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

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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.

1. 'The Role of NATO and Civil Military Affairs', in Lawrence Rothfield. (ed.), *Antiquities under Siege*, part II chapter 16. New York 2008.

The Role of NATO and Civil Military Affairs

JORIS D. KILA

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)¹ 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 NATO² 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)³, the EU's first military initiative.⁴ 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.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 Affairs⁶ 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 2005.¹⁰

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)¹¹ 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 CIMIC¹² 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. officers¹³ 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.¹⁴ The academy cooperates with the Austrian Society for the protection of cultural property.

Poland deployed militarized archaeologists in Babylon, Iraq.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.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 watch-towers, 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.¹⁷ 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.¹⁸ 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, watch-towers, 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.¹⁹ 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.²⁰ 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).²¹ 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,²² 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 inter-linked 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 Hladik²⁵ 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."
2. "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." Federal Emergency Management Agency, "FEMA Director Paulison speaks at NATO on the importance of civil-military cooperation," News Release FNF-06-017, November 16, 2006. <http://www.fema.gov/news/newsrelease.fema?id=31586>.
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.
10. See also Gary Schwartz, “Dutch Help Bedouins Guard the Sumerian Site of Uruk,” *The Art Newspaper*, October 2003. <http://www.theartnewspaper.com>.
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.
13. See also Gary Schwartz, “An Insider’s Account of the Evacuation of Babylon,” *The Art Newspaper*, April 2005. <http://www.theartnewspaper.com>.
14. For example, “Protection of Cultural Property in the Event of Armed Conflict: A Challenge in Peace Support Operations,” ed. Edwin.R. Micewski and Gerhard Sladek (Vienna: Armed Forces Printing Office 2003).
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 Olbryś, “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.
17. Mirosław Olbryś, T. Burda, and A. Dolatowska, "Report on the current condition of the Babylon archaeological site (the military Camp Alpha site)," web site of the Ministry of Culture and National Heritage of Poland at <http://www.mk.gov.pl/website/index.jsp.catId=340>. The report was also published on CD (Warsaw 2005).
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.pdf>http://www.thebritishmuseum.ac.uk/newsroom/current2005/Babylon_Report04.doc.
19. Mirosław Olbryś, *Raport otwarcia: Stan dziedzictwa kultury i jego ochrony w prowincji Kadisiya, Irak, oraz propozycje działań pilnych i długookresowych* [Opening report: The Status of Cultural Heritage and its Protection in Al Qadisiyah Province, Iraq, and Proposals of Urgent and Long-Term Activities], (typescript paper submitted to the MND CS command, March 2005).
20. Cindy Ho, "Heritage Lost: Looting of Archaeological Sites Continues in Iraq," *Saving Antiquities for Everyone* website (first published in 2004), <http://www.savingantiquities.org/h-featureIraq.htm>.
21. Olbryś, 2007
22. See as an introduction Matthew Bogdanos, "Joint Interagency Cooperation: The First Step," *Joint Force Quarterly* 37(Second Quarter 2005): 10–18. http://www.dtic.mil/doctrine/jel/jfq_pubs/0437.pdf.
23. United Nations Educational, Scientific and Cultural Organization, *Basic Texts*, 2006 edition, (Paris: UNESCO, 2006) 6.
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.

25. Jan Hladík, "Reporting System under the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict," *International Review of the Red Cross* 840. (December 31, 2000): 1001–1016. <http://www.icrc.org/Web/eng/siteeng0.nsf/html/57JQTD>. Mr. Hladik provided me with juridical information on the subject.

A Closer Look at NATO CIMIC Doctrine

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.

<i>Doctrine</i>	<i>Application</i>
<p>"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."</p>	<p>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.</p> <p>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.</p>
<p>"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."</p>	<p>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.</p>
<p>"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."</p>	<p>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.</p>
<p>"CIMIC activities are carried out with a view to timely transition of those functions to the appropriate civilian organisations or authorities."</p>	<p>Military cultural experts should not stay in theatre longer than necessary and should hand over their activities and project information to civilian</p>

<i>Doctrine</i>	<i>Application</i>
<p>“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.”</p>	<p>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.</p> <p>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.</p>
<p>“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.”</p>	<p>Cultural and cultural heritage matters have proven to be quite effective door-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.</p>

2. 'Utilizing Military Cultural Experts in Times of War and Peace: an introduction', in Paul Meerts, (ed.), *Culture and International Law*, Chapter 12. The Hague 2008.

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. Egalement 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

P. Meerts (ed.), Culture and International Law

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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.



Figure 1. General Dwight D. Eisenhower, Supreme Allied Commander, accompanied by Gen. Omar N. Bradley, and Lt. Gen. George S. Patton, Jr., inspects art treasures stolen by Germans and hidden in a salt mine in Germany. Lt. Moore, April 12, 1945. US National Archives.

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.

³ Information given by Dr Laurie W. Rush, US Army Archaeologist and Project Director, OSD Legacy Funded in Theatre Heritage Training in an email message dated November 2nd, 2007.

⁴ International council of Museums, International Council on Monuments and Sites, International Council on Archives, International Federation of Library Associations and Institutions.

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.⁵ On the other hand, the EU did organize a conference on the topic in Amman in 2005 through the Euromed⁶ 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'.⁷ The International Committee of the Blue Shield (ICBS), based in Paris and specifically mentioned in the Hague Convention,⁸ 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

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 relatively⁹ 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

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 the 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.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.¹²

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 <www.Euromedheritage.net>.

¹² Matthew F. Bogdanos, ‘Joint Interagency Coordination Group (JIACG) Mission’, CCJIACG Position Paper (MacDill Air Force Base: US Central Command, 17 September 2002) p. 1. See also his book on the looting of Baghdad Museum, *Thieves of Baghdad*.

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,¹³ 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 Archive¹⁴ 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 North¹⁵ 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 officers¹⁶ and ask for support.

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, *The Artnewspaper.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

¹⁷ Sources used: Information from Dr. M. van Ess, DAI Institute Berlin and DAI website; Wolfgang Gockel, *Irak*, Cologne 2001; Information from Prof. Dr. Wilfred van Soldt, University of Leiden; Gwendolyn Leick, *Mesopotamia, The Invention of the City* (London 2002); Georges Roux, *Ancient Iraq* (London 1992); *The Concise Oxford Dictionary of Archaeology* (New York 2002); Wikipedia; *The Oxford Encyclopedia of Archaeology in the Near East*, Vol. 5 (New York 1997); Joris D. Kila, ‘The Role of NATO and Civil Military Affairs’, in Lawrence Rothfield (ed.) *Antiquities under Siege* (New York: Alta Mira Press 2008); *Alle Hens*, magazine from the Royal Netherlands Navy Marine Corps, March 2004 and information from the 21st INFCIE.

cities in Shinar founded by Nimrud). Uruk is the largest Tell¹⁸ 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 Ziggurat¹⁹ 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 Sassanian 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 Archäologisches 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 Chicago²⁰ that Uruk was situated in their area of responsibility (AOR). During a Civil Theatre Assessment mission²¹ 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: Muhhar Romain. 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 Romain 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 Romain himself they saw in the far distance that

people were digging. Muhhair Romain told them that these people were looters. 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.

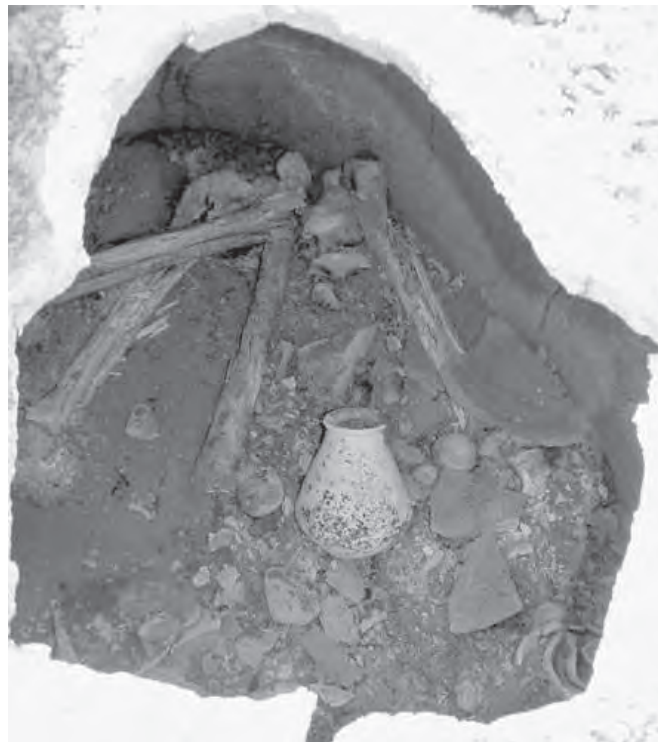


Figure 4. Looted grave in Warka, January 2004. Photograph reproduced with permission from the Royal Netherlands Navy Marine Corps.

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 Archaeological 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 Ministries²² and to the CIMIC officers of the Dutch Marines.



Figure 6. Looted library in As Samawah, September 2003.
Photograph by Joris D. Kila.

4. 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.²³ All kinds of military rules, customs and regula-

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.

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 ethnographical museum.²⁴ 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 flexible 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 artifacts, cultural goods showing their identity, would be represented. In general, 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 international 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 Ethnographical Museum for Afghanistan’.²⁵

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 of 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 North²⁶ and the Afghan Academy of Sciences who addressed a separate request to the ISAF headquarters in Kabul.²⁷

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.



Figure 7. Official request from the Afghanistan Academy.

The plan/proposal was submitted to the Dutch authorities as well as to NATO.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-

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.

mentation are limited due the international scarcity of militarized and deployable cultural experts. The US recently made an attempt to tackle the problem by creating vacancies for two cultural heritage specialists to work with the Iraq Reconstruction Management Office (IRMO) on the ground in Iraq; they should also deal with the military and this is an example of utilizing civilian experts with a diplomatic status in a military context. In this case this is possible because the US has a large force on the ground and a leading position.

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 Bourdieu²⁹ 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-

²⁹ Pierre Bourdieu 1930-2002.

³⁰ See the mural in the Mattece Monastery featured in this paper.

³¹ See L.H Nicholas, *The Rape of Europa* (New York 1994).

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 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

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

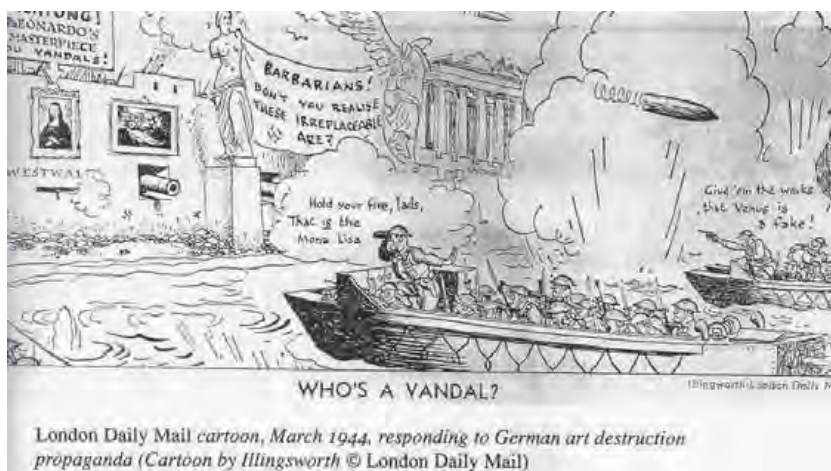


Figure 8.

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 minarets 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 established 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

³² 8 *Yale Human Rights & Development L.J.* (2005) pp. 164-166, 2005.

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 practical example described here is a violation to the Hague Convention: Article 3. The safeguarding of cultural property: Article 4. Respect for cultural property: Article 5.2. Occupation: Article 7. Military measures and the Geneva Convention IV, Articles 33 and 53.

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

Hague Convention 1954 + protocols	Current military policies, customs, practice and regulations	Possible incongruities or desired additions
<p><i>Article 3. Safeguarding of cultural property</i></p> <p>The High Contracting Parties undertake to prepare in time of peace for the safeguarding of cultural property situated within their own territory against the foreseeable effects of an armed conflict, by taking such measures as they consider appropriate</p>	<p>Operations take place in: Area of Responsibility (AOR) Country of origin of military force and AOR in countries where a mission is taking place</p>	<p>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 of a foreign mission, territory, etc.?</p> <p>Article 5: possible obligations concerning safeguarding cultural property outside country of origin.</p>
<p><i>Article 4. Respect for cultural property</i></p> <p>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.</p>	<p>AOR = mission area COM = Commander CH protection has to be in support of the COM's mission Following NATO's AJP-9 CIMIC doctrine</p>	<p>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 this 'foreign' country is a High Contracting Party to the HC? Does the UNESCO treaty give directions?</p>
<p><i>Article 4. Respect for cultural property</i></p> <p>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.</p>	<p>Field COM decides on all actions.</p>	<p>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?</p>
<p><i>Article 4. Respect for cultural property</i></p> <p>3. The High Contracting Parties further undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of and any acts of vandalism directed against cultural property. They shall refrain from requisitioning movable cultural property situated in the territory of another High Contracting Party</p>	<p>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.</p>	<p>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?</p>
<p><i>2nd Protocol of the Hague Convention</i></p> <p>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</p>	<p>Not in support of COM's Mission following NATO's AJP-9 CIMIC doctrine</p> <p>In practice a COM on division level or higher is most likely to be a COM of coalition forces or multinational forces</p>	<p>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.</p>

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’.



Figure 9. Military personnel preparing Hescos.

In preparation for the meeting the three archaeologists attached to the Polish forces, Miroslav Olbrys, 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

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)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

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 NATO³⁶ 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-

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.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.

CIMIC Doctrine	Explanation
‘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.’	For Cultural Affairs this means that planners and commanders have to be made aware of the importance and value of CH. 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 CH 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.
‘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.’	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.
‘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.

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.

<p>‘CIMIC activities are carried out with a view to timely transition of those functions to the appropriate civilian organizations or authorities.’</p>	<p>All military cultural experts (not only CIMIC/CA) 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. Procedures must be developed to properly hand over cultural activities.</p>
<p>‘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. 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, CIMIC’s focus will be broader and more complex, enabling a COM to play his part in what is likely to be a composite, multi-functional approach to a political emergency.’</p>	<p>Cultural Affairs supplies information and guidance concerning the above-mentioned. 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.</p> <p>Better would be the use of CPP advisors from the whole army not restricted to CIMIC/CA only.</p>
<p>‘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 organizations 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 COM’s tool in establishing and maintaining these relationships.’</p>	<p>Cultural and cultural heritage matters have proven to be quite effective door openers in attempts to bring parties together in times of minor conflicts. Also, the protection of cultural heritage is good for the PR of the organizations involved, including the military.</p>

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.³⁹

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.⁴⁰

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 Foner⁴¹ – '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 Baghdad⁴² 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

⁴⁰ See <www.Columella.co.uk>.

⁴¹ Eric Foner, *Who owns history?: Rethinking the past in a changing world* (New York 2002).

⁴² 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.

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'í, 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:



Figure 10.
Photograph by Joris D. Kila.



Figure 11. © 1990 Philadelphia Museum of Art (The original, pencil additions to printed reproduction.

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 1940⁴³ whereas the other is a historical mural representing a Christian saint from the Mattecece 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 Maradona).

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.

chin-tuft.⁴⁴ 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.⁴⁵ 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

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 (Leinz 86).

⁴⁵ Civil Affairs Arts Monuments and Archives guide. GTA 41-01-002, March 2005, US Army Training Support Centers.

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



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

⁴⁶ *International Herald Tribune*, June 18th, 2007.

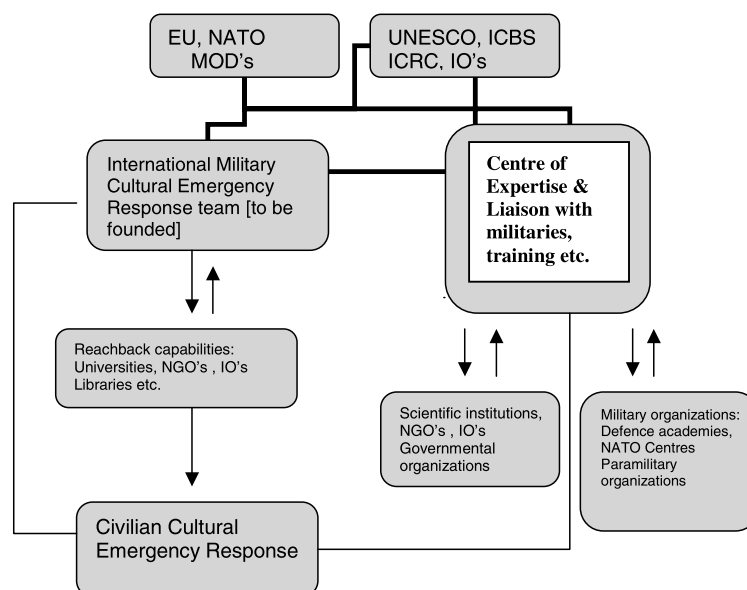


Figure 13. Organizational structure. Copyright by Joris D. Kila.

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.

commanders cannot make sound judgments in the situations described in the 1954 Hague Convention and the 1999 Second Protocol.

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 property⁵ 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

5 The term 'cultural property' is used here as defined in Article 1 of the 1954 Hague Convention.

Convention⁶ 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).⁷

The use of Hescos⁸ 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.⁹ 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.¹⁰

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,¹¹ the economic incentive was neutralised by Dutch military experts' offering modest payments to local guards.¹² The whole complex of looting, theft

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 ConcertainerTM 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.

10 John Curtis, Keeper of the Department of the Ancient Near East at the British Museum, gives examples in his Report on Meeting at Babylon 11-13 December 2004.

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 half-way 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.

12 Joris D. Kila, 'Utilizing Military Cultural Experts in Times of War and Peace: An Introduction – Cultural Property Protection within the Military, Experience in Theatre, Different Perceptions of Culture and Practical Problems', in *Culture and International Law*, ed. Paul Meerts (The Hague: Hague Academic Press, 2008), pp. 183-229.

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.¹³ 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 military-related aspects as well as dissemination. This makes proper training and awareness-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.¹⁴ 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 Star¹⁵ 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 indispensable 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.’¹⁶

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

13 Patrick O’Keefe, *Trade in Antiquities: Reducing Destruction and Theft* (Paris, UNESCO: 1997).

14 US Department of the Army, Civil Affairs Arts Monuments and Archives Guide, March 2005.

15 A major military exercise that takes place in Egypt every two years.

16 Speech held during the “Defence Leaders Forum”, Noordwijk aan Zee, the Netherlands, 23 April 2007; file in possession of the author.

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'¹⁷ 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 Iraq¹⁸ 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.

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 publications¹⁹ 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 *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

19 Lawrence Rothfield, *The Rape of Mesopotamia: Behind the Looting of the Iraq Museum* (Chicago: University of Chicago Press, 2009); Peter G. Stone, 'The Identification and Protection of Cultural Heritage during the Iraq Conflict: A Peculiarly English Tale', in *The Destruction of Cultural Heritage in Iraq*, ed. Peter G. Stone and Joanne Farchakh Bajjalj (Woodbridge: Boydell Press, 2008); Joris Kila, 'The Role of NATO and Civil Military Affairs', part II chapter 16 in *Antiquities under Siege: Cultural Heritage Protection after the Iraq War*, ed. Lawrence Rothfield (Lanham, MD: AltaMira Press, 2008).

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 Stone²⁰ 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.²²

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.²³ 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-

22 The publication of this conference can be found online on: http://www.muinsuskaitsee/failid/156_est_haagi_konvents.pdf

23 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 backgrounds 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

24 Dahr Jamail, 'Engineering "Trust of the Local Population": How Some Anthropologists Have Learned to Stop Worrying and Start Loving the Army', 16 May 2009, www.truthout.org/051609Z. See also David Price, 'The Leaky Ship of Human Terrain Systems', *Counterpunch* Weekend Edition, 12/14 December 2008. [counterpunch.org]

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 publications³⁰ 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 Hague³¹

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:

- 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;
- 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;
- 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;
- 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;
- 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.

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:

- enhance military capacity to implement CPP across the full range of operations;
- provide a forum for international cooperation and networking for those working in a military context;
- identify areas of common interest;

30 E.g. Umberto Albarella, ‘Archaeologists in Conflict: Empathizing with which Victims?’ *Heritage Management* 2.1 (Spring 2009). See also Robert Gooren, ‘Cultuur, cultuurinformatie en cultuurtraining: De Sectie CAI en het human terrain van het mis-siegebied’, <http://www.nov-officieren.nl/Nieuwewebsite/Carre/2009//juli%20en%20aug/Carrejuliaug.html>.

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.

4. 'Can white men sing the blues? Cultural Property Protection in times of armed conflict deploying military experts', in Laurie Rush (ed.), *Archaeology, Cultural Property and the Military*. Woodbridge 2010.

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 (eg 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).



FIG 5.1
DAMAGED MURAL IN MATEJCE.

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 5.2
DAMAGED ST PETER MURAL, 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.

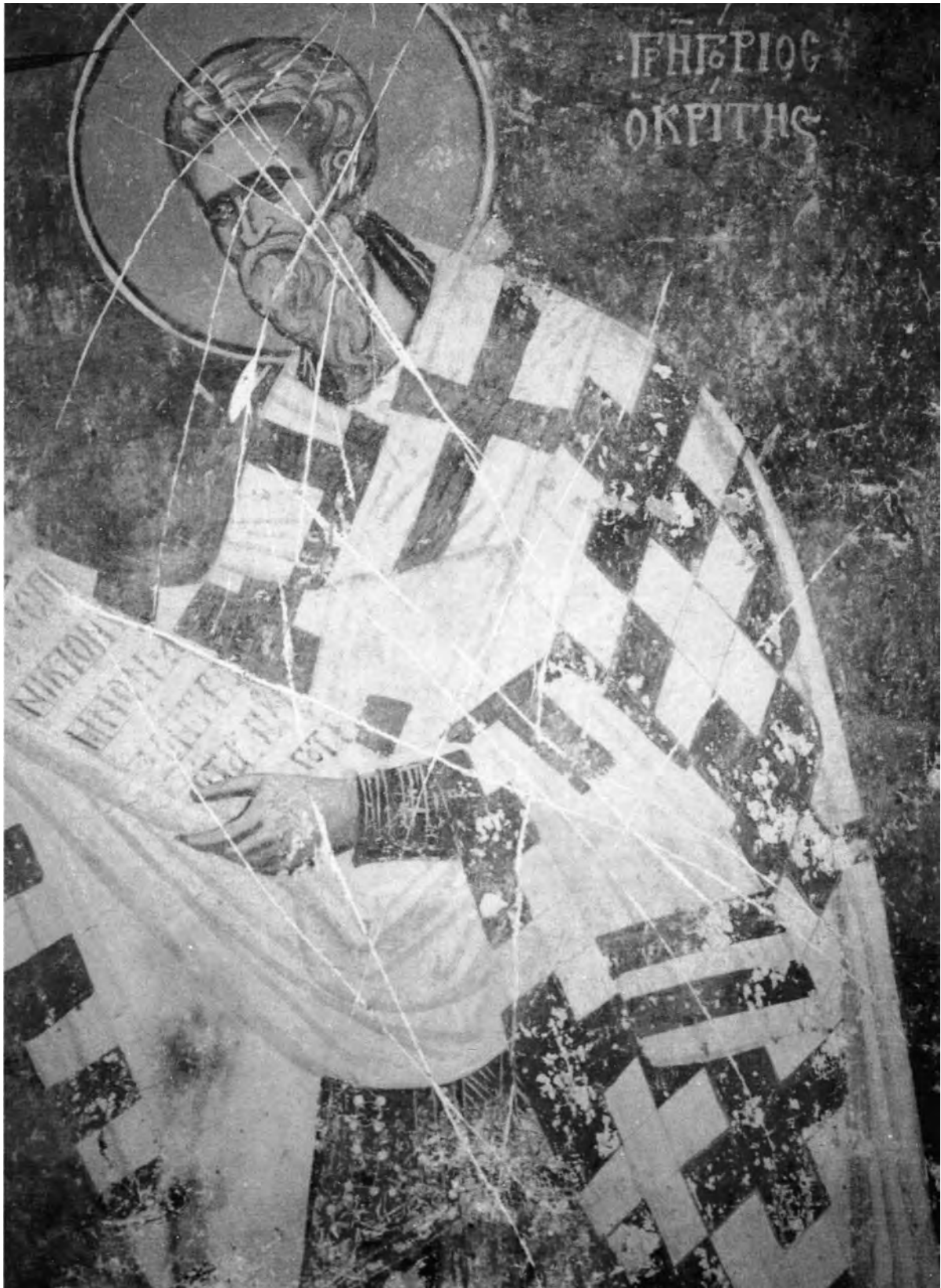


FIG 5.3
GEORGIOS OKRITES, PROBABLY AN ARCHBISHOP OR ST GEORGE: DAMAGED MURAL IN THE MATEJCE MONASTERY.

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.² 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'.

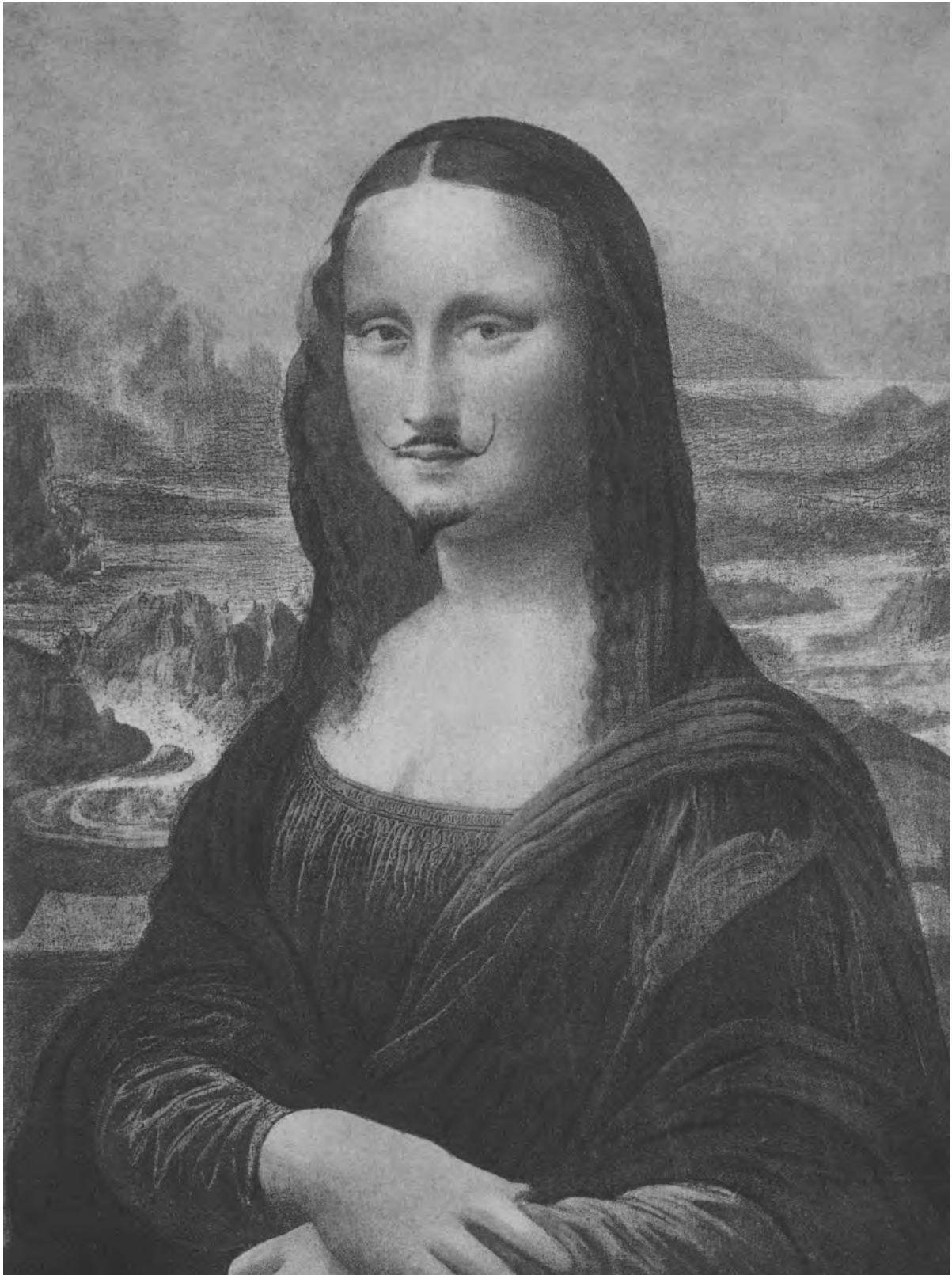


FIG 5.4
L.H.O.O.Q FROM BOX IN A VALISE (BOÎTE-EN-VALISE) BY OR OF MARCEL DUCHAMP OR ROSE SÉLAVY
(DE OU PAR MARCEL DUCHAMP OU ROSE SÉLAVY). MARCEL DUCHAMP, AMERICAN (BORN FRANCE),
1887–1968

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
- Governmental institutions: Macedonia: Institute for the Protection of Cultural Monuments of the Republic of Macedonia, Ministry of Culture Macedonia, National Museum Macedonia. Netherlands: Royal Netherlands Embassy in Skopje, Instituut Collectie Nederland Amsterdam. MoD The Netherlands
- 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, Abdulmir 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 Erfahrungen¹⁾ 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.²⁾

Sicher, es gibt Länder und Institutionen, die als gutes Beispiel für einen bewussteren Umgang mit der Thematik „Kulturgut“ dienen³⁾ oder die nach der Unterzeichnung der Haager Konvention rasch „aufschließen“, jedoch stellen diese Länder und Institutionen nach wie vor leider eine Minderheit dar.

Prolog

2008 organisierte das Niederländische Verteidigungsministerium ein Seminar zum Thema „Kulturgüterschutz (KGS) im Falle bewaffneter Konflikte“ in Den Haag. Damit kam das Verteidigungsministerium seiner rechtlichen Verpflichtung zur Verbreitung der Haager Konvention von 1954 (Artikel 25) und des Zweiten Protokolls von 1999 (Artikel 30) nach. Eine der wichtigsten Schlussfolgerungen des Seminars war, dass das Fachwissen zum Kulturgüterschutz innerhalb der Streitkräfte eines Landes als Ganzes wahrgenommen und verankert oder innerhalb des Verteidigungsministeriums angesiedelt sein muss. Nicht nur ist der Kulturgüterschutz für alle Streitkräfte wichtig, sondern es ist weiters absolut unabdingbar, das damit in Zusammenhang stehende Fachwissen Kommandanten und höherem Führungspersonal aller Teilstreitkräfte zugänglich zu machen. Auf diese Weise können Kommandanten, vorzugsweise mit Unterstützung von Fachpersonal, im Falle von Situationen laut der Haager Konvention von

1954 diese fundiert beurteilen und dabei das Risiko des Bruchs einer rechtlichen Verpflichtung verringern, was im schlimmsten Falle eine Strafe gemäß Völkerrecht nach sich ziehen kann - wie etwa im Fall Pavle Strugar.⁴⁾

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 Anfälligkeit 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



Der Kulturgüterschutz hat für eine erfolgreiche Auftragsbefreiung von Streitkräften im In- und Ausland an Bedeutung gewonnen (Bild: US-Truppen im Irak schützen das Nationalmuseum in Bagdad vor weiteren Plünderungen).

weiter fortgeschritten ist als jegliche bereits bestehenden Debatten, die auch militärische Aspekte dieser Begriffe bzw. Konzepte einschließen. In dieser Hinsicht gibt es eine „Betrachtungskluft“ zwischen der zivilen und der militärischen Perspektive.

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?

Es ist offensichtlich, dass die Art und Weise, wie bewaffnete Konflikte ausgetragen und gelöst werden, eine Änderung erfahren hat. Derzeit trachten Nationen, Völker und Gruppen zunehmend danach, sich selbst neu zu definieren und sich mit eigener Identität zu bestätigen. Dies erzeugt Spannungen, bei denen der Identitätsaspekt im Mittelpunkt steht, während gleichzeitig gegenläufige und widersprüchliche Bewegungen bei internationalen Prozessen der Identitätsformung und Charakterbewahrung eine Rolle spielen. Diese Situation ruft Opposition, Widerspruch und Probleme aller Art auf den Plan. Man



Der zielgerichtete Schutz von Kulturgütern erfordert den Einsatz von Experten und Beratern bereits in der Planungsphase von Operationen sowie ein ständiges Aufrechterhalten der zivil-militärischen Verbindungsstruktur im Einsatzraum (Bild: Einsatz niederländischer Experten im Irak).

beginnt, sich auf historische Symbole und Ereignisse, Traditionen und Institutionen zu berufen, und neigt dazu, damit in Verbindung stehende Objekte wie Kulturgüter zu politisieren und zu manipulieren.

Nicht nur politische Entwicklungen, sondern auch Schutz und Zerstörung von Kulturgütern⁵⁾ sind Teil der identitätsgebenden Prozesse. Dies ist besonders bei innerstaatlichen Konflikten, wie zum Beispiel in Ex-Jugoslawien, Irak und Afghanistan, zu beobachten. Sie haben gemein, dass sie häufig kulturell bedingt sind. In einigen Fällen wird Ikonoklasmus ausgeübt, wenn Parteien absichtlich versuchen, den (materiellen) Ausdruck der Identität ihres Gegners zu zerstören oder zu beschädigen. Typische Beispiele dafür sind die Zerstörung der Mostar-Brücke in Bosnien und Herzegowina sowie der Bibliothek seiner Hauptstadt Sarajewo.

Beschränkungen und Herausforderungen betreffend die Umsetzung von Kulturgüterschutz innerhalb militärischer Organisationen

Die Praxis zeigt, dass jene Gruppierungen, die ein Interesse daran haben, die in der Haager Konvention festgeschriebenen Inhalte oder andere relevante Gesetze umzusetzen, einander weder verstehen noch bestrebt sind, sich untereinander zu koordinieren. Diverse gegensätzliche Faktoren spielen hierbei eine Rolle. So gibt es auf der zivilen Seite die Schwierigkeit, militärische Gegebenheiten und die militärische Kultur zu verstehen, während das Militär seinerseits wenig Bereitschaft zeigt, seine Sichtweise darzustellen bzw. überhaupt wenig Interesse am Thema zu haben scheint. In der Folge sind jene wenigen Experten (oft Angehörige der Reserve), die versuchen, als Vermittler zwischen zivilen und militärischen Bereichen aufzutreten, und die über Wissen und Erfahrung mit beiden „Kulturen“ verfügen, oft mit Misstrauen sowohl seitens ihrer Standesvertreter als auch ihrer Kameraden vom Militär konfrontiert und riskieren, ins Abseits gedrängt zu werden.

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.

Als Folge werden in Europa zu wenige Anlässe dazu benützt, Strategien des Kulturgüterschutzes für militärische Organisationen umzusetzen, wie dies in der Haager Konvention und ihren Protokollen gefordert wird. In vielen Ländern Europas wird die Ausbildung Militärangehöriger durch Interessenkonflikte und widersprüchliche Kräfte und Fraktionen innerhalb von Kreisen von Akteuren sowie durch angebliche finanzielle Beschränkungen behindert (siehe Abb. 1).



Doch warum sollten sich militärische Organisationen mit einer solch anscheinend heiklen Materie wie Kulturgüterschutz befassen?

Es gibt mehrere Faktoren, die dies rechtfertigen. Zunächst hat die Erfahrung gezeigt, dass sowohl die Befassung als auch die Nicht-Befassung mit Kulturgütern potenzielle Risiken birgt, die in Zusammenhang mit sozialem 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 kann die Rolle des Militärs als Hauptakteur in bewaffneten Konflikten nicht ignoriert werden. Die Streitkräfte sind per definitionem in alle Aspekte des bewaffneten Konflikts involviert.

Daher gibt es eine Reihe von grundlegenden Argumenten und Anreizen für die Einbindung des Militärs in den Kulturgüterschutz.

1. Das Militär ist in allen Phasen eines Konfliktes, einschließlich jener Situationen, in denen zivile Experten und die örtliche Polizei nicht einsatzfähig sind, eingebunden.

2. Das Militär hat die logistischen Mittel und Wege, um in kulturellen Notsituationen zu handeln.

3. Das Militär muss in Übereinstimmung mit nationalen und internationalen gesetzlichen Bestimmungen und Doktrinen handeln.

4. Aus militärtaktischer und militärstrategischer Sicht gibt es gute Gründe, Kulturgüter zu schützen.

Weitere Erklärungen und Beispiele

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

vorbereitet zu sein, ist auch, dass Kulturgüter bei militärischen Einsätzen der Gefahr einer möglichen Plünderung oder des Diebstahls seitens eigener Kräfte, örtlicher Bevölkerungsgruppen, krimineller Netzwerke oder feindlicher militärischer Kräfte ausgesetzt sind. Ein Beispiel für einen allfälligen, unbeabsichtigt zugefügten Schaden durch eigene Kräfte ist der Einsatz von „Hescos“⁷⁾ ohne vorhergehende Absprache mit einem Kulturgüterschutzexperten. Hescos sind große, mit Sand oder Schutt gefüllte Behälter, die als Sperren für Militärlager und zur Befestigung dienen. Es wurden bereits Fälle bekannt, in denen Hescos mit Gegenständen von Ausgrabungsstätten, wie etwa Fragmenten von Tongefäßen und anderen archäologischen Objekten, befüllt wurden. Andere Beispiele für die Beeinträchtigung der natürlichen und archäologischen Umgebung sind die Verwendung schwerer Betonplatten als Lande-

plattformen für Helikopter, Sprengung von Kampfmitteln zu nah bei Denkmälern, der Austritt von Treibstoff oder Schäden, die von Panzern im Zuge von Ausbildungsfahrten verursacht wurden. Alle diese Fälle sind de facto Verstöße gegen die Haager Konvention.

Weiters gibt es Handel mit und (oft die in Auftrag gegebene) Plünderung von Kunstgegenständen in Kriegsgebieten sowie Plünderung von Ausgrabungsstätten, wie sie häufig durch feindliche Kräfte erfolgt.⁸⁾ 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 Aspekte, 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 ein militärischer Force Multiplier sein.

Rechtliche Verpflichtungen zur Umsetzung von Kulturgüterschutz und die Verbindung zur Handhabung von Bodenschätzen

Die wichtigsten rechtlichen Verpflichtungen sind in der Haager Konvention aus 1954 und ihren Protokollen sowie anderen Regelungen, wie UNIDROIT⁹⁾ und dem UNESCO-Übereinkommen zum Schutz des Kultur- und Naturerbes der Welt von 1972 festgehalten.

Eine wichtige Regelung, die das Militär direkt betrifft, ist die NATO STANAG 7141 EP-Doktrin,¹⁰⁾ in der Boden- und Kulturschätze als typische Merkmale der Umgebung angesehen werden, die im Hinblick auf NATO-geführte militärische Handlungen¹¹⁾ beachtet werden müssen. Dies

öffnet Perspektiven für multidisziplinäre Kooperation sowie für die Einbettung von Kulturgüterschutz in bereits vorhandene Strukturen zum Umweltschutz. Erwähnt wird die Verpflichtung, potenzielle (umweltbezogene) Einflüsse durch militärische Aktivitäten, einschließlich der Auswirkungen von Alternativen und Anlassfällen wie jene der Gefährdung von Boden- und Kulturschätzen, zu definieren. Auswirkungen auf Boden- und Kulturschätze (historische und archäologische) sollten nach Möglichkeit vermieden werden. Eine grundlegende Richtlinie ist die Feststellung von machbaren mildernden Maßnahmen. Dies ist die Erwägung alternativer Örtlichkeiten oder Tätigkeiten, welche die militärische Zielsetzung der Ausbildung oder des Einsatzes erfüllen, bei gleichzeitiger Reduktion oder Elimination des Umweltrisikos. Der Ausdruck „mildernde Maßnahmen“ (mitigation measures) bedeutet, dass die verschiedenen Möglichkeiten zum Schutz von Kulturgütern bereits in der Planungs- oder Beurteilungsphase berücksichtigt werden.

In dieser Hinsicht könnte die Environmental Training Workgroup der NATO ein passender und natürlicher Verbündeter sein. In ihrer Einsatzbeschreibung¹²⁾ 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 solidere Basis für die effektive Umsetzung in einem internationalen militärischen Umfeld und gewährleistet gleichzeitig die Entsendung internationaler Militärexperten.

Ein erster Schritt erfolgte im 2009 mit dem ersten Briefing zum Kulturgüterschutz durch einen niederländischen Kulturgüterschutzexperten im Rahmen des Kurses „Environmental Management for Military Forces“ an der NATO-Schule in Oberammergau, Deutschland.

Ausbildung zum Kulturgüterschutz im Militär

Das Zweite Protokoll zur Haager Konvention von 1954 verleiht dem Übereinkommen mehr Konkretheit in Bezug auf alle Arten militärischer Aspekte und die Verbreitung ihres Inhalts. Die in beiden Dokumenten erwähnte Ausbildung und Bewusstseinsstärkung für Streitkräfte

ist daher essenziell. Derzeit verwenden die USA eine kleine Handkarte mit Anweisungen, wie man bestimmte kulturelle und archäologische Objekte erkennt; darüber hinaus gibt es ein Handbuch über Kunstdenkmäler und Archive, das durch U.S. Civil Affairs¹³⁾ erstellt wurde. Die Niederlande und die USA haben Spielkarten zur Unterweisung in Kulturgüterschutz für militärisches Personal als Vorbereitung für einen Auslandseinsatz erarbeitet.

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.

Was ist ein umfassender Ansatz? Dazu meinte der frühere NATO-Generalsekretär De Hoop Scheffer: „*Ein umfassender Ansatz fördert Kooperation und Koordination zwischen internationalen Organisationen, einzelnen Staaten, Ämtern und NGOs sowie dem Privatsektor. Die Entwicklung einer solchen Kooperationskultur wird nicht einfach sein. Wir alle sind in unseren eigenen Handlungsweisen verhaftet.*“

Das Dutch Joint Doctrine Bulletin on Provincial Reconstruction Teams stellt fest, dass der Kern eines umfassenden Ansatzes in der Tatsache besteht, dass Konflikte nicht durch militärische Mittel alleine gelöst werden können. Da Entwicklung und Sicherheit eng miteinander verbunden sind, ist es nötig, sich den Aufgaben Sicherung, Wiederaufbau und gute Regierungsführung umfassend zu nähern. Entwicklungszusammenarbeit sowie militärische und diplomatische Aktivitäten sollen miteinander verbunden werden.

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.

Aufgrund seiner Komplexität kann Kulturgüterschutz nur multidisziplinär - daher gemeinsam und funktionsübergreifend - effektiv umgesetzt werden. Eine wirksame Kulturgüterschutzstrategie regt sowohl zu Bemühungen zum Wiederaufbau in einem Konfliktgebiet als auch zu Stabilität in der Post-Konfliktphase an.

Andere Anreize zur Umsetzung von Kulturgüterschutz für die Streitkräfte

Kulturgüterschutz könne 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

des Krieges entwickelt hatten, ging wieder verloren. Der Schutz kultureller Güter hatte keine Priorität innerhalb der jeweiligen Verteidigungsorganisationen. In den Niederlanden und vielen anderen europäischen Ländern trat der Kulturgüterschutz im Falle bewaffneter Konflikte erst wieder 1958 in Erscheinung, als die Haager Konvention von 1954 ratifiziert wurde. Die Verpflichtungen für Vertragsparteien der Haager Konvention reichen von der Vorbereitung des Schutzes von Kulturgut vor absehbaren Schäden im Falle eines bewaffneten Konfliktes, der Umsetzung der Bestimmungen der Haager Konvention in den militärischen Dienstsanweisungen und -vorschriften sowie der Bereitstellung von Fachpersonal oder Dienststellen auch schon in Friedenszeiten bis zum eigentlichen Schutz von Kulturgütern während militärischer Einsätze. Das Zweite Protokoll aus 1999 erweiterte diese Verpflichtungen.

Nachdem die Taliban 2001 in Afghanistan die Buddha-Statuen von Bamiyan zerstört hatten, erlangten der Kulturgüterschutz und seine gesetzlichen und ethischen Triebfedern wieder internationale Aufmerksamkeit.

Als das Museum von Bagdad nach der US-Invasion des Irak 2003 geplündert wurde, lernten die USA nicht nur, wie wichtig Kulturgüterschutz und kulturelles Bewusstsein als Force Multiplier¹⁴⁾ sein können, sondern auch, dass sein Fehlen zu einer negativen Wahrnehmung der Besatzer sowie zu deren schwindender Akzeptanz führen kann, was die feindlichen Kräfte stärkt. Das Ereignis zeigte auch, dass Kulturgüterschutz in allen Phasen eines Konfliktes oder Einsatzes erforderlich ist, wobei der meiste Schaden zu Beginn eines Konfliktes entsteht.

Aufgrund seines behördenübergreifenden und multidisziplinären Charakters ist der Kulturgüterschutz bestens geeignet, im Rahmen des umfassenden Ansatzes oder jeglicher anderer weit reichender 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.

Eine korrekte Interpretation des Inhalts der Haager Konvention von 1954 und des Zweiten Protokolls von 1999 ist unerlässlich, jedoch nur möglich, wenn ein Kommandant Verständnis und Wissen hinsichtlich dieser gesetzlichen Instrumente und des Kulturgüterschutzes mitbringt. Dieses Wissen kann auch durch spezielle Kulturgüterschutzberater oder -offiziere zugänglich gemacht werden, vorausgesetzt, Streitkräfte haben solche Kapazitäten oder sind gewillt, diese zu schaffen. In jedem Fall sind ständige Forschung und Ausbildung erforderlich, zumal Kulturgüterschutz kein statisches Phänomen ist - neue Entwicklungen ergeben sich und sollten beobachtet und analysiert werden. Ausreichende finanzielle Mittel sollten zur Verfügung stehen oder gestellt werden, sowohl innerhalb eines Verteidigungsressorts als auch allgemein in den Staatsbudgets.



Aurora

Dem Eigen- und Truppenschutz kommt in internationalen Einsätzen besondere Bedeutung zu; der missbräuchliche Einsatz von Hescos (Bild) kann jedoch zu Schäden an kulturellem Erbe führen.

Wie wird Kulturgüterschutz international von Verteidigungsministerien gehandhabt?

International wurde bisher noch keine Doktrin bezüglich des Kulturgüterschutzes in Zeiten bewaffneter Konflikte entwickelt. Die NATO legte in ihrer Joint Doctrine for Environmental Protection during NATO-led Military Activities einige Vorschriften und Verfahren dar, jedoch sind diese weder in die einzelnen Bereiche oder den operativen Planungsprozess eingebettet noch sind sie kodifiziert. Dennoch ist klar geworden, dass internationale Zusammenarbeit notwendig ist. Finanzielle wie personelle Mittel sind zu knapp, als dass ein Land alleine eine Lösung herbeiführen könnte. Streitkräfteübergreifende Zusammenarbeit ist effizienter und kostensparender; Bereiche des gemeinsamen Nutzens werden Ausbildung und Vortragsfähigkeit, die Entwicklung von Ausbildungsinstrumenten, gemeinsame Übungen und spezielle Ausbildung vor Ort sowie streitkräfteübergreifende Beurteilungen sein.

Kulturgüterschutz kann den internationalen Rechtsstaat stärken und zum positiven Image jener Nation beitragen, die ihn umsetzt. Andererseits kann eine schlechte Kulturgüterschutzpolitik Ursache für ein negatives Image



Ausbildungs- und Übungseinheiten im Rahmen der Operations- und Einsatzvorbereitung leisten einen wichtigen Beitrag für den Kulturgüterschutz (Bild: Spielkarten als Ausbildungsinstrument für ins Ausland gehende Soldaten).

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.

Als positiv ist hingegen zu vermerken, dass seit Ratifizierung der Haager Konvention aus 1954 durch die USA im März 2009 viele Aktivitäten gesetzt wurden. Derzeit werden Möglichkeiten hinsichtlich der Erweiterung von Aktivitäten zum Kulturgüterschutz, wie etwa Ausbildung und Einbettung von Fähigkeiten im Verteidigungsressort, geprüft. Ausgangspunkt dafür sind Umwelt- und Kulturerbeprogramme sowie die bereits eingesetzten Archäologen und andere Experten. Auch im zivilen Bereich gibt es Ausbildungsaktivitäten, die auf Museen und Kunst ausgerichtet sind. In allen Teilstreitkräften sind bereits Kulturgüterschutzexperten vorhanden. Beispiele für Aktivitäten zum Kulturgüterschutz sind das Legacy Resource Management Program, das Cultural Resources Program der Environmental Division sowie das Integrated Training Area Management Program zum „Planungsdirektorat“, der Ausbildung, Mobilisierung und Sicherheit. Weiters gibt es die CENTCOM Historical/Cultural Advisory Group und Input in die vor Kurzem gegründete International Military Cultural Resources Working Group (IMCuRWG). Es gibt eine enge Zusammenarbeit mit der Universität von Colorado, und die USA streben grundsätzlich im Bereich Kulturgüterschutz internationale Kooperationen

an. 2009 wurde in Ägypten in Zusammenarbeit mit einem ehemaligen Kulturgüterexperten des niederländischen Verteidigungsministeriums vor Ort eine Ausbildung zum Kulturgüterschutz abgehalten.

Großbritannien hat die Absicht, die Haager Konvention aus 1954 und ihre Protokolle in der nahen Zukunft zu ratifizieren. Im britischen Verteidigungsministerium arbeiten Archäologen am Schutz von Heeresigentum und beraten den Verteidigungsausschuss des britischen Parlaments. Offensichtlich wird derzeit aufgrund finanzieller Einschränkungen nicht viel mehr unternommen.

In Österreich ist das Thema Kulturgüterschutz bereits relativ fixer Bestandteil der „Tagesordnung“. Verbindungs-offiziere für den militärischen Kulturgüterschutz werden in den Stäben der territorialen Kommanden (Militärkommanden) sowie im Verteidigungsministerium eingesetzt, und in Zukunft sollen auch in den Brigadestäben Stabsmitglieder und Experten mit den Aufgaben des Kulturgüterschutzes vertraut gemacht werden. Kulturgüterschutz ist ein relativ fester Bestandteil der Ausbildung und Planung, wird aber durch die kürzliche Errichtung eines Lehr- und Forschungsarbeitsplatzes an der Landesverteidigungsakademie in naher Zukunft beträchtlich ausgeweitet und v.a. auch in die Ausbildung am „Führungssimulator“ (Gefechtssimulation) integriert. Im Jahr 2010 veranstaltete die Landesverteidigungsakademie in Wien ein Seminar zum Zweiten Protokoll der Haager Konvention für Offiziere und Rechtsberater der ehemaligen jugoslawischen Staaten mit internationaler Beteiligung in Zusammenarbeit mit der UNESCO, ein weiteres derartiges Seminar ist auch für die englischsprachigen afrikanischen Länder in Planung bzw. wurde von der UNESCO angeregt. Die neu gegründete Association of National Committees of the Blue Shield hat ein Hauptbüro in Den Haag, ist aber auch in Österreich seit 2009 mit einem nationalen Komitee vertreten.

In den 1960er-Jahren forderte das italienische Bildungsministerium die Schaffung einer Carabinieri-Sondereinheit, die mit dem Schutz von paläontologischem, künstlerischem und historischem nationalen Kulturerbe befasst sein sollte: Es war dies das Comando Carabinieri, später bekannt als Comando Carabinieri Tutela Patrimonio Culturale. Diese Einheit ist im Irak sehr aktiv gewesen. Die World Association for the Protection of Cultural Property in times of conflict hat ihren Sitz in Rom (siehe www.eyonculture.net). Diese Nichtregierungsorganisation unterhält ein großes Netzwerk mit Akteuren in Nahost- und Mittelmeerländern.

Im Februar 2008 wurde in Estland eine große Konferenz über Kulturgüterschutz abgehalten. In Estland gibt es zwischen dem Kulturministerium und dem Verteidigungsministerium ein Abkommen zur Zusammenarbeit bezüglich der Umsetzung des Kulturgüterschutzes. Bisher erfolglos blieben jedoch Versuche, den Schutz von Kulturgut in die Lehrpläne des Baltischen Verteidigungskollegs aufzunehmen.

Die Niederlande betreffend wurde als Folge des Haager Seminars ein Bericht mit Empfehlungen für das weitere Vorgehen erstellt, in dem auch die Schaffung einer Kulturgüterschutz-Fähigkeit für das Verteidigungsministerium genannt wird. Dieser Bericht wurde dem niederländischen Generalstabschef vorgelegt, jedoch aufgrund finanzieller Einsparungen sowie Widerstands seitens Cultural Awareness-Experten im Verteidigungsministerium nicht in Erwägung gezogen. Dies ist nur ein Beispiel für die Unklarheit dieser beiden Disziplinen, die, wie der nächste Absatz zeigt, ernsthafte Einschränkungen zur Folge hat. Der Autor dieses Artikels hat, gemeinsam und mit Unterstützung des Niederländischen Ministeriums für Bildung, Kultur und Wissenschaft, der staatlichen Aufsichtsbehörde für Kulturerbe und dem niederländischen UNESCO-Ausschuss, Spielkarten als Ausbildungsinstrumente für ins Ausland entsandte militärische Einheiten erstellt.

Verwechslung von Cultural Awareness und Kulturgüterschutz

Bei der Bewusstseinsbildung hinsichtlich der Haager Konvention von 1954 und der Umsetzung des Kulturgüterschutzes in Streitkräften ergeben sich verschiedene Herausforderungen, die aus dementsprechend verschiedenen Blickwinkeln betrachtet werden müssen. Diese können je nach organisatorischer, bürokratischer, politischer, unternehmensethischer oder ethischer Sichtweise unterschiedlich sein. Das folgende Beispiel schließt sowohl Kommunikation als auch Kompetenzen und ethische Aspekte ein. Verwechslungen, aber auch Wettstreit zwischen den Fachleuten beider Disziplinen, wirken einer effektiven Umsetzung von Kulturgüterschutz entgegen.

Derzeit findet eine internationale Debatte über ethische Themen durch Anthropologen, Archäologen und Kunsthistoriker, die innerhalb des oder mit dem Militär arbeiten, statt. Das Problem dabei ist, dass die Gegner der wissenschaftlichen Zusammenarbeit mit dem Militär den anthropologischen Beitrag bei den so genannten Human-Terrain-Systems (HTS) als Vorwand für ihre Ablehnung

jeglicher Zusammenarbeit zwischen Wissenschaftlern und dem Militär, einschließlich und insbesondere auch den Kulturgüterschutz betreffend, benützen. Dies stört den Bewusstseinsbildungsprozess beim Militär hinsichtlich der Verpflichtungen der Haager Konvention von 1954 und dem Zweiten Protokoll von 1999. Die Anthropologen, die man in den amerikanischen HTS-Teams findet, sind nicht zu verwechseln mit den Kulturgüterexperten, die mit dem Militär gemäß der Haager Konvention aus 1954, dem Zweiten Protokoll oder anderen internationalen gesetzlichen Grundlagen zusammenarbeiten.

Es besteht die Meinung, dass „einige in das HTS des Militärs integrierte Sozialwissenschaftler“¹⁵ 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.¹⁶ Aufstandsbekämpfung¹⁷ selbst ist ein Werkzeug, das seit einiger Zeit vom Militär eingesetzt wird. Jedoch gibt es gegenwärtig die Tendenz, Cultural Awareness und Human-Terrain-Systems im Besonderen in die Aufstandsbekämpfung einzubeziehen, was zu Missverständnissen in Bezug auf Kulturgüterschutz führt.

Ein Kernproblem ist, dass Kulturgüterschutz und Cultural Awareness oft verwechselt bzw. zu eng miteinander in Verbindung gebracht werden. Es handelt sich dabei um zwei unterschiedliche Disziplinen, die natürlich miteinander verwandt sind. Aufstandsbekämpfung und Cultural Awareness werden von jeweils anderen Experten ausgeübt als Kulturgüterschutz. In der Theorie besteht nur im Falle des seitens gegnerischer Kräfte praktizierten, ungesetzlichen Handels mit Kunstgegenständen (illicit traffic) eine Überschneidung. In Europa werden allerdings beide Begriffe nach wie vor verwechselt. Man sollte klarstellen, dass Kulturgüterschutzoffiziere andere Aufgaben haben als Fachleute für Kulturbewusstsein. Diese beiden Disziplinen dürfen keinesfalls verwechselt werden, nicht nur, um hochqualifiziertes Fachwissen zu erhalten, sondern auch, um Verwirrung zu vermeiden oder zu verringern.

Schlussfolgerungen¹⁸

- 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 katastrophalen Diebstahls und Plünderungen von Kulturgut im Irak seit 2003 hat der Kulturgüterschutz seinen Weg zurück auf die politische und militärische Tagesordnung gefunden;

- Kulturgüterschutz ist ein militärischer „force multiplier“ und sollte niemals als unnötige, gesetzlich auferlegte, jedoch militärisch problematische und unnütze 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.

Teilnehmer internationaler Seminare sprachen ihren Wunsch nach internationaler Zusammenarbeit in Angelegenheiten des Kulturgüterschutzes aus. Als erste Initiative wurde 2009 die International Military Cultural Resources Working Group (IMCuRWG) in den USA gegründet. Diese Initiative umfasst Fachleute für Kulturerbe, die im militärischen Kontext tätig sind, um die militärische Fähigkeit, Kulturgüterschutz in allen militärischen Einsätzen sowie bei der internationalen Zusammenarbeit umzusetzen, zu verbessern. Weiters zielt diese Initiative darauf ab, optimale Vorgehensweisen und Lehren auszutauschen, das Bewusstsein diesbezüglich zu heben und das militärische Engagement für den Schutz von materiellem und ideellem Kulturgut und Kulturerbe öffentlich zu machen.

Epilog

Es gibt Bemühungen, den Kulturgüterschutz auf den militärischen „Plan“ zu bringen. Offensichtlich ist dies nicht ausreichend, um den militärischen Kulturgüterschutz zumindest in allen Verteidigungsministerien jener Nationen, die Signatarstaaten der Haager Konvention sind, umzusetzen. Europa hinkt diesbezüglich nach. Trotz der Beispielwirkung seitens mancher Länder wie Österreich, Polen, Italien und jüngst den USA gibt es eine Anzahl großer Länder wie Deutschland, Frankreich und Großbritannien, die diesem Thema innerhalb ihrer Streitkräfte wenig bis keine Bedeutung beimisst. Das niederländische Verteidigungsministerium machte einen guten Anfang, brach jedoch alle Aktivitäten unter dem Vorwand des heutzutage oft zitierten Finanzierungsmangels ab. Zwischen den einzelnen Akteuren gibt es weder gute Zusammenarbeit noch gegenseitiges Verständnis. Internationale Organisationen und Nichtregierungsorganisationen hinken ebenfalls hinterher, ein Gesinnungswechsel scheint notwendig. Gleichzeitig werden sowohl Kulturgüter an sich als auch der Kulturgüterschutz immer wichtigere Faktoren, die bei militärischen Einsätzen berücksichtigt werden müssen. Es ist an der Zeit, internationale Abkommen zu erfüllen, nicht nur mit Worten, sondern auch mit Taten. ■

ANMERKUNGEN:

- 1) Fünfjährige Vortrags- und Ausbildungstätigkeit bei Streitkräften im Bereich KGS und Teilnehmer an zahlreichen Konferenzen, Seminaren und Tagungen. Teilnehmer an unterschiedlichen Projekten mit dem Ziel, KGS-Programme zu initiieren und entsprechende Kapazitäten aufzubauen.
- 2) Haager Konvention zum Schutz von Kulturgut bei bewaffneten Konflikten (1954) sowie deren I. (1954) und II. (1999) Zusatzprotokoll.
- 3) Einige Beispiele sind Österreich, die polnische CIMIC-Organisation, die Carabinieri und neue Initiativen des US-Verteidigungsministeriums.
- 4) Ein ehemaliger General der Jugoslawischen Volksarmee (JVA), der für Kriegsverbrechen in der kroatischen Stadt Dubrovnik im Jahre 1991

angeklagt wurde. 2005 wurde Strugar von einem Tribunal wegen Angriffen auf Zivilisten, Zerstörung und willkürlicher Beschädigung von Institutionen, die der Religion, Wohltätigkeit und Bildung, den Künsten und Wissenschaften gewidmet waren, sowie von historischen Monumenten und Werken der Kunst und Wissenschaft, alles in Zusammenhang mit dem Angriff der JVA auf Dubrovnik, schuldig gesprochen und zu acht Jahren Gefängnis verurteilt.

- 5) Der Terminus „Kulturgüter“ bezieht sich auf die Definition aus Artikel 1 der Haager Konvention (1954).
- 6) Scott Feil in Rothfield, Hrsg.: *Antiquities under Siege*. S.219-220 Lanham 2008.
- 7) Auch bekannt als Concertainer™-Einheiten, erzeugt von der britischen Firma Hercules Engineering Solutions Consortium (HESCO).
- 8) Vgl. dazu Joris D. Kila: *Utilizing Military Cultural Experts in Times of War and Peace: An introduction - Cultural Property Protection within the Military, Experience in Theatre, Different Perceptions of Culture and Practical Problems*. In: Paul Meerts (Hrsg.): *Culture and International Law*. Den Haag 2008: S.183-229 sowie Patrick O'Keefe. *Trade in antiquities, reducing destruction and theft*. UNESCO: Paris, London 1997.
- 9) Die UNIDROIT-Konvention über gestohlene oder rechtswidrig exportierte Kulturgüter ist ein Zusatz zur UNESCO-Konvention von 1970 zum Verbot und zur Verhütung der unzulässigen Einfuhr, Ausfuhr und Übereignung von Kulturgut.
- 10) Unter 7b (5). Siehe auch (7).
- 11) Unter c. Siehe auch e.
- 12) Siehe: <http://www.nato.int/structur/ntg/etwg/mission.html>.
- 13) *Civil Affairs Arts Monuments and Archives guide*. GTA 41-01-002, März 2005 U.S. Army Training Support Centers.
- 14) Eine Fähigkeit, die - wenn sie von Streitkräften hinzugefügt und eingesetzt wird - deren Kampfpotential und somit auch die Wahrscheinlichkeit einer erfolgreichen Auftragsbefüllung wesentlich erhöht. U.S. DoD Dictionary of Military and Associated Words, 2003.
- 15) Vergleiche zum Beispiel David Price: *The Leaky Ship of Human Terrain Systems*. In: *Counterpunch Weekend Edition*. December 12/14, 2008; Jamail Dahr: *How Some Anthropologists Have Learned to Stop Worrying and Start Loving the Army*. www.truthout.org/051609Z (16 Mai 2009).
- 16) Zitat: *Ibid.* (17. Mai 2009).
- 17) *Counterinsurgency (COIN) warfare* [Kriegführung durch Aufstands-bekämpfung]. „Das letztendliche Ziel dieser Art von Kriegführung ist es, ausgehend von der Bevölkerung eine politische Maschinerie aufzubauen (oder wiederaufzubauen).“ Quelle: David Galula. *Counterinsurgency Warfare: Theory and Practice*, New York: 1964: Frederick A. Praeger (Neudruck 2005).
- 18) Einschließlich einiger der Schlussfolgerungen des Seminars zum Kulturgüterschutz in Den Haag, deren Co-Autor Peter Stone ist.



Joris D. Kila

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6. 'Cultural Property Protection in the Context of Military Operations: The Case of Uruk, Iraq' in *Conservation and Management of Archaeological Sites* (CMAS), 13.4: October 2011.

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

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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.¹ 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. Saffet (Saffet Tower), Al-Gala'a, Yefren, Chasro n Majar (Gasr Ben Niran) Yefren, Ghasro n Tkuit Nalut. Source: <<http://shabablibya.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.² 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.³ 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.⁴

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.⁵ 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.⁶ Such targets can be important for purposes of identity protection or destruction and can be of

² Nicholas 1994, Feliciano 1997.

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.au/aspnet/vip-usa/UploadFiles/2008-05/chapter1.pdf>> (2005).[10 August 2011].

⁴ Nelson and Olin 2003, Bevan 2006.

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.⁷

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.⁸ 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

⁷ Sovereignty over the 11th century Preah Vihear Temple complex is disputed by Thailand and Cambodia. Regularly there are standoffs between military of 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 counterinsurgency 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

⁹ HTS is a programme that 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 (HTM). HTS is heavily criticized by members of the scientific community see also: Dahr Jamail, 'Engineering 'Trust of the Local Population': How Some Anthropologists Have Learned to Stop Worrying and Start Loving the Army', 16 May 2009, <www.truthout.org/051609Z> <http://www.google.nl/search?hl=nl&q=www.truthout.org%2F051609Z&rlz=117ADFA_nl> [17 July 2011]. See also David Price, 'The Leaky Ship of Human Terrain Systems', Counterpunch Weekend Edition, 12/14 December 2008.

¹⁰ Hamilakis 2009, Kila 2010a, Kila 2010b.

IHL an example is the Pavle Strugar case in which a Croatia general was sentenced for the destruction of cultural property.¹¹

The looting of the Baghdad museum in April 2003 triggered international attention. This ‘new’ interest¹² 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 environment¹³ 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 state¹⁴, 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.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.

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 willful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of 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.

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.

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. <<http://www.nato.int/ims/docu/ajp-9.pdf>> [10 August 2011].

¹⁴ The end state of a conflict is a military term.

¹⁵ The civil heritage debate includes questions of authenticity, uniqueness and identity.

A Case Study: Saving Uruk from Looting

Map of Iraq¹⁶



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 Uruk¹⁷

‘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.¹⁸

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 Sources used : Information from dr. M. van Ess DAI institute Berlin + DAI website <<http://www.dainst.org/>>, Information from Prof. dr. Wilfred van Soldt, University of Leiden, Gockel2001., Leick 2002., Roux 1992. The Oxford Encyclopedia of Archaeology in the Near East vol. 5, New York 1997., Kila 2008a., Alle Hens, magazine from the Royal Netherlands Navy Marine Corps, March 2004.

¹⁸ 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.¹⁹



Picture 1. Uruk at the time of the Dutch Military patrol's visit. Picture Joris Kila

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 Romain, 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 Romain'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 Romain 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.



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.



Picture 3. by Diane Siebrandt for Laurie Rush, US Army.

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).



Picture 4. Dutch CIMIC Cultural Property Officers in Uruk, at the top of the big Ziggurat, picture Joris Kila.

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.²⁰ 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.²¹

²⁰ Information from a brochure made in cooperation with the National Defense Academy of the Austrian Armed Forces in Vienna and the Austrian Society of Cultural Property <www.kulturgueterschutz.at> 2006.

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 citizens²². 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 1943.²³

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.²⁴ 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. 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.

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. 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.

²³ Nicholas 1994. p.237.

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.²⁵ Hescos were unnecessary filled with archaeological soil, apparently out of ignorance.²⁶ Obviously the problem as to how military necessity is defined or rather interpreted remains.

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 Shiia, 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.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 spend 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.

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

²⁵ Stone, Farchakh 2008.

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.

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

²⁸ Source: US Department of Defense Dictionary of Military and Associated Words. <<http://www.answers.com/library/Military%20Dictionary-cid-2779810>> [10 August 2011].

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.

³² Eakin, Hugh. The Devastation of Iraq's past. July 27, 2008. <<http://www.internationalnews.fr/article-21591970.html>> [10 August 2011].

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.³⁴ 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.³⁵ As a general rule, military personnel entering or leaving a mission area are checked by military police.³⁶

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.³⁷

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.

³⁵ Heritage Preservation, Pocket Guide for Military personnel, Draft 04-09-07. See also Rush 2010.

³⁶ Olbrys 2007.

³⁷ O'Keefe 1999.



Picture 5. Tools and stolen artifacts from arrested looters in Uruk, January 2004 photo: courtesy Royal Netherlands Navy Marine Corps.

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.³⁸ 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,

³⁸ Kila 2008. p.201.

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.

³⁹ Wilson 1989. p. 101.

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 publicise 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 back ground (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.



picture 6. The looted Morgana storage facility in Dashur with bricked doors on 15 February 2011. picture Joris Kila.

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].

⁴¹ See as an introduction Bogdanos 2005. 'Joint Interagency Cooperation: The First Step,' Joint Force Quarterly 37 (Second Quarter 2005): 10–18. Online. <http://www.dtic.mil/doctrine/jel/jfq_pubs/0437.pdf> [10 January 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.⁴² 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 safe guard 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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7. Egypt February 12 -16th 2011.

Egypt February 12 -16th 2011



6. Al-Watan, Saudi Arabia 31 January 2011.

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.



7. The author at the Tahrir Square in Cairo the evening of 12 February 2011. Photo by Karl von Habsburg.

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 contradictive 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 sent 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.



8. Memphis open air museum, notice intact souvenir shops. 14 February 2011. Photo: Joris Kila.

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.



9. The office of the SCA besieged on 13 February 2011. Photo Joris Kila.

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 it 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 9pm. 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, Djedkarê, 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.²¹⁷ 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.²¹⁸

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-Gmni was passed— the door was opened by vandals, now it is welded shut, supposedly, there is no damage but this could not be confirmed.

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.



10. Welded door of the Ka-Gmni Tomb. Photo by Tilly Mulder 15 February 2011.

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.



11. Unas underground burial room 15 February 2011. Photo by Joris Kila.

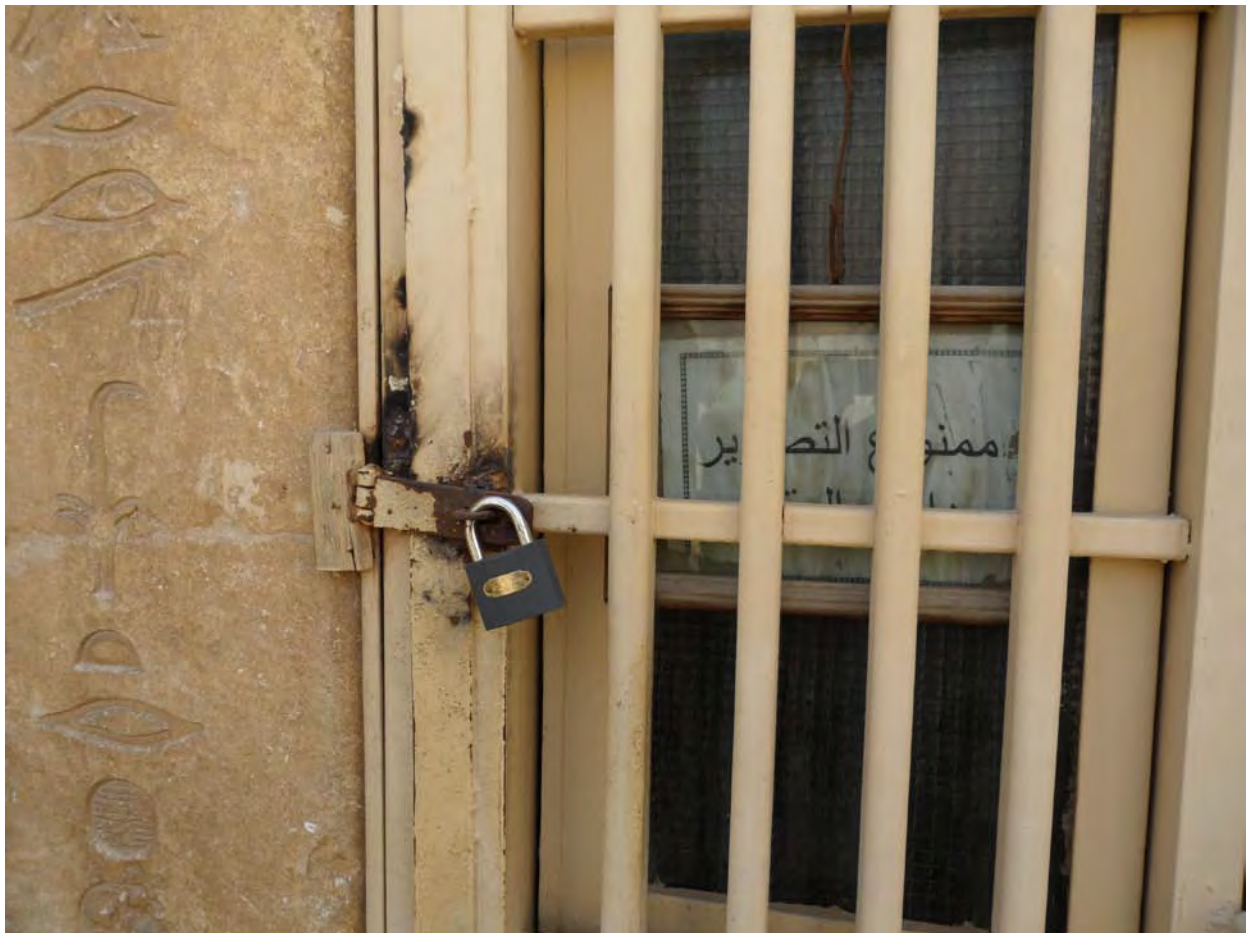
On the way to the Maya complex the tomb of Isisnofret, granddaughter of Ramses II was passed the burial place was closed, the door was welded and the tomb supposedly unharmed. Arriving at the Maya complex the warehouse chapels were found to show clear signs of vandalism such as broken locks and broken pieces of wood, it did not give 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.



12. Forced and repaired door at the Maya complex. Photo Joris Kila 15 February 2011.

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 new locks, doors welded shut; the team could not go in.



13. The Tomb of the two brothers, forced door welded shut and with new lock. Photo Joris Kila 15 February 2011.

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.²¹⁹ 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.



14. The Ptahshepses Mastaba, part of inner courtyard 15 February 2011. Photo by Joris Kila.

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.²²⁰

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.

²¹⁹ Sources: <<http://egyptology.blogspot.com/2011/03/news-re-looting-at-abusir.html>> [17 July 2011] and the blog of Zahi Hawass: <<http://www.drhawass.com/blog/further-updates-state-egyptian-antiquities>> [17 July 2011].

²²⁰ 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.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.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.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 2009.²²⁴ 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".²²⁵ 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.²²⁶ 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.²²⁷ 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*.²²⁸ 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".²²⁹ 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.²³⁰ 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.²³¹

²²⁷ Nicholas 1994.

²²⁸ Edsel 2009.

²²⁹ Ibid, p. 33. After serving in World War II, Wheeler was made director general of archaeology for the government of India (1944–47).

²³⁰ Libro di propaganda pubblicato nel luglio 1941 (XIX) dal Ministero della cultura popolare italiano, Roma 1941.

²³¹ 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



16. Theatre Leptis Magna 29 September 2011 photo: Joris Kila .

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.²³²

The current conflict in Libya.

Beginning of March 2011, unrests started in Libya. They quickly developed into a full fledged 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 2001.²³³ 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.uscbs.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.

²³⁴ <<http://www.volkskrant.nl/vk/nl/5444/VK-Dossier-De-opstand-in-Libie/article/detail/2444334/2011/06/11/Eerste-aanval-op-werelderfgoed-in-Libie.dhtml>> [17 July 2011].



17. Published online 2 March 2011 | Nature | doi:10.1038/news.2011.132 , from the article: Libya's 'extraordinary' archaeology under threat. <<http://www.nature.com/news/2011/110302/full/news.2011.132/box/1.html>>

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 Khadaffi is hiding military equipment amongst the ruins. Rebel forces claim that Khadaffi is using the site. Commander Mike Bracken, a representative for NATO, said it “would be a concern for us that Khadaffi and pro- Khadaffi 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 Khadaffi'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 <http://edition.cnn.com/2011/WORLD/africa/06/14/libya.war/index.html?hpt=hp_t2>[26 August 2011].

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."²³⁶ 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 Khadafi'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.

²³⁶ 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.