantageous. A few years ago, working as a coordinator for the Dutch CIMIC Group North I got permission to send a reserve officer who was a cultural specialist to Iraq because there was an official request from the Coalition to send an expert for the Iraqi Ministry of Culture. Later it turned out that the request was actually for an engineer to help fix construction damage in the Ministry of Culture (the building). All the same, this 'mistake' opened the door to do something to protect Cultural Property in Iraq.

A more than relevant aspect is the current perspective that Cultural Heritage cannot be seen separately from Natural Heritage. Following this, it is seen as an integral part of its environment. The Italians call this Beni Culturali. The term stands for archaeological patrimony, archive keeping and librarianship, historical-artistic, landscape and environmental heritage. The link between cultural-natural heritage and environmental considerations, that will be explained more in detail later, opens new possibilities to embed CPP capabilities in the Armed Forces. Consequently, CPP will be more likely taken into account for military operations.

Siege is a comparatively small part of warfare. In this case, siege refers to armed conflict. Generally spoken this can be either "classical" symmetric warfare or what is called asymmetric

33 Tilmans, Van Vree and Winter 2010.
34 The author of this study was Artistical Director of the Sound and Light Spectacle in Karnak Temples, Luxor Egypt where still (automated) shows telling the history of Egypt, in different languages are performed for tourists. <http://www.soundandlight.com.eg/Shows/KarnakHome.aspx> [5 September 2011].
36 Gunn 2006, p.54.
37 Source: Home page of the Faculty of Arts and Philosophy University of Verona.
warfare within a state even without formal combatants. All juridical and military concepts mentioned will be addressed in detail in other paragraphs. Of importance however is to consider that armed conflict is not automatically war in the classic sense. Nevertheless all conflict cases used in this study, are a form of warfare, but cannot automatically be classified as siege.

The international community, through treaties as the Hague Convention of 1954 attempts to balance the interests that cause the friction between parties involved in conflict and cultural heritage. I have to be clearer about the term "conflict". In fact armed conflict is meant, the successor of war, a term more associated with the old type of symmetric conflict besides war has to be officially declared, and that is not happening anymore. The two aspects heritage and conflict, are in a constant tension with each other. To more or less control or in the best cases resolve the strains, the international community came up with legal solutions. The most relevant one for this study is the Convention for the Protection of Cultural Property in the Event of Armed Conflict, to be referred to as The Hague Convention of 1954 and its two protocols.

Apart from existing tensions and challenges among stakeholders involved in military implementation of Cultural Property protection new issues are generated by the Hague Convention of 1954. In spite of the fact that this convention aims at providing solutions for challenges and tensions, the process of adapting existing courses of action and stimulating efforts to implement the convention creates extra tensions among all stakeholders. Where possible these strains will be described from different perspectives. In addition, a number of possible solutions are discussed. As mentioned, the research is of a multi-disciplinary nature and necessarily a number of cases were initiated as well as executed by the investigator. This, plus the fact that outcomes are not only of a scientific but also of a practical use can give opponents of combined approaches reason to criticize the, in their eyes, less methodological or unorthodox execution of investigations. I consider this not only a result of the project but also a necessary first step in bringing the subject in a more abstract discourse that has to take place but until now could not be realized due to a variety of reasons. Obviously, CPP cannot be dealt with unless the complexity of all involved interests, regulations and parties is disentangled, resulting in a coherent account that includes obligations and incentives for all constituents. Such a description must consider the sensitivity of Cultural Property in relation to identity, authenticity, uniquity, and dispute. These connotations cause strong sentiments among parties expected to deal with the protection of Cultural Property.

Considering the above, it is possible to compare cultural heritage with explosives as will be substantiated in the case studies. In line with CPP's explosive tendency are certain dilemmas that arise in the process of investigating CPP implementation procedures and strategies. Examples are issues of delegation of authority to handle Cultural Property in times of conflict and prepare for this in peacetime and balancing interests of stakeholders to create an effective and sustainable operational model for protection. Any disclaimer to go with Cultural Property should be the same as warnings that accompany explosives "If not handled with care and by experts damage and problems leading to conflicts might occur". Likewise, Cultural Property's fragile and unstable nature can be established in its mix of ingredients and conditions of use. Therefore, a good recipe for a balanced mix is difficult to find since cultures are not based on coherent logical patterns.

38 Formal has to be understood as, in the juridical context.
39 In Naval terms Siege is a blockade, it can also refer to surrounding a fortress or city and cutting off supplies and communications or attack. It can also be used to indicate juridical implications.
40 O'Keefe 2006.
41 Touchiness for instance related to competence, identity, and distinction issues.
One finds layers of different religions and traditions covering or overlapping each other. In all such layers, tensions appear between pragmatic, methodological perspectives and philosophical or contemplative points of view. It seems fair to conclude that both perspectives are needed to present a comprehensive description. In order to create such a complete account it might be arguable to give different parties, after analyzing their positions, the opportunity for an equal start. For example, social science contributes to the production of knowledge and buildup of expertise while initiating reflective thinking on the subject; the latter is especially relevant for its military perspective. This way the topic can gradually enter the scientific discourse where heritage issues are debated and analyzed. Consequently, there is an opening for academics, decision makers, as well as experts on military theoretical sciences to join the debate. It does however create a risk of producing knowledge fit for undesired or unethical misuse for military tactical purposes. This threat is real, taking into account that the nature of conflicts changed in the course of time and so are military strategies and weaponry. The established narrative of the classical battle plan is replaced by Foucault's intellectual toolbox approach, according to which units receive the tools they need to deal with several given situations and scenarios but cannot predict the order in which these events would actually occur. Nevertheless, adding expertise and conceptual thinking to CPP and its military dimension can bring the subject into the realm of modern military operational theory.

The development of theoretic approaches specifically for CPP also implies that certain concepts are fit for use in purely military matters. Here too, there is danger of misuse of conceptual and reflective thinking. To give an example: some consider urban warfare the postmodern form of conflict. Contributing is the fact that in modern conflicts traditional battle-plans do not function since there is no clear understanding about the opponent and the environment in which the fighting takes place. Often it is not possible to distinguish fighting groups by for instance specific uniforms. Civilians can change into combatants, and vice versa. Identities can change and genders can be feigned. Apparently, this atmosphere inspired certain people to start experiments imposing theoretical reflections on operational strategies. This use of social science, more specifically theoretical postmodern philosophy e.g. Deleuze and Guattari can result in out of context contributions to modern military techniques and concepts that are certainly not aimed at protecting cultural heritage but more to facilitate state terrorism as is described by Weizman. Potential misuse of scientific concepts and data can however not be a reason to stop examinations thus neglecting obligations to protect Cultural Property under IHL. Further debate and research might bring more specific regulations or ethical codes.

This book is designed as a triptych. First, there is a preface containing personal experiences and opinions followed by an introduction explaining research methods, sources and different scientific disciplines used. Finally, a number of characteristics referring to cultural property such as its military relevance and volatility are addressed. The main section begins with a First part that presents a picture of the CPP playing field and its users, all parties and stakeholders involved in CPP are introduced in different paragraphs. The Second part contains a corpus of already published peer-reviewed scientific articles and two new case studies. The Third part of the book holds conclusions and suggestions for future directions. Overall cases of different size are presented to demonstrate a number of suppositions that concern the behaviors of CPP stakeholders. The same method is used to show implications e.g. legal and sociological consequences as they happen in practice. In this approach, the cases speak for themselves.

42 Johnson 2009, p. xii.
44 Post-Structuralism as “Operational Theory” was used by the Israeli Armed Forces who in Nablus understood urban fighting as a spatial problem. [...] Travelling through walls is a simple mechanical solution that connects theory and practice (Weizman 2006). See also Hollow Land (Weizman 2007).
Research methods, sources, and disciplines

As mentioned, multiple methods were essential to conduct my investigation. Overall, qualitative research and field research including participant observation were used. Furthermore, the use of different sources e.g. literary sources, interviews and a multi-disciplinary approach were needed. Important disciplines for this approach were for instance cultural policy studies, archaeology, and law. All methods used are, as far as possible, clarified using practical examples. Qualitative research took place on different levels to analyze and consequently understand the behaviors of the CPP stakeholders as well as their relations and interactions. Field research, which included working inside the military organization served to bring together original data. Participant observation was especially required to watch situations during exercises, planning and during missions in theatre. Part of the empirical research had to be initiated to test solutions and safeguarding strategies. For the whole investigation, observation was a significant technique to study military practices and for that matter the behavior of all stakeholders.

Much empirical, or in fact participant research, inevitably took place in conflict areas where disputes, linked to cultural differences with as side effects looting, illicit traffic and iconoclasm, are fought out. To be exact I was in Macedonia in August 2002 as network manager of CIMIC Cultural Affairs and in Iraq August -September 2003 as acting Chairman of CIMIC Cultural Affairs and in February 2004 as a Cultural Military Specialist and CIMIC Chairman in Baghdad. In potential this provided for a rich data source, however it should be noted that the military tendency to keep things secret or at a distance particularly when referring to new, in their view complicated issues proved to be a challenge. Participant research in theatre did not come naturally; the only possible way to initiate it was through getting Cultural Property protection actually implemented. Real situations and projects were vital in order to observe the dynamics and courses of action involved. Even though at the time I started my investigations a small network of militarized cultural specialists was already created as will be described in the CIMIC paragraph this did not mean that these experts were automatically deployed. Therefore the challenge remained. Initiating access to conflicts asked for a pro-active acquisition strategy.45 First and foremost military consciousness on the subject had to be increased since, within the Armed Forces, appreciation of the relevance of Cultural Property protection determines the extend and quality of implementation and research. This strategy paid off as described in the cases from FYROM (Macedonia) and Iraq.

There were also other reasons for the described modus operandi. It is for instance nearly impossible to get or extract information from military sources or environments without being considered more or less an insider. Second, it is normally not feasible to travel to conflict areas as a civilian. A complicating factor was that military CPP projects in conflict areas were virtually non-existing at the time the work started so not only on site observation but also the processes leading to CPP projects had to be initiated (while also observed). All of this had to happen within an organization that was not interested in the subject. Undoubtedly, field research opportunities could only derive from new military tasks in the context of peace keeping and reconstruction missions. CPP fits in these types of missions because it has the potential to generate jobs, a feeling of security and strengthen identity and therefore unity within a population. To get permission for cultural assessments that could lead to projects, common denominators and deliverables for different parties had to be identified. A win-win situation had to be created. This strategy looked to be the right way to convince commanders to send me out to conflict areas. It worked; I managed to carry out participant, in theatre, research in Macedonia and Iraq.

45 Asymmetrical warfare (conflict) is a term that appears to date from the early 1990s. In this type of warfare, a relatively small and lightly equipped force attacks points of weakness in an otherwise stronger opponent by unorthodox means. All guerrilla activity, especially urban terrorism, falls within this definition. Source: World Wide Words © Michael Quinion, 20 October 2001.<http://www.worldwidewords.org/turnsofphrase/tp-asy2.htm>[24 July 2011].
Describing and testing actual Military Cultural Property protection implementation in times of contemporary conflict was not only relevant from a research perspective but also to generate new lessons learned and case studies. New caseload obtained in theatre lead to the discovery of opportunities to establish CPP capabilities. A good example that surfaced this way is the potential for organizational embedding and implementing of military CPP through obligations deriving from environmental concerns codified by the North Atlantic Treaty Organization (NATO). The NATO Standardization Agreement or STANAG on this topic includes cultural resources management. A recent case in which the relevance of following such doctrines is clearly proven is the Forward Operating Base (FOB) Wolverine case that is addressed in Part I of this book. The good news is that, compared to Cultural Property responsibilities, environmental obligations are more appealing to, and acceptable for military. Especially the engineers, in the Netherlands called the *Genie*, are already involved in environmental issues and dealing with environmental aspects. These departments see natural and cultural resources management as a structured, organized, and embedded military activity. Therefore, broader chances for military CPP appear to be connected with natural resources protection. To be more specific about NATO's standpoint, CPP is referred to in environmental doctrines such as the earlier mentioned STANAG 7141 EP, a policy document regarding environmental protection during NATO led military activities. The US uses elements from this STANAG in its CENTCOM rule 200-2, see Appendix A 4. Nevertheless, in Europe, the cultural heritage components of this NATO doctrine are not particularly recognized because the content of 7141 EP is not well known. Raising awareness is not encouraged because a number of countries including the Netherlands do not want to allocate financial resources for CPP since it is considered to be of low priority. As the Dutch MoD in a letter put it "the world is constantly changing and priorities shift". In fact, this statement appears to be the Dutch version of Rumsfeld's credo 'Stuff Happens'.

Sources used for this investigation included both published and unpublished materials. Military sources were indispensable but asked for a special approach or in fact preparation. No thorough research on military sources such as training manuals, operation plans, doctrines, and policy notes could be done without basic military training in order to obtain fundamental understanding of military cultures, codes, structures, and abbreviations. This training is only available for military personnel so I had to enlist in the army. Nevertheless, this proved to be vital too for interpreting the information collected through observation. The literary sources can be roughly divided into military and scientific materials. Access to military sources was gained through my position within the Dutch Ministry of Defense and via various international contacts. It seems appropriate to split military data like doctrines, orders, documents, and classified or unclassified papers some not meant to be (openly) published from scientific publications generated by military academies and research institutes. The latter should be categorized with civil scientific sources. Apart from studying military and other documents reading literature was an important part of the research.

At the start of the investigations, suitable empirical studies on the subject were scarce. Contemporary publications on military involvement in protecting civil Cultural Property were even rarer. However, *Thieves of Baghdad* from the US Marine Colonel Matthew Bogdanos was a source for current information from a practical military perspective. His book also gives an insight in the modern American military mindset; Bogdanos personifies the proto-type of the conservative (US republican) warrior, however with a deviation. The Colonel is very interested in cultural heritage and the arts and has a Master's degree in Classics. Consequently, his publications

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46 This letter was an answer to the Chairman of the Hague Peace Palace Seminar on CPP sent one year after the seminar explaining why the recommendations of this seminar were completely disregarded, source: letter of the Dutch MoD dated 28 April 2010 reference BS 20104157.

47 Bogdanos 2006, Reserve US Marines Colonel Matthew Bogdanos is in civil life an Assistant District Attorney in New York.
and especially his lectures proved to be an important instrument to communicate to the international military community the importance of cultural heritage and demonstrated to them that it was not just a hobby for sissies. Later in the research process more literature was found containing information from European military perspectives like a publication from the Austrian Defense Academy titled Protection of Cultural Property in the event of Armed Conflict - A challenge in Peace Support Operations edited by, now retired, Generals Edwin R. Micewski and Gerhard Sladek. This publication is especially important because it is a rare example of military that write about CPP. An article from Polish, military embedded, archaeologist Miroslav Olbrys gave a European view, as opposed to the American perspective, on what happened in Babylon and other parts of Iraq. It should be noted that perspectives and examples discussed in these publications are not representative for all military organizations nor can they be adapted to be of general use. Missing in most literature were so-called lessons learned meaning the incorporation of practical knowledge gained by experience. Normally in the military system field experiences about topics like cultural protection are processed into case studies and educational tools based on lessons learned. Apparently, this did not happen in the case of cultural heritage experiences. As for now, the processing of such military experiences in theatre into lessons learned comes for the bigger part from civil scientists or in the best case from military reserve experts and civilians working for the military.

Literature written by these experts tends to deal with cultural heritage in a general context either from practical or conceptual perspectives. Sometimes such sources contain small sections that give a vision on military implementation or criticize destructive actions. However normally they are not underpinned by adequate military background knowledge nor analyzed from military perspectives. This is all good reason to initiate production of more comprehensive knowledge on the subject by exploring literature from different perspectives like (art) history, military history, and sociology while considering all the relevant aspects of military establishment. Art historical sources opened the door for me to a better understanding of intrinsic, often iconographic, characteristics of cultural objects plus their potential relation with, and influence on, military and social codes and meanings in the context of conflict. A good source referring to these aspects is Robert Bevan's *the Destruction of Memory* while an excellent historical source dealing with CPP in the Second World War is Lynn Nicholas' *the Rape of Europa*. Her book gives valuable information on the first, more or less contemporary military involvement in CPP during armed conflict. Also worthwhile to mention are the proceedings of the symposium *The Spoils of War* that took place in New York in 1995. This was the first major international gathering that drew attention to the subject of looting and theft in times of conflict though it focused on World War II, and the event did not yet include military experts. Indispensable sociological sources that were critical to explore aspects of distinction, identity, and conflict are Bourdieu's *Distinction* and Mac Ginty's article on the concept of looting: Looting in the context of violent conflict.

While looking into the characteristics of today's military and studying structural features of military organizations more links and parallels connected with military sociology and strategy became apparent e.g. the features of the military mindset and its evolution. By the same token, explorations for possibilities to build a conceptual framework to mark CPP's position in the contentious area of heritage related activities and studies led to identification of extra sources.

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48 Micewski and Sladek 2002.
52 Nicholas 1994 and Bevan 2006.
They came from the realms of theoretical art history and cultural theory such as *Monuments and Memory, Made and Unmade* by Nelson and Olin and Simon Gunn's theoretical perspectives as described in *History and Cultural Theory.*55 The domain of cultural policy provided for sources that give an insight into the current academic Cultural Heritage debate.56 The first steps for a dialogue between military and civil CPP parties were initiated in 2006 by the Cultural Policy Center of the University of Chicago by a series of seminars and meetings. Of course within cultural policy studies also new trends and mechanisms related to art and culture such as the arts market including illicit traffic, are studied.57 Furthermore, possible protection strategies are researched via, in this case, the Chicago Center that I am affiliated with as a community fellow. Finally, cultural policy is the domain where implementations of national and international obligations that are subject to governmental and private compliance are studied. To put it simply how do respective governments, organizations, and individuals deal with obligations to safeguard and protect Cultural Property.

Recent events and cases focusing on Iraq were described by Bogdanos, Stone, Farchakh and Rothfield.58 It has to be noted that during the time span of the whole research and thanks to an increasing number of conferences and seminars new publications started to become available. As noticed before, in some of them, I could publish results of my work that form part of Part II of this triptych.59 Rothfield's *Antiquities under Siege* included my first major account on Cultural Property protection and the military. This publication that focuses on the war in Iraq was the result of a seminar following a juridical conference that took place in February 2006 at the University of Chicago Law School, aimed at legal issues involving wartime heritage looting. The related seminar in Pocantico Hills (the former Rockefeller Mansion near New York) was organized by The University of Chicago’s Cultural Policy Center and, for the first time, brought together a wide range of stakeholders that included the military. The most significant result was the dialogue between civil and military experts and a set of recommendations that paved the way for more international debates. My contributions to and participation in both the *Antiquities under Siege* publication and its two seminars inspired me to name this dissertation *Heritage under Siege* since heritage comprises more dimensions that are addressed in this study than just antiquities. A source already briefly mentioned indicating contemporary misuse of architectural theory by the military is *Hollow Lands* by Eyel Weizman.60 The book describes among other the military maneuvers by Israeli Armed Forces that took place in the West Bank City of Nablus. The Commander in charge, the Israeli Brigadier General Aviv Kochavi characterized them at the time as 'inverse geometry' meaning changing the urban syntax. Soldiers avoided roads, streets, courtyards, doors and windows that normally define logic movement. In fact, it was destroying people's houses by literally going through walls by first punching holes.

Contemporary technical developments like utilizing Geographic Information Systems (GIS) and archaeological remote sensing technologies are introduced and discussed in a publication by Egyptologist Sarah Parcak.61 GIS and Remote Sensing are of special interest for the Military, this type of data can help military to avoid targeting and damaging cultural sites but it can also convince commanders to start implementing CPP since they get access to GIS data as a perk. It

57 A good example is the work of Dr. Neil Brodie, one of the world’s foremost experts on the illicit antiquities trade and the impact that looting-for-profit and artifact smuggling has on our knowledge of the past and the future of archaeology. He is currently Director of Cultural Heritage Resource at Stanford Archaeology Center, Stanford University US.
60 Weizman 2007 pp. 185-218.
61 Parcak 2009.
goes without saying that misuse of GIS or Satellite data has to be prevented and the military can contribute to CPP by sharing their own GIS information and aerial pictures with CPP experts. A last type of written sources, suitable as research material and at the same time a potential outcome of this study are educational materials. Currently appropriate education tools not only derive from practical experiences in the field but also from existing CPP training programs for the armed forces. Especially worthwhile to mention are products of the DoD Legacy Resource Management Program and the Cultural Resources Program at Fort Drum both from the US. Cultural Heritage Training Websites for Iraq, Afghanistan, and Egypt are developed for the military in cooperation with the Center for Environmental Management of Military Lands (CEMML) from Colorado State University. The same source was responsible for the first ever modern military training in situ in Saqqara (Egypt) that included new tools like special field and playing cards, historical timelines and innovative insights on training methods. More publications on CPP are to be expected in 2011 while in 2008, 2009 and 2010 multiple publications were published co-written by the author of this study. A number of articles, papers, and publications used are from conferences and seminars in which the author participated, is quoted, or acted as a referee. Other resources comprise materials such as various CPP decks of cards from the US and from the Netherlands. There are several military CPP dedicated websites that either started recently or are about to be launched, worthwhile to mention are: <http://aiamilitarypanel.org/>, a site affiliated with the Archaeological Institute of America and a forthcoming site of the Combat Commands Cultural Historical Action Group (CCHAG) that will be launched soon.

A third research technique used were interviews, some of them conducted more or less informally using opportunities provided while exchanging information with military peers at work. Furthermore, I interviewed a number of civil experts and key players during conferences and seminars especially in relation to the Iraq conflict. Through these interviews carried out not within a survey structure but as dialogues important first hand, information was obtained such as consultations with Colonel Matthew Bogdanos who lead the investigations following the looting of the Baghdad Museum and US Major Cori Wegener who, at the time was the only serving military Cultural Property expert of the American forces. Other important informers were Professor McGuire Gibson who provided me with the coordinates of Uruk and the late Professor Donny George the former director of the Baghdad museum. An initial supportive exchange of thoughts with Dr. John Curtis of the British Museum later evolved in a debate about ethical considerations that involved more scientists about working with military. It was reason for Dr. Curtis to withdraw from the Antiquities under Siege publication. Several discussions and exchanges of thoughts took place with acknowledged international experts and key players such as W. Hays Parks and Dick Jackson both from the Pentagon, Professor Charles Garraway formerly United Kingdom Army Legal Services and the Red Cross, Professor Peter Stone formerly Cultural Adviser to the UK MoD during the Iraq conflict, Professor Patrick Boylan who designed the 2nd Protocol to The 1954 Hague Convention, Professor Jiri Toman formerly ICRC, Dr. Laurie Rush, archaeologist and cultural resources manager for 10th Mountain Division, Fort Drum, New York and Jan Hladik from UNESCO. Last but not least, I want to mention Karl von Habsburg who is a great source of expertise concerning intangible cultural heritage. All interviews are listed in this dissertation. Two issues that are intermingled were vital for both the research

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62 See: <http://www.cemml.colostate.edu/cultural/cptraining.html> [17 July 2011].

63 In 1943 the British reserve Lt- Col. and archaeologist Sir Leonard Wooley was involved in training the military in situ in Cyrene (Libya). Source: interview with Laurie Rush July 2010. See also the paragraph on Libya.


66 See Bogdanos 2006. Major Cori Wegener is now retired from the army and became the president of the American Blue Shield Committee.
process and outcomes namely the production of knowledge about CPP and raising awareness on the subject. The outcomes of this study are produced and presented within the context of a systematic framework that comprises case studies intermingled with new research results. These results are meant as contributions to the production of knowledge on the subject. Incorporated are findings that can be used as educational materials but can also help raise awareness among stakeholders. Where possible cases are used, the preference to use case examples needs explanation. Considerations are threefold. First, if presented in the right fashion experiences from reality will be very effective to paint a picture showing the complexity of Military Cultural Property protection to all parties involved. Second, at the same time the groundwork is laid for a theoretical structure plus an in depth analysis of related dilemmas and challenges is given. Third, is that through identifying problems, recurring processes and challenges it is possible to recommend solutions and strategies to protect Cultural Property in times of conflict.

Case examples presented vary in size. The smaller ones show how aspects like media exposure and ethical considerations become manifest and can be of influence. Big case studies from Iraq, Afghanistan, Egypt and FYROM (Macedonia) in Part II that contains mostly published articles demonstrate in full the complexity, multiple layers and different implications of military Cultural Property protection. Nevertheless, it is of vital importance to continuously identify and, if appropriate, incorporate new factors that shape operational planning, strategy, and tactics. Especially the newer case studies like the Uruk, Egypt, and Matejce accounts can be of use as educational materials while raising general awareness on CPP. The thought behind this is that when an adequate degree of understanding and appreciation is reached among militaries and policy makers more field research and teaching programs will be possible. Last but not least, the creation of military CPP capabilities embedded in the whole military organization so in fact the MoD’s can only take off if the relevance of the subject is acknowledged. To obtain a full picture and get a grasp of the multidisciplinary context it is necessary to look into the past before addressing the present situation and introducing its actors. History is described in the paragraph containing historical trends until 1954. The future is introduced in the section on the current state of affairs regarding the implementation of CPP and by giving an insight into new approaches and strategies within US, European, and NATO forces. Different methods and tactics are described aimed at solving military CPP implementation problems. Finally yet importantly, a possible way ahead is presented as the valorization of this research in a set of recommendations in Part III of the book.

The Relevance of Military Cultural Property Protection

Cultural aspects of conflicts can give reason for a party to destroy an opponent’s cultural heritage thus damaging their identity and consequently their presence or position in the historical memory of humankind. Side effects like looting, stealing and illicit traffic of cultural artifacts during or directly after conflict re-emerged in Iraq, former Yugoslavia and Afghanistan. Good reasons for Cultural Property to be considered of strategic importance for belligerents as well as for military peace keeping, stabilization and reconstruction operations. This relevance is underlined by the fact that monuments ‘do not reflect their past so much as they work to create memory in the present’. This is without doubt an interesting aspect for today’s military that have to deal with memory and identity issues during peacekeeping operations. It is already good reason for more research and debate by military and civil parties dealing with this type of military mission. To create a perspective and starting point, a variety of aspects and challenges plus intermingled topics and concerns as they occur in different contexts need to be addressed. Most relevant is for

67 It is possible to work with military or temporarily militarized experts.
68 Kila 2008a, b, 2009, 2010a, and b.
69 Quote from art historian Professor Michael Ann Holly in a comment about Nelson and Olin 2003. This comment is on the back flap of Nelson and Olin 2003.
instance the possible intrinsic iconic value or symbolic power of objects. When representing an identity, objects are often inherently charged with the past, or most likely an idealized reconstruction of the past that is found in the present. Clearly, this historical reconstruction is not taking place according to set rules, but depends on constantly shifting local, political, and social circumstances.

2. What is it communicating?

Saddam Hussein gathering flowers Oil on canvas 100 x 80 cm 2nd half of the 20th century

In lectures for the military, I demonstrate this concept by comparing Duchamp's Mona Lisa with the damaged mural of Saint Peter in the Matejce Monastery. Both look like paintings damaged by graffiti whereas one is actually a creation of Marcel Duchamp. This example triggers rather fundamental questions raised by military students such as: How can military personnel recognize cultural objects; What are the methods for making basic or in fact iconographic descriptions and assessing possible damages; Is the damage in this context the destruction of art or of identity; and the ever returning question what is art that can be followed by; what is heritage and last but not least whose heritage is represented in art? When written down, these issues look quite sophisticated and therefore difficult to communicate to soldiers but they should actually pop-up during a lesson following an anecdote or pictures. If so these questions essentially illustrate the level, on which cultural objects are perceived by the common soldier and for that matter the average government official. Government institutions that normally make decisions about whether military operations take place at all should be more aware of, and concerned about political and juridical claims over territory and identity. Political claims are often linked to contested memory or notions of the past often created or intensified by the same CPP stakeholders that are described in this study. In these cases cultural belongings that are charged with memory and identity are not only of scientific value but also politically empowered. Consequently, players seeking to appropriate and defend memory for political purposes characterize the playing field. For example state narratives are increasingly contested or supplemented by a growing number of "counter histories" from "below" (e.g. ethnic minority

70 Kila 2010b.
71 L.H.O.O.Q., a cheap postcard-sized reproduction of the Mona Lisa, upon which Duchamp drew a mustache and a goatee. The "readymade" done in 1919, is one of the most well known act of degrading a famous work of art. The title when pronounced in French, puns the frase "Elle a chaud au cul", translating colloquially in "She has a hot ass".

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Having established that identity is a crucial ingredient in the mix of Cultural Property protection, conflicts and reconstruction, it is time to see how identities themselves are distinct. There are several kinds of identities including social, personal, racial, religious, gender, and overlapping or collective identities. Different types are of relevance for CPP. Examples from social identities are actually meanings attributed to others in order to place them in social space like ‘teacher’ or ‘mother’. They also include personal identities or meanings attributed to oneself like names. There are collective identities overlapping with social and personal identities, therefore constructed, and not biologically determined. This last category is clearly invested with constructed meanings regarding Cultural Property. Collective identities often have unambiguous connections to cultural objects and to intangible cultural heritage. Collectively claimed objects including works of art, can be empowered with meaning deriving from an identity or can be still in the process of being attributed to a certain identity. This quality of cultural objects makes them a potential driving force behind, history, progress, and economy. The protection of Cultural Property for that reason forms an integral part of the entire composite of mechanisms linked to conflict and conflict resolution that is taken into account in planning and implementing peace keeping and stabilization operations. From this perspective, protection of archaeological sites and premises like museums, archives, libraries, and monuments is essential as well as preparing for such protection in peacetime.

An important military deliverable is that CPP contributes to an overall atmosphere of general security. Another crucial matter to consider is that regional or worldwide negative press backlash can be unleashed when Cultural Property is removed or destroyed. This consequence can be avoided by protecting and safeguarding measures. Examples are the bad press the US suffered after the Baghdad museum looting and the mishandling by coalition forces of the important archaeological site of Babylon that was damaged because it was used as a military

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72 Thomassen 2010.
73 Snow 2001.
74 Of course there are exceptions think for instance of the Jews.
75 E.g. freemasons, soccer teams, military regiments, social organizations, religions. Intangible heritage can be rituals, music, poetry, languages and music, to mention a few.
76 Feil 2008.
An understanding of heritage combined with respectful behavior is a "Force Multiplier" for any global operation. This leads us in the military vocabulary where multipliers and force acceptance are important military arguments to engage in cultural activities. To give a specific example of a culturally related Force Multiplier: Cultural Property protection can disturb the illicit antiquities market thus reducing a possible source of funding for the opposing forces such as insurgents. It has the potential to mitigate the tactical value exploited by non-state actors. Apart from this the reduction of negative cultural heritage incidents will improve the operational environment for another type of non-state players namely contractors in military operational zones. Finally, its protection reduces chances for collateral damage during targeting decisions. This will improve the public relations environment and reduce the vulnerability to litigation.

Still it is clear that caution is required when linking knowledge, in this case CP knowledge, to intelligence. There is not only a communication challenge deriving from the gap between military and civil jargon but there is also a gap concerning use of military terms between US and European military as well. This difference in understanding plus connotations causes extra and unnecessary challenges in the communication and interpretations about the subject between international civil stakeholders. A case in point is the use of the sensitive term counter insurgency. The US military speak in this context of a force multiplier or more simply winning hearts and minds, while in the European approach and for that matter the language of civilian parties, it has connotations of espionage, commando raids and the ill conceived Human Terrain System.

**The volatile characteristics of Cultural Property and the interrelation between looting and poverty**

Cultural Property is potentially available for manipulation just because it is there and either physically, or as an idea accessible. A well-tried method for manipulation was to take property representing cultural identity to add to your own group e.g. just before World War II the Nazi’s defined paintings from Rembrandt as being “Nordic and/or Germanic” thus part of the German culture. Cultural heritage can be potentially explosive in relation to conflict when poorly handled by the military. The Jewish archive case (see described in the paragraph about the media) illustrates this. Taking this into account Cultural Property is a potential source of conflict. Within the military certain parties or individuals who tend to avoid risks (often for career reasons) or want to cut on financial spending might use this potential as an excuse not to implement Cultural Property protection however this is not in compliance with international law. Apart from its manipulative and explosive characteristics, the notion that Cultural Heritage can be a source of dispute including claims is in itself good reason for the military to pay attention since conflict is their core business. Modern devastations, including the destruction of Bosnia’s national library in 1992, the shelling in 1993 of the Mostar's Stari Most Bridge in Bosnia-Herzegovina and the demolition of the Bamiyan Buddha’s in 2001, show that the perception of heritage is changing.

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77 With Force Multiplier is meant a capability that, when added to and employed by a combat force, significantly increases the combat potential of that force and thus enhances the probability of successful mission accomplishment.

78 Acceptance by the local population of the presence of armed forces from another power.

79 Non-state actors exploit the symbolic significance and financial value of cultural property to tactical advantage. Nemeth 2010.


81 See Nicholas 1994.


83 On 25 August 1992, Bosnia’s National and University Library, a Moorish-revival building built in the 1890s on the Sarajevo riverfront, was shelled and burned. 1.5 million volumes, including over 155,000 rare books and...
It looks like Cultural Heritage was in the past not perceived in the same fashion as it is today. Ownership was not particularly disputed and cultural objects were no regular source of conflict. Apparently, there used to be a dissimilar or less strong connection with identity unless religious identity was at stake. This changed perception and appreciation of Cultural Property has a military parallel too as can be seen in the continued adjustment of military ways of thinking. The military mindset is not only influenced by the factor time but also by cultural, socio-political, and geographical circumstances as is well illustrated in the already mentioned phenomenon of looting. Soldiers used to loot objects including cultural belongings as a form of pay but have today transformed into protectors of Cultural Property. This change suggests the existence of an interaction between history and the social conditions to which the military approach adapts, in this case looting. If this premise is true military-civilian interaction will, to a certain extent, also apply to other phenomena like iconoclasm and the military implementation of development aid. Assuming we want to explore looting as a phenomenon that is associated with other aspects of the military relationships with civilian populations it is essential to understand more about looting of cultural objects from a conceptual point of view.

The terms 'looting' and 'looters' are generally considered depreciative. The negative label prevails over an objective description of looting as a certain activity. Many looters choose not to interpret their activities in a negative way but see these activities as justifiable and legitimate. Some point at the fact that they are unemployed and need to feed themselves and their families. Others justify looting as an act of taking back items that were in possession of a regime by entering its former facilities. From another perspective, looting is regarded as a by-product of violent protest and riots especially in the so-called flash or mob lootings happening through sudden outbursts. A clear example is the situation with the looters in the UK that pillaged stores during the recent (August 2011) sudden mob lootings in London and other cities in the UK.

Looting can take place being commissioned or at least triggered by collectors and the international antiquities market. Finally yet importantly looting can be organized by the own government to serve as a motive to take tough action against protesters. It is obvious that looting has several perspectives that have to be considered specifically in relation to military cultural intervention. One of the aspects of looting that can restrain or, just the opposite, urge Cultural Property protection by military is its interaction with poverty.

New techniques like satellite imagery gave way to methodical innovative research demonstrating amongst others Cultural Property’s connection with poverty. Elizabeth Stone, Professor of Mesopotamian Archaeology at Stony Brook University US, started to study the commercially available high-resolution satellite imagery taken by the Digital Globe Corporation from Colorado. Shortly before the 2003 invasion, Digital Globe began taking satellite photographs of southern Iraq for the Pentagon. Stone started buying the images and examined approximately two thousand sites using reference materials dating from before the sites were possibly damaged. Intervals of one month between photos of looted sites were used to develop a perceptive on the chronology of looting. This way it was possible to answer questions like: are specific type of sites preferred for targeting, is the size of a site relevant, how selective is the looting, are certain archaeological periods more favored by looters than others (thus indicating what type of finds to expect), how deep are the holes - to be distinguished by their blackness on
the imagery indicating deep trenches that reach down to the earliest stratum of human history in the specific area?

The link between looting and poverty, in its turn part of development (aid) issues, brings a potential challenge for the implementation of military Cultural Property protection. Through the apparent interaction with poverty, looting becomes politicized and fit for manipulation. Consequently, attempts to get military Cultural Property protection implemented can be hindered. Prevention of looting is an essential task within military Cultural Property protection. Nevertheless, when certain NGOs that consider poverty fighting their core business notice the link with poverty they might take the opportunity to oppose to military involvement. It can even go further; several NGOs argue that they can operate cheaper than the military and therefore automatically claim all activities that in their opinion are not part of the military tasks, including Cultural Property protection. Not unlike commercial companies, NGOs tend to defend their market shares. This is not just theory; there are examples of military cultural activities that had to stop for this reason.88

Currently discussions take place about the idea to consider outsourcing of certain military tasks that are normally executed under the threat of violence to contractors, often-private companies like Blackwater.89 Fortunately, in the case of CPP any outsourcing seems unlikely since there is a purely military motive legitimizing the military to fight looting and illicit traffic as described in the paragraph on the relevance of Military Cultural Property protection. One can assume that the military will not outsource such tasks. Guarding sites is nevertheless an activity that can be outsourced to private security companies. Another aspect to take into account is the gradual shift in the military mindset culminating in today's double military role of warrior and peacekeeper. The latter is a contemporary phenomenon that appears to be a contradictio in terminus. It is in sheer contrast with the time that looting was not always regarded as being illegal and abject. Already the Romans allowed their soldiers to plunder as a form of wages.90 Even today, the traditional tribal militia in Afghanistan and Pakistan the Lashkar are not paid salaries but share in loot captured from the enemy.91 Fortunately, they are an exception since in most countries modern operations and legislation forbid this form of pay.

It seems that the military mindset is not only subject to gradual changes in time but that more sudden changes can be triggered through social, political and cultural circumstances. In the context of this examination and while anticipating on future developments in the protection of Cultural Property, it seems relevant to take a closer look at possible reasons for global changes in the military mindset. Of influence are the development of international legislation on the subject and the slowly increasing awareness about Cultural Property protection's value as a military deliverable. In addition, Cultural Property is often important for the identity of (local) populations involved. Samuel Huntington already predicted in Clash of Civilizations that in the 21st century and then especially the post-Cold War world the primary source of conflict would be people's cultural and religious identities.92 Furthermore, there is the fact that nowadays the state normally has the monopoly on violence and pays the soldiers so the necessity and permission granted to loot as a form of payment is no longer there. Finally, the increase of tourism causing Cultural Property to gain value as a means to generate jobs and income is a valid motive to

88 Kila 2008a, pp. 177-178.
89 A private military company founded as Blackwater USA in 1997. It has a wide range of divisions, subsidiaries, and spin-off corporations. The organization as a whole has stirred much controversy. It is currently renamed Xe Services LLC.
91 There was a clear understanding with the Lashkar that when they captured Srinagar they would be allowed to loot the treasury and the palace in lieu of payment. This was the accepted mode of warfare. Source: Lashkar invasion of Kashmir: the truth by Prof Farakh A Khan (19. 8. 07) posted on several blogs and forums.
refrain from looting.\textsuperscript{93} Considering that, the military mindset is part of the military identity and assuming that identities not only shift in time but are also influenced by socio-political circumstances it seems fair to conclude there is a causal link with the change in motivation to protect Cultural Property. Whether this assumption is supported by events will be explored in the section on historical trends in Part I hereafter.

\textsuperscript{93} Towards the end of the 15\textsuperscript{th} century, group travel already started to take place on a modest scale. As early as 1650 the first known primitive travel agency started operations in Paris while in the 18\textsuperscript{th} century in England excursions to the mainland were offered. The big breakthrough came in 1841 when Thomas Cook (1808-1892) started organized cheap excursions helped by the development of faster means of transportation. All of this lead to today’s Mass Tourism in which CP plays an important role.
Part I

The playing field of Cultural Property Protection

Setting the stage
In descriptions of business concepts and market models that include competitors and suppliers, the term "playing field" or level playing field is often used. Those that have a position or stake in an organization or project are usually called stakeholders while those that want to enter a market become a player or party. In a business context, the playing field is leveled in the sense that all participants play according to the same rules.\(^9\) The use of the playing field metaphor seems appropriate in this study because CPP parties or players (e.g. NGOs, museums, and universities) are in constant competition with each other while stakeholders (e.g. IOs and Ministries) tend to defend their positions. Still all compete, not for victory but for control of the CPP market and to substantiate their identities. In fact analogue to behaviors of parties using and abusing Cultural Property in the event of conflict. One could say there is a CPP market/playing field and a CP battlefield whereas the first arena has to solve the problems created on the latter. This comparison is just used here in an attempt to clarify matters and does not pretend to be appropriate in another context. Actually using these two fields together would make matters more complicated since some players described in this research as being part of the CPP playing field can also be placed in the CPP battlefield as opposite forces e.g. illicit traffickers, opposing military forces and certain antique dealers. Finally, there are (potential) stakeholders e.g. the military of some countries that want to get out of the playing/battle field or do not want to enter it because they consider CPP not part of their core business or competence. These stakeholders can also have financial motives for not entering or staying in the market e.g. financial cutbacks at MODs. From a pure technical point of view, a playing field gives indications of parties, their respective positions, and the way they are interrelated so in fact networks are described. The parties addressed here are the military, the media, governmental organizations, non-governmental organizations, international organizations, workgroups and advisory groups and stakeholders related to commerce, crime, law, religion, and science.

Before giving an account of these parties and their networks some issues have to be addressed that directly relate to the setting of the stage. This is necessary to put CPP as a relative new subject in perspective. If needed contextual explanations and practical cases will be given of the respective stakeholders and players. This includes giving cases of good and bad practice while mentioning opposing sometimes-conflicting interests or implications. The playing field cannot only be described in terms of international and multinational dimensions since it contains interagency and interdisciplinary elements too. Apart from this, the playing field comprises more than conflict areas. Art and antique auction rooms as well as high-class antique dealers in major western cities, museums, universities and criminal courts and international tribunals set the scenery too. The information in this paragraph does not pretend to be complete but merely aims at giving an impression in which the main players, beneficiaries, as well as legal obligations are identified, described, and explained. In addition, experiences in theatre and peacetime preparations as well as procedures and events taking place after conflicts if concerning Cultural Property protection by civilian and military parties are taken into account.\(^9\)

One important party that will not be addressed extensively is local and national populations sometimes referred to as local communities.

\(^9\) <http://www.businessdictionary.com/definition/level-playing-field.html> [17 July 2011].
\(^9\) Not to be confused with national risk-preparedness for natural and manmade disasters.
These have a variety of interests ranging from economic to identity and safety issues and are just like the military always in situ in times of conflict.

It is a basic assumption that in peacetime the military focus on training and the creation of networks. These should provide for so-called reach back capabilities to be used in times of conflict, military exercises, and natural disaster. Examples of reach back resources are curators, restorers, universities, cultural NGOs and international organizations.

Civil parties in countries that ratified The Hague 1954 are legally expected to work on risk preparedness in the event of conflict as well as in the event of natural disasters. The latter demonstrates that the number and type of parties involved in preparations can differ from those taking part during military operations. Consequently, not in all possible situations actors mentioned participate at the same time or to the same extent. This depends on whether the activities happen before or during an operation but also on the types of action. A peace support operation for instance can differ from a counter insurgency or combat operation. Apart from this, it is questionable if for example scientific reach back capabilities, needed by the military for expert advise, want to engage with secret military operations. The military apparatus as a whole consists of a collection of acronyms; it is a matter of culture. The use of acronyms in this book is therefore inescapable not only to make matters more readable but also to open up the information for military officers used to reading and using acronyms. At the end this publication contains a glossary explaining the abbreviations used.

As touched upon the identity aspect of cultural heritage is vital. Identity is not only one of the three key elements (identity, authenticity, and unicity) in the civil heritage debate but is also a driver for many contemporary conflicts and disputes. In Bevan's *The Destruction of Memory*, the connections of Cultural Property with identity and conflict, and potential openings for strategic use by military or opposing forces are analyzed. As an example of denying a people its past as well as its future, he discusses the so-called Kristallnacht of 1938 that caused the destruction of German Synagogues. Bevan labels the activity of destroying identity markers such as certain buildings as 'forced forgetting'. It all sounds logical it has to be noted however that historians will argue Bevan's claim that the Kristallnacht was a preconceived goal of the Nazis to delete Jewish identity from the memory of humankind. A historical correct example would be the 1993 destruction of the Mostar Bridge in former Yugoslavia. Seen from Bevan's perspective, and when applied to conflict there is a military interest, to be exact the defeat of the enemy, that can lead to 'exterminate this enemy by obliterating its culture'. The scope is relatively wide since the threat to common objects especially buildings is considered a threat to identity moreover to the collective memory maintaining a group’s consciousness. Here we are at a no man's land between cultural 'scapes' that are in Bevan’s context probably typical neighborhoods and autonomous cultural objects including monuments that are actually free standing buildings. If such typical neighborhoods are considered part of cultural identity CPP will be even more complex than it is now and extra expertise, to assess the presence of sensitive areas in case of military operations, will be needed.

The current scientific discourse is expanded with a debate about the link between heritage sites and cultural/natural landscapes, or to be more precise the cultural and natural aspects of heritage. When one takes a closer look at cultural and natural characteristics, a specific military link becomes apparent, namely the connection of cultural resources with natural resources within

96 Bevan 2006.
97 The attack came as a reaction to the killing of a member of the German Embassy staff in Paris by a young Jew in retaliation for the poor treatment his family suffered at the hands of the Nazis in Germany. Source: [http://www.historyplace.com/worldwar2/timeline/knacht.htm](http://www.historyplace.com/worldwar2/timeline/knacht.htm) [17 July 2011].
98 The term "scapes" is currently used as an indicator for different environments e.g. landscapes, cityscapes, sound-scapes, nature scapes, trauma scapes etc.
the environmental approach towards operations. The environmental connection aims at protecting and safeguarding the milieu including implications but provides for opportunities to introduce and consequently embed CPP capabilities in military organizations.

As established groups of people, tend to identify themselves with certain (cultural) objects. In addition, they want to appropriate these objects for themselves or their group as heritage. Via this process the objects reflect and represent certain identities thus receive (added) intrinsic values. This quality is not evident at first glance but gives the property significance for opposing parties in a conflict. For instance a mosque is not simply a mosque but it can represent to an opponent the presence of a community marked for erasure. In the same token, a library or even an art gallery can be a cache of historical memory. A memory legitimizes a community in the present and in the future but it also gives an opponent room for selecting objects and places carrying meaning such as cultural landscapes, battlefields and memory/memorial sites, for intentional destruction with the aim of oblivion or to put it in other words, erasing from memory. These mechanisms are interesting from a military point of view but have to be controlled from a CPP perspective. National and international legislation applies to prevent misuse both from military and civilian stakeholders like politicians. Practical cases, to be presented later, will show that identity can also influence the position and actions of CPP stakeholders on a micro level. Identity on this level can be hidden in different phenomena such as traditions, corporate cultures, and bureaucratic behavior.

The contemporary scholarly debate on Cultural Heritage is of vital importance but also of a more profound level compared to the military driven discussion and connected issues that are addressed in this study. The main reason for this difference is that issues on military CPP form a new debate about a new discipline that in its current phase is still underdeveloped. In addition it should be noted that there is a civil scientific trend that tends to value methodology over contents or let's say to have function follows form instead of vice versa resulting in highly abstract approaches that appear not in concurrence with today’s issues concerning heritage in conflict and disaster. Of course, everything is open for debate and the all perspectives need to be in balance with each other nevertheless transferring knowledge and raising awareness among the military concerning CPP should start on a functional level where it can gradually grow to the more sophisticated level. Albeit the strong need for scientific research that equals the necessity to raise awareness and stimulate participation of the military cannot be ignored.

There are multiple angles for a categorization of CPP stakeholders, so choices were made that best fit the current situation. An interesting approach comes from US Civil Affairs Colonel and archaeologist Mark Yanaway. He distills the CPP stakeholders from what he calls the Paradoxical Trinity, the Government, the Army, and the People or in fact the Clausewitz's Trinity. He uses the site of Babylon as an example. Babylon is perceived as an important Cultural Property and demonstrates through discussing the situation during and after its occupation until December 2004, that many stakeholders can be classified under Government. In this case the US Government and its institutions that were in charge during the US occupation, ORHA, OCPA and CPA, the Federal Government of Iraq and the Provincial Government of Babil Province. The example shows how different Governmental segments can have conflicting and complementing interests. Implicitly this is an acknowledgment from a military expert of paradoxes and contradictions within the CPP field, and as such a military recognition of the importance of Cultural Property. Yanaway compares his trinity with Clausewitz's original trinity:

100 Bevan 2006.
102 Clausewitz 1968. (Original published in 1832).
103 Babylon (Iraq) was the capital of a city state in Mesopotamia, located on the eastern bank of the Euphrates River. Babylon was founded at the end of the 3rd millennium BC, and lasted through the 2nd century AD.
emotion, chance, and reason. Opinions will differ on this sort of classifying or actually comparing parties with emotion, chance, or reason. Besides, a government is of course not always present in today’s asymmetric non-state conflicts, and governments can also be substituted by ruling parties. Still the point is proven that mutual discussions between civil and military experts that might also lead to combined research can be fruitful and constructive.

A first and basic classification of stakeholders, sometimes also opponents in protection of cultural belongings, is military and civil parties, although certain entities can belong to both groups e.g. juridical experts, trainers and military and civil archaeologists. A second categorization concerns parties according to their interests. These can for example be classified as groups, factions, nations, tribes etc. that foster their identity while protecting and preserving objects representing these identities. Examples are the Copts, the Roma but also freemasons and the like. When referring directly to CPP stakeholders, distinctive entities like archaeologists, government officials, architects, and antique dealers come in the picture.

When economic and financial interests are at stake entities like the tourism industry, restorers and antique dealers can be distinguished. A third possible classification is mentioning and describing all relevant stakeholders by their professional or group's name. To obtain a detailed insight this appears to be the most functional method. In the following section a choice of seven key players will be discussed while explaining how they relate to each other within the field of heritage protection. Practical examples will show that some parties look upon CPP as a subject that is presented to the world as being invented by them. Consequently, it is a challenge that parties not only need to cooperate in raising their awareness on the relevance of the subject but also have to acknowledge that CPP should only and necessarily be implemented in a multidisciplinary fashion. Parties addressed are the military the media; politics including governmental institutions; non-governmental organizations (NGOs); international organizations (IOs); science including universities and working- or advisory groups. Finally, a number of parties are addressed under their own name since they are not classified within the groups mentioned.

**The Military**

Sometimes addressed as the Armed Forces, MoD or DoD. Within the framework of this study, they comprise paramilitary police like the Carabinieri and the Guardia Civil. Therefore when referring to the military as the armed forces it is more effective to speak about Ministries of Defense (MoD) or in the US Departments of Defense (DoD). The official entity containing the armed forces is normally a country’s Ministry of Defense. Cultural Property protection resources can be embedded in defense ministries in different ways e.g. in CIMIC or Civil Affairs (CA) units, or environmental departments. It can even occur that they exist as separate capabilities within one or more services like the Air Force or Army. Let us first look into the international definition used to describe and specify the military as a party to a conflict. They consist of all organized armed forces or armed services, groups and units under a command responsible to that party for the conduct or its subordinates. This includes parties represented by a government or an authority not recognized by an adverse party. Such armed forces shall be subject to an internal disciplinary system imposed in compliance with the rules of international law applicable in armed conflict.104 In the field of Cultural Property protection, the military are a major player. They not only have the state monopoly on the use of force when operating in their national territory, but also in certain cases through mandates and joint missions, restricted by rules of engagement, in areas outside their country of origin.

Soldiers operate during all phases of a conflict including those in which civil experts are not allowed or unable to function. In fact, they form both part of the problem and of the solution.

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104 Source: Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.
That is why armed forces are mentioned in legal documents about heritage protection like the Hague Convention of 1954. In a democratic system, the military only act when ordered by their governments. Therefore, it can be assumed that in most cases they are not ordered to implement CPP as described in the Hague Convention of 1954. For that reason issues like impediments have to be considered while examining mechanisms and situations regarding implementing and embedding CPP capacity in armed forces. This paragraph provides an insight in the norms, ideals, and expertise within military organizations to facilitate further analysis.

It is a simplification to look upon "the military" as one solid entity since "the military" are in fact a collection of parts, e.g. Military academies, alliances like NATO, military juridical experts, military archaeologists, Ministries, and Departments of Defense and Civil Military Cooperation units. Within the components different cultures connected with ranks, blood groups, regiments, and services can be distinguished all with distinct characteristics. Yet seen from the outside the military have their own rather isolated milieu. At the risk of being blunt, it can be said that traditionally they form an almost tribal society predominantly interested in themselves and loyal to their traditions and values. The military hierarchy, the envisaged career path, possible qualification for staff positions and cultural aspects stimulate risk, or uncertainty avoidance resulting in the situation that military society is more risk avoiding than the civil society and subsequently has more problems with changes and influx of new tasks. These special conditions also create a feeling of superiority, which makes it for outsiders difficult to raise awareness of topics like cultural heritage. Soldiers look upon these matters as representations of civil and not military society. Nonetheless, it can be said that today’s military appear less afraid of change and more than before open to tasks concerning development and environmental issues. Still it will take a while until all genetic characteristics that used to be typical for the military have transformed into new attitudes and finally will become part of the military collective identity. Cultural and geographical backgrounds of the various armed forces as well as education are of influence to this process.

The picture below shows military strategic cultures influencing the degree of receptiveness to be educated about, and work with new expertise and subjects like CPP.

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105 Hofstede and Hofstede 2003.
106 Strategic Culture is that set of shared beliefs, assumptions, and modes of behavior, derived from common experiences and accepted narratives (both oral and written), that shape collective identity and relationships to other groups, and which determine appropriate ends and means for achieving security objectives. Source: Comparative Strategic Culture Syllabus, Johnson and Larsen, 2006.
Potential incentives for paying attention to Cultural Property and related civil-military aspects plus activities do exist as common denominators. Like most civilians, also military are interested in cultural property especially when there is a relation to their business. In this context, we can think of war monuments and museums containing warplanes, weapons, uniforms and the like, not to forget, for some, famous battlefields. Historical sources describing military history and the art of war are appreciated too, combined with a potential receptivity for codes, traditions, and iconography as is stimulated during military education. There is such a thing as a military mindset or the ways in which personnel not only relate to one another but also the manner in which they contribute to decision making processes, exercise leadership roles, and interpret significant world events. Concerns range from an examination of honor codes at the service academies to consideration of topics like nuclear deterrence, the use of biological and chemical warfare, the development of ‘just war’ doctrine, and the ethics of intervention.\textsuperscript{107} Recently this repertoire is expanded with issues like sustaining military readiness in which attention is paid to the environment in the form of natural and cultural resources.\textsuperscript{108} Organizational aspects can hinder implementation of matters like CPP. Apart from the already identified trend of personal risk avoidance, military organizations as a whole tend to avoid change and risks too. Ministries of Defense are in most cases large complex organizations. Their staff members have a tendency to value means over ends, they worry more about following the right rule than about achieving the ultimate goal.\textsuperscript{109} In the Dutch Defense organization, this is especially apparent in the behavior of

\textsuperscript{107} Source: ETHICS AND THE ARMED FORCES Naval War College Library Notes, May 1997 (revised August 1997) Vol. 25, no. 4.
\textsuperscript{108} See: <http://smrconference.com/Agenda/index.cfm> [17 July 2011].
\textsuperscript{109} Wilson 1989.
those that are destined for higher positions, the so-called staff qualified to be recognized by a special emblem on their uniform shaped as the sun. De facto, this qualifying system is a recipe to create unnecessary risk avoidance, thus suppressing creative and visionary ideas.

Having acknowledged this, it has to be taken into account that in a military organization more than in civil organizations, it is customary for people to follow orders from their superiors. This is extremely relevant in wartime but in peacetime it contributes to restraining development and implementation of new ideas and strategies. Moreover, the military hold many cultures and all of these see different tasks as most relevant. As a result, different individuals are active in the same field, often working against- or in the best case supplementing each other. In this respect, they do not differ from actors in the civil playing field. In both arenas multiple interests, groups, competences, and political power structures compete. There is one unwritten rule 'tasks that are not part of the culture will not be attended to with the same energy and resources as tasks that are part of a certain culture'.\textsuperscript{110} This became apparent in many cases examined for this study. A good pars pro toto was the organization of the Dutch military seminar on the Protection of Cultural Property in times of Conflict and its connection with the Comprehensive Approach during military operations, that took place in The Hague in 2009. For instance, the funding for the event was quite limited. In fact too limited to offer the right quality, fortunately external funding was offered from the city council, financial support from non-military partners was however not accepted by the MoD. Other challenges concerned freedom of information about military CPP. At the last minute the press was not allowed to attend the seminar, this was ordered by the MoD head of communication, no reason was given. After the seminar, attempts were made to get clarification from the responsible official without result. In addition, there was an issue concerning the use, in a power point presentation, of apparently classified materials. These experiences seem to support the, already presented suppositions that the military have, and want to keep their own isolated milieu and that protection of cultural heritage is a topic connected to competence struggles and angst for the media, often combined with the urge for distinction. The effects of contradictive rules and competence struggles within the military organization can have on CPP might be illustrated by two examples: number one is Civil-Military Cooperation as an example of conflicting strategic cultures and number two concerns the issue of ranking functional specialists.

NATO defines CIMIC, the acronym for Civil-Military Cooperation, as 'the co-ordination and co-operation, in support of the mission, between the NATO commander and civil actors, including national populations and local authorities, as well as international, national, and non-governmental organizations and agencies'.\textsuperscript{111} The basic format of CIMIC comprises five branches; Civil Administration, Humanitarian Aid, Civil Infrastructure, Economy and Commerce and Cultural Affairs.\textsuperscript{112} The latter designation however creates confusion. Some countries attempt to implement Cultural issues through Civil-Military Cooperation; others address cultural matters through Civil Affairs (CA) units. The use of the adjacent word cultural gives room for multiple interpretations. If a country is well aware of its

\textsuperscript{111} There is a difference with Civil Affairs (UK and US) and British CIMIC. Whereas NATO, as an organization, considers civil-military cooperation as “observation, interposition, and transition assistance,” the British perceive CIMIC as “direct assistance by conventional troops,” and Americans recognize it as force protection, liaison, and limited direct support (Celik 2005). Force protection is a term used by the US military to describe preventive measures taken to mitigate hostile actions against Department of Defense personnel (including family members), resources, facilities, and critical information. Force protection does not include actions to defeat the enemy or protect against accidents, weather, or disease. Source: Department of Defense Dictionary of Military and Associated Terms 8 November 2010 (As Amended Through 15 May 2011). <http://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf> [17 July 2011].
\textsuperscript{112} Cultural Affairs is the name according to NATO’s CIMIC Doctrine.
legal obligations concerning CPP, of course depending on the treaties it ratified or signed, there is
more chance for an interpretation towards 'concerning cultural heritage protection'. However if
there is no special familiarity with this topic confusion can occur in case of a mix-up with cultural
awareness. The latter means information on cultural backgrounds, it uses the wide
anthropological connotation of culture or better said all cultural issues thrown together.

Since the early 1990s, CIMIC appeared on the political and military agenda's. In fact, it is
related to the much older concept of Civil Affairs that is still in use in the UK and USA. In line
with NATO directives, a number of countries started creating CIMIC capabilities within their
Armed Forces. Yet, most countries did not have the necessary resources such as cultural
specialists within their armed forces. Experts had to be found in civil society, painted green, the
military expression for militarizing civilians, and deployed as reserve officers, in CIMIC known as
functional specialists. So far so good, except it became clear that in practice cultural experts were
never send on missions to conflict areas. The only initiated Dutch CPP project in the Former
Yugoslav Republic of Macedonia was even stopped because the Dutch Ministry of Development
Aid opposed to the fact that military experts would do work that NGOs could do.113 In fact,
Dutch CIMIC projects executed in conflict areas primarily concerned water sanitation,
construction of bridges, and commerce. It is probably not a coincidence that these represent
typical Dutch export specialties that mainly involved the CIMIC Civil Infrastructure and
Economy and Commerce departments and were not seldom supported by funding from other
ministries than just the MoD. In this study, however only CIMIC matters linked with CIMIC
Cultural Affairs will be discussed. With respect to Cultural Property protection, in CIMIC known
as Cultural Affairs, the AJP-9 or CIMIC doctrine has led to poor results in practice because it was
written with more common public policy issues in mind, such as providing humanitarian aid,
repairing electricity and sewage systems and supplying drinking water.114 In addition, there is
certain reluctance since the military does not want to be accused of spending tax money where it
is not necessary. They neither want to be labeled as being in competition with civilian players
like NGOs, or be accused of devoting resources to objectives beyond the scope of their mission.

Still there is more to consider, such as all kinds of rules and directives that appear to be
contradicting each other and are set out and described in the annexes of operation plans or
Oplans to achieve the end state of a mission. All of these aspects primarily serve military goals.
Seen from this perspective by a commander CIMIC is in the first place a tool to reach the end
state of a mission faster and easier by creating and keeping good relations with the civil
environment in fact the local population. A real show stopper for CPP projects is the directive
deriving from the AJP-9 doctrine stating that all CIMIC activities in a certain area have to meet a
basic military criteria, namely to be in support of the commander’s mission.115 Military
commanders are rarely spontaneously interested in cultural property and cultural property
advisers who could point out the relevance to them are hardly ever deployed nor employed for
that matter. Therefore, the subject is almost never chosen or implemented as a CIMIC activity. If
it was, still a legal contradiction may arise between a military decision implicating low priority to
cultural affairs in the context of the military goals, and an action for instance to protect an object
as mandatory under the Hague Convention of 1954 and protocols. Since the CIMIC (cultural)
activity is judged and started through an order of a military commander, CIMIC does not appear
to be the right platform or institution to house Cultural Property protection officers who by
nature feel compelled to follow the Hague Convention of 1954 and other relevant legal
instruments. This does not mean that CIMIC cannot employ Cultural Property specialists; they

113 Kila 2008 a, and b.
114 Kila 2008a.
115 NATO CIMIC Doctrine AJP-9 states: "The co-ordination and co-operation, in support of the mission,
between the NATO Commander and civil actors, including national population and local authorities, as well as
international, national and non-governmental organizations and agencies."
can always be lent out to MoD embedded Cultural Property capabilities. In this way Cultural Property protection as a MoD dedicated capability will not only solve the problems described, but expertise will at the same time be available for all military services (Army, Navy, Air Force and Military Police). This means that preparations and training can be imitated in peacetime as well as during operations, and the same goes for research on the subject and the building of networks. Such a solution demands for making a choice and for allocating funding. In practice, this is more complicated than one should expect. When no provisions are made in advance following for instance the legal obligations, the military tend to leave such matters to be initiated by civil policy and decision makers. This brings an extra complication since the latter often confuse cultural aid with the highly politicized humanitarian aid that is in general implemented by NGOs to avoid false competition accusations.

Adding to this is the fact that CIMIC commanders and planners are likely to give priority to so-called high visible quick impact projects, like refurbishing schools and digging water wells in order to win the hearts and minds of a local population.\(^{116}\) This supports the thesis that the urge for, in this case individual distinction, to be precise the upgrading of a personal status and in second instance a military objective, stand in the way of protecting cultural belongings that represent the identity of a larger entity, in a conflict situation. Taking this into account, CIMIC and Cultural Property protection appear no easy mix. The fact remains that when a Commander wants to get a complete inventory of civilian needs, professional advice from experts representing all civil military functional areas including Cultural Property protection is necessary. The best way to get this information is through assessments that have to take place before an actual operation. Concerning the cultural heritage situation in a mission area assessments are not only desired but also mandatory.\(^{117}\) When Cultural Property protection capabilities are embedded in a Ministry of Defense such assessments can be scheduled, prepared and executed as a regular activity within the military planning process. In most current situations in which the military are not convinced of the importance of CPP this will remain a challenge.

The military organization houses more potential constraints for the implementation of CPP by (CIMIC) Functional Specialists and for that matter for reservists in general. A tough issue is ranking, in the sense of employing individuals in a certain military rank. It is a subject of discussion within the military, because of (as perceived by professional military) the relative high rankings reserve functional specialists, such as Cultural Property experts, get. Since there are not enough qualified experts within the Armed Forces that can be deployed in the CIMIC functional areas, they have to be recruited from civil society. In general, these experts want to earn at least the income they are used to. This is a human resources challenge for most MoDs. In the Dutch Ministry of Defense, for example, two major grounds are used to determine the ranking level. First within the military, pay is directly connected with rank. As established, in order to be able to recruit highly qualified civilian experts they must be paid a reasonable salary. Average incomes that MoDs have to offer are considerably less than civilian salaries that are paid to highly qualified expert personnel. Because of the connection between rank and salary, ranks offered to specialist personnel recruited from civil society are relatively high. Secondly, to be able to properly negotiate in the field with governmental officials, higher foreign military officers, and international organizations the specialist officer should have a representative (high) rank to be taken seriously.

Opposition against the level of ranking occasionally comes from professional military. They frequently argue that foreign military cannot see that a certain high-ranking officer is a functional specialist who is not equally equipped and trained to act in military emergencies, while the

\(^{116}\) This problem is less obvious with US Civil Affairs (CA) commanders who on the average stay longer in theatre.

(foreign) military of lower rank expect the same officer to act and take command. This can be avoided by having high ranking specialists, when they are send out in the field, accompanied by at least one professional colleague, probably of lower rank, acting (by mutual agreement) as a so-called functional superior during such a field assignment, as was tested during deployment in Iraq. Nevertheless it is curious that the troubles described do not seem to exist for military medical, religious and legal staff, perhaps because these militarized experts have long proven to be necessary in the armed forces, whereas cultural officers and their expertise are seen as something new and, in the eyes of some, unnecessary. Last but not least, the arguments above, as well as field experiences show, and confirm, that ranking is connected with status and therefore identity. Once more this supports the argument that proper implementation of CPP is restraint because entities that have to solve Cultural Property problems in practice are facing strategic cultural, often identity related problems within their own circles. Having said this, it is time to look at external factors that can be of influence to the whole CPP picture. Today’s most critical factor to consider is the media.

The Media

Within the range of this research, and taking into account that due to technical advancements their relevance is rapidly increasing, it became clear that the media can play a significant role in CPP. When discussing the media it is important to consider that there is currently a big variety of vehicles to spread and exchange information. In the past newspapers, magazines, radio and television were ruling but times have changed. New media, that often cover the whole world, will be addressed in this paragraph and it goes without saying that they all have a potential influence on the behaviors of political and military CPP stakeholders. To give an example; the media input regarding the Baghdad Museum looting made the already low international support from within society for the Iraq war almost disappear. In spite of the fact that the United States (too late) tried to limit the damage they got the image of a destroyer of culture that remains intact until today as is confirmed in the paragraph on training in the Egypt/Bright Star case. Today even the public, through social networks can affect a military mission and a country’s reputation. More than ever information and communication play key roles since they are capable of provoking negative international reactions or triggering positive media coverage, whereas the latter can generate military force multipliers. One should not underestimate the influence of bloggers and websites that can be either individually driven or by specific interest groups and have a big potential to influence opinions. The same goes to certain extents for the, already mentioned, social networks or social media like LinkedIn, Facebook and You Tube. A derivative of this is called Viral Marketing also named ”going viral” referring to marketing techniques that use pre-existing social networks to produce increases in awareness concerning brands or certain topics. Viral in this context is used to point at the self-replicating spreading process of viruses.

CCHAG’s Paul Kunkel gives an impression of possibilities to use these techniques and media for CPP in a presentation under the title: ‘Going Viral: A Web Portal Concept for CHCAG and beyond.’ Effectively the media can help in getting CPP obligations fulfilled. From this perspective, the ‘uncertainty avoiding attitudes’ of military and governmental decision makers can work positively because they fear ‘a bad press’ in fact meaning bad reports from old and new media. This gives them enough reason to, where possible, exclude unnecessary (personal) risks, and to especially aim at fulfilling legally imposed obligations. Then again, this can also lead to

118 For instance during my deployment in al Muthanna see the Uruk casus.
119 Especially the CNN images of looters and museum staff in the shambles of the museum.
exclusion of the press as happened in the earlier addressed Dutch MoD seminar in The Hague that took place in 2009. The head of the Press and Information department of the Dutch MoD personally banned all press and interviews.\footnote{An explanation was not given but risk avoidance and lack of knowledge on the subject were most certain driving his behavior. At the time the author who was also the organizer tried repeatedly to get an explanation but no answer was given all contacts with the head of the department were refused.}

Publications can have impact too as can be seen in a number of book titles used in reference with the damaging of Cultural Property. Some publications dealing with the subject make use of the term rape in their titles e.g. *the Rape of Europa, the Rape of Mesopotamia* and *the Rape of the Nile*.\footnote{Nicholas 1994, Fagan 2004 and Rothfield 2009.}

Apart from the section with case studies that constitute a separate part in this book, two cultural heritage cases will be addressed here showing the media's influence and weight for bringing issues out in the open. First, a discussion initiated by both the press as well as internet bloggers about the Human Terrain Systems (HTS) and secondly the case of the Jewish Archives from Iraq.\footnote{HTS is a new proof-of-concept program, run by the U.S. Army Training and Doctrine Command (TRADOC), and serving the joint community. The near-term focus of the HTS program is to improve the military’s ability to understand the highly complex local socio-cultural environment in the areas where they are deployed; however, in the long-term, HTS hopes to assist the US government in understanding foreign countries and regions prior to an engagement within that region, source: <http://humanterrainsystem.army.mil/> [17 July 2011]. HTS embeds anthropologists and other social scientists with combat brigades (currently in Iraq and Afghanistan) to help tacticians in the field understand local cultures using Human Terrain Mapping.}

The HTS discussion contains ethical concerns probably by accident connected with Military Cultural Property protection and as such represent a challenge for implementing CPP. The issue is the current, international, media driven discussion about ethical issues concerning social scientists who work with the military. Opponents of scholarly engagement with the military use this anthropological involvement in the Human Terrain Systems as a justification to react against all cooperation from social scientists including the realm of military Cultural Property protection. Their actions restrain the process of making the military aware of the obligations in the 1954 Hague Convention and Protocols. The core of the problem is that social scientists, working for the American HTS-teams, are mistaken for cultural property experts working with the military within the framework of the 1954 Hague Convention and its two protocols or other international legal instruments. Due to this confusion a, relatively small, number of archaeologists and anthropologists spread confusion. During the World Archaeological Congress (WAC 2008) in Dublin, this led to a confrontation.\footnote{6th World Archaeological Congress (WAC) held at University College Dublin, 29 June – 4 July 2008.}

CPP experts working with the military gave papers, participated in panels, and had to face fierce opposition. Intense ethical issues drove remarks and arguments from opponents. During discussions archaeologists who had chosen to partner with the military were labeled as 'part of the problem' and accused of having lost their impartiality. This reminded me of the nineteen-sixties when similar allegations were made to individuals partnering in various capacities with the military. These accusations were often true but the political global situation and the type of conflicts were completely different at the time. Several articles discuss the ethical problem.\footnote{See for instance Price 2008 and Jamail 2009.}

A statement that illustrates the ruling opinion as well as the degree of confusion comes from the American journalist Dahr Jamail who spent eight months in Iraq, from 2003 to 2005, and at the time, was one of the few reporters not military embedded. He writes that 'Social scientists in the Human Terrain System teams embed with the military, ostensibly to improve cultural awareness of the populations in Afghanistan and Iraq. However, this cultural awareness is used to formulate strategies for killing and destruction'.\footnote{Quote: Dahr Jamail, May 17th, 2009 | Truthout. <http://declarationofpeace.org/published/may-17-2009-engineering-trust-of-the-indigenous-popula> [July 17th 2011]. The fact that in the US the hearts and minds strategy of counter-insurgency was stressed did not make things
better but triggered even more opposition from experts. The link between counter-insurgency and hearts and minds and subsequently CPP is explained in detail in the paragraph about the sociology of CPP and the Military. Nevertheless to quote American anthropologist David Price: "The problem with anthropology used in counterinsurgency isn't just anthropologists helping the military to wear different cultural skins; the problem is that it finds anthropologists using bio power and basic infrastructure as bargaining chips to force occupied cultures to surrender". The above clearly describes the problem namely confusion about the word Cultural Awareness, a term often mistakenly seen as (part of) CPP.

Already introduced, to explain the concrete relevance of CPP are 1, common denominators to illustrate the significance of cultural property for civil and military players and 2, deliverables, that can be of tactical and strategic relevance for the military. Military planners and senior leadership, currently largely uninformed, have to be made aware of their existence. If they realize the significance of the deliverables, this will be taken into account when missions are planned. There is however, no guarantee that things automatically go well. How matters can develop in practice, especially when cultural objects are handled inconsiderately, is illustrated through the case of the "Jewish archive". The story includes several parties that behave as contestants disputing Cultural Property which is literally illustrated by the way they react in the media (used as the battlefield).

On 17 January 2010 an article was published in The Washington Post with the header 'Iraq reclaims a Jewish history it once shunned'. During the last war in Iraq in May 2003 US military found in the flooded basement of a deserted building once belonging to the Mukhabarat - Saddam's secret police a collection of old Jewish books, photo's and manuscripts. The former Iraqi secret police are believed to have confiscated the items from the small Iraqi Jewish community. These objects, addressed as the Jewish archive looked heavily damaged. At the time the US had only one arts, monuments and archives officer working in Iraq. She was asked to examine the objects from the basement and found that they were damp and invested with mold. The only way to stabilize them for the time being was freezing, so a refrigerator truck was found and parked in a warehouse in the back of Saddam’s former Palace located in the so-called Green zone. The truck's motor was kept running to sustain the electricity until September 2003. In the meantime apparently an agreement was reached, later approved by the Iraqi Ministry of Culture to move the objects to the U.S. for preservation. The archive was flown to Ft. Worth, Texas with a military cargo plane and finally ended up in the National Archives and Records Administration NARA in Maryland. It was supposed to return to Iraq after two years, but the Iraqis have never pushed for its return since they were more focused on surviving the violence in their country. Yet, now (2010) they want it back! The problem is that apparently more parties feel entitled to get possession of the collection. This triggers a lot of different, sometimes opposing statements and opinions that will influence public opinions. Media quotes show how the Cultural Property at stake is claimed and which arguments are used.

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127 Ibid.
128 Tactical level is the Level at which activities, battles and engagements are planned and executed to accomplish military objectives assigned to tactical formations and units. The operational level is the level at which campaigns and major operations are planned, conducted and sustained to accomplish strategic objectives within theatres or areas of operations. The strategic level is the level at which a nation or group of nations determines national or multinational security objectives and deploys national, including military resources to achieve them.
129 Sources: 'Iraq reclaims a Jewish history it once shunned', by Rebecca Santana, The Associated Press , Sunday, January 17, 2010; e mail correspondence dated January 22, 2010 from the author of this dissertation with Major (ret.) Corine Wegener the CPP officer involved at the time.
130 Effectively Iraq was during this period governed by the US led Coalition Provisional Authority (CPA.)
Saad Eskander, the director of the Iraq National Library and Archives said Iraqis must know that we are a diverse people, with different traditions, different religions, and we need to accept this diversity ... "To show it to our people that Baghdad was always multi-ethnic".

Abdullah Hamid, the head of Iraq's National Center for Manuscripts and Documents adds: "I am afraid that there is pressure from some groups, both inside and outside the United States, in order to prevent the return of these Iraqi manuscripts to their original country".

Doris Hamburg, who directs preservation projects at NARA denies any pressures and stresses "Iraq can have the archive back whenever it wants", Iraqi officials at the National Library said they have no indication the Americans are trying to hold onto the archive.

Dov S. Zakheim, an Orthodox Jew who was a senior Department of Defense official under President George W. Bush warned that if the Iraqis were to claim the archive as their own, it would anger the Jewish community. "It's not theirs. It's just not theirs," he said. "Jews feel very strongly about their heritage".

Mordechai Ben-Porat, who helped Jews leaving Iraq after Israel's establishment in 1948, says the archive should be in the museum dedicated to Iraqi Jews which he runs in Israel. "The books belong to the majority of the Iraqi Jews, and they are not in Iraq. The books should be given to us, as the representatives of the Jews of Iraq".

According to Saad Eskander the archive's long absence from Iraq has made it politically sensitive. It much annoyed Iraqis that the Americans who failed to protect Iraqi cultural treasures were devoting such care to the Jewish archive. "The American national archive did a great job, and we are grateful for their help. ... now we will do it here in Baghdad. It is our Cultural Heritage".

Iraqi officials will go to the US on short notice, to assess the materials found by U.S. troops and plan for their return. Obviously publicity concerning this case will not stop for the present. It shows how unpredictable Cultural Property protection can work out when not treated with the utmost care.

In this one incident different interests, distinctive identities, legal dilemmas and media exposure, all triggered by military implementation of CPP become visible. It should clarified for the legal context that, at the time the "archive" was shipped to the Texas, the US was no states party to the 1954 Hague Convention but Iraq was, therefore Chapter III , article 18 of the Hague Convention of 1954 applies and it seems mandatory to return the objects to the country of origin after the hostilities ended. Nevertheless this example can illustrate to military leadership that inconsiderate actions regarding handling of Cultural Property can harm both a military operation as well as the reputation of a country involved.

To conclude, both cases demonstrate that media exposure can draw attention to ethical concerns thus forcing parties to reconsider certain cultural activities. The second example confirms the mechanism described earlier that media coverage can trigger groups or individuals from different geographical descent to identify themselves with certain objects and consequently claim them as heritage or in this case objects are claimed that are considered part of their (existing) heritage in order to strengthen their present identity. It can also happen that claims are made for financial reasons, or get a new value but this seems not to be case here.

A last example of media influence involving the new social media in particular Twitter and Facebook is the revolt in Egypt (end of January 2011) to be discussed more in detail in a case study in Part II. Social media not only played a big role in mobilizing demonstrators and informing the international news media but also spread news to the world about the looting of Cultural Property. Some quotes from an email that was send to me by a US Archaeologist with direct contacts in the field illustrate this: "I just received this information directly (on Facebook) from Egyptologists and members of the Supreme Council for Antiquities (SCA) who are witnessing the situation".

"Verified by Mohammad Megahed: Immense damages to Abusir and Saqqara, all magazines and tombs which were sealed were entered last night. Only Imhotep Museum and adjacent central
magazines protected by the military. In Abusir all tombs opened. Large gangs digging day and night everywhere".131

These reports, that were all quite timely, compared to the situations years earlier in Baghdad demonstrate that the social media are not only faster than the older media but the reporters, that are often the Cultural Property experts themselves, are less vulnerable for potential censors like Governmental and Political entities.

**Governmental institutions and political organizations**

Governmental parties are antiquities services, ministries of culture, Foreign Affairs and development aid132. Ministries of Defense are discussed separately in the section about the Military.

'Foreign Affairs has good ideas and a feel for the political landscape, but they are bad at implementing anything. Defense, on the other hand is excellent at logistical stuff, but has blinders on when it comes to policy". 133

This quote shows one of the core problems that affect cooperation in this case concerning CPP within governmental institutions and political entities: all governmental institutions have different interests and areas of expertise. Nevertheless, a multi agency approach is always needed because of the variety of CPP stakeholders. In order for assets to be used in support of CPP the institutions involved need to be aware of incentives that can be generated and of common interests they have as part of the government as a whole. To give an example, many governmental institutions own, and use monuments like historical buildings, a common interest is conservation and preservation of these cultural properties. Again practice shows that in order to stimulate departmental attention CPP's value as an incentive or as a subject that can trigger synergy has to be demonstrated and explained thoroughly. Potential synergy can for instance be found in the domain of Foreign Affairs especially in the actual ministries, departments and embassies. Seen from a wider perspective Foreign Affairs has a relation with CPP via cultural diplomacy that in its turn plays a role in national politics as well as in reconstruction processes during foreign missions. Diplomacy has always been linked to culture and cultural diplomacy as such has existed since ancient times.134 The Pharaonic Egyptians for instance already practiced diplomacy with the inclusion of cultural ceremonies in which objects and artists often served as gifts. Throughout time explorers, musicians and antique travelers like Marco Polo played a role as informal cultural ambassadors. Cultural diplomacy is defined as "the exchange of ideas, information, art, and other aspects of culture among nations and their peoples in order to foster mutual understanding".135 Today's military operations abroad can involve diplomatic experts from either State departments or embassies that cooperate with the military and cultural experts. Important contacts with opposing governments or foreign dissidents, in times of conflict often start with attempts to connect with intellectuals, artists, and foreign cultural institutions. De facto, any cultural diplomacy policy will not be taken seriously if the implementing country has a reputation to destroy Cultural Property during military operations or has reputation for not following the directives of The Hague convention of 1954. Unfortunately, cultural diplomacy as such, is declining since it suffers, to a certain extent from the same lack of funding as CPP. Nonetheless as former cultural diplomat Richard Arndt says "the loss could be repaired. A decent Cultural diplomacy (of which CPP takes part) costs amazingly little, a shadow of the cost of one wing of fighter aircraft."136

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131 Email to the author from Dr. Sarah Parcak University of Alabama at Birmingham Jan 30th 2011.
132 Such ministries can have different names e.g. foreign affairs can be called State Dept. this differs per country.
133 Wilkie 2008.
134 See also Asgard 2010.
Like with CPP there are also incentives for Defense, as indicated the troops could be supported by cultural diplomats during missions, including peacekeeping operations. The exact role of cultural diplomacy in CPP or vice versa has not been examined yet, but further research should be undertaken soon. CPP and cultural diplomacy encourage other peoples to give the implementing country the benefit of the doubt on specific policy issues or requests for collaboration, since there is a presumption of shared interests.  

Governmental institutions are naturally affiliated with politics. From all parties involved in CPP the government, or in reality politics is potentially decisive when it comes to the implementation of CPP. When the government allocates funding and orders the military to implement CPP in their organization and provides for coordination and, even more essential, cooperation with civil entities preferably also on the international level, more energy and intellectual input can be spend on the contents of CPP instead of how to get permission and funding to get things implemented. Of course, Governmental institutions comprise Governments. Important for the purpose of this study are especially those governments that are party to the Hague Convention of 1954 and other relevant legislation. To get an overview of their current behaviors and practices regarding CPP implementation by military organizations, a paragraph at the end of Part III will present some examples.

Non-Governmental organizations (NGOs)
The average non-governmental organization is legally constituted and works independently from any government. One can distinguish international and community or national NGOs. Some NGOs have a consultative status with UN’s Economic and Social Council (ECOSOC), others are affiliated to another UN organization or institutions like the World Bank. Currently, UNESCO has official relations with 348 international NGOs and 20 foundations and similar institutions, which are working in the fields of competence of the Organization. Of course, one can also find numerous small NGOs with a formal or even informal legal status. Three categories are relevant to be distinguished for the purpose of this book. First NGOs that, according to their statutes, deal with Cultural Property such as the World Monuments Fund, Getty Foundation, WATCH and SAFE. Secondly, there are NGOs not involved with cultural heritage related matters, such as Doctors without Borders, Oxfam, and Greenpeace. There is good reason to make this distinction, because there is a lack of knowledge within NGO circles about cultural heritage issues since most Non Governmental Organizations concentrate predominantly on humanitarian aid. Fact is also that the NGO market is highly competitive and therefore organizations tend to protect their market shares while sometimes not relying on accurate information. This can lead to the situation that organizations without cultural heritage expertise do not want to miss chances concerning a CPP topic often driven by the argument that they consider it no military issue. The motto is everything that is no military core business has to be done by NGOs. This slogan, when combined with the multi interpretable dictum 'as civilian as possible, as military as necessary' that some NATO partners CIMIC departments use is a recipe for trouble and miscommunication. Thirdly, there are NGOs that deal with cultural issues but these activities concern intangible art forms like dance and music or the modern visual arts like painting and sculpture. These regularly aim at organizing exhibitions and supporting artists.

Good reason for the distinction made between cultural (in the sense of CPP) and non-cultural NGOs is the fact that in the Netherlands some NGOs confuse cultural activities undertaken by military experts with humanitarian aid. They tend to react strongly against utilizing military experts for everything not directly related to what is their perception of the military core-business. Generally spoken and seen from the NGO perspective, there seems to be little room for cooperation with organizations not part of the NGO culture, including the military. Motives seem ethically and politically inspired. Although an important reason could also be that NGOs are judged and subsequently subsidized and funded according to their market positions therefore they will fiercely defend these positions. Additionally there is an international debate, often fed by NGOs and civil policy makers, about the argument that Non Governmental Organizations can work cheaper than the military. It is difficult to determine what costs less, because one has to study comparable projects, and gain access to all financial data including matters like overhead, depreciation etc. Contributing to the situation is that not many NGOs deal with Cultural Property protection (nor is information on their field experiences easily accessible). Consequently, it is hard to compare the value and sustainability of projects either undertaken by military or civil parties. The discussion is extra complicated because some claim that funds that could be used for Military CPP were originally meant to be spent on NGO activities.

Nevertheless, there are known cases of civil organizations undertaking cultural emergency rescue missions. Examples are the recent ANCBS/IMCURWG missions to Egypt and Libya and Blue Shield (ANCBS) initiated salvation projects that were undertaken after a severe flooding in Poland and quite recent in Cologne Germany in support of rescue work regarding the collection of the collapsed City Archives. These activities are usually (co)funded by Governmental institutions. Some projects in Iraq however were also funded by NGOs like the Dutch based Prince Claus Fund and Italian organizations. Only Italian NGOs were actually on the ground with Cultural Property projects in Iraq during more violent phase of the conflict.141

There is a debate whether military logistics and CP experts could be deployed for natural disasters. This is of course the domain of NGOs. However, it would be useful to exchange lessons learned from the military context with civil organizations and vice versa so they can be of benefit for cultural emergency situations in times of manmade and natural disasters.142 Military engagement in natural disasters can be very useful when conditions demand for special types of transportation and logistics. A recent example in which (US) military helped in the aftermath of a natural disaster is the earthquake in Haiti. Of course, military cooperation should always be on special request and there might be juridical implications and other aspects that have to be considered. There are organizations that left and are still leaving their CPP footmarks in war stricken countries such as Iraq. Worthwhile mentioning is an initiative created in 2004 when the Getty Conservation Institute (CGI) and the World Monuments Fund (WMF) joint forces to help Iraq rebuilding its capacity to manage monuments and sites. Another organization that is running a program in Erbil is International Relief and Development (IRD). They are establishing a Conservation and Historic Preservation Institute in Erbil focusing on technical and professional training while aiming at improving the professional environment in the Iraq National Museum in Baghdad.143 Then there is SAFE - Saving Antiquities for Everyone a US based non-profit organization dedicated to preserving cultural heritage worldwide.

140 The fund funded emergency aid for the Central Library of the University of Baghdad; unfortunately, Baghdad's national library that suffered more damage was not helped.
141 Example: Un Ponte Per Baghdad, a volunteer based association established in 1991 working in humanitarian aid mainly in Iraq, and recently in Jordan, Lebanon, Turkish Kurdistan, and the Balkans. In September 2004 a number of their workers, including Italians Simona Pari and Simona Torretta, were kidnapped. UPP was for instance active in trying to save and help Iraqi libraries.
142 See also Euromed Heritage Cultural Heritage Management in times of Conflict, recommendations of the Workgroups, p. 8 Amman April 2005.
SAFE concentrates on raising public awareness about damages that result from looting, smuggling, and trading illicit antiquities. They focus on media campaigns in partnership with academia and the communications, legal and law enforcement communities.¹⁴⁴

**International Organizations (IOs)**

A variety of International Organizations is active in the field of cultural heritage. The most prominent one is the United Nations Educational, Scientific and Cultural Organization (UNESCO) based in Paris. Other examples are the International Centre for the Study of the Conservation and Restoration of Cultural Heritage (ICCROM), the International council of Museums (ICOM) that has a Disaster Relief Task Force, the International Council on Archives (ICA), the International Federation of Library Associations and Institutions (IFLA), the International council on Monuments and Sites (ICOMOS), the International Committee of the Red Cross (ICRC) and the International Committee of the Blue Shield (ICBS).

In this book, only the cultural heritage protection and safe guarding activities of UNESCO are addressed. The organization has other activities like for instance education matters but these UNESCO activities are not at stake here.

To give an impression of processes and mechanisms that influence the way international organizations operate it is useful to take a closer look at the cultural heritage activities of UNESCO. In the years, 1959-1960 UNESCO made a good impression by mobilizing the international community for an international rescue plan concerning the safeguarding of Nubia’s (Egypt) cultural treasures. The cultural heritage of Nubia was threatened with total vanishing because of the construction of a high dam in the river Nile. The story is well known, many monuments were rescued, some rebuilt, on higher grounds in an international effort. The most famous example are the Abu Simbel Temples. Nevertheless today, the organization is perceived as being not very pro-active especially in times of conflict. Fact is that for the duration of my missions in Iraq during the last conflict I never met or heard about any UNESCO representative being in the country. When the looting started in Egypt in February 2011 UNESCO again did not act timely by sending an assessment mission. A direct request was made to the Assistant-Director General for Culture and Director of the World Heritage Centre of UNESCO and no reaction was given nor action undertaken.¹⁴⁵

When the name UNESCO is mentioned in conversations and meetings about CPP there are often questions raised about the organization’s reputation for not (enough) meeting demands and challenges. Issues include, for instance, that UNESCO has no permanent liaison with the military and is often absent in conflict areas, and in general too passive when cultural property is looted or damaged e.g. Iraq, Egypt. There are a number of possible reasons for this 'alleged' behavior. We know that Cultural Property is by nature disputed, thus potentially able to cause political and identity related power struggles. The same phenomenon, but on a micro level, makes entities that have to do with safeguarding cultural property disagree and compete with each other. Given these mechanisms, it can be dangerous for the career orientated in UNESCO’s organization to handle CPP in a pro-active manner. Besides UNESCO is as an organization framed in a highly bureaucratic structure that is controlled by diplomats and officials. This type of leadership tends towards risk avoidance, which in its turn leads to a non pro-active attitude. Also from a more practical or technical perspective the organization has limitations, for instance, UNESCO is unable to take action in cases of illicit traffic of looted goods. UNESCO itself has no mandate either to act in case a crime is detected or to take the custody of cultural materials. "Its mandate is assisting its Member States in the conservation of cultural heritage."

¹⁴⁵ A request was made by IMCURWG and the ANCBS in a message of which receipt was confirmed dated 4 February 2011. After this appeal without result IMCURWG and ANCBS set out a mission themselves that took place in Egypt 12 to 16th of February 2011.
The organization is without sufficient specialists, e.g. security, collections and conservation experts, to undertake detection or custody function."\(^{146}\) Finally, UNESCO is not a rich organization, as it depends on funding, which stimulates a cautious attitude. On the positive side it should be said that UNESCO did provide for The Hague Convention of 1954 and other treaties like the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, and the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome, 1995) that was, as a study, requested by UNESCO from UNIDROIT in 1986, but there is little in their power to implement or enforce implementation of these legal instruments. To underpin the suppositions presented here two examples that concern respectively UNESCO and ICOMOS will be addressed. UNESCO: the Commissioner General for the Protection of Cultural Property and the Committee for the Protection of Cultural Property in the Event of Armed Conflict.

The 1999 Second Protocol to the 1954 Hague Convention and the Constitution of UNESCO give possibilities for practical cultural heritage safeguarding actions. The constitution provides UNESCO’s director general with a general mandate for the protection of Cultural Heritage.\(^{147}\) The control system under the convention is composed of three elements: representatives of parties to the conflict, commissioners general for Cultural Property, and protecting powers. Protecting Power means a neutral or other State not a Party to the conflict which has been designated by a Party to the conflict and accepted by the adverse Party.\(^{148}\) Here reference is made to the possibility of nominating one or more commissioners general for Cultural Property. This option interlinked with the system of the protecting powers has only worked once—following the Middle East conflict. When the mandates of the two commissioners general accredited in 1967, one to Israel and the other to Egypt, Jordan, Lebanon, and the Syrian Arab Republic, were terminated in 1977, no new commissioner general to be accredited to the Arab governments concerned was appointed. De facto, an end was put to further implementation of this institution. Nonetheless, the system is still intact for Parties to the 1954 Hague Convention, but is no longer used. Consequently, the international list of experts mentioned in Chapter I, Article 1 of the Regulations for the Execution of the Convention from which commissioner generals could be appointed is most probably not updated since 1977. This implies that UNESCO has no official oversight on (current) international Cultural Property experts.

A Fund for the Protection of Cultural Property in the event of armed conflict is established for parties to the Second Protocol of the 1954 Hague Convention. This Fund aims to provide financial or other assistance in support of preparatory or other measures to be taken in peacetime. It is managed by the newly found Committee for the Protection of Cultural Property in the Event of Armed Conflict, in which member countries, not individuals, are represented as well as the UNESCO Secretariat. The resources of the Fund shall consist, inter alia, of voluntary contributions made by States parties to the Second Protocol. According to a source within the Committee, the situation in February 2010 was as follows: the fund has 100,000 Euro as a result of a voluntary contribution from the Netherlands.\(^{149}\) Currently there are no projects undertaken. An appeal has been made to State Parties to nominate Cultural Property for enhanced protection. Nothing happened so far. Contributing to this is the fact that the section of the UNESCO

\(^{146}\) Prott 2006.

\(^{147}\) Article I(2)(c) of the UNESCO Constitution stating that the organization will maintain, increase and diffuse knowledge “by assuring the conservation and protection of the world’s inheritance of books, works of art and monuments of history and science, and recommending to the nations concerned the necessary international conventions . . .” is illustrative in this respect. United Nations Educational, Scientific and Cultural Organization, Basic Texts, 2006 edition, (Paris: UNESCO, 2006) 6.

\(^{148}\) Source: Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), Art. 2 (c).

\(^{149}\) Source: the vice-chairman acting on behalf of the Netherlands.
Secretariat dealing with The Hague 1954 is understaffed and has not enough financial resources
to manage matters in a pro-active manner.\textsuperscript{150}

The ICOMOS Venice Charter from 1964 is also known as the International Charter for the
Conservation and Restoration of Monuments and Sites. It is a document that defines the
common responsibility of nations to safeguard cultural heritage and cultural landscapes.
In its preamble is stated that the historic monuments of generations of people remain to the
present day as living witnesses of their age-old traditions. In this perspective, people regard
ancient monuments as a common heritage. The common responsibility to safeguard Cultural
Property for future generations is recognized and it is regarded as a duty to maintain their
authenticity. The latter is of course still subject of an international debate among scholars that
includes questions of uniqueness and identity. Nevertheless, it is essential that principles guiding
preservation and restoration of ancient buildings should be agreed and laid down on an
international basis, with each country being responsible for applying the plan within the
framework of its own culture and traditions. Therefore Article 1 of the charter states that ‘the
concept of an historic monument embraces not only the single architectural work but also the
urban or rural setting in which is found the evidence of a particular civilization, a significant
development or an historic event’ and specified that this does not only apply to great works of art
but also to more modest works of the past that have acquired cultural significance with the
passing of time.

All of this is not only in complete accordance with the new recognition of cultural heritage as
part of the Beni Culturali that was explained in the introduction of this book but it also makes
more scenes and objects vulnerable for military activities. On the other hand any military effort
to avoid destruction or stop pillaging of heritage can be seen as a form of preventive
conservation. Not only can this feed the scholarly debate by demonstrating a new perspective for
military involvement but it also fits the principles of the so-called holistic approach often applied
in (integrated) conservation strategies. In its turn, this integral concept also plays a role in the
debate on development and peacekeeping missions and their military components. The name
used in that context is the Comprehensive Approach. The idea behind this is the creation of
strategic partnerships, in the case of Cultural Property protection between military and civil
parties. Consequently, the system as a whole co-determines for a major part how its components
behave. This can create new forms of synergy and help solve the problem of the lack of
cooperation and communication on Cultural Property protection between potential strategic
partners as NATO, EU, and UNESCO. Both examples show that, though positive elements can
be distinguished from it, e.g. the Venice Charter, the system and the bureaucratic approach
combined with for instance under staffing of the UNESCO department dealing with The 1954
Hague Convention restrains proper handling of cultural disasters case of armed conflict.\textsuperscript{151}

Furthermore, the lack of voluntary contributions for the UNESCO Committee for the
Protection of Cultural Property causes available financial means to be merely used for the
overhead costs of this committee and not for practical activities.

\textbf{Work(ing), and advisory groups}

Sometimes subjects are difficult to get on agendas of (potential) stakeholders, as is surely the case
with CPP especially when it involves the military. A solution not suitable for the faint hearted and
bureaucratic orientated is the creation of initial, not formal institutionalized, entities like working
groups or advisory groups.\textsuperscript{152} To realize a more pro-active approach a number of these informal
networks and groups were created aimed at military cooperating with civil CPP stakeholders.

\textsuperscript{150} During the meeting of the Parties on 24 November 2009. The situation in December 2010 was that only the
Netherlands and Finland (the chair of the committee was Finish now Dutch) paid their contributions.

\textsuperscript{151} According to an undisclosed source only one staff member and a part-time secretary.

\textsuperscript{152} A term also used is workgroups.
Some of them even started without formal consent of military and political institutions. Their value for starting a dialogue between dissimilar parties, and stimulating international cooperation as well as exchange and dissemination of information is huge. Some have, or are, in the process of creating web sites, that give access to new information. It is fair to say that they fill a gap that many NGOs and international Organizations leave open.

A new initiative in which military and civil experts join forces in order to share expertise as well as resources is The US Central Command for the Middle East, better known as CENTCOM, Historical/Cultural Advisory Group (CHCAG). Quite recently in August 2010, the group’s name changed it is now called Combatant Command Historical/Cultural Action Group.

Founded in the beginning of 2008 its mission is to enhance military capacity by promoting Historical/Cultural Property protection during US Combatant Commands spectrum operations. Objectives are to develop and implement education and training materials for all Combatant Commands and its personnel in the field for history, Cultural Property protection, and preservation. Further aims include the development of policies for protection and preservation, to provide CPP planning information, maps, and tools, to coordinate with stakeholders to share information and protect historical and cultural heritage, support coalition partners through information exchange, seminars, and training exercises.

Last but not least, a network of subject matter experts and reach-back capabilities is under development and the Command of CENTCOM is advised on relevant obligations under federal laws, international laws, treaties and agreements as well as Department of Defense and service regulations'. CENTCOM hopes that the initiative serves as a model to the other American Combatant Commands. The group has one international member namely the chair of the International working group that is addressed in the next section. The International Military Cultural Resources Working Group (IMCURWG), founded in August 2008, involves cultural heritage professionals working in the military context in order to enhance military capacity to

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153 One potential military member of the international military cultural resources working group was already threatened with loosing his job.

154 CENTCOMS Area of Responsibility is 27 nations that stretch from the Horn of Africa through the Arabian Gulf region, into Central Asia.

155 CENTCOM is just one of the (Unified) Combatant Commands US there are also (US) EUCOM for Europe, (US) AFRICOM for Africa, PACOM for the Pacific, SOUTHCOM for South America and NORTHCOM for North America.

156 Currently the chair of IMCURWG is the author of this study.
implement protection across the full range of operations. At the same time, the aim is to provide a forum for international co-operation and networking, raise awareness, identify areas of common interest and share best practice and lessons learnt, and initiate research on CPP and military involvement. Membership is restricted to cultural heritage experts working within the military context. Recognizing that the effectiveness of this group will be its ability to work in a liaison capacity the group may invite advisors, for example from NGOs and universities.

IMCURWG works within the context of the 1954 Hague Convention addressing archaeological sites, historic buildings, museums, libraries, galleries, and archives. In the first instance, its focus was on immovable cultural heritage: archaeological sites, cultural and memorial landscapes, historic buildings and sacred sites but currently the whole spectrum of cultural property is taken into account. Envisaged outcomes of this initiative are first, a website that will explain the role of the working group and provide a vehicle for hosting training materials and other information; secondly the development and testing of international on-site training modules and programs for senior leadership, and, thirdly the collection and sharing of data for Geographic Information System (GIS) databases of immovable cultural heritage for the purpose of supporting military environmental planning. To achieve this, sub-committees on matters like GIS, illicit traffic, training, operational planning and environmental aspects will be created. Finally the support of efforts to establish international military and civilian rapid reaction teams for the protection of Cultural Property during and immediately following armed conflict. In addition, it will be researched if and to what extent such teams can be deployed for natural disasters. At this time initial members and advisors come from Austria, UK, Netherlands, USA, Jordan, Egypt, Iraq and Canada. A first emergency assessment mission to Egypt took place in February 2011. The mission was carried out in cooperation with the Association of the National Committees of the Blue Shield (ANCBS). A quite recently created group is CHAMP that stands for Cultural Heritage by AIA-Military Panel. AIA is the Archaeological Institute of America. Some of the aims of CHAMP are: to build collaborative groups between military personnel and professional archaeologists, to promote understanding of military needs, cultural site preservation, and sensitivities of local populations, to offer chances for AIA professionals and members to participate in Department Of Defense, initiatives to enhance global heritage stewardship. CHAMP's webpage aired in January 2011.

**Commerce, Crime, Law and order and Religion**

All parties discussed in this paragraph are in different ways, and to certain extents, connected to each other. Another common denominator is that they attach or add different values to cultural objects. Since this study is devoted to balance different interests in favor of CPP it will come as no surprise that this also is a challenge when economical interests are concerned. Naturally, there are tensions between the commercial market values of cultural property and the values cultural objects have for identity, science, and art. Various mechanisms, serving dissimilar interests, apply such as power mechanisms in case of conflict where the strongest party wins, the urge for profit in the world's trade and business arena, the aim for social progress and the desire to preserve and protect historical properties. All these mechanisms have to be brought in line with each other and synchronized to an extent that makes effective implementation of CPP also in times of conflict feasible. Within the context of this study, the contradiction of military interests versus scientific and commercial value is a key issue. This brings us back to the basic dilemma between military necessity that is used as a reason to solve (or end) a conflict as soon as possible and civil interests that look ahead and consider post conflict conditions. The commercial stakeholders in CPP play

157 Military defense uses GIS for intelligence, terrain analysis, mission planning, and facilities management. Geographic analysis is critical in military operations, tactical or logistical planning, and infrastructure management. Source: <www.gis.com/content/government> [17 July 2011].

a vital role in conflict and peacetime; they are responsible for many of the movements and
dynamics that define CPP in both contexts including the relation with crime. The role of
collectors and consequently dealers is especially criticized since it is believed that they feed the
demand for cultural objects of which there is only a finite supply. This results in attempts to
increase the worldwide supply through theft and looting while especially seizing opportunities in
conflict areas. Sometimes matters are even worsened by thieves who intentionally break up
objects in pieces to be sold separately, the so-called orphans. It can be concluded that
collectors, art dealers, antique dealers, and auction houses are in the chain of buying and selling
cultural objects s whereas travel agents, tourist guides and antiquities services are exploiting
cultural sites and have an interest in keeping them in good condition. Museums, to a certain
extent are commercial parties too since many sell tickets for admission or make profits via
museum shops, mail orders and by managing author rights on certain cultural objects.

Bourdieu refers to the reservoir of cultural assets as cultural capital, to be compared to cultural
resources as in natural resources. However, the definition or concept of Bourdieu aims at
cultural capital in what he calls its "transformed form or scholastic capital" and he acknowledges a
historical opposition between cultural and economical capital in which the latter dominates the
first, his concept lends itself for a wider interpretation. To put it simply, cultural capital shares
many of the properties characteristic of economic capital, it can be invested and exploited thus
generate added value that can, for a certain timeframe and situation, be expressed in monetary
figures. Some stakeholders from the commercial segment see this as an extra reason to protect
and safeguard heritage. Protection creates more commercial stakeholders like guards, security
companies and manufacturers of surveillance equipment. Interrelated to the interests of
collectors and dealers are stakeholders such as auction houses, lawyers, insurance companies and
affiliated organizations like for instance, the Art Loss Register. Antique dealers can play
dubious roles when it comes to matters of provenance (illicit traffic) and authenticity. It is even
said that some do try to restrain the implementation of international legislation e.g. the
UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome, 1995) using
lobbyists. A recent example of demand driven theft and traffic are the looted and stolen
objects from Afghanistan, often commissioned by the Taliban, smuggled out through the
Kandahar Military airport and ending up in expensive antique shops in Brussels, Belgium. In this
element parties addressed, like military, opposing forces, commerce and law are involved.

The tourism industry as a CPP stakeholder is potentially capable of creating strong economic
incentives. Certainly after a period of conflict or turmoil, earnings, often hard currencies,
generated through tourism e.g. souvenir factories, tour guides, hotels etc. can make a difference
in restoring economy thus society. In this context, there are direct interests for restoration
architects, restorers, security personnel, contractors and certainly the military that see restoration
of a safe society as the end state of their mission. For the same token it is true that tourism
decreases or even stops when a country is suffering from conflict, turmoil or natural disaster e.g.
Egypt. Criminal parties can be found within the whole spectrum of CPP stakeholders however
for the context of this study the most interesting are looters, insurgents and in some
circumstances even dealers and curators (when they sell or buy objects without provenance) and
scholars that authenticate objects that lack provenance. If there is crime there are also parties that
are involved in imposing sanctions and the returning of stolen objects such as customs, the

161 Bourdieu and Passeron 1990.
police, lawyers, prosecutors, insurance companies and also the military. Parties in the juridical sphere comprise lawyers, police and forensic accountants. They are relating to criminal stakeholders. This study deals with parties involved in conflict situations so for the sake of argument opposing forces in the military sense and insurgents will be classified amongst them. As described such opposing forces can intentionally damage cultural objects as part of actions against their opponents also they can exploit Cultural Property to gain revenues by selling for instance products of "illegal" excavations or lootings to obtain financial resources to fund their operations. Looters and smugglers fit in this picture as intermediaries that perform certain activities commissioned by the opposing forces or get rewarded through civil criminal players. It speaks for itself that here the relation occurs with law and order e.g. Customs and Police including organizations as Europol and Interpol as well as national and international courts of justice. The latter will make use of independent or institutionalized specialists for advice and to perform as expert witnesses at trials. Legal and other art crime experts can be organized as well. Some random examples are the Lawyers’ Committee for Cultural Heritage Preservation, a non-profit association based in Washington DC and the Association for Research into Crimes against Art (ARCA). ARCA is an international interdisciplinary research group on contemporary issues in art crime and cultural property protection and is based in Amelia in Italy.

The last large stakeholder to be discussed here is religion, a party that traditionally used to commission the production of cultural objects and still owns many cultural properties. To be exact, and in concurrence with defining the military, when speaking about religion we mean e.g. church leaders, Islamic religious leaders, religious or civil personnel in charge of managing churches, mosques, temples and other religious institutions. Their relationship, or the absence of a relation with the military, depends on the degree of religiousness of a country. In Austria for example there are strong connections between armed forces and the church while religion has a strong connection with art thus to an extent to cultural objects. This is demonstrated by the Austrian expression Kunst als Ausdruck des Glaubens, or art as an expression of faith. In most North European countries like the Netherlands official connections between the church and the armed forces are almost absent. Having mentioned this, it has to be taken into account that in this dissertation religious property will be considered part of cultural heritage. However there is a debate among scholars if objects of a religious nature should not be regarded as a separate category based on the argument that religion is not culture but something intermingled with culture. Regardless of this discussion, there are valid arguments to involve religious property within this research. One is the fact that it is mentioned as such in the Hague Convention of 1954, for instance in Article 53 of Protocol I, (applicable to international armed conflict) that prohibits use in support of the military effort of all places of worship which constitute the cultural or spiritual heritage of a population. Seen from the art-historical perspective it is obvious that, certainly in history, the larger parts of Cultural Property are religious objects and monuments. Last but not least, religious objects play an important role in many contemporary conflicts such as in the Middle East e.g. the Al Aqsa Mosque in Jerusalem and Asia e.g. Preah Vihear temples in Cambodia and Thailand. It would be rather unwise to separate them from other categories while raising awareness and facilitating training and education about CPP amongst the military. There is however a problem with some religious Cultural Property. Certain objects have significance for more religions. Those beliefs can be in conflict with each other. For instance, the Christians see Iraqi Cultural Property in Babylon and Ur as biblical heritage. Another clear example is the Temple mount in Jerusalem that is a constant source of political unrest and violence. Religious connotations are not always making things worse for CPP.

166 The Waqf, the religious Muslim endowment that rules the Temple Mount, decided to banish archaeological supervision after the 'Tunnel Riots' in September 1996, during the government of Benjamin Netanyahu. These riots were about the opening of a tunnel along the Temple Complex’ Western Wall, to Muslim Quarter. During the fierce fight around 70 Palestinians were killed and 17 Israeli soldiers.
A remarkable but positive development involving religion and CPP is an attempt to utilize Fatwa’s as a means to prevent looting of Cultural Property. This casus is described in my chapter "Can White men sing the Blues?" in Archaeology, Cultural Property and the Military. The case shows how a Fatwa normally associated with negative matters such as spells e.g. the Salman Rushdie Fatwa, can be used as a tool to save Cultural Property.

Science

The scientific arena consists of various players that can have, or do already have interests in CPP. Obvious are think tanks and university based research institutes as well as faculties that provide teaching curricula. They can be either civilian institutes or military academies. A crucial element needed for implementing, developing, and sustaining CPP expertise is empirical scientific research though reflections and explorations are also essential to get CPP’s military aspects into the scientific discourse. As established in the introduction of this book, there is an existing civil academic cultural heritage debate. Enough reason for military scientific institutions and civil academia to scientifically examine military aspects in CPP to be able to participate in and compare to the civil discourse. Although for military based scientists this will not happen if the subject is not first added to the curricula of military schools, academies and universities. Because of its multi-disciplinary character, choices have to be considered and made for approaching the subject. Research can be initiated from cultural heritage related disciplines like archaeology and art history, or from a wider construct of social sciences. The latter will make it easier to introduce CPP as a topic for further research at military educational institutions. In the Netherlands some attempts were made though they proved not to be sustainable.

Lectures were for instance given by the author of this dissertation at the so-called Institut Defensie Leergangen though they were discontinued due to financial reasons and opposition from Dutch MoD cultural awareness experts. In addition, the NATO School in Oberammergau started to incorporate lectures in their environmental course but stopped for financial reasons. Currently there are contacts with the NATO’s Allied Command Transformation (ACT) with the aim to add the subject to their organization thus creating an institutionalized opportunity to get the subject on NATO educational curricula including training in situ on archaeological sites. The last result is the possibility for an introduction course initiated by ACT in cooperation with IMCURWG. Plans and proposals are prepared for pilot courses in Vienna and Turkey, the Vienna course in cooperation with the Austrian MoD will take place from November 29th to December 2nd 2011. In addition possibilities for a cultural heritage assessment mission in Libya were seriously being studied by ACT in collaboration with IMCURWG. This was however still a bridge too far nevertheless assessments in Lybia were carried out by IMCURWG and ANCBS. There are encouraging signs that NATO sees the relevance of CPP CPP's value as a force multiplier and a primary strategic communication tool. Positive is the attitude of the Austrian MoD. A large contribution has been made through their Institut für Human- und Sozialwissenschaften that is part of the Landesverteidigungsakademie in Vienna. Currently they have one officer, a Colonel occupied with research on CPP and seminars and publications on the subject are initiated on a regular basis.

167 A fatwa is issued by a recognized religious authority in Islam. Since there is no hierarchical priesthood or anything similar in Islam, a fatwa is not necessarily "binding" on the faithful. Source: <http://islam.about.com/sitesearch.htm?q=Fatwa&SUName=islam> [17 July 2011].

168 Kila 2010b, pp. 41-59.


170 See the section on Opportunities for effective implementation of Military Cultural Property Protection.

171 This was the situation following talks of IMCURW with ACT's Strategic Plans and Policy Department end of August 2011.

172 The first one to Tripolitania in September 2011 and the second one to the Benghazi area in November 2011, UNESCO asked the IMCURWG representant to join the High level expert committee for Lybia.
At the present, apart from the Austrian example, no special research is undertaken by military academic institutions but there is some outsourcing done by the military. The Center for Environmental Management of Military Lands (CEMML) is a research and service unit within the College of Natural Resources at Colorado State University (CSU).\(^\text{173}\) Professional services and technical support are provided to the US. DoD in conservation, environmental planning, and natural and cultural resources management. CEMML assists military planners, trainers, and land managers in the maintenance of diverse ecosystems to support sustained, realistic training and testing exercises. Part of this assistance involves management planning and technical support for the full range of installation cultural resources to ensure that diverse non-renewable resources are adequately protected and managed in compliance with applicable Federal and state legislation without impeding the military training mission. CEMML also supports and produces web pages, military Cultural Property playing cards and publications on Cultural Property protection.

The US DoD and the American Academy in Rome granted a fellowship to one of their army archaeologists to spend a year's research in to develop a cultural heritage curriculum that can be used to educate military personnel. The research includes interviewing members of the Carabinieri about how to set up effective police forces for archaeological site protection and the use of management models from archaeological sites in Italy to develop military site management handbooks for fragile Middle Eastern and South Asian cultural properties.\(^\text{174}\) Also other university-based research institutions like the Illicit Antiquities Research Centre (IARC) at the University of Cambridge UK (IARC is no longer in existence) and the Cultural Policy Center at the University of Chicago played a role in research. In 2006, this center first organized a juridical seminar about the protection of cultural heritage after the war in Iraq, followed later by the previous addressed multi-disciplinary conference of August 2006 that for the first time brought together science and the military. A number of Archaeological faculties, Juridical faculties and Cultural sciences faculties work on the subject most of them restrained by lack of funding. In the Netherlands Leiden University's Archaeological Faculty paid attention to the subject through a number of guest lectures and a seminar called Legacy and Legislation that took place in April 2010. The author of this dissertation gave several lectures and presentations.\(^\text{175}\) The University of Amsterdam supported by the SNS Reaal Fund appointed Joris Kila to research CPP at least for one year. PhD research on the subject in one case from a juridical perspective takes place at the University of Antwerp (Belgium) and the University College Dublin. Apart from their important role in research and the scientific discourse academic institutions can (and some are already) serve as reach back capabilities for military experts in theatre and participate in training and development of education materials. Academic institutions are potentially vital for CPP research in general and for the research concerning heritage, culture, siege, and conflict in particular. As we have seen, there are tensions between the players and stakeholders involved in CPP while the situation and awareness of CPP with external parties leaves much to be desired. Science houses all disciplines that are involved in the CPP reflections and the sociology of CPP and the military. Since the subject is multidisciplinary, synergy can be created and as a result of the first reflections presented in this book, more research from the contexts of other disciplines can be triggered. There are for instance legal and environmental aspects that need research but also the situations in Asian countries especially China and the South Americas concerning military CPP are never assessed or researched. It is therefore that the subject of CPP in relation to conflict and identity deserves a place within the field of heritage studies and should be on the curricula and research programs of universities including military academic institutions.

\(^\text{173}\) <www.cemml.colostate.edu> [17 July 2011].

\(^\text{174}\) Source: correspondence with the researcher Dr. Laurie Rush.

\(^\text{175}\) See for a list: <http://home.medewerker.uva.nl/j.d.kila/> [22 July 2011].
Trends in Cultural Property Protection until 1954

History shows that CPP, or for that matter cultural property destruction, is not a new phenomenon. This paragraph gives examples and trends from the past. It becomes clear that many of the CPP parties and stakeholders presented in this book were also involved with the subject in the past. The past is produced in the present as is demonstrated by the variable status of cultural heritage throughout time. Still for every here and now, history provides examples. As said, the military captured loot during conflicts since this was the right of the victor and common practice in antiquity. Apart from this, damaging of cultural objects was sometimes part of erasing the identity of opposing parties or other cultures. Early examples are found in Pharaonic Egypt. Numerous bas-reliefs and statues still in situ bear witness as can be seen in

177 Source: Szemethy 2010.
Cartouches in which names have been removed e.g. the names from Queen Hatshepsut and King Akhenaten who both fell from grace. The Romans knew this phenomenon under the name _damnatio memoriae_, a posthumous dishonor. In fact, this is early evidence of governmental involvement in a cultural property issue. More incidents took place throughout history, a plain example is what has become known as the first Byzantine iconoclastic outbreak. Sometimes in between 726-730, the Byzantine Emperor Leo III who was against the worship of images, began this iconoclast campaign ordering removal of an image of Jesus prominently placed over the main ceremonial entrance to the Great Palace of Constantinople, also known as the Chalke gate. This is an example of the involvement of religion as a stakeholder in cultural property issues. Another case from the Netherlands is the big iconoclastic outbreak of 1566 the so-called, _Beeldenstorm_ caused by a religious conflict between Calvinists and Catholics resulting in large scale damaging of church interiors and monasteries. Because of this historical trend from time to time, initiatives were taken to promote protection of cultural objects. The Dutch scholar Grotius addressed the protection of heritage in 1625. In "On the law of war and peace" he states _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_. This is an early example of science as a CPP stakeholder. A phenomenon that turned out to be vital for a development leading to the transformation of certain cultural objects into bearers of (national) identities was the so-called Grand Tour. Beginning in the late sixteenth century, it lasted approximately 300 years. The idea was to introduce Englishmen, Germans, Scandinavians, and Americans to the art and culture of France and Italy by visiting Paris, Venice, Florence, and especially Rome. Travel, at the time and throughout the period was difficult and expensive so the Grand Tourists were a privileged class consisting of mostly aristocrats. The Grand Tour shaped Northern Europeans' ideas about the Greco-Roman world and helped foster neoclassical ideals. Ambitious tourists visited excavations at such sites as Pompeii, Herculanenum, and Tivoli, and purchased antiquities to decorate their homes. Van der Laarse opens in _Bezeten van Vroeger_ an interesting perspective to this, what he calls 'multiplier experience'. He notes that the touristic transfer of people that, as described, started in the 16th century was accompanied by a displacement or relocation of cultural objects (art and souvenirs) and perceptions of landscape settings. These were literary appropriated by the travellers in such a successful way that in their respective native countries these objects and perspectives became part of national identities. Here one can see a parallel with the military throughout the ages, soldiers took objects from mission areas to strengthen their status (or their regiment's honor) and as a memento.

In France, decrees and rules on the protection of certain 'condemned treasures and monuments' were made as early as in 1791. This did not prevent Napoleon to take antiquities from Egypt after concluding his Egypt expedition in 1801. The British confiscated antiquities collected by the French as trophies of war after the final defeat of Napoleon's troops. Among these was the famous Rosetta stone, still at the British Museum an object often at issue when the subject of looting is discussed since Egypt wants it back from the British Museum.

178 'Condemnation of the memory' ancient Roman processes dealing with individuals judged unfit to be members of a community. This posthumous dishonor was the worst that could be done to a former senator. Tacitus describes in _Tacitus Annals_ 3.17 what was done to condemn the memory of Piso. Acts included scratching names and titles from inscriptions, defacing likenesses, confiscation, and destruction of the condemned man or woman's writing, annulling of wills, mutilation of corpses, and more. The senate, the emperor, or the army could start the condemnations. Source: <http://ancienthistory.about.com/b/2010/01/14/thursdays-term-to-learn-damnatio-memoriae.htm> [14 January 2010].
180 Sorabella 2000.
182 O’Keefe 2006.
Looting or Elginism, a term created by the actions of Lord Elgin who between 1801 and 1805 "illegally" transported the Parthenon Marbles from Greece to London, as it is often referred to is considered an act of (cultural) vandalism. It should be said that there is a debate about whether the activities of lord Elgin were illegal. Some (especially the Greek) strongly disapprove of Elgin's actions while others give arguments that justify his deeds. Currently the appropriation of artifacts taken from poorer nations to richer ones is especially referred to as Elginism.183

Safeguarding of cultural belongings giving protected status to libraries, scientific collections and works of art was first explicitly referred to in the Lieber Code of the US Federal Army in 1863 that is still part of the US military law and indicates when the military became a CPP stakeholder. The 'Lieber Instructions' represent the first attempt to codify the laws of war. They were prepared during the American Civil War by Francis Lieber, a professor of Columbia College in New York, revised by a board of officers, and promulgated by President Lincoln. Although they were binding only on the forces of the United States, they correspond to a great extent to the laws and customs of war existing at that time. They strongly influenced the further codification of the laws of war and the adoption of similar regulations by other states. They formed the origin of the project of an international convention on the laws of war presented to the Brussels Conference in 1874 and stimulated the adoption of the Hague Conventions on land warfare of 1899 and 1907.184 The Declaration of Brussels of 1874 and the Oxford Code of 1880 mentioned cultural property but were not ratified by a large enough number of countries to be considered official international treaties.185 In 1907, The Hague Convention on Land Warfare required parties to spare, as far as possible, buildings dedicated to religion, art or science, and historic monuments.186 The 1907 Convention also indicated the different parties that still form part of today's CPP stakeholders.187 Yet, iconoclasm remained in practice for intentional oblivion of certain group's identities. Examples are the defacement and dismantling of monuments from Soviet-era Eastern Europe, many of which were destroyed in mass-participation spectacles and the destruction of the Bamiyan Buddha statues in Afghanistan.188

Destruction of cultural objects became extra devastating with the introduction of aerial bombing and long-distance weapons. World War I resulted in the destruction of many cultural objects in Belgium and eastern France.189 World War II was even more traumatic, due to systematic aerial bombardments and export of Cultural Property from occupied territories.190 After an appeal to President Roosevelt made by Pope Pius VII on 19 May 1943 to spare what was called heritage of human civilization the allies decided to avoid damage to religious and cultural buildings in Rome while liberating it from the Nazis. After the allied landing in Italy in early 1944, the Italian cities were divided into 3 categories to be taken into account by aerial bombardments.191 Category A (including Rome, Florence and Venice) meaning in no circumstances (parts of) cities in category A could be

183 <http:/www.elginism.com/definition/> [17 July 2011].
187 E.g. Governmental organizations, political organizations, religion and science.
189 During World War I, the cathedral of Reims in France was damaged by aerial bombs and the library at the University of Louvain in Belgium was destroyed by fire. See also Pesendorfer and Specker 2006. p. 81.
191 O'Keefe 2006.
bombed without consent of Supreme Headquarters192; category B (included cities as Ravenna, Assisi and Urbino) could be bombed if considered essential, while afterwards full responsibility would be accepted by Supreme Headquarters; category C (including Siena, Pisa and Padua) left cities on their own, since they had important military objects that had to be bombed in their vicinity as a consequence damage was accepted.193 Several studies deal with this and other types of destruction in World War II such as the Rape of Europa by Lynn H. Nicholas, the Concept of Cultural Property protection in Times of Armed Conflict from Patrick Boylan and Hector Feliciano’s the Lost Museum.194 They give a clear account of offenses against Cultural Property as systematically committed by Nazi institutions like Hitler’s and Goering’s art collecting squads as well as the Soviets. Their Russian Trophy Brigades were ordered, to retrieve 'equivalents of the artworks destroyed or removed from Russia during the War as a form of reparation'.195 The Nazi's were also in the business of stealing identities that were connected with cultural heritage as will be explained in the next paragraph.

Finally, in 1954 developments lead to the creation of the first universal convention dealing exclusively with safeguarding cultural heritage: the Convention for the Protection of Cultural Property in the Event of Armed Conflict better known as The Hague Convention of 1954 including a first protocol also listed as The Hague 14 May 1954. In the late 20th century identity related matters, especially on individual levels, became more manifest because of the development of new social movements (many starting in the sixties) like black power and Women’s Lib. This intensifying of identity gave an extra boost to identity related Cultural Property claims, some more of the intangible kind, some deriving from an urge for individual distinction.196 Concerns started to include the use and ownership in connection with the new information society.197 On 26 march 1999 the Hague Convention of 1954 was strengthened by a second protocol applying to international and non-international conflicts and giving possibilities and regulations for enhanced protection and Criminal Responsibility as well as Jurisdiction.198 Apart from these accomplishments that originate from the 1950's little attention was paid to the issue in the period after World War II. Expertise and military capabilities like the Archives and Monuments Men, developed by the Allies during the Second World War were allowed to disappear.199

The subject had no priority within the respective defense organizations. This lasted until 2001 when the Bamiyan Buddha’s were destroyed by the Taliban who considered them irrelevant since

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192 This did not work out as perfect as desired for instance the papal basilica of San Lorenzo was hit and badly damaged.
193 Source O'Keefe 2006, pp. 72-73.
195 See: Akinsja and Koslov 1996. These equivalents included German state-owned cultural objects, cultural objects taken from churches and synagogues, as well as a great deal of private property that had been looted by the Germans from individuals. The art works taken back to the Soviet Union were held in relative secrecy for years, until the final years of glastnost (ГлаRсности). As European countries started to demand their cultural treasures and archives, Russian legislators passed a law that potentially nationalizes all cultural treasures brought to Russia at the end of World War II. In 1999 the Constitutional Court issued an opinion basically upholding the law. How do these actions comport with international law? What are the chances for restitution of these displaced cultural valuables? Source: announcement conference Spoils of War versus Cultural Heritage, Harvard February 2008.
199 See: the webpage of the monuments men foundation that aims to preserve the legacy of the Monuments, Fine Arts, and Archives (MFAA) section <http://www.monumentsmenfoundation.org/about/> [17 July2011].
they were pre-Islamic. It illustrates how a geographical position and a regime or religion can influence the status and appreciation of Cultural Property. The Bamiyan demolitions lead the protection of cultural heritage and its legal and ethical drivers to regain international attention.

Though lessons can be learned from history, when it comes to the protection of cultural belongings in conflict research shows that in spite of most efforts to promote the subject as being critical for military missions many challenges remain. An argument used by (military) opponents range from stuff happens and low priority to mission creep. Cultural Property protection was and is to an extent perceived as less significant. At this moment, it seems that cultural disasters trigger renaissances in Cultural Property protection including the military input. However every rebirth appears to last shorter and CPP becomes increasingly dependent on economic circumstances. The wheel has to be reinvented repeatedly; the only firm solution is to make the subject sustainable by pointing out historical connotations, obligations and demonstrating deliverables for all stakeholders.

The sociology of Cultural Property Protection and the Military
One can see throughout history that the perception of Cultural Heritage and its potential to cause or contribute to conflicts appears to change in time. The status of cultural objects tends to follow alterations in society and politics and is therefore subject to continuous adjustments. For example, statues of Lenin and Stalin from the Soviet period were no longer considered relevant cultural heritage just after the disintegration of the Soviet Empire. Likewise, property such as the so-called memorial landscapes or trauma landscapes e.g. former concentration camps and certain battlefields, have only recently been co-modified and adapted to be incorporated in today’s society thus becoming part of the heritage discourse. Then there are objects and sites formerly not addressed as Cultural Property that are treated in a new fashion. To give examples, identity related values are currently attached to human remains e.g. ritual Indian Burial grounds in the US. Such areas are off limits to, or of restricted use, for military and builders. In addition, biological species, regional landscapes are sometimes claimed as cultural heritage. A constant factor remains, to be precise Cultural Property's availability for manipulation an aspect essential for the military. It indicates political and strategic values that can draw military interests. In this context, different gradations of manipulation can be distinguished, in case of mild manipulation; we can speak about creative use. This is for example, the political use of archaeology, when it serves the design and construction of national identities or nationalistic interpretations of the archaeological record. As addressed in the preceding paragraph the Nazis practiced political use of archaeology to produce evidence for the evolution of a master race in Europe. Other mistreat of archaeology took place in the late sixties of the last century by the white settler government of Rhodesia, now Zimbabwe claiming a rather strange and false connection of the country with the Phoenicians.

200 Different motives are given: the leader of the Taliban referred to a fatwa stating false gods or Idols should be removed and claimed the act was necessary for the implementation of Islamic order. See also <http://www.hazarapeople.com/buddhas-of-bamyan/> [17 July 2011].
201 Actually, one of the obligations under the 1954 Hague Convention see Article 25 and its Second Protocol see Article 30 Dissemination.
202 Explained as: the expansion of a mission beyond its original goals. The term often implies a disapproval of newly adopted goals by the user of the term. The term was originally applied to military operations.
204 Brown 2005.
The location or even character of objects in art history can be manipulated too. A well-tried method is taking a cultural identity and add it to your own group as did the Nazi’s when classifying Rembrandt as being “Nordic and Germanic” thus part of the German culture. More recent examples of vital identity aspects of monuments that show what can go wrong if such qualities are not recognized are cases like the (re)moved statue of a soldier of the Red Army in the capital of Estonia Tallinn causing deadly riots in April 2007, the still ongoing temple dispute between Thailand and Cambodia that involves the Preah Vihear site and the case of the Jewish heritage from Iraq addressed in the section dealing with the influence of the Media.

Motives for destruction of cultural objects are not a constant factor, in other words they are not time resistant. Modern iconoclasm can be seen in former Yugoslavia and Afghanistan e.g. the destruction of Bosnia’s national library in 1992, the 1993 shelling of the Mostar Bridge and the demolition of the Bamiyan Buddha’s in 2001. These actions aim at identity destruction as already happened in antiquity. However, in the past e.g. the middle ages cultural objects were rarely a direct source of identity related conflicts unless religion was at stake. Commonly speaking Cultural Property and (national) identity were not considered important enough to be protected and ownership was not particularly disputed.

National identity or nationalism developed in Western Europe after the French and American revolutions where it replaced theology and dynasticism as the primary instrument used by the state to justify its power. In fact, this actual invention of nationalism gave way to development of different types of group related identities linked to cultural heritage and cultural properties.

The observed changing perceptions and appreciations occur throughout military history too but are not so much related to the civil concept of identity as to the military mindset. Adjustment of military mindsets is an ongoing process influenced by circumstances as described in the paragraph about looting and poverty. Soldiers used to loot but have now transformed into protectors of (cultural) Property. This transformation of the military way of thinking from accepting legitimate plunder and destruction of cultural belongings in preserving and protecting heritage was stimulated by different social factors. Important was the development of international legislation, increasing awareness of Cultural Property protection supporting the military missions and the identity aspect of CP that is important for the distinctiveness of (local) populations involved.

The facts described support the thesis that in order to improve the quality of the military role within Cultural Property protection, it is indispensable to keep track of military attitude related developments. Such implications can be positive or of an unethical nature. The latter can occur when CPP, in a military context, engages in- or is perceived as being part of counterinsurgency operations (COIN). Before going into this, it should be explained that in the US counterinsurgency is a wider construct than in Europe. One can say that in Europe COIN has more negative connotations, while in the US winning hearts and minds of local populations involved the element of supporting the mission needs some clarification: CPP provides for better relations with local populations, stimulates economy via tourism, restrains illicit traffic of artifacts, and by doing so diminishes financial resources of opponents. Last but not least the raise of tourism should be mentioned. Thomas Cook started in 1841 cheap, thus affordable for working people, organized excursions in the UK that evolved into the modern (mass) tourism industry. Through tourism, Cultural Property gained value as a means to generate jobs and income.

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and force acceptance are considered part of COIN. In Europe, it is a subject perceived to be directly related to undercover missions, spying and commando operations. Therefore, international discussions about military involvement in CPP sometimes create commotions. Still structural relations between military initiated Cultural Property protection and the more drastic COIN applications have to be and can be avoided since CPP officers must act according to international legislation like the Hague Convention of 1954. Having said this, a quote from Charles Garraway comes in mind: 'Counter-terrorism lies on the borderline of differing legal regimes and we need to use all the legal tools in our toolbox.'

To show what happens in practice a case example will be discussed in the section on the Media regarding involvement of social scientists in the COIN related so called Human Terrain Systems.

It must be emphasized that this study is not intended to give an ethical or technical judgment about COIN. It is not my expertise and essentially a subject for publications on Military Science. In itself, COIN is a tool that is in military use already for some time. International humanitarian law, and sometimes-national caveats, applies to this type of operations. However, at present, there is a tendency to involve Cultural Awareness and especially Human Terrain Systems, in the 'kill the enemy type of COIN' as opposed to its current position in the more hearts and minds orientated COIN.

Nevertheless keeping track of new insights preferably those in tune with military traditions, codes and cultures, can lead to finding connections and opportunities for the integration of cultural protection activities. To judge all parameters including civil matters an accurate picture of the playing field and the players, such as the media, science, religious institutions, the military, non governmental and governmental organizations, international organizations, restoration and conservation institutions and commercial parties who claim, protect, use and misuse Cultural Property, is needed.

This taxonomy can serve as a starting point for further research and makes matters accessible from an analytical perspective. Therefore Part I contains an oversight of key players involved in CPP. Through examples and observations, a picture is drawn of the respective stakeholders and the ways they experience their input and responsibilities taking into account related problems and challenges from their points of view. Since they are introduced as a key player, emphasis is put on the military. The categorization is meant to be as universal and international as possible however, the author is Dutch therefore where, and when appropriate the situation in the Netherlands is further explained.

In the Netherlands MoD, the state of affairs can be described as problematic. CPP as a phenomenon is too slowly developing in a complicated environment. Behaviors within the complex of parties involved are dominated by a constant struggle between cultures, identities, interest, funding issues and competences as is illustrated in both the cases, and background sections of this study. In the meanwhile, implementation of the subject is personality driven and depends largely on the determination of those pro-actively involved. The quality of Cultural Property protection seems to be in the lap of the stakeholder. There is no pro-active nor even a reactive approach towards CPP. For now, raising awareness on the subject in the Netherlands and the majority of European countries appears to be subjected to the following analysis from Arthur Schopenhauer: 'All truth passes through three stages. First, it is ridiculed. Second, it is violently opposed. Third, it is accepted as being self-evident'.

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212 Garraway 2010.
213 Counterinsurgency (COIN) warfare. The ultimate goal of COIN warfare is to "build (or rebuild) a political machine from the population upward." Source: Galula 2005.
214 Attributed to Arthur Schopenhauer (1788 - 1860), n.p.n.d.
Part II

A description of developments during the research and current progressing views on Cultural Property Protection, publications by Joris Kila from 2008 to 2011.
WORKING WITH THE MILITARY TO EFFECTIVELY PROTECT CULTURAL HERITAGE IS A challenge that takes on a distinctive form when one turns from the context of the United States to that of Europe, where many of the militaries’ rules, customs, and organizational structures differ, and where the multinational nature of military activities creates distinctive opportunities—and poses distinctive dilemmas—for promoters of heritage protection. This article will focus on the intersection of cultural and military issues in Europe (including the EU) and the role of NATO (which includes the United States). I will focus on what has been done, what is being done now, and steps to be taken in the future.

WHY SHOULD NATO DEAL WITH CULTURE?
In theory, NATO would be the ideal organization to house and support a militarized cultural emergency team.

International treaties such as the 1954 Hague Convention and its protocols require that NATO and the EU bring in expertise concerning cultural heritage protection in times of armed conflict in their organizations. In the case of NATO, this task would fall naturally to the department of Civil Emergency Planning (CEP), in particular the Senior Civil Emergency Planning Committee (SCEPC). Of course, there is also a related military intelligence element, especially in the case of the illicit traffic of artifacts. In addition, NATO’s Allied Command Transformation (ACT) should include cultural heritage protection in its program.
Since many countries are members of NATO, the possibility of locating and recruiting militarized experts is potentially great. Furthermore, the NATO CIMIC (Civil Military Cooperation) AJP-9 doctrine seems designed to enhance implementation of Cultural Affairs: responsibility for providing advice on cultural heritage issues to military planners and commanders of NATO forces lies with CIMIC/CA, where CA stands for Civil Affairs.

In the field, the deployment of military cultural experts must be in support of the commander’s mission. This is based on NATO CIMIC doctrine AJP-9, wherein CIMIC (known in the United States and United Kingdom as Civil Affairs, or CA) is defined as:

> The co-ordination and co-operation, in support of the mission, between the NATO Commander and civil actors, including national population and local authorities, as well as international, national and non-governmental organisations and agencies.

The AJP-9 doctrine gives room for multiple interpretations. The phrase “in support of the Commander’s mission” could mean in the actual area of deployment of a battle group, e.g., Al Muthanna (Iraq), or in a wider context in support of the mission in a whole country, e.g., the NATO commander’s mission in Afghanistan. It can be argued that cultural activities, including tourism and creation of national identity, are of benefit to the whole country, and should be protected. The NATO doctrine is useful as a reference since, although all the countries involved in Iraq and Afghanistan have vastly different military and civilian structures, they are mostly NATO members, including the United States, and therefore should comply with the doctrine. (For a more detailed look at NATO CIMIC doctrine, please see the related table in appendix D.)

However, each of these approaches is problematic. A major problem with getting NATO involved in cultural heritage protection is the fact that member states such as France oppose the idea of creating and developing special expertise aimed at reconstruction and stabilization processes during and after missions within NATO. Their main argument is that such expertise should be implemented by the Rapid Reaction Force (RRF), the EU’s first military initiative. Therefore, initiatives not coming directly from member states are not discussed within NATO.

However, the RRF is for now not equipped to handle such processes because it has only been partially implemented and is not very active. If the RRF—or NATO, for that matter—were to take a more active role, there are two levels at which support could be provided—a tactical level and a strategic level. On the tactical level, projects such as improving the plumbing in a village could be undertaken by professional military personnel skilled at...
such tasks. On the strategic level, as pertains to cultural heritage protection, archaeologists, museums curators, librarians, and the like from civilian society should be militarized and form a multinational asset able to work with and within the military to aid in projects in which a more specialized skill set is needed and provide training in peacetime.

In order to put matters on the map, member states must request as soon as possible the implementation of Cultural Affairs within NATO. In the meantime, NATO should at least organize a special conference on the subject.\textsuperscript{5}

**PROBLEMS WITH FITTING CULTURAL HERITAGE PROTECTION INTO CIMIC/CA**

With respect to Cultural Affairs, the CIMIC doctrine has led to poor results in practice due to the following:

a) *It was written with more common public policy issues in mind,* such as providing humanitarian aid, repairing electricity and sewage systems, supplying drinking water, and addressing public health concerns. In general, militaries do not want to interfere in such activities for political and economic reasons. Specifically, the military does not want to be accused of spending tax money where it is not necessary.

b) *Militaries want neither to be falsely labeled as competing with civilian players, nor to be accused of devoting resources to objectives beyond the scope of their mission.* The military does not consider knowledge and handling of cultural goods and environments to be part of its core business, and certainly not a priority.

**CLASH OF CULTURES**

In contrast with, for instance, the field of humanitarian emergency aid, there is not a large number of organizations active in the field of culture. In other words, the market situation in-theatre concerning Cultural Affairs differs from other branches when implementing CIMIC/CA activities. This is relevant since, in these other branches, many NGOs consider military involvement as competition.

Furthermore, rumors have arisen that funds first allocated for NGOs are redirected to the military. This has been proven not to be the case with Cultural Affairs\textsuperscript{6} and is one of the rare advantages in the complex of matters to deal with. However, many policy- and decision-makers are not aware of this and governmental departments are also confused on this subject.

One such rumor impacted the ability of a CIMIC museum team from the Dutch government to fulfill a request by the Iraqi government to travel to Baghdad for the purpose of assisting Iraqis in solving restoration and conservation problems such as saving the collection of the former museum of modern art,
restoring and preserving looted and damaged archives, and training in certain disciplines concerning issues related to museums, among others. The team’s trip was halted shortly before its planned departure because of interference by the Dutch Ministry of Foreign Affairs. The development aid section of this ministry had raised questions to the military concerning fears that NGOs could regard the source and use of the funding for the trip as an apparent overlap in the purpose of the team’s trip and the missions of certain NGOs. In reality, there are only a few NGOs dealing with cultural heritage protection, and they support the deployment of militarized experts.

Furthermore, it seems very hard to make a distinction between cultural and humanitarian emergency aid and exactly what constitutes cultural emergency aid. For one, neither militaries, governments, nor NGOs are willing to make the distinction. Secondly, militaries are seen as more expensive than NGOs, and militaries across much of Europe do not see cultural heritage protection as part of their core missions and only reluctantly take on these tasks. Further complicating matters is that politicians confuse cultural heritage protection with the more basic issue of cultural awareness. Nevertheless, differences must be made clear since a number of activities concerning CIMIC cultural heritage protection have been restrained or even cancelled due to these factors.7

**COMPLICATING FACTORS AND RECOMMENDATIONS FOR DEALING WITH THEM**

There are all kinds of military rules, customs, and regulations that set out to accomplish the desired end-state of a mission. All aspects primarily serve military goals. CIMIC is a tool to reach the end-state of the mission faster and easier by establishing and maintaining good relations with the civil environment, and particularly the local population. Here a contradiction may arise between a military decision allocating low priority to Cultural Affairs and an action that is mandatory according to the Hague Convention and its protocols and therefore having a high priority within the context of the treaty.

Practice shows that military commanders and decision-makers who are unfamiliar with cultural and cultural heritage matters give priority to highly visible, quick-impact projects, such as redecorating schools or starting local broadcast stations, for example. Their motto is ‘to win the hearts and minds.’ While this is an important goal, advice from experts representing all CIMIC/CA functional areas is required to obtain a complete overview of civilian needs prior to selecting a course of action to achieve this goal.

On the other hand, military from a certain country may redeploy before the situation is stable enough to hand over to the proper civilian bodies and agencies. This has been the case in Iraq. For example, a political decision brought about the redeployment of the Dutch Battle Group from its area of responsi-
bility in Iraq’s Al Muthanna province. As a result, CIMIC cultural experts who had not yet finished their job had to leave as well.

Procedures must be developed to properly hand over cultural rescue activities when such events occur. An international civil liaison agency for cultural emergency response may help out in such matters and could also maintain contacts with the military in peacetime.8

CHOOSING A SITE TO PROTECT

First it must be determined under whose authority or in which area of responsibility (AOR) a site is located. Sometimes this is not very easy to figure out. As an example, in the case of Uruk, I used information (including coordinates) supplied by Prof. McGuire Gibson of the Oriental Institute at the University of Chicago to convince the Dutch Ministry of Defence of the fact that although located on its border, Uruk was in the Dutch AOR. In cases where there is a temporary military authority in an area, contacts must be established with this authority. Therefore, it is important that international communication concerning cultural heritage cooperation be maintained between military organizations in peacetime. After establishing contact, there is a good chance that only military personnel will be allowed access to a certain area, but in some cases locals who were already living there may stay. If an international pool of militarized cultural experts or people within the military that have certain expertise already existed, they could go in as an emergency response.

As a general rule, assessments are to be undertaken by specialized units within the military CA or CIMIC branches. Experience shows that assessments are needed in all phases—before, during, and after a conflict. If certain armies or military organizations do not have available either cultural expertise or cultural heritage expertise, or both, it must be possible to have international militarized units to make necessary assessments. It goes without saying that whenever the security and political situation allows, civilian experts should undertake such assessments. As part of the assessment process, archaeologists and cultural heritage experts should have access to military aerial and satellite pictures of important monuments and sites.

Security Guards for Sites

An ideal solution was found in the case of the archaeological site of Uruk in southern Iraq. When the Dutch Battle Group took over Al Muthanna province from the U.S. military in the summer of 2003, it soon became evident that the highly significant archaeological site of Uruk (related to the epic of Gilgamesh; the oldest known form of writing, called cuneiform, comes from Uruk9) was situated in its area of responsibility. While conducting a civil assessment mission
on behalf of the Dutch Ministry of Defence and addressing the five key CIMIC functional areas (including Cultural Affairs), I was in a position to actually visit this site and found out that it was one of the few that had not yet been looted. The area was previously guarded by a local bedouin tribe (family size) acting as guards for the German Archaeological Institute, which had held the concession for excavating this site for many years. The German scientists had been forced to stop their work years ago when the situation in Iraq deteriorated. After the start of the 2003 war in Iraq, the payments to these bedouins initially became irregular, and then finally ceased.

The bedouins explained that Uruk (now called Warka) belonged to them, the at-Tobe clan, by virtue of an agreement with bedouins of other tribes, who ruled over other parts of Al Muthanna. They said they wanted to safeguard the site against looting, but their capabilities were limited due to lack of means of transport and money to buy food and water after German payments had stopped. Finally, it was arranged and agreed through military channels that both Dutch and German money was to be paid to the tribe every three months, allowing them to continue their very valuable work. Initially the Dutch commander, and later some of his successors, did not see the relevance of this with regard to the support of his mission, but as an officer I was in a position to gradually make them change their minds and, following an agreement with the Dutch Ministry of Defence, these payments continued until Dutch forces withdrew from Iraq in March 2005.  

In the case of utilizing guards from local tribes, one has to recognize that tribe members used as guards must originate from the area where the site is located. There were reports that in Iraq locals from other tribes were about to be deployed in some areas. This would be asking for trouble. On the other hand, there are tribes that prefer to loot. As such, attempts have to be made to demonstrate to these people the importance of cultural heritage as a source of income in peacetime. Likewise, CIMIC/CA funds can be temporarily used to fight poverty in these areas. Poverty remains the main motivating factor for looting by local populations. Simultaneously, the military needs experts specialized in tribal affairs and languages as part of its reach-back capability.

Other Concerns When Utilizing Locals
There is always a shortage of means of transportation in wartime; therefore, many requests will be made to CIMIC or NGOs for vehicles to get water, food, and supplies. One must take into account, however, that there is a risk of looted goods being transported out of the site with these vehicles. Careful judgment is necessary. The same goes for requests concerning ammunition and weapons. Furthermore, it is essential that CIMIC or other involved organizations allocate funds to ensure payment of wages for local guards.
Last but not least: extra research is needed on the legal status of civilian noncombatants who work with the military. Problems could potentially arise from such a situation.

Events such as the looting of the Iraq Museum and the Taliban’s destruction of the Bamiyan statues in Afghanistan have shown the need for temporary military cultural activities. In the case of the destruction of the Bamiyan statues, which occurred in peacetime prior to September 11, something might have been able to have been done had there been established cultural departments within international militaries. Considering that the Taliban had announced that they planned to destroy the statues, it could have been possible to interact with the corresponding cultural department of their military, had these cultural departments existed, to advise them that the statues could be a source of tourist income or that they were worth preserving, even through (temporary) removal.

A remarkable lesson has been that cultural experts are needed during all phases of a conflict and postconflict situation. Even though cultural activities were only expected to be needed during later phases of a conflict, it has been found that most of the damage had already been done by that time. During my research I found that problems encountered in the field in places like Iraq were similar to most of the problems encountered by predecessors such as the U.S. Museums, Fine Arts & Archives cultural property protection teams during and immediately after World War II. Examples are lack of transportation in the field, low priority of cultural heritage protection within the complex of Civil Affairs activities, ranking, and status problems. On the other hand, technical solutions invented by these predecessors, such as using fake booby trap signs to protect monuments, should be taken into account. Another source for lessons learned, though not always positive, was the so-called Soviet Trophies Brigades military units with cultural experts that were active during and after World War II.

Using Military Resources

In general, it has to be determined if the military entities in charge of a certain AOR have funds to spend on cultural heritage protection—U.S. Commanders’ Emergency Response Program (CERP) funds or embassy funds, for example. As one example of good practice, in Baghdad during 2004 a large collection of documents from the Iraq National Library and Archives (the so-called Ottoman Archive) had been damaged during the Iraq war. When Baghdad was still relatively secure, civilian experts managed to deep-freeze the archive, which had suffered water and mold damage. Freezing is a commonly applied method that preserves documents for final conservation under better, safer circumstances at a later date. However, the frozen archive was located in a former officer’s club of
Saddam’s army, situated in the Red Zone. Due to multiple electricity failures and worsening security circumstances, the material began to deteriorate rapidly and was also exposed to the risk of looting.

Through a U.S. request and a bilateral agreement, Dutch CIMIC\textsuperscript{12} Cultural Affairs stationed a cultural expert in Baghdad who was able (since he was in uniform) to go out in the escort of armed soldiers and personally assess the situation. Apart from this, as a military officer with the rank of major he was able to communicate with U.S. officers\textsuperscript{13} and ask for support. As a result, the U.S. Army used CERP funds to provide equipment in the form of a generator-powered freezer truck, and the archive was refrozen in this vehicle. The truck then was parked in a safe environment in a space that was shielded from the sun. The military also provided funding for fuel and CIMIC organized training on defrosting techniques that Iraqi experts would employ at a later stage. Furthermore, other training programs were developed and implemented for archive staff.

Another example is when the CIMIC Cultural Affairs expert in Baghdad assisted with the negotiation process that led to the organization of the Audit Commission for Babylon in anticipation of the handover of the site to the Iraqis.

Likewise, the use of helicopters proved to be indispensable for assessments of looted archaeological sites. In Babylon, they were also used to remove heavy concrete slabs that had been abusively positioned on surfaces containing historical and cultural data.

Another matter of concern was the condition of the archaeological site of Hatra, severely threatened in late 2004 by the presence of one of Saddam’s ammunition depots located 5 km away. An ammunition demolition program that was underway had caused some damage to the site. As a result of CIMIC Cultural Affairs’ intervention and advice, the vibrations were decreased by 50 percent, thus saving Hatra.

**EFFORTS BY NATO COUNTRIES IN IRAQ AND AFGHANISTAN**

NATO countries have lead serious efforts to impact cultural heritage protection in Iraq. At times their efforts have lead to the protection and preservation of monuments; at others, their actions show us that cultural affairs needs to be taken as a more serious issue within the armed forces.

In the Netherlands, following the creation of a CIMIC/CA unit, progress was halted in the first half of 2006 after a reorganization of CIMIC management and a repositioning within the armed forces. The unit shrunk and was taken over by a military historian already employed by the army. Most of the serious experts left the team, and the unit is now more or less inactive until a new commander recognizes the importance and manages to attract quality experts. The training on cultural heritage protection that took place at the multi-
national CIMIC Group North (now Civil-Military Center of Excellence, or CCOE) was also dropped after a change of management; the new military director did not see the relevance of the subject. All this is certainly not in accordance with the contents of the Second Protocol of the Hague Convention that became effective in the Netherlands on May 1, 2007.

German military personnel assisted civilian experts in Bamiyan, Afghanistan. The Austrian National Defense Academy in Vienna, especially its Institute for Human and Social Sciences, is active with conferences, research, and publications on the subject.\textsuperscript{14} The academy cooperates with the Austrian Society for the protection of cultural property.

Poland deployed militarized archaeologists in Babylon, Iraq.\textsuperscript{15} The Polish Multinational Division Central South (MND CS) was alternately based at the site of the ancient temple of Babylon and at the Tell al Uhaimir-Tell Ingharra site. In southern Iraq, MND CS was present near the Tell el-Muqayyar site (ancient Ur).

The Polish zone covered five provinces: An Najaf, Al Qadisiyah, Babil, Karbala’, and Wasit. Polish archaeologists have been present in Iraq since November 2003 as civil specialists of the CIMIC unit of the Polish military contingent in Iraq to document and protect archaeological sites and monuments located within the MND CS area of responsibility.\textsuperscript{16} The archaeologists cooperated with their Iraqi colleagues and the MND CS staff on issues concerning preservation and maintenance of excavated and partially reconstructed monuments.

The conditions of several archaeological sites were determined by experts embedded in military helicopters and through the use of military satellite photographs. Whenever possible, aerial and ground reconnaissance of archaeological sites was carried out. Aerial inspections of the Babylon site took place in July and November 2004. In February 2005, reconnaissance of archaeological sites located in the southeastern part of Al Qadisiyah province and in the western part of Dhi Qar province was conducted to assess the condition of sites like Shuruppak, Adab, Kisurra, Umma, Zabalam and Isin, Sumerian cities that had been heavily looted. Other archaeological sites in the region, like Nippur and Tell es-Sadoum (ancient Marad), were visited in convoys.

Babylon suffered from damage caused by heavy vehicles and the storage of containers in the immediate neighborhood of its monuments. This damage was done by coalition forces. The most famous example involved military personnel who indiscriminately loaded huge bags with rubble from the site, and then used them for enforcements for the camp. Cultural Affairs units could have helped avoid this had military planners been trained in this subject matter in peacetime and had more cultural units been available in wartime. Another mistake was the enlargement of the existing helicopter landing ground,
in which the leveling work affected an area with ancient remains. Also, pits dug into tell slopes to obtain sand needed in defensive constructions resulted in irreversible stratigraphical destruction. Because of the construction of watchtowers, part of the terrain was leveled. Fuel tanks were dug into the ground in the vicinity of the Greek theatre. Other military fortifications included the digging of ditches near the ziggurat of Babylon in February 2004.

MND CS military camps experienced problems with military personnel involved with illegal trading in ancient objects; actions were undertaken in cooperation with the military police to prevent illegal sales to military personnel. Archaeologists advised on checking baggage of military and civil personnel returning home.

Polish archaeologists and military specialists published a report in November 2004 assessing the condition of monuments in Babylon. From December 11–13, 2004, a meeting of the International Audit Commission took place at the Babylon site in order to assess its condition, based on the report prepared by Polish archaeologists. The document also served as a starting point for handing over the site to Iraq’s Ministry of Culture.

The MND CS troops left Babylon on December 22, 2004. A document for transferring the former Camp Alpha to the Ministry of Culture was signed in Baghdad on December 31, 2004. From that date, Iraqi archaeological police were in charge of site security, utilizing part of the military infrastructure that had been donated and left behind, such as the habitable containers, watchtowers, and fencing.

In 2005, archaeological assessments were executed in the eastern part of Al Qadisiyah province. This province was secured from September 2003 until April 2004 by a Spanish brigade that was part of MND CS forces. Major archaeological sites in the region, mainly of Sumerian and Babylonian date, were inspected, with large-scale devastation observed at Ishan Bahriyat (Zibliyat).

In March 2005, the condition of archaeological sites in the province were assessed and proposals for immediate and long-term protective actions were written. Aerial reconnaissance confirmed the looting of many archaeological sites. The ruins of Tell Fara (Shuruppak), Ishan Bahriyat (Isin) and Tell Abu Hatab (Kisurra) were found to be full of craters from continuous and methodical illicit digging that neither coalition forces nor the local antiquity service were able to prevent. Cultural institution infrastructure and documentation had been destroyed. In general, Iraq lacked a credible database containing information on monuments, precise locations, and general descriptions. The Al Qadisiyah Regional Office of the SBAH was understaffed and almost unarmed. The local archaeological police had very limited resources at their disposal to patrol the entire province and faced the same problems as the SBAH. Consequently, operational effectiveness was low.
A follow-up inspection of the Nippur archaeological site revealed that the introduction of protective measures by the Spanish brigade at the end of 2003 eliminated plundering and illicit digging. The entire site had been encircled by more than four miles of wire entanglements. Twenty-four policemen were stationed at a new police station and have been patrolling the site twenty-four hours a day. Finally, five police stations were built for the archaeological police in Al Qadisiyah near the American Mission excavation house.

Helicopters of Spanish and Polish coalition forces flew regularly over the site. Helicopter flights over endangered archaeological sites have proven to be one of the most effective measures for preventing illicit digging.

Polish archaeologists at Camp Alpha undertook several projects in cooperation with Iraqi experts from the SBAH and Babil University in Al Hilla and Al Qadisiyah University in Ad Diwaniyah. Most activities were financed from the MND CS CERP. Since early 2004 they have also been involved in the reestablishment of the Iraqi archaeological police (i.e. Facility Protection Service, or FPS). This resulted in Babil and Al Qadisiyah provinces in the creation of archaeological police units with 350 and 100 men, respectively, by early 2005. The archaeological police are intended to support a system of civil unarmed guards (haras, in Arabic), recruited from among local communities and living on or nearby the sites that they are supposed to take care of. The Department of Museums supervises this new unit.

Meetings with archaeological police unit commanders in several provinces helped to identify essentials, like training and the need for means of communication, cars, uniforms, and weapons. New and restored police stations were also marked as indispensable.

Archaeological sites were assessed in terms of priority. A list of twenty-eight sites in the provinces of Babil, Al Qadisiyah, Karbala’, and Wasit was prepared in cooperation with Iraqi archaeologists. The most important sites were fenced off and further protected by occasional military patrols. In December 2003, provisional barbed-wire fences were installed around the most important monuments of the part of the Babylon site located inside Camp Alpha. Following consultation with the SBAH office for Babil province, the damaged and partly torn down fence around the archaeological site at Tell al Uhaimir was rebuilt in July 2004. Warning signs were also installed, as well as a habitable shelter for the guards. Shelters and temporary protection installations were set up around the ruins of the Summer Palace of Babylon at Barnum. At the Birs Nimrud site, observation towers were erected in late 2004. Installation of a barbed wired fence around the western part of the site and a shelter to serve as a police station at Tell es-Sadoum took place in spring 2005.

Projects aimed at restoring the infrastructure of museums and local antiquity inspectorates were implemented in the Babylon Museum, the Hammurabi
Museum, and the SBAH office for Babil province. Further activities included equipping the SBAH offices with computer hardware and software (an Iraqi priority request). Twenty Iraqi workers were trained in basic computer operation. Additionally, the SBAH office in Babil received a professional theodolite and a set of multimedia equipment (a digital video camera, notebook, and multimedia projector) to facilitate inventory work. The Department of Archaeology at Babil University in Al Hilla was provided with similar equipment.

Several projects were realized to supply a detachment of the archaeological police in Babil province located at Babylon with individual equipment, including uniforms, helmets, bullet-proof vests, metal detectors, and walkie-talkies. In the spring of 2005, archaeological police in Al Qadisiyah province were in the progress of being supplied with basic equipment.

There is still a debate on the question of who or what caused certain damages inflicted on the Babylon site. Both the Polish and the U.S. Army deny responsibility, but archaeologists from the United Kingdom and Poland found damage they claim was military in nature. Furthermore, considering that McGuire Gibson had attempted to supply the Pentagon with a list of important cultural heritage sites in Iraq prior to the war, had the U.S. military and coalition forces used this list, it would have known that the sites in question were historically and culturally sensitive. Had there been international military cooperation on cultural affairs issues—between the Poles and the U.S., for example—then they could have agreed upon a standard operating procedure. Unfortunately, events played out as they did due to a lack of coordination between the different international units and a lack of education, awareness, and training in issues regarding archaeology, history, and cultural heritage protection.

There have been suggestions that a training program on cultural heritage protection should be designed for military organizations from countries around the Mediterranean, including Egypt, Syria, Jordan, Turkey, Palestine, Lebanon, Algeria, Morocco, Tunisia, Cyprus and Israel. If granted, such a project could possibly be co-financed through the Euromed Heritage program and carried out in collaboration with military academies and expertise centers from at least three partner countries. The discussion of this idea is still in an early stage. In April 2005 Euromed Heritage organized a workshop in Amman on the subject of cultural heritage protection in times of armed conflict.

On September 15, 2006, the EU made a good start at implementing cultural training within its military activities when the Draft Strategy Paper on Cultural Heritage within the European Neighbourhood Policy ENP (2007–2013) was presented. This document, which focuses on the Mediterranean, was accepted and includes the following:

“Promoting [a] actions to protect CH in times of conflicts according to international conventions and in times of natural disasters (should be promoted
on cooperation with Military Institutions, Civil Defence, Ministries, local Authorities and civil society. Military commanders and troops involved in CH should attend awareness programmes and training to become acquainted and prepared for the adequate implementation of intervention protocols. Military training should take into account the UNESCO Hague Convention (1954). Protocols for civil-military cooperation for CH protection should be introduced. Networks should be promoted to introduce) notably encouraging the introduction of country / regional cooperation on protocols for prompt reaction.”

Talks continue with the Rome-based Euromed Heritage organization. Likewise, Europe’s Rapid Reaction Force should implement cultural heritage expertise in its capabilities.

NEXT STEPS: IMPROVING THE ROLE OF MILITARIZED CULTURAL AFFAIRS AS PART OF CULTURAL HERITAGE PROTECTION WITHIN THE INTERNATIONAL CONTEXT

Undoubtedly, the best chance for getting plans and methods for cultural heritage protection implemented is through international interagency coordination, preferably between and across government institutions, including the military, and NGOs, including international organizations (IOs). Due to the scarcity of militarized experts, it is necessary to establish an international team of such experts to deal with cultural heritage emergency response, assessments, providing advice, and ensuring compliance with existing rules, treaties and military issues. Utilization of international militarized experts would be especially beneficial in areas where civilian experts are not yet allowed. Potential civilian team members from universities, museums, the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), and other institutions could serve as a reach-back capability for such militarized experts and could take over as soon as the situation permitted.

The International Committee of the Blue Shield (ICBS) should normally act in this regard, but it is not completely operational and is not expected to be within a reasonable period of time.

What is needed is an entity consisting of proactive and creative individuals that maintains good working relationships with militaries around the world. It could advise field commanders and politicians at any time, coordinate and initiate joint training, and act as an intermediary between civilian experts and the military. The Hague would be a good place to establish such a bureau. There are also possibilities through the 1999 Second Protocol to the 1954 Hague Convention as well as through the Constitution of UNESCO, the latter providing the director general with a general mandate for the protection of cultural heritage. Article I(2)(c) of the UNESCO Constitution stating that the organization will maintain, increase and diffuse knowledge “by assuring the
conservation and protection of the world’s inheritance of books, works of art and monuments of history and science, and recommending to the nations concerned the necessary international conventions . . .” is illustrative in this respect.23

The control system under the convention is composed of three elements: representatives of parties to the conflict, commissioners general for cultural property, and protecting powers. The system of commissioners general interlinked with the system of the protecting powers worked only once—following the Middle East conflict. When the mandates of the two commissioners general accredited in 1967, one to Israel and the other to the Arab governments concerned (Egypt, Jordan, Lebanon, and the Syrian Arab Republic), were terminated in 1977, no new commissioner general to be accredited to the Arab governments concerned was appointed, thus de facto putting an end to further implementation of this institution. It should be revived since it creates a possibility to deal with urgent problems that need to be handled in an intensive manner, such as the cultural heritage situation in Iraq.

Additionally, the review of the Hague Convention, which resulted in the elaboration and adoption of the Second Protocol to the Hague Convention, provided for the establishment of a new supervisory body—the twelve-member Committee for the Protection of Cultural Property in the Event of Armed Conflict,24 elected for the first time by the meeting of the parties to the Second Protocol in October 2005. The committee had its first session on October 26, 2006, during the UNESCO General Conference and met again in June 2007.

For more detailed and juridical information on this subject I refer to the excellent articles from Jan Hladík25 and a forthcoming article by Professor Jiri Toman to be published by the Asser and Clingendael Institutes in the Netherlands following their conference entitled “The Protection of Cultural Property during Armed Conflict,” which was held in April 2007 in the Hague.

That being said, I advance the following as a list of recommendations for military forces to undertake for the better protection of cultural heritage in future and existing conflicts:

• NATO member states should request that NATO implement Cultural Affairs as a multinational asset.
• Field experience shows that CIMIC Cultural Affairs is necessary in different phases of a conflict, including the early stages.
• An interagency coordination bureau must be established that creates and maintains contacts and working relationships with the military. This office should also initiate training by civilian heritage experts and the military and should serve as a cultural emergency response unit. The bureau can assist the ICBS in emergency situations. (The ICBS is currently not functioning in this regard and is not expected to do so in the near future.)
• It has yet to be determined whether CIMIC/CA can also be active during peacetime to respond to emergencies, such as major natural disasters.
• An Arabic version of a basic guide on cultural heritage must be developed as well as a guide for European soldiers. Preferably, this should happen in cooperation with civilian organizations.
• Organizations such as NATO and the EU should create Departments of Cultural Affairs and should work together with UNESCO.
• Cultural Affairs should always be included in a CIMIC/CA assessment mission. Whenever possible, an assessment mission should be executed. Ongoing aerial assessments utilizing helicopters should be carried out, considering that they have proven to be especially important in preventing looting.
• Joint field exercises and training, especially for high-ranking officers and planners, are necessary.
• Lessons learned from Iraq and Afghanistan must be shared and read by planners. The same can be said for past field experiences, especially in relation to World War II and the MFA&A officers and the Soviet Trophies brigades.
• A UNESCO medal or something similar should be created to make cultural heritage protection more appealing to the military.
• UNESCO should have someone assigned to deal with military matters and to act as a liaison with military and military organizations such as NATO and military academies.
• An international survey has to be performed to create a register of experts in the military who studied art history, archaeology, anthropology, cultural sciences, and other relevant disciplines. For example, I recently learned that a commander of the Irish special forces is an archaeologist and very interested in cooperation.
• After the military mission, cultural heritage matters must be properly handed over to local authorities, NGOs, or follow-on forces, as appropriate.
• The possibility to nominate a commissioner-general for cultural property should be revived and further developed in collaboration with the president of the International Court of Justice and UNESCO.

NOTES
1. ACT’s mission statement includes the following goals: “Improve military effectiveness and interoperability” and “Support Alliance operations.”
3. The Rapid Reaction Force was set in motion by the French and British. Despite some reservations by non-NATO members, EU leaders agreed at the Helsinki summit in December 1999 to establish the RRF for peacekeeping, crisis management, and humanitarian and rescue work.
4. Example: “We cannot accept an institutional structure that allows NATO exclusivity in matters of security, while at the same time confining Europe to a permanent secondary role. We don’t want a division of roles that leaves the strategic direction of operations in American hands, and European forces facing the task (and the risk) of carrying them out on the ground. The principle established in Berlin in June 1996 permitting the Western European Union (WEU) to use the resources of the alliance to carry out European operations under its own direction should be put into effect.” Source: Paul Quiles, a deputy from Tarn in the French National Assembly is president of the Commission on National Defense and the Armed Forces. An interesting link to this is Foreign Minister Hubert Vedrine’s speech to the North Atlantic Council in Brussels on December 8, 1998.

5. In October 2006, I had a discussion on this with a representative of NATO’s Civil Emergency Planning Department who considered this to be a good idea that should be executed. NATO has made no further response.

6. There are few civilian organizations dealing with cultural heritage protection when compared to humanitarian aid organizations such as Médecins Sans Frontières (Doctors Without Borders), Oxfam, and the Red Cross. However, the International Committee of the Red Cross is mentioned in the Hague Convention and undertakes to provide expertise about the convention.

7. For example, in the Netherlands, all CIMIC matters have to be judged by a department within the Ministry of Development Aid. There, no distinction is made between cultural and humanitarian emergency aid, which results in cultural CIMIC projects in Iraq and Afghanistan being blocked.

8. The creation of such an office is recommended by the Amman Euromed Heritage workgroup as well as (for Iraq) by the UNESCO ICC Committee.

9. There is debate about this. I recently met an Egyptologist who claimed that older writings were discovered in the town of Abydos, Egypt.


11. This is not an official name but a working title given by the senior cultural advisor. Funding was through CERP.

12. Officially, the deployed specialist was not on a CIMIC mission since the activity was not directly in support of the mission in the Dutch AOR. Furthermore, the officer was sent out as an architect to assist with reconstruction of the Ministry of Culture.


15. The information used is based on several talks with a former CIMIC commander of the MND CS, Colonel Knoop, (lent out by the Dutch army) and for a substantial part an adaptation of the article of Miroslav Olbryš, “Archaeologists on Duty in Iraq: Polish Approach to the Protection and Salvage of Archaeological Heritage in Central South Iraq (November 2003–April 2005),” Conservation and Manage-
ment of Archaeological Sites 8 (forthcoming in 2007). It is curious that at the time the Polish experts were active in Iraq there was no communication between them and other militarized cultural experts (such as from the Dutch army). I found out much later which experts were active for the MND CS and what they were doing, although they were part of a CIMIC unit lead by a Dutch commander. This demonstrates the need for continuous international communication on the subject, especially with the military.

16. From November 2003 to April 2005, six Polish archaeologists worked in Iraq on six-month contracts in agreement with the Polish Ministries of Culture, Foreign Affairs, and Defence. Through a bilateral request, the CIMIC unit had two Dutch commanders successively lent out as augmentees.


18. Participating in the meeting were representatives of Iraq’s Ministry of Culture headed by Mr. Borhan Shaker; Dr. Miriam Omran Mousa of the SBAH Babylon Regional Office; Dr. John Curtis, an expert on Mesopotamian archaeology from the British Museum; representatives of the multinational forces in Iraq; and the MND CS. Dr. Curtis was invited by the Ministry of Culture and prepared a report on his observations. See John Curtis, “Report on the meeting at Babylon 11th–13th December 2004,” British Museum, http://www.thebritishmuseum.ac.uk/iraqcrisis/reports/Babylon%report04.pdfhttp://www.thebritishmuseum.ac.uk/newsroom/current2005/Babylon_Report04.doc.


24. The committee members elected for four years (i.e., until 2009) are Austria, El Salvador, Libyan Arab Jamahiriya, Peru, Serbia, and Switzerland. The members elected for two years (i.e., until 2007) are Argentina, Cyprus, Finland, Greece, the Islamic Republic of Iran, and Lithuania. The essential functions of the committee relate to granting, suspension, or cancellation of enhanced protection; assistance in the identification of cultural property under enhanced protection; supervision
of the implementation of the protocol; and consideration and distribution of international assistance and the use of the Fund for the Protection of Cultural Property in the Event of Armed Conflict.

Both the United States and most European countries are NATO members and therefore comply with NATO regulations. This is a common denominator that can be taken advantage of if the doctrine is used as a reference when implementing CIMIC/CA cultural and cultural heritage matters and that can offer opportunities to create a multinational team of militarized experts. The following are excerpts of CIMIC doctrine and how they could apply to cultural affairs.
“CIMIC activities form an integral part of the Joint Force Commander’s (JFC) plan, are conducted in support of his mission and are related to implementing the overall strategy and achieving a stable and sustainable end-state.”

For Cultural Affairs this means that planners and commanders have to be made aware of the importance and value of cultural heritage. One can point out the economic impacts of tourism, the unifying effect on national identity, security concerns related to illicit trafficking the generates funds for insurgents. In addition, there are obligations for military deriving from international treaties and other documents such as the Hague Convention of 1907, the Treaty of Versailles of 1919, the Roerich Pact of 1936, the Hague Convention and First Protocol of 1954 and Second Protocol of 1999, and the World Heritage List of UNESCO.

A commander can only determine if cultural heritage protection is in support of his mission if he gets all the information needed about the cultural situation in his area of responsibility (AOR) to make a decision. The commander must be trained and counseled in matters related to culture to interpret this information.

“The Commander’s CIMIC staffs are fully integrated into his Headquarters (HQ) and have full vision of and are authorised to coordinate CIMIC activities in the Joint Operations Area (JOA), theatre or region.”

In this case, an international military cultural heritage experts team or individual experts should temporarily be added to a Commander’s CIMIC or CA staff as augmentee(s) with a reach-back capability outside of theatre. In other words the experts are lent out by their ministries of defense or an organization such as NATO following requests and make use of a (virtual) back office of civilian experts that can supply additional and also more specific information if needed.

“In co-operating with a potentially wide range of civilian bodies, NATO forces will, as far as possible and within military means and capabilities, accommodate and support the activities of these bodies, providing this does not compromise the mission.”

If the situation permits it and civilian experts are available, it is recommended to have them on the ground instead of militarized or military experts.

“CIMIC activities are carried out with a view to timely transition of those functions to the appropriate civilian organisations or authorities.”

Military cultural experts should not stay in theatre longer than necessary and should hand over their activities and project information to civilian
organizations or succeeding militaries before leaving. However the following situation can also occur: military forces from a certain country redeploy before the situation is stable enough to hand over to the proper civilian bodies and agencies. Procedures have to be developed to properly hand over cultural rescue activities in case such events occur.

“CIMIC is applicable to both Article 5 Collective Defence and Non-Article 5 Crisis Response Operations (CROs). In both scenarios commanders are increasingly required to take account of social, political, cultural, religious, economic, environmental and humanitarian factors when planning and conducting military operations. Furthermore, commanders must take into account the presence of large numbers of IOs and NGOs with their own aims, methods and perspectives, all of which may have to be reconciled with those of NATO. The context and profile of CIMIC will alter according to the nature of the crisis or operation. In combat operations, the focus of CIMIC is likely to be narrower than in other operations. In a CRO, the focus of CIMIC will be broader and more complex, enabling a commander to play his part in what is likely to be a composite, multi-functional approach to a complex political emergency.”

“Relationships with the Civil Environment. Challenges will be enhanced by the presence of the media and the expectations of both the international and local communities. Therefore effective relationships with a wide range of civilian organisations as well as local populations, governments and military forces will be essential in future conflict resolution. These relationships may include joint planning mechanisms at the strategic level. CIMIC is the Commander’s tool in establishing and maintaining these relationships.”

Cultural Affairs supplies information and guidance concerning the above mentioned. This concerns both cultural awareness as well as cultural heritage matters. CIMIC/CA Cultural Affairs always aims to cooperate with NGOs, IOs and local civilians wherever and whenever possible. It must be noted that there are not many NGOs and IOs dealing with this so it will be likely that Cultural Affairs will be called upon more often than other CIMIC branches.

Cultural and cultural heritage matters have proven to be quite effective do or-openers in attempts to bring parties together in times of minor conflicts. Also, the protection of cultural heritage is good for the PR of organizations involved, including military.
Chapter 12

UTILIZING MILITARY CULTURAL EXPERTS IN TIMES OF WAR AND PEACE: AN INTRODUCTION

Cultural Property Protection within the Military, Experiences in Theatre, Different Perceptions of Culture and Practical Problems

Joris D. Kila

‘In fact nobody is excluded from culture unless they exclude themselves’

Pierre Bourdieu

‘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 and the buildings must go. But the choice is not always so 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.’

General Eisenhower, December 29th, 1943

Résumé

Le chapitre donne un point de vue pratique des activités culturelles en cours qu’elles soient militaires ou conjointes avec d’autres entités. Des exemples et des problèmes sont présentés aux experts juridiques(militaires) traitant de l’interprétation et des implications légales de convention de La Haye et de ses protocoles et de l’ensemble de droit international. Également pris en considération sont les approches archéologiques, artistiques, historiques et culturelles, les politiques publiques afférentes ainsi que les différences culturelles entre militaires et civils, les différences au sein même des forces armées et les diverses méthodes pour le

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transfert de connaissances entre les dépositaires en charge de la formation militaire. Principaux sujets :
• impératifs militaires contre protection de l’héritage culturel selon la convention de La Haye
• affaires culturelles et/ou unités culturelles d’intervention en urgence pourquoi l’OTAN devrait-elle traiter la culture ? Perspectives de la doctrine OTAN CIMIC AJP-9
• capital culturel comme ressource économique
• perception de la culture, exemples pour former des militaires
• coordination des diverses parties prenantes pour l’intervention en urgence en période de conflit en vue de la protection du patrimoine culturel
• conclusions et recommandations

Les sujets explorés incluent : les problèmes et les préjudices dérivant de l’opposition ou de la friction entre cultures différentes tels que la difficulté de concilier les règles militaires et le droit international, celles de la coopération entre civils et militaires avec celle de l’aide au développement (purement civile), les réticences mutuelles entre les militaires réservistes et les militaires professionnels, etc. Les expériences pratiques et les leçons apprises sont illustrées par nombre d’études de cas en Irak et en Afghanistan comme par exemple la protection d’Uruk (Al Muthanna Irak) contre les pillages par des experts militaires hollandais, des civils locaux et des structures tribales du secteur.

Le dilemme d’être « soit à l’appui de la mission comme décrit dans la doctrine AJP-9 de l’OTAN CIMIC ou de prendre une décision contraire à la convention de La Haye ».

D’autres problématiques dérivent des intérêts contradictoires au niveau politique impliquant l’aide humanitaire, la stratégie de politique culturelle aussi bien que des questions ministérielles et de défense, voir l’étude de cas : un musée ethnographique national pour l’Afghanistan.

L’attention est donnée à l’importance particulière des interventions en urgence notamment militaires pour la protection culturelle dans des situations où des motifs culturels sont à l’origine ou des facteurs imbriqués dans les motifs du conflit par exemple appartenance ethnique, éducation, religion, différences dans la perception de la culture et, enfin, identité nationale comme cela a été démontré en ancienne Yougoslavie où les nombreux actes iconoclastes ont eu lieu.
1. INTRODUCTION

This chapter is meant to give a practical insight into current cultural military and joint interagency activities on the subject of Cultural Heritage Protection. The military implement this also through civil military co-operation (CIMIC) or Civil Affairs (CA). Cultural should be read as cultural heritage (CH), more specifically the protection of cultural heritage, in juridical terms often referred to as cultural property where cultural heritage should be seen as a specialis under a generalis.

Although there is a need for a theoretical framework for and a reflection on implementing cultural activities within the modern military context, my
first aim is to put recent experiences, lessons learned and practical problems out in the open to be discussed. Furthermore, it is necessary to present practical examples and problems to (military) juridical experts dealing with the legal interpretations and implications of the Hague convention and its protocols. Several of them participated in the conference ‘From Peace to Justice: Culture and International Law’. Let me first say I am not a lawyer nor did I study law. My approach takes into account archaeological, art historical and cultural policy expertise. Other matters explored are cultural differences between military and civilian parties and ideas on how to transfer knowledge during training on the subject. Questions such as ‘when does the Hague Convention prevail or should prevail over military law or a field commander’s decisions’ and ‘what is the legal status of civilians working together with militarized experts in theatre’ will certainly arise from the examples used. They have to be answered by juridical experts who will of course if necessary consult cultural experts. The question of what is the use or added value for the military to deal with CP protection has to be answered by all stakeholders involved. Therefore I hope that this article will help both military and civilian experts as well as policy and decision makers to obtain a clear view on this important subject and that the connection between juridical theory and practice will be strengthened.

Most of the problems and examples mentioned are based on experiences within the European (Dutch) context; discussions with peers, however, have revealed that worldwide many nations have experienced similar problems. Another good reason to find multinational denominators and to create an international strategy is the fact that European military are often deployed together with colleagues from other parts of the world. During the time which has elapsed between writing this article and its eventual publication international attention to the subject has been steadily increasing Conferences and symposia have been and will be set up in Chicago, Vienna, Amman, New York, Rome, The Hague, Baeza (Spain), Tallinn and elsewhere. Publications like a multidisciplinary study on the subject by the University of Chicago’s Cultural Policy Center called Antiquities under Siege (New York: Alta Mira Press, February 2008) are to be expected soon.

Apart from this, specific developments have to be taken into account like the growing amount of illicit trade in artifacts. In Iraq, for instance, opposing forces buy weapons with the earnings from these activities and this is an extra reason for field commanders and military planners to study the cultural
heritage of mission areas, preferable before deploying. Also this element is important for – and could be part of – military intelligence, providing that this will not compromise cooperation with civilian experts. A newly founded NGO in Rome called the World Association for the Protection of Cultural Heritage in Times of Conflict wants to be active in civil/military coordination concerning culture.¹ Due to the events in Iraq that involved the destruction and looting of Cultural Heritage, the US government² and army is now paying more attention to the subject of training troops on CH matters. Initiatives include efforts to populate Geographical Information Systems (GIS) planning data bases with archaeological information so that military personnel do not rediscover sites and in fact may be able to practice site avoidance. This will be supplemented by additions to the Defence Department’s (DD) archaeological reference website that currently focuses on Iraq and Afghanistan.

There is the potential for using DD imagery to help planners delineate sites to improve the quality of available information. Training materials for deploying personnel, in addition to the archaeological playing cards, also include ready reference pocket cards, replica sites in the field, and a training module in the Joint Engineers Officer Course.³ The recently founded American Blue Shield Committee is playing an active role in US training efforts. It must be noted that although the US did not ratify the Hague Convention of 1954 and its Protocols, there was no barrier to prevent the constitution of a US Blue Shield Committee although normally such committees are only found in countries that are signatories to the convention. In this case the necessary support from umbrella organizations such as International Committee of Museums (ICOM), International Council on Monuments and Sites (ICOMOS), International Council on Archives (ICA) and International Federation of Library Associations and Institutions (IFLA)⁴ was provided. Un-

¹ <www.eyeonculture.net>
² The US Embassy in The Hague funded the author’s participation in a round-table discussion between military and civilian experts during the Archaeological Institute of America’s annual meeting in Chicago in January 2008.
fortunately, Europe more or less lags behind due to competence and status problems within the military and for political reasons. NATO could play a role in the protection of cultural heritage during armed conflicts and training the troops in peacetime, but is not acting because certain members, want to reserve special expertise within the military including CH expertise for the new Rapid Reaction Force (RRF) of the European Union instead of NATO. In the meantime little is being done, a suggestion to hold a NATO conference on the subject was made but was not followed by any response. On the other hand, the EU did organize a conference on the topic in Amman in 2005 through the Euromed programme; furthermore, in 2006 the EU mentioned the intention to implement within their activities training for the military when the Draft Strategy Paper on Cultural Heritage within the European Neighbourhood Policy (ENP) (2007-2013) was presented. This was later followed by the EC’s Strategy for the development of Euro-Mediterranean cultural heritage: priorities from Mediterranean countries (2007-2013) stating ‘the main areas of intervention identified may lead to promoting actions to protect CH in times of conflict’. The International Committee of the Blue Shield (ICBS), based in Paris and specifically mentioned in the Hague Convention, is not very active apart from an occasional written appeal in the case of an emergency situation.

In general it can be said that the whole subject of protecting CH in times of armed conflict is quite complicated in practice. The fact that especially during and after World War II a great deal of field experience was gained by utilizing militarized experts has been of no influence. Lessons learned as well as the methods and structures developed during that period seem to have been forgotten. During my research I found that the problems encountered in the field in places like Iraq were similar to most of the problems encountered by military predecessors like the US Monuments, Fine Arts and

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5 The suggestion was made in 2005 to organize a conference or workshop at NATO’s Civil Emergency Planning Department. They requested that all necessary information be sent; a quick answer was promised by the head of the Civil Emergency Planning Dept. at NATO in Brussels, but no reaction followed. Recently new contacts have been established with the NATO school in Oberammergau to organize guest lectures and a seminar and there will be more contacts at the beginning of 2008.

6 <www.euromedheritage.net>.

7 Luxembourg 2007, Office for Official publications of the European Communities.

8 Art. 11, Second Protocol.
Archives (MFAA) monuments officers. Too many political and competence factors still play a role, so maybe this article and especially its case studies can contribute to the thought that cultural heritage protection deserves to be approached from an angle which remains detached from personal and political objectives. There are many case examples in this chapter, sometimes at first glance not bound by a logical framework, but they do represent all the elements that I have encountered when practising and researching the possibilities for protecting CH in times of conflict.

Cases are used to demonstrate what takes place in theatre and to give examples of good and bad practice. Especially in the examples of Uruk and the Afghan ethnographical museum the information is quite comprehensive in order to indicate and thoroughly describe the relevance and position of cultural heritage in times of armed conflict to archaeological, cultural, military and juridical experts. Of course it is not possible to mention all known cases and problems, so further research and debate is necessary because of continuous growing insights and new developments concerning the topic.

2. Basic problems and prejudices

Cultural Heritage protection within armed forces and utilized during various stages of an armed conflict is a relatively\(^9\) new phenomenon.\(^10\) There is a need for the creation of international partnerships dealing with this, the subject has to become accepted within circles of the military, policymakers and politicians, and, most importantly, its (added) value to parties that are traditionally less interested in cultural property matters has to be demonstrated. Proactive strategies and visionary ideas are needed to get and keep Cultural Heritage Protection projected on the map. In a strict objective sense the reason for utilizing militarized experts is the pure fact that in times of armed conflict the civilian experts cannot operate. This can be caused by a poor security and safety situation or by logistical reasons. Also political reasons

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\(^9\) Activities such as returning stolen artefacts and the registration of disappeared art took place during and directly after World War II by Civil Affairs (CA) units of the US and UK armies; the Russians had special units dealing with recovering missing art. An overview of what happened is provided in *The Rape of Europa* by Lynn H. Nicholas.

\(^10\) The Dutch army has a department for Cultural Background Information (CAI); however, this department only deals with cultural awareness matters and not with cultural heritage-related issues. Their core business is to support pre-deployment training.
can play role, e.g., German scientists, apart from security reasons, cannot work in Iraq because their government is against the involvement of coalition forces and will not allow them to officially work there. Therefore military experts are needed until civilian experts can take over.

Obviously the military and cultural heritage protection is not a mix by nature. The military do not consider knowledge and handling of cultural goods and environments part of their core-business and certainly not a priority; the same is more or less true for the international field of civilian aid organizations. However, in order to understand and consequently appreciate types of culture, such as art and cultural heritage matters, the understanding of codes, knowledge of conventions and iconography is a prerequisite. A contradiction though it may seem, the military are trained to understand codes and conventions, so in theory should make ideal art history students. However, when mentioning the subject in military organizations cultural heritage is considered to have low priority and often the communication stops at this point.

Many experts working for civilian cultural institutions like museums, non-governmental organisations (NGOs), and universities generally consider the military to be an entity that destroys culture, or in the best case, an organization not interested in cultural sites and goods whereas a military discussion about cultural activities during a mission may be labeled ‘mission creep’. An ongoing dialogue between both parties is not only needed, but is of utmost importance. Both sides should explain each other’s codes, iconography, conventions, etc. Very worthwhile considering might be to set up a civilian international liaison agency dealing with establishing and maintaining good working relations with the military in both war and peacetime.\textsuperscript{11} Another strategy is to apply the joint interagency coordination approach as used by the Americans (the US Central Command (CENTCOM) created a Joint Interagency Coordination Group, JIACG, to fight terrorism) concerning cultural affairs.\textsuperscript{12}

\textsuperscript{11} This has been lately recommended on several occasions as one of the outcomes of the Euromed Heritage conference on CH management in war-infested areas held in Amman in April 2005. See \textless www.Euromedheritage.net\textgreater .

3. FIELD EXPERIENCES AND RELATED PROBLEMS

Practice has shown that military cultural activities can add value.

A remarkable lesson learned has been that cultural experts are needed during all phases of a conflict and post-conflict situation. At first, it was anticipated that cultural activities were only to be applied during later phases, but it was found especially in Iraq that most of the damage had already been done by that time. This could have been known since the same was experienced by the so-called monuments officers active in Europe during the 2nd World War. During field research it became quite apparent that nowadays monuments officers (sadly enough a limited number) face similar problems and restraints as their predecessors in and after World War II.

Examples are the lack of transportation in the field for monuments officers, the low priority of CH protection within the complex of Civil Affairs activities, and ranking and status problems.

Some examples of good practice: in Baghdad during 2004 a rather significant archive addressed as the Ottoman Archive was damaged during an earlier phase of the last war. When it was still relatively safe, civilian experts managed to deep-freeze the archive, which was suffering from water/mould and soot damage. Freezing is a commonly applied method that prepares for final restoration under better (i.e., safer) circumstances at a later stage. However, the frozen archive was located in a former officers’ club of Saddam’s army, situated in the Red Zone. Due to multiple electricity failures and changed security circumstances the material began to deteriorate rapidly and was also exposed to the risk of looting.

At that time the Dutch-based CIMIC Group North Cultural Affairs (CuA), acting on a bilaterally agreed request, had an officer stationed in Baghdad who was able (since he was in uniform) to go out and assess the situation personally, escorted by armed soldiers. He reported to me, being his supervisor, and I ordered him to communicate with high-ranking US officers and ask for support.

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13 From personal experience in Iraq, Al Muthanna compares with similar situations in World War II as described in Lynn H. Nicholas 1994, *The Rape of Europa*.

14 This is not an official name but a working title given by a cultural advisor – the material was a collection of Ottoman manuscripts. Funding was through the US military Commander’s Emergency Response Program (CERP).

15 Officially the deployed specialist was not on a CIMIC mission since the activity was not directly in support of the mission in the Dutch AOR.

16 See also the Art Newspaper Insider’s account of the evacuation of Babylon by Gary Schwartz on the internet, TheArtnewspaper.com, April 2005.
As a result, money was provided to buy equipment in the form of a freezer truck, and the archive was refrozen in this vehicle. The truck then was parked in a sun-shielded space in a safe environment powered by generators. Also funding was donated for fuel and training was organized on defrosting techniques for Iraqi experts to be implemented at a later stage.

Other matters of concern included the condition of the archaeological site of Al Hatra, severely threatened in late 2004 by the presence of a Saddam ammunition depot located 5 kilometers away, where an ammunition demolition programme was being carried out that initially caused damage to the site. Our advice on the matter contributed to a solution in which the vibrations decreased by 50 percent, thus saving Al Hatra. It must be noted that one ‘cultural’ officer on the ground in Baghdad proved to be not enough, so it was necessary to give him instructions and monitor his situation on a daily basis. The situation would have been easier and more successful if a trained archaeologist/restorer with management skills could have been deployed, preferably heading or participating in a small team of international militarized cultural experts. Such experts must be psychologically fit to work under stressful circumstances.

3.1 A case study: Saving Uruk from looting utilizing Dutch military experts and local civilians is an example of good practice

*The importance of Uruk – An introduction*¹⁷

One of the oldest cities of South-Mesopotamia located ON the Euphrates River approximately halfway between Baghdad and Basrah in Iraq is Uruk; its modern name is Warka. The pre-Sumerian toponym for Uruk was UNUG. The Sumerians called the site Unu while the Akkadian name used was Uruk but this name appears in the Bible as Erech (in Genesis 10 as one of the four

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cities in Shinar founded by Nimrud). Uruk is the largest Tell\(^{18}\) in this area and the site measures approximately 400 hectares. Excavations have only exposed part of the city. Already from 5000 BC people inhabited the site: this was the so-called Ubaid period. Originally Uruk lay in marshy, alluvial land covered with a network of river tributaries resulting in an abundance of mud and reeds that served as the main building materials while all stone had to be imported. Uruk was more or less born from two older centres separated by half a mile that joined together, namely Kullaba, devoted to the god Anu, and E-anna or Innana devoted to the love goddess (also called Ishtar by the Akkadians/Semites and later Venus). In the fourth millennium BC the Sumerians took over the city. The most important structures erected in this Sumerian period were the great Ziggurat\(^{19}\) of the main god Anu (the sky god) including the so-called ‘White Temple’ that was plastered with white gypsum and the E-Anna complex with the temple of the goddess Inanna. These buildings remained intact until the end of Uruk’s existence although they were remodelled around 3000 BC. In the debris of this rebuilding project numerous fragmented clay tablets were found bearing pictograms as well as sculptures and cylinder seals.

The most important period in the history of Uruk was without any doubt the era between approximately 3400 and 2800 BC, the time of the so-called ‘high civilization’, a period in which a giant leap forwards took place on multiple territories. Apart from the construction of major buildings that could only be realized within a highly organized extensive administrative system, the main achievement was the invention of cuneiform writing. The development of cuneiform can be seen in the findings from Uruk. First, clay envelopes with little objects representing certain figures appeared, this practice of storing tokens in clay envelopes being significant for the development of mathematics, and in the next phase clay tablets were utilized with the same signs on their surface. Finally, an ideographic sign representing an object such as a vessel or animal was added. At a later stage these signs were used to actually write a language, in this case the Sumerian language.

\(^{18}\) A type of archaeological site in the form of an earthen mound that results from the accumulation and subsequent erosion of material deposited by human occupation over long periods of time.

\(^{19}\) A religious building made of mud brick and consisting of several superimposed platforms, also a temple tower.
In Uruk cuneiform was invented and developed and spread from there over the entire ancient Near East. It seems fair to conclude that in Uruk humans wrote for the first time in history.

Uruk remained an important city throughout the 27th and 26th centuries BC, but no longer played a leading role in Mesopotamian politics. There is not much clear evidence from archaeological findings dating from this period but it was the time of great Kings such as Enmerkar, Lugalbanda and especially Gilgamesh. According to the Sumerian list of kings, Uruk was founded by King Enmerkar (1st Dynasty of Uruk) who brought the official kingship with him as described in the epic Enmerkar and the Lord of Aratta. Gilgamesh became the main character in the famous Epic named after him. He was said to have built the great wall of Uruk that according to archaeological evidence actually must have been erected in this period and measured approximately 10 km (6.21 miles) surrounding the settlement making Uruk the largest known in the ancient world until the 6th century BC, when the city of Babylon occupied an even larger area. No written evidence on Gilgamesh who, according to the Sumerian list of Kings, was one third human and two thirds a god has yet emerged dating from the period he is supposed to have lived in, although contemporary texts mentioning two of his opponents from Kish (located in the North) have been discovered.

During the old Babylonian period Uruk became involved in several conflicts between cities such as the neighbouring towns of Larsa and Babylon situated in the North. In the 18th century BC the king of Babylon demolished Uruk’s wall as a punishment. Then all sources remain silent about Uruk. Probably at the time the city was part of the so-called ‘Sealand’ until the mid 9th century BC. This was an area situated on the edge of the Persian Gulf where even nowadays one can still find many marshes. For the rulers of Babylon it was quite difficult to obtain and retain control over this area.

As from the 9th century BC more information is available regarding Uruk. The city played an important role in the resistance against the Assyrian domination and was at that time situated in the area of the Chaldean Bit-Amukani tribe. During the civil war between the Assyrian King Assurbanipal and his brother, the governor of Babylon, Uruk chose the side of the Assyrian king. It is rather curious that Uruk was especially of importance for the beginning and end of the Mesopotamian civilization. Not only the oldest period, but also the youngest one (3rd-2nd century BC) provides evidence through many texts showing that the Babylonian culture was still very much alive, but after
this period it went downhill very quickly. During Parthian times (2nd-3rd century AC) Uruk blossomed again briefly, but was probably deserted not long afterwards. The inhabitants deserted Uruk sometime during the Sasanian period (224-633 AD).

Figure 2. Uruk Great Ziggurat in September 2003. Photograph by Joris D. Kila.

The history of excavating Uruk

Sir William Loftus, a member of the so-called Perso-Turkish Boundary Commission who visited the site for an investigation as early as 1849, deemed it the most desolate place he had ever seen and carried out some minor explorations between 1850 and 1854 on only the most prominent mounds apart from clay tablets, clay coffins (some of them now in the British Museum) and uncovering the famous coloured clay cone wall (mosaic). Walls in the Temples were quite often decorated with inserted coloured clay cones. He did not find any of the monumental sculptures or bas reliefs which his commissioners had hoped for. It was not until 1856 after a rumour that a ruin existed in a remote area of Southern Mesopotamia that Sir Henry Rawlinson, famous as the decipherer of Assyrian cuneiform, visited the site. He became convinced that he had found Erech and that it was, as he called it, ‘the mother of all cities’. However, it took more than 50 years before the first systematic excavation of Warka started between 1912 and 1914 by a German team led
by Julius Jordan for the *Deutsches Orientgesellschaft*. This occurred after Robert Koldewey, famous for his excavations of Babylon, visited Uruk and nominated him. After the First World War the excavations resumed in 1928 to 1939, halted by the Second World War, and then started once again in 1953 continuing to 1989 and they were carried out by the ‘Deutsches Archaeologisches Institut’ of Berlin (DAI). The political situation, followed by the 1st Gulf War, prevented any continuation. Therefore the 39 campaigns of German excavations came to a halt in 1989, while in 2001 and 2002 a team directed by M. van Ess returned to Uruk very briefly to begin mapping the site using subsurface magnetometry, a method used to see what is under the surface without digging.

When a Battle Group from the Dutch Army (Marines) took over Al Muthanna province from the Americans in the summer of 2003, I knew through information obtained from the Oriental Institute of the University of Chicago\(^{20}\) that Uruk was situated in their area of responsibility (AOR). During a Civil Theatre Assessment mission\(^{21}\) on behalf of the Dutch Ministry of Defence that addressed the key Civil Military Coordination functional areas (including Cultural Affairs) I was in a position to visit the site with a patrol of the Dutch Military Police (*Marechaussee*) and discovered that it was one of the few Iraqi sites that had not yet been looted.

According to information which I gathered from German archaeological experts before the Dutch army was actually deployed to Iraq, the site was (formerly) guarded by a local Bedouin tribe (family size) acting as guards for the German Archaeological Institute (Berlin) which had held the concession for excavating this site since 1912. The German scientists had to stop their work years ago when the situation in Iraq deteriorated. After the start of the 2003 war the payments to these Bedouin guards initially staggered, and finally ceased in the spring of 2003. The German Archaeological Institute gave me the name of the head of the family who worked for them: Muhtar Rumain. The institute also provided me with a letter written in Arabic as a sort of introduction. In this part of the world, as well as in Afghanistan, it is very important to have some sort of introduction.

However, before involving members of certain tribes in guarding archaeological sites or monuments extensive research is necessary because existing

\(^{20}\) Given by Professor Macguire Gibson.

\(^{21}\) Irak Civil Assessment Al-Muthanna October 2003 Internal report Nederlands Ministerie van Defensie, Dept. DCBC.
or potential conflicts between different tribes can create major problems. The same is true for the involvement of tribes that are not originally from the area where the monuments or sites are located.

Figure 3. Uruk, September 2003 on top of the great Ziggurat Dutch CIMIC officers with at-Tobe guards. Photograph by Joris D. Kila.

In Warka I met the son of Muhhar Rumain since he was not at home himself. The son, Ali Muhhar, explained that Uruk (now called Warka) belonged to them, the Bedouin at-Tobe clan, by virtue of an agreement with Bedouins of other tribes, who ruled over other parts of Al-Muthanna. They still wanted to safeguard the site against looting, but after the German payments had stopped their capabilities were limited due to a lack of transport and money to buy food and water. Finally, it was arranged and agreed that both Dutch and German money (USD 300) was to be paid to the tribe every three months through military channels allowing them to continue their very useful work. I also agreed with the Marechaussee that they should send a patrol to Warka whenever they had the means and possibility available. Following an agreement with the Dutch Ministry of Defence these payments continued until the Dutch forces withdrew from Iraq in March 2005.

The only known incident involving looters took place at the end of January 2004 when a patrol from the Dutch Marines visited Warka. While having a guided tour by Muhhair Rumain himself they saw in the far distance that
people were digging. Muhhair Rumain told them that these people were loot-
ers. The patrol and the Bedouin guard rushed to the area, arrested the thieves
and returned the stolen goods (pictures) that had been taken from a grave.
Only minor damage was reported.

To date, everything is still fine in Uruk, at least until last May (2007). That
was the last time that there was any contact with the guard. The next contact
is to be expected at the end of September 2007.

Figure 4. Looted grave in Warka, January 2004. Photograph reproduced with
permission from the Royal Netherlands Navy Marine Corps.

There are some recent photographs, taken by members of the Iraqi State
Board of Antiquities, of the expedition house. Except for some expected
erosion to the ruins and the expedition house, everything seems to be in
order. Nevertheless, the poor condition of some ancient buildings in Uruk
will become a major problem in the near future or is actually already the
biggest danger to the site.

In 2004 a German project team under the leadership of the German Archaeo-
logical Institute gathered the expertise of archaeologists, geophysicists and
space engineers to address the urgent problems related to the state of archaeological activities in Iraq without actually being on the ground. The project was funded by the German Federal Foreign Office and worked also in cooperation with UNESCO and the Iraq State Board of Antiquities and Heritage. The project used equipment such as very high resolution optical space imagery with images taken before and after the military conflict to be used to detect looting activities combined with semi-automated image analysis software that can support the process and even find new structures. It is expected that satellite and aero imagery will be more accessible to the international archaeological community when good contacts with the military are established.

Figure 5. Equipment and stolen artifacts from arrested looters, Warka, January 2004. Photograph reproduced with permission from the Royal Netherlands Navy Marine Corps.

It must be noted that during the Al Muthanna assessment mission I spent a lot of time finding the representative of the Local State Board of Antiquities and Heritage whose name I had obtained from the German Archaeological Institute. I finally found this inspector called Toufiq Abed Mohammed only a couple of days before my departure.

His office in As Samawah was in a very poor state and the building in which it was situated had been looted and damaged by mortars and rockets and was about to collapse. There was an obvious need for another office as
well as office furniture, office supplies and training in management and registration. Apart from this the Public Library in As Samawah had been completely looted and the building severely damaged; all the books were gone. Everything was reported in the assessment report for the Dutch Ministries\textsuperscript{22} and to the CIMIC officers of the Dutch Marines.

\begin{figure}[h]
\centering
\includegraphics[width=0.5\textwidth]{looted_library.png}
\caption{Looted library in As Samawah, September 2003. Photograph by Joris D. Kila.}
\end{figure}

4. \textbf{IN SUPPORT OF THE MISSION OR MAKING A WRONG DECISION ACCORDING TO THE HAGUE CONVENTION?}

The types of events described above prove that military or militarized cultural experts are indispensable; their military status gives them leverage within the command structure in order to get things done or understood. However, a problem one might face is the directive taken from the NATO CIMIC doctrine AJP-9 that all CIMIC activities in a certain area controlled by a military unit or formation have to meet a basic military criterion, namely to support the commander’s mission.\textsuperscript{23} All kinds of military rules, customs and regula-

\textsuperscript{22} The report was held for several months and was later released for internal use by the Ministry of Defense but was rather dated by then.

\textsuperscript{23} NATO CIMIC Doctrine AJP-9 states: ‘The co-ordination and co-operation, in support of the mission, between the NATO Commander and civil actors, including national population and local authorities, as well as international, national and non-governmental organisations and agencies.’
tions are set out and described in annexes to the mission plans to eventually achieve its desired end-result. All aspects primarily serve military goals. CIMIC/CA are considered to be tools to attain the end-result of the mission quicker and more easily by creating and keeping good relations with the civil environment, and particularly the local population. Here a contradiction may arise between a military decision implicating low priority to cultural affairs and an action that is mandatory according to the Hague Convention and its Protocols having a high priority within the context of the treaty.

When CH protection is implemented separately, meaning not within the CIMIC framework, this type of problem can be solved in a less complicated fashion.

No serious debate has taken place on this since the military leave the discussion to policy and decision makers who often confuse cultural aid with the highly politicized humanitarian aid in general to be implemented by NGOs. In the meantime there seems to be little attention to CH protection within the military. Practice shows that commanders and planners, not familiar with cultural and cultural heritage matters, give priority to highly visible quick impact projects such as redecorating schools, starting local broadcasting stations, etc. The motto is ‘to win the hearts and minds of the people’. This, of course, is a noble and necessary goal, but to obtain a complete overview of civilian needs advice from experts representing all five CIMIC functional areas and CH experts prior to selecting a course of action to achieve this goal is essential to succeed. Apart from this, one could argue that an assessment on CH protection is always mandatory under the international treaties.

If, in military planning, requests for cultural projects are labeled as not being in direct support of the mission, it is still likely to assume that cultural activities create a stabilizing effect in the AOR. However, conflicting interests may occur on the political level where humanitarian aid cultural policy matters and defence issues are handled by different ministries and departments. For example, in the case of requested cultural (CIMIC) support for Afghanistan the Dutch Humanitarian Aid Division, as part of the Ministry of Foreign Affairs, blocked this since they considered it false competition with cultural NGOs, thereby ignoring the fact that cultural civilian organizations were actually (through military channels) requesting the support. The department of international cultural policies of the Ministry of Foreign Affairs that was in favour of this support was not consulted, since all CIMIC is considered an issue for the Humanitarian Aid Division of the Dutch Ministry
of Foreign Affairs. The case involved a request from both the Afghan authorities as well as UNESCO to support efforts to create a national ethno-
graphical museum. An assessment and research was conducted by specialists of CIMIC cultural affairs including myself. This resulted in a proposal and plan for a possible project that met all the relevant criteria but was also flex-
ible in implementation possibilities, in other words: it could be executed cheaply with only the input of expertise being more expensive, together with investing money in buildings and equipment. This was very much accepted by all opposing factions within Afghan society since all their respective arti-
facts, cultural goods showing their identity, would be represented. In gen-
eral, the proposal was considered, at least among experts, to be a good and intelligent example of an attempt to win the hearts and minds of a population and therefore the mission was supported. If cultural heritage matters would have been treated separately from CIMIC, but as an obligation under inter-
national law, the outcome might have been different.

4.1 A case study

In answer to the requests and after necessary research and consultations with experts and the parties involved, the Cultural Affairs Unit of CIMIC Group North designed the following proposal and plan with the title: ‘An Ethno-
graphical Museum for Afghanistan’.

After the expulsion of the Taliban in the autumn of 2001, international and Afghan organizations and experts started to make plans for the resurrection and reconstruction of the Afghanistan National Museum. Part of this world-famous museum collection was destroyed by the Taliban in the spring of 2001. Previously, in the early 1990s, a substantial part of the collection had already been stolen while the building itself was seriously damaged by different bombardments and mortar attacks.

The museum’s collection consisted for the larger part of archaeological objects discovered in Afghanistan at the beginning of the last century. These objects mostly dated from the country’s pre-Islamic period or more exactly

\[24\] Not to be confused with the also destroyed archaeological museum in Kabul that is in the process of being restored.

\[25\] Based on a document prepared on August 20th, 2002 by Willem Vogelsang with contributions and editing by Joris Kila in order to provide backing to the Afghan authorities’ request for support. See also Vogelsang 2002.
before 800 AC. The items often represented the Buddhist and Hindustan periods. Especially these objects were destroyed by the Taliban.

Archaeological activities in Afghanistan have always been strongly linked with the emergence of Afghanistan as a nation, a process that started during the first half of the 20th century. The same is true for the establishment of the National Museum. The ruling elite that was striving for the creation of a secular-based nation was trying to demonstrate, by utilizing archaeological projects, that within Afghanistan’s borders an old and rich culture always existed emanating from even long before the Islamic period. Archaeology as well as the National Museum of Afghanistan served as a means for the country’s ruling parties to secure their own and their nation’s position.

The ordinary Afghans’ resentment of the before-mentioned political strategy became apparent when in 1929 the ruling monarch was impeached and replaced by an Islamic fundamentalist ruler who immediately ended the policy of reform that was being implemented at that time. All archaeological projects in Afghanistan were stopped while monuments and objects dating from pre-Islamic periods were destroyed.

The destructions in 1929 closely resemble the recent Taliban vandalism. The blowing up of the famous Buddha statues of Bamiyan in the spring of 2001 also fits this modus operandi. The Taliban, supported by many other Afghans, cannot relate to an era in which the inhabitants of the country had not been converted to Islam.

The reconstruction of Kabul’s (archaeological) museum, however good the intention may be, therefore raises a number of questions. Is this really what the Afghan people want? Is this what they need? Is it not possible to spend allocated funds in a different and better way? Is the rebuilding of the Museum not part of the foreigners’ wish list accompanied by Western-orientated leaders who want to give priority to the rebuilding of the Museum?

It is remarkable that the ethnological collection of the National Museum almost entirely survived the civil war as well as the Taliban regime. This is of course not without reason. The surviving objects do relate more directly to the lives and customs of the average Afghani, therefore they remained almost undamaged. It is easy to draw a conclusion from this phenomenon.

Plans have been initiated by independent experts regarding the possibilities for the establishment of an Ethnographical Museum in Kabul. Such a Museum should focus on Afghanistan’s contemporary history presenting visi-
tors with an image of the country’s traditional and modern life using daily objects, tools, photographs etc. In short, the Museum should give the visitor an impression of Afghan identity in the context of daily life. The exhibitions on display should not only stress the differences between existing ethnic and religious groups within society, but should point more to themes such as water management, the climate, clothing and costumes, village life, etc. It seems logical that also Islam will have a prominent position within this approach.

The Museum must not function as a mere storage for old objects but has to serve as a dynamic location with changing exhibitions, workshops, lectures and a cinema. An example demonstrating these qualities is the head office of the Iranian Cultural Heritage Organization in Teheran.

It is of the utmost importance that the Ethnographical Museum will be designed, constructed and the interior decorated by Afghans themselves and they must carry out all the work since the activities concern their Museum, their culture, their country and, last but not least, their future.

The President of the intermediate government of Afghanistan, Hamid Karzai, has indicated several months ago that the establishment of an Ethnographical Museum in Kabul has a high priority. The President even suggested a particular building on the outskirts of Kabul as a possible location for the museum.

The earlier mentioned independent experts have been talking about the subject with the UNESCO representatives in Kabul; with the Afghan Minister of Information and Culture; with his deputy minister who deals especially with national museums; and with the director off all national museums in Afghanistan. Agreement has been reached on subjects such as the necessity and exact nature of a new Ethnographical Museum. The building suggested by Hamid Karzai is probably not very suitable for the museum, however this has to be determined during a fact-finding mission in the very near future. As a good alternative a complex of buildings has been allocated near the centre of Kabul. These buildings are almost undamaged, presently they are owned by the Afghan Ministry of Defence.

It is of course necessary that funding for this project has to be found. Apart from this, building up relevant expertise is very important. In late July it was agreed in Kabul that the UNESCO representation in Afghanistan will be responsible for the design of a complete plan; henceforth this plan will be presented to different potential donors in order to acquire financial support. Concerning the possible involvement of the Netherlands, conversations took
place with Dutch representatives in Kabul and Islamabad as well as with staff members at the Ministry of Foreign Affairs in The Hague.

Support for this project has to be multinational, also to prevent all kinds of chauvinistic implications.

Concerning the building up of expertise it seems easy to use several functional specialists of CIMIC who are particularly qualified for this project. Apart from this, they can offer possibilities for Afghans to take training courses to become ethnographical curators in the new museum or somewhere else. It goes without saying that funding is needed for these activities.

Possible Dutch support for this initiative cannot be seen in isolation from the general need for international involvement in the developments in Afghanistan.

In the short term a complete plan is expected regarding the Museum as well as a European round trip for the Afghan Director of National Museums.

It is highly recommended that CIMIC executes a fact-finding mission, at relatively short notice, in order to speak to all the parties involved and to examine, with the help of a qualified architect (a functional specialist from CIMIC Group North) the possible locations suggested for the Museum. CIMIC’s involvement will primarily concern the adjustment and repair of the building as well as basic training in Museum-related skills and the creation of a depot and basic laboratory with acceptable climate conditions. The exact terms of reference have to be determined during and after the fact finding.

The proposed project is 100% politically correct. The activities involved will generate a substantial amount of force protection since kick-off results will be directly visible. Splitting activities and taking part in one or more phases is simple. Sustainability is guaranteed because of UNESCO participation. For a follow-up and the transfer of knowledge, apart from the deployment of functional specialists, it is also possible to ask for the cooperation of the Netherlands Institute for Cultural Heritage (ICN).

This proposal was supported by UNESCO which also requested a fact-finding mission to be carried out by military cultural specialists from CIMIC Group North and the Afghan Academy of Sciences who addressed a separate request to the ISAF headquarters in Kabul.

26 Letter from UNESCO to the Commander of CIMIC Group North, dated April 23rd 2003 and signed by L. Levi-Strauss, Deputy Director of the Division of Cultural Heritage.
27 Letter from the Afghan Academy of Sciences dated 10 August 2002, no. 45 signed by Abdul Bari Rashed.
The plan/proposal was submitted to the Dutch authorities as well as to NATO.\textsuperscript{28} Finally, the Dutch authorities considered that the project was not in support of the Commander’s mission. Several arguments were given, such as Kabul was outside the Dutch AOR and culture has low priority.

5. IN SUPPORT OF THE MILITARY MISSION

In general it is safe to say that cultural projects in a strict military sense are not in direct support of the military mission, but they can still have a huge impact on the overall conduct of the operation and will generate goodwill and positive publicity, while at the same time respecting and meeting the commitments of the Hague Convention. However, possibilities for imple-

\textsuperscript{28} NATO did not respond and the Dutch authorities initially delayed a response and later declared that the plan was not in support of the mission. The low priority argument in the case of culture is often used when there is no specific knowledge about the Hague Convention and other relevant treaties.
military cultural experts in times of war and peace

As illustrated by the complexity of the available opportunities mentioned above, psychological factors and complications, as well as competence management, also play a role in the process of appraising the status and relevance of cultural emergency response in a military setting. The French philosopher Bourdieu\(^9\) wrote in *La distinction* that people when perceiving and appreciating culture at the same time tend to profile their personal distinction. In practice this might affect the behaviour of a military staff as well as cultural experts who have to deal with cultural matters. Some look upon cultural erudition as being a strengthening of their self-esteem whereas others with a different perception of culture are strongly opposed to involving cultural issues in actions undertaken to resolve conflict situations and the reconstruction of a war-stricken area. It seems that the only remaining choice is the one between involvement and distance. This observation supports, on a micro level, the thesis that many conflicts have a culturally determined basis derived from factors such as ethnicity, education, religion, differences in the perception of culture and, last but not least, national identity. This was demonstrated in the former Yugoslavia where numerous acts of Iconoclasm took place attempting to deprive ethnic groups of their cultural identity.\(^{30}\) Another method is to take cultural identity and to add it to one’s own group, e.g., just before the 2nd World War the Nazis defined paintings by Rembrandt as being ‘Nordic and/or Germanic’, thus forming part of German culture.\(^{31}\) In addition, there is the political use of archaeology as the Nazis practised in order to produce evidence for the evolution of a master race in Europe (Fagan 1994, B. Arnold 1992). Attempts to write history misusing archaeology were also undertaken in the late 1960s by the white settler government of Rhode-

\(^{9}\) Pierre Bourdieu 1930-2002.

\(^{30}\) See the mural in the Mattoce Monastery featured in this paper.

sia (now Zimbabwe) claiming a rather strange and false connection of the country with the Phoenicians (Fagan 1994, Garlake 1973). Recent examples of the important identity aspect of monuments and what can go wrong if such qualities are not taken into account are cases like the (re)moved statue of a Red Army soldier in the capital of Estonia, Tallinn, and the destruction of the Al-Askariyya Shrine in Samarra, Iraq, better known as the golden mosque. The Askariya shrine’s dome was destroyed on February 22nd, 2006, during bombing blamed on Sunni Muslim militants believed to be linked to al-Qaida that unleashed a wave of sectarian violence. Insurgents blew up the two minarets in Samarra on June 13, 2007.

Sometimes purely military reasons can persuade a Commander to address culture, examples being the theft of relics and artifacts from monuments and sites in his AOR, or the illicit traffic of cultural artifacts. In this light another question arises: is or should cultural affairs be a part of military intelligence? On the other side, military reasons can stop a Commander from protecting a cultural site, for instance when the ruins or other buildings provide cover and shelter for the opponents or when the monuments are located in such positions (towers etc.) that they are of strong strategic relevance.

It goes without saying that apart from all the described procedural and competence problems most countries do have a legal if not a moral obligation to put culture and cultural heritage in the curricula of military education programmes, since training on these matters is mandatory under international treaties such as the Hague Convention and its Protocols, see, for instance, the 2nd Protocol Article 30 under 3. Signatories to other treaties such as Unidroit, the UNESCO Treaty from 1970 or bilateral agreements should take obligations deriving from such treaties into account. A solution to tackle part of the problems is to make CPP an army-wide asset since there are juridical obligations. This way the ‘being in support of the Commander’s mission’ rule is less dominant.

6. THE (ILL-DEFINED) PRINCIPLE OF MILITARY NECESSITY VERSUS THE PROTECTION OF CULTURAL HERITAGE ACCORDING TO THE HC

‘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 and the buildings must go. But the choice is not al-
ways so clear-cut as that. In many cases the monuments can be spared without
detriment to operational needs. Nothing can stand against the argument of mil-
tary necessity but the phrase is sometimes used where it would be more truthful
to speak of military or even personal convenience’. General Eisenhower, De-
cember 29th, 1943

Military authorities in the US deal with cultural looting and destruction within
the framework of their more general Law of War (LOW) that of course gives
a lot of room to the ill-defined principle of military necessity. 32

[Image: London Daily Mail cartoon, March 1944, responding to German art destruction
propaganda] (Cartoon by Hingsworth © London Daily Mail)

*Figure 8.*

It is obvious that warfare changed from symmetrical to asymmetrical since
the experiences gained during World War II. However, some matters are still
the same such as snipers who take high positions in the terrain e.g. in mina-
rets like in Samarra, Iraq.

In the Second Protocol of the Hague Convention Article 11(2) states that
immunity as granted to cultural property according to Chapter II Article 8
can be lifted in ‘exceptional cases of unavoidable military necessity’. This
necessity, see also the statement by General Eisenhower, can only be estab-
lished by a commander of a force the equivalent of a division in size or
larger. This appears to be an indication of the great importance that the treaty
gives to the quality of military decision making on the subject and the quality
of advice that will influence a commander’s considerations while making
the decision. In practice the commander of force equivalent to a division will

be at least a two-star general often heading a multinational mission. From a logical point of view advice concerning withdrawing immunity has to be given by military strategic experts, military lawyers and, last but not least, cultural experts. Results of assessments and research undertaken prior to the mission should normally play a role in this. However, the development of a scenario applicable to different occasions is highly recommended. This implicates that juridical experts, both civil as well as military, should investigate and comment on the above-mentioned article of the Hague Convention also to determine if it will apply to certain situations such as events involving a commander of a force smaller than a division. Furthermore, does the treaty also provide a directive for military decision making in the case of claimed cultural property that is not (yet) on the international register? Finally, what are the legal implications if a situation in theatre unexpectedly occurs concerning the possible destruction of cultural heritage involving a smaller battle group? (see table? somewhere in text)

6.1 A case study: An example of (unintended) violation of the Hague Convention and how to prevent this


The problem is the use of so-called Hescos, which are large bags that are filled with sand/rubble to serve as barriers for military camps and fortifications. They are also known as Concertainer™ Barriers and are made by the UK Company Hercules Engineering Solutions Consortium, in short HESCO.

Cases are known where these bags were filled with deposits from archaeological sites containing pottery sherds, bones, etc. The soil in an archaeological site represents all kinds of important data that are only useful when extracted by experts from their original context.

For instance, earth layers can give information through stratigraphical data, e.g., pottery fragments can serve as an important dating tool when found in the original context of the soil. When such deposits are used to fill Hescos the context of the site is disturbed and it is very difficult or even impossible to be used for archeological research. Even worse were cases where after a complaint was made about the use of archaeological deposits, these deposits
### MILITARY CULTURAL EXPERTS IN TIMES OF WAR AND PEACE

<table>
<thead>
<tr>
<th>Hague Convention 1954 + protocols</th>
<th>Current military policies, customs, practice and regulations</th>
<th>Possible incongruities or desired additions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 3: Safeguarding of cultural property</td>
<td>Operations take place in: Area of Responsibility (AOR) Country of origin of military force and AOR in countries where a mission is taking place</td>
<td>Does Article 3 give a directive or even an obligation to prepare before a foreign mission for the safeguarding of cultural property situated within the AOR or a foreign mission, territory, etc.? Article 5: possible obligations concerning safeguarding cultural property outside country of origin.</td>
</tr>
<tr>
<td>1. The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility directed against such property.</td>
<td>AOR = mission area COM = Commander CH protection has to be in support of the COM’s mission Following NATO’s AIP-9 CIMIC doctrine</td>
<td>Is there an obligation for the military to protect CH not only in their AOR but also in the entire country where they fulfill a mission if that foreign country is a High Contracting Party to the HC? Does the UNESCO treaty give directions?</td>
</tr>
<tr>
<td>Article 4: Respect for cultural property</td>
<td>Field COM decides on all actions.</td>
<td>What is military necessity? Who decides? Who gives advice? What is a military target? Is this determined by function, location, daily use? Who determines the military value compared to the cultural value of a cultural property?</td>
</tr>
<tr>
<td>2. The obligations mentioned in Paragraph 1 of the present Article may be waived only in cases where military necessity imperatively requires such a waiver.</td>
<td>No cultural assessments or cultural military staff, since CH protection is often considered not to be a priority or is not in support of the Field COM’s mission. Military police not trained in CH matters.</td>
<td>Obviously mandatory under HC Do military customs and regulations prevail over obligations deriving from international treaties specifically HC + protocols. In case of no special military necessity urging to refrain from what is described in Article 4? In what case does a field COM’s decision prevail over international law?</td>
</tr>
<tr>
<td>Article 4: Respect for cultural property</td>
<td>Not in support of COM’s Mission following NATO’s AIP-9 CIMIC doctrine</td>
<td>A high Commander as meant in this Article in general has no cultural advisors working for him. Is such a provision mandatory under HC as stated in Article 7? NB: A J9 CIMIC advisor cannot be a substitute for this.</td>
</tr>
</tbody>
</table>

2nd Protocol of the Hague Convention Article 11(2) ... immunity as granted to cultural property according to Chapter II Article 8 can be lifted in case of ‘exceptional cases of unavoidable military necessity’ to be ordered by division Commander or higher
were replaced and dumped on another archaeological site thus causing a second disturbance. John Curtis Keeper of the Department of the Ancient Near East at the British Museum gives examples in his ‘Report on Meeting at Babylon 11th-13th December 2004’.

![Image](image_url)

*Figure 9. Military personnel preparing Hescos.*

In preparation for the meeting the three archaeologists attached to the Polish forces, Miroslav Olbryś, Agnieszka Dolatowska and Tomasz Burda, had prepared a document entitled ‘Report Concerning the Condition of the Preservation of the Babylon Archaeological Site’. As the title suggests, this document is essentially a condition report and it contains many photographs that provide an invaluable record of the state of the site in November 2004. Therefore Curtis sometimes refers to the ‘Polish Report’ also as a source to verify his observations. I will quote some segments of Curtis’ report dealing with the misuse of deposits in Hescos in Babylon.

Babylon is undoubtedly one of the most important archaeological sites in the world and was the capital city of two of the most famous kings in antiquity, Hammurabi (1792-1750 BC) who introduced the world’s first law code, and Nebuchadnezzar (604-562 BC) who built the Hanging Gardens of Babylon, one of the Seven Wonders of the World. In the report the condition of several parts of the site are investigated. They sometimes bear modern names like the Reno Gate, Warsaw Gate and Tent City.

*‘Reno Gate’*

3. To the west of the Reno Gate there is a trench c. 30 m × 10 m, up to 2 m deep, that is said to have been dug to fill conix containers (HESCO bags).
4. There are further large cuttings to the south of the barbed wire perimeter that we were not allowed to visit.

5. To the south of the Reno Gate for a distance of about 200 m the road is lined by HESCO bags that have clearly been filled with deposits from the Babylon site, containing sherds, bones, etc.

_Tent City #2_

In the northern part of Tent City #2 there is much disturbance in an area used as an ammunition store. What remains is a horseshoe-shaped berm made up of deposits emptied from HESCO bags. These deposits clearly come from archaeological contexts. Much sand, said to have been brought in from the desert, has also been deposited in this area. See the _Polish Report_, fig. on p. 31.

‘_Warsaw Gate’_

1. Outside the so-called Warsaw Gate which is in the north-west corner of the camp there are two trenches, each c. 20 m long. See _Polish Report_, fig. on p. 16. In the piles of spoil alongside the trenches there are many fragments of brick, some with inscriptions of Nebuchadnezzar.

2. About 200 m south-west of the Warsaw Gate are HESCO bags protecting an open storage area with floodlights that are filled with earth containing many fragments of brick, some inscribed … .

Around the site there are thousands of sandbags and HESCO barriers/conix containers. Originally these sandbags and HESCO barriers were apparently filled with earth scooped up from the Babylon archaeological site, and the presence of potsherds and bones in the bags is a testimony to the archaeological nature of the deposits used. I was informed that on 3rd November 2003, an order was issued requiring that the bags should only be filled with sand and earth brought in from outside Babylon, but this is in effect substituting one problem for another. By bringing in large quantities of sand and earth from elsewhere (some of these probably in themselves archaeological deposits), the deposits at Babylon will be irrevocably contaminated … . John Curtis Keeper, Department of the Ancient Near East, The British Museum.

The HESCO problem can be solved by good training also in peacetime and by including cultural experts in assessment missions prior to a military mission and by (temporarily) including military cultural experts in a mission. The problem should also be addressed in a military field guide.
7. Cultural Emergency Response and Assessment Units

The disciplines proven to be most needed and useful in relation to practical experiences33 are:

- Project managers;
- Library and archives experts;
- Archaeologists;
- Restorers of all disciplines;
- Conservators, curators;
- Trainers;
- (Police) Specialists in tracking down objects (in the case of stolen and or lost objects).

7.1 Some general ethical guidelines (as used by the Dutch CIMIC)

NB: These guidelines can (partly) be used for CH protection activities.

- As civilian as possible, and as military as necessary (guideline coming from the Dutch Ministry of Development Aid).
- The military do not undertake work that has already been started by civilians or can be done by civilian organizations. However, safety conditions have to be taken into account. It goes without saying that for Cultural Affairs this implies that activities such as excavations, non-emergency restorations etc. are strictly prohibited.
- The military consider the value of CIMIC within the balance of their own (military) mission and undertake to provide as much added value as possible when active in a civilian context.

Note that these are just guidelines coming from the Dutch perspective and especially the ‘as civilian as possible’ rule provides room for multiple explanations and should be put to the test in practice.

A very persistent problem, that I know to be an international issue as well, became manifest. Some of the CIMIC branches, especially Humanitarian Affairs34 are confronted with serious criticism from NGOs, International

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33 Based on my personal experiences as a network manager/coordinator for CIMIC missions in Iraq and Afghanistan and two trips to Iraq to assess the CIMIC situation.

34 A CIMIC branch like Humanitarian Affairs is closely monitored by civilian counterparts working in the same field. Since there are many more active organisations, the competition is greater compared to the cultural branch.
Organizations (IOs) and decision makers within ministries of development aid/foreign affairs. NGOs consider military emergency aid to be false competition. Furthermore, they claim that (already earmarked) money is used that was originally meant to be spent on NGO activities. Another complaint is that NGOs can operate more economically than the military. I do not want to make a judgment on all CIMIC disciplines, but the arguments raised by opponents are not valid in the case of Cultural Affairs. There are only a limited number of civilian organizations dealing with cultural heritage protection and on several occasions (Iraq, Afghanistan) these organizations have asked for the assistance of militarized experts since they could not go in themselves due to security conditions. On the other hand, military experts should not stay in theatre longer than necessary and should hand over their activities and project information to civilian organizations or succeeding militaries before leaving.

8. **Why should NATO deal with culture?**

In theory, NATO would be an ideal organization to house and support a militarized cultural emergency team. International treaties such as the 1954 Hague Convention and its protocols require that institutions like NATO and the EU bring in expertise concerning cultural heritage protection in times of armed conflict in their organizations. In the case of NATO, this task could fall more or less naturally to the department of Civil Emergency Planning (CEP), in particular the Senior Civil Emergency Planning Committee (SCEPC). There is also a related military intelligence element, especially in the case of the illicit traffic of artifacts. In addition, NATO’s Allied Command Transformation (ACT)\(^\text{35}\) should include cultural heritage protection in its programme and in the curriculum of the NATO school in Oberammergau.

Since many countries are members of NATO, the possibility of locating and recruiting militarized cultural experts is potentially great. Furthermore, the NATO CIMIC (Civil Military Cooperation) AJP-9 doctrine seems designed to enhance the implementation of Cultural Affairs: responsibility for providing advice on cultural heritage issues to military planners and commanders of NATO forces lies with CIMIC/CA or in the future with the entity

\(^\text{35}\) ACT’s mission statement includes the following goals: ‘Improve military effectiveness and interoperability’ and ‘Support Alliance operations.’
described as the centre of expertise and liaison, see the chart further on in this chapter.

In the field, the deployment of military cultural experts (if in the CIMIC context) must be in support of the commander’s mission. This is based on NATO CIMIC doctrine AJP-9, wherein CIMIC (known in the United States and United Kingdom as Civil Affairs, or CA) is defined as:

‘The co-ordination and co-operation, in support of the mission, between the NATO Commander and civil actors, including national population and local authorities, as well as international, national and non-governmental organizations and agencies.’

The AJP-9 doctrine provides room for multiple interpretations. The phrase ‘in support of the Commander’s mission’ could mean in the actual area of the deployment of a battle group, e.g., Al Muthanna (Iraq), or in a wider context in support of the mission in a whole country, e.g., the NATO commander’s mission in Afghanistan. It can be argued that cultural activities, including tourism and the creation of national identity, are of benefit to the whole country and should be protected. The NATO doctrine is useful as a reference since, although all the countries involved in Iraq and Afghanistan have vastly different military and civilian structures, they are mostly NATO members, including the United States, and should therefore comply with the doctrine.

However, each of these approaches is problematic. A major problem with getting NATO\(^{36}\) involved in cultural heritage protection is the fact that member states such as France oppose the idea of creating and developing special expertise aimed at reconstruction and stabilization processes during and after missions within NATO. Their main argument is that such expertise should be implemented by the Rapid Reaction Force (RRF),\(^{37}\) the EU’s first mili-

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\(^{36}\) In NATO, I see an extraordinarily valuable emergency management capability that is being underutilized. I believe that this is due to the lack of civil-military cooperation, coordination and planning at NATO: FEMA Director Paulison speaks at NATO on the importance of civil-military cooperation. Release date: November 16, 2006. Release number: FNF-06-017.

\(^{37}\) The Rapid Reaction Force was set in motion by the French and British. Despite some reservations by non-NATO members, EU leaders agreed at the Helsinki summit in December 1999 to establish the RRF for peacekeeping, crisis management, and humanitarian and rescue work.
tary initiative.\textsuperscript{38} Therefore, initiatives not coming directly from member states are currently not discussed within NATO.

### 8.1 Opportunities following the NATO CIMIC AJP-9 Doctrine

The following are excerpts from CIMIC doctrine and how they could apply to cultural affairs.

<table>
<thead>
<tr>
<th>CIMIC Doctrine</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>‘CIMIC activities form an integral part of the Joint Force Commander’s (JFC) plan, are conducted in support of his mission and are related to implementing the overall strategy and achieving a stable and sustainable end-result.’</td>
<td>For Cultural Affairs this means that planners and commanders have to be made aware of the importance and value of CI. One can point out the economic impacts of tourism, the unifying effect on national identity, security concerns related to illicit trafficking and the generated funds for insurgents. In addition, the obligations for the military deriving from international treaties and other documents such as the Hague Convention and protocols. A commander (COM) can only determine if CI protection is in support of his mission if he gets all the information needed about the cultural situation in his AOR to make a decision. The COM must be trained and counseled in matters related to culture to interpret this information.</td>
</tr>
<tr>
<td>‘The Commander’s CIMIC staff are fully integrated into his Headquarters (HQ) and have full vision of and are authorized to coordinate CIMIC activities in the Joint Operations Area (JOA), theatre or region.’</td>
<td>In this case, an international military cultural heritage experts team or individual experts should temporarily be added to a COM’s CIMIC or CA staff with a reach-back capability outside of theatre. In other words the experts are lent out by their ministries of defense or an organization such as NATO following requests and make use of a (virtual) back office of civilian experts that can supply additional and more specific information if needed.</td>
</tr>
<tr>
<td>‘In co-operating with a potentially wide range of civilian bodies, NATO forces will, as far as possible and within military means and capabilities, accommodate and support the activities of these bodies, providing this does not compromise the mission.’</td>
<td>If the situation permits it and civilian experts are available, it is recommended to have them on the ground instead of militarized or military experts.</td>
</tr>
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\textsuperscript{38} Example: ‘We cannot accept an institutional structure that allows NATO exclusivity in matters of security, while at the same time confining Europe to a permanent secondary role. We don’t want a division of roles that leaves the strategic direction of operations in American hands, and European forces facing the task (and the risk) of carrying them out on the ground. The principle established in Berlin in June 1996 permitting the Western European Union (WEU) to use the resources of the alliance to carry out European operations under its own direction should be put into effect.’ Source: Paul Quiles, a deputy from Tarn in the French National Assembly is president of the Commission on National Defense and the Armed Forces. An interesting link to this is Foreign Minister Hubert Vedrine’s speech to the North Atlantic Council in Brussels on December 8, 1998.
9. **In Theatre**

A situation similar to what happened in Iraq can occur, i.e., military from a certain country redeploy before the situation is stable enough to hand over to the proper civilian bodies and agencies. This was the case when the Dutch Battle Group, after a political decision, left its AOR (Al-Muthanna province) in Iraq. At this moment the CIMIC cultural experts who had not yet finished their job had to leave as well. Procedures have to be developed to properly hand over cultural rescue activities if such events occur. The founding of an international civil liaison agency (to maintain contacts with the military also in peacetime) for cultural emergency response either within or without the CIMIC framework may help out in such matters.\(^\text{39}\)

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\(^{39}\) The creation of such an office is recommended by the Amman Euromed Heritage workgroup as well as (for Iraq) by the Unesco ICC Committee.
Another permanent subject of discussion is the relative high ranking of Functional Specialists. There are two main reasons for this: first, pay is directly connected with rank. This means that, in practice, in order to be able to recruit highly qualified civilian experts representing various domains they must be paid a corresponding and reasonable salary, while still being considerably less than their standard civilian income. Their rank must therefore be of a certain level. Secondly, in order to be able to properly negotiate in the field with governmental officials, higher foreign military officers and international organizations and the like should have a representative (high) rank in order to be taken seriously. Opposition against this level of ranking occasionally comes from career soldiers. Mostly arguments focus on the problem that foreign military cannot see that the high ranking officer is a functional specialist who is not equally equipped and trained to act in military emergency situations if they occur, whilst the (foreign) military of lower rank expect the officer to act and take command. This can be avoided by sending out Functional Specialists in the field accompanied by at least one professional colleague being normally of lower rank but acting (by mutual agreement) as a so-called functional superior during the field assignment. Strangely enough, such problems do not seem to exist with military medical staff and legal experts, probably because these militarized experts have long proven to be necessary in the army, whereas cultural officers and their expertise are a relatively new phenomenon.

10. Cultural capital

As has been stated in the literature (e.g., Bourdieu, De Swaan a.o.) there is such a thing as international as well as national cultural capital. In other words, cultural assets like natural resources and available expertise can be essential elements of a civil society’s economy. Both income (foreign currency) and labor are generated through tourism. On the other hand, there is also a more abstract added value, for instance linked to national and ethnic identity, as illustrated by events in Iraq and former Yugoslavia. One can see that the cultural identity of a nation is disrupted by the damaging and removal of heritage representing the cultural and historical identity of such nations. Rival factions address and (mis)use Cultural Heritage in sometimes contradicting ways and from different backgrounds and interpretations (in Iraq for instance Shiia and Sunni), even on some occasions causing the loot-
ing of their own country’s cultural heritage. Regrettably enough, initiatives for international conferences on sustainable tourism in Iraq have been suspended for security reasons.\footnote{See \texttt{<www.Columella.co.uk>}.}

Nevertheless, it must be emphasized that the safeguarding and preservation of all monuments and objects must be given high priority especially for the benefit of future generations. Outbursts of modern iconoclasm must be stopped in time through professional intervention. Of course there is also a more abstract value to cultural capital since individuals strive to increase their personal cultural capital in order to enrich themselves intellectually. At the same time CH objects such as archives are not only economic assets but represent both the identity and memory of a nation.

In this context the question posed by Eric Foner\footnote{Eric Foner, \textit{Who owns history?: Rethinking the past in a changing world} (New York 2002).} – ‘who owns history?’ – can be supplemented with ‘who owns cultural heritage’?

An example of what can go wrong with libraries and military is the following recent case that took place in Baghdad\footnote{Sources: email from Jeff Spurr, Harvard University, to the author dated August 8th, 2007; letter to Spurr from Saad Eskander, Director of the Iraqi National Library and Archive, dated August 8th, 2007, Looting Fear as Iraqi State Library Seized, in the Guardian on August 10, 2007.} on August 8th 2007.

According to the Director of the Iraqi National Archives and Library (INLA) a group of Iraqi national guards broke into the National Library and Archive’s main building.

In doing this they violated the instructions of the Council of Ministers, which clearly assert that Iraqi security and armed forces cannot enter any state-run institution without the prior approval of the government and the concerned authorities.

The national guards acted without consulting the director, Dr Saad Eskander, and entered the building by force. Because there was a 4-day curfew period, the director was not able to go to the INLA to speak with the INLA’s own guards, who did not know how to react. Dr. Eskander talked to the commander of the national guards by phone, asking him to leave the building immediately. He refused to evacuate the building, claiming that he had orders from his superiors and the Americans to occupy the INLA. The commander also stated that the national guards wanted to protect Shi’i visitors to the holy shrines of al-Kadhimiyyah, which is situated 30 km from the
INLA. Apparently, according to Dr. Eskander on Monday (6 August), a US military patrol entered the INLA’s main building also without his permission. The commander of the patrol interrogated the INLA’s guards and ordered them to show their IDs. In July, US soldiers entered the INLA three times. Obviously the actions of US soldiers have encouraged Iraqi national guards to do the same, i.e., entering and then occupying the building by force.

US authorities in Baghdad were contacted indirectly with the request to stop the violations and the unlawful actions of both US soldiers and Iraqi national guards against the INLA and its staff but showed no interest in the matter according to Dr. Eskander who asked for support from his international colleagues asking them to protest against the matter to all the authorities.

This is an example of a situation that can occur when there is no or bad communication between military, governmental and civilian parties. First, there is the fact that apparently Iraqi militaries use their US colleagues as an excuse to achieve their own goals, in this case involving cultural property. Secondly, both the US and Iraqi military violated the Hague Convention by invading the cultural property mentioned; third, no Military Necessity was apparently proven. The only excuse was the protection of Shi’i, but this was not very likely considering the distance from the holy shrines; probably there was a strategic interest concerning the building or the status of the INLA’s own guards. However, matters could have been solved through good liaison with the US militaries. It is remarkable that in this case a situation arises where cultural heritage matters are mixed with ethnical and religious as well as military matters. This shows the complexity of CH protection and how important it is to organize training and develop procedures and good contacts already in peacetime.

11. PERCEPTION OF CULTURE, EXAMPLES FOR TRAINING THE MILITARY

For people not trained in cultural matters it can be difficult to distinguish objects and make a proper first determination. It would be one of the major tasks of an international cultural coordination and liaison centre to provide commanders with information on objects in their AOR, preferably on request. A typical example of two objects that are difficult to determine for non-experts and that I used for training militaries is the following:
At first glance both pictures look damaged but actually the one on the right is an important work of modern art by Marcel Duchamp made in 1940\(^{43}\) whereas the other is a historical mural representing a Christian saint from the Matrice Monastery in Macedonia (FYROM). This piece was damaged with graffiti by soldiers from the UCK, an Islamic militia of ethnic Albanians in order to deprive their orthodox Christian opponents of their cultural and religious identity. Note the fact that the soldiers, most likely not trained in art, used graffiti derived from Western mass-culture (Ray Ban sunglasses, football trophies, and Diego Maradonna).

The picture on the right seems to be Leonardo da Vinci’s Mona Lisa but is actually a creation by Marcel Duchamp. This artist’s aim was to attack the eternal values of Western culture. Through Duchamp’s rather iconoclastic act the famous smile of ‘la Joconde’ is now hidden behind a moustache and

\(^{43}\) Duchamp made a first version in 1919. The moustache and chin-tuft were added on a reproduction with lead pencil, 20 × 12, New York, private collection. This version from 1940, 19 × 12, Rotterdam, Museum Boijmans Van Beuningen, was part of his ‘ready-made’ suitcase project.
MILITARY CULTURAL EXPERTS IN TIMES OF WAR AND PEACE

chin-tuft. So we have one work of art not damaged and one that is damaged and representing the cultural identity of an ethnic group.

CIMIC CuA offered to restore the damaged mural by removing the graffiti and putting on a non-intruding protective layer that would facilitate removing graffiti if it would be applied again. But the party responsible for the mural saw it as excellent PR and asked us not to restore it until a peace agreement was signed. For the moment they were quite happy with their new mural that made a powerful statement, as did the Mona Lisa of Marcel Duchamp when it was exhibited for the first time.

How does one deal with situations like these where art is (mis)used as propaganda and how can the military recognize cultural objects, give a basic iconographic description, and assess the possible damage? Training is needed on different levels as well as putting militarized cultural experts in theatre. Furthermore, the creation of a guide for Militaries containing basic instructions on how to handle cultural heritage and other practical information is necessary. The US Civil Affairs recently published such a guide for US service personnel. A European version will be most welcome, maybe extended with basic determination forms; last but not least an Arabic version is indispensable. At this stage I am working together with the Netherlands Red Cross and the Netherlands Defence Academy in order to realize this within a reasonable time frame. The Dutch Military Police (Marechaussee) have shown a first interest in this guide.

The most recent development is an US initiative for Iraq and Afghanistan. The Defence Department sends decks of playing cards to troops in Iraq – this time showing some of the country’s most precious archaeological sites instead of the most-wanted former regime officials. Some 40,000 new decks of playing cards will be sent to troops in both Iraq and Afghanistan as part of an awareness programme so that troops can help preserve the heritage of those countries, It is aimed at making troops aware they should not pick up and take home artifacts and to avoid causing damage to historic sites, such as an

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44 He desecrated the piece by giving the Mona Lisa a moustache thus declaring her a man and through the letters in the centre. Duchamp’s aim was not simply the effect of alienation, he also wanted to demonstrate that a commonly known icon could be totally changed through adding or removing something. The result is not plain nonsense but multi-interpretation and alienation of an object (Leiniz 86).

incident after the 2003 invasion of Iraq when US troops built a helicopter pad on the ruins of Babylon and filled their sandbags with archaeological fragments from the ancient city. Each card in the deck shows an artifact or site or gives a tip on how to help preserve antiquities. 46

![Image of troops in Iraq](image-url)  
*Figure 12. Iraq: Uruk (Warka) September 2003. Dutch Patrol with cultural experts. Photograph by Joris D. Kila.*

12. **INTERAGENCY COORDINATION AND EMERGENCY RESPONSE**

An interagency coordination bureau must be established to create and maintain contacts and working relationships with the military. This office should also initiate training by civilian heritage experts and the military and should direct an international militarized cultural emergency response unit. The bureau can operate independently but also assist the ICBS or a nominated commissioner-general for cultural property in emergency situations.

The organizational structure could be as shown in Figure 13.

13. **RECOMMENDATIONS**

That being said, I advance the following as a list of recommendations for military forces, policy and decision makers and juridical experts to take into

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consideration for the better protection of cultural heritage in future and existing conflicts:

- NATO member states should request that NATO implements Cultural Heritage protection as a multinational asset.
- Field experience shows that Cultural Heritage protection is necessary in different phases of a conflict, including the early stages.
- An interagency coordination bureau must be established (see the organigram).
- It has yet to be determined whether Military Cultural Heritage protection experts can also be active during peacetime to respond to emergencies, such as major natural disasters.
- An Arabic version of a basic guide on cultural heritage must be developed as well as a guide for European soldiers. Preferably, this should happen in cooperation with civilian organizations.
- Organizations such as NATO and the EU should create Departments of Cultural Heritage and should work together with UNESCO.
- Cultural Heritage protection should be organized and embedded army wide not in CIMIC.
- If there is no separate assessment cultural heritage protection experts should always be included in a CIMIC/CA assessment mission. Whenever possible, an assessment mission should be executed. Ongoing
aerial assessments utilizing helicopters should be carried out, considering that they have proven to be especially important in preventing looting.

- Joint field exercises and training, especially for high-ranking officers and planners, are necessary.
- Lessons learned from Iraq and Afghanistan must be shared and read by planners. The same can be said for past field experiences, especially in relation to World War II and the MFA&A officers and the Soviet Trophies brigades.
- A UNESCO medal or something similar should be created to make cultural heritage protection more appealing to the military.
- UNESCO should have someone assigned to deal with military matters and to act as a liaison with the military and military organizations such as NATO and military academies.
- An international survey has to be carried out to create a register of experts in the military who have studied art history, archaeology, anthropology, cultural sciences, and other relevant disciplines.
- After the military mission, cultural heritage matters must be properly handed over to local authorities, NGOs, or follow-on forces, as appropriate.
- The possibility to nominate a commissioner-general for cultural property should be revived and further developed in collaboration with the President of the International Court of Justice and UNESCO.
- Cultural Heritage protection has to be treated differently or function separately from CIMIC branches since its activities are mandatory under international treaties and not only in support of a (commander’s) mission. There are continuous CH activities, e.g., training and research in peacetime.
- If possible use should be made of members of certain tribes linked to the site as guards; it is often easy to check with former excavation concession holders (museums, universities, etc.) if there was any affiliating during peacetime with certain people.
- A permanent department for CH matters within European armed forces including the RRF must be created.
- Ministries of Defence should create separate sections to deal with Cultural Heritage protection following the Hague Convention and other treaties and co-ordinate and provide training on this subject. Such sections must be able to act independently from CIMIC/CA if needed and
should provide advice for Land Forces, the Navy, the Air Force and the Military Police. Such a section should be led by an expert educated in archaeology, art history and law who have gained field experience and must have an international network and credibility.

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Chapter 9

Dissemination of the 1954 Hague Convention and the 1999 Second Protocol: Embedding cultural property protection within the military

Joris D. Kila*

All truth passes through three stages. First, it is ridiculed. Second, it is violently opposed. Third, it is accepted as being self-evident.1

1. Introduction

Preceding the symposium organised by the Dutch Ministries of Foreign Affairs, Education, Culture & Science and Defence to mark the tenth anniversary of the Second Protocol to the 1954 Hague Convention, the Ministry of Defence organised a seminar on ‘Cultural property protection in the event of armed conflict’.2 This can be considered as a contribution to the Netherlands’ obligation concerning dissemination of the 1954 Hague Convention3 and the 1999 Second Protocol.4 Organised by the Operational Preparedness Department (DAOG), the Ministry emphasised the importance and relevance of cultural property protection (henceforth: CPP) for military operations. The seminar’s overall theme was the legal basis for and different aspects of CPP (and cultural property as such) as seen from both Dutch and international military perspectives. Participants concluded that it is vital to diffuse CPP expertise throughout the armed forces, as otherwise military organisations and

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1 Arthur Schopenhauer.
2 Internationally renowned experts from different countries, such as Austria, the Netherlands, the United Kingdom and the United States, presented the activities and views of their countries’ militaries on the subject. Other participants included military and civilian representatives from China, Denmark, France, Germany, Iran, Israel, Japan and Poland. Topics discussed and analysed ranged from the origins of the growing interest in cultural property protection (CPP) to the increasing awareness of its importance. The seminar adopted several recommendations.
3 Article 25, Dissemination of the Convention.
4 Article 30: Dissemination.


To grasp the complex issues surrounding CPP, such as the wide range of interests at stake, different cultural backgrounds, types of expertise, and religious, scientific, social, ethnographic, political, historical, philosophical, legal, ethical, sociological and linguistic considerations, a number of key issues will be identified and addressed:

- The importance of CPP, especially for military organisations;
- The relationship between CPP and the Comprehensive Approach;
- The advantages of implementation of CCP by the armed forces;
- The activities of national and international organisations and countries in this field.

2. The importance of CPP, especially for military organisations

At present nations, peoples and groups seem increasingly driven to define or reaffirm themselves as distinctive entities. This creates a complex of tensions, in which a sense of identity is central and conflicting processes of identity formation and maintenance by other nations and groups also play a role. Protection and destruction of cultural property\(^5\) are both part of these processes. Recent armed conflicts (as in Yugoslavia, Iraq and Afghanistan) and especially intrastate conflicts have the feature in common that they are culturally conditioned or even determined. In some cases the parties deliberately try to destroy or damage their opponents’ material or other expressions of identity. We have seen clear examples of this in former Yugoslavia – the destruction of the Mostar bridge and of the Sarajevo library, for instance – and in Afghanistan. Such acts are sometimes referred to as a kind of rape. The term ‘rape’ is often used in contemporary literature on CPP and looting, as in ‘the rape of Europe’ (the destruction of cultural property during the Second World War) and ‘the rape of Mesopotamia’ (Iraq).

This explains why military organisations should deal with CPP. The fact that cultural property can be a driving force behind human identity, history, progress and in some cases economies makes CPP a matter of strategic importance for belligerents and subsequently for military peacekeeping and stabilisation operations. As mentioned above, many conflicts have a cultural dimension: one side aims to destroy its opponent’s cultural heritage as a means of undermining its identity. Looting, stealing and trafficking in cultural artefacts during a conflict or in its immediate aftermath, as seen in World War II, has re-emerged as a side-effect of conflict in countries such as Iraq and Afghanistan. Accordingly archaeological sites and premises like museums, archives, libraries and monuments must be protected. Cultural property can be more effectively protected during conflicts through military channels and with military logistics and tools, especially when the security situation does not allow civilian experts to be deployed and civilian agencies like the police are no longer able to act.

CPP in time of conflict requires prior national and international preparation in peacetime. Apart from the peacetime obligations laid out in the 1954 Hague

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\(^5\) The term ‘cultural property’ is used here as defined in Article 1 of the 1954 Hague Convention.
Dissemination of the 1954 Hague Convention and the 1999 Second Protocol, however, CPP means protecting cultural property during military operations. During such operations cultural property can be exposed to possible damage inflicted by a country’s own forces or by plunder and theft by local populations, criminal networks or opposing militant forces (OMF).

The use of Hescos without consulting a CPP expert is an example of how damage can be inflicted, sometimes unintentionally, by a country’s own forces. Hescos are large containers filled with sand or rubble that serve as barriers for military camps and fortifications. There are cases known in which Hescos were filled with deposits from archaeological sites containing pottery fragments, bones etcetera, possibly in violation of the 1954 Hague Convention or the 1999 Second Protocol. The soil in an archaeological site contains a range of data that is only useful when extracted by experts from their original context. For instance, layers of earth can yield information through stratigraphic data; pottery pieces in particular are an important dating tool. When Hescos are filled with such deposits, the context of the site is disturbed and it becomes very difficult or even impossible to do archaeological research. Even worse are situations where, after a complaint is made about the use of archaeological deposits, these deposits are replaced and dumped on another archaeological site, thus disturbing the context at a second location.

As mentioned above, trafficking in and looting (often commissioned) of artefacts in war-stricken areas and the plunder of archaeological sites are often practised by OMF. Just as often, however, these practices are driven by economic motives. In the case of Uruk, the economic incentive was neutralised by Dutch military experts’ offering modest payments to local guards. The whole complex of looting, theft

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6 See Articles 3 and 4 of the 1954 Hague Convention on safeguarding and respecting cultural property and on preparing in peacetime to safeguard cultural property within a country’s own territory as well as within the territory of other States Parties.

7 Sometimes referred to as insurgents.

8 Also known as Concertainer™ barriers, these were originally produced by the UK company Hercules Engineering Solutions Consortium (HESCO).

9 See Articles 3 (Safeguarding of cultural property), 4 (Respect for cultural property), 5.2 (Occupation) and 7 (Military measures) of the 1954 Hague Convention, and Articles 5 (Safeguarding of cultural property) and 9 (Protection of cultural property in occupied territory) of the 1999 Second Protocol.


11 Uruk – its modern name is Warka – is situated in the former area of responsibility of the Dutch military forces in the province of Al Muthanna It is one of the oldest cities of South-Mesopotamia situated at a branch of the Euphrates River approximately halfway between Baghdad and Basrah in Iraq. Uruk appears in the Bible as Erech. Already from 5000 BC people inhabited the site. The most important period in Uruk’s history was the era between approximately 3400 and 2800 B.C, the time of the so-called ‘high civilisation’. The site of Uruk was discovered in 1849 and excavations have meanwhile exposed part of the city.

and smuggling of artefacts is market-driven and based on the rising international
demand for antiquities. Since there is a finite supply of objects offered for trade,
any increase can only come from illicit sources.\footnote{Patrick O’Keefe, *Trade in Antiquities: Reducing Destruction and Theft* (Paris, UNESCO: 1997).} Buying objects from such sources encourages more theft and pillaging and helps finance the conflict. In this context, CPP is a way of denying resources to the opposing forces.

The 1999 Second Protocol is much more concrete in addressing a range of mili-
tary-related aspects as well as dissemination. This makes proper training and aware-
ness-raising for armed forces with regard to the 1954 Hague Convention and its
Protocols even more indispensable.

In an effort to improve the protection of cultural property, the US currently
uses a small pocket guide with instructions on how to recognise certain cultural and
archaeological objects. There is also a Civil Affairs Arts Monuments and Archives
Guide issued by the US Department of the Army.\footnote{US Department of the Army, *Civil Affairs Arts Monuments and Archives Guide*, March 2005.} The Netherlands, like the US,
has given out decks of CPP playing cards as a tool in training military personnel for
peacekeeping or peace enforcement missions abroad.

The first on-site training for military personnel took place June 2009 in Saqqara,
Egypt, and was a joint Dutch/US initiative. More such training exercises are planned
in Egypt during Bright Star\footnote{A major military exercise that takes place in Egypt every two years.} and in Petra, Jordan.

3. The relation between cultural property protection and the
Comprehensive Approach

The aim of a military operation is to reach the ‘end state’, which generally means
the establishment of a sustainably safe and secure environment. Economic, legal and
political systems that can function without external military assistance are indis-
pensable elements of such an end state. Realising it demands a ‘Comprehensive
Approach’.

What is the Comprehensive Approach? To quote former NATO Secretary-
General Jaap de Hoop Scheffer: ‘A comprehensive approach fosters cooperation and
coordination between international organisations, individual States, agencies and
NGOs, as well as the private sector. Developing such a culture of cooperation is not
going to be easy. We are all attached to our own ways.’\footnote{Speech held during the “Defence Leaders Forum”, Noordwijk aan Zee, the Netherlands, 23 April 2007; file in possession of the author.}

The Dutch Joint Doctrine Bulletin on Provincial Reconstruction Teams states
that the essence of the Comprehensive Approach is the realisation that conflicts
cannot be resolved by military means alone. Since most conflicts have non-military
causes, the use of different types of intervention is necessary. As development and
security are closely interconnected, safety, reconstruction and good governance must
be approached in tandem. Development cooperation and military and diplomatic
activities should be integrated. This means that the military contribution to crisis management operations must be combined with diplomatic efforts and development cooperation, in the so-called ‘3D strategy’ (Development, Defence and Diplomacy). The Dutch armed forces are currently using a second generation of this 3D concept, focusing on four areas of concern: security, politics, and social and economic well-being.

Due to its complexity, CPP can by definition only be effectively implemented in a multidisciplinary and consequently joint, inter-agency manner. An effective CPP strategy stimulates reconstruction efforts in a conflict zone as well as stability in the post-conflict phase. In general, local populations have special ties with their country’s cultural property, which often symbolises for them the glorious past or at least better times. In addition, cultural property is frequently an economic factor, which has a positive effect on political, social and commercial (e.g. tourism-related) aspects of reconstruction, thus furthering local stability.

4. Advantages of the implementation of cultural property protection by the armed forces

Little attention was paid to CPP in the immediate aftermath of World War II. The expertise developed by the Allies during the Second World War had been allowed to be dispersed. The subject had no priority within their respective defence organisations, CPP in the event of armed conflict only resurfaced on the Dutch agenda in 1958, when the 1954 Hague Convention was ratified. Obligations for State Parties to this Convention range from organising risk preparedness and training to actual protection of cultural property during operations. The 1999 Second Protocol widened these obligations.

After the Bamiyan Buddhas were destroyed by the Taliban in 2001, the protection of cultural heritage and its legal and ethical mainsprings gained renewed international attention. When the National Museum in Baghdad was looted in 2003 following the invasion of Iraq, the US experienced not only how important CPP can be as a ‘force multiplier’ but also how lack of CPP can strengthen the opposing military forces and generate negative PR for the occupying force, thus undermining public acceptance of its presence. The only positive effect of the 2003 cultural debacle in Iraq was an increase in international attention to CPP. If implemented correctly, preferably as part of a comprehensive approach, CPP can be an impediment to illicit traffic in artefacts and a stimulus for economic growth, stability and public acceptance of a military presence.

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17 ‘A capability that, when added to and employed by a combat force, significantly increases the combat potential of that force and thus enhances the probability of successful mission accomplishment.’ US Department of Defence, Dictionary of Military and Associated Words, 2003.

18 Thousands of archaeological sites and several monuments, museums, archives and libraries were looted and in some cases destroyed.
The seminar in The Hague and recent publications\textsuperscript{19} support the thesis that from a military perspective, CPP can contribute substantially to an operation's success. Its multi-agency and multidisciplinary character makes it highly suitable for implementation within the Dutch Comprehensive Approach (3D) or any other comprehensive strategy. It should be noted that experience shows that CPP is necessary during all phases of a conflict or operation; most of the damage is done at the beginning of a conflict.

When Dutch troops are involved in conflicts or deployed for peacekeeping or peace enforcement missions, they generally have to work in areas where the culture is different from their own. Their operational environment will in such cases include these cultures' material representations. The military have to be prepared for this on all levels, both individually and as a group. The 1954 Hague Convention and the 1999 Second Protocol can only be correctly interpreted by a commander who has some understanding and knowledge of these legal instruments and of CPP. This knowledge can also be provided through special CPP advisers or officers, providing the armed forces have such capabilities or are willing to create them. Under all circumstances continuous research and training is needed, since CPP is not a static subject; new developments take place and should be monitored and analysed. Sufficient financial means should be available for this in the defence budget and in the state budget more generally.

5. Cultural property protection from an international perspective

Internationally no doctrine has been developed concerning CPP in times of armed conflict. NATO has laid out some provisions and procedures through its Joint Doctrine for Environmental Protection during NATO-led Military Activities but these are not embedded or codified in any domain or Operational Planning Process. It has however become clear that international cooperation is necessary. Both financial and human resources are too scarce for any individual country to be able to provide a solution on its own. Cooperation is more efficient and less costly. Training and lecturing, the development of training tools, joint exercises, special training \textit{in situ} and joint assessments are all areas in which cooperation yields shared benefits.

CPP can strengthen the international rule of law and contribute to a positive image of the country implementing it. On the other hand, a poor CPP policy can create or reinforce a negative image. The fact that international public opinion (rightly or wrongly) has identified the US as the party most responsible for the destruction of cultural property in Iraq, and condemned it for violating international instruments on CPP, is a clear example. Images broadcast by CNN showing the looting of the National Museum in Baghdad had a great impact on international

opinion, giving the US a reputation as a destroyer of cultural property; it will take years to change this image.

Since the US ratified the 1954 Hague Convention in September 2008, however, many CPP activities are being conducted by it. Currently the possibilities are being studied of expanding activities like training and of embedding capabilities in the Department of Defence (DoD), starting from its existing environmental and legacy programmes and the archaeologists and other experts it already employs. Civil Affairs training courses focusing on museums and art are also being given. CPP experts can already be found in all the services. Examples of CPP activities include the DoD Legacy Resource Management Programme, the Cultural Resources Programme in the Environmental Division, and the Integrated Training Area Management Programme in the Directorate of Plans, Training, Mobilisation and Security. The Central Command has a Historical/Cultural Technical Working Group and the US is represented in the newly established International Military Cultural Resources Working Group (IMCRWG). The DoD works closely with the University of Colorado, and the US aims to join in international cooperation on CPP. Currently a CPP in situ training course is being conducted in Egypt in cooperation with an expert from the Dutch Ministry of Defence.

Other states are also active in the field of CPP. The UK has expressed the intention to ratify the 1954 Hague Convention and its Protocols in the near future. The British Ministry of Defence is now preparing to create military CPP capabilities, and has asked the Netherlands for advice. A first major project of the British Ministry is supporting the creation of a museum in Basra, Iraq. Professor Peter Stone\(^{20}\) is advising the Culture, Media and Sport Committee of the British Parliament and will draw on the outcomes of the seminar held in The Hague before the symposium on the 1999 Second Protocol.

In Austria the subject of CPP is already firmly on the agenda. Cultural Property Protection Officers (CPPO) are deployed in all branches of the armed forces. CPP is fully integrated into training and planning. The highest ranked CPPO is a Brigadier General in the Ministry of Defence. Currently civil and military experts are preparing to establish a scientific institute in Vienna dedicated to research and PhD programmes on CPP in time of conflict. The newly founded Association of National Committees of the Blue Shield (ANCBS), though it has its main office in The Hague, is also represented in Austria.

In the 1960s the Italian Ministry of Education secured the establishment of a special unit of the Carabinieri (military police) charged with the defence of the country’s palaeontological, archaeological, artistic and historic heritage. This unit, later known as the Comando Carabinieri Tutela Patrimonio Culturale, has been very active in Iraq. Rome also hosts the World Association for the protection of Tangible and intangible Cultural Heritage in times of armed conflict (WATCH),\(^{21}\) an NGO with an extensive network of stakeholders in the Middle East and Mediterranean countries.

\(^{20}\) Chairman of the seminar on CPP and military operations held in The Hague.

\(^{21}\) See www.eyeonculture.net.
Estonia organised a major conference on CPP in February 2008 in Tallinn. A Memorandum of Cooperation on CPP has been signed by the Estonian Ministries of Culture and Defence.\(^2\)

In the Netherlands, following the seminar organised by the Dutch Ministry of Defence in The Hague, a report was prepared containing recommendations for the way ahead. This report, advocating a dedicated CPP capability within the Ministry of Defence, has been presented to the Chief of the Dutch Defence Staff. A response is expected towards the end of 2009. CPP playing cards for Dutch troops deployed abroad have been developed by the Ministry of Defence in cooperation with the National UNESCO Committee, the Cultural Heritage Inspectorate and the Ministry of Education, Culture and Science.

6. The distinction between cultural property protection and ‘cultural awareness’, including Human Terrain Systems

The process of raising awareness of the 1954 Hague Convention and of getting CPP implemented by the military involves facing multiple organisational, bureaucratic, political, corporate, cultural and ethical challenges.

Currently there is an international discussion developing about ethical issues raised by anthropologists, archaeologists and art historians working within or with the military. The discussion regards the so-called Human Terrain Systems (HTS), a United States Army program which embeds anthropologists and other social scientists within combat brigades to help tacticians in the field understand local cultures. The goal of HTS is to give commanders insight into the population and its culture in order to enhance operational effectiveness and reduce military and civilian conflict.\(^3\)

Opponents of scholarly engagement with the military are using the involvement of anthropologists in HTS as an excuse to reject all cooperation by social scientists with the military, specifically on CPP. In some people’s view, “social scientists in the Human Terrain System teams embed within the military, ostensibly to improve cultural awareness of the populations in Afghanistan and Iraq. However, this ‘cul-

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\(^2\) The publication of this conference can be found online on: http://www.muinsuskaitse.ee/failid/156_est_haagi_konvents.pdf

\(^3\) Wikipedia states the following with regard to HTS (1 December 2009): “The Human Terrain System (HTS) is a United States Army program which embeds anthropologists and other social scientists within combat brigades (currently in Iraq and Afghanistan) to help tacticians in the field understand local cultures using Human Terrain Mapping (HTM). Between July 2005 and August 2006, the US Army put together HTS as an experimental counterinsurgency program. [...] HTS utilizes experts from social science disciplines (anthropology, sociology, political science, geography), regional studies, linguistics, and intelligence. HTS provides military commanders and staff with an understanding of the local population by conducting research, interpreting, and archiving cultural information and knowledge. The goal of the HTS is to give commanders insight into the population and its culture in order to enhance operational effectiveness and reduce military and civilian conflict [...]” (See: http://en.wikipedia.org/wiki/Human_Terrain_System)
tural awareness’ is used to formulate strategies for killing and destruction.”24 Many experts also oppose the ‘hearts and minds’ strategy of counterinsurgency (COIN).25 26 Especially from the UK, a small number of archaeologists and anthropologists are spreading confusion. Even if this is done unintentionally and is merely the result of inappropriate research and insufficient knowledge, damage is being done. What is contributing to the problem is the use of the term ‘cultural awareness’,27 which is often unjustly seen as forming part of CPP.28

It undermines the process of making the military aware of their obligations under the 1954 Hague Convention and the 1999 Second Protocol. The anthropologists working for US HTS teams should not be confused with CPP experts who work with the military in accordance with the 1954 Hague Convention and 1999 Second Protocol or other international legal instruments.

CPP differs from cultural awareness: contrary to CPP, cultural awareness is not mandatory under international conventions and is primarily meant as a tool for troops that are about to be deployed on foreign soil. Knowledge of cultural back-grounds and local habits should help them to reach the end state of a mission easier and faster. There are cases where cultural awareness intentionally or non-intentionally has been used as an excuse not to implement any projects dealing with CPP. Often, organisations state that they are already dealing with culture, while in fact they do something regarding cultural awareness and not CPP. They are of course related, but only in the sense that a dentist is related to a cardiologist because both work in the field of medicine. Contrary to the situation with cultural awareness and HTS, there are no known cases of CPP involvement in COIN; COIN and cultural awareness are both practised by different experts than CPP. In theory, there could only be a link through illicit traffic in artefacts by OMF. Nevertheless, it would be worthwhile for legal experts specialising in the 1954 Hague Convention and other cultural heritage instruments to research the implications of possible CPP involvement with COIN (e.g. in the fight against illicit trafficking). Recent discussions29

25 The ultimate goal of counterinsurgency (COIN) warfare is to “build (or rebuild) a political machine from the population upward.” David Galula, Counterinsurgency Warfare: Theory and Practice (New York: Frederick A. Praeger, 1964, 2006), p. 95. In itself, COIN is a tool that has been in military use for some time. International humanitarian law, and sometimes national restrictions apply to this type of operation.
26 Dahr Jamail, op.cit. quotes US anthropologist David Price as saying: “The problem with anthropology being used in counterinsurgency isn’t just that anthropologists are helping the military to wear different cultural skins; the problem is that it finds anthropologists using bio power and basic infrastructure as bargaining chips to force occupied cultures to surrender.”
27 Awareness of local customs, tribal behaviours, etc.
28 There is now a tendency to involve cultural awareness, and especially HTS, in COIN.
29 For example at the World Archaeological Congress in Dublin in 2008.
and publications\textsuperscript{30} have made clear that in Europe these two concepts are still being mixed up. Information and training are therefore necessary, particularly to underline the need for CPP officers to function separately from cultural awareness experts.

7. Conclusions of the cultural property protection seminar in The Hague\textsuperscript{31}

At the beginning I referred to the seminar that has been held prior to the symposium on the occasion of the tenth anniversary of the 1999 Second Protocol. The participants in that seminar adopted the following conclusions about CPP:

\begin{itemize}
  \item CPP expertise and capabilities developed during and immediately after the Second World War have been allowed to be dispersed, with the result that many State Parties to the 1954 Hague Convention and its Protocols are not meeting their obligations as laid out in these instruments;
  \item CPP has been forced back onto the political and military agenda by the catastrophic theft and looting of cultural property in Iraq since 2003. This is not a new development, however; there have been numerous examples of such activity since World War II;
  \item CPP is a military ‘force multiplier’. It should never be regarded as an unnecessary burden that has been legally imposed but is militarily problematic or useless;
  \item Military success can no longer be defined in terms of battlefield victory alone, but has to take into account the long-term, post-conflict political, social, and economic stability of the countries involved (the Comprehensive Approach). CPP is critical to the Comprehensive Approach;
  \item While CPP relates to the issue of general cultural awareness, it is actually a separate issue involving specific concerns. It requires specialised skills that are different from those needed for general cultural awareness.
\end{itemize}

Various participants in the seminar expressed the desire to begin international military cooperation on CPP. As a first initiative, the International Military Cultural Resources Working Group (IMCRWG) was founded in Phoenix, Arizona, USA on 13 August 2009. The IMCRWG comprises cultural heritage professionals working in the military context in order to:

\begin{itemize}
  \item enhance military capacity to implement CPP across the full range of operations;
  \item provide a forum for international cooperation and networking for those working in a military context;
  \item identify areas of common interest;
\end{itemize}


\textsuperscript{31} This Chapter has been written in cooperation with Peter Stone, Chairman of the Dutch MoD seminar in The Hague.
– share best practices and lessons learnt;
– raise awareness of and publicise the military commitment to the protection of cultural property and of cultural heritage, both tangible and intangible.

The IMCRWG is not intended to replace any existing organisation working in this field. Rather, it can be pro-active in developing partnerships and networks between the military and existing non-military organisations and groups, working within the framework of the 1954 Hague Convention and the 1999 Second Protocol and addressing issues related to archaeological sites, historic buildings, museums, libraries, galleries and archives.
Cultural Property Protection in the Event of Armed Conflict: Deploying Military Experts or Can White Men Sing the Blues?

JORIS D KILA

INTRODUCTION

- Why on earth should the military be involved in Cultural Property Protection (CPP)?
- Aren’t they in the business of destroying cultural property?
- Is it ethical to cooperate with the military where CPP is concerned?
- Protection of culture is not a priority; saving lives and providing water and food is more important.
- Military units do not have the necessary expertise to handle artefacts.
- Should social scientists cooperate with the military at all?
- We are already doing something with culture!

The above are just a few of the questions and statements raised by the legal requirement to protect cultural property during conflict for those countries that have ratified the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict; and archaeologists who have worked with the military to enable the latter to fulfil these legal requirements (or, in the case of those countries that have not ratified the Hague Convention, to work within the spirit of the Convention) have been criticised by colleagues (see, for example, Hamilakis 2003; 2009).

This criticism came to a head during the sixth World Archaeological Congress (WAC-6) in Dublin in 2008 (Rothfield 2008b; and see Gerstenblith 2009; Hamilakis 2009; Stone 2009). The discussion was driven by strongly held ethical beliefs, and archaeologists who had chosen to partner with the military were labelled as ‘part of the problem’ and were accused of losing their impartiality. These arguments echo the debates of the 1960s, when similar allegations were made about individuals partnering in various capacities with the military. However, the situation then was completely different. At that time the majority of protestors were young intellectuals, often students, demonstrating against major powers and wars of, at least perceived, colonialism. Since then the political climate and world order have changed considerably, and the majority of conflicts are no longer ‘symmetric’ – the clashing of two, usually international, conventional adversaries in intense and violent battles – but tend to be ‘asymmetric’, in which combatants are unequally matched and therefore frequently use non-conventional methods of warfare intended to exploit their opponents’ weaknesses, thereby offsetting their own quantitative or qualitative deficiencies. As a result, the mindset of military planners in relation to the tasks they have to undertake is (slowly) changing. This chapter discusses the changing military
context within which Cultural Property Protection (CPP) takes (or should take) place in the 21st century. I hope to provide those who criticise their colleagues for working with the military with an insight into new approaches and strategies within European and NATO forces aimed at countering problems concerning the implementation of CPP in times of conflict.

THE CONTEXT OF CONFLICT

Lessons learned from the early KFOR deployment stage showed that Cultural Property very often turns out to be the ultimate backing and identity-founding symbol, the last expression of self assertion of people who lost almost everything in a perpetuated act of violence and ethnic cleansing. (Brigadier General Wolfgang Peischel 2002, 139)

Modern conflicts can be culturally motivated, related to ethnicity, education, religion, differences in perception of culture and, last but not least, national identity, as was demonstrated in the former Yugoslavia, where numerous acts of iconoclasm occurred. These elements are not only present individually but also interact between and influence the conflicting parties as well as parties attempting to resolve a conflict. While the military have a common goal – winning the conflict and restoring peace or reaching the end state in a peacekeeping or stabilisation mission – they are not used to nor yet equipped to deal with such complex non-military scenarios. The situation can be further complicated by the different cultures and sub-cultures that exist within military organisations, such as, for example, the differences between the navy and the army. This combination of military and non-military cultures, both domestic and international, contributes to the complex range of factors that influence and shape or even seriously restrain the development of a policy concerning CPP within the military.

While there is an increasing, but by no means universal, acceptance within the military of the need for CPP, anyone trying to implement an effective CPP strategy should be aware that ‘tasks that are not part of the culture will not be attended to with the same energy and resources as tasks that are part of a certain culture’ (Wilson 1989, 101). In other words, if the military is not used to or intrinsically inclined to tackle CPP it will give it a lower priority than other tasks that it is used to carrying out. This reluctance may, on occasion, reveal internal and inter-agency rivalries, as Rothfield noted with respect to the failure to plan for CPP in the build-up to the 2003 invasion of Iraq: ‘Bureaucratic stove piping and inter-agency rivalry prevented information from reaching the appropriate decision-makers at both the top and in the field’ (Rothfield 2008a; also see Kila 2008b). The issue is not confined within the military, however; some NGOs see military activities that are not related to the military core-business, including CPP, as ‘false competition’ and, to make their case stronger, add that they can do such things more cheaply than the military. In addition, there is the low priority argument: ‘of course CPP is important but you must admit that housing and water have greater priority’ is often the answer when attention is sought for CPP.

It has to be remembered that military actions are predominantly aimed at reaching their so-called mission ‘end state’. For CPP to be taken seriously by the military,
commanders, especially those in the field, have to see the relevance of CPP within the context of reaching the end state of a mission as soon as is reasonably possible. This view includes fitting CPP into the military planning process as either a risk or a potential force multiplier. It is in helping mission commanders see this relevance that cultural heritage specialists can play a critical role by partnering with the military or by accepting military commissions.

It should be stressed that CPP is not only about protecting, for example, archaeological sites for archaeologists, but that it frequently has an impact on the post-conflict economy (e.g., tourism), national identity or ethical aspects of a conflict – preventing, for example, the profits of illicit traffic of artefacts being used to buy weapons, or belligerent attempts to deprive ethnic groups of their cultural identity by the destruction of cultural property that is not a military target, thus intensifying a conflict (Pesendorfer and Speckner 2006). From this perspective, related subjects are propaganda, manipulation of history and sociological aspects such as the urge for distinction and the creation of new, or revitalisation of old, symbols and icons.

As there appears to be widespread misunderstanding about how culture is defined within the context of armed conflict two general, linked, points need to be clarified. First, four terms are used, frequently interchangeably, by those discussing this issue: ‘cultural property’, ‘cultural heritage’, ‘cultural awareness’ and ‘cultural resources’. The legal term for the subject discussed by this chapter, according to the 1954 Hague Convention and other treaties, is cultural property. This term refers to physical entities and is defined quite precisely in Article 1 of the Convention. It is not an ideal term, however, because the term ‘property’ suggests a form of ownership, and it should be noted that professionals use the term ‘cultural property’ only because it is the legal term used in the Convention. ‘Cultural heritage’, on the other hand, represents a wider construct and now includes aspects of human expression beyond physical objects – for example, intangible cultural heritage, although in the past the term referred only to monumental remains of cultures. ‘Cultural awareness’ is a different concept, and includes awareness of local traditions and customs – essential if unintentional offence is not to be given, but not of direct relevance to the protection of cultural property; nor is cultural awareness mandatory under international law. Cultural awareness training is normally provided to military personnel by experts other than CPP specialists, many of whom have no knowledge of, or experience with, cultural property protection. Last but not least there is the term ‘cultural resources’. This term is already used in military contexts, especially in the United States, but currently has no explicit juridical connotations which make it more usable than the other terms. Apart from this, it is sometimes paired with ‘natural resources’ in military environmental guidance documents, the military mindset being receptive to the protection of ‘resources’. As the terms are not interchangeable, the legal term cultural property is used in this chapter.

Second, and following from this, the distinction between programmes such as the US ‘Human Terrain System’ (HTS) and archaeologists and other cultural heritage specialists working to support CPP must be made clear. Part of the anger expressed towards the military and other archaeologists who spoke at WAC-6 appeared to stem from the fact that many anthropologists and archaeologists do not distinguish
between an archaeologist who is working with the military within the context of CPP and anthropologists involved with cultural awareness or human terrain teams (see, for example, Albarella 2009). Social scientists working for the US HTS teams should not be confused with cultural property experts who work with the military in accordance with the 1954 Hague Convention, and especially the 1999 Second Protocol, or other international legal instruments concerning CPP. Having made this distinction I have to acknowledge the possibility that, on occasion, military intelligence and human terrain work may touch on CPP. For example, when artefacts are looted and smuggled out of a country onto the international antiques market, the revenue generated may be used by insurgents to buy weapons. In this case, an archaeologist or art historian involved in CPP could find themselves at the very centre of a counter-insurgency operation. The distinction is still valid, however, as the key factor is that the focus of any such operation is cultural property as defined by the Hague Convention. The main factor contributing to the confusion outlined above is, as stated above, that the term cultural awareness (local customs, tribal behaviours etc) is often confused with Cultural Property Protection. Again, I reiterate that cultural awareness is not mandatory under international law, and it is implemented, and troops trained, by social scientists who are not cultural property experts.

I hope that the following discussion of new and developing military planning will raise the debate to another level. To put matters in perspective, and to illustrate the possibility that military or militarised experts can be useful in protection of cultural property, I want to use a metaphor to describe the core of the ethical problem.

**CAN WHITE MEN SING THE BLUES?**

This metaphor generates questions such as:

- Should white men sing the blues?
- Can black and white men play the blues together?
- Do all men want to sing the blues?
- Who gets the royalties?
- Can we all join in playing instrumental blues?
- Will it be slow or up-tempo blues?
- Who decides what’s in tune or out of tune?

The metaphor implies that, in relation to CPP, there are problems concerning communication, composition (eg which disciplines are represented in an emergency response team), perception, status, coordination, education and competence in terms of the ‘players’ – in this case individuals representing the academic, cultural, bureaucratic and military worlds.

**A DISSONANCE: CAN BLACK AND WHITE MEN PLAY THE BLUES TOGETHER?**

One of the main challenges is to create a discourse where archaeology and cultural property subject matter experts can find a way to work effectively in partnership with
members of the military. As Feil explains (2008), the intrinsic community, composed of academics, cultural experts and the like who have the knowledge but lack the funds and decision-making power, has to convince the instrumental community – people such as diplomats, military, development experts and governmental institutions, who have the resources and decision-making power – to deal with CPP. The latter will consider CPP only when it is clear that it fits its strategy to achieve a safe, sustainable and secure environment in conflict areas. When the players from the intrinsic community are not in tune with each other it is more difficult to interact and negotiate with the instrumental community. In addition, the military and other members of the instrumental community to a large extent still remain to be convinced about the relevance of CPP. Negotiations can only succeed if the civil stakeholders have a *communis opinio*. In addition, if archaeologists partner with the military they are able to introduce an extra factor to the military situation that can, in fact, be an incentive for cooperation. That incentive is the fact that knowledge of, and respect for, cultural property facilitates and supports the military mission in an asymmetric conflict environment – a point to which I shall return.

While the intrinsic community debates the sensibilities of working in CPP, and while the instrumental community remains to be convinced about its relevance, it must be stressed that CPP, as already mentioned, is actually required under International Humanitarian Law (IHL) (and see Gerstenblith, this volume). In other words, regardless of whether it sees its value or not, the instrumental community is compelled to take CPP seriously as soon as its government ratifies the relevant IHL. The argument that archaeologists working for or with the military could misuse their position is not valid since they are restricted by IHL that provides the legal context for their work in the first place. It should also be emphasised that, while there are no explicit references in any of the international conventions, as a general rule and where they exist, military cultural experts are not allowed to carry out relevant tasks when civil experts are still available in the area, and nor are they allowed to continue their activities when civil experts are able to return and take full responsibility. In addition, excavations in conflict areas, other than emergency excavations, are not permitted.

There are also, obviously, economic benefits for assonance both in cultural heritage experts and the military working together in CPP and in musicians playing the blues well together. There is no question that intact cultural property can contribute to economic benefits when a conflict is over; there are hundreds of examples of tourism based around cultural property forming a basis for economic – and in turn political – stability post-conflict. In the following case study of the Orthodox Monastery of Matejce I identify a number of key issues concerning CPP operations that were important in this particular case but that are also of general value. Of course, there are other issues relating to CPP in times of conflict not discussed here; these include civil/military cooperation, cultural property officers, handover procedures for CPP activities to succeeding military or civil experts, further legal obligations and implications concerning military law, such as the principles of military necessity and proportionality, economical implications, military incentives for implementing CPP, looting, illicit traffic and the link to military intelligence and security, financing of CPP activities, training and education of military and other
stakeholders (see many of the other contributions to this book), clashing cultures and iconoclasm. I have discussed a number of these elements in other publications using different cases (Kila 2008a; 2008b; forthcoming). The Matejce case study focuses on the aspect of cultural identity and its manipulation within the context of CPP. This illustrates the complexity of the challenge when a multidimensional set of stakeholders becomes involved. NATO involvement offers an opportunity to discuss its role and the challenges to international cooperation when developing more broad-based solutions for the challenges of CPP using IHL as a framework.

ICONOCLASM IN THE ORTHODOX MONASTERY OF MATEJCE IN MACEDONIA

The ‘creative’ use of damaged CP

The monastery of St Bogorodica Matejce is situated near the village of Matejce, approximately 40 kilometres north of the Macedonian capital, Skopje. The monastery was founded by the Serbian Emperor Dusan and completed in 1355 by Empress Jelena and her son, the Serbian Emperor Uros. Forming part of the monastery is the Church of St Bogorodica. Armed conflict in the Republic of Macedonia commenced at the beginning of 2001 and the monastery was occupied by the Ushtria Çlirimtare Kombëtare (UCK – National Liberation Army), who operated in the Republic of Macedonia in 2000 and 2001, who used it as their headquarters and arsenal. The Macedonian civil and religious authorities feared that the monastery had suffered damage. Early action to assess and possibly restore the suspected damage was financially supported by the Dutch Embassy in Skopje. The first report (6–7 July 2001) included a photographic record of the Church of St Bogorodica provided by staff of the EU Monitoring Mission. The pictures indicated damage to the roof and UCK graffiti on some of the church mural paintings, but not on the fresco paintings. The report recommended that no one be permitted to touch or remove the graffiti from the mural paintings since that would cause more extensive and irreparable damage to the 14th-century Byzantine murals. The report also recommended that any treatments should be undertaken only by Macedonian and international experts. Later it became apparent that the frescos had in fact suffered damage. A fact-finding mission by experts from the Republic’s Institute for The Protection of Cultural Monuments, undertaken in September 2001, when members of the UCK were still in situ (Nicolik-Novakovic 2004), discovered not only that damage had been inflicted on the mural paintings, but that owing to ‘cleaning’ work being carried out, contrary to the earlier recommendations, some paintings had been destroyed. The report of this second mission also noted the urgent need for the temporary repair of the damaged roof in the south-eastern corner to prevent further damage to the interior, which contained valuable 14th-century mural paintings, and, as a high priority, the cleaning of the church and the repair of damaged mural paintings.¹

¹ When reading the ICOMOS Macedonian Committee report one gets the distinct impression that matters were considerably delayed by the highly bureaucratic procedures followed. Numerous institutions were involved, such as ICBS, ICOMOS, UNESCO and the State Institute for the Protection of Cultural Monuments (RZZSK).
One of the first projects to be undertaken by the newly formed Cultural Affairs functional specialists’ network from CIMIC (Civil Military Cooperation) Group North (CGN) was an assessment mission to Macedonia, where the Dutch army led the NATO operation ‘Amber Fox’. CGN is a dedicated CIMIC capability based in The Netherlands affiliated to NATO and consisting of a framework of six participating nations: the Czech Republic, Denmark, Germany, Norway and Poland. It contributes CIMIC support units and, where possible, functional specialists to be active in the areas of Civil Administration, Humanitarian Aid, Civil Infrastructure, Economy and Commerce and Cultural Affairs. As CGN’s network manager for cultural affairs, I went to Matejce in the last week of August 2002 as part of this assessment mission. I arrived at the monastery accompanied by two Macedonian colleagues from the National Museum in Skopje. The monastery and surroundings were apparently not yet completely cleared of mines and the complex was still in use by the UCK, which presented some difficulties, but we found several instances of damage as described above. I saw murals completely destroyed because someone had tried to remove the graffiti using steel wool scouring pads impregnated with soap normally used for cleaning dishes.

On closer inspection of the graffiti, we saw that some murals had been sprayed with green paint, whereas others had been drawn upon with what looked like a black felt-tip marker. I took samples of very tiny fragments lying on the floor which came from parts of the mural-free wall. Undecorated areas of the wall had also been

**Fig 5.1**
Damaged mural in Matejce.
sprayed and written upon, so I was able to take samples of this wall surface covered with the green paint and black ink. The paint in most readily available spray cans is based on two types of binding agents, acrylics and alkyd. Subsequent laboratory tests revealed that by using acetone and wadding it was easy to remove the paint, implying that acrylic paint had been used for the green graffiti in Matejce. After testing the samples of the black marker ink, as used on the painting of St Peter, we discovered that we had to be careful here: the difference between the green paint and the black marker ink is that the black ink used colour pigments that directly dissolved in the basic acetone liquid. Therefore, their application was more deeply intrusive. In addition to the challenge of dissolved pigments, other chemical processes could take place during attempts at removal, such as the chromatographic reaction that causes the separation of colour pigments. Tests showed that alcohol was not effective in removing the ink. However, acetone and ethyl acetate did the job, at least in the laboratory. It was therefore decided that the best way to operate would probably be to use a gel instead of a liquid to prevent the cleaning agents from damaging additional layers.

Carved and scratched murals such as the painting of Georgios Okrites (see Fig 5.3) are best treated by carefully filling and retouching them. Following the laboratory tests, CIMIC Group North’s specialists offered to restore the damaged mural of St Peter by removing the graffiti and applying a non-intrusive protective layer that would facilitate the removal of future graffiti should it be targeted again. However, to our surprise, the party responsible for the mural saw its defaced state as excellent public relations and asked us not to restore it until a peace agreement was signed. For the moment they were quite happy with their ‘treated’ mural, which made a powerful statement. Later, the whole project involving the specialists of CIMIC Group North was stopped by the Dutch MoD owing to the withdrawal of Dutch troops.
FIG 5.3
GEORGIOS OKRITES, PROBABLY AN ARCHBISHOP OR ST GEORGE: DAMAGED MURAL IN THE MATEJCE MONASTERY.
This Macedonian example raises a question over how situations like these should be interpreted. Is this example a misuse of damaged cultural property as propaganda? Is someone trying to create a win-win situation? Of course, art historians, politicians and all the concerned parties should consider these issues. However, in the meantime, it remains a rather confusing matter for the military, who have to distinguish between CP and damaged CP. By means of comparison, one can consider what the difference is between the damaged St Peter (the Maradona) and a conceptual piece of art like Marcel Duchamp’s L.H.O.O.Q.?

To an outsider they both look like vandalised paintings; however, Duchamp’s picture is actually in itself a creation of Marcel Duchamp, rather than Da Vinci’s Mona Lisa, damaged. His aim was to attack the eternal values of Western culture. Note the fact that the UCK members, who were unlikely to be trained in art, used graffiti symbols derived from Western mass culture such as Ray Ban sunglasses, soccer trophies and Diego Maradona, while at the same time attacking Christianity, which they perceived as equivalent to Western culture. How, therefore, can the military recognise cultural objects, and damage to them, and ask for advice on the basis of a basic iconographic description to be judged by so-called ‘reach-back capabilities’ (scholars, research institutes etc) who are not present and may be thousands of miles away? What is damage in this context: is it the destruction of art or of identity, and who is the vandal?

A number of key issues and dilemmas can be identified, including:

- The military perspective on conflict: changing military approaches to current types of conflict and changing military attitudes toward issues such as cultural property
- The role of parties involved, such as functional specialists and NATO; international cooperation
- Legal obligations, international humanitarian law
- Status and definition of CP as perceived by the military
- Changing aspects such as the international political environment
- CP as a means of identity and distinction
- CP and propaganda, manipulation of CP
- Religion
- Who is the vandal?

There is insufficient space to deal with all of these issues in this chapter. Rather, it should be noted that they all exist and that the immediate task is to open a discussion with military planners as to how to best address them.

**The Military Context**

The aim of a military operation is to reach the so-called ‘end state’. In most cases this means the establishment of a sustainably safe and secure environment. It is reasonable to expect that at the beginning of this process a conflict’s root causes are addressed.

2 L.H.O.O.Q.: a cheap postcard-sized reproduction of the Mona Lisa, upon which Duchamp drew a moustache and a goatee. This ‘readymade’ (1919) is one of the most well-known acts of degrading a famous work of art. The title, when pronounced in French, is a pun on the phrase ‘elle a chaud au cul’, which translates colloquially as ‘she has a hot ass’.
FIG 5.4
L.H.O.O.Q FROM BOX IN A VALISE (BOÎTE-EN-VALISE) BY OR OF MARCEL DUCHAMP OR RROSE SÉLAVY (DE OU PAR MARCEL DUCHAMP OU RROSE SÉLAVY). MARCEL DUCHAMP, AMERICAN (BORN FRANCE), 1887–1968
In such an environment, indispensable elements such as the economic system, a juridical system (including a police force) and other relevant aspects of civil infrastructure are re-installed and set up to function in an independent manner so that the foreign military can go home. To save and protect CP, as part of this process, there are basic requirements. The military must have CP experts and civil reach-back capabilities at their disposal throughout all of the phases of a conflict, including the planning and assessment phases.

Conflict

The International Committee of the Red Cross (ICRC 2008) identifies two types of conflict: ‘international armed conflict’, involving two or more States, and ‘non-international armed conflict’, between governmental forces and non-governmental armed groups, or between the latter groups only. IHL also makes a distinction between non-international armed conflicts in the meaning of common Article 3 of the Geneva Conventions of 1949 (‘Armed conflict not of an international character occurring in the territory of one of the High Contracting Parties’) and non-international armed conflicts falling within the definition provided in Article 1 of Additional Protocol II (‘armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations’). Legally speaking, no other type of armed conflict exists. One type of armed conflict can evolve into another type.

Changing Military Mindsets and Attitudes

Continuing changes and developments concerning the character of conflicts, and related strategies to end these conflicts, reveal that today’s military operate in an increasingly complex setting: that of asymmetric conflict, as noted above. In this regard the military has had to learn to adapt to new situations; and the increasing complexity of war creates situations that are especially challenging for activities involving Civil Affairs and Civil Military Coordination (CIMIC) units trying to work with and engage the local population during missions. From this perspective CPP is one of the many ‘new’ specialities required by the military, taking its place alongside other forms of expertise such as civil administration, economic development, humanitarian affairs and civil infrastructure. The armed forces did not traditionally have these now essential capabilities within their organisation, so reacted by outsourcing some tasks to contractors and introducing so-called ‘functional specialists’ or ‘reservist special tasks’ – individuals who have expertise, including archaeology and art history, unavailable in the standing army and who normally work in civil society, who were ‘painted green’ – the European military expression for being temporarily militarised or, after training, enlisted as a reservist to be called into active duty when needed. The deployment of these reserve officers created tensions:
commissioning functional specialists caused practical problems such as issues of rank, difficulties over operating in the field with professional soldiers who were better trained, and a lack of understanding of, and experience with, military customs and traditions. These challenges call for additional research on CPP, not only from a theoretical but also from a practical perspective, to gain knowledge that can serve as a basis for the improvement and adaptation of current practices. For cultural experts, including archaeologists and art historians, it is difficult to grasp the military mindset, just as it is difficult for some academics to ‘cross the bridge’ and work with the military or militarised cultural experts. By the same token, many military professionals find it challenging to work with academics.

PARTIES INVOLVED IN THE CASE
Though Matejce is a unique case, the range of parties involved gives an indication of the complexity implicit in the implementation of CPP and the frequent involvement of many different stakeholders in CPP activities. All of the following took some part in, or had a view on, the Matejce case study:

- Military: CIMIC Group North, Functional Specialists, Netherlands Armed Forces
- Militant armed forces from the UCK
- International organisations: NATO, UNESCO, ICBS, ICOMOS
- Religious institutions in Macedonia
- Individual art historians and restorers

INTERNATIONAL COOPERATION – NATO POSITION REGARDING CPP AND A POSSIBLE WAY AHEAD

In the Matejce case, for the most part, implementation of CPP was through CIMIC, with some participation from the wider Netherlands Armed Forces. Had the US been involved, their implementation might have been through Army Civil Affairs. The former NATO Secretary General has summed up the challenge involved in factoring in the international organisations:

For NATO a comprehensive approach is one that fosters cooperation and coordination between international organisations, individual states, agencies and NGOs, as well as the private sector. Developing such a culture of cooperation is not going to be easy. We are all attached to our own ways. (NATO Secretary General de Hoop Scheffer, 2007)

Even though the Secretary General was not referring specifically to CPP, but to interagency coordination, when he made this statement, most would agree that his concern about developing a culture of cooperation would apply to CPP. In this regard I will first introduce what is called the Comprehensive Approach and then explain the
link with CPP. In addition, it is useful to outline how cooperation at the NATO level could work to implement powerful CPP programmes while defining the obstacles that would need to be addressed.

THE ‘COMPREHENSIVE APPROACH’

Since the origins of conflicts are of a non-military nature, the use of different, non-military agencies and powers to end conflict is necessary. As development and security are strongly interconnected it is necessary to approach safety, reconstruction and good governance in a comprehensive manner – hence the ‘Comprehensive Approach’. In this approach, development cooperation and military and diplomatic activities should be integrated. This means that the military contribution to crisis management operations must be combined with diplomatic efforts and development cooperation – the so-called ‘3D strategy’: Development, Defence and Diplomacy. The Dutch armed forces are currently using a second generation of this 3D concept, based on four areas of concern: security, politics, and social and economic well-being. CPP fits into this concept as it is positive for the public image of a country, internationally as well as nationally. By actively demonstrating a CPP policy and at the same time meeting treaties and obligations mandatory under IHL, the support from a country’s inhabitants for national and international military operations can be strengthened.

As a practical example of this strategy, Coalition forces in Afghanistan and Iraq have developed Provincial Reconstruction Teams (PRTs) that are designed to help improve stability by increasing the host nation’s capacity to govern; enhancing economic viability; and strengthening local government’s ability to deliver public services such as security and health care. Staffed by military, militarised and civilian experts, PRTs are a means of coordinating interagency diplomatic, economic, reconstruction and counter-insurgency efforts among various agencies in Afghanistan and Iraq. PRTs are intended to be interim structures; after a PRT has achieved its goal of improving stability, it will be dismantled to allow traditional development efforts to occur (http://www.gao.gov/new.items/d0986r.pdf (accessed 25 April 2010)). The Dutch Joint Doctrine Bulletin on PRTs states that the essence of a comprehensive approach is the fact that conflicts cannot be solved by military means only.

In addition to the PRT strategy, discussions are turning to the possibilities of multinational cooperation with organisations such as NATO, which potentially has capabilities for Civil Emergency Planning. I have argued elsewhere (Kila 2008a) that, in theory, NATO would be the ideal organisation to house and support a militarised cultural emergency team. This task would fall naturally to the department of Civil Emergency Planning (CEP), and in particular to the Senior Civil Emergency Planning Committee (SCEPC). Of course, there is also a related military intelligence element, especially in the case of the illicit traffic of artefacts. In addition, NATO’s Allied Command Transformation (ACT), which includes in its mission statement the goals of ‘improv[ing] military effectiveness and interoperability’ and ‘support[ing] Alliance operations’, should include cultural heritage protection in its programme. CPP could also be taught at NATO’s educational institutions. Since many countries are members of NATO, the possibility of locating and recruiting militarised experts is potentially significant.
However, at present, responsibility for providing advice on cultural heritage issues to military planners and commanders of NATO forces lies not with CEP but with CIMIC/Civil Affairs. This situation complicates matters for, while the NATO CIMIC AJP-9 doctrine seems designed to enhance the implementation of, in this case, CPP, different NATO member countries have very different concepts and perceptions of CIMIC generally. For example, whereas NATO as an organisation considers CIMIC as ‘observation, interposition, and transition assistance’, the UK perceives CIMIC as ‘direct assistance by conventional troops’ and the US recognises it as ‘force protection, liaison, and limited direct support’ (Celik 2005). The EU’s definition of CIMIC in EU-led crisis-management operations is similar to NATO’s: ‘the coordination and cooperation, in support of the mission, between military components and civil actors which are external to the EU, including national populations and local authorities, as well as international, national, and non-governmental organisations and agencies’. Canada has two definitions, one for the domestic environment and one for international environments.

Consequently, it is not easy at present to use CEP as perceived by NATO for a cultural (property) emergency planning strategy. Apart from the conditional political intention, or political will, needed to create a multinational cultural emergency capability (CERC), a number of other issues are raised: does NATO have the same obligations as State Parties that ratified the Hague Convention? If so, how does this relate in practice to the support of the Commander’s mission doctrine? Can a CERC act only when military forces are called upon by a civil authority to conduct a particular mission? In the case of a natural disaster the military has a finite mission for a finite time period. Can they operate under civil direction throughout? Articulating the legal obligations that would drive these efforts would provide guidelines for addressing these questions, complications and obstacles.

As a further complication, within NATO itself, the so-called STANAGs (NATO Standardization Agreements for procedures and systems and equipment components) are developed and promulgated by the NATO Standardization Agency in conjunction with the Conference of National Armaments Directors and other related authorities. According to NATO’s STANAG 7141 EP, CPP falls under environmental issues, being the handling of natural and cultural resources. NATO members’ defence ministries normally follow such STANAGs by issuing national directives or orders. A number of countries, as well as NATO, have Environmental Policy Working groups that provide an opportunity to incorporate expertise on cultural resources including CPP.

THE (CHANGING) STATUS AND DEFINITION OF CULTURAL HERITAGE OR PROPERTY

Different viewpoints and arguments exist among experts and scholars over the question of whether cultural property should be protected at all or in all circumstances. I leave this discussion to others and assume that it is important to protect cultural property in the event of armed conflict, touching subsequently on the notion of protecting and saving cultural property in the event of natural disasters. Furthermore, over the course of time, the definition of cultural property has changed. For example, statues of Lenin and Stalin from the Soviet period were not considered to be cultural property in the
immediate aftermath of the disintegration of the Soviet Union. In addition, a geographical location or an associated regime can influence the appreciation of, or status awarded to, cultural property. For example, the Taliban considers all pre-Islamic cultural property as pagan and therefore saw that it was perfectly within their rights to destroy it – resulting in the loss of the Bamiyan Buddhas. In the same way, certain property within a country, as, for example, in Iraq, can be seen as important Islamic heritage (eg the Golden Mosque), whereas other property (eg Babylon, Ur) in the same country is seen as less important Christian biblical heritage.

**The Link with Religion**

Religion has always been, and still remains, one of the elements that can cause and drive conflicts, and the deliberate destruction of cultural property has been a recurring thread throughout history. For example, a religious conflict between Calvinists and Catholics which took place in the Netherlands in 1566, the so-called ‘Beeldenstorm’, led to the damage and destruction of churches, monasteries and their contents, including paintings, murals and books. This targeting of religious buildings was echoed in the conflict in the former Yugoslavia, where churches and mosques were specifically targeted by the warring factions. In another example, the link between religion and cultural property was made explicit by the actions of the (then) Israeli opposition leader, Ariel Sharon, who, together with a Likud party delegation surrounded by riot police, visited the Temple Mount compound, widely considered the third holiest site in Islam, on 28 September 2000. The purpose of the visit was to demonstrate that under a Likud government the Temple Mount would remain under Israeli sovereignty. His visit was condemned by the Palestinians as provocation and an incursion, particularly given the presence of his armed bodyguards, who arrived with him. Critics claim that Sharon knew that the visit could trigger violence; it is widely credited with leading to the second Palestine Intifada.

In May 2003, just after the American invasion of Iraq had begun, Abdulamir Hamdani, the archaeology inspector of Dhi Qar province in southern Iraq, called on the Grand Ayatollah Ali al-Sistani with an urgent request. ‘We needed his help to stop the pillage’, Hamdani recalled. His province covers much of what was once the land of Sumer. In the third millennium BC it was a fertile plain incorporating the cities of Ur, Lagash, Girsu, Larsa and Umma; today, the shifting course of the Euphrates and Saddam’s campaign to drain the marshes have for the most part turned it into an impoverished wasteland. After Saddam’s fall, many poor locals – often backed by armed militia – turned to archaeological looting. As a result, the black market trade in antiquities became a major part of the local economy. Al-Sistani honoured Hamdani’s request to announce a fatwa. He proclaimed that digging for antiquities is illegal; that both Islamic and pre-Islamic artefacts are part of Iraqi heritage; and that people with antiquities in their possession should return them to the museum in Baghdad or Nasiriyah. Copies of the fatwa were distributed widely in the south, and published in the Iraqi press. As a result some of the looters stopped, because they tend to obey the Grand Ayatollah. The fatwa was a small victory for Hamdani in his struggle to save cultural property.
CONCLUSIONS

Cultural property protection is an obligation under international humanitarian law. There seems to be no compelling reason why CPP should or could only be implemented at the expense of humanitarian aid; CPP and humanitarian aid are separate issues implemented by separate institutions and experts. Moreover, aid budgets can be, and usually are, allocated separately and independently of cultural funds. In addition, CPP and cultural awareness are separate issues with different motives and are handled by different experts.

Awareness and appreciation of the value of CPP must be increased in order to change the current situation in which policy planners, government officials and military commanders seem to be reluctant to take effective action, mainly as many are not familiar with the subject. The creation of national, dedicated departments for CPP which benefit all services (navy, air force and army) will contribute to an effective and lasting solution. Under such an arrangement, the CPP officers can slowly integrate and earn an accepted position within the armed forces. Professional deployment is not an unusual outcome, as this happened in the past with medical and juridical personnel who are now fully integrated. Another challenge within the military is the new dual role of warrior and peacekeeper, which requires at least an adaptation of the military mindset, as is also the case for the dual role of culture destroyer and culture protector. If members of the military can adapt to being both warrior and peacekeeper at the same time they must be able to do the same in relation to CPP.

Military involvement in Cultural Property Protection is seriously restricted by people who invent and introduce irrelevant ethical issues around cooperation between civil experts and the military. If all parties adhere to the legal framework provided by the Hague Convention then there should be no ethical problems. It could even be argued that ignoring the resolutions and suggested cooperation as outlined by International Humanitarian Law is in itself unethical.

EPilogue

• Should white men sing the blues?

Yes, if civilian experts provide them with the expertise they need to meet the legal requirements of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

• Can black and white men play the blues together?

Absolutely: as I write this article, archaeologists are working successfully in Egypt with an international team to teach archaeology awareness to American and British military personnel. Additional examples include the United States Central Command, which has established a Historical/Cultural Advisory Group and the new International Military Cultural Resources Working Group. Both of these groups include subject matter experts and military officers working together.
• Do all men want to sing the blues?
  Many archaeologists and cultural property experts have strong personal commitments to international archaeological stewardship. Others also recognise their obligations under international law as citizens of countries that have signed the 1954 Hague Convention. Members of both groups have discovered that a very effective way to meet this commitment is to work as partners with the military. The subject matter experts who have chosen to sing the blues have had a tremendous positive response from their military colleagues. The answer is YES!

• Who gets the royalties?
  When we save cultural property, all citizens of the world benefit.

• Can we all join in playing instrumental blues?
  We are already playing the intro.

• Will it be slow or up-tempo blues?
  As you are reading this article, the tempo is increasing.

• Who decides what’s in tune or out of tune?
  History…

Everybody gets the blues, from the White House to the poor house, and singing the blues, playing the blues, or even listening to others sing and play the blues always helps you feel better. (Poet 2008)

Can white men sing the blues? Probably not, but they can do a mighty fine instrumental blues instead.

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Überlegungen zum Status quo der Beteiligung des Militärs am Schutz von Kulturgut

Joris D. Kila

Dieser Artikel zielt darauf ab, den Status quo hinsichtlich der Umsetzung des Kulturgüterschutzes (KGS) durch militärische Organisationen zu beleuchten, vorwiegend in Europa. Durch Kontakte mit Heeresangehörigen sowie durch eigene Erfahrungen wurde klar, dass die militärische Ausbildung betreffend den KGS und dessen Umsetzung in vielen Ländern kaum betrieben oder sogar in Frage gestellt wird, was zweifellos nicht den Bestimmungen des humanitären Völkerrechts entspricht.

Sicher, es gibt Länder und Institutionen, die als gutes Beispiel für einen bewussteren Umgang mit der Thematik „Kulturgut“ dienen oder die nach der Unterzeichnung der Haager Konvention rasch „aufschließen“, jedoch stellen diese Länder und Institutionen nach wie vor leider eine Minderheit dar.

Prolog


Dieser Ansatz gewährleistet darüber hinaus die Umsetzung militärischer Ausbildung und Forschung, sowohl zu Friedenszeiten als auch bei Einsätzen.

Dennoch muss in Betracht gezogen werden, dass Kulturgut oder kulturelles Erbe und dessen Schutz komplexe Angelegenheiten sind. Sie sind mit einer breiten Palette von Interessen, verschiedenen kulturellen Hintergründen, Fachwissen sowie unterschiedlichsten Aspekten verbunden.

Diese Komplexität und daher Anfälligfeit macht weitere Forschungstätigkeiten zu den militärischen Folgen von Kulturgüterschutz dringend nötig. Beim Kulturgüterschutz gilt es zu bedenken, dass der derzeitige zivil-wissenschaftliche Diskurs über Mehrfachkonnotationen und wechselnde Betrachtungsweisen der Begriffe Kultur sowie der Konzepte Erbe und Identität...

Um den Begriff Kulturgüterschutz zu begreifen, sind eine Reihe von Schlüsselfragen zu stellen und zu beantworten:

- Weshalb ist Kulturgüterschutz wichtig, besonders für militärische Organisationen?
- In welcher Beziehung steht Kulturgüterschutz mit den Ausformungen der „gesamtheitlichen Betrachtungsweise“ hinsichtlich militärischer Einsätze und Missionen?
- Was sind die Vorteile und Anreize für die Streitkräfte, Kulturgüterschutz umzusetzen?
- Was machen andere (internationale) Organisationen und Länder in diesem Bereich?

**Weshalb ist Kulturgüterschutz besonders für militärische Organisationen wichtig?**


**Beschränkungen und Herausforderungen betreffend die Umsetzung von Kulturgüterschutz innerhalb militärischer Organisationen**


Eine andere wesentliche Beschränkung besteht im Mangel an Finanzierung und anderen bereitgestellten Ressourcen. Als Vorwand dafür dient die Haushaltssituation, die Themen wie dem Kulturgüterschutz eine niedrige Priorität einräumt, was jedoch nur auf mangelhafte Wahrnehmung in Bezug auf die Relevanz von Kulturgut deutet.


Einsätzen gängige Praxis geworden ist. Ein guter Grund
setzung von Kulturgüterschutz bei allen militärischen
bedürfen eines geringeren Aufwands, sobald die Um-
schon in Friedenszeiten unerlässlich. Solche Regelungen
betroffenen zivilen und militärischen Verantwortlichen
Schutz von Kulturgut durch die Zusammenarbeit der
Haager Konvention vorgesehen, Vorkehrungen zum
Kulturgüterschutz. 

Die wichtigsten rechtlichen Verpflichtungen sind in
der Haager Konvention aus 1954 und ihren Protokollen
sowie anderen Regelungen, wie UNIDROIT(9) und dem
UNESCO-Übereinkommen zum Schutz des Kultur- und
Naturerbes der Welt von 1972 festgehalten.

Doch warum sollten sich militärische Organisationen
mit einer solch anscheinend heiklen Materie wie Kultur-
güterschutz befassen?

Es gibt mehrere Faktoren, die dies rechtfertigen. Zunächst hat die Erfahrung gezeigt, dass sowohl die
Befassung als auch die Nicht-Befassung mit Kulturgü-
tern potenzielle Risiken birgt, die in Zusammenhang
mit sozialen Chaos und Konflikten stehen. So betrieben
die USA beispielsweise in Bagdad im Falle des dortigen
Nationalmuseums keinen Kulturgüterschutz, was eine
schlechte PR nach sich zog, was sich wiederum auf die
Akzeptanz der Streitkräfte negativ auswirkte. Zweitens
cann die Rolle des Militärs als Hauptakteur in bewaff-
neten Konflikten nicht ignoriert werden. Die Streitkräfte
sind per definitionem in alle Aspekte des bewaffneten
Konflikts involviert. 

Daher gibt es eine Reihe von grundlegenden Argu-
menten und Anreizen für die Einbindung des Militärs
der Kulturgüterschutz.

4. Aus militärtaktischer und militärstrategischer Sicht
können. Plünderungen zu kontrollieren, kann aus diesem
Blickwinkel sowohl eine humanitäre Tätigkeit als auch
militärischer Force Multiplier sein.

Doch es gibt Handel mit und (oft die in Auftrag
gegebene) Plünderung von Kunstgegenständen in Kriegs-
egebieten sowie Plünderung von Ausgrabungsstätten, wie
sie häufig durch feindliche Kräfte erfolgt. Kulturgüterschutz
ist in diesem Zusammenhang ein Instrument, um
dem Gegner Ressourcen zu verwehren und auf diese
Weise einen so genannten Force Multiplier zu schaffen.
Der Plünderung liegen allerdings häufig weitere Aspekte
zugrunde. Die Meinungen betreffend Plünderung gehen
überdies auseinander, und viele Plünderer würden ihre
Aktivitäten wohl nicht negativ betrachten, sondern als
gerechtfertigt und legitim. Dies zeigt, dass verschiedene
mit Kulturgüterschutz in Zusammenhang stehende As-
pekte, in diesem Falle Plünderung, auf eine politische
Ebene gestellt und für Manipulationen verwendet werden
können. Plünderungen zu kontrollieren, kann aus diesem
Blickwinkel sowohl eine humanitäre Tätigkeit als auch
militärischer Force Multiplier sein.

4. Aus militärtaktischer und militärstrategischer Sicht

vorbereitet zu sein, ist auch, dass Kulturgüter
bei militärischen Einsätzen der Gefahr einer
möglichen Plünderung oder des Diebstahls
seitens eigener Kräfte, örtlicher Bevölke-
rungsgruppen, krimineller Netzwerke oder
feindlicher militärischer Kräfte ausgesetzt
sind. Ein Beispiel für einen allfälligen, unbe-
absichtigt zugefügten Schaden durch eigene
Kräfte ist der Einsatz von „Hescos“ ohne
vorhergehende Absprache mit einem Kultur-
güterschutzexperten. Hescos sind große,
mit Sand oder Schutt gefüllte Behälter, die als
Sperrungen für Militärlager und zur Befestigung
dienen. Es wurden bereits Fälle bekannt, in
denen Hescos mit Gegenständen von Aus-
grabungsstätten, wie etwa Fragmenten von
Tongefäßen und anderen archäologischen
Objekten, befüllt wurden. Andere Beispiele
für die Beeinträchtigung der natürlichen und
archäologischen Umgebung sind die Ver-
wendung schwerer Betonplatten als Lande-
plattformen für Helikopter, Sprengung von Kampfmitteln
zu nah bei Denkmälern, der Austritt von Treibstoff oder
Säuren, die von Panzern im Zuge von Ausbildungs-
fahrten verursacht wurden. Alle diese Fälle sind de facto
Verstöße gegen die Haager Konvention.

Weiters gibt es Fälle, in denen militärische Handlungen
geradezu der „Kulturgüterschutz“ dienen. Ein Beispiel
für einen allfälligen, unbeabsichtigten Schaden durch eigene
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geradezu der „Kulturgüterschutz“ dienen. Ein Beispiel
für einen allfällig...

In dieser Hinsicht könnte die Environmental Training Workgroup der NATO ein passender und natürlicher Ansatz sein. In ihrer Einsatzbeschreibung finden sich verschiedene Punkte, die multinationale Kooperation in Ausbildung und Forschung rechtfertigen, was auch durch die STANAG 7141 EP-Doktrin unterstrichen wird. Da wären, zum Beispiel, Identifikation und Empfehlung passender Ausbildungsprojekte für den Umweltschutz, um die Ausbildung innerhalb der NATO durch bilaterale oder multilaterale kooperative Ausbildungsmaßnahmen zu stärken. Dies bereitet den Weg für die kooperative Ausbildung zum Thema Kulturgüterschutz im Einsatzfall, die unerlässlich ist, um die Debatte zum militärischen Kulturgüterschutz auf eine höhere Ebene zu stellen. Gleichzeitig wird so das allgemeine Bewusstsein für Angelegenheiten des Umweltschutzes geschärft, insbesondere für jene Bereiche, die nationalen und internationalen statutarischen oder rechtlichen Verpflichtungen unterliegen. Schlussfolgerung: Durch ein Zusammenwirken in Ausbildung und Forschung bei kulturellen Ressourcen wird eine Win-Win-Situation geschaffen. Die erwähnten möglichen Partner haben die passende Infrastruktur und Netzwerke in der Organisation, um darin Kulturgüterschutz zu integrieren. Die Bedachtnahme auf umweltbezogene Themen schafft eine solide Basis für die effektive Umsetzung in einem internationalen militärischen Umfeld und gewährleistet gleichzeitig die Entsendung internationaler Militärexperten.


**Ausbildung zum Kulturgüterschutz im Militär**


**Zusammenhang zwischen Kulturgüterschutz und dem neuen, umfassenden Ansatz zur Durchführung von Missionen**

Das Ziel einer militärischen Operation ist, den so genannten Endzustand zu erreichen, was sehr oft die Herstellung einer dauerhaft sicheren und gesicherten Umgebung bedeutet. Unverzichtbare Elemente dafür sind: funktionierende wirtschaftliche, rechtliche und politische Systeme, ohne militärische Hilfe von außen. Um diesen Endzustand umzusetzen, ist ein umfassender Ansatz erforderlich.


Die niederländischen Streitkräfte bedienen sich derzeit der zweiten Generation eines 3D-Konzepts, das sich auf vier Bereiche stützt: Sicherheit, Politik sowie soziales und wirtschaftliches Wohlergehen.


**Andere Anreize zur Umsetzung von Kulturgüterschutz für die Streitkräfte**

Kulturgüterschutz könnte wesentlich zum Erfolg eines Einsatzes beitragen, wird oft als Argument für den Kulturgüterschutz vorgebracht.

Um diese Annahme zu bestätigen, müssen wir einen Blick in die Vergangenheit werfen. Direkt nach dem Zweiten Weltkrieg schenkte man dem Kulturgüterschutz wenig Beachtung. Das Fachwissen, das die Alliierten während


Aufgrund seines behördenübergreifenden und multidisziplinären Charakters ist der Kulturgüterschutz bestens geeignet, im Rahmen des umfassenden Ansatzes oder jeglicher anderer weitreichender Strategie umgesetzt zu werden. Es wird erwartet, dass viele Streitkräfte, soweit sie in Konflikte eingebunden sind oder zu friedenserhaltenden Einsätzen entsandt werden, höchstwahrscheinlich in Gebieten mit Kulturen, die sich von ihrer eigenen erheblich unterscheiden, operieren werden müssen. Eine Einsatzumgebung wird in solchen Fällen materielle Ausprägungen solcher Kulturen aufweisen. Das Militär muss vorbereitet sein, diese auf verschiedenen Ebenen wahrzunehmen und damit umzugehen, sowohl auf der Ebene des Einzelnen als auch in der Gruppe.

sein oder dieses verstärken. Ein anschauliches Beispiel dafür ist der Umstand, dass die internationale öffentliche Meinung (gerechtfertigt oder nicht) v.a. die USA für die Zerstörung von Kulturgut im Irak als hauptverantwortlich und sie als jenes Land, das gegen die internationalen Bestimmungen bezüglich Kulturgüterschutz verstößt, ansieht. Berichte des Senders CNN, welche die Plünderung des Nationalmuseums in Bagdad zeigten, hatten große Auswirkungen auf die internationale Meinung und verliehen den USA den negativen Ruf eines Zerstörers von Kulturgut, wobei es Jahre dauern dürfte, dieses Image zurechtzurücken.


**Verwechslung von Cultural Awareness und Kulturgüterschutz**


Es besteht die Meinung, dass „eine in das HTS des Militärs integrierte Sozialwissenschaftler“ nur scheinbar das kulturelle Bewusstsein über die Bevölkerung in Afghanistan und im Irak verbessern. Jedoch wird dieses „Kulturbewusstsein“ dazu verwendet, um Strategien zur Ermordung und Zerstörung zu formulieren. Aufstandsbekämpfung('17) selbst ist ein Werkzeug, das seit einiger Zeit vom Militär eingesetzt wird. Jedoch gibt es gegenwärtig die Tendenz, Cultural Awareness und Human-Terrain-Systeme im Besonderen in die Aufstandsbekämpfung einzubeziehen, was zu Missverständnissen in Bezug auf Kulturgüterschutz führt.


**Schlussfolgerungen**

- Fachwissen und Fähigkeiten zum Kulturgüterschutz, die während und unmittelbar nach dem Zweiten Weltkrieg entwickelt wurden, fielen dem Vergessen anheim, sodass zahlreiche Vertragsstaaten zur Haager Konvention aus 1954 und ihren Protokollen die in diesen Dokumenten enthaltenen Verpflichtungen nicht einhalten;
- aufgrund katastrophaler Diebstähle und Plündereien von Kulturgut im Irak seit 2003 hat der Kulturgüterschutz seinen Weg zurück auf die politische und militärische Tagesordnung gefunden;
- Kulturgüterschutz ist ein militärischer „force multipliër“ und sollte niemals als unnötige, gesetzlich auferlegte, jedoch militärisch problematische und unnötige Last angesehen werden;
- militärischer Erfolg kann nicht mehr nur anhand des Sieges auf dem Schlachtfeld definiert werden, sondern muss die politische, soziale und wirtschaftliche Stabilität der beteiligten Länder, d.h. den umfassenden Ansatz nach Konfliktende berücksichtigen;
- Kulturgüterschutz ist für den umfassenden Ansatz sowie die langfristige politische, soziale und wirtschaftliche (aufgrund des Tourismus) Stabilität vieler Länder entscheidend.

- Kulturgüterschutz ist grundsätzlich mit dem Begriff Cultural Awareness verbunden, stellt jedoch ein separates Fachgebiet mit spezifischen Anliegen dar, das spezielle Fähigkeiten erfordert, die sich von jenen des Cultural Awareness unterscheiden.


Epilog


ANMERKUNGEN:


3) Einige Beispiele sind Österreich, die politische CIMIC-Organisation, die Carabiniere und neue Initiativen des US-Verteidigungsministeriums.


5) Der Terminus „Kulturgüter“ bezieht sich auf die Definition aus Artikel 1 der Haager Konvention (1954).


7) Auch bekannt als CointerTinerTMEinheiten, erzeugt von der britischen Firma Hercules Engineering Solutions Consortium (HESCO).


10) Unter 7b (5). Siehe auch (7).

11) Unter e. Siehe auch e.


**Joris D. Kila**

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Cultural Property Protection in the Context of Military Operations: The Case of Uruk, Iraq

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Joris Kila is a researcher at the University of Amsterdam's Institute for Culture and History. He is also a reserve Lieutenant Colonel in the Dutch army and holds degrees in art history and classical archaeology from Leiden University in the Netherlands and has almost finished a PhD thesis for the University of Amsterdam. He was network manager and acting chairman of the cultural affairs dept. at the Civil-Military Co-operation (CIMIC) Group North in the Netherlands and in that capacity he undertook several cultural rescue missions during the conflicts in Iraq and in FYROM (Macedonia). Last February 2011 during the Egyptian revolution, he carried out, together with Karl von Habsburg an emergency assessment mission in Egypt. In addition, Joris Kila is a board member for civil-military relations with the World Association for the Protection of Tangible and Intangible Cultural Heritage in Times of Armed Conflict (WATCH) in Rome and a community fellow of the Cultural Policy Center at the University of Chicago. He is also a member of the US Commands Cultural Historical Action Group (CCHAG) and Chair of the International Cultural Resources Working Group (IMCURWG). Joris Kila is author and co-author of several publications on the subject of cultural property protection in times of armed conflict utilizing militarized experts. Currently he is working on a book called Heritage under Siege that will be published towards the end of 2011. He is series editor of a new series on Heritage and Identity: Issues in Cultural Heritage Protection, with Brill publishers.

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Abstract

This paper deals with actual use of military or militarized experts for cultural property protection (CPP) during times of conflict. CPP activities generally take place within a juridical framework that gives obligations for all parties involved, namely the Hague Convention for the protection of cultural property in times of conflict of 1954. Attention is paid to various implications and challenges that occur when implementing military CPP obligations following the Hague 1954. To illustrate matters the paper details a specific case study from my own field experience as a cultural property protection officer, the safe guarding of the archaeological site of Uruk in Iraq. The events described were initiated at the end of 2003. Aspects presented in the case are especially of relevance since they can apply (to an extent) to other situations. In this context one can think of recent cultural disasters that happened in Egypt and most probably take place now in Libya and Syria. Examples of such aspects are economic, legal, financial and educational implications. The Uruk case study is used to extract a number of key elements that are vital for the implementation of an effective CPP strategy in the context of military operations in the event of conflict. Overall the importance of international cooperation, training and education and the assistance of so-called civil reach-back capabilities is emphasized. The paper argues that an effective way to protect Cultural Property during armed conflicts is through military channels and with military logistics and tools. This is especially necessary when the safety situation does not allow civil

1 An example from Libya: Several distinguishable sites have been affected by destruction in the Nafusa region. e.g. Saffeet (Saffeet Tower), Al-Gala’a, Yefren, Chasro n Majar (Gasr Ben Niran) Yefren, Ghasro n Tkuit Nalut. Source: <http://shababilbya.org/news/press-release/an-appeal-to-the-internatio...gently-to-stop-destruction-of-archaeological-world-heritage-in-libya> [10 August 2011]. Press release, 30 May 2011.
experts to be deployed and civil entities as the police are no longer capable. To fulfill CPP in agreement with International Humanitarian Law (IHL) joint preparations in peacetime are necessary. This is clearly stipulated in The Hague 1954 for instance in Article 7 Military measures paragraphs 1 and 2.

It goes without saying that handover of military initiated CPP projects to civil authorities has to take place as soon as the situation permits it.

The paper ends with a set of recommendations for all players on the CPP playing field.

Introduction

Currently most CPP case studies are found in juridical literature and to a lesser extent in historical or cultural policy related publications. Often these sources present situations dating from World War II that include stories about snipers in Church bell towers and theft of paintings from European museums and collections. The nature of conflict has however changed since World War II. Modern land conflict involves another type of warfare. As opposed to the symmetric warfare from the past, the number of asymmetric conflicts is increasing. Contemporary conflicts often take into account cultural motives that directly relate to matters of identity. Warring parties are aware of this cultural dimension and some aim for destroying (part of) their opponent’s cultural heritage thus erasing or at least damaging his identity.

Apart from cultural property's value as a means of distinction and (national) identity, cultural resources such as archaeological heritage can be a driving force behind economy for example in Egypt. It can be expected that this will also be the case in Iraq and Libya when the conflicts that currently take place have ended.

All good reasons for CPP to be of strategic importance for belligerents. This was acknowledged during World War II and to a lesser degree in the former Yugoslavia conflict and in the 1st Gulf War. At the time, preventing cultural property from being damaged by military actions like bombardments and by the building of military installations was of a higher priority. Nevertheless CPP expertise and capabilities developed during and immediately after the Second World War have been allowed to disappear. As a result some State Parties to the 1954 Hague Convention and its Protocols are currently not meeting the obligations to safe guard cultural property as stated in these instruments. Consequently in conflict areas where local police is no longer present we are confronted with military inaction in the face of looting by civilians.

In the light of current risks for international cultural heritage, identification of effective strategies for protection is vital. It should be taken into account that this can be hindered by the fact that, especially in times of crisis, some cultural objects are looked upon as national or group-related symbols causing extra sensitivity and creating targets for opposing forces. Such targets can be important for purposes of identity protection or destruction and can be of

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3 Symmetric warfare can be described as the clash of two conventional adversaries in forceful battles and operations that involve the engagement of similar military forces in force-on-force warfare. Asymmetric, intrastate (often non-international and ethnic) conflict and warfare describes military actions against an adversary to which he may have no effective response and which pit strength against weakness, sometimes in a non-traditional and unconventional manner. Source: Colin S. Gray in the Australian Land Warfare Doctrine, chapter 1, The Nature of Land Warfare. <http://www.defence.org.cn/aspnet/vip-usa/UploadFiles/2008-05/chapter1.pdf> (2005).[10 August 2011].
5 Kila 2010b.
6 Military term that indicates the opponent or the enemy used especially when the opponents are no official army but for instance insurgents.
strategic value due to their geographical position. A recent example of what can happen is the situation around the Preah Vihear complex in Cambodia near Thailand.  

One of the arguments presented in this paper entails that the protection of cultural property in times of conflict is not possible without the involvement of the military. There is a practical reason for this: the military tends to be the only group with access to a conflict area. Moreover, they are usually the first present in situ. Since damage to cultural property is in most instances sustained during the early phases of a conflict, their role is of critical importance.

From the time the USA ratified the 1954 Hague Convention on the Protection of Cultural Property in the event of Armed Conflict in September 2008 or in fact officially on March 13, 2009 when its instrument of ratification was deposited with UNESCO. The international debate on considerations of cultural property protection has intensified. The same goes for the related discussion on the extent to which measures should be implemented to preserve cultural heritage in conflict situations. More and more parties are currently being made aware of the situation concerning cultural property protection in instances of manmade and natural disasters. There are many stakeholders examples are universities, libraries and archives, antique traders, environmental experts, looters, smugglers, customs, police, diplomats, tour operators, governmental institutions, military organizations, IOs and NGOs. In fact there is a whole fabric of interests, cultural backgrounds, and even military rankings that can affect attempts to protect Cultural Property in the event of, and under the threat of armed conflict. Different perceptions concerning deployment of military experts influenced by geographical and cultural origins play a role. National political strategies, often not unambiguous, and corporate cultures as well as military traditions are critical. On the whole, communication problems deriving from differences in perception and appreciation linked to cultural backgrounds are a challenge for implementing the military version of Cultural Property Protection. It raises the question whether Cultural Property experts, while safeguarding cultural heritage according to obligations deriving from international humanitarian law (or their own national law), should have a status like the Red Cross, or when they are military or militarized, at least like military medical personnel. In other words within existing legal frameworks they should be able to operate more independently from direct military command structures. This of course can only happen if commanders and politicians first see the significance of military CPP consequently ethical or technical judgments can only be made after a period of practical implementation that is at present not existing.

It is important to be specific about ethical issues at stake here. The current ethical debate is, for a large part, based on a lack of background knowledge of military matters and legal expertise as well as incorrect use of concepts linked to the word ‘culture’. Mainly four terms and one related subject are used by those discussing this issue: ‘cultural property’, ‘cultural heritage’, ‘cultural resources’, ‘cultural awareness’ and the according to some related counterinsurgency (COIN). The legal term for what this paper discusses in accordance with the 1954 Hague Convention is ‘cultural property’. This term refers to physical entities and is defined in Article 1 of the 1954 Convention. It is not an ideal name because ‘property’ suggests a form of ownership and as we know especially during conflict ownerships are contested. ‘Cultural heritage’ on the other hand has a broader meaning that includes intangible cultural heritage: aspects of human expression beyond physical objects. ‘Cultural awareness’ is merely the awareness of specific traditions and customs. It is not of direct relevance to the protection of cultural property (nor is it mandatory under international law). Then there is the term ‘cultural resources’. It is already used in military contexts but is currently not explicitly

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7 Sovereignty over the 11th century Preah Vihear Temple complex is disputed by Thailand and Cambodia. Regularly there are standoffs between military of the the two countries.
8 The US did not ratify the First nor the Second Protocol of The Hague 1954.
used in legal contexts. In addition, as it is at times paired with natural resources in military environmental guidance documents, the military mindset is receptive to the protection of ‘resources’. In conclusion it is vital to mention the European civilian perception of the term Counter Insurgency or COIN. The latter needs clarification, European civilian social scientists and for that matter the general public tend to perceive COIN as secret operations aimed at destroying opponents. The Americans, including the US general public, use a wider construct of the term and recognize all activities that are in support of a military mission as COIN.

Following these semantic clarifications, a clear distinction must be made between programs such as the ‘Human Terrain System’ (HTS) in the USA and (military) archaeologists and other cultural heritage specialists working to support the protection of cultural property.9 As stipulated, an international discussion has developed on the ethical issues focusing on the cooperation of certain anthropologists, archaeologists and art historians with the military. The problem is that opponents of scholarly engagement with the military use the anthropologists’ or other cultural awareness experts’ involvement in Human Terrain Systems (HTS) as a reason to reject on ethical grounds all cooperation by social scientists with the military, including those working for the protection of cultural property. De facto a justified and much needed ethical discussion is mixed up with a not (yet) needed discussion. It must be stressed that anthropologists working for HTS teams should not be confused with cultural property protection experts working with the military in accordance with the Hague Convention. This undermines the already difficult process of making the military aware of their obligations under the 1954 Hague Convention and, when applicable, the 1999 Second Protocol. Academics working with HTS engage with military intelligence-related operations by providing cultural information to commanders that is used to defeat the enemy. International Humanitarian Law (and sometimes national caveats) applies to this type of operations. Cultural property protection, though implemented by experts in accordance with International Humanitarian Law is not aimed at supporting the type of countermilitary operations that are especially in the European COIN perception associated with undercover missions, spying and commando operations. This distinction is ignored at cultural property’s peril; those who repudiate academics working with the military to save cultural property must bring more nuance to their judgments.10 Furthermore, all parties must be aware that the civil-scientific discourse that presents and debates theory and concepts is on a different more reflective level than the civil-military cultural protection debate. The latter is new and still less profound and actually in an embryonic phase. At this stage there is no logic in comparing and using segments of both discourses for offensive purposes. To put it more direct, criticizing the ethics of engaging with the military to safe guard cultural property is useless since there currently is no substantial nor sustainable cooperation on this with most military. If the international community succeeds in establishing military cultural property protection capabilities and they start to function for a number of years than there can be reason for reflective thinking and for ethical considerations. For now it is a waste of time to argue about things that are not happening. Of course any incidental misuse will be dealt with according to

IHL an example is the Pavle Strugar case in which a Croatian general was sentenced for the destruction of cultural property.\textsuperscript{11}

The looting of the Baghdad museum in April 2003 triggered international attention. This 'new' interest\textsuperscript{12} in cultural property protection calls for a more coordinated approach to the implementation of CPP. Even in the best case scenario, the protection of cultural property by military has been regarded as a low priority. The new military ambition, in military terms considered as the end state of a mission, is the establishment of a sustainable, safe and secure environment\textsuperscript{13} that includes safeguarded cultural property. In such an environment, functioning economic, juridical and political systems are indispensable elements. One of the military tools available for achieving this environment is via Civil Military Cooperation or Civil Affairs units (CIMIC or CA) that (should) contain cultural property specialists. In order to achieve the end state\textsuperscript{14}, the military mindset must be willing to adapt to a split task that includes both fighting as well as winning hearts and minds or in the US, COIN, through development-related activities. The Dutch military call this the 3D approach: Defence, Diplomacy and Development. Given these dynamic processes and developments that are relatively new there is no real debate as to whether military should protect and conserve cultural property and consequently whether they should do this under all circumstances. The latter could be subject for debate when there are more experiences with military involvement in CPP. So far there are only a few cases of practical military cultural heritage safe guarding. The civil-scientific heritage discourse deals more profoundly with fundamental questions in their own sphere, so there is a difference in quality of intellectual reflection between civil and military oriented debates.\textsuperscript{15} This makes continuous research necessary. Nevertheless it should always be taken into account that Cultural property can be volatile and potentially explosive – because of its relation with identity it is often disputed and available for manipulation. Moreover, perceptions as to what constitutes cultural heritage vary: some cultures place more emphasis on the process of creation than on the finished product; others use artifacts until they are deteriorated before disposing of them. On top of that the status of cultural properties tends to shift in time and is influenced by socio-political as well as geographical conditions. These are complex issues, not the least for the military who lack formal training on the subject. A good start to raise awareness and initiate training and education is the publication of new case studies.

\textsuperscript{11} Strugar is a former Yugoslav People's Army (JNA) General charged with crimes in the Croatian city of Dubrovnik in 1991. On 31 January 2005, He was found guilty and sentenced to eight years by a Trial Chamber for attacks on civilians; destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works or art and science, all in relation to JNA's attack on Dubrovnik in 1991. According to the judgment, Strugar had both legal and effective control of the JNA forces who conducted the military action at Dubrovnik, including the shelling of the Old Town of Dubrovnik.

\textsuperscript{12} Earlier CPP expertise within the Armed Forces as developed by the Allies during the Second World War has been allowed to disappear. Rush 2010, Kila 2010a.

\textsuperscript{13} The NATO AJP-9 doctrine states: CIMIC activities form an integral part of the Joint Force Commander’s plan, are conducted in support of his mission and are related to implementing the overall strategy and achieving a stable and sustainable end-state. \texttt{<http://www.nato.int/ims/docu/ajp-9.pdf>} [10 August 2011].

\textsuperscript{14} The end state of a conflict is a military term.

\textsuperscript{15} The civil heritage debate includes questions of authenticity, uniqueness and identity.
This section deals with the case of the Iraqi archaeological site of Uruk (today Warka) and its safeguarding from looters. I will start with an introduction followed by a narrative part based on my own experiences in theatre. The case study gives an impression of the variety of parties involved in an attempt to safeguard cultural property in a conflict situation and reveals a number of key elements. Following the case a more in-depth analysis of these elements is presented. A number of basic challenges to be met when trying to protect cultural property in times of conflict is presented. These dilemma's will be more closely studied while making comparisons where possible using sources from field research, existing literature, historical parallels and implications of a legal, social, military, political, economical and anthropological nature. Although I am no legal expert (my background is in archaeology and art history), it is important to make a contribution that can help legal and cultural experts join forces in the debate that will hopefully result in a permanent dialogue. Having said this, I wish to emphasize that further research on this subject as well as training should be financially supported. At this moment this is regrettably not happening enough. The Netherlands MoD for instance stays far behind using financial cutbacks as an excuse.

16 source: <http://www.atlastours.net/iraq/sites.html> [10 August 2011].
The Cultural Importance of Uruk

‘This is the wall of Uruk, which no city on earth can equal. See its ramparts gleam like copper in the Sun. Climb the stone staircase more ancient than the mind can imagine, approach the Eanna Temple, sacred to Ishtar, a temple that no king has equalled in size or beauty’ Epic of Gilgamesh.

Uruk (today known as Warka) is one of the oldest cities of southern Mesopotamia, situated at a branch of the Euphrates River, approximately half-way between Baghdad and Basra in Iraq. The largest tell in this area, the site measures approx 400 hectares. Excavations have exposed part of the city. The most important period in Uruk’s history was without any doubt the era of so-called ‘high civilization’ between c.3400 and c.2800 BC. This period saw the construction of major buildings that could only be realized within a highly organized administrative system, and the invention of cuneiform – humanity’s earliest known writing system. The city remained important throughout the twenty-seventh and twenty-sixth centuries BC. This was the time of the great kings such as Enmerkar, Lugalbanda and, most famously, Gilgamesh. During the Parthian era (second and third centuries AC) the city flourished again but was probably deserted shortly after its inhabitation came to an end sometime during the Sassanian period (224 to 633 AD).

History of Excavating Uruk

Sir William Loftus executed some minor explorations between 1850 and 1854 on the most prominent mounds, finding clay-tablets, clay-coffins and uncovering the famous coloured clay mosaic cone wall. It was not until 1856 that Sir Henry Rawlinson, famous as the decipherer of Assyrian cuneiform, visited the site. He became convinced that he had found the biblical site of Erech, in his words, ‘the mother of all cities’. However it took more than 50 years before the first systematic excavation of Uruk was conducted, between 1912 and 1914, by a German team led by Julius Jordan for the Deutsches Orientgesellschaft. After the First World War the excavations resumed from 1928 to 1939. They were stopped by the Second World War and started again from 1953 to 1989 under the aegis of the ‘Deutsches Archaeologisches Institut’ of Berlin (DAI). The political situation followed by the First Gulf War prevented continuation. Therefore the 39 campaigns of German excavations came to a halt in 1989. Only in 2001 and 2002 did a team, directed by M. van Ess, return to Uruk to begin mapping the site using subsurface magnetometry, a method used to see what is under the surface without digging.

Military Cultural Intervention

When a Battle Group from the Dutch Army (Marines) took over Al Muthanna province from the Americans in the summer of 2003, I learned through information obtained from Professor MacGuire Gibson of the Oriental Institute of the University of Chicago that Uruk was situated in the Dutch area of responsibility. During a Civil Theatre Assessment mission on behalf of the Dutch Ministry of Defence (MoD) that addressed the key Civil Military Coordination functional areas (including Cultural Affairs), I was in a position to visit the site (see pictures 1


17 Mitchell 2006.
and 4.) with a patrol of the Dutch Military Police (Marechaussee) and thus discovered that Uruk was one of few Iraqi sites that had not yet been looted.  

According to information from the German archaeological experts Uruk was formerly guarded by a local Bedouin tribe acting as guards for the German Archaeological Institute, the concession holders for excavating the site. It had been necessary for the German scientists to stop their work when the situation in Iraq had deteriorated. After the start of the war the payments to these Bedouins guards initially staggered, and finally ceased in the spring of 2003. The German Archaeological Institute (DAI) provided me with the name of the head of the tribe, Muhhar Rumain, and gave me a letter of introduction in Arabic. Before involving members of certain tribes in guarding archaeological sites or monuments, extensive research and the checking of credentials should take place as existing or potential conflicts between different tribes can create big problems. The same goes for the involvement of tribes or clans that are not originally from the area where the monuments or sites are located. At the site I met Muhhar Rumain’s son. He explained that Uruk belonged to his clan, the Bedouin at-Tobe, by virtue of an agreement with the tribes who ruled over other parts of Al-Muthanna. I was told that they still wanted to safeguard the site, but after the German payments had stopped, their capabilities were limited due to lack of means of transport and money to buy food and water. It was arranged that the Dutch Army and the DAI should pay a modest sum of money (approx. US$ 200) to the tribe every three months through Dutch military channels allowing them to continue their work. Following an agreement with the Dutch MoD these payments continued until the Dutch forces withdrew from Iraq.

At the end of January 2004 a patrol from the Dutch Marines visited Uruk. While receiving a guided tour from Muhhair Rumain himself they saw people digging in the far distance.

19 Iraq Civil Assessment Al- Muthanna, Internal report October 2003 Dutch MoD.
Muhhair told them that these were plunderers. The patrol and the Bedouin guard rushed to the area, arrested the thieves and returned the stolen goods that had been taken from an illegally opened grave (see picture 5). Only minor damages were reported. As far as we know this was the only incident involving looters that took place at Uruk. The Dutch troops left Al Muthanna and Iraq in March 2005. As I received no permission from the Dutch MoD to revisit Uruk there was no handover of the military cultural property protection activity to either a succeeding force or a civilian party. According to the DAI in Berlin contact was made in May 2007 with the Bedouin guard and everything appeared to be in order in Uruk at that time. Also some recent pictures of the expedition house, taken by members of the Iraqi State Board of Antiquities, became available. Except for some foreseeable erosion in the expedition house and in the ruins themselves, everything seemed fine. Nevertheless, the bad condition of some ancient buildings in Uruk will become a major problem in the near future and is currently the biggest danger to the site. In June 2008, a field trip was made by John Curtis (British Museum), Elizabeth Stone (Stony Brook University) and Margarete Van Ess (DAI). This resulted in the report ‘An Assessment of Archaeological Sites in June 2008: An Iraqi British Project’. According to this report, the on-site guards (now joined by 15 Special Protection Force members) were still present in Uruk and there were no signs of looting. The fence that surrounded the site was renewed in 2006 with Japanese funding. The DAI still manages to make payments for the on-site guard. US Army archeologist Laurie Rush was able to visit Uruk in April 2009. This visit enabled her to set straight an example of a potentially good activity, based on inaccurate information. It concerns a replica of a fragment of a stone cone mosaic tower from Uruk. Such replicas are used as avoidance targets on Fort Drum’s Adirondack Aerial Gunnery Range 48. The idea is utilizing mock ups to train pilots on avoiding cultural objects and sites that vary from mosques and cemeteries to archaeological remains. Nevertheless the mock up is modelled after the picture of the original cone temple wall fragment that, as the picture shows is still in situ in Uruk.

![Image of people working on a pile of white objects]

Picture 2. by Ian Warden, US Army.

At the time the replica was made nobody checked, or was able to check, the real measurements in situ probably because of safety concerns due to the unrest in Iraq at the time.
In April 2009 Laurie Rush Fort Drum's archaeologist was able to visit Uruk and found that the scale was completely wrong as the pictures (see pictures 2 and 3) demonstrate. Anyhow it is an excellent lesson learned emphasizing the argument that specialists, in this case academics have to be consulted whenever possible.

Key Elements for an Effective Cultural Property Protection Strategy Found in this Case

The Uruk case study contains several important elements that play a role when implementing cultural property protection in the context of military operations. These elements apply for preparations in peacetime as well as when the troops are in theatre. I will mention them and explain their role in the case study as well as their relevance for the military implementation of cultural property protection in general. The essentials identified are: civil military cooperation; cultural property officers; handover procedures; legal obligations and implications that include military necessity; economic implications; military incentives when implementing cultural property protection; looting, illicit traffic and the link with security; financing and training and education.

CPP and Civil Military Cooperation

In theatre cultural property protection and cultural emergency response in times of conflict (and sometimes disaster) take, for the larger part, place in a civil-military context. In Uruk the military worked together with local civilians – a form of civil-military cooperation (CIMIC). However there are legal implications when combatants work together with non-combatants since they both differ in status under the Geneva Conventions. More research by both civil and military legal experts is desired on this matter. In general countries attempt to implement cultural property protection through civil-military co-operation or civil affairs branches, which both traditionally operate mainly on a tactical and operational level.
So-called ‘functional specialists’ can be deployed when expertise that is not available within the standing armed forces is needed, as in the case of cultural property protection. In Uruk CIMIC functional specialists were used by the Dutch armed forces. Both Iraq and the Netherlands are parties to the Hague Convention of 1954 so there was a legal obligation for cultural property protection in line with International Humanitarian Law (IHL).

![Dutch CIMIC Cultural Property Officers in Uruk, at the top of the big Ziggurat, picture Joris Kila.](image)

**Cultural Property Officers**

Implementation of cultural property protection through Civil Military Co-operation (CIMIC) brings restraints. Due to the NATO AJP-9 CIMIC doctrine, any implementation must be in support of the (field) Commander’s mission. However, cultural property protection is always mandatory under IHL. This discrepancy can give rise to conflicts of interest: some Commanders tend to use the military necessity excuse for not paying attention to cultural property protection or consider it a good career move to only make high-visibility quick-impact project statements (painting schools) instead of implementing measures for the protection of cultural property. Such conflicts of interest can be avoided by giving cultural property protection a permanent, dedicated position within the Ministry of Defence. Personnel that fill such positions should be involved, or give at least advice, in planning procedures and be an integrated capability linked to operations and coordination with civilian institutions. A good example of Ministry-wide implementation of cultural property protection by ‘official cultural property’ officers is found within the Austrian Federal Army ‘Bundesheer’: the Cultural Property Protection Officer (CPPO). The Austrians describe the CPPO as being in accordance with a provision in their Ministry of Defence for experts and services referring to articles 7 and 25 of the 1954 Hague Convention.
The tasks of this CPPO include securing and keeping respect for Cultural Property among the military, acting as a commander’s cultural property protection advisor and expert, providing training for troops and commanders and liaising with civilian institutions and experts that deal with cultural property. Furthermore the CPPO gives advice during planning and is in control of the tactical measures concerning cultural property protection in critical areas. The CPPO is also an advisor and consultant to civil authorities and gives a situation report as a member of staff. In the Austrian example an overall incentive is the fact that all information and recommendations produced are meant to raise awareness and start debates among military planners, post-war planners, policymakers, military lawyers, academia and governmental officials.

Handover Procedures

After a military mission, or following the end of a mandate, cultural property protection activities must be properly handed over to local authorities, NGOs or succeeding military forces, as appropriate. The military from a certain country may be redeployed to a different area before the situation is stable enough to hand over to proper civilian bodies and agencies. This has been the case in Iraq. A political decision brought about the redeployment of the Dutch Battle Group from Iraq’s Al Muthanna province. As a result all personnel had to leave but Dutch military cultural experts who set out the cultural strategies were not allowed by their MoD to return for a proper handover. Procedures must be developed to hand over cultural rescue activities when such events occur.

Legal Obligations and Implications

Manches Herrliche der Welt ist in krieg und Streit zerronnen. Wer beschützet und erhält, hat das grösste Los gewonnen.
- Johann Wolfgang Goethe (1749-1832)

As the Goethe example shows, there is a long history of awareness of the need for the protection of cultural property. The first universal convention dealing exclusively with cultural property protection was the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict, in The Hague. A number of obligations and protocols with direct relevance for the armed forces derived from The Hague Convention. For example in Chapter 1, Article 7 of the Convention it is stated as mandatory for the military forces of states-parties to employ specialist personnel such as art historians or archaeologists.

Yet integrating elements of international treaties in the respective national laws brings challenges. Many states-parties have no policy designed nor special provisions made to enforce the legal obligations the convention requires concerning the military aspects. This gives room for half solutions that are not in accordance with the spirit of the treaty. But there are also examples of good practice. In the USA, for instance, it was to a certain extent possible to integrate the 1954 Hague Convention in national law by following appropriate national legislation. An example: the US Defense Department (DoD) has obligations under the 1966 National Historic Preservation Act to take cultural property into consideration.

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21 Section 402 of the National Historic Preservation Act of 1966 (as amended through 1992). Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country’s equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into
Furthermore, the Ninth District Court of the USA has found that Section 402 of the National Historic Preservation Act applies to any area in the world under the responsibility of the US DoD. Failure to take into consideration heritage property could easily result in the department being sued by US citizens. Having said this it should be noted that the US became a state-party of a 1954 treaty in 2008! nevertheless the US did not ratify any of the two protocols to the 1954 convention so there is still room for improvement.

**Military Necessity**

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 and the buildings must go. But the choice is not always so 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.

- General Eisenhower, 29 December 1943.

Military necessity as outlined by General Eisenhower, above, is often cited as a reason, or excuse, for cultural destruction. Although Eisenhower’s remark is 70 years old and somewhat outdated Military Necessity is in fact a legal concept that is used in different modes often with adjectives like unavoidable or imperative to express it as a high or higher test. Nevertheless the concept should be interpreted as a limitation rather than as a justification and is normally used within a legal framework such as a certain treaty or a Law of Armed Conflict codification. The Second Protocol of the 1954 Hague Convention (Article 11 – 2) states that immunity granted to cultural property can be lifted in ‘exceptional cases of unavoidable military necessity’. While such military necessity did not play a role in Uruk, it is still useful to mention it here for the more general role it played in Iraq. For instance: Minarets such as those in Samarra were used by snipers, and monuments were utilized to store weapons and keep hostages. The vibrations caused by demolition of Saddam-era ammunition by US soldiers had dramatic effects on the temple complex of Al-Hatra; although in a later stage account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effect. This article has been tested in court in the Dugong vs Rumsfeld, and as of early 2011, the ruling of the Ninth District Court of California that the Navy in Okinawa must respect the Dugong as a cultural icon under Section 402 and must take the potential impacts of the proposed expansion of the Naval Base in Okinawa on the Dugong into consideration for any future action. This legal determination in US will serve as the precedent for application of Section 402 until such point as a legal challenge and contrary finding would change the status. The fact that international, or in this case Japanese cultural properties law is substituted by national (US) law brings opportunities for US citizens to sue the DoD when cultural heritage responsibilities are ignored.

22 Section 402 has been tested in court in the Dugong vs Rumsfeld, and as of early 2011, the ruling of the Ninth District Court of California that the Navy when operating in Okinawa Japan must respect the Dugong (a sort of Dolphin) as a cultural icon under Section 402 and must take the potential impacts of the proposed expansion of the Naval Base in Okinawa on the Dugong into consideration for any future action. This legal determination in US will serve as the precedent for application of Section 402 until such point as a legal challenge and contrary finding would change the status. Source: Bellew, Serena. Legal Background and Policy Framework for Consideration of Cultural Property Protection during US Military Global Operations, in: A Technical Report for the Legacy Resource Management Program Project 10-324 by Luisa B. Millington and Laurie W. Rush (unpublished) May 15th 2011.


24 The pinnacle of the minaret was damaged April 1, 2005 by a bomb reportedly placed by insurgents in response to U.S. forces prior use of the minaret as a sniper's nest as from September, 2004; March, 2005, Iraq State Board of Antiquities ordered U.S. forces to vacate the Minaret. <http://www.cemml.colostate.edu/cultural/09476/iraq05-060.html> [10 August 2011].
expert advice helped to lessen the impact of these explosions.\textsuperscript{25} Hescos were unnecessary filled with archaeological soil, apparently out of ignorance.\textsuperscript{26} Obviously the problem as to how military necessity is defined or rather interpreted remains.

\textit{Economic Implications}

Uruk is an important site of global significance. Sitting at the heart of the Mesopotamian ‘cradle of civilization’, Uruk is considered the birthplace of writing, and of the Epic of Gilgamesh, found on clay tablets in the city. Potentially, Uruk is capable of attracting tourism. The current inhabitants have a different appreciation. For them Uruk is a plot of land that is ‘owned’ by a certain Bedouin tribe that has successfully claimed it through an agreement with other local tribes. Though the head of the tribe realizes the historic importance of his land, it is predominantly seen as a home to the tribe and for small scale agriculture and cattle-breeding. In Al Muthanna most of the inhabitants are Shia, and the population consists of a mix between Bedouins and farmers and some city folk. Every inhabitant is linked to a tribe (approx. 14 in total) and every Iraqi owes loyalty to his clan or family before the tribe and the local government. Tourism is not yet seen as a source of income due to the length of Saddam’s regime resulting in reluctance among tourists to visit Iraq and political isolation. However, through the German excavators the Bedouins in Uruk/Warka for many years had a regular income working as excavation assistants during the excavation season and site guards throughout the year.

This economic incentive illustrates to a local population the relevance of protecting the site for future excavations and thus keeping options open to generate a more or less stable source of income. Apart from ethical considerations implying that it is wrong to damage national cultural heritage (linked to a national or regional identity) it became clear in my talks with the inhabitants that they were aware that financial rewards for looting were quite meagre and unsustainable. In general locals normally get very low prices for antiquities.\textsuperscript{27} In this context it was a good decision to continue paying ‘salaries’ for the protection of the site through military channels. In fact this way a win-win situation was created, the locals experienced sustainable income including future perspectives concerning jobs when the excavations are resumed in the future. For civilian military cooperation, the (project based) financing was legitimized because funds were provided to be spent on food and water and earned by locals guarding cultural property. Last, but not least, the military followed the 1954 Hague Convention since Iraq is a State Party to the Convention and its First Protocol both were ratified by Iraq in December 1967.

\textit{Military Incentives when Implementing Cultural Property Protection}

The military have a strategic interest in handling cultural property carefully. They want to achieve military goals as quickly as possible and complications deriving from damaging cultural belongings can harm a mission. In order to demonstrate such incentives to the military and to policy-makers examples are needed. These have to be perceived as realistic for them and should demonstrate outcomes that help to end a military mission successfully. In fact these are deliverables that can persuade military commanders to pay attention to the protection of cultural belongings during all phases of a conflict. This includes every stage

\textsuperscript{25} Stone, Farchakh 2008.
\textsuperscript{26} Hescos are large bags filled with sand or rubble to serve as barriers for military camps and fortifications. They are also known as Concertainer™ Barriers and made by the UK Company Hercules Engineering Solutions Consortium in short HESCO.
\textsuperscript{27} Stone, Farchakh 2008. pp. 135-141.
from planning to post-conflict or reconstruction phases. A challenge is that these incentives
seem abstract to civilian cultural property experts while at the same time the military
understand the jargon but misunderstand the connection to cultural property.

An understanding of heritage combined with respectful behaviour is a ‘force
multiplier’ for any global operation. A force multiplier is a capability that, when added to a
combat force, significantly increases the combat potential of that force and thus enhances the
probability of successful mission accomplishment. Force multipliers and also force
acceptance (the acceptance by the local population of the presence of armed forces from
another power) are important arguments for the military to realize cultural safe guarding
activities.28 But there are also more direct military aspects; Cultural property protection can
for instance constitute a force multiplier because it can disturb or hinder the illicit antiquities
market while reducing a possible source of funding (to buy weapons) for the opposing forces.
It has the potential to mitigate the tactical value exploited by non-State actors.29 Such
deliverables are of tactical and strategic relevance. Yet military planners and senior leadership
are currently to a large extent unaware.

Academics have noted that cultural property protection contributes to an overall
atmosphere of general security while promoting the rule of law and respect for property.30 In
addition, as already touched upon, potential sources of income for opposing forces are
diminished. Last but not least cultural property protection policy gives a sense of legitimacy
to a government as it demonstrates its ability to protect the national cultural identity.
Archaeological sites matter to indigenous populations.31 Local communities understand their
ties to the civilizations of the past. When military blunders demonstrate ignorance, the respect
of the local community is lost. Damage to sites out of ignorance can delay a military mission
by generating worldwide negative publicity. Examples include the US occupation at Babylon
that caused severe damages to the site and the Camp Wolverine disaster in Kabul, where an
ancient underground irrigation system was unintentionally damaged. Today risks for a
countries reputation are even higher because of the influence of new media like the social
networks (Facebook, Twitter, etc.). This influence became very apparent during the revolution
in Egypt and also plays a role in the current upheavals in Syria.

**Looting, Illicit Traffic and the link with Security**

Antiquities are the most precious relics the Iraqis possess, showing the world that our country . . . is the legitimate offspring of previous civilizations that offered a great contribution to humanity.
- Saddam Hussein in a 1979 speech32

Dealing with looting, stealing and trafficking of cultural objects and subsequently the
protection of sites and monuments including preparations in peacetime has to be looked at
from multiple angles.33 Given most recent cases, protection seems only possible through the
use of armed civil or military guards combined with technical solutions such as cameras or
even satellite observation. Most solutions rely heavily on the military not the least because of
military logistics, tools and access to conflict areas plus (classified) data such as aerial

29 Nemeth 2010.
30 Feil 2008. p 221.
31 Source: an email message from Dr. Laurie W. Rush (US Army) to the author on 30 April 2008.
33 Mac Ginty 2004.
photography. The idea of involving contractors (in this case, mercenaries) as guards has been discussed in a number of expert panels like the yearly military CPP panel at the AIA conferences. However this idea is rejected by many for legal and financial reasons. Legal refers to matters of authority in conflict areas and financial refers to the fact that many MoD's and other stakeholders like UNESCO do not have the financial resources to hire contractors. Identification of effective strategies for protection can be hindered by the fact that, especially in troubled times, specific cultural objects are looked upon as national or group related and become targets for opposing forces. Here the subject touches the realms of military intelligence and security because as established trading of looted artefacts in war-stricken areas is not seldom practiced by opposing forces. Large numbers of artefacts originating from war areas are looted often commissioned by insurgents. Smuggling routes can be the same as those used for trafficking insurgents, weapons, drugs and for the export of stolen artefacts. The link with criminality and opposing military forces is good reason to inform all military personnel involved in missions in sensitive areas that buying artefacts is strictly forbidden. At present, the US uses small illustrated pocket cards with instructions on how to recognize such objects; there are also Cultural Property playing cards both in the US and The Netherlands and an Arts Monuments and Archives guide created by the US Civil Affairs. As a general rule, military personnel entering or leaving a mission area are checked by military police.

Looting manifests itself in a variety of guises such as mob looting, systematic looting, flash looting. All have different causes and catalysts. In the case of Uruk the economical incentive was neutralized by offering (minor) payments for local guards. Looting has a military parallel too, already the Romans allowed their soldiers to plunder as a form of wages, even today the traditional tribal militia in Afghanistan and Pakistan the Lashkar are not paid salaries but share in loot captured from the enemy. They are an exception since modern operations and legislation forbid this form of pay. The whole complex of the looting, stealing and smuggling of artefacts is, of course, market-driven and based on the international rising demand for antiquities. Since there is only a finite supply of legal objects that are available for trade, any increase can only come from illegal sources.

34 A recent example are the looted and stolen objects from Afghanistan, often commissioned by the Taliban, that are smuggled out through the Kandahar Military airport and end up in expensive antique shops in Brussels, Belgium.
36 Olbrys 2007.
37 O'Keefe 1999.
Financing

In peacetime assessments should be made to allocate funding or detect governmental as well as private possibilities to finance training and research as well as preparations in peacetime for military cultural intervention such as building networks and reach back capabilities. In general, it remains to be determined whether or not the military in charge of certain areas of responsibility have funds at their disposal to spend on the protection of cultural property when operations actually take place. The US military have the US Commanders’ Emergency Response Program (CERP) funds and Ambassador’s funds; other countries might for example use local embassy funds if they have embassies in countries where operations are carried out. A case of good practice dates from 2004 and took place in Baghdad. Several collections of documents from the Iraqi Libraries and Archives had been damaged during the war. When Baghdad was still relatively secure, civilian experts managed to deep-freeze the objects, which had suffered water and mould damage. Freezing is a commonly used protection technique that preserves documents for final conservation under better circumstances. Apparently the collections started to deteriorate at a certain stage due to electricity failures causing the documents to defrost. Cultural property officers, after assessing the situation, asked for support. As a result, the US Army used CERP funds to provide equipment in the form of a generator-powered freezer truck, and the objects were refrozen in this vehicle. However, civilian military cooperation/civilian affairs (CIMIC/CA) officers and cultural property officers are sometimes confronted with serious criticism from NGOs, IOs and governmental decision makers. Some NGOs consider military emergency aid to be false competition plus they claim that (already earmarked) money that was originally meant to be spent on NGO activities is used. I do not know if this is true for other CIMIC/CA disciplines,

but such arguments carry no weight in the case of cultural property protection. Apart from this there are only a limited number of civilian organizations dealing with cultural heritage protection and on several occasions (Iraq, Afghanistan) security conditions have compelled these organizations to ask for the assistance of militarized experts. Currently a big challenge for implementing military cultural property protection is the fact that cuts on financial spending appear to be used as an excuse not to implement Cultural Property protection. This is not only against international (customary) law but also demonstrates the low priority the subject has with some MoD's and military organizations.

Training and Education of Military and Others

Tasks that are not part of the culture will not be attended to with the same energy and resources as tasks that are part of a certain culture.
- James, Q. Wilson, 1989.39

Training and teaching military personnel is different from lecturing to for example university students. Backgrounds, language and intellectual levels vary, so methods to transfer knowledge have to be tailor-made for the target group. To make things more complicated cultural property protection expertise is multidisciplinary. Therefore first, awareness on the subject of culture and cultural heritage must be raised to make the students more appreciative of cultural property; for this a basic introduction to art history and archaeology is essential next step is to introduce legal, political and military implications. Important tools for the teacher are the use of practical examples, anecdotes, discussions, working groups such as syndicates, training in situ, guest lecturers, simulation and visits to places like museums and libraries.

Replicas are often used for training. This has the advantages that there is no risk of damage (in case of bigger groups) and there is no need for travel. For example, a stone cone mosaic tower from the ancient City of Uruk is an avoidance target on Fort Drum’s Adirondack Aerial Gunnery Range 48 and three mock cemeteries and a number of architectural mock sites were installed to train the troops for their Iraq deployment. Apparently construction of these assets was extremely cost effective since prefabricated standard parts were used, it is important to work as cheap as possible since training on CPP has no high priority and subsequently no or low budgets are made available. Mock-up training is being implemented by the DoD Legacy Resource Management Program and the Cultural Resources Program at Fort Drum in cooperation with the Center for Environmental Management of Military Lands (CEMML) from Colorado State University both in the US. Mock-up training supplements the avoidance target list provided to the US Air Force by Middle Eastern Archaeology subject matter specialists.

Training in Situ

Field training is aimed at planners, higher officers, defence attachés, policymakers etc. and takes place in and on actual monuments or archaeological sites. It is an effective method to raise awareness on cultural property protection with military and other stakeholders in situ. The idea is to have lectures first, as an introduction, and then go to an archaeological site to continue to illustrate lectures with real examples.

The first course in situ took place in June and October 2009 in Saqqara Egypt on the terrain of the Step Pyramid where international military planners were educated.

In conclusion it is fair to establish that the necessity of training on the subject and the relevance of cultural property protection for military planning has to be demonstrated. Personnel in charge of training should be aware of the fact that ongoing research on the topic including scientific and theoretical approaches is necessary. This can be done in cooperation with military academies or civil educational institutions.

**Next Steps: Improving the Role of Military Cultural Property Protection as Part of Cultural Emergency Response within the International Context**

International cooperation is conditional for effective and sustainable results this comprises the creation of civil, military and combined networks.

A first step to realize international military cooperation on cultural property protection is the initiative taken in August 2009 to create an International Military Cultural Resources Work Group, (IMCURWG). The Group comprises cultural heritage professionals working in the military context in order to enhance military capacity to implement cultural property protection across the full range of operations. It will thus provide a forum for international cooperation and networking for those working within a military context; raise awareness and publicize military commitment to the protection of tangible and intangible cultural property and heritage; and initiate and stimulate research on cultural property protection and military involvement.

IMCURWG works within the framework of The Hague Convention, addressing archaeological sites, historic buildings, museums, libraries, galleries, cultural landscapes and archives and other relevant legal obligations. IMCURWG is not intended to replace any existing organizations working in this field. Rather, it is in a position to be proactive in developing partnerships and networks between the military and existing non-military organizations and groups.

The Group is operational and works together with entities like the Combat Commands Cultural Historical Action Group (CCHAG) of the US Department of Defence on in situ training projects. Main goal of initiatives as described above is to be pro-active especially in emergency situations. A recent example is Egypt. When troubles began in Egypt in January 2011 rumors started almost immediately about theft and damage of cultural belongings. The international community including organizations like UNESCO did not react with for instance an on the ground reconnaissance or other pro-active measures but stuck to sending the usual letters of protest. There was a serious risk that the mistakes made in Iraq would repeat themselves. Together with the ANCBS (Association of national committees of the Blue Shield) IMCURWG initiated a cultural emergency assessment mission to Egypt at the height of the turmoil in February 2011. Because of the safety risks the mission team consisted of individuals with a military background (Karl von Habsburg and Joris Kila) and a reach back coordinator that worked from Berlin (Thomas Schuler). The team found several cases of looting and damaging in places like Saqqara (tomb of Maya), Dashur (the Morgan storage facility was looted see picture 6) and Abusir. Especially excavation warehouses were broken into by gangs of looters, mostly smaller objects were stolen.
Several mechanisms, that already became manifest in Iraq such as the (attempted) plundering of the national museum and in the slipstream archaeological sites, reoccurred. Same goes for (alleged) political manipulations of Cultural Property by members of the "regime". Last but not least economic implications of conflict related heritage destruction such as serious decrease of tourism re-occurred in Egypt. In spite of Egypt's obligations under the 1954 Hague convention its military were not trained to protect cultural heritage. The Egyptian police disappeared completely after the unrest started and the military did not act to safeguard Egypt's heritage. As a result gangs of looters, often driven by poverty but also by rage started to loot immediately. The outcomes of the assessment mission confirm a number of suppositions made in this article.40

Undoubtedly, the best chance for implementing plans and methods for cultural heritage protection implemented is through international interagency coordination, preferably between and across government institutions, including the military, and NGOs, including international organizations.41 Due to the scarcity of military cultural experts, it is necessary to establish an international team of such experts to deal with cultural heritage emergency response, assessments, providing advice, and ensuring compliance with existing rules, treaties and military issues.

40 The report of the mission can be found on <http://www.blueshield.at/> [10 August 2011].
Deployment of international militarized experts would be especially beneficial in areas where civilian experts are not yet allowed. Potential civilian team members from universities, museums and other institutions could serve as a reach-back capability for such militarized experts and could take over as soon as the situation permits. An international military team can be formed through multi-lateral agreements between Ministries of Defence or NATO. Organizational activities can be undertaken by a civil entity such as IMCURWG which maintains working relationships with militaries around the world. IMCURWG could advise field commanders and politicians at any time, coordinate and initiate joint training, and act as an intermediary between civilian experts and the military.

Conclusions

The case study shows that international cooperation is important for the safeguarding and protection of cultural property. If the information concerning the exact coordinates of Uruk had not been supplied by a civilian stakeholder in this particular case MacGuire Gibson from the University of Chicago it would not have been possible to convince the military to pay attention to the site. Of course coordinates and even aerial pictures are available to the military, but this material is often treated as classified. An admittedly expensive way out might be data supplied by space organizations. Nevertheless it is expected that in the near future GIS data from the websites of IMCURWG and the US CENTCOM Cultural Historical Advisory Group will be available to selected parties. Utilizing cultural military experts in times of cultural emergency seems also good since they, unlike civil parties are less restrained by security or logistic issues. This was clearly the case in Al Muthanna the province in which Uruk is located. At the time of the case-study the so-called Coalition Provisional Authority had just started. Consequently there was no Iraqi government and no law enforcement (apart from tribal local laws). Civil or even national cultural experts are not able to function in such situations.

In addition the Uruk case shows the need for assessments and desk research prior to launching cultural property protection activities as part of a mission. Also an overview of funding possibilities both external and internal for projects such as Uruk is useful. Financing is currently even more of a problem for Ministries of Defence e.g. the Netherlands MoD regrettably stopped all cultural property protection initiatives including training and education as proposed after a seminar held in The Hague in 2009 under the excuse of financial cutbacks. Since the costs especially when working together internationally are quite low one can wonder if the real reason is not lack of appreciation and understanding of the subject. Hopefully this paper helps to raise awareness and funds concerning cultural property protection in times of conflict. Recent events where at this moment cultural heritage is in danger show that it is realistic to prepare for emergencies and civil and military aid to safeguard and protect where possible and in accordance with international legislation.

Having said this I want to present a number of recommendations for parties involved in CPP:

Recommendations to be considered by military forces, policy- and decision makers, juridical and other academic experts to undertake for the better protection of cultural heritage in future and existing conflicts:

42 A report was written on the seminar's outcomes including a description of the status of CPP in the Dutch Armed Forces as well as recommendations for the way ahead. Valuable contributions were given by Professor Peter Stone from Newcastle University. The report was meant for the Dutch Chief of Defence. The most significant conclusions were the need for international cooperation and the creation of a small team embedded in the Dutch MoD to assess and implement CPP policies. There has been no follow-up.
NATO Member States should request that NATO implements cultural property protection as a multinational asset and part of the comprehensive approach strategy. A cultural property protection department and cultural property protection officers should be appointed. NATO should take into account what is stated in their own STANAG 7141 EP JOINT NATO DOCTRINE FOR ENVIRONMENTAL PROTECTION during NATO led military activities.

- Cultural Property Protection is a military ‘force multiplier’ and should never be regarded as an unnecessary or problematic, but legally imposed, burden.
- Field experience shows that cultural property protection is necessary in all different phases of a conflict, including the early stages.
- In addition to or as part of the International Military Cultural Resources Working Group an inter-agency coordination bureau should be established. It should include an international military cultural emergency response unit.
- Joint field exercises and training, especially for high-ranking officers and planners, are necessary.
- UNESCO stays too passive in the event of cultural property emergencies during conflicts. The organization should support organizing emergency cultural assessments missions in an early stage of conflicts.
- After the military mission, cultural heritage matters should be properly handed over to local authorities, NGOs or follow-on forces, as appropriate.
- More research is needed on multi disciplinary subjects that concern civil and military juridical experts plus cultural experts; research has to be funded.
- Effective strategies for site protection should be developed and implemented.

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O’Keefe 1999.

Rush 2010.


In January 2011, turmoil started in Egypt. Big demonstrations took place in the Tahrir Square in Cairo. After many years of authoritarian, ruling and inspired by the Tunisian uprisings the Egyptian people were fed up and wanted to get rid of Mubarak and his clique and their corruption. At a certain stage, the headquarters of President Mubarak's National Democratic Party headquarters went up in flames and people started to worry about the adjacent National Egyptian Museum that fortunately seemed to have been spared by the flames. However quite unexpected and unforeseen by the international archaeological community rumors started to appear about lootings in the National Museum and damaging of antiquities and archaeological sites. These reports triggered reminiscences of the Iraq lootings that are addressed in the introduction and first part of this book.

Several cultural experts from within the international community that had been involved in Iraq were afraid that the Iraq disaster would repeat itself in Egypt. This could only be prevented or at least controlled and registered if this time the international cultural heritage community would act. Via all sorts of entrances and routes attempts were made to contact high officials in institutions that are considered to be first responsible to take action in the spirit of The 1954 Hague Convention. The International Military Cultural Resources Working Group (IMCURWG) and ANCBS succeeded to send a direct appeal to UNESCO's Assistant-Director General for Culture who is also director of the World Heritage Centre World Heritage Centre. The urgent request to UNESCO was to immediately set out an assessment mission to Egypt or at least support or strengthen such a mission if this would be initiated by IMCURWG and the ANCBS. Though it was checked and confirmed that the message was received and read no answer was given nor any mission undertaken by UNESCO. This corresponds with the presumptions stated in this research in the paragraph on International Organizations relating to the apparent inability or unwillingness of UNESCO to act in, what is generally considered, an effective way during cultural crises.

Therefore and also because of the time pressure IMCURWG and ANCBS decided to take immediate steps by sending out a mission to assess the situation and register possible damages. A second objective was to give a signal from the international community that criminal offenses against Cultural Property in times of turmoil in a (relative) power vacuum would at least be registered. The official report of the mission is included as appendix A6.

Since rumors and reports about theft and lootings not only increased but also seemed to extend to the entire country it was opportune to travel to Egypt within the shortest notice.
possible. On February 5, it was decided to start the assessment on the 12th meaning that there was only one week to make preparations. Both the insecure circumstances and the goal of the mission necessitated a small team that could travel low profile and due to its size was flexible. In this perspective, it seemed good to have the mission conducted by Cultural Heritage Experts with military expertise. Two persons qualified Karl von Habsburg the President of the Association of National Committees of the Blue Shield (ANCBS) and Joris Kila chair of the ‘International Military Cultural Resources Work Group (IMCURWG). Thomas Schuler who is chair of the Disaster Relief Task Force (DRTF) acted as reach-back capability (see Part I for more about the reach back system). In practice, this meant media research, liaising with academics and keeping the team informed. He operated from Berlin.

Still it was difficult to estimate the situation on the ground because of the short time available for preparation and since as reported the circumstances were chaotic. Many embassies in Cairo issued travel warnings and many foreigners were evacuated. In addition, there were practical implications e.g. strong rumors that all cameras would be confiscated upon arrival. This raised the question whether to travel as tourists, scientists, or civil military experts. No clear answer to this question could be found therefore the team improvised while relying on their own contacts and assistance from the Austrian diplomatic representatives in Cairo including the Austrian Defense attaché.²¹⁵

The Austrians provided the team with an Egyptian driver who could be trusted and would provide for pick up from the airport. In addition, a "safe" hotel was booked in Dokki a part of Cairo away from the Tahrir Square. The team left from Vienna on February 12 and with the intention to stay in Egypt until February 16 2011 unless changes in the situation would necessitate a longer stay.

Before departure, some appointments were made in advance with Egyptian connections within the respective networks. Among them an Egyptian affiliate from WATCH and the office manager of the Netherlands Flemish Institute in Cairo, the institute itself was still closed at the time the mission was planned. The Austrian Embassy invited the team for a gathering with both the Ambassador and cultural experts from the Austrian Institute of Archaeology in Cairo.

The very evening before the team (to be referred to as we) travelled to Egypt Hosni Mubarak stepped down as President, the Parliament was dissolved and the Constitution declared invalid. This relieved the tensions somewhat and made arrival easier. In fact, upon arrival all power was with the military, making the head of the Armed Forces Supreme Council, Field Marshal Tantawi, the actual ruler of the country.

From the perspective of this publication, this is an interesting situation since it is argued that in a situation of conflict the military are in charge or the first present also when it comes to protecting cultural heritage. Furthermore strategies discussed in the first part of this book include building networks and reach-back in peacetime to be utilized in times of emergency as well as during theatre assessments. Consequently, the Egypt casus was a test case to see if and to what extent certain mechanisms described function in practice.

Nevertheless conditions were unsafe the security system in Egypt was still not really in place. The police in Cairo had literally vanished after the beginning of the demonstrations. Reasons mentioned in the press varied. According to some the Police were identified with the former regime also argued was that they were on strike because of long time under payment. Police functions were, to a certain extent, taken over by the military and by spontaneously created neighborhood watch groups.

Though the team wished to investigate as much as possible there were limitations both time wise and due to actual conditions for example all sites and museums were closed. Therefore, the team did not inspect the National Museum at Tahrir Square. Many international and national

²¹⁵ The Dutch defense attaché did not respond.
experts as well as the press were already all over the Museum case besides the team members did not want to repeat what happened in Iraq where everybody concentrated on the looting of the National Museum in Baghdad while in the same period a large number of archaeological sites were looted.

Kila and von Habsburg arrived in Cairo in the afternoon of 12 February. In the evening, the area of the Egyptian Museum and Tahrir Square was visited to get an impression of the situation. At the time, a night curfew still existed and the area of the museum was packed with military and tanks.

The next day February 13 the Dutch Flemish Institute was visited. Although it was officially closed, a small emergency staff was still present. From the Institute it was possible to reach an official of the Supreme Council of Antiquities (SCA) in Saqqara, who confirmed attempts of looting but denied anything had been stolen. An attempt was made to obtain solid information about the situation in the Kharga Oasis where supposedly a lot of street fighting and looting was going on. Not details were known. Later communication with experts in the Dakhla Oasis that is close to Kharga confirmed that nothing serious happened in Kharga. In fact, the team was repeatedly confronted with a constant stream of contradictory information about the cultural heritage situation. Much stories appeared to be driven by complot theories, fantasy, or propaganda. Clearly to obtain objective high quality information it was necessary to concentrate on the archaeological sites around Cairo who had mostly not been visited by independent experts since the beginning of the unrests. The idea was that less info though of good quality is more effective than more info of a dubious nature. A first trip was undertaken to Memphis for which occasion the team was expanded with the director of the Austrian Archaeological Institute in Cairo Dr. Irene Forstner-Müller who is an Egyptologist.
A car with diplomatic number plates from the Austrian Institute was used which could be of help to gain access to closed sites. Actually, this was an encouragement to visit Saqqara as well. Saqqara is in the same direction as Memphis though a bit further. The team first arrived in Saqqara or in fact in front of the entrance of the necropolis. However, armed guards prohibited entrance and the team was send away. "Do not try Memphis" was the advice "you will not be allowed access". This did not prevent the group to go there anyhow and miraculously they succeeded in talking themselves into the open-air museum mainly because of the official car and the Arabic language skills of Dr. Forstner-Müller.

The museum was supposed to be looted but fortunately, no visible signs of damage or theft were found. This was confirmed by the fact that the souvenir shops on the museum terrain were intact without any traces of disturbance. Much later information learned about a warehouse near the museum complex that could have been looted but this could not be checked nor confirmed.

While still in Memphis, an email from the Minister of Antiquities Dr. Zahi Hawass arrived. Von Habsburg and Kila were invited for a meeting that same day. This more or less came to the mission's rescue because without any permissions from high ranking officials it would be virtually impossible to get access to the sites that definitively had to be checked, any permit had to come from Dr. Hawass. After rushing back to Cairo von Habsburg and Kila went to the Supreme Council of Antiquities (SCA) building that still served as the office of Dr. Hawass who was the former head of the SCA. Surprisingly there were massive demonstrations going on around the building so the team had to use a small side entrance, and even there they had to squeeze their way in through angry demonstrators.
In the waiting room of the minister’s office, a television crew of Sky News was met and the team was interviewed on the activities of ANCBS and IMCURWG. Then a short meeting with Dr. Zahi Hawass took place, he asked for the team's wishes and permission was granted for visits to Saqqara, Dahshur and Abusir. Immediately a connection was made with the head inspector of SCA for the Saqqara region, who happened to be in the ministry. It was agreed to meet the next day 10 o’clock in the morning at his office in Saqqara.

The next day started with a bit of frustration since it was impossible to find an Egyptologist to accompany the group as a specialist. Dr. Forstner-Müller had to leave for Aswan so she was not available. Apparently the Egyptologists that normally would have been around either had left with the political turmoil, were somewhere else in Egypt or not willing to come. Luckily, the best replacement one could wish for was found. The office manager of the Dutch Institute, Tilly Mulder accompanied the team. Her command of the Arabic language is almost of a native speaker. In addition, the driver was critical to the purpose of the mission he was always sitting on the outside with the guards, hearing them out for information of their version of events. This type of cooperation is important to consider for future missions.

After arriving at the entrance gate to Saqqara similar problems occurred as the day before. The head inspector that supposedly would be there to meet was not present and was not expected to come either since it turned out to be a holiday. Luckily, his mobile number was at hand when he was called he turned out to be still sleeping. Nevertheless, after waking up he directed the team to the Inspector in charge of the Saqqara site-office who after a long palaver received the group. It was difficult to convince this inspector that there were no journalists or tourists in the team. He was presented with the cultural heritage card decks and then became much more open and forward. The inspector revealed information about several break-ins that happened in Saqqara, it was a first-hand account since he already stayed over night in Saqqara for a certain period. Apparently, the break-ins started in the night of Saturday 29 January when the police had left and about 100 people, mostly local youngsters, forced their way in and started to force open locks. Some intruders were armed while the guards had no weapons since they normally rely on the police to take care of matters.

Apparently, these guards receive a salary of 270 Pounds, about 38 Euro; per month, consequently they are not motivated to risk their lives for such low salaries. According to the inspector’s account, the looters forced the locks of the tombs of Nefer and the two brothers.
Also the doors of the pyramid of Pepi I had been forced. During the following 2 days, the lootings went on, usually between 5 pm and 9 pm. Finally, on January 30, the military came, but just to secure the storage area especially the storerooms 1 and 2 containing the most valuable pieces. The police only returned on February 12. According to the inspector's account the Imhotep museum located next to the ticket office, stayed untouched. This could not be checked since it was closed, same goes for the storage area next to the main office complex of the inspectorate. The SCA inspector reported that at the French excavation, premises the perpetrators broke through a new wall instead of the door, but the excavation stayed untouched. After this briefing, the team went into the necropolis to see things for themselves.

The necropolis of Saqqara, an introduction:

Courtiers of the first Dynasty pharaohs started a cemetery consisting of mastabas on the northern tip of the Saqqara plateau.216 As from the Second Dynasty, royal tombs were constructed too at Saqqara. Not much is known of these subterranean structures. The last king of this reign was again buried in Abydos but still constructed a rectangular enclosure at Saqqara. This set the example for his successor Djoser of the Third Dynasty (c. 2630-2611 B.C.) his funerary complex comprises a similar enclosure. In its centre is located an architectural innovation: the Step Pyramid, made of six mastabas piled up on top of each other. The rest of Djoser's enclosure contains temples and dummy buildings. After Djoser, step pyramids rapidly developed into, what we call normal pyramids. Simultaneously, the enclosures became smaller and merely surrounded a pyramid temple joined to a valley temple through a sloping causeway. Most kings selected other Memphite cemeteries for their pyramids like Giza and Abusir north of Saqqara or Dahshur and Meidum to the south. Still, Saqqara features the remains of the step pyramid of Sekhemkhet (Third Dynasty), the mastaba tomb of Shepseskaf (Fourth Dynasty, 2472-2467 B.C.), and the proper pyramids of Userkaf, Djetkarê, and Unas (Fifth Dynasty, 2465-2323 B.C.),and all the kings of the Sixth Dynasty (Teti, Pepi I, Merenrê, Pepi II, 2323-2150 B.C.). The latter five monuments contain samples of the oldest religious texts from Ancient Egypt, the so-called Pyramid Texts.

By the time of Pepi II, many areas of the Saqqara plateau were already lined with mastaba tombs of Memphite courtiers and officials. During the Middle Kingdom (2040-1640 B.C.) and New Kingdom (1550-1070) both the capital and the major cemeteries moved further south. Only two more mud brick pyramids were built at Saqqara in the 13th dynasty. Large-scale construction at Saqqara was not resumed until the middle of the Eighteenth Dynasty (from about 1400 B.C. onwards) when the pharaohs again devoted more attention to Memphis. High officials, priests, and artisans built tombs dispersed all over the plateau. These were of a new type: a freestanding chapel or temple, sometimes with open courtyard and pylon gateway, with rock-cut burial chambers deep underground. There are also completely rock-cut tombs along the edge of the Saqqara escarpment. After two centuries, the attention shifted to the new capitals in the Nile Delta. During the last millennium B.C. a great number of shaft tombs were cut, until the whole substructure of the desert was honeycombed. The same period witnessed religious activity on the Saqqara plateau. The site developed into a place of pilgrimage, centered on the burial place of the sacred Apis bulls of Memphis (the Serapeum). The latter consists of vast underground galleries with burial chambers for the individual bulls. Similar galleries were cut for more animal cults e.g. cows, baboons, cats, dogs and ibises. This upsurge of the traditional Egyptian cults was followed by Christianity, which brought several monastic communities to the desert of Saqqara. After about 850 A.D., the plateau was deserted and most of its monuments were gradually covered by drift sand.

216 The pharaohs of the first Egyptian royal Dynasty (c. 3000-2800 B.C.) chose to be buried at Abydos in Upper Egypt. The historical information about Saqqara used here is an adaptation from the historical section on Saqqara to be found on the website Saqqara.nl that is an initiative of the Friends of Saqqara Foundation in the Netherlands.
The Saqqara terrain is quite large and difficult to explore and assess for those not experienced and familiar with the site. This and the fact we had no Egyptologist accompanying us made matters difficult. However, there was no alternative and only limited time, therefore we proceeded and did the best we could given the circumstances.

From the Dutch perspective, there was special reason to go to Saqqara. The "Leiden" excavations at Saqqara were reported to have been looted. According to the leader of these excavations, which are carried out by the Leiden Museum and Leiden University, some doors of warehouses had been damaged in attempts to force them or break them open. Supposedly, these doors were repaired using new wooden planks. The Dutch excavation leader Dr. Raven thought that the looters would have created a mess when surging for treasures. He explained that the smaller corner and centre chapels of the tombs were partly restored with new bricks, doors and locks and currently used as on site warehouses. Raven presumed that the intruders most probably created a mess by emptying baskets containing pottery and pottery sherds as well as skeleton fragments and other small objects. He added that some of these will probably have been stolen during the burglary and admitted that most objects were already studied and registered. In that case, the damage is less also since the real important finds such as fragments of sculptures and reliefs were taken some time ago to the central warehouse near the Imhotep museum that was supposed to be untouched. Still when materials not registered nor studied are thrown aside and mixed with other objects by intruders the archaeological context in which they were found and kept is lost and they become scientifically worthless. It is of utmost importance that nobody but the excavators does the cleaning or tidying because they are the only ones to judge if at least some of the objects remained in their original context. The Leiden team especially feared for the tomb complex of Maya that comprises beautiful colored reliefs. It took 4 years to restore these and reposition them in a concrete cellar under the courtyard.

First, the team visited the tomb of Mere Ruka and found it undamaged. Actually, this could be verified by Joris Kila who had been there not too long ago in 2009. Next was the tomb or actually the collapsed pyramid of Teti: the team went via a corridor to the antechamber and the burial chamber and it looked undamaged. Then the tomb of Ka-Grmi was passed-- the door was opened by vandals, now it is welded shut, supposedly, there is no damage but this could not be confirmed.

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217 Source: correspondence of the author with Dr. Raven dated February 9th 2011 and several phone conversations.

218 They could not kept safe in their original spaces some 22 meters deep due to moist and danger of collapse.
Next stop was the Unas Pyramid that was especially opened for the mission. It was obviously closed since at least a year or so. The shaft that leads to the entrance door was filled with garbage and rubble. It looked undamaged and nothing seemed changed since Joris Kila was there in 2009.
On the way to the Maya complex the tomb of Isisnofret, granddaughter of Ramses II was passed the burial place was closed, the door was welded and the tomb supposedly unharmed. Arriving at the Maya complex the warehouse chapels were found to show clear signs of vandalism such as broken locks and broken pieces of wood, it did not gave the impression of being heavily nor systematically looted. This was in correspondence with the information Leiden supplied. Interesting to note is that the mission members were told it was impossible to visit the tomb of Maya since everything was locked. However when they came in situ, the door was secured with a piece of wire. The entrance to the famous underground reliefs was sealed with an SCA seal so they could not be seen. The inspector guaranteed that they were in perfect order. There is no real reason to doubt that since all reliefs above ground generally were left in order. The general impression is that in Saqqara was vandalized instead of looted. This probably happened out of anger with the system, low wages, unemployment, and bad management.

Next to Maya is the tomb of Tia. The cupboards to protect the reliefs were not locked, reliefs looked untouched, and some cupboards were sealed. Later Leiden confirmed that most cupboards were not meant to be locked since they served as part of an exhibition for the public. The adjacent tomb of Horemheb appeared to be untouched as well. Then the Mastaba of Niankhkhnum and Khnumhotep also known as the tomb of the two brothers was checked as far
as possible since the team could not go in, the doors had new locks and were welded shut. There were clear signs of a break in. The same applies to the tomb of Nefer and his family members with new locks, doors welded shut; the team could not go in.

The SCA inspector of Saqqara handed the group over to the local SCA head of Abusir who would accompany the mission to Abusir and Dashur. Abusir is a large site and the choice had to be made which part to check due to the time limits. The Abusir inspector mentioned that a lot of illegal digging had taken place on the premises of the complex. Supposedly, the diggings were without results, and the holes were already filled in. These digs were said to be in the desert at remote distance of the main parts of the site so the team did not go to check the closed holes. To give an impression of Abusir: it was the main royal necropolis during the Fifth dynasty. There are in total 14 pyramids in Abusir all smaller and built more inferior compared to the pyramids of the fourth dynasty like Khufu or Cheops, Snofru and Khephren. Most of the Abusir pyramids were built as step pyramids. In South Abusir is the cemetery of lower-ranking officials of the Old Kingdom including the important tomb of the priest Rahotep. The team only visited the Mastaba of Ptahshepses who was the vizier and son-in-law of king Niuserrewhich. The mastaba is part of the Czech excavation they hold the concession for the whole site. The Ptahshepses complex cannot be locked. According to the inspector, people were spotted on the site but we could not establish any harm while we were there which does not mean that there was no damage. Later reports, dating from after the assessment mission to Egypt, confirm that approximately 200 illegal pits were dug on the site (in a more remote area). Some of the holes of four to five meters
deep contained ancient tombs that were now left empty by the robbers. A portion of the false door was stolen from the tomb of Rahotep and according to Czech reports the tomb is also damaged. To make matters worse many objects stored in the expedition’s on-site warehouse are permanently damaged.

In the meanwhile, the team received an urgent message concerning an appeal made by Dr. Dieter Arnold from the combined Metropolitan Art New York and German DAI institute from Berlin project. An urgent request was made to check an apparent break-in and looting of the so-called De Morgan excavation warehouse where part of the objects of their Dashur excavation are stored.

The team headed to Dashur to get into problems at the entrance to the site. The SCA inspector of Dashur was not present so he was contacted and wanted to come but his car broke down. The team's car was sent to pick him up. When he finally arrived on the spot, a great conflict with the police (or some guards) broke out. They did not want the team to go to De Morgan. Numerous reasons were given such as, the car could not make it, too much sand you need a four wheel drive etc. etc. Finally, after long discussions, the team drove there accompanied by a police car and the SCA inspector.


Named after French archaeologist Jacques de Morgan (1857-1924) a former Director of Antiquities in Egypt.
Later, back in the Netherlands I found an announcement from al Ahram online (a big Egyptian Newspaper) with the following: Minister of State for Antiquities Zahi Hawass announced that an inventory carried out at Dashur storage gallery, known as De-Morgan's by the site inspectors, reveals that there are eight missing amulets. A huge iron gate is to be erected around the gallery in an attempt to tighten security.\(^\text{221}\)

When the team arrived, there was no iron gate but De Morgan was practically sealed. Doors and windows are bricked but the mortar was still wet. According to the on site guard it was bricked the day before so we could not check inside. The roof was checked and found intact, also some ammo shells were found around the compound.

According to the guards, the main looting took place on the 13th at 4 am, two days before the assessment. Two armed groups came from different sides and told the guards to stay put if they liked to stay alive, and broke in. After an hour, one of the guards managed to sneak to the neighboring oil facility plant and asked the staff to switch on their searchlights, which they did. This urged the looters to leave because they thought there were cars coming. We were told that the last person that had been inside De Morgan before they bricked the warehouse up was Mr. Kamal Wahed, the person who was assigned by Zahi to help us and who was asleep in the morning. We decided to call him again to ask him for his comment. He confirmed the case, said that some small pieces had been taken; the most important pieces were brought to a safe warehouse. However, regarding the exact details one would have to talk to Zahi Hawass. Later contacts with Dieter Arnold the leader of the New York Metropolitan Art Museum's excavations in Egypt learned that he considered the looting of the Morgana warehouses a loss but not a big one 'it is more like we suffered a black eye'. Reason was that important objects were already moved to Cairo and the smaller objects that were kept in the facility were already studied and registered.\(^\text{222}\) By that time, the team was almost in the middle of a sandstorm and had to leave. After a very brief visit to the Red Pyramid of Snofru, the mission members returned to Cairo.

On February 16, the mission explored further possibilities to support training of military cultural heritage protection staff in Egypt and left back in direction of Vienna in the afternoon.

Conclusions from the Egypt looting casus

The above account underpins suppositions presented in this study. For instance that several mechanisms that already became manifest in Iraq such as looting the national museum and in the slipstream archaeological sites as well as (alleged) political manipulations of Cultural Property and not to forget economic implications of conflict related heritage destruction are common. Especially the fact that both in Egypt and Iraq first all media attention was drawn to lootings in the respective national museums was worrying since in the time attention is focused on such iconic objects it is relatively easy to loot other sites without being watched. Just like in Iraq, information about missing and damaged objects was kept vague. Most probably, this had to do with avoiding responsibilities but there were also rumors that the old regime in Egypt staged the museum looting to blame the protestors. True or not these are methods or strategies known in history e.g. Nazi Germany, Iraq, and Afghanistan.

Although there are, considerable interests for the Egyptian, population regarding tourism as a source of income directly related to the country's cultural resources this did not stop certain groups and individuals to loot. As discussed in the paragraph about looting and poverty in the introduction of this book there seems to be a direct relation with locals suffering of poverty. Moreover, it was established that guards and SCA staff are not motivated to do their job under threat of violence due to their low salaries.\(^\text{223}\) The latter is not only related to economic

\(^{221}\) Source: <http://english.ahram.org.eg/NewsContent/9/40/5593/Heritage/Ancient-Egypt/Looted-artifacts-from-Egyptian-museum-found.aspx> [17 July 2011].

\(^{222}\) Source: telephone conversation between the author and Dr. Arnold on 17 February 2011.

\(^{223}\) The majority of guards we spoke to complained about this.
circumstances but also to certain governmental policies since it was reported that these people are already underpaid for years. The Egyptian emergency assessment mission brought the unique opportunity to test an important argument made in this study namely that military should implement CPP and its preparations in peacetime to avoid cultural disaster in times of conflict or turmoil. When the rules that are laid down in The 1954 Hague convention and protocols, both signed and ratified by Egypt, should have been followed the army or a special department from the Egyptian MoD would have had emergency preparedness plans in place to undertake immediate action. Other implications, argued in this study played a role as well. Implications included issues caused by political and cultural differences, for example the Egyptian MoD refused to be trained by Americans, an opportunity offered during the Bright Star exercise of 2009. As a result Egyptian military were not trained (in peacetime) to safeguard their cultural heritage when turmoil started in 2011 consequently they did not act or did too little too late. Other premises given in this study like the influence of the media were also to certain extents confirmed. The media including the social networks played a significant role in the Egyptian revolution, they were of influence to the behaviors of political and military stakeholders, not only concerning the overall situation but also regarding the cultural heritage issues since there was a constant flow of looting reports. Aspects of manipulation with Cultural Property played a role too. There were for instance strong rumors about political manipulation in connection with the, according to some, staged looting of the Egyptian Museum. Supposedly, the idea behind this was to create an excuse to crack down on the protesters that were on the Tahrir square. Then there was the inadequate response of UNESCO. The organization did not answer appeals made by those who were willing to take risks and initiate an emergency assessment. More than a month after the mission's return and still without any consultation or communication with the team that already visited Egypt UNESCO set out a mission to Cairo. The team visited the sites that were already checked by the emergency assessment mission. There is no feasible explanation for UNESCO's conduct in this matter.

We can find a more theoretic explanation of how CPP behave in a presentation Colonel Mark Yanaway called "Balancing Stakeholders in Babylon". His account is interesting for multiple reasons: First, it is a direct military source and second, he draws a parallel with the original paradoxal trinity of von Clausewitz. Third, his contribution is important since it demonstrates that military science opens the door to reflect on CPP. For the purpose of his lecture, he used a military attempt to protect the Cultural Property of Babylon in Iraq as a case example. Yanaway compares the stakeholders of this situation namely the Government, the Army and the People with the Clausewitzian Trinity. Clausewitz mentions three elements in his trinity: Violence that Yanaway substitutes by the people, Chance substituted by the military and Reason substituted by the government. Without going deep into the question how Clausewitz Trinity is applied in classic and modern military operational theory, it can be said that the people, the military, and government are in fact the three contradicting elements within the Egyptian casus. This became very clear in the Egyptian Museum looting in which the people stand for the demonstrators at the Tahrir Square; the Military as second party were in a paradox with the two other parties whereas the third was the Government or the regime also in paradox with the other two.

Another thesis discussed in the paragraph on looting is the connection with poverty. In Egypt, the looters were local gangs and certain guards acted driven by poverty. Other aspects described in this book were present too such as potential or actual illicit traffic of stolen artifacts, lists of missing objects were made, and alerts were given to the Customs and Interpol.

224 Laurie Rush describes in Archaeology, Cultural Property and the Military that the Egyptians pointed out that people responsible for destroying Babylon should not be teaching anyone about CPP. See Rush 2010, p.103.
225 COL Mark Yanaway, CA, USAR, Civil Affairs Planning Team Chief, presentation January 8th at the AIA Annual Meeting 2011 CHAMP Workshop in San Antonio TX US.
226 Clausewitz 1968.
Then there were the usual funding problems. It is a pity that initiatives to undertake cultural emergency missions have to rely on private funding by individuals. There are organizations with budgets for emergency operations however when armed conflict is at stake no organization wants to fund or cooperate. A crucial element of the mission proved to be the reach-back capacity at the home base (office of Dr. Thomas Schuler in Chemnitz, Germany) that was constantly furnishing the newest information and coordinating contacts. This tool is explained in the section about the different CPP parties.

15. The damaged de Morgan storage facility Dashur with bricked doors. 15 February 2011. Photo Joris Kila.
8. Libya's heritage under siege in 2011.
Libya's heritage under siege in 2011

In this book, various aspects connected with cultural property are described that recur throughout history such as manipulation of heritage for political, propaganda or military purposes. The cases from the last war in Iraq confirmed this directly. Matters at stake like low priority, lack of transport for CPP officers as addressed clearly by Lynn Nicholas in her study of what happened in World War II reoccurred for instance in the Dutch AOR in Al Muthanna. Yet, history also repeats itself in the phenomenon that certain sites unfortunately are repeatedly at risk in different conflicts, the recent uprisings in Libya and the fact that the Leptis Magna is endangered again speak for themselves.

The following section is an adaptation of Robert Edsel description in his book Monuments Men. In January 1943, the battle between British and Axis powers that was fought out in the North African desert lasted already three years. In October 1942, the situation started to change in favor of the British when Italian-German forces were defeated at the Second Battle of El Alamein. The British who began to push towards Tripoli broke through the Axis lines. "By January 1943, they had reached Leptis Magna, an extensive Roman ruin some sixty-four miles east of Tripoli. It was here that Lieutenant Colonel sir Robert Eric Mortimer Wheeler, Royal Artillery, British North African Army, and an Archaeologist beheld the majesty of the imperial city of Emperor Lucius Septimius Severus containing the impressive basilica gate, the hundreds of columns that marked the old marketplace, the giant sloping amphitheater, with the Mediterranean in the background. At the height of its power at the turn of the third century AD when Emperor Severus had invested much money into his hometown in an attempt to upgrade it to the cultural and economic capital of Africa. Leptis Magna had been a port, but in the last seventeen hundred years, the harbor had silted up and become a hardpan of clay, a dull and empty world. Here, Mortimer Wheeler thought, is power and a reminder of our mortality."

The British had lost the ruins of Cyrene on the East Libyan coast two years before in 1941 to the Italians led by the German General Erwin Rommel. The Italians had published the propaganda pamphlet Che cosa hanno fatto gli Inglesi in Cirenaica — What the English have done in Cyrenaica. The propaganda piece showed images of defaced walls at the Cyrene Museum, smashed statues, and damaged artifacts. The Italians claimed that British and Australian soldiers did this damage. Another historic example of the misuse of cultural property for propaganda and political manipulation. The British discovered these claims were false when they recaptured Cyrene, four hundred miles east of Leptis Magna. According to another source, another archaeologist, Lieutenant Colonel John Ward-Perkins, accompanied Wheeler and both tried to prevent damage by the army as they moved in and through the ruins. In London, their reports ended up with Sir Leonard Woolley, an archaeologist and friend of Lawrence of Arabia, Architectural Advisor to England’s War Office, who worked with them to prepare preservation plans for all of Libya’s ancient sites. In October 1943 Woolley, acclaimed for his excavations in Ur (Mesopotamia) was appointed head of a Monuments and Fine Arts branch in England, which worked closely with the Roberts Commission, and, with the help of English experts, compiled similar lists of monuments, collections and sites requiring protection in both Europe and Asia.

Nicholas 1994.
Edsel 2009.
Ibid, p. 33. After serving in World War II, Wheeler was made director general of archaeology for the government of India (1944–47).
Libro di propaganda pubblicato nel luglio 1941 (XIX) dal Ministero della cultura popolare italiano, Roma 1941.
A recent presentation by (Judge) Arthur Tompkins from New Zealand <http://art-crime.blogspot.com/search/label/Judge%20Arthur%20Tompkins> [26 August 2011]. President Roosevelt established in 1943 a special commission, naming Owen J. Roberts, the Chief Justice of the Supreme Court, as...
Although the Italian claims had been false, the British had spent two years defending themselves with little proof to contradict the claims. It was Mortimer Wheeler, learning from the mistakes of Cyrene, who ensured that Leptis Magna was preserved. The current threats for, Leptis Magna are discussed in the paragraph on follow up activities to safeguard heritage in Libya.  

The current conflict in Libya.

Beginning of March 2011, unrests started in Libya. They quickly developed into a full fletched Interstate conflict. At this moment (end of July 2011), the fighting is still going on while bombardments and shelling are carried out by the warring parties plus aerial strikes and a no-fly zone operation by NATO. Libya is since 1957 a party to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and signed the Second Protocol of this convention in 2001. Libya has five World Heritage sites, designated by UNESCO: the ancient Greek archaeological sites of Cyrene; the Roman ruins of Leptis Magna; the Phoenician port of Sabratha; the rock-art sites of the Acacus Mountains in the Sahara Desert; and the old town of Ghadamès, an oasis city.

An introduction to the Libyan World Heritage sites:

- Cyrene was one of the principal cities in the Hellenic world. It was Romanized and remained a great capital until the earthquake of 365 AC.

chairman. The name of the commission was, the American Commission for the Protection and Salvage of Historic Monuments in War Areas.

232 <http://projectpatrimonio.wordpress.com/2011/06/14/leptis-magna-at-rist-history-repeats/>

233 Source for much of the historical information in this paragraph is the US Committee of the Blue Shield thanks to Cori Wegener. <http://www.usebs.org/> [17 July 2011].
Leptis Magna was enlarged and embellished by Roman emperor Septimius Severus, who was born there. It was one of the most beautiful cities of the Roman Empire, with impressive public monuments, a harbor, a market place, storehouses, shops and residential districts.

Sabratha, a Phoenician trading post that served as an outlet for products of the African hinterland.

The rock-art sites of the Acacus Mountains in the Sahara Desert. This rocky massif has thousands of cave paintings in different styles, dating from 12,000 B.C. to A.D. 100.

The old Town of Ghadamès known as 'the pearl of the desert' stands in an oasis. It is one of the oldest pre-Saharan cities and an excellent example of a traditional settlement with a special style of domestic architecture. Ghadamès is listed on the World Heritage list of UNESCO since 1986. On 11 June 2011, the Libyan Rebels reported that the town was bombed by Khadaffi's troops.234

The Director-General of the UN Educational, Scientific and Cultural Organization (UNESCO), Irina Bokova, called on 14 June 2011 parties involved in the armed conflict in Libya to ensure the protection of the World Heritage site of the Old Town of Ghadamès and its immediate surroundings, she also appealed to the parties involved not to expose the World Heritage site of Leptis Magna to destruction and damage. Besides the world heritage sites there is the Libyan coast that has a rich underwater cultural heritage. It consists of numerous archaeological and historical sites from pre-historic times to the Second World War. This cultural heritage is hugely important in developing the understanding of Mediterranean history. Other Important Cultural Heritage Sites in Libya include the Jamahiriya Museum; this is Libya's national museum and contains an extensive collection of history and archaeology. It is located in Tripoli's Assaria al-Hamra, or Red Castle/ Fortress, the Museum of Libya on the Algeria Square in Tripoli, the Medina (Old Quarter of the city of Tripoli) and the Libyan Archives.

Follow up activities to safeguard heritage in Libya.

Some 200 coordinates from cultural heritage sites and museums from Lepcis Magna and Tripolitania (the area north-west of Libya) were gathered through the international networks, individual experts, workgroups and institutions that are discussed in Part I. Through these international civil and military cultural networks, the coordinates were given to military targeteers in the US and to NATO. Several people contacted the involved American military commands AFRICOM and CENTCOM about the Libyan sites. As was confirmed via military contacts the targeteers know the sensitive areas to avoid. The US has certainly shared the site coordinates with the NATO command too. The US Blue Shield (USBS) reported to have been in touch with NATO representatives working liaison in Washington, D.C. and they seemed to understand the issues. The UK MoD has, via different routes, also been provided with all of the information given to the US. Several lists with cultural sites and properties were forwarded to the Joint Staff whereas the Joint Staff Legal forwarded them to the targeteers. Members of the Combat Commands Cultural Historical Action Group (CHCAG) were engaged in disseminating lists and information to several parties through the USAF/Air Combat Command.

IMCURWG provided the operational staff of the Dutch Armed Forces with the coordinates and extra information. The Netherlands takes part with F 16's under NATO command in imposing the no-fly zone over Libya backed by the United Nations Security Council. Though asked for by IMCURWG during handover the actual use of the data was not confirmed by the Dutch MoD. The last news that can be mentioned in this publication is that NATO announced (via CNN) that the UNESCO heritage site, Leptis Magna, may be at risk if NATO forces receive evidence that Khaddafi is hiding military equipment amongst the ruins. Rebel forces claim that Khaddafi is using the site. Commander Mike Bracken, a representative for NATO, said it “would be a concern for us that Khaddafi and pro-Khaddafi forces would choose to contravene international law in hiding themselves in such a location.”235 There is a very interesting aspect in the situation that confirms a number of suppositions made in this study like the manipulation, misuse, and military connections to Cultural Property. The point is that if NATO would not say "we will attack" the site of, in this case, Leptis Magna then the opponent would surely use the premises to hide weapons and people. Of course, at this time, no evidence can be given to underpin this but history will show later. Still some cases of looting in Libya that fit the patterns described in this book can already be mentioned here. When on 23 August the first footage was shown on television about Khaddafi’s compound in Tripoli being overtaken by rebel forces it was curious that immediately a form of looting took place similar to what happened in Iraq after Saddam’s fall. Trophies such as the head of a statue of the dictator and his Colonel’s hat were taken and statues and other objects smashed and burned. Several characteristics of looting as mentioned in the paragraph on looting, poverty and the Egyptian casus seem to apply for Libya.

235 Sources <http://projectpatrimonio.wordpress.com/2011/06/14/leptis-magna-at-rist-history-repeats/> [26 August 2011] and
Another example of pillaging and perhaps illicit traffic happened in the British Embassy in Tripoli. According to the Daily Mail of 15 June 2011, "various irreplaceable paintings worth £130,000 were stolen by Gaddafi supporters who ransacked the British Embassy in Libya."  

In fact unique works of art were either stolen or destroyed when the mob of Gaddafi supporters raided the Embassy. The paintings, valued at more than £130,000, were taken while the attackers torched the building and vandalized a Second World War memorial on the first of May. It seems that, the actions were in revenge for the apparent killing of Khadaffi's son and three grandchildren in a NATO missile attack. Among the works believed to have been looted was an 18th century oil painting, called Harrier Killing a Bittern and worth £60,000, by Philip Reinagle. A £35,000 landscape in the style of Italian painter Salvator Rosa, entitled Mountainous Landscape with Travelers, has also gone missing. In addition, Edmund Havell's £20,000 portrait of William Stratton, head keeper to Sir John Cope of Bramshill Park in Hampshire, was also in the residence when it was raided. The overall cost of the attack, which will be much higher than just the cost of the paintings, will not be revealed until British officials are able to return to Tripoli.

Taking into account the deadline for this book the following information had to be limited but concerns a pro-active emergency assessment executed by IMCURWG and ANCBS to check what happened with Libya's cultural heritage until September 30th 2011 focusing on Tripolitania. Later a second assessment by the same institutions followed in November 2011 that took place in Benghazi.

The recent conflict in Libya called for an emergency assessment mission to determine the cultural heritage situation. Since no independent confirmation about damage and looting had occurred thus far, and no immediate missions were planned by the International community or relevant international stakeholders two organizations involved in international protection of cultural heritage, Blue Shield and the International Military Cultural Resources Work Group, organized a mission to meet with Libyan officials and get a first hand impression of the situation. Due to time and safety concerns the visit was limited to Tripolitania.

The mission visited the National Museum in Tripoli as well as two World Heritage archaeological sites: Sabratha and Leptis Magna. All three mentioned are currently closed to the public, but appeared to be well guarded. The team was impressed by the excellent precautionary measures of local museum professionals and archaeologists. The most important pieces were brought into storage rooms or hidden vaults. Welding exterior doors proved to be much better protection than locks. Very important at the large archaeological sites was the intense collaboration with the local population, e.g. sheep herders provided for herds of sheep grazing in Leptis Magna (normally not allowed of course) that way intruders and boobytraps were detected or avoided.

Some preliminary results before the end report:

- National Museum in Tripoli: no losses, nearly no damage.
- In Leptis Magna Gaddafi militia tried to take control of the site, but without success.
- Everything is safe.
- In Sabratha the Army Brigade 219 that occupied posts from early July until the 17th of August. This caused minor damage from small arms and anti aircraft fire and from the use of heavy equipment on site. The perimeter fence was broken down in many places.

Reports from other places in Libya were mixed. Among the bad news is that the museum in Misurata has been severely damaged, but it is not known if pieces are missing. The museum director was kidnapped by the Gaddafi militia shortly before the collapse and his fate is unknown.

Overall it can be stated that there is no evidence of organized looting in the museums or sites.

Source: Mail Online (Daily Mail UK) 15th June 2011.
The final detailed and illustrated report is published online on the web site of Blue Shield Austria: http://www.blueshield.at/

The planning of this mission began early summer, but commenced in earnest only after the cessation of most active hostilities in Tripoli. There were a number of problems to be solved with regard to official approval from the Transitional Government for the team to travel to Libya, not to mention the logistical problems of travel to and within Libya. The team flew to Djerba, Tunisia, on Tuesday, 27 September and on 28th they traveled by car to Tripoli. Today, September 30, the team returned by the same route.

The team:
• Karl von Habsburg, President, Association of National Committees of the BlueShield (ANCBS)
• Dr. Joris Kila, Chairman, International Military Cultural Resources Work Group (IMCuRWG); University of Amsterdam.
• Dr. Hafed Walda, archaeologist from Misurata (Libya), currently working at King’s College in London.

Home base (background research, coordination, communication):
• Dr. Thomas Schuler, President, Disaster Relief Task Force (DRTF) International Council of Museums.

18. Members of the team in Tripoli 28 September 2011. Left Dr. Walda right Dr. Kila. Picture Karl von Habsburg.
Part III

Harmonizing liabilities and revenues for now and the future

Balancing the interests
The Hague Convention of 1954 was designed as an instrument to diminish and control the tensions that naturally appear between those taking care of cultural heritage and those whose core business is armed conflict. To put it more simply the treaty aims at maintaining a proper balance between cultural heritage and warfare. Obviously the term proper as used in this context is subject to trends, insights, historical and political circumstances as described. The stakeholders from all sides are also portrayed in the first part of this study.

When looking at cases and examples described in Part II of this book it seems that the convention is not reaching its objective and that it has created more tensions in the playing field. All interests at stake seem to be to a certain extent mutually exclusive or at least not in balance with each other. This instability has different origins including personal, bureaucratic, ethnic, or political situations to mention a few. For example one can think of tensions between groups supporting archeological sites preservation versus those who give priority to exploitation of cultural heritage for tourism. Other cases of friction relate to cultural resources management involving federal versus provincial control and national versus international authority not to mention collective interests versus individual interests. In the case of ownership of property, tensions can occur related to private possession of cultural heritage versus community owned properties. Part II not only shows the development of this research via a collection of published and peer-reviewed articles but also contains case studies that illustrate different interests, behaviors of parties, tensions and mechanisms as they occurred in practice especially during the period this research was executed. In all cases presented, the balancing of interests appears to be a key factor for effective future realization of CPP methods and strategies. Since no legal framework seems to be effective enough to achieve this, new opportunities as well as creative solutions must be identified. In the current situation it looks these solutions will have to come from those not afraid of taking risks and willing to handle bureaucratic rules and formats with flexibility.

Educational materials and research results that illustrate different perspectives as well as possible (military) incentives play a role in the (re)balancing process. The following paragraphs, while taking into account outcomes of this study, and lessons learned from case examples will identify and investigate a number of vital restraints and challenges. While doing so there is room for legal considerations, unpredicted opportunities, research, education and training methods, clear cut solutions and other strategies.

Identified dilemmas and challenges standing in the way of CPP implementation
Several identified dilemmas are mentioned in sections of Part I e.g. the paragraphs explaining the different parties involved. Practical cases that include such dilemmas were also given, for instance concerning the media (the Jewish archives, Baghdad museum) and religion (Bamyian and the Israel Temple Mound). A number of vital challenges will be further explained and summarized while suggesting solutions. Some issues are of a juridical nature. Let me stress that I am not a juridical expert and therefore will approach the fundamental juridical implications from a more or less multidisciplinary position in fact, as it normally happens in practice when a commander has

237 In the Netherlands activities are often blocked by the head of the army’s cultural awareness department (CAI) apparently he claims that only he is competent to deal with CPP issues.
238 A source of benefit especially for the use of the term balancing the interests was a presentation by Colonel Mark Yanaway at the AIA conference that took place in San Antonio TX US in January 2011.
to interpret advice from different disciplines to make a decision. Judgments and conclusions are not mentioned without consulting juridical experts but some issues that go naturally for legal experts are discussed from a non-juridical point of view. The research shows that military CPP is often mixed up or too closely linked with military Cultural Awareness (CA). Recent discussions, like the one at the World Archaeological Congress in Dublin in 2008 that is addressed in the paragraph about the media in Part I and several publications confirm this. In fact this is an issue between some of the stakeholders addressed in this study namely science, the media, and the military.

To avoid all kinds of, sometimes-unexpected confusion and unwanted synergy it is better that CPP officers are embedded in a military organization separate from cultural awareness experts. Activities aiming at raising awareness through supplying information and training should include clear explanation of the fact that CPP and Cultural Awareness are two separate disciplines. Of course, they are related to each other, but in the same way as a dentist is linked to a cardiologist: both work in the medical field. Nevertheless even the vaguest relationship can potentially cause legal implications because of the legal and consequently ethical framework CPP officers should work within, the Hague convention of 1954. Implications could arise in case CPP would touch specific areas within the field of Counter Insurgency for instance when attempts are made to decrease illicit traffic of artifacts in a conflict zone. Again, it should be emphasized that in this context reference is made to the European civilian perception of the term Counter Insurgency. This argument needs clarification. It was brought to my attention on several occasions that European civilian social scientists and for that matter the general public tend to perceive COIN as secret operations aimed at destroying opponents. The Americans including the US public use a wider construct of the term and recognize all activities that are in support of a military mission, or in other words create a force multiplier such as CPP, as a tool to be used against the opponent. If CPP through COIN gets mixed up or confused with something that is understood as intelligence operations aimed at destruction or at physically disabling the enemy we get situations as happened in Dublin or even worse resulting in limited opportunities to carry out what IHL wants with respect to Cultural Property protection.

This example shows that confusion about certain matters can partly be influenced or triggered by factors of social, geographical and cultural descent but also by an individual's or group’s professional expertise and environment. Apart from these there are other vital aspects for instance the fact that the multi-disciplinary nature of CPP and this investigation makes it difficult for the non-juridical trained to use and interpret juridical data and issues. On the other hand, it makes it suitable to fit in other comprehensive models like the 3 D concept. As discussed earlier CPP not only fits perfectly in this so-called 3 D approach used especially in peacekeeping and stabilization operations but CPP actually belongs in all military operations. The 3 D or diplomacy, defense, and development formula is in the Netherlands presented as the Dutch approach implying it is a Dutch invention. In practice it's implementation and consequently development remains somewhat behind and vague since the Dutch MoD suffers from major financial cut backs not allowing them to fully educate and train troops and specialists on topics and expertise vital to really realizing the 3D format. It is however possible to illustrate the positions of CPP and CA within this 3D context. It is interesting to take into account that in this 3 D method, several stakeholders introduced in chapter I take part, governmental institutions (ministries), the military, and NGOs in addition to these advisory groups, science and international organizations can be involved.

A big restraint to point out is the general lack of mutual understanding and coordination between the different parties that should carry out what is stated in the 1954 Hague Convention and other relevant legislation. The deficiency of common sensibility is seriously hindering implementation of activities. Varying opposing factors instigate this but an overall issue is the apparent difficulty for the civilian side to understand military conditions and culture and vice versa. Conditions are worsened by the fact that the military are not showing much interest in the subject. In many countries, lack of interest and awareness cause the military not to object when CPP is not dealt with in their organizations. There are even cases where the existence of Cultural awareness programs is used as an excuse not to implement CPP. Egypt is a recent example of this phenomenon and shows what the devastating results can be if a country’s armed forces are unable to act when police protection of sites and museums suddenly disappears. In fact, we are talking about bad cooperation between CPP stakeholders (military, government, juridical and civil cultural experts) as identified in Part I. This is even more reason to identify common denominators. On top of all this there is a trend started by a small number of individuals that appear to invent and introduce less relevant ethical aspects thus contributing to restrain cooperation between civil experts and military. Their arguments are often unfounded because they are made without real knowledge about the military and legal perspectives. Moreover, such opinions are beside the case because if all parties stick to the legal framework provided by the 1954 Hague Convention there cannot be an ethical problem. It can even be argued that ignoring cooperation and resolutions as mentioned in International Humanitarian Law is un-ethical. This ethics trend has as a consequence that the scarce number of experts (often reservists) that try to function in between the civil and military spheres and have knowledge of and experience with
both "cultures" are prone to suspicion from scientific peers as well as from professional military colleagues and are at risk of getting marginalized. One more major challenge for meeting the obligations as laid down in the 1954 Hague convention is the lack of funding. The bad economical situation giving low priority to subjects as CPP and in civil society culture in general, is often referred to as an excuse but it in fact it indicates low appreciation of the relevance of dealing with CPP. Because of this attitude Europe and the Netherlands in particular stay behind with implementing CPP strategies for military organizations as required by the 1954 Hague Convention.

Different examples have shown that training of the military is held up by conflicts of interests as well as by contradicting powers and arguing factions within circles of stakeholders. These, can be called identified dilemmas and are often based on oppositions and constraints linked to strategic cultures. They occur on different levels and involve diverse parties, disciplines and issues. Balancing the respective interests is again a pre-requisite for success. Following are more examples, after each identified predicament a clarification with a reference to a thesis and case used in this study is given: A classic dilemma from the juridical sphere is balancing between Cultural Property protection and Military Necessity. This is a basic conflict of interest between the cultural expert’s desire for conservation and preservation of cultural belongings and the military aim to reach a conflict’s end state as soon as possible. A famous case dates from the Second World War namely the case of Monte Cassino. Out of such dilemmas, more contradictions become apparent such as the desire to achieve military results against the apparent constraints of International Humanitarian Law (IHL). Here it becomes tricky for people not educated in the law. IHL is incorporated into military law and is also known as the Law of Armed Conflict (LOAC). While human rights law applies in peacetime and also, subject to derogation, in times of armed conflict, IHL/LOAC only applies in armed conflict. As with all international law, the laws of armed conflict are based on treaties and customary international law. Of course, military law is at the same time a body that contains directives and rules for the military. It is critical to distinguish these several layers and applications of such juridical instruments. All play a role in the CPP complex though intermingled with different political, technical, or cultural elements. Obviously more research as well as cooperation between civil and military legal experts and cultural experts is needed to keep all elements under control while giving expert advice to commanders. For that matter, cases and problems mentioned in this study have to be checked for their juridical implications while asking what problems can be derived from such cases. Especially since, it is not apparent to civil CPP stakeholders when or under which circumstances the accomplishment of military objectives prevails over allowing for directives of National Laws or International Humanitarian Law on protecting Cultural Property. Situations obviously cannot be judged without the advice of legal experts but these experts are normally not educated about archaeological, cultural and preservation aspects to mention a few. This example points out the difficulties of establishing cooperation between parties representing the law, the military, and science.

Apart from existing issues there are matters to be considered and researched that contain new implications (or opportunities) linked with CPP such as the environmental angle. This link has for instance not been checked for probable legal consequences deriving from environmental rules and laws. For that matter: possibilities to undertake emergency assessment missions for working

240 E.g cultural awareness specialists versus CPP specialists
241 Strategic Culture is that set of shared beliefs, assumptions, and modes of behavior, derived from common experiences and accepted narratives (both oral and written), that shape collective identity and relationships to other groups, and which determine appropriate ends and means for achieving security objectives. Source: Johnson and Larsen 2006.
242 In 1944, the Abbey of Monte Cassino was bombed based on the fear that it was being used as a lookout post for the Germans, this proved later not to be the case.
groups as IMCURWG and their status in the field have not been investigated from the legal perspectives that are valid in conflict and foreign diplomatic situations. A final relevant issue to mention is the fact that tensions exist between instrumental parties with financial resources to protect CP such as governments and intrinsic parties that have the expertise but lack financial resources; this is the case in the Netherlands. An important but inconsistent relation exists between civilian experts and military- or militarized experts. Problems range from ranking concerns as addressed in the CIMIC paragraph including financial and hierarchy consequences to legal implications such as legal status issues when Non Combatants and Combatants work together in theatre.

The above is a selection of contradicting forces that are always present. Their respective influence is illustrated in the cases used in parts one and two of this book. Nevertheless, within the context of this study the legal aspects, like the classic and crucial contradiction involving military necessity already mentioned, need more elucidation. The latter concerns two elements of International Humanitarian Law (IHL) namely the principle of military necessity that is in fact a restriction on the conduct of hostilities addressed under Hague Law versus the obligation to protect Cultural Property as codified in the 1954 Hague Convention. It is useful for non-juridical experts to get an idea of the lawful context in which certain aspects function and correlate when CPP is at stake. Such a closer look is necessary to put matters in perspective while describing the legal environment connected with war. At that point it may be possible to understand the concepts of proportionality and the, according to some, ill-defined principle of military necessity. Moreover, a comparison is made between a number of different interpretations from juridical experts.

**Legal aspects to consider when implementing CPP**

'The law is an arcane subject. It was once said that international law is at the vanishing point of law - and the law of armed conflict is at the vanishing point of international law'!

'The laws of war are as vague as you can get but they are getting more defined' as was said by Antony Dworkin. Some countries are using them to try to alter the notions of war, combatant, and battlefield. Charles Garraway disagrees to a certain extent by stating that some laws of war are very specific. However, he agrees that a few are not as clear as one might like because Diplomatic Conferences draft them and everything drafted by multiple entities is a compromise. On the other hand, Dworkin argues that one can look at the history of the laws of war as a battle between making them more precise and more defined versus making them vaguer. This process is in fact in line with other examples of contradicting forces presented in this publication including juridical elements of CPP. One of the most amorphous is the principle of military necessity.

'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 and the buildings must go. However, the choice is not always so clear-cut as that. In many cases,

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244 Both have a different status under military law and IHL.
245 Present-day international humanitarian law has grown from two main sources: the Law of Geneva, i.e. a body of rules protecting victims of war, and the Law of The Hague (or Hague Law), i.e. those provisions which affect the conduct of hostilities, source: ICRC Resource Centre, 31-12-2001 Article, International Review of the Red Cross, No. 844, by François Bugnion
246 See: Thurlow 2005, pp. 164-166.
247 Lauterpacht 1952, pp. 360-382
248 Antony Dworkin is the web editor of the Crimes of War Project, a site dedicated to raising public awareness of the laws of war. This quote comes from the Seminar War Reporting and War crimes in the Aftermath of 9/11, London October 2002.
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'.
General Eisenhower, 29 December 1943.249

Of course, the statement of General Eisenhower is almost 70 years old and the situation has
changed since. Important areas in the Law of armed conflict were subject to alterations while
codifications of restrictions on the conduct of hostilities sometimes changed by building in
specific exemptions such as using terms like "imperative" as an adjective to necessity. In that case
necessity can be considered a high test while the addition of "imperative" or other adjectives
makes the test even higher. More differences that are basic developed in the last 70 years they
concern aspects like the type of weapons used, the kind of targets that can legitimately be
attacked and alterations regarding international criminal liability.250 When focusing on the term
military necessity, for a nonprofessional it reads as a need for the military. There is civilian legal
notion of necessity but this cannot be compared to the notion of military necessity. A good
definition is that military necessity is an exception to a prohibition in international humanitarian
law (IHL).251 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 the modern laws
and usage’s of war".252 This implicitly suggests that the definition of military necessity is always
connected to contemporary juridical and conflict practices and therefore should be updated and
upgraded on a regular basis in order to be weighed in the right context. Preferably, juridical
experts should cooperate with others in a multidisciplinary setting to do this.
In contemporary U.S. and NATO usage, military necessity is phrased as a measure not forbidden
by the laws of war that can rightfully be applied to achieve a successful conclusion of a military
operation. From this perspective, military necessity is treated as a tool just as CPP can be a tool
to reach the end state of a mission. In essence, military necessity is considered part of just war
theory dealing with the conduct of warfare.253 Since it is a concept used in IHL, it is part of the
legal justification for attacks on legitimate military targets that may have adverse consequences
for civilians and civilian objects. For some this holds the implication that military forces in
planning military actions are permitted to take into account the practical requirements of a
military situation and the imperatives (prerequisite) of winning at any given moment. Here
opinions differ; therefore, some viewpoints need to be compared.254
Military necessity acknowledges that even under the laws of war, winning the war or battle is a
legitimate consideration, though it must be put alongside other considerations of IHL.255
This means that military necessity does not automatically give armed forces immunity for taking
actions that would otherwise be impermissible, for it is always balanced against humanitarian

249 Allied General Order issued by General Eisenhower. Source: Report of the American Commission for the
252 Rogers 1996, p. 4.
253 Just War Theory has 3 main components a. jus ad bellum: the justice of going to war
b. jus in bello: the means by which war is conducted and c. jus post bellum: the means by which the war is
concluded and the peace restored
254 Being no juridical expert I was supported enormously by the information and arguments given by Professor
Charles Garraway during two interviews and exchange of email messages.
255 Source: Crimes of War A-Z guide Military Necessity, Françoise Hampson, <http://www.crimesofwar.org/a-z-
guide/military-necessity/> [17 July 2011].
requirements of IHL. Three requirements or constraints upon exercising military necessity are important: First any attack must be intended with a goal leading to the military defeat of the enemy; attacks not so intended cannot be justified by military necessity because they would have no military purpose. Second: even an attack aimed at the military weakening of the enemy must not cause harm to civilians or civilian objects that is excessive in relation to the concrete and direct military advantage anticipated. Third: military necessity cannot justify violation of the other rules of IHL.

Garraway has a slightly different interpretation. He establishes military necessity to be now defined as ‘the principle whereby a belligerent has the right to apply any measures which are required to bring about the successful conclusion of a military operation and which are not forbidden by the laws of war’. This is the current description in the UK LOAC Manual. The Manual refines this even more by explaining the legitimate purpose of a conflict: "a state engaged in an armed conflict may use that degree and kind of force, not otherwise prohibited by the law of armed conflict, that is required to achieve the legitimate purpose of the conflict, namely the complete or partial submission of the enemy at the earliest possible moment with the minimum expenditure of life and resources." The following remark seems in place here: in many other military planning documents "submission of the enemy" is replaced by "reaching the end state of a mission" to describe the legitimate purpose of the conflict. When CPP is at stake, we must first distinguish between two perspectives that are inextricably linked. In the strict military sense, the end state of the military mission in armed conflict is the complete or partial submission of the enemy at the earliest possible moment with the minimum expenditure of life and resources. However in a more modern and general sense that includes a political perspective and refers more to operations outside of armed conflict like peace support missions; often the desired end state is the establishment of a safe social environment in which civilian institutions can take over from the military. Nevertheless, Garraway makes the point that military necessity is not a ‘get out of jail free card!’ On top of that, he identifies a noticeable change between the wording used in The Hague Regulations 1907 and that in Geneva Additional Protocol I in 1977. In 1977 the definition of a military objective is “those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.” Here the change is in the use of the word “advantage” – a much lower threshold or test as Garraway calls it. In 1999 in the Second Protocol to the Hague convention of 1954, military necessity is further narrowed down in Article 6. For a start, Cultural Property cannot be attacked unless it is a military objective – but then that is the general rule for civilian objects and as we have seen is a low test depending on “military advantage”. However, Cultural Property must become a military objective “by function”. It can be a military objective by any other means and not lose protection. Thus if by its location, it is an advantage to attack it, that is not sufficient. A civilian object becomes a military objective and therefore liable to attack (subject to proportionality etc.) if there is a “definite military advantage” to that attack. The attack does not need to be “necessary”.

The above line of reasoning by Garraway illustrates even to the non-juridical trained that the mix of legal, military, and civil considerations constitutes a complicated challenge. For that reason, multidisciplinary expert advice and the research of actual cases is needed to decide on matters of necessity and proportionality when it comes to handling CPP matters in theatre. It goes without saying that this entire evolving mechanism causes constant tensions between civil and military interests that can be contradictory and on occasion multi-interpretable. Finally, military necessity is not a static phenomenon nor are the conditions, perspectives or rules under

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256 Professor Garraway is general editor of the current version of this manual.
which it can be applied. In fact, today military necessity is sometimes treated as a tool just as CPP can be a tool to reach the end state of a mission. Patrick Boylan’s arguments are more in line with Eisenhower when he states that ‘military commanders on the ground have already relied on this tool (military necessity) in the past for example when arguing that a certain high church tower might be used for military purposes such as observation or sniping by the defending forces’. However, it is also a fact that military necessity was used as a standard defense used by accused war criminals in trials following World Wars I and II.

Having established the flexible nature of Military Necessity we can understand both Eisenhower’s and Boylan’s concerns about whether the military necessity concept is used as a response to a “necessity” or “military convenience”? To make things less convenient, Boylan did seek to restrict the military necessity exemption. At the same time, he anticipated on the changing methods and conditions of warfare and conflict and created the Second Protocol to the Hague Convention of 1954. Article 11 – 2 of the new protocol states that immunity as granted to Cultural Property according to Chapter II article 8 can be lifted in case of “exceptional cases of unavoidable military necessity”. This level of necessity can only be established by a commander of a force the equivalent of a division in size or larger. It appears to be an indication of the high importance the treaty gives to the quality of military decision making on the subject and the quality of expert advice obviously needed for a commanders’ considerations while making the decision. In practice the commander of a division equivalent will be at least a two-star general often heading a multinational mission. From a logical point of view advice concerning withdrawing immunity has to be given by military strategic experts, military lawyers and last but not least subject matter experts, in this case Cultural Property experts. Results of assessments and research undertaken prior to the mission should normally play a role in this. The immunity waiver of the Convention’s second Protocol still leaves matters open. Therefore juridical experts both civil as well as military should at least communicate and execute research together in order to fully understand its consequences. Subjects to be argued and studied are for instance if the described restriction on necessity should also reflect situations like events involving a commander of a force smaller than a division and a situation where this commander is unexpectedly forced to make an instant decision concerning Cultural Property. It is also questionable whether the treaty provides a directive for military decision-making in case of acclaimed Cultural Property that is not (yet) on any national or international list. Finally an ordinance urging a Commander to seek expert advice as is the normal procedure with legal issues would add nicely to article 11 – 2 of the Second Protocol.

Apart from all this, the fact cannot be ignored that countries have different perspectives or references when interpreting military necessity. These can entail social, cultural, political, historical, and legal considerations. The military authorities in the US, for instance, deal with cultural destruction within the framework of their more general Law of War (LOW) that offers a lot of room for the principle of military necessity. This might change in the future since the US ratified the 1954 Hague Convention (but not the protocols) in 2008.

Nevertheless, the US has a long tradition in characterizing military necessity. The Lieber code dating from the US civil war defines necessity, as measures that are indispensable for securing the ends of a war that are lawful under modern law and usages of war. By doing so Francis Lieber for the first time defines military necessity in the context of jus ad bellum applying to the measures

258 Merryman 2000, p. 105.
259 Thurlow 2005, pp. 164-166.
260 Legal norms restricting the circumstances in which states can use force, source: Forrest 2007.
as mentioned above and being indispensable and not simply convenient. In strong contrast with such an interpretation is the not accepted German approach as developed prior to World War I namely the principle of 'Kriegsraison geht vor Kriegsmanier' that interprets military necessity more as a justification than a limitation.

Of influence to the changing status of military necessity are also continuous developing military conditions like the transformation of warfare from symmetrical into asymmetrical that started after World War II. This process lasted at least until the end of the Cold War marked by the falling of the Berlin Wall. Nevertheless, some matters remain the same such as snipers that take high positions in the terrain. However, instead of Church Bell towers positions are taken in minarets e.g. Samarra Iraq. Yet new lessons learned from recent field experiences will undoubtedly lead to more contemporary cases and examples to be discussed in relation to military necessity so we no longer have to work with the old practical cases that involve church towers and convoys with Blue Shield emblems. Typical examples of modern cases to be described and used for education are the detonation of obsolete ammunition inflicting damage to monuments through vibrations and the building of military camps causing environmental and cultural damage e.g. FOB Wolverine and the destroyed ancient Karez water supply system. As for now, the trend is that in practical situations, field commanders place other values higher than cultural preservation labeling such "values" a military necessity. However some experts make a plea for a strict interpretation: "only allow military necessity when expressly permitted by the particular rule itself". The mere plea of military necessity is not sufficient to evade compliance with the laws of war. Otherwise, the concept of military necessity would reduce the entire body of the laws of war to a code of military convenience, having no further sanction than the sense of honor of the individual commander.

As discussed, The Hague 1954 and other conventions hold many exceptions for military necessity but in fact, this is also a means to make the conventions credible, i.e. to be aware that in certain extreme situations it can be impossible to apply the rules in a strict manner. This opens the door for excuse use. Already some historical cases are described where military necessity has been alleged as an excuse. The Pavle Strugar case concerning the shelling of Dubrovnik is one of them. However while Strugar, and others have run the alleged excuse of military necessity, it did not succeed! Still it is a potential tool for the defense, even if it is hopeless!

We have to realize that there are in fact different levels of protection for Cultural Property. This is well illustrated in the opinions and interpretations of juridical experts from both the military and civil spheres. As established when discussing juridical high or higher tests involving adjectives like 'imperative' different levels in the intrinsic value (needed) when implementing or codifying prohibitions such as military necessity, do exist. Charles Garraway explains the value and application of military prohibitions very clearly: when the first codification of restrictions on the conduct of hostilities was taking place, there was a division between those prohibitions that were absolute (use of poison) and those that were not (destruction of property). In the latter,

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261 Forrest 2007.
262 The destruction of the Al-Askariyya Shrine in Samarra, Iraq better known as the golden mosque. The Askariya shrine’s dome was destroyed on Feb. 22nd, 2006, in a bombing blamed on Sunni Muslim militants believed to be linked to al-Qaida that unleashed a wave of sectarian violence. Insurgents blew up the two minarets in Samarra, on, June 13, 2007
263 Merryman 2000b.
265 Strugar is a former Yugoslav People’s Army (JNA) General charged with crimes in the Croatian city of Dubrovnik in 1991. On 31 January 2005, He was found guilty and sentenced to eight years by a Trial Chamber for attacks on civilians; destruction or willful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works or art and science, all in relation to JNA’s attack on Dubrovnik in 1991. According to the judgment, Strugar had both legal and effective control of the JNA forces who conducted the military action at Dubrovnik, including the shelling of the Old Town of Dubrovnik.
specific exemptions were built in using terms like “imperative military necessity”. Unless that exemption is in the treaty law, military necessity is no justification.266 This explanation shows that though military necessity is flexible and can have different applications as well as degrees of strength it is codified. In other words the rules have been made clearer since Eisenhower’s argument. Nevertheless, Thomas Desch states in Protection of Cultural property in the event of Armed Conflict that the term imperative is not defined for use in connection with military necessity within the treaty text.267 Therefore, it is up to each States Party to interpret the term causing ambiguity in States practices as well as the risk of misuse.

As can be seen in above statements and clarification there is still a risk of erosion, deflation and misuse of military necessity. If the concept was a 100% proof additions such as imperative would not have been necessary. Like with many other juridical or technical instruments much depends on the skills and intentions of the users or advisers. Besides military necessity is not a static issue for instance its definition triggered intense discussions during the preparations in 1999 for the second protocol of the Hague Convention of 1954. Consequently it was determined that a waiver on the basis of imperative military necessity could only be invoked in case of an act of hostility against CP that was (temporarily) by its function made into a military objective. A requirement was the unavailability of alternatives to reach an equal military advantage. Other restrictions codified concerned the level of military command allowed to make the decision to invoke the waiver meaning the highest level possible (most likely at least a Brigadier-general) and a warning to be given before any attack while all precautions should be taken to minimize damage to the Cultural Property. As Patty Gerstenblith put it: the Military necessity waiver should only be granted when no feasible alternatives are available to obtain a similar military advantage and when it is not disproportional excessive in comparison with the obtainable military advantage268. This brings in the principle of proportionality that prohibits military action in which negative effects such as collateral civilian causalities clearly outweigh the military gain. This balancing may be done on target-to-target basis but also may be weighed in over-all-terms against campaign objectives.269 It is my opinion that both solutions are needed, simultaneously as well as a reconsideration of military necessity. When CP experts are actually involved in the planning process this will automatically happen still CPP experts must get accurate advice on the legal implications or be aware of related juridical aspects themselves.

Anyhow, military necessity cannot be seen separate from the legal concept of proportionality. According to Fischer, the principle of proportionality is embedded in almost every national legal system and underlies the international legal order.270 Proportionality's function in domestic law is to relate means to ends. In armed conflict, the principle is used to judge first, the lawfulness in jus ad bellum in other words the ad bellum test or the amount of force to be used and secondly, the lawfulness in jus in bello or the in bello test weighing the expected military advantage with the expected incidental loss and damage. The latter has nothing to do with the degree of force. It should be stressed again, especially for the juridical challenged, that the proportionality tests are different between ad bellum and in bello.271

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266 Interview of the author with Professor Colonel Charles Garraway reflections laid down in an email message to the author dated 1 April 2011.
268 Gerstenblith 2008, p. 82.
270 Fischer 2007.  
271 Do not mix here the different meanings of “in bello” and “ad bellum”. Proportionality in going to war in the first place looks at “campaign objectives”. However, proportionality in its in bello meaning is much more restrictive. Additional Protocol I talks of “the concrete and direct military advantage anticipated”. Many seek to add “from that specific attack” ie, limited to the immediate action. However, that is too narrow as a feint attack may be designed to give advantage elsewhere on the battlefield. The UK statement on ratification says, “the
In the Gulf War, allied forces acted in individual and collective self-defense against Iraq under Article 51 of the UN Charter, but they disagreed whether the principle of proportionality permitted them to occupy Iraqi territory or oust Saddam Hussein. Many States felt that only the liberation of Kuwait was a permitted goal. In the same perspective it can be argued by (commanders of) forces on a mission if proportionality allows or urges them to protect CP when for instance humanitarian or military strategic goals ask for priority.

The laws of war, however, are multi-interpretable. Today’s problem is that not all belligerents may comply with the same set of written or customary laws, and even written international law does not cover all situations. For example, the Geneva Conventions principally assumes the fighting parties are nation-states. In a modern military environment, this is no longer a matter of course. For example if an insurgent force fighting an advanced opponent should follow the rule of wearing distinctive emblems noticeable at a distance (mandatory under the Geneva Conventions to get protection for e.g. the wounded) the other side could detect them and kill them at ranges beyond ranges of their own. With this issue, we also touch upon the notion of distinction that has both military and juridical aspects. Distinction not only plays a role in CPP as seen from philosophical and sociological perspectives (e.g. identity) but is also an international legal concept connected with military operations. It is a principle under international humanitarian law governing the legal use of force in an armed conflict. Belligerents for instance must distinguish between combatants and non-combatants (civilians).

Distinction and proportionality are important factors when assessing military necessity in the sense that damages caused to civilians or civilian property must be proportional and not excessive in relation to the direct military advantage anticipated by an attack on a military objective. As noticed distinction also plays a role when considering having non-militarized CPP experts working together with military experts. However, distinction applies too in case of selection or exclusion of monumental (cultural) objects. Monitoring Cultural Property during armed conflict according to IHL is not easy since both parties are responsible for distinction between civilian and military objectives of course at the same time. Attacks should be limited to military objectives. If objects like museums or churches are used for military purposes by one or both sides, there is no proper application of distinction and sanctions can apply. In order to impose sanctions and for that matter note actions and behaviors that are not in line with regulations, certain instruments and systems are vital.

237 In order to impose sanctions and for that matter note actions and behaviors that are not in line with regulations, certain instruments and systems are vital.

232 Charles Garraway argues that the issue in 1991 of whether to occupy Iraq was not one of proportionality since it was interpretation of the various Security Council Resolutions: source interview with Charles Garraway, March 2011.

233 See: Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

234 Chapter II: " Civilians and Civilian Population" of Protocol I Additional to the Geneva Conventions covers distinction. Article 50 defines who is a civilian and what a civilian population is. Article 51 describes the protection, which should be given to civilian populations. Chapter III regulates the targeting of civilian objects. Article 8(2) (b)(i) Rome Statute of the International Criminal Court also prohibits attack directed against civilians. Not all states have ratified Protocol I or the Rome Statute, but it is an accepted principle of international humanitarian law that the direct targeting of civilians is a breach of the customary laws of war and is binding on all belligerents.

Control mechanisms and sanctions.

All legal concepts discussed here can only function properly with the help of control mechanisms and penal sanctions. First, a concrete example is given and then the line of thinking behind certain legal instruments, especially those restricting the use of military necessity, will be explained. Article 8(2) (b) (iv) of the Rome Statute of the International Criminal Court criminalizes: Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated.

Article 8(2) (b) (iv) draws on the principles in Article 51(5) (b) of the 1977 Additional Protocol I to the 1949 Geneva Conventions, but restricts the criminal prohibition to cases that are "clearly" excessive. The application of Article 8(2) (b) (iv) requires, inter alia, an assessment of:

(a) the anticipated civilian damage or injury;
(b) the anticipated military advantage;
(c) and whether (a) was "clearly excessive" in relation to (b).

Currently there are different ways to control military necessity. One approach is described in the Second Protocol of the 1954 Hague Convention. There are however possibilities from a wider perspective. In his article "The Doctrine of Military Necessity and the Protection of Cultural Property during Armed Conflicts" Graig Forrest discusses the humanitarian law doctrine of military necessity and its manifestations in the 1954 Hague Convention that underlie both jus ad bellum as well as jus in bello and stresses that first the requirements for necessity to resort to armed conflict have to be met. This entails that states are not free to wage unrestricted warfare. Any response must be proportionate to the legitimate aims of the use of force such as for instance the minimum required for self-defense. In this context, proportionality is considered an important restriction for the choice of methods and means to conduct war or armed conflict. Forrest distinguishes that necessity can legitimize the armed attack whereas proportionality determines the amount of force to be used. The classic motto is do not cause unnecessary suffering or damage. According to Forrest this limitation is not predominantly humanitarian in nature but is also based on: 1. economic 2. political and 3. military considerations. Considering this I find these three considerations also technically applicable to the protection of Cultural Property in the event of conflict. To be more specific the three considerations can for instance easily be substituted (following the same order) by: 1. tourism, labor and export revenues 2. status 3. force acceptance and force multipliers.

Following this the "modern" perspective should be considered that cultural heritage cannot be seen separately from natural heritage (see also the preface) in fact the same three substitutions can be made. An important treaty aimed at controlling this is the 1972 UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage also known as the World Heritage Convention (WHC). Part of this convention is the World Heritage list containing both

276 The Rome Statute of the International Criminal Court is the treaty that established the International Criminal Court. It was adopted at a diplomatic conference in Rome on 17 July 1998 and it entered into force on 1 July 2002.
277 There is a juridical debate about if and how to distinguish and consider between civil as state responsible or individual criminal accountability. The words “clearly” and “overall” were inserted to differentiate between the civil and criminal tests. Where the anticipated damage is “excessive”, there is a breach of IHL involving state responsibility ie. civil responsibility decided on a balance of probabilities. However, for criminal responsibility of the individual, it must be “clearly excessive”. Garraway for instance finds Criminal courts not the place to second guess decisions made by Commanders in the heat of battle.
279 Forrest 2007.
cultural and natural heritage sometimes combined. The World Heritage List includes 936 properties forming part of the cultural and natural heritage, which the World Heritage Committee considers as having outstanding universal value. In fact the aim is to maintain a list of World Heritage that could be in danger in times of conflict or natural disaster. To be exact properties described on the list are eligible for international assistance when threatened by specific dangers, among them “the outbreak or threat of an armed conflict”. Last but not least it has to be stressed that expert advice to commanders for all areas mentioned or aimed at a certain situation is needed before deciding on applying military necessity. The main legal reference or legal driver for this study is the Hague convention of 1954 and its two protocols. Of course, some treaty obligations are already provided for in the respective national legislations of states parties to the convention but these differ per country.

I hoped that I could follow and analyze The Hague 1954 to understand and describe how directives for protection were actually implemented by the various stakeholders. Still instead of utilizing the convention as a framework and legal driver to create a guiding principle it was found that most countries have no policy designed or special provisions made to enforce the legal obligations the convention requires concerning the military aspects. This gives room for half solutions that are not in accordance with the spirit of the treaty. Formally, there are of course some provisions in the respective national laws and signatories to the 1954 Hague Convention states parties are expected to integrate as far as possible what is stated in the convention into their national legislation. In practice, most states-parties lag in creating national legislation. Nevertheless, in urgent cases there still is a possibility to negotiate a so-called SOFA or States of Forces Agreements between the military of two nations on a bilateral basis. Such an agreement was executed in 2008 between the governments of Iraq and the US to make provisions for protecting existing and newly to be discovered cultural heritage. In this case, there is also a strong connection with environmental rules and considerations as is common in the US.

Notwithstanding this type of mostly bilateral solution, it is clear that a mechanism or stringent regime or ideally an international body to oversee compliance of the instrument can provide for a better result. UNESCO did not want to take this role partly to not discourage non-member states to become parties to the convention. UNESCO did bring together a committee of experts to prepare a draft text that stressed the need for a stringent regime but at the same time considered it a costly and complicated undertaking. This says a lot about how the subject is perceived in terms of priority and status. Today the control system under the convention is composed of three elements: the first speaks for itself namely representatives of parties to the conflict, Commissioners General for Cultural Property and Protecting Powers.

The committee initiated by UNESCO advised to use the already established system of Protecting Powers meaning a third state chosen by a belligerent power to perform certain functions on its behalf. In fact it is a solution to create communication channels between hostile powers. In the case of CPP a Protecting Power would take care of the interest of Cultural Property in accordance with article 22 (1&2) of The Hague 1954. Until now, no party in any conflict has entrusted a Protecting Power with safeguarding its Cultural Heritage. However the system was expanded with control possibilities by a Commissioner General for Cultural Property.

The system of Commissioners General interlinked with the system of the Protecting Powers worked only once as I described in the paragraph about UNESCO. It should be revived and redesigned since it creates a possibility to deal with urgent problems that need to be handled in an intensive manner (e.g. Afghanistan, Iraq and recently Libya and Egypt thought it can be argued if the latter is an armed conflict and therefore if IHL applies). Additionally, the review of the 1954 Hague Convention, which resulted in the elaboration and adoption of the Second Protocol,

281 O’Keefe 2006.
provided for the establishment of a new supervisory body—the twelve-member Committee for the Protection of Cultural Property in the Event of Armed Conflict. The committee members were elected for the first time at the meeting of the parties to the Second Protocol in October 2005. The committee had its first session on October 26, 2006, during the UNESCO General Conference.

**Common denominators as part of solutions**

While acquiring new data and insights within the context of this research common denominators were identified. As far as linked to the military sphere such denominators can be used to demonstrate to the military that parties hold some things in common. For example, militaries too are interested in cultural heritage. Military museums, collections, and war monuments including their preservation and conservation are excellent examples. The same goes for historical battlefields, fortifications, shelters, bunkers and the like. However, the denominator can be linked to civil society too; in the US for instance attention for the terrains of military installations is interlinked with preservation of on site Indian ritual paces and burial grounds. In many countries, e.g. Norway the Ministry of Defense is one of the biggest real estate owners, often this ownership includes cultural properties. Not all stakeholders addressed in this study are conscious of the fact that CPP can bring intangible incentives as well. It appears that many military commanders for instance do not realize that the whole exercise of educating and reflecting about CPP issues improves intellectual skills of the people involved. As illustrated in the description of CPP stakeholders there are all kinds of connections and interests that are of equal interest for multiple parties within the playing field. In a positive, sense such common denominators when regarded upon as shared interests can contribute to overcome many of the perceived challenges and problems. As an example: costs can be shared to save money and at the same time improve quality and save overlaps. In addition, the media are interested in news stories that can at the same time draw attention to a problem and generate means to overcome such a problem for instance by triggering (extra) site protection or financial means. All good reason to identify, examine and analyze positive common denominators within the complex of stakeholders.

Common denominators with a more negative connotation one can be distinguished too. An example valid for all parties engaged in CPP is the perception that they seem to be in competition with each other. Another issue in common is that all parties involved have a tendency to sense potential danger and instability or at least irritation in Cultural Property and each of them thinks they are best equipped to control these aspects. This situation creates turmoil triggered by questions as: who is allowed to act by whom; who will become known as the moral defender of a piece of global heritage; and who will get good PR and thus maintain their market share. In fact, parties behave as if they are in a contest instead of being satisfied with doing something to preserve civilization. Apart from this, rivalry focuses on the issue by whom and how the importance or relevance of certain objects or sites will be determined. The same goes for who is in charge and in control. Consequently, behaviors triggered by these issues are often driven by a competition to obtain and sustain funding. Taking into account that stakeholders not only have different interests but also dissimilar levels of expertise and perception when CPP is at stake it is obvious that communication about implementation is difficult. It goes without saying that these common attitudes can culminate in conflicts between stakeholders. Nevertheless, the objective has to be finding and examining aspects held in common that contribute to, or serve as a basis for, solutions and improvement.

Many of the identified dilemmas of this research contribute to the current state of affairs regarding the protection of Cultural Property in the context of conflict. To be specific there is little or no movement or improvement in the present unsatisfactory situation. It has for instance been found, and this is also a common denominator, that the few successful initiatives and projects are for the larger part personality driven. Examples are the training in situ projects in Egypt and Jordan and all playing cards projects. If not for a small group of individuals who
sometimes even spend their personal resources these ventures would not have taken place. This aspect makes these activities not or less sustainable. Nonetheless pro-active conduct and visionary ideas are indispensable in this phase of developing sustainable CPP strategies certainly those that involve the Military. If military CPP could become part of the scientific discourse its basis would become more solid and accepted. This is not easy since the current scholarly discourse on cultural heritage is quite elitist while a new input comprising the military aspects including the legal implications increases its complexity and makes the debate multidisciplinary. Nevertheless, the time seems right; discussions are already becoming more intense since the cultural disasters in Baghdad and Afghanistan. As a result new though not always enriching insights surface on preservation, memory, and identity, stewardship and ethical considerations related to working with the military. Concluding, it can be said that on the one hand the general scientific heritage discourse is becoming more profound while on the other hand the debate on military Cultural Property protection is still in an embryonic phase, and it remains under attack by a civilian perspective sometimes driven by anti-military sentiments.

Opportunities for effective implementation of Military Cultural Property Protection

As argued pro-active, creative and anticipating strategies are needed to achieve an effective and sustainable implementation of military CPP. Such an opportunity for getting CPP embedded in the military systems is the connection that already exists on paper between environmental issues and the combination natural & cultural resources. Partnering, in this case with military environmental departments, often the corps of engineers makes a position within military structures stronger especially with parties that are already established and firmly anchored in the organization. Certainly at this stage of implementing Cultural Property protection logical and effective partners are military environmental policy and protection departments as is already put in practice in the US. From an international perspective, a potential umbrella to house capabilities could be NATO.

Cultural Property obligations combined with environmental responsibilities are codified in NATO’s STANAG 7141 EP doctrine. The document considers natural and cultural resources to be characteristics of the environment to be taken into account for NATO led military activities. Mandatory is the identification of potential (environmental) impacts caused by military activities including possible effects on natural and cultural Resources. Impacts should be prevented where possible. A really important directive is the desire to implement feasible mitigation measures and to consider alternative locations or activities while still achieving the military objective of the training or operation. The phrase mitigation measures gives possibilities to start Protection of Cultural Property in planning and assessment phases of operations. Of course there has to be a per case agreement with all parties involved on the nature of proposed mitigation methods. A very good example of mitigation that involves both environmental and Cultural Property issues took place in Afghanistan. In October 2010 General David Petraeus and Major General McHale, with the support of Ambassador Karl Eikenberry, tasked US Army engineers to build a storage facility and conservation lab for archaeological finds exposed in preparation for the mining of a copper quarry at Mes Anyak, Logar Province. The facilities will function as a holding house during a three-year archaeological salvage project. It demonstrates awareness among commanders and civil top officials about the value of diverse cultural heritage as a measure in reconciliation and public diplomacy.

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283 As can for instance be read in Grijzenhout 2007, van der Laarse 2005, and Lowenthal 1996.
285 See in the doctrine under 7 b. (5) see also (7), under c. see also e
Another opportunity to engage CPP is NATO’s Environmental Training Workgroup (ETWG). The workgroup aims to study and report on selected environmental training issues, including environmental training issues during NATO led operational deployments. Their mission is to consider environmental training issues either as part of routine training, special training prior to operational deployments, or training in theatre post any period of conflict. This gives the chance for scientific research critical to get the Military Cultural Property protection debate to a higher level. ETWG's mission statement lists a number of points that justify multi national cooperation training and research as also underpinned by the STANAG 7141 EP doctrine. For instance identifying and recommending suitable environmental training projects to consolidate training within NATO through bilateral or multilateral co-operative training arrangements thus clearing the way for co-operative Cultural Property protection training in situ.

All opportunities mentioned can contribute to raising general awareness of environmental and cultural heritage issues especially areas subject to national and international statutory or legal responsibilities. In case of Cultural Property protection, these are at least the 1954 Hague Convention and the UNESCO treaty of 1970 (illicit traffic of artifacts).

Apparently, there is not only room but also a desire to strengthen international co-operation on environmental training through bilateral or multilateral training arrangements in which case the focus is on rationalization and specialization. Taken this into account it seems fair to conclude that when combined with cultural resources training and research a win-win situation can be created. The potential partners mentioned up have the right organizational infrastructure and networks to host or incorporate Cultural Property protection. The link with environmental issues gives a more sustainable basis for effective implementation in an international military setting while at the same time it provides for deploying international military experts e.g. cultural emergency assessment teams. Initial steps to make different countries and potential partners aware of possibilities were taken in October 2009 when the first Cultural Property protection briefing by the author of this book took place at the NATO School in Oberammergau during the Environmental Management for Military Forces Course. After a well-received presentation appointments were made to proceed with more lectures. Regrettably, the subject was dropped due to interference of (again) the head of the Dutch MoD’s cultural awareness department who after hearing about the initiative wanted his department to give these lessons although they were not equipped to do so. A letter, signed by a General was send to the NATO school in Oberammergau. The result of this Dutch approach is that current situation is unclear and as far as could be established there are no CPP lectures offered anymore in Oberammergau. To engage the EWTG opportunity the topic of CPP was presented on 9 December 2009 during the EWTG meeting at NATO’s Head quarters in Brussels, at the time the workgroup was chaired by the Dutch. The outcome was that CPP would be considered after consulting a higher echelon in the NATO organization; however, in June 2011 still nothing has happened.

The last opportunities to explain here are military incentives or deliverables that can derive from heritage protection. These opportunities become manifest in the context of the new type of conflicts and post-conflict resolutions implemented by military missions. They are the so-called military force multipliers. These Force Multipliers first have to be identified and then utilized as opportunities for instance within the framework of the so-called Comprehensive approach.

Because of changing methods in conflict management and the nature of conflicts, a new role for the military in the context of reconstruction and peacekeeping is becoming evident. The framework in which this takes place at present is known as the Comprehensive Approach or the 3 D approach (Development, Defense, and Diplomacy). The Dutch armed forces are using a second generation of this 3D concept, based on four areas of concern: security, politics, and

288 Source: internal correspondence Dutch MoD March 9th 2010 Nota 2010004413.
289 Kila 2010a.
social and economic well-being. CPP activities fit into this concept because internationally and
nationally it can be positive for a country’s public image. Not the least since by actively
demonstrating a CPP policy and meeting treaties and obligations mandatory under IHL support
from a country’s inhabitants for national and international military operations is strengthened.
The Dutch MoD does not provide for a position of CPP within this 3 D approach. This is in
contrast with signals given by the ministry during the CPP seminar organized in 2009 where it
was indicated that CPP was considered important.290 In the spirit of the 3 D strategy, Coalition
forces in Afghanistan and Iraq have developed Provincial Reconstruction Teams (PRTs)
designed to help improve stability by increasing the host nation’s capacity to govern; enhancing
economic viability; and strengthening local government’s ability to deliver public services such as
security and health care. Staffed by military, militarized and civilian experts CPP should be a part
of this. As explained the Comprehensive Approach that comprises the PRTs is the perfect design
to incorporate the issue of Cultural Property protection. There is a logical connection between
protecting cultural objects and safety, economy, and identity concerns. In other words, a
relationship exists between respect for Cultural Property and successful accomplishing a military
mission. Consequently, also the PRT model demands for an adaptation of the military frame of
mind.

Research, education, and exercise
The case of Bright Star Egypt 2009 June and October 2009.291
Before looking into this case it has to be emphasized that it is about training of NON-Egyptian
troops, the Egyptian MoD did not want their troops to participate in this training. Given the
discussions about the recent upheavals in Egypt that came with plunder, damage and theft of
artifacts and sites, already insinuations been made regarding this specific training. Allegations
were made suggesting that training of Egyptian troops about CPP was a cover for unknown
American activities. This is not true actually; U. S. Central Command (CENTCOM) completed
the first ever on site historical cultural training for U.S. military personnel in the Middle East. The
opportunity was given for Egyptian military and other countries involved in Bright Star to
participate in the cultural training. With the cooperation of the Egyptian Supreme Council of
Antiquities, 37 people representing all branches of the U.S. Armed Forces met 20 June 2009 at
the ancient pyramid complex of Saqqara in order to experience first hand the importance of
cultural preservation during global operations. The Supreme Council (then lead by Dr. Zahi
Hawass) provided free access for a tour of the site, including the opening of two tombs that are
usually off limits to visitors. Saqqara houses the Step Pyramid, the oldest standing stone structure
in the world. Many tombs and temples surround the pyramid complex with probably some
archaeological sites yet to be discovered. Relevant for the training was that the terrain shows
empty spaces at least for the untrained eye. Archaeologists and historians from the CENTCOM
Historical Cultural Action Group (CHCAG) and the international military cultural resources
working group (IMCRWG) used the archaeological setting as a background to discuss the
strategic importance of recognizing ancient remains in host nation landscapes. Participants
learned to identify artifacts and features in a desert landscape that indicate the presence of a site,
not always obvious to a casual observer. Saqqara also offered a realistic example of how tourism
to a cultural site contributes to the economy, offering income and stability to local inhabitants.

291 Sources: the author and Dr. Laurie Rush US Army Archaeologist.
Different perceptions of the relevance and need for training between the military and parties who want to follow up on The Hague 1954's Article 25. As discussed the military themselves seem not really interested in Cultural Property protection, which makes them an easy target for critique. Consequently the military do not give enough input for the debate on CPP and heritage in general therefore the military perspective remains underexposed and is never been examined seriously apart from research from the juridical angle. Reflective thinking, e.g. the parallel drawn by Mark Yanaway (see Part II the Egypt turmoil case) takes place on another level compared to the civil scientific debate. It seems fair to conclude that little empirical research has been done on the issue and theory is almost non-existing so reflections are scarce. Accordingly, the military subject requires balance between theoretical reflection and empirical research. This omission that contributes to a general lack of understanding generates a negative effect on worldwide efforts to protect Cultural Property during conflicts. The situation is especially unsatisfactory as the military are directly confronted with Cultural Property issues in today's missions; they are a key player when it comes to protection. In the light of all matters explained it is obvious that education and training are vital instruments to improve matters.

**Teaching and Training**
For a civilian it is not easy to lecture about CPP aspects to the military, just as it can be hard to transfer knowledge on the military aspects to civilians when you are from the military. The main reasons are the cultural and jargon differences though also ethical issues can play a role. For instance, some scholars feel that when they lecture to the military they give away knowledge that can be used for military purposes. Ideal are trainers and lecturers that have ties with military and academic institutions and preferably a military reserve or active rank. As established there is a shortage of educational materials and tools. Especially case studies and handbooks are needed as well as tools that are more modern. Currently there is an initiative to develop a CPP computer game. The idea is that most young soldiers are familiar with these types of games. Recently a demo version of such a game was developed as a private initiative. The game can be played on different levels and can be adjusted according to rank, service, nationality of armed forces and
operational environment. Although there are many games to exercise and simulate battlefield situations, it will be difficult to find funds for the production of a CPP game. The project can probably only be realized with support from governments or international organizations.

More efforts are made to establish adequate training and education, various types of instruction are being tested and as far as possible implemented. All of these are in the embryonic phase but it is possible to distinguish different approaches and examples of good practice. In the next paragraph, a number of examples will be discussed.

Training strategies for Military: Instructing and teaching military differs from lecturing to university students. Backgrounds, language and intellectual levels vary so methods for transfer of knowledge have to be tailor made for the target group. First awareness on the subject of culture and heritage must be raised to make the students more receptive and appreciative to cultural objects. When education is provided for the strategic level a basic introduction to art history is essential. Important tools for the teacher are the use of practical examples, anecdotes, discussion, working groups such as syndicates, training in situ, guest lecturers, visits to museums and libraries. There has to be a clear relation between the matters addressed during lectures and the positioning of CPP in the military planning and setting. The lecturer has to be aware of military customs, habits, and expressions before acting as a teacher this is essential and a condition for success. Personnel in charge of training should take into account that ongoing research on the topic including the scientific and theoretical aspects is necessary. This can be done in cooperation with military academies or civil educational institutions. A good method for training is the use of replica’s or mock-ups when on site education is not possible. Advantages are that there is no risk of damage to cultural objects (especially in case of bigger groups) and no need for traveling. The Legacy Funded in Theatre Heritage Training Project from the Cultural Resources Section of the US Army is developing and implementing this type of training that however requires thorough research and preparation. Training with mock-ups supplements the avoidance target list provided to the US Air Force by Middle East Archaeology subject matter specialists. An example of a potentially good activity, based on inaccurate information is the following: the replica on the picture is from a stone cone mosaic tower from the ancient City of Uruk in Iraq. It is an avoidance target on Fort Drum’s Adirondack Aerial Gunnery Range 48.

Nevertheless, the mock up is modeled after the picture of the original cone temple wall fragment that, as the picture shows is still in situ in Uruk. At the time the replica was made nobody checked, or was able to check, the real measurements in situ probably because of safety concerns due to the unrest in Iraq at the time. In April 2009 Laurie Rush Fort Drum’s archaeologist was able to visit Uruk and found that the scale was completely wrong as the pictures demonstrate. Anyhow, it is an excellent lesson learned emphasizing the argument that specialists, in this case academics have to be consulted whenever possible.
In addition, three mock cemeteries and a number of architectural mock sites were completed at Fort Drum to train the ground troops for their Iraq deployment. According to the In Theatre Heritage Training Project, construction of these assets was extremely cost effective.

In the UK, training focusing on Afghanistan takes place on the Defense Training Estate East at Thetford while archaeological activities are taking place in the Defense Training Estate Salisbury Plain. 292

Training in situ.

On site training is aimed at planners, higher officers, military attachés, policymakers etc. and takes place in and on actual monuments or archaeological sites. Training courses are planned or took place in Jordan (Petra 2011) Egypt (Saqqara 2009) and Rome. Besides the transfer of specific knowledge, it is a good possibility to raise awareness on CPP among military and other stakeholders. The ideal would be to have lectures first as an introduction and than go to an archaeological site to continue lectures using the examples in situ as illustrations. Topics can include recognition of archaeological terrain, artifacts and features; avoiding disturbance to the context of the site; guarding and protection of sites; and the use of simple documentation techniques. In addition, problems can be addressed such as dealing with situations where art is (mis)used as propaganda and identification of cultural objects including how to make a basic iconographic description and possible damage assessment. Solutions are of course intermingled with the perception of culture amongst the personnel involved but discussing this can generate synergy. The Saqqara training case from 2009 shows that political motives and manipulations can play a role or even interfere during training in situ. That these implications can have repercussions for the protection and safeguarding of Cultural Property during conflict is clearly established in the Egypt Emergency Mission cases from 2011. The CENTCOM Cultural Historical Advisory Group in cooperation with IMCRWG plans to offer additional on site trainings in the Middle East in association with planners of future exercises. 293 These intentions are based on the feedback of the military students engaged in the Saqqara training. Many students clearly expressed that there is no comparison for an in situ training. In fact, the instructors learned as much as the students did. The lessons learned included: the desirability of experienced military trainers, used to communicate with military in the CPP educational process; wearing

292 Source: Estatement, issue 67 Summer 09 Defense Estates. UK.
293 The CCHWG first changed its name in to CCHAG (Central Command Historical Cultural Advisory Group) but is recently renamed again in now the Combat Command Historical/Cultural Action Group. The reason is that the group now has global concerns beyond the CENTCOM area of responsibility.
civilian clothes when teaching at host nation sites; and the importance of a multinational approach in order to depoliticize the training. International cooperation on CPP is essential. CPP is a very sensitive subject connected with identity and status issues of a host country, damage inflicted by foreigners counts much more heavy than if inflicted by own population. It is also important to distinguish that training foreign military is not an attempt by foreigners to teach local nationals about their history and cultural heritage. Where possible host nation experts should be utilized.

The Egypt training was funded by the US Department of Defense Environmental International Cooperation funds and by the Office of the Secretary of Defense Legacy Resource Management Program with indirect support from Installation Management Command. In addition, the training was sponsored and coordinated by the Central Command Historical Cultural Working Group now called CCHAG with cooperation from the Bright Star Planners and IMCURWG. It turned out that it was critical to use an international approach to achieve success. Saqqara can and should become the model for military CPP training of the future. During the training of military planners in June 2009, the Egyptian MoD suddenly did not allow their military to take part in CPP training though due to the sensitiveness of foreign experts training host nation military this was not even suggested by the Americans. Still a way was found to train the military planners without help of the Egyptian MoD and without going on military terrains, the results were successful.\textsuperscript{294} In October 2009 the proposed trainings ran into unforeseen problems, due to travel restrictions in Egypt for US personnel.

There are a number of lessons learned from the Bright Star Cultural Property Protection training project such as the need to be patient and to use opportunities. Nevertheless, it became clear again that due to cultural differences and sensitiveness communication problems might occur. Political motives can interfere with training too an Egyptian General for instance thought that the US would train Egyptians on culture. It was also said that the US with their reputation as destroyers of CP in Babylon was not allowed to teach about culture in Egypt. It was not possible to verify the exact sources of these impediments they were probably partly the results of miscommunications and misunderstanding. However, the trainers were patient and looked for opportunities to use. In October first a team of British military and a small number of US officers and DoD employees were trained, later training of US military was allowed and could be done in cooperation with the US Moral, Welfare and Recreation team attached to the Bright Star exercise. At this time, the Egyptian revolts of January and February 2011 that included looting and theft of artifacts were of course not foreseen but prove that preparations in peacetime are necessary. A last tool to be used both for training and in theatre is developed by Laurie Rush namely the Archaeology Check List for military in the field. This list is designed for use by personnel without any formal knowledge about cultural property and demonstrates the link cultural resources have with environmental issues.

\textsuperscript{294} This was also a missed opportunity since in Egypt many military terrains contain archaeological objects and monuments.
Examples of other means for training military: the CPP Playing Cards.

An initiative from the US originally for Iraq and Afghanistan are the Defense Department CPP decks of playing cards, this time showing some of the countries most precious archaeological sites instead of the most-wanted former regime officials. Some 100,000 new decks of playing cards were sent to troops in both Iraq and Afghanistan as part of an awareness program so troops could help preserve the heritage of those countries. It is aimed at making troops aware they should not pick up and take home artifacts and to avoid causing damage to historic sites. Each card in the deck shows an artifact or site or gives a tip on how to help preserve antiquities.

For the Bright Star exercise that takes place in Egypt every two years a special deck focusing on Egyptian CP has been developed.

In collaboration with the Netherlands National Commission for UNESCO, the Netherlands Ministry of Education, culture and Science (dept. of Cultural heritage and the State Inspectorate for Cultural heritage) the Netherlands MoD developed a deck of CPP playing cards. The cards are an educational and informational tool with the purpose to disseminate the principles of the 1954 Hague Convention and its protocols to Protect Cultural Property in the Event of Armed Conflict especially to military and policy makers.
Geographic Information Systems (GIS) and Satellite Remote Sensing: Within both the CENTCOM action group and IMCURWG a subcommittee exists consisting of civil GIS experts and specialists from various sections within the US and European Armed Forces. As addressed in the paragraph on looting and poverty new techniques related to GIS such as Satellite Remote Sensing can play an important role in pre-deployment assessments since terrain can be studied from space looking for ancient features on the ground. Furthermore GIS can help archaeological sites preservation by detecting and documenting looting. Of course related ethical issues have to be discussed among stakeholders. Outcomes and data of these committees can be made available to support adjacent activities like mapping initiatives, web sites and environmental aspects. As indicated earlier a good source for getting acquainted with the subject is a book by Sarah Parcak. She gives a comprehensive oversight of satellite remote sensing for archaeology. Techniques and data sets described are fit to be used for assessments helping safeguarding cultural property in case of conflict. Furthermore if combined or at least in cooperation with military sources and experts a lot of information otherwise difficult to obtain will be available for CPP. If good cooperation with military experts can be established it should be made possible to obtain aerial pictures from reconnaissance flights and even from unmanned Aerial Vehicles or drones to check for damages, looting patterns and the like.

Current examples of military CPP implementation, a comparative analysis
At present, there is some movement at the international front, for a good part triggered by the United States. The US Department of Defense recognized that destructions of Cultural Property

295 Satellite Remote Sensing means collecting data about the earth's surface using satellites circling around the planet.
as occurred in Iraq and Afghanistan affected the US military mission in a negative way. Critical press coverage resulted in bad PR for the United States. It was time to show to the world a willingness to avoid intentional and even more important unintentional damage to cultural sites. In 2008, the US ratified the Hague Convention of 1954. The fact that the United States ratifies a 1954 treaty in 2008 or in fact officially on March 13, 2009 when its instrument of ratification was deposited with UNESCO needs clarification. The US helped to draft and signed (but not ratified) the convention already in 1954. The reason is that at this time the treaty was self-implementing. In other words, nothing had to change regarding national US legislation. The first protocol was not ratified due to strong opposition from the Antiquities market and museums. The second protocol is also today out of the question since it is not at all self-implementing and requires the creation of a criminal offense, providing criminal responsibility and intend and knowledge are proven. General US opinion however states that even only ratifying the Convention and not the protocols still gives a positive signal to the rest of the world. A measurable positive effect is that the US Department of Defense inspired by the Hague Convention of 1954 starts to implement training and is seeking international cooperation on the subject. In Europe many military appear not- or choose not to be aware of obligations following the convention, exceptions are Austria, Italy and Poland. When reminded, the absence of direct orders from the civilian government is used as a justification A more practical reason seems avoidance of extra work and financial costs. In addition, possible projects and awareness raising on the subject are hindered because civil cultural scientists and policy makers are not familiar with military cultures and priorities. In countries like the Netherlands, the direct link that existed between civil society and the armed forces was lost when conscription was suspended. On top of that, part of the civil society is inclined to associate the armed forces with violence and destruction of property resulting in a tendency to keep a distance from "the army". Of course, perceptions differ; some consider an Israeli soldier more dangerous than let's say a Belgian warrior.

Because of the gradual shift in the type of armed conflicts from symmetric or interstate to asymmetric and today's interconnected role of the military with reconstruction related development issues, opinions are slowly beginning to change. This is part of the continue process of adjusting military mindsets that at the same time brings opportunities for CPP.

The process of change in the nature of conflict particularly reveals deficiencies and weaknesses in the 1954 Hague Convention such as the multi interpretability of military necessity, the degree of effectiveness of the concept of special protection, Cultural Property protection in non-international conflicts, the efficiency of sanctions for breaches of the Convention and the control

\[296\] Without the 1st and 2nd protocols.

\[297\] At the time the US Executive Branch decided not to transmit the treaty to the Senate for ratification due to military concerns about how it might affect policy at the height of the Cold War. Source website US Blue Shield, [http://www.uscbs.org/resources.htm] [17 July 2011].

\[298\] This had to do with regulations ordering to prevent export of cultural property from occupied territory and to seize cultural property imported into its territory from any occupied territory and to return seized property to the formerly occupied territory.

\[299\] A reaction I got on more occasions while teaching Cultural Property Protection at Dutch military courses.

\[300\] The Draft was effectively suspended in 1996, [http://www.statengeneraldigitaal.nl/thema_dienstplicht.html] [12 January 2011].

\[301\] Symmetric warfare is the clash of two conventional adversaries in battles. Symmetric operations involve the engagement of similar military forces in force-on-force warfare. Source: Gray 2008.

The term "Asymmetrical warfare" appears to date from the early 1990s. In it, a relatively small and lightly equipped force attacks points of weakness in an otherwise stronger opponent by unorthodox means. All guerrilla activity, especially urban terrorism, falls within this definition. Source: World Wide Words © Michael Quinion, Oct 20th 2001.
system of the Convention. Shortcomings related to these aspects are addressed in this study. On the other hand it should be stressed that international agreements and shared legal concepts also become more important because new asymmetric conflicts and warfare often require the use of shifting coalitions. Military from respective coalition partners will have different rules, ideas and cultures and consequently varying notions of proportionality and necessity including the effects on CPP.

In the meantime discussions with peers, stakeholders and my experience show that attempts to initiate training of military on CPP and realizing of Ministry of Defense dedicated Cultural capabilities are still challenged. The nature of these challenges is discussed in the paragraph about dilemmas or challenges that restrain CPP implementation but it seems fair to say that many parties involved are currently not acting in compliance with international legal appointments that include military obligations as those stated in the Hague Convention for the Protection of Cultural Property of 1954. Consequently, new insights touching directly on modern types of conflicts and their connections with cultural icons, identity and political control are ignored by parties that could use them to benefit their operational planning as will be demonstrated in the case of FOB Wolverine. Even so there are countries and institutions that can serve as examples of good practice or are catching up rapidly after signing the 1954 Hague Convention.

Before giving a limited account of today’s international activities a contextualization is needed. Internationally hardly any military doctrine has been developed for Cultural Property protection in times of armed conflict. The US has a chapter on historical and cultural preservation in an environmental regulation of Central Command. NATO gives some provisions and procedures through its Joint Doctrine for Environmental Protection during NATO-led Military Activities, but these are not embedded or codified in any domain or Operational Planning Process. Even if the importance of CPP will be recognized by the international military community, implementation processes will take a long time.

The current international political situation that carries risks for multiple conflicts calls for immediate precautions to safeguard cultural heritage. To prevent unnecessary damage in the near future, international cooperation on the topic is necessary. Financial as well as personnel means are too scarce to be able to provide a total solution for any individual country. Joint cooperation can be more efficient and will cost less. Areas of common benefit are training and education, developing training tools, joint exercises and in theater assessments. In order to achieve this, it is necessary for military planners and experts to work together with civil experts in order to develop doctrines. Only this way Cultural Property protection can be incorporated in military planning and become recognized as a DoD or MoD dedicated (Navy, Army, Air force, Military Police) embedded capability.

As described in the paragraph on opportunities for effective implementation of Military CPP there is also an opportunity to link cultural resources management to environmental management.
doctrines like NATO’s STANAG 7141 EP doctrine. This definitively opens alternative options for embedding Cultural Property Expertise within military organizations.

An example of good practice can be found within the US DoD where possibilities are studied for expanding training activities and embedding capabilities in the DoD. Starting points include environmental programs with already employed archaeologists plus other experts. Within Civil Affairs (civil military cooperation units), training is also being given, focusing on museums and art. Cultural Resource managers and archaeologists can be found in all the services. In addition, the Army's Integrated Training Area Management Program includes an archaeological site protection component. The Combat Commands have a Historical/Cultural Action Group (CCHAG) and an input into the newly founded International Military Cultural Resources Working Group (IMCURWG). There is a close cooperation with Colorado State University. In 2009, a Cultural Property protection in situ training took place in Egypt, in cooperation with a Dutch expert from the Netherlands. The CCHAG was instrumental in the creation of the historical and cultural preservation chapter in the CENTCOM Contingency Environmental Guidance R-200-2 this can be considered a breakthrough.

The United Kingdom has a goal of ratifying the 1954 Hague Convention and its Protocols within the near future. However, matters are repeatedly delayed due to busy parliamentary meeting schedules.309 There are archaeologists working within the British MoD to protect Defense Estates.310 A civil cultural heritage expert gives advises to the Defense Committee of the British Parliament and will involve the outcomes of the seminar held in The Hague.311 For the time being apparently not much more will be undertaken due to financial restraints.

In Austria, the subject of CPP is already firmly on the agenda. In 1999 a workshop on the Protection of Cultural Property was organized in Klagenfurt by the Austrian Federal Ministry of Defense and the Austrian Society for the Protection of Cultural Property. This initiative was aimed at harmonizing cooperation on CPP during theoretical and practical defensive operations between military professionals and reservists with CPP background.

Cultural Property Protection Officers (CPPO) are currently deployed in all branches of the Austrian Armed Forces. CPP is fully integrated in training and planning. The Institute for Human and Social Sciences that is part of the Defense Academy is doing research on the subject of CPP. A military CPP course aimed at officers from Eastern Europe took place in October 2010 at the Austrian Defense Academy (National Defense Academy in Vienna) in cooperation with UNESCO. The newly found Association of National Committees of the Blue Shield (ANCBS) has an Austrian president.312

In Italy in the 1960’s the Ministry of Education requested the establishment of a special unit of the Carabinieri. This unit, dealing with the defense of the national paleontological, archaeological, artistic, and historic heritage was the Comando Carabinieri Ministero Pubblica Istruzione- Nucleo Tutela Patrimonio Artistica (Ministry of Education Carabinieri Division- Unit for the Defence of Cultural Heritage) currently known as the Comando Carabinieri Tutela Patrimonio Culturale. Apart from fighting illicit traffic and tomb robbing (Etruscan vases are still stolen from archeological sites in Italy), the division has been very active in Iraq. The World Association for the Protection of Cultural Property in times of conflict (WATCH) see www.eyeonculture.net is located in Rome and maintains a big network with stakeholders in the Middle East and the Mediterranean countries.

A case of good practice is an event that took place in Estonia.313 The Estonian Ministry of Culture and the MoD organized a conference called Protecting Cultural heritage in Times of...
Armed Conflict in February 2008 in Tallinn. During this event, a Memorandum of Cooperation between the Estonian Ministry of Culture and the Estonian Ministry of Defense was presented. The document contained an agreement to work on implementing Cultural Property protection together. A publication following the conference was released in September 2009 and is available on the internet though only in the Estonian language.\(^{314}\) So far, the initiative did not result in any follow up regarding special CPP training for the Estonian or Baltic Armed Forces.

Article 90 of the Dutch Constitution states explicitly that the Dutch government is bound to promote and strengthen international justice. One can assume that this important directive serves as a basis and an argument for the Dutch participation and undersigning of international treaties. Concerning The Hague Convention of 1954, the practical implementation is not sufficient especially when obligations regarding military implementation are involved. The following case examples substantiate this assumption: The Ministry of Defense organized a seminar on the subject in The Hague in March 2009. During the conference the MoD made a statement that was put into words by a high ranking officer who said: "the Netherlands MoD will work on CPP because we have to, we are able to and we want to do this since we acknowledge the relevance and big importance of CPP.\(^{315}\) After the conference a report was prepared with recommendations for the way ahead including the creation of a relatively small MoD dedicated Cultural Property protection capability. The report was offered to the Dutch Chief of Defense but was not taken into consideration due to internal financial cutbacks and opposition from the cultural awareness department.\(^{316}\) Playing cards to be used as training tools for military troops deployed abroad have been developed in cooperation with the author of this study Until now they have not been used to train the Dutch troops.

Due to the events in Libya IMCURWG attempted to get in touch again with the Dutch MoD and managed to handover coordinates of important Libyan cultural heritage sites. The coordinates will be used by the Dutch F 16 pilots who under NATO command take part in imposing a no-fly zone in Libya under the UN 1973 resolution. Maybe this will create more contacts and possibilities in the future.

In Poland, international law in relation to CPP is included in the Regulations of Tactical Actions of the Ground Forces issued by the Polish Army General Staff in 1994. The Defense Ministry has established a permanent Cultural Property protection department that coordinates actions in the field of the protection of cultural heritage in the armed forces, including the implementation of CPP activities following the 1954 Hague Convention. During research, I found that many activities are carried out through the Polish CIMIC organization. Apparently, the Polish have a distinct and more effective interpretation of NATO’s CIMIC Doctrine AJP-9. A clear account of Polish military cultural activities in Iraq is given by Miroslav Olbrys in “Archaeologists on Duty in Iraq: Polish Approach to the Protection and Salvage of Archaeological Heritage in Central South Iraq.\(^{317}\)

**Concluding remarks: from violently opposed to being accepted as self-evident**
The changing military role in operations offers new possibilities for cultural intervention in theatre. In order to anticipate and prepare for this a more sophisticated understanding of the current situation including parties, playing field and their interactions as described in this study is useful.

\(^{314}\) See: <www.muinsuskaitse.ee/failid/157_est_haagi_konvents.pdf>[17 July 2011].


\(^{316}\) There is ongoing opposition from the Army's Cultural Awareness department. Apparently, the head of this section fears for his own position. Many, sometimes indecent actions are undertaken internally to keep new initiatives out. It is claimed that CPP is completely covered by this department. Another clear example of tension between the two disciplines CPP and Cultural Awareness causing serious restraints as will be further addressed in the next paragraph.

\(^{317}\) Olbrys 2007.
Possible grounds for the lack of interest or even neglect from both military leadership as well as civilian policy, and decision makers as discussed in this research should be continuously identified and analyzed. It can do no harm to investigate geographical influences too while asking why appreciation of CPP differs per country. The Italians for instance pay more attention to military Cultural Property protection during international missions than most other countries but in spite of the fact that the term *Beni Culturali* is Italian it is not researched if they pay the same attention to environmental implications connected with cultural resources. In the same spirit it seems worthwhile to investigate if there is a causal link between appreciating national cultural resources and military Cultural Property protection during international operations and if this is influenced by national identity? As established, the modern concept of identity has multiple characteristics. Identity issues are often part of conflict causes but at the same time respective owners of identities, amongst them the military can be influenced by their urge for distinction while making decisions about conflict resolve. Moreover, in the context of training and debate it has been identified as a major perception problem that Cultural Property protection is often mixed up or too closely linked with Cultural Awareness. The confusion again demonstrates lack of information and training on Cultural Property issues but also the necessity for Cultural Property experts to operate separate from Cultural Awareness specialists especially in a military setting.

A new issue, potentially fit for misunderstanding and wrong interpretations, is already emerging. It's the question of whether CPP should be fitted in the model of kinetic warfare and older styles of Special Forces warfare or be part of intelligence driven decision making giving room for extra confusion about the term COIN. As argued in the paragraph about the media, the answer is not in favor of military intelligence but is still difficult to give since the majority of legislation is based on the old symmetric conflict situation. Most of the legal framework in which CPP is codified dates from the fifties, or even before. However the kinds of potential Cultural Property damage or modern iconoclasm that take place in contemporary conflicts, must be managed and solved using modern means and techniques. CPP also needs to be a component of peacekeeping operations and the military delivery of humanitarian aid. A first start would be to set up a serious dialogue between cultural, military, and legal experts aimed at upgrading the legalities. This investigation verifies that in general most civil and military parties are unaware of the military strategic, juridical, and tactical implications of Cultural Property protection. As a result civil stakeholders are not only showing ignorance but on occasions some express strong antimilitary sentiments thus compromising proper implementation of the 1954 Hague convention. The military from their perspective are for the larger part not aware of the relevance of Cultural Property nor are they aware about the current scholarly debate on Cultural Heritage. If the subject would have been considered relevant within military circles in the positive sense meaning to save heritage according to international legislation and not merely as a military intelligence tool, scenarios would have been developed sooner for use in training and planning.

Until recently, only a few materials using examples from World War II and the period of the Cold War were available. These materials were based on the symmetric type of warfare and therefore almost obsolete. Experiences gained during conflicts in former Yugoslavia, Iraq and Afghanistan illustrated the role of "Iconoclasm" in contemporary, often asymmetric, armed conflicts. Over the last few years, a modest number of case studies deriving from these conflicts were published a.o. by the author of this book. As addressed in the training paragraph, new tools are created or are in the process of development. Nevertheless, there is still an urgent need for up to date training materials. At the same time, cultural resources considerations

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319 See also: (Jon) Price 2010a.
320 Hamilakis 2009.
321 New materials are now available such as playing cards through the US DoD and a Dutch initiative.
sometimes combined with environmental obligations must be included in the military planning process. It is difficult to say if this will happen soon since there are not many legal instruments suitable for States Parties to enforce compliance with The 1954 Hague Convention. Nevertheless, the Convention is clear about the obligation to disseminate its contents and directives. Parties to the 1954 Convention and its Protocols must disseminate the treaty provisions as widely as possible, seeking to strengthen appreciation and respect for Cultural Property among the general population. Particular effort should be taken to disseminate information among the armed forces and personnel engaged in the protection of Cultural Property. Investigations like this one demonstrate that dissemination is not happening in most States-Parties to the convention and regretfully, this includes the Netherlands. The lack of possibilities or willingness to disseminate what is stated in the convention and subsequently the significance of CPP especially for the military contributes to the situation in which most military do not see nor understand the relevance of cultural heritage in the context of their profession and responsibilities. Even in the rare cases that commanders open the doors for experts to start education and implementation regarding CPP there is still an intellectual restraint. It is a challenge for Cultural Property Protection professionals to prove and explain to the military the social values of CP as carriers of collective memory and identity. In addition, the fact remains that Cultural Property is hard to pin down and consequently difficult to control in situations connected to (potential) conflicts. From the practical military point of view, any relation between a certain cultural object or site and identity remains either unclear or difficult to understand. An interesting parallel is that this ambiguity can occur on the individual level when works of art are involved. Art has the potential to cause commotion through what it communicates or actually, what people think it communicates. A historical example is the so-called Entartete Kunst. The Nazis destroyed much of it in 1937 and later, they found that this type of art could be sold for hard currency. It makes one wonder if military also should have access to some basic education about art.

There is however a simple solution for the dissemination problem. Governments, especially signatories to the 1954 Hague Convention, can order their MoDs to implement Cultural Property protection strategies including training and preparations in peacetime. This is not likely to happen mainly due to financial reasons though de facto the financial motive stands for lack of appreciation of CPP. The current situation where in the best case half measures are taken is the result. Subsequently many MoD's and some civil parties do not comply with international legislation and do not sufficiently prevent destruction, looting, and iconoclasm of national and international cultural heritage.

As established and explained in this account there are military CPP deliverables but many commanders are not aware or are not convinced of incentives brought by proper CPP implementation. On top of that, all parties involved are too busy with cultural differences and competence struggles. This too gets in the way of initiating sustainable implementation and cooperation. In practical terms, it seems fair to conclude that in today's situation the blind are leading the blind when Cultural Property protection is concerned. To put it in a different way: parties engaged in (preparing) safeguarding Cultural Property in the event of armed conflict have on a micro level the same problems that on a macro level lead to the conflicts in which heritage is attacked or misused. This phenomenon made investigations including observing in theatre difficult. Therefore, a creative, knowledge producing and initiating approach was needed.

324 Leydesdorff 2010.
325 Literally: degenerate art. The Nazis organized the exhibition Entartete Kunst, in July 1937 in München. The exhibit was designed to ridicule and denigrate creative works not upholding the right National Socialist virtues.
Including, taking risks by provoking peers and decision makers. The same can be said for each individual of the small group of experts that are working internationally with the military on CPP so it is evident that most current successful CPP initiatives and networks are personality driven. This does not guarantee sustainability. However, to refer again to Schopenhauer’s statement as mentioned in the introduction 'All truth passes through three stages. First, it is ridiculed. Second, it is violently opposed. Third, it is accepted as being self-evident.'

Taking into account examining the present situation regarding implementation of CPP in military organizations, this translates into the following conclusions for the countries most mentioned here. In the Netherlands, appreciation is between the first and second stage. In the USA, triggered by the Baghdad and FOB Wolverine disasters it is between the second and third stage. Apart from a few exceptions, Europe stays behind. Big countries such as France and Germany are not known to have implemented military CPP following the directives of the 1954 Hague convention while Asia and Africa, as far as can be established, did not start military implementation. Assessing the situation in these continents will be a good subject for more research. Through the international military working group, new contacts have been established with countries in the Caribbean and South America it remains to be seen what these contacts will bring. Needed are new strategies to open doors that give access to CPP implementation. Again, it should be said that an excellent method is to identify and present CPP related military deliverables to military senior leadership and decision makers. In addition, current risks to Cultural Property related to social disorder, conflict and natural disaster should be explained better to military leadership and politicians. It will help if newly described situations where Cultural Property is at risk especially those involving military and civil -military partnerships were to be gathered, studied and processed into lessons learned to be finally incorporated in training and planning.

To test its receptiveness for new subjects, the ever-adapting military mindset was investigated from different angles. It became clear that under normal conditions transformations take place gradually. However, within the context of contemporary military operations soldiers are forced to transform from destroyers to protectors several times a day. Apparently quick adjustments are possible in modern operations. Therefore, certain flexibility can be expected when CPP is concerned providing there are clear orders and preparations. A less prominent but still ongoing issue is the opposition from a number of civil cultural experts, some of them self-acclaimed experts on the subject of military cultural involvement. Civil cultural heritage scientists that fiercely oppose those working together with the military should realize that they are in a relatively luxurious position that enables them to debate and reflect about heritage on a sophisticated abstract level. Their ‘alleged opponents’ are not in such a position but are still struggling to get the subject accepted among all parties. While doing so they are not afraid of taking risks. I never met any of the colleagues that criticize cooperation with the military on the ground during conflicts. However if they really wanted to help, some of them could have come to conflict zones as civilians embedded within humanitarian NGOs. The scarce number of Cultural Property specialists that were actually present, for instance in Iraq, did their best to mitigate the physically destructive impacts of war on cultural property. The efforts of these individuals and others that more recently started to prepare for protecting cultural properties in the event of conflict are not yet reducing the number of challenges to be faced when trying to get CPP and its experts accepted by the military. Many of the CPP experts that are active today in Europe invest their own time and financial resources in building contacts with the European military that are not

326 As cited in Truth : Resuming the Age of Reason (2006) by Mahlon Marr ; the earliest attribution of this to Schopenhauer yet found dates to around 1986; it is also sometimes misattributed to George Bernard Shaw, and a similar statement is often attributed to Mahatma Gandhi: “First they ignore you, then they laugh at you, then they fight you, then you win.” <http://en.wikiquote.org/wiki/Arthur_Schopenhauer> [1 September 2011].
very appreciative to say the least. Bearing this in mind it seems very overdone to speak about a "military-archeology complex posing serious political and ethical challenges" as some opponents do.  

A debate with peers that have other opinions is needed and relevant but it seems besides the case to include questions of authenticity and unicity, post-modern relativism and assumed imperialistic perspectives at this stage. The same goes for making connections with cultural power structures and attributed political values. It would however be more useful to look from these perspectives in the direction of cultural awareness experts and their links to- or potential openings for military intelligence. The reality is that Cultural Property protection experts are bound to The Hague Convention of 1954 and cultural awareness experts are not. Potential dangers are more likely to be found in the area of cultural anthropology and related social sciences. As established, CPP involving the military is a new scientific topic that needs time to be studied and reflected upon. In its current phase, it is on a less profound level when compared with the abstract heritage debates in academic circles. It will enter the civil cultural heritage discourse in due time but for now CPP already demonstrated its use in the field as a primary tool for preventive and active conservation of cultural heritage. On the other hand, the cases like Egypt demonstrate that there is still inability or unwillingness to act in the spirit of The Hague by military as well as by organizations. As the quote in the introduction of this book exclaims 'Stuff Happens'. At first glance, this seems to summarize today's valuation of failing Cultural Property protection strategies in the event of conflict. However, in itself the quote can be argued and adapted as a credo urging a better protection of Cultural Property. To paraphrase secretary Rumsfeld words, Shit happens but stuff can be prevented or at least corrected.

Valorization of the research outcomes

At the end of this study, it seems appropriate to present some outcomes that are of direct use for all stakeholders. If agreed upon these do not need much discussion or planning to be implemented or taken into account.

Cultural Property protection should be approached in a pro-active fashion not just in a re-active approach.

Cultural Property protection expertise and capabilities developed during and immediately after the Second World War have been allowed to disappear, resulting in the fact that many State Parties to the 1954 Hague Convention and its Protocols are not meeting the obligations stated in these instruments.

Cultural Property protection has been forced back onto political and military agendas because of damage to Cultural Property in addition to the catastrophic theft and looting in Iraq since 2003; this is no new development, referring to the many examples of such activity since World War II.

Cultural Property protection is a military ‘force multiplier’ and should never be regarded as an unnecessary burden, legally imposed, but militarily problematic and useless.

Military success can no longer be defined in terms of battlefield victory but has to take into account the post-conflict political, social, and economic stability of countries involved.

Cultural Property protection touches upon the issue of general ‘cultural awareness’ but is actually a separate issue with particular concerns that required specialized skills, different to those for general cultural awareness.

Cultural Property protection is critical to any Comprehensive Approach and to the post-conflict long-term political, social, and economic (through tourism) stability of many countries.

328 Hamilakis 2010.
329 For the alleged imperialistic angles see Perring and Van der Linde 2009.
330 Hamilakis 2010.
International cooperation is not only needed but is a condition for a successful realization of Cultural Property protection that also should include joint training.

The ethical problems about working together with the military to protect Cultural Property addressed in this study have to be considered to ensure cooperation between militarized social scientists and academic reach back capabilities. However, the following must be taken into account: as established to protect and safeguard cultural heritage during conflict one has to be on the ground in time. Often this is only possible when military logistics and safety measures can provide access. In situations where heritage is at risk the military are normally the first on the ground. Comparisons are made with the debate about military embedded or non-embedded journalists reporting about conflicts. These comparisons are invalid since CPP experts work under the 1954 Hague Convention just like military medical experts they are bound to regulations (in case of physician's also ethical codes). For the same reason, it can be argued that experts that not follow the directives of the 1954 Hague Convention, making it mandatory for the military to protect Cultural Property, behave unethical.

Cultural Property protection capabilities should be embedded in the MoD’s to be available for all services of the Armed Forces and must function both in “peace time” as well as during operations. Specialized staff functions should be incorporated into military structures or assignment of specific CPP duties to the existing staff members should be introduced. Specific training for specialized military personnel in charge of this subject also has to be provided.

Cultural Property can be considered as a significant economical asset. Its protection helps to secure income and tourism related jobs for the future thus supporting stabilization. In fact, Cultural Property can help a community rebuild its social fabric after a conflict or disaster.

Seen from the perspective of this investigation; the protection of Cultural Property in conflict UNESCO remains too passive. It is of vital importance that funding related to the 1954 Hague Convention and Protocols is spent on pro-active cultural emergency initiatives and training. UNESCO should consider, at least, establishing active liaison with Military organizations and supporting cultural military initiatives both financially as well as by providing expertise.

The Netherlands MoD is staying behind with the implementation of CPP as regulated in the 1954 Hague Convention and Protocols. There is proof of the fact that the MoD’s department for cultural back ground information is blocking initiatives to implement CPP as stated in the 1954 Hague Convention. The recommendations and the Policy Note that were prepared following the Dutch CPP seminar that took place in the Peace Palace The Hague in 2009 should be taken into account. So far, attempts to find solutions and requests, as stated in this Policy Note, to carry out what is mandatory concerning CPP were not followed up.

A good thing is that the Dutch MoD accepted Cultural Heritage coordinates regarding important sites in Libya. These data were gathered through international cooperation of the USCBS, CCHAG, academia, and IMCURWG and offered to the Dutch MoD by IMCURWG.

NATO’s STANAG 7141 EP doctrine is as far as CPP is concerned (in the STANAG referred to as cultural resources) not followed by The Netherlands MoD.

NATO should act in accordance with their own NATO’s STANAG 7141 EP doctrine and implement training, education, and research on CPP in its institutions. NATO should also consider very seriously creating military CPP capabilities and emergency units. The latest

331 Brand 2011, p.168.
332 The status of the Policy Note remains unclear; though the concept received a reference number, it was never officially taken into consideration or answered by the Chief of Staff. Several attempts made to get comments or react to issues concerning the Dutch MoD mentioned in this dissertation remained unanswered by the Dutch MoD. Since the comments and recommendations that involve Dutch governmental institutions are of vital importance to this research, the decision was made to make use of data such as this particular policy note ref. S2009009624.
information shows that NATO via their Allied command Transformation Department is taking matters seriously which would be a great step forwards and in concurrence with the North Atlantic Treaty of Washington D.C. - 4 April 1949 to be referred to as the Washington Treaty establishing NATO says, "the parties are determined to safeguard the freedom, common heritage and civilization of their peoples".\(^\text{333}\) At the time this book went to the printer a first ACT initiated NATO Cultural Property Protection course was scheduled to take place from 29 November as to 2 December 2011 in Vienna.

The subject of CPP and the military and international civil input in the event of conflict deserves a place in heritage studies it also is multi disciplinary and therefore able to connect the different disciplines involved (law, history, sociology etc.) with each other. Dutch universities can take the initiative for this.

\(^{333}\) Source: <http://www.nato.int/cps/en/natolive/official_texts_17120.htm>[9 September 2011].
Summary

Heritage under Siege. Military Implementation of the 1954 Convention for the protection of cultural property is the result of a multidisciplinary research carried out between 2004 and mid 2011. The project focused on military implementation procedures for protecting and safeguarding Cultural Heritage in the event of armed conflict.

The study took into account what is feasible in a practical sense and the ideal perspective as described in international treaties that concern CPP and prohibit illicit traffic of cultural property. The subject necessitated detailed consideration of legal obligations and implications. The main juridical framework in which cultural property protection (CPP) activities take place is the Convention for the Protection of Cultural Property in the Event of Armed Conflict to be referred to as The Hague Convention of 1954.

The dissertation is for an important part based on qualitative research. Since too few recent cases and empirical sources were available, this seemed to be the best research method. A number of circumstances and conditions influenced the research process, for instance the military aspect of CPP was relatively unknown. Therefore, not only an analysis but also an introduction to the subject seemed appropriate. Participant field research provided for new case studies. To execute this type of research the author had to enlist with the Dutch armed forces. During the field research, it was possible to follow, analyze, and test various processes. The explorations did not exclusively focus on unique happenings but aimed as far as possible at distinguishing and testing patterns and mechanisms. Processes that included international, interagency, and interdisciplinary cooperation during military operations in conflict areas were put to the test. In addition, preparations for CPP that should start in 'peacetime' were investigated as far as they actually took place. The aim was to quantify qualitative data from a multidisciplinary perspective that included fields like archaeology, cultural policy studies, sociology, and law. Other sources comprised published and unpublished literature, documents, and interviews. Via the author’s position in the armed forces authentic materials could be gathered in theatre, also observation of military exercises, planning and operations and behaviors of different CPP stakeholders when implementing CPP projects was possible this way. This modus operandi necessitated working in conflict areas where looting, illicit traffic, and iconoclasm take place. However, permission for research in situ did not come naturally. Although a modest capability of cultural experts was available at the time within the Dutch armed forces they were, due to organizational and priority issues, not deployed. Consequently, the researcher had to initiate CPP activities including actual projects in a conflict area. This was the only way to test potential CPP strategies in practice. The challenge asked for a pro-active attitude that paid off and provided for the author to go on different missions to war zones. Much information was obtained in theatre although the work was restraint by the fact that the military tend to shield off matters for researchers especially in case of new and complicated subjects.

The book consists of three main parts. It starts with an introduction and a section about the research methods and sources used including a number of small case examples. Overall, the cases are not limited to situations in conflict areas but comprise examples of CPP training components in military exercises and the preparations for such activities in places like Egypt and the U.S. A preliminary indication is given of challenges and impediments to be met while initiating and executing military CPP. Relevant expertise and capabilities that were build up in the past for instance by the allies in World War II were not maintained and consequently lost. Today’s relevance of military involvement in CPP is examined using and explaining cultural heritage’s link with identity. To address the volatile character of cultural objects a practical example is used from the last Gulf War namely the case of the 'Jewish Archives' from Iraq. In addition, the importance of the relation between looting archaeological sites and poverty is explained thus stressing the relevance of prevention and protection of archaeological sites. From a military perspective it is...
argued that this use is not only apparent as a pure military aspect necessary to secure a safe civil environment but that CPP also has value as a military incentive and so-called Force Multiplier.

After the introduction, the study continues with Part I presenting the playing field of Cultural Property Protection (CPP) and its players. All relevant players are, where necessary with practical examples, introduced and discussed extra attention is given to the military as a new relatively unknown player. Tensions among stakeholders are recognized and explained while the multi-layered connection of Cultural Property with identity is emphasized. Cultural differences between military and civilian parties as well as cultural differences within the military are identified and discussed starting with the military then the media, governmental institutions, non-governmental organisations, international organisations, working groups and advisory groups, the fields of Commerce, Crime, Law and order and Religion and finally science.

From sociological and art historical perspectives, attention is paid to the shifting status of cultural objects, their availability for manipulation and abuse and the development of national and individual identities. This section is followed by a historical background description of cultural property protection and destruction until 1954.

The research in situ resulted in a number of new case studies that are incorporated in Part II of this dissertation in chronological order. They concern already published chapters of books and articles that are represent a good image of the developments of the research during a time frame of approximately three years. In total eight pieces are included numbered from one to eight.

1."The Role of Nato and Civil Military Affairs" was originally published in Lawrence Rothfield (ed.), Antiquities under Siege, part II chapter 16, New York 2008, pp. 175-192. This publication gives a for 2007 and 2008 accurate description of obligations for NATO concerning CPP during military operations. Practical examples from Iraq are addressed such as the contributions of Polish military experts who implemented CPP projects in the Polish area of responsibility (AOR) in Iraq.

2."Utilizing Military Cultural Experts in Times of War and Peace: an introduction", was originally published in Paul Meerts (ed.), Culture and International Law, Chapter 12, The Hague 2008 pp. 183-229. The chapter gives a general introduction to military CPP including case studies about the archaeological important site of Uruk in Iraq and its protection against looting by Dutch military CPP specialists. In addition attention is paid to misuse of HESCOs (barriers used to build walls around military camps that were filled with archaeological soil) in Babylon and the affair of the Ethnographic Museum in Kabul in Afghanistan.


5. "Überlegungen zum Status quo der Beteiligung des Militärs am Schutz von Kulturgut". Some thoughts on the current state of military involvement in Cultural Property Protection, following the 1954 Hague Convention and Protocols. Article originally published in ÖMZ (Austrian Military Magazine) no 5. This article is in the German language and is published in September - October 2011. The piece analyses the current state of affairs concerning European implementation of
CPP by the military. Addressed are issues like education, ethical considerations, and the link between CPP and environmental matters as codified in the NATO doctrine STANAG 7141 EP, another topic is the confusion between the terms cultural awareness and CPP. Finally, an overview is presented of international implementation of CPP and the relationship with the so-called comprehensive approach method utilized in recent international military operations. The publication is in particular important because the German speaking countries can be informed about CPP.

6. "Cultural Property Protection in the Context of Military Operations: The Case of Uruk, Iraq", Conservation and Management of Archaeological Sites (CMAS), 13.4: October 2011. The article contains an upgrade on the Uruk Case combined with recent conclusions deriving from the research such as the ethical considerations that are considered beside the case. An interesting aspect of this article is the fact that it was written for a publication by the Prince Claus Fund but withdrawn by the author because the Dutch Fund wanted to censor it.

7. "Egypt February 12-16th 2011". This piece has not been published. The subject concerns a cultural emergency assessment mission carried out by the author and an Austrian colleague during the so-called Egyptian revolution of January and February 2011, in order to register what happened to the Egyptian cultural heritage. The mission had to be low profile because the situation on the ground was not safe. The article contains a detailed report of the mission team's findings and confirms a number of suppositions made in this dissertation e.g. UNESCO's attitude in relation to conflicts and risk avoiding behaviors of some stakeholders as well as the value of cultural property as an economic asset. There is an official report of this mission published on the internet by the Association of National Committees of the Blue Shield.

8. "Libya's heritage under siege in 2011", this casus was not published before and contains an indication of military measures to spare the cultural heritage of Libya during air strikes that started as from March 2011 by coalition forces. The information was for the larger part gathered through international cooperation between networks that are created by individual CPP specialists such as IMCURWG and CHHAG. This piece has not official report status but is written as a start for a possible emergency assessment mission in situ.

Part III reflects on the way ahead by first exploring possibilities for balancing the interests of the various parties by explaining identified dilemmas. Conflicting interests vary tremendously. They occur for instance on the political level involving humanitarian aid, cultural policy strategy as well as ministerial and defense issues, but also on the scientific level where ethical problems play a role. Many discussed disagreements and (armed) conflict cases incorporate references to laws and treaties. A separate section is used to shed light on legal aspects linked to CPP plus related control mechanisms and sanctions. Topics range from the principle of military necessity to the Law of War and international treaties. Compared and analyzed are different opinions of leading juridical experts. Possible solutions for different identified challenges and dilemmas are discussed by focusing on opportunities that, for example, derive from new military tasks in the context of peace keeping and reconstruction missions. Strategies addressed take into account the identification of common denominators and deliverables for different parties. Special attention is given to education and practical training while different training strategies are introduced and compared.

Finally, a paragraph is dedicated to the outcomes and potential deliverables of the study by presenting a set of results that can be perceived and used as recommendations to be considered by all stakeholders in the field of Cultural Property Protection. This section also serves as a valorization of the study. The dissertation includes references, a glossary, and a section with appendixes. Appendices listed are: the chapter on culture of the CIMIC Group North Civil Assessment Team Iraq dating from 2003, the definition of Cultural Property according to the Hague Convention of 1954, the NATO CIMIC Doctrine AJP 9, the CENTCOM regulation Number 200-2 Environmental Quality CENTCOM Contingency Environmental Guidance, the
STANAG 7141 EP JOINT NATO Doctrine for Environmental Protection, the report of the Civil-Military Assessment Mission for Egyptian Heritage by Blue Shield and IMCuRWG from February, 2011 and the contents of Antiquities under Siege of which my chapter 16 is included in Part II.
SAMENVATTING


De dissertatie is voor een belangrijk deel gebaseerd op kwalitatief onderzoek. Omdat er weinig recente cases en empirische bronnen voor handen bleken was dit de meest geschikte methode. Evenzeer speelden omstandigheden en condities een rol, zo was het militaire aspect van het thema relatief onbekend waarom het onderwerp in het proefschrift niet alleen geanalyiseerd maar ook geïntroduceerd. Door het toepassen van participerend veld onderzoek bevat het proefschrift een aantal geheel nieuwe praktijk voorbeelden. De auteur nam dienst bij de Nederlandse Krijgsmacht om het onderzoek te kunnen uitvoeren Tijdens veldonderzoek werden diverse processen direct gevolgd, geanalyseerd en getest. Hierbij werd niet uitsluitend uitgegaan van unieke gebeurtenissen maar werden voor zover mogelijk wetmatigheden en mechanismen onderscheiden. Internationale, interdepartementale en interdisciplinaire samenwerking tijdens militaire operaties in conflictgebieden maken deel uit van, op deze wijze aan- en in de praktijk, getoetste processen. Ook voorbereidingen voor CPP die al in vredesstijd" moeten aanvangen werden bekeken. De kwalitatieve gegevens zijn gekwantificeerd vanuit een multidisciplinair perspectief waar onder meer archeologie, cultural policy studies, sociologie en rechten deel van uitmaken. Onderzocht materiaal bestond verder uit gepubliceerde en ongepubliceerde schriftelijke bronnen en interviews. Veld onderzoek, dat door de auteur vanuit zijn positie binnen de militaire organisatie werd gedaan diende om authentiek materiaal te verzamelen terwijl de participerende observatie vooral werd aangewend om militaire oefeningen, planning en operaties in missie gebieden te kunnen onderzoeken en om gedurende het hele onderzoek de militaire praktijk en het gedrag van alle bij CPP betrokken partijen aan de hand van CPP projecten te kunnen bestuderen. Noodzakelijkerwijs gebeurde dit in conflictgebieden waar plundering, illicit traffic en iconoclasme dagelijkse kost zijn. Onderzoek op deze locaties was niet vanzelfsprekend, hoewel er binnen de Nederlandse krijgsmacht al een beschikken team van culturele specialisten was opgericht werd dit niet zondermeer uitgezonden. Uitzendingen ten behoeve van participerend onderzoek alsook CPP projecten in oorlogsgebieden moesten daadwerkelijk door de onderzoeker geïnitieerd worden om potentiële oplossingen en strategieën voor CPP in de praktijk te kunnen toetsen. Deze uitdaging werd door de auteur op een proactieve wijze aangegaan vooral daaronder uitzendingen naar conflictgebieden. Ter plekke kwam veel informatie beschikbaar hoewel werken werd bemoeilijkt doordat het militaire apparaat de neiging heeft om zaken af te schermen voor onderzoekers, zeker als het nieuwe onderwerpen betreft.

Het boek is opgebouwd uit drie hoofd delen en begint met een introductie van en een uitleg over de gehanteerde onderzoekmethoden en bronnen inclusief kleinere case voorbeelden. De cases zijn niet beperkt tot conflict gebieden maar omvatten ook voorbeelden van militaire oefeningen en de voorbereidingen daartoe in onder meer Egypte en de Verenigde Staten. Een aanvankelijke indicatie wordt gegeven van hindernissen en beperkingen die men tegen kan komen tijdens activiteiten betreffende het initiëren van cultureel erfgoed bescherming door militairen. In
het verleden door de Krijgsmacht(en) opgebouwde CPP expertise zoals door de geallieerden
tijdens WO II is niet in stand gehouden en daardoor verloren gegaan. Het actuele belang van
militaire CPP wordt beargumenteerd met een introductie van- en toelichting op het identiteit
aspect dat verbonden kan zijn aan erfgoed. Het volatiele karakter van culturele objecten word
besproken aan de hand van een praktijk voorbeeld uit de laatste Golf oorlog namelijk de kwestie
van de (tijdelijk) naar de VS verplaatste Joodse archieven uit Irak.

Tevens wordt het belang benadrukt en uitgelegd van de link tussen het plunderen van
archeologische sites en armoede van een lokale bevolking waarmee het nut van preventie en
bescherming wordt aangetoond. Vanuit militair oogpunt wordt betoogd dat dit nut niet alleen
bestaat als een natuurlijk militair aspect, nodig om een veilige civiele omgeving te garanderen,
maar ook bewijst dat CPP gezien kan worden als een militaire stimulans (incentive) en
zogenaamde Force Multiplier.

In deel I worden het CPP speelveld en de spelers, partijen ofwel stakeholders voorgesteld en
ingeled. Extra aandacht wordt besteedt aan de militairen omdat zij een relatief nieuwe en
onbekende partij vormen binnen het CPP krachtenveld. Spanningen tussen diverse partijen
worden geïdentificeerd en besproken waarbij aandacht wordt gevestigd op de verschillende lagen
of niveaus waarop relaties en wisselwerking tussen erfgoed en identiteit bestaan en tot uiting
komen. Culturele verschillen tussen militaire en civile partijen alsook de culturele verschillen
binnen de militaire organisatie worden blootgelegd en besproken. Alle belangrijke partijen
worden, waar nodig en mogelijk met praktijk voorbeelden gepresenteerd. De partijen worden in
de volgende volgorde behandeld: de militairen, de media, gouvernementele instanties, non-
gouvernementele organisaties, internationale organisaties, werkgroepen en advies organen,
partijen uit de gebieden commercie, misdaad, recht en religie en ten slotte wetenschappelijke
partijen.

Vanuit sociologische, kunsthistorische en juridische perspectieven worden de wisselende status
en kwetsbaarheid voor manipulatie en misbruik van culturele objecten, belicht waarbij ook naar
de opkomst van nationale en individuele identiteiten wordt gekeken. Dit gedeelte wordt gevuld
door een paragraaf over historische achtergronden van cultureel erfgoed bescherming en
iconoclasme tot 1954.

Het onderzoek in situ resulteerde in een aantal nieuwe case studies die in chronologische
volgorde in Part II van deze dissertatie zijn opgenomen. Het gaat voornamelijk om, al
gepubliceerde hoofdstukken uit boeken en artikelen die representatief zijn voor- en een goed
beeld geven van de ontwikkelingen en voortgang van het onderzoek over een tijdspanne van
ongeveer drie jaar. In totaal zijn acht artikelen met cases opgenomen die genummerd zijn.

1. "The Role of Nato and Civil Military Affairs" is eerder gepubliceerd in Lawrence Rothfield,
een voor 2007 en 2008, actuele beschrijving van verplichtingen die NATO heeft betreffende CPP
tijdens militaire operaties. Er worden praktijkvoorbeelden uit Irak besproken zoals de inbreng
van Poolse militaire experts die in het "Poolse gebied" in Irak CPP projecten uitvoerden.

2. "Utilizing Military Cultural Experts in Times of War and Peace: an introduction", is
oorspronkelijk gepubliceerd in Paul Meerts (ed.), Culture and International Law, Chapter 12, The
Hague 2008 pp. 183-229. Het stuk omvat een algemene introductie betreffende de militaire vorm
van CPP met case studies over de archeologisch belangrijke site Uruk in Irak en haar
bescherming tegen plundering door Nederlandse militaire CPP specialisten. Er is tevens aandacht
voor het onoordeelkundig gebruik van HESCoS (barriers die worden gebruikt om kampementen
te ommuren die abusievelijk met archeologische grond werden gevuld ) in Babylon en het kwestie
rond het gewenste Volkenkundig Museum in Kabul in Afghanistan.

Cultural Property Protection within the military". Dit stuk is eerder gepubliceerd in L. Lijnzaad,
and N. van Woudenberg (eds.), Protecting Cultural Property in Armed Conflict. An insight into the 1999
Conflict, Leiden 2010, pp. 95-105. Deze publicatie gaat in op een aantal juridische implicaties die een rol spelen bij militaire invulling van CPP tijdens conflicten. Verder is er aandacht voor de ethische kwestie rond de zogenaamde Human Terrain Teams.


7. Egypte February 12 -16th 2011. Dit artikel is nog niet gepubliceerd en gaat over een cultural emergency missie die tijdens de zogenaamde Egyptische revolutie van begin 2011, door de auteur samen met een Oostenrijkse collega werd uitgevoerd om vast te leggen wat er in deze periode met het Egyptisch erfgoed gebeurde. De missie moest low-profile worden uitgevoerd omdat de situatie ter plekke niet veilig was. Er wordt verslag gedaan van de naspeuringen die de missie op touw zette. Het verslag bevestigt een aantal in de dissertatie geponeerde vooronderstellingen met betrekking tot de houding van UNESCO en het risico mijndig gedrag van sommige stakeholders en de waarde van cultureel erfgoed als economische asset. Er is een officieel rapport over de missie gepubliceerd op internet door de Association of National Committees of the Blue Shield.

8. "Libië’s erfgoed onder vuur in 2011", de casus bevat een indicatie van militaire maatregelen om het erfgoed van Líbië te ontzien tijdens de luchtaanvallen die vanaf maart 2011 door internationale coalitie troepen zijn ingezet. Voor een groot deel zijn de acties geïnitieerd door internationale samenwerking van netwerken die door individuele CPP specialisten zijn opgezet zoals IMCURWG en CHHAG. Het artikel heeft geen officiële status maar kan hopelijk dienen ter voorbereiding op een emergency assessment missie.
beleid op ministeries en ten slotte bij defensie kwesties. Tegenstrijdigheden spelen eveneens op het wetenschappelijk niveau en dan voornamelijk in de vorm van ethische kwesties en onderzoek methoden. Veel van de in deze studie behandelde geschillen hebben verwijzingen naar relevante wetgeving en verdragen. Mede daarom is een aparte paragraaf geheel gewijd aan de juridische aspecten die op CPP betrekking hebben waarbij wordt gekeken naar de mogelijkheden voor controle en sanctie als ook naar de daarbij horende procedures. Onderwerpen variëren van het juridische leerstuk van de military necessity tot het oorlogsrecht en internationale verdragen. Perspectieven van gezaghebbende juridische deskundigen worden vergeleken en geanalyseerd.

Mogelijke oplossingen voor geïdentificeerde beperkingen en dilemma’s worden besproken waarbij het accent wordt gelegd op nieuwe mogelijkheden zoals die zich bijvoorbeeld voordoen binnen de context van relatief nieuwe militaire taken als peace keeping en wederopbouw missies. Onderzoekte strategieën omvatten ook de identificatie van gemeenschappelijke gemene delers ofwel common denominators en mogelijke onverwachte deliverables ofwel waardevolle uitkomsten voor verschillende partijen. Speciale aandacht is er voor educatie en praktische training waarbij verschillende soorten training worden geïntroduceerd, toegelicht en vergeleken.

Ten slotte is er als valorisatie van het onderzoek een speciale paragraaf gewijd aan uitkomsten van het onderzoek en de afgeleide deliverables waarbij een reeks resultaten wordt gegeven die kunnen dienen als aanbevelingen voor alle partijen die bij CPP betrokken zijn. Het proefschrift bevat onder andere een literatuurlijst, een glossarium en appendixes. Als appendixes zijn opgenomen, het hoofdstuk over cultuur van het CIMIC Group North Civil Assessment Team Iraq uit 2003, de definitie van Cultural Property according to the Hague Convention of 1954, de NATO CIMIC Doctrine AJP 9, de CENTCOM verordening Number 200-2 Environmental Quality CENTCOM Contingency Environmental Guidance, de STANAG 7141 EP JOINT NATO Doctrine for Environmental Protection, het rapport van de Civil-Military Assessment Mission for Egyptian Heritage by Blue Shield and IMCuRWG February, 2011 en de inhoudsopgave van Antiquities under Siege, een sleutel publicatie onder redactie van Lawrence Rothfield waarin de bijdrage van de auteur van deze studie in deel II van dit boek is opgenomen.
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GLOSSARY

ACT: Allied Command Transformation
AIA: Archaeological Institute of America.
ANCBS: The Association of National Committees of the Blue Shield.
AOR: Area of Responsibility or mission area.
CA: Cultural Awareness.
CA: Civil Affairs.
CEMML: The Center for Environmental Management of Military Lands.
CENTCOM: US Central Command.
Recently renamed Combatant Command Historical/Cultural Action Group.
CHAMP: Cultural Heritage by AIA-Military Panel.
CIMIC: Civil Military Cooperation.
COIN: Counter Insurgency.
COM: Commander.
CPP: Cultural Property Protection.
CSU: Colorado State University.
ECOSOC: Economic and Social Council (UN).
ETWG: NATO Environmental Training Workgroup.
GIS: Geographic Information Systems.
HTS: Human Terrain Systems.
ICA: International Council on Archives.
ICBS: The International Committee of the Blue Shield.
ICOM: International Council of Museums.
ICRC: International Committee of the Red Cross.
IFLA: International Federation of Library Associations and Institutions.
IHL: International Humanitarian Law.
IMCURWG: International Military Cultural Resources Working Group.
IO: International Organization.
JNA: Yugoslav People's Army.

LOW: Law of War.

LOAC: Law of Armed Conflict

MFAA: Monuments, Fine Arts, and Archives program, also monuments men WW II.

MN: Military Necessity.

NARA: National Archives and Records Administration (Maryland US.)

NGO: Non Governmental Organization.

Oplan: Operation Plan.

PMC: Private Military Company.

ROE: Rules of Engagement.

SAFE: Saving Antiquities for Everyone.

SCA: Supreme Council of Antiquities.

SFIR: Stabilization Force Iraq.

STANAG: NATO abbreviation for Standardization Agreement.


USCBS: United States Committee of the Blue Shield.

WAC: World Archaeological Congress.

WATCH: World Association for the protection of Tangible and Intangible Cultural Heritage in times of armed conflicts.

WHC: World Heritage Convention.
Interviews

Dr. John Curtis, Keeper of the Middle East collections of the British Museum, August 2006, January 2007.
W. Hays Parks special assistant for law of war matters for the Army's Judge Advocate General November 2007 and May 2011.
Colonel Harrie Knoop now retired, former CIMIC commander of the MND CS, January 2008
Professor Peter Stone January 2008
Bgen. Wolfgang Peischel, November 2009.
Karl von Habsburg, August 2009, January 2011.
Dr. Laurie Rush, August 2009, July 2010.
Professor Charles Garraway, December 2010, March 2011.
(Dr. George died unexpectedly in March 2011).
Appendices:

Appendix 1 Dutch CIMIC Civil Assessment report Iraq

CIMIC Group North Civil Assessment Team Iraq 26 augustus 2003 – 10 september 2003

Hoofdstuk 4: CULTUUR (CULTURAL AFFAIRS)

Lkol (R) drs. Joris Kila ed. Lkol (R) Rob Schuurman, Majoor (R) Dr. Rudolf de Jong.

1. BEVOLKING EN SOCIALE STRUCTUUR

a. De provincie (of gouvernoraat) Al-Muthanna staat met bijna 500.000 inwoners tot nu toe bekend als een van de rustigste provincies in Irak. Door deze relatieve rust in de rurale en qua ontwikkeling achtergebleven provincie, haar ligging aan de 300 km lange (en nauwelijks bewaakte) grens met Saoedi-Arabië, en het feit dat deze grens door vrijwel leeg woestijngebied loopt, vindt er veel smokkel en illegaal verkeer plaats van ongewenste individuen (politieke tegenstanders van de coalitietroepen zoals voormalige Ba'ath leden en moslim extremisten).

b. De meeste bewoners van de provincie leven in het noorden, waar het gebied wordt doorsneden door de Eufrat. De belangrijkste dorpen/stadjes daar zijn Khidr (rond 30.000 inwoners.), Rumaytha (bijna 80.000 inwoners.) en de hoofdstad van de het gouvernoraat, As-Samawah (ruim 150.000 inwoners). Verder bevindt zich in het centrale deel van de provincie – op weg naar de Saoedische grens, zo’n 200 km ten zuiden van As-Samawah midden in de woestijnvlakte – nog het plaatsje Salman (ongeveer 1.500 inwoners), dat tegenwoordig blijkt te fungeren als centrum voor genoemde smokkelpraktijken.

c. De bevolking van Al-Muthanna, vrijwel allen sjiieten, bestaat uit een mengeling van bedoeïenen en boeren op het platteland, en “stedelingen” in As-Samawah (de andere stadjes/dorpjes hebben een veel ruraler karakter). De bedoeïenen die nog een nomadisch bestaan leiden (en vaak niet uit Irak, maar uit Saoedi-Arabië afkomstig zijn), zijn ‘s zomers te vinden aan de randen van het vruchtbare land, waar ze hun kleinvee en kamelen laten grazen en vertoeven in hun tenten.

d. Sedentaire bedoeïenen en boeren bewonen de bevloeibare landerijen, waarop zij landbouw bedrijven. Voor deze landbouw zijn zij geheel afhankelijk van een stelsel van irrigatiekanalen waarmee water van de Eufrat wordt verdeeld.

e. Vrijwel iedere inwoner van Al-Muthanna – bedoeïen, boer of stadsbewoner - is gelieerd aan een bepaalde stam, waarvan er omstreeks veertien zijn. In principe is een Irakees in eerste instantie loyaliteit en gehoorzaamheid verschuldigd aan zijn/haar familie of clan. Vervolgens ligt zijn loyaliteit bij het grotere stamverband, en pas op de laatste plaats komt gehoorzaamheid aan de lokale overheidsinstanties. Idealiter vallen de belangen van overheid en stam samen, maar het kan zijn dat loyaliteit aan de stam strijdig is met die aan de overheid. Bij de wederopbouw worden daarom in de lokale overheidsstructuur ook zoveel mogelijk de sjeiks van de lokale stammen betrokken, zodat in een pril stadium van de besluitvorming consensus kan worden gevormd over te nemen maatregelen.

2. PROJECTEN OP HET GEBIED VAN CULTUUR EN ERFGOED

a. Het gaat hier voornamelijk om “Low Cost High Visibility” projecten.

b. De beveiliging (tegen plundering) van Uruk en andere archeologische sites in de naaste omgeving. Met de KMar zijn tijdens de missie reeds eerste afspraken gemaakt voor extra patrouilles.

c. Uruk

(1) Eén van de oudste en belangrijkste steden van Zuid Mesopotamië, gelegen aan een Eufrat-arm ca. 250 km ten zuidoosten van Bagdad; thans Warka. De Ziggurat is de grootste ruineheuvel in dit gebied, met een oppervlak van ca. 680 ha. Opgravingen (nu reeds jaren gestaakt vanwege de politieke situatie) hebben nog maar een deel van de stad kunnen blootleggen.
Uruk is het van de oudst bekende stedelijk gebied van Mesopotamië; al voor 4000 v. Chr. woonden hier mensen. In het vierde millennium vestigden zich de Sumeriërs in de stad. De belangrijkste gebouwen die in deze tijd werden opgetrokken waren de grote “ziggurat” (tempeltoren) van de oppergod Anu, en de tempel gewijd aan de godin Inanna (Venus). Deze gebouwen hebben tot het einde van de bewoning van de stad bestaan. De belangrijkste periode in de geschiedenis van Uruk was ongetwijfeld de tijd van ca. 3400 tot 2800 v. Chr. Het is de tijd van de zgn. “high civilisation”, een periode waarin een geweldige sprong voorwaarts werd gemaakt op bijna elk denkbaar gebied. Naast grote bouwwerken, die een goede organisatie van het bestuur doen veronderstellen, was er vooral de uitvinding van het spijkerschrift. In de vondsten kan men de ontwikkeling die tot vervolmaking van dit zogenaamde cuneiform leidde goed volgen: eerst klei-enveloppen met stukjes klei die bepaalde hoeveelheden weergaven, daarna tabletten met daarop dezelfde tekens. Tenslotte werd daarbij een schriftteken gevoegd, dat een bepaald voorwerp voorstelde, zoals een kruik of een dier. Later werden deze tekens gebruikt om de taal te schrijven, in dit geval het Sumerisch. In Uruk is het spijkerschrift niet alleen ontstaan maar het heeft zich vandaar over het hele oude Nabije Oosten uitgebreid. Men kan met recht zeggen, dat in Uruk voor het eerst door mensen geschreven is in de 27e en 26e eeuw moet Uruk ook een belangrijke stad geweest zijn, al valt dit uit de vondsten niet zo duidelijk op te maken. Het is de tijd van grote koningen als Enmerkar, Lugalbanda en vooral Gilgamesh, die de hoofdpersoon geworden is van het naar hem vernoemde epos. Hij zou de grote muur van Uruk hebben gebouwd, die inderdaad in deze periode ontstaan moet zijn. Gilgamesh is zelf nog niet in een eigentijds tekst opgedoken. Wel hebben we die voor twee tegenstanders uit het noordelijk gelegen Kish. Hoewel Uruk een belangrijke stad bleef vervulde het geen leidende rol meer in de politiek van Mesopotamië.

In de Oud-Babylonische tijd raakten Uruk betrokken in conflicten tussen verschillende steden, zoals buurstad Larsa (waar ook belangrijke archeologische sites liggen) en het noordelijke Babylon. In de 18e eeuw werden door de Babylonische koning als straf de muren van de stad afgebroken. Daarna zwijsen de bronnen lange tijd over Uruk. Waarschijnlijk hoorde de stad tot in de 9e eeuw bij het ‘Zeeuwen’, een gebied aan de rand van de Perzische Golf, waar ook nu nog veel moerassen zijn, en waar de Babylonische koningen moeilijk greep op konden krijgen. Pas vanaf de 9e eeuw v. Chr. weten we meer over Uruk. De stad speelde een belangrijke rol in het verzet tegen de Assyrische overheersing en lag nu in het gebied van de Chaldeeuwsse Bit-Amukani stam. In de burgeroorlog tussen de Assyrische koning Assurbanipal en diens broer, de gouverneur van Babylonië, koos Uruk de kant van de Assyrische koning. Merkwaardig genoeg is Uruk vooral belangrijk geblokkeerd voor de ‘uiteinden’ van de Mesopotamische beschaving. Niet alleen de oudste tijd, maar ook de jongste tijd (3e-2e eeuw v. Chr.) heeft heel veel teksten opgeleverd, die ons laten zien, dat de Babylonische cultuur nog springlending was, al gaat het hierna wel snel bergafwaarts. In de Parthische tijd (2e-3e eeuw na Chr.) kwam Uruk opnieuw tot bloei, maar zal vermoedelijk niet lang daarna verlaten zijn.

d. Het opbouwen van de lokale oudheidkundige dienst (The Local State Board of Antiquities and Heritage).

(1) De leiding is in handen van de archeoloog Toufiq Abed Mohammed die nu tevens de enige werknemer is; hij wordt door Bagdad betaald. De oudheidkundige dienst moet aan een nieuw onderkomen geholpen worden, want het huidige kantoor is gevestigd in een zwaar geplunderd en gebombardeerd gebouw dat op instorten staat.

(2) Ook zijn meubels en kantoormiddelen noodzakelijk alsmede training en begeleiding op onder andere het gebied van management en registratiemethoden van cultureel erfgoed.

(3) Er is een verzoek binnengekomen om de Kunstacademie annex stedelijke musiekschool aan een onderkomen en middelen te helpen.

(4) Een cultureel en educatief belangrijk project vormt de wederopbouw van de stedelijke bibliotheek in As-Samawah. Het gebouw is zwaar beschadigd en de collectie is verdwenen dan wel vernietigd. Een Nederlandse organisatie heeft een grote collectie studieboeken toegezegd.
3. CULTUURBEWUSTZIJN EN CONSEQUENTIES VOOR COALITIE- EN NL TROEPEN

a. Gesprekken/tolken
(1) Vrijwel geen van de lokaal ingehuurde tolken is professional, d.w.z. getraind als tolk en getoetst op vertaalvaardigheid en betrouwbaarheid. Meestal zijn deze gerekruiteerd uit wat er nu eenmaal beschikbaar is, zoals bijvoorbeeld docenten of studenten Engels.
(2) Door hun gebrek aan training en ervaring gaat het bij gesprekken regelmatig mis: essentiële informatie gaat dan in de vloed van gedachtenuitwisselingen verloren. Zelfs als drie keer om specifieke informatie wordt gevraagd, komt het vaak voor dat de gevraagde informatie verloren gaat in het exposé dat daarop als antwoord volgt.
(3) Enkele tips om dergelijke situaties te vermijden:
(a) Stel korte duidelijke vragen waarin zoveel mogelijk naar slechts een enkel feit wordt gevraagd.
(b) Instrueer de tolk zelf behapbare stukken te tolken en bij langere stukken desnoods aantekeningen te maken van wat er wordt gezegd.
(c) Laat de tolk ook de gesprekspartner tijdig onderbreken om te kunnen tolken.
(4) Aan de andere kant bleek CIMIC (en DART) personeel zeer wel in staat in korte tijd tot de kern door te dringen door het blijven herhalen van gerichte vragen. Dat dit soms door tijdsdruk leidt tot een verloop van het gesprek dat normaliter binnen de Arabische cultuur als onbeleefd wordt ervaren, wordt op de koop toe genomen. Aan Irakese zijde bestaat ook meestal wel begrip voor de tijdsdruk waaronder bij CIMIC wordt gewerkt. De werkwijze is “straightforward and to the point”, en men maakt snel duidelijk wat wordt gewenst van de Irakese partij. Direct worden ook afspraken gemaakt om een volgende stap te bespreken (en controleren of die is gezet). In veel gevallen wordt de Irakese partij erop gewezen dat men zijn behoeftes kenbaar moet maken bij de departementen. Toch dient men er rekening mee te houden dat een minimum aan wellevendheid betracht moet worden in contacten met de Irakese counterpart; even vijf minuutjes over koetjes en kalfjes praten en bijvoorbeeld informeren naar het welzijn van de gesprekspartner. Wie als een “Rambo” komt binnenstormen zal uiteindelijk merken dat zijn gesprekspartner slechts een minimum aan informatie geeft. Een initiële investering van vijf minuten betaalt zich in het verdere gesprek dubbel en dwars terug.
(5) Vergeet daarbij niet dat het ook een doel van CIMIC is om goodwill te kweken onder de lokale bevolking om daarmee acceptatie van de aanwezigheid van de stabilisatiemacht te bewerkstelligen. Een “Rambo” die de deur intrapt bereikt daarmee minder dan een vriendelijke korporaal die eerst even heeft aangeklopt. Een opgedragen afzonderlijke houding aannemen kan ook op een beheerste manier, hetgeen wel respect afdwingt.
(6) Verder dient rekening te worden gehouden met de machtspositie die tolken in de lokale gemeenschap als gevolg van hun werkzaamheden opbouwen. Niet alleen verdienen zij een goed salaris, maar een tolk zou bij zijn vertaalwerkzaamheden zaken zodanig kunnen manipuleren dat hij er zelf beter van wordt (bijvoorbeeld door bepaalde aannemers – die hem daarvoor betalen – voor te dragen).

4. CONCLUSIES

a. “Cultuur” bleek nog niet in enige CIMIC planning bij de Sie 9 opgenomen. Onderzoek ter plekke leerde dat er bij de bevolking wel degelijk behoefte bestaat aan hulp voor diverse projecten zoals hiervoor genoemd.

b. Het belang van de archeologische sites binnen Al-Muthanna en dan speciaal Uruk is grensoverstijgend, aangezien er hier sprake is van mondiaal cultureel erfgoed dat qua importantie gelijk staat aan sites als de Pyramiden van Gizeh en de tempels van Luxor en Babylon. Zie verder de toelichting over Uruk.

c. Zowel van Amerikaanse (State Department, Afdeling Cultural Heritage) als Duitse zijde (Aussenministeriums Orieninstitute) zijn reeds verzoeken gedaan om Uruk veilig te stellen.

d. Er zijn berichten dat vanuit de CPA in Bagdad grote belangstelling bestaat voor de Nederlandse gemilitariseerde culturele expertise speciaal voor het museum in Bagdad.

e. Cultureel bewustzijn onder sommige uitgezonden militairen, inbegrepen de Sie 9 vertoonde tekortkomingen die van invloed bleken op de werkresultaten.
5. **AANBEVELINGEN**

a. Een belangrijke aanbeveling is het zenden van Functioneel Specialisten uit het Nederlandse bestand (Veldarcheologen en Assyriologen) om tijdelijk te assisteren bij de wederopbouw van de lokale oudheidkundige dienst.

b. Tevens wordt geadviseerd om in overleg en samenwerking met Irakese deskundigen, instanties en instituten een onderzoek te doen naar mogelijkheden om behoud van de Uruk site en andere binnen het NL gebied vallende omliggende sites (consolidatie van de monumenten) mogelijk te maken. Voorgesteld wordt om Functioneel Specialisten naar het gebied uit te zenden (wellicht dezelfde die assisteren bij de oudheidkundige dienst) die ieder opeenvolgend drie weken onderzoek doen.

c. Het verdient aanbeveling om, zeker bij grotere projecten, ook gebruik te maken van tolken die niet uit de lokale gemeenschap afkomstig zijn.

d. Toekomstig uit te zenden CIMIC personeel dient gericht onderwijs te ontvangen in Cultureel Bewustzijn en de praktische invulling daarvan te velde door middel van door CIMIC Group North op te zetten en te verzorgen missiegerichte cursusmodules. CIMIC personeel dient daardoor in staat gesteld te worden om die kennis over te dragen.

e. De stedelijke bibliotheek te restaureren, in te richten en zomogelijk door inzet van een FS op het gebied van bibliotheken en archieven de Irakezen te helpen met het opzetten van een catalogus, registratie systeem en een klimatologisch concept om boeken en documenten in goede conditie te houden.

f. Het zo mogelijk honoreren van een verzoek van de zijde van de CPA om met NL FS’n t.b.v. het Museum in Bagdad training op het terrein van restauratie, klimaatbeheersing, registratie, museummanagement etc. te geven. Er zijn diverse gemilitariseerde specialisten op deze terreinen beschikbaar. Eerst dient een korte fact finding mission plaats te vinden om de exacte behoefte te peilen. De kosten zijn relatief laag.
Appendix 2 Definition Cultural Property

Cultural Property (CP)

The definition of CP according to the Hague Convention of 1954. The definition is found in Chapter I. General provisions regarding protection, Article 1. Definition of cultural property.

For the purposes of the present Convention, the term ‘’cultural property’’ shall cover, irrespective of origin or ownership:

(a) movable or immovable property of great importance to the cultural heritage of every people, such as 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; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above:

(b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);

(c) centres containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as ”centres containing monuments”.

Rules for the safeguarding of CP are given in Article 2. Protection of cultural property.

For the purposes of the present Convention, the protection of cultural property shall comprise the safeguarding of and respect for such property.

As a further explanation it should be mentioned that the types of CP described by the Hague Convention of 1954 can have different or shifting connotations or be of increased importance in the event of conflict or in the period just before the outbreak of a conflict (or directly after ending a conflict). This brings implications for the planning of military operations. For instance (working) archives: can be of value or danger to military intelligence (intel) due to their contents whereas historical archives can be of important for the national or ethnical identity of certain groups involved in a conflict. Often such archives contain contemporary as well as historical and cultural materials.

Monuments of architecture: can be of strategic importance in the terrain due to height (snipers) location or strategic use e.g. weapons can be hidden or stored same goes for prisoners and hostages that can be used as a human shield.

Works of art, books, manuscripts: can have propaganda value or can be considered as icons from certain ethnic, religious or political groups within a society. Even natural monuments can for fill such a role e.g. the tree behind the Anne Frank house in Amsterdam and Uluru (Ayers Rock) the sacred rock of the aboriginals in Australia.

334 In 2007 there were big protests when the municipality of Amsterdam wanted to cut down a sick tree that was mentioned in Anne Frank’s Diary.
There is a distinguish between material and immaterial\textsuperscript{335} heritage on the latter we can list a.o. performing arts such as music and theatre, national anthems, dialects, languages, oral history and certain traditional performances, tribal rituals. These also can have links to propaganda, national pride etc. and therefore can be of relevance for military intelligence and give ‘‘valuable’’ information for the planning phase of an operation. Certain ethics and procedures should be developed and codified for scientists, subject matter experts, militarized experts, CPP officers and the like to avoid them getting compromised. A similar approach as in the case of military medical experts seems logic in this respect.

Heritage Sites are divided into cultural heritage and natural heritage sites. Different properties recommended by each country are included in the World Heritage List after being screened according to strict criteria defined by the World Heritage Committee\textsuperscript{336}.

\textsuperscript{335}See the Convention for the Safeguarding of the Intangible Cultural Heritage, Paris, 17 October 2003
\textsuperscript{336}The committee was founded 1976 in Nairobi aiming at: Identification, protection and preservation for future generations of the cultural and natural heritage, incl. buildings, monuments, landscapes important from a historical, art historical and scientific point of view placed on the World Heritage List by the Committee. The properties vary from cultural, natural and mixed.
Appendix 3 CIMIC Doctrine

NATO Civil-Military Co-Operation (CIMIC) Doctrine AJP 9

102 DEFINITION AND APPLICATION

1. Definition. CIMIC is defined as:

“The co-ordination and co-operation, in support of the mission, between the NATO Commander and civil actors, including national population and local authorities, as well as international, national and non-governmental organisations and agencies.”

2. Application. Four further factors condition the application of CIMIC:

a. CIMIC activities form an integral part of the Joint Force Commander’s (JFC) plan, are conducted in support of his mission and are related to implementing the overall strategy and achieving a stable and sustainable end-state.

b. The Commander’s CIMIC staffs are fully integrated into his Headquarters (HQ) and have full vision of and are authorised to co-ordinate CIMIC activities in the Joint Operations Area (JOA), theatre or region.

c. In co-operating with a potentially wide range of civilian bodies, NATO forces will, as far as possible and within military means and capabilities, accommodate and support the activities of these bodies, providing this does not compromise the mission.

d. CIMIC activities are carried out with a view to timely transition of those functions to the appropriate civilian organisations or authorities.

Source: http://publicintelligence.net/nato-civil-military-co-operation-cimic-doctrine/
Appendix 4 CENTCOM Environmental guidance

HEADQUARTERS UNITED STATES CENTRAL COMMAND
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101
REGULATION
Number 200-2
Environmental Quality
CENTCOM CONTINGENCY ENVIRONMENTAL GUIDANCE

R 200-2

h. Conservation: USCENTCOM forces will conserve, protect and restore (if damaged) all HN natural and historical / cultural resources, using all practical means consistent with the USCENTCOM mission. See Chapter 6: Historical/Cultural.

Chapter 6
HISTORICAL AND CULTURAL PRESERVATION
6-1. SCOPE. This chapter establishes criteria to ensure the proper protection of historic and/or cultural resources within USCENTCOM AOR countries engaged in contingency operations.
6-2. BACKGROUND. Historical/cultural protection is becoming more important around the world. In 2008, the USG ratified the 1954 Hague Convention (Protection of Cultural Property in the Event of Armed Conflict). Accordingly, USCENTCOM personnel should expect future misconduct and poor decisions involving HN natural and cultural resources to have more severe consequences.
6-3. ENVIRONMENTAL RESPONSIBILITIES. The LEC will have the following procedures in place for the management of HN historical/cultural properties:
   a. A process to ensure each base camp Commander take into account the effect of any proposed military action on property listed on the World Heritage List (WHL) and/or on the HN equivalent of the U.S. National Register of Historic Places.
      (1) Proposed military actions should attempt to avoid and/or mitigate any adverse effects to such historic or cultural resources.
      (2) Proposed military actions include, but are not limited to, the following actions:
         (a) Construction
         (b) Demolition
         (c) Combat operations
         (d) Training
         (e) Land-use
   b. World Heritage List (WHL): Ensure base camps have access to the WHL and/or the HN equivalent of the National Register of Historic Places to assist in historical/cultural planning and decision making.
   c. Inventories: Base camps are required to do an
archaeological inventory to record and report all historic and/or culturally significant locations at and near the base camp. The LEC will keep a master inventory.

d. Archaeological Maps: Each base camp is required to keep an updated map of all known or suspected archaeological and other historical/cultural resources at and near their base.

e. Interim Measures: Establish interim measures sufficient to protect archaeological or other historical/cultural resources until appropriate mitigation or preservation can be completed (e.g. signage, declaring the area off limits, or removal).

f. Infrastructure Improvements: Each base camp will take into consideration the possible harm to HN relationships and the potential damage to HN historic/cultural properties during base camp infrastructure improvements, new construction, demolition and/or mitigation projects. See Appendix K: Historical/Cultural Flowchart

g. Historical/Cultural Discoveries made on a Base Camp: Items of potential historical/cultural importance that are discovered during the course of construction and/or demolition work on a base camp will be preserved and protected. The base commander will consult with the LEC and then make a decision on final disposition.

If possible, include coordination with the HN authorities and do the following:
(1) Temporarily suspend work within a 5 meter radius of the find.
(2) Do not search for additional cultural material by digging or exploring within a 5 meter radius.
(3) Contact local or reach back historical/cultural experts to determine the significance of find.
(4) Document the date, location, and nature of the find with GPS, photography, and notes.
(5) Leave the find in place if possible and protect it from damage and/or additional damage.
(6) Place historical/cultural materials in a protective container (bag or box) and label the container with the location, date of encounter, name of contents, and name of recorder if they must be removed.
(7) Report the encounter and site location through the proper chain of command. All photographs, notes, and objects must remain together. Turn them into the nearest local museum as soon as possible if they are significant.

h. Historical/Cultural Discoveries off Base Camp: Items of potential historical/cultural importance discovered off base camp will be reported to the LEC. Record the location, description, and if possible pictures of the discovered items. This information will be transferred to the appropriate HN authorities if it is significant.

i. Proper Conduct: USCENTCOM personnel (military, civilians, contractors) must not pick up or disturb artifacts found on or
below ground surface without proper authorization.
(1) Do not alter any standing monument or building suspected to be protected cultural property.
(2) Do not make military use of any protected cultural property, monument, archaeological site, historic or religious building unless there exists a genuine and imperative military necessity with no feasible or logical alternative.
(3) Do not purchase artifacts, antiquities, or cultural heritage items without proper authorization.
(4) Do not dig without first determining whether the location is a protected archaeological or historical/cultural site.
j. Training: Units involved in construction and/or ground disturbing activities will designate a historical/cultural resources manager. This individual will complete a basic archaeology awareness training course.
Appendix 5 NATO STANAG cultural resources

STANAG 7141 EP JOINT NATO DOCTRINE FOR ENVIRONMENTAL PROTECTION DURING NATO LED MILITARY ACTIVITIES

A few excerpts that relate to Cultural Property protection:

b. Identify the characteristics of the environment that may be impacted by or have an impact on NATO led military activities, i.e.:
   (1) general environmental condition of the area;
   (2) climate;
   (3) water quality;
   (4) air quality;
   (5) natural and cultural resources;
   (6) presence of endangered species and critical habitats;
   (7) presence of birds or bird migration routes.

c. Identify potential (environmental) impacts caused by military activities, including the impacts of alternatives and contingencies, e.g.:
   (1) Water Pollution. This pollution may include emissions from human wastes (black water), wash and rinse waters (grey water), erosion and

   (2) Endangerment of Natural and Cultural Resources. Impacts on natural and cultural (historic and archaeological) resources should be prevented where possible.

b. Environmental planning. An environmental plan should be developed using this guidance, and should be part of the OPLAN or exercise directive as a separate annex. The plan should include provisions for environmental contingencies, a list of the identified risks and prescribed mitigation measures. Evaluation of the plan should be conducted to incorporate any lesson learned in future planning.

c. Implementation. The commander should ensure all personnel are trained and aware of environmental issues. There must be clear assignment of responsibilities and resources where applicable for environmental protection. Units must work with local authorities and the community to identify and resolve problems.
Mission Report

Civil-Military Assessment Mission for Egyptian Heritage

By Blue Shield and IMCuRWG February 12 to 16, 2011

Objective

The objective of the mission was to assess possible damages and looting attempts to Egyptian Heritage sites and museums after the recent unrests.

Many contradicting messages were reported regarding looting and vandalism, without the possibility of properly checking the real situation. Therefore there was an urgent need to send a mission especially to those sites that were supposedly affected by criminal acts, in order to document the situation, to state damages incurred and to encourage the parties involved to further efforts in protecting the invaluable Cultural Heritage of Egypt.

Composition of the Mission

The mission had 3 main persons involved.

Karl von Habsburg is President of the ‘Association of National Committees of the Blue Shield’ (ANCBS) since 2008. He is a former member of the European Parliament for Austria and has specialized in International Humanitarian Law and Intangible Cultural Heritage Protection. A former air force pilot, he is still serving in the reserve of the Austrian armed forces as Cultural Property Protection Officer. He is vice president of the Austrian Society for the Protection of Cultural Heritage and a founder member of Blue Shield Austria. Karl von Habsburg is frequent lecturer and author of several publications on the subject of Intangible Cultural Heritage Protection and Military Cultural Property Protection.

Drs. Joris Kila is chairman of the ‘International Military Cultural Resources Work Group’ (IMCuRWG). He is a researcher at the Institute of Culture and History of the University of Amsterdam. He has been acting chairman of the cultural affairs department at the Civil-Military Cooperation (CIMIC) Group North in the Netherlands, and in that capacity he
undertook several cultural rescue missions in Iraq and FYROM (Macedonia). He is author and co-author of several publications on the subject of Cultural Property protection in times of armed conflict utilizing militarized experts. He is a reserve Lieutenant Colonel and is regularly asked to advise the Dutch MoD on Cultural Property protection issues. In 2008, he co-authored a study on "Vernacular Mudbrick Architecture in the Dakhla Oasis, Egypt".

**Dr. Thomas Schuler** is chairman of the Disaster Relief Task Force (DRTF) of ICOM (since 2005). He was director of the Stadt museum Tübingen (1985 – 1992) and of the Schlossbergmuseum Chemnitz (1992 – 2004). He has specialized in Museum Management and Disaster Preparedness and Management. He was lecturer at the Museology Department of HTWK Leipzig and is regularly offering training courses for museum staff.

Karl von Habsburg and Drs. Joris Kila went to Egypt, Dr. Thomas Schuler coordinated the mission from Germany and did background research.

**Political Situation** (the main players)

The political environment in Egypt was still very complicated and confusing. After Hosni Mubarak stepped down as President, the Parliament was dissolved and the Constitution declared invalid. This is problematic since only the Parliament can change or amend the Constitution. The process by which the President stepped down was also not according to the Constitution, which was then still valid. This put the whole legality of the State in question.

The de facto power lays currently with the military, so making the head of the Armed Forces Supreme Council, Field Marshal Tantawi, the actual ruler of the country.

The security system in Egypt was still not really in place. The police in Cairo had literally vanished after the beginning of the demonstrations, since they were identified with the repressive measures of the old regime. They were now slowly coming back. The police functions were taken over by the military and by spontaneously created neighborhood
watch groups. There were many roadblocks around Cairo and Alexandria manned by thugs, but this was now dissipationing.

The demonstrations were overall peaceful and conducted with astonishing restraint. The Tahrir Square demonstrations were dealing with the democratization process and Hosni Mubarak. Currently most demonstrations are dealing with employment, wages, bad economy and other matters.

It is foreseen that elections will take place in September; the current government staying in place though changes would be announced by the military. If elections are held earlier, it is likely that the two organizations who have currently nationwide structures, Mubaraks old National Democratic Party NDP and the Muslim Brotherhood might gain the best result.

Preparatory Work

After it became clear by end of January that the Egyptian Cultural Heritage was really in danger through looting and vandalism, Karl von Habsburg and Joris Kila consulted with Thomas Schuler who had been following and analyzing the situation closely, regarding a mission to find out the truth between all conflicting messages and documenting the situation. All were aware of the very insecure situation: Travel warnings had been issued by almost all embassies in Cairo and foreigners evacuated in great numbers. Therefore it was decided that the mission should be small, flexible and conducted by Cultural Heritage Experts with military expertise. On February 5th the date was set for the mission to take place a week later.

While Thomas Schuler was conducting media research and liaising with academics, Karl von Habsburg and Joris Kila were activating their contacts in the political and diplomatic world, but also their personal contacts in Egypt. The staff of the Austrian Embassy in Cairo was also very helpful with information and organization.

Joris Kila on Tahrir Square
Short Description of the Mission

Karl von Habsburg and Joris Kila arrived in Cairo on February 12 coming from Vienna. It was decided to take only small digital tourist cameras since until the day before often camera equipment was confiscated upon arrival. In the evening the mission decided to visit the area of the Egyptian Museum and Tahrir Square to get an impression of the situation. Getting around Cairo was very complicated, the fastest way usually by foot. Although the mood was generally jubilant, Mubarak had just stepped down and the situation was far from secure. The area of the museum was teeming with military and tanks. That evening the mission tried to make contact with their personal contacts in order to get an objective impression of the situation. A night curfew still existed.

On February 13 the mission visited the Dutch Institute. From there it was possible to reach an official of the Supreme Council of Antiquities (SCA) in Saqqara, who confirmed attempts of looting but denied anything had been stolen. A big problem was the constant stream of contradictive information as well as the large number of complot theories and fantasy or propaganda driven stories. It was also decided to focus on the archaeological sites around Cairo who had mostly not been visited by independent experts since the beginning of unrest in Egypt. The Egyptian Museum had already been visited several times at least by journalists, but the experience gained in Iraq showed that it is dangerous to focus only on one important museum and at the same time neglect the important archaeological sites. That day the mission received multiple background briefings on the situation in Egypt and Cultural Heritage.

In the morning of February 14th the mission went to the area of Saqqara accompanied by the director of the Austrian Institute of Archaeology in Cairo, but was turned away by armed guards. In Memphis they managed to get access to the open air museum. To the great relief of the mission the museum was, in spite of many contrarian reports, seemingly untouched. At noon the mission had a meeting with the Minister of Antiquities Dr. Zahi Hawass. Dr. Hawass is personally known to the mission members since many years and promised his support for the mission to visit Saqqara, Abu Sir and Dahshur. The situation at the ministry, the former SCA building, was very tense. There were vast demonstrations outside the building and the mission members had to enter and leave the building through a besieged backdoor. In the afternoon, the mission tried to check out the situation in Abydos and the Kharga Oasis by phone. Both places had reported violent unrest but damage to Cultural Heritage could not be confirmed.

On February 15th the mission, accompanied by the office manager of the Dutch Institute, left early to Saqqara. After some initial difficulties it was possible to have a conversation with the local SCA official. He was telling us about his experiences during the time of looting in Saqqara and Abu Sir. After that the mission visited several sites at Saqqara, following a provisional list of reported damages. In Abu Sir it was, due to time constraint, only possible to visit a few places reported to be affected. The mission decided it was very important to visit Dahshur, and especially the De Morgan warehouse where looting had been reported that supposedly took place until the day before the mission arrived. Although strongly discouraged to go there and with all sorts of constraints, the mission found that the doors and windows of the warehouse had recently been walled in (the mortar still being wet). The accounts of the local guards were not encouraging. At the end of a day enriched by a constant sandstorm, the mission visited the red pyramid of Snefru at Dahshur.

On February 16th, the mission still explored further possibilities to support training of Cultural Heritage Protection staff in Egypt and left back in direction of Vienna in the afternoon.
Results

Memphis

The museum was seemingly untouched. No broken windows in the office building, no signs of vandalism. The shopping stalls were equipped with the usual goods but no personnel. There might have been demonstrations in front of the museum. Later info learns that there is supposed to be a warehouse containing objects somewhere in the environment; however the mission did not know at the time, so possible damage to this facility was neither checked nor confirmed.

Assessment of Memphis by the Director of the Austrian Archaeological Institute at Cairo, Irene Forstner-Müller, Joris Kila and Karl von Habsburg.

Even the souvenir shops at Memphis remained untouched.
**Saqqara**

The museum and the main storage facilities next to the main office building were untouched according to the SCA inspector, but could not be visited.

During the tour of the premises the mission went first to see the tomb of Mereruka – it looked seemingly undamaged

Teti – undamaged

Tomb of Kagemni – the door was opened by vandals but now it was welded shut, supposedly no damage.

Unas Pyramid – was especially opened for the mission, obviously closed since a long time and was untouched.

Tomb of Isisnofret – door was welded, supposedly unharmed

Tomb of Maya – clear signs of vandalism (broken locks, broken pieces of wood), supposedly no looting. The entrance to the famous reliefs was sealed with an SCA seal so it could not be visited. It was guaranteed to be in perfect order. The mission had no real reason to doubt this, since reliefs were generally left untouched.

Tomb of Tia & Tia – cupboards for reliefs were not locked, though reliefs look untouched. Some cupboards were sealed but definitely only after the break in.

Tomb of Horemheb – seemingly untouched, same as Tia.

2 brothers – new locks, doors welded shut, definitely broken into before. The same applies to Nefer.

The guard house at the entrance to the site is intact and the police is back on duty.
Chamber of the Unas pyramid

Abu Sir

The mission was told by a very helpful SCA inspector about illegal diggings. Supposedly they went no deeper than 50 cm and were already filled in again. But the illegal digs were too far away to be checked within the limited time available. It was decided to visit only the Mastaba of Ptahshepses as an example. This one could not be locked, and the mission was told that there had been people there but no damage could be immediately assessed.
Dahshur

The mission went to see the De Morgans storage facility. It was recently broken into several times up to February 14th, but now the doors and windows were walled off. The roof was secure. The mission found ammunition shells around the compound. Important pieces were supposedly brought to other more secure warehouses, but there was no doubt that looting on a big scale took place.

De Morgans storage facility

Lessons Learned

The mission was definitely necessary and very well received as shown by the encouragement of the local staff on site, once they were convinced that the mission was about Cultural Heritage Protection and not about journalism or tourism.

A crucial element of the mission proved to be the reach-back capacity at the home base (office of Dr Thomas Schuler in Chemnitz / Germany) that was constantly furnishing the newest information and coordinating contacts.

The mission would not have been possible without a concentrated effort from the people in public positions, diplomacy and the military. A basic condition for the operation was the willingness of the participants to go and take certain risks without waiting for insurances. The disappointment that other big NGOs and GO’s dealing with Cultural Heritage, had not yet managed to send experts or assistance to Egypt could be heard from all sides.
Suggestions for the Future

It is important to plan further missions in Egypt in the near future, since only a very small portion of areas where damage was reported could be surveilled.

It is strongly suggested by the mission that a conference in Egypt should be planned in the near future to analyze the security situation at archaeological sites, on how to deal with emergency situations and how to create contingency plans using the Egyptian example.

Military contacts and training about protection of Cultural Property are indispensable, this is for instance mandatory under IHL (1954 Hague Convention and Protocols) and is still not put into practice in many countries. The damage and access problems would have been less if the international community realizes this and would live up to the treaties they sign not only in word but also in practice.

Acknowledgements

The mission would like to recognize the support they got from the Ministry of Archaeology, the Minister Dr. Zahi Hawass and the whole staff of the SCA in Egypt in these very difficult and tense times.

The mission would also like to recognize the outstanding support by the Austrian Embassy, the Cultural Attaché, the Defense Attaché and the Director of the Austrian Archaeological Institute in Cairo.

Without the personal support of the office manager of the Dutch Institute, Tilly Mulder, and her perfect and convincing command of the Arabic Language, a lot of the goals of the mission could not have been achieved.

Only the help of the many individuals the mission met in Egypt, but also those helping with information from abroad, made the success of the mission possible.

Links

The photo documentation of the mission can be found at http://www.blueshield.at/.