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

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Summary

Heritage under Siege. Military Implementation of the 1954 Convention for the protection of cultural property is the result of a multidisciplinary research carried out between 2004 and mid 2011. The project focused on military implementation procedures for protecting and safeguarding Cultural Heritage in the event of armed conflict.

The study took into account what is feasible in a practical sense and the ideal perspective as described in international treaties that concern CPP and prohibit illicit traffic of cultural property. The subject necessitated detailed consideration of legal obligations and implications. The main juridical framework in which cultural property protection (CPP) activities take place is the Convention for the Protection of Cultural Property in the Event of Armed Conflict to be referred to as The Hague Convention of 1954.

The dissertation is for an important part based on qualitative research. Since too few recent cases and empirical sources were available, this seemed to be the best research method. A number of circumstances and conditions influenced the research process, for instance the military aspect of CPP was relatively unknown. Therefore, not only an analysis but also an introduction to the subject seemed appropriate. Participant field research provided for new case studies. To execute this type of research the author had to enlist with the Dutch armed forces. During the field research, it was possible to follow, analyze, and test various processes. The explorations did not exclusively focus on unique happenings but aimed as far as possible at distinguishing and testing patterns and mechanisms. Processes that included international, interagency, and inter disciplinary cooperation during military operations in conflict areas were put to the test. In addition, preparations for CPP that should start in 'peacetime' were investigated as far as they actually took place. The aim was to quantify qualitative data from a multidisciplinary perspective that included fields like archaeology, cultural policy studies, sociology, and law. Other sources comprised published and unpublished literature, documents, and interviews. Via the author's position in the armed forces authentic materials could be gathered in theatre, also observation of military exercises, planning and operations and behaviors of different CPP stakeholders when implementing CPP projects was possible this way. This modus operandi necessitated working in conflict areas where looting, illicit traffic, and iconoclasm take place. However, permission for research in situ did not come naturally. Although a modest capability of cultural experts was available at the time within the Dutch armed forces they were, due to organizational and priority issues, not deployed. Consequently, the researcher had to initiate CPP activities including actual projects in a conflict area. This was the only way to test potential CPP strategies in practice. The challenge asked for a pro-active attitude that paid off and provided for the author to go on different missions to war zones. Much information was obtained in theatre although the work was restraint by the fact that the military tend to shield off matters for researchers especially in case of new and complicated subjects.

The book consists of three main parts. It starts with an introduction and a section about the research methods and sources used including a number of small case examples. Overall, the cases are not limited to situations in conflict areas but comprise examples of CPP training components in military exercises and the preparations for such activities in places like Egypt and the U.S. A preliminary indication is given of challenges and impediments to be met while initiating and executing military CPP. Relevant expertise and capabilities that were build up in the past for instance by the allies in World War II were not maintained and consequently lost. Today's relevance of military involvement in CPP is examined using and explaining cultural heritage's link with identity. To address the volatile character of cultural objects a practical example is used from the last Gulf War namely the case of the 'Jewish Archives' from Iraq. In addition, the importance of the relation between looting archaeological sites and poverty is explained thus stressing the relevance of prevention and protection of archaeological sites. From a military perspective it is

argued that this use is not only apparent as a pure military aspect necessary to secure a safe civil environment but that CPP also has value as a military incentive and so-called Force Multiplier.

After the introduction, the study continues with Part I presenting the playing field of Cultural Property Protection (CPP) and its players. All relevant players are, where necessary with practical examples, introduced and discussed extra attention is given to the military as a new relatively unknown player. Tensions among stakeholders are recognized and explained while the multi-layered connection of Cultural Property with identity is emphasized. Cultural differences between military and civilian parties as well as cultural differences within the military are identified and discussed starting with the military then the media, governmental institutions, non-governmental organisations, international organisations, working groups and advisory groups, the fields of Commerce, Crime, Law and order and Religion and finally science.

From sociological and art historical perspectives, attention is paid to the shifting status of cultural objects, their availability for manipulation and abuse and the development of national and individual identities. This section is followed by a historical background description of cultural property protection and destruction until 1954.

The research in situ resulted in a number of new case studies that are incorporated in Part II of this dissertation in chronological order. They concern already published chapters of books and articles that represent a good image of the developments of the research during a time frame of approximately three years. In total eight pieces are included numbered from one to eight.

1. "The Role of Nato and Civil Military Affairs" was originally published in Lawrence Rothfield (ed.), *Antiquities under Siege*, part II chapter 16, New York 2008, pp. 175-192. This publication gives a, for 2007 and 2008 accurate description of obligations for NATO concerning CPP during military operations. Practical examples from Iraq are addressed such as the contributions of Polish military experts who implemented CPP projects in the Polish area of responsibility (AOR) in Iraq.

2. "Utilizing Military Cultural Experts in Times of War and Peace: an introduction", was originally published in Paul Meerts (ed.), *Culture and International Law*, Chapter 12, The Hague 2008 pp. 183-229. The chapter gives a general introduction to military CPP including case studies about the archaeological important site of Uruk in Iraq and its protection against looting by Dutch military CPP specialists. In addition attention is paid to misuse of HESCOs (barriers used to build walls around military camps that were filled with archaeological soil) in Babylon and the affair of the Ethnographic Museum in Kabul in Afghanistan.

3. "Dissemination of the 1954 Hague Convention and the 1999 Second Protocol: Embedding Cultural Property Protection within the military" originally published in L. Lijnzaad, and N. van Woudenberg (eds.), *Protecting Cultural Property in Armed Conflict. An insight into the 1999 Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict*, Leiden 2010. pp. 95-105. The chapter addresses juridical implications that play a role in military CPP implementation in the event of conflict. Special attention is paid to ethical issues involving the so-called Human Terrain Teams.

4. "Can white men sing the blues? Cultural Property Protection in times of armed conflict deploying military experts", originally published in Laurie Rush (ed.), *Archaeology, Cultural Property and the Military*. Woodbridge 2010, pp. 41-59. This chapter contains an extensive case study about damages inflicted to the Matejce Monastery in Macedonia (FYROM). The destruction took place during the conflict between ethnic Albanians and the Macedonian armed forces while the paramilitary UCK (ethnic Albanian) occupied the monastery from 2000 to 2002. Dutch military CIMIC experts attempted in 2002 to restore the damage.

5. "Überlegungen zum Status quo der Beteiligung des Militärs am Schutz von Kulturgut". Some thoughts on the current state of military involvement in Cultural Property Protection, following the 1954 Hague Convention and Protocols. Article originally published in ÖMZ (Austrian Military Magazine) no 5. This article is in the German language and is published in September - October 2011. The piece analyses the current state of affairs concerning European implementation of

CPP by the military. Addressed are issues like education, ethical considerations, and the link between CPP and environmental matters as codified in the NATO doctrine STANAG 7141 EP, another topic is the confusion between the terms cultural awareness and CPP. Finally, an overview is presented of international implementation of CPP and the relationship with the so-called comprehensive approach method utilized in recent international military operations. The publication is in particular important because the German speaking countries can be informed about CPP.

6. "*Cultural Property Protection in the Context of Military Operations: The Case of Uruk, Iraq*", Conservation and Management of Archaeological Sites (CMAS), 13.4: October 2011. The article contains an upgrade on the Uruk Case combined with recent conclusions deriving from the research such as the ethical considerations that are considered beside the case. An interesting aspect of this article is the fact that it was written for a publication by the Prince Claus Fund but withdrawn by the author because the Dutch Fund wanted to censor it.

7. "Egypt February 12 -16th 2011". This piece has not been published. The subject concerns a cultural emergency assessment mission carried out by the author and an Austrian colleague during the so-called Egyptian revolution of January and February 2011, in order to register what happened to the Egyptian cultural heritage. The mission had to be low profile because the situation on the ground was not safe. The article contains a detailed report of the mission team's findings and confirms a number of suppositions made in this dissertation e.g. UNESCO's attitude in relation to conflicts and risk avoiding behaviors of some stakeholders as well as the value of cultural property as an economic asset. There is an official report of this mission published on the internet by the Association of National Committees of the Blue Shield.

8. "Libya's heritage under siege in 2011", this casus was not published before and contains an indication of military measures to spare the cultural heritage of Libya during air strikes that started as from March 2011 by coalition forces. The information was for the larger part gathered through international cooperation between networks that are created by individual CPP specialists such as IMCURWG and CHHAG. This piece has not official report status but is written as a start for a possible emergency assessment mission in situ.

Part III reflects on the way ahead by first exploring possibilities for balancing the interests of the various parties by explaining identified dilemmas. Conflicting interests vary tremendously. They occur for instance on the political level involving humanitarian aid, cultural policy strategy as well as ministerial and defense issues, but also on the scientific level where ethical problems play a role. Many discussed disagreements and (armed) conflict cases incorporate references to laws and treaties. A separate section is used to shed light on legal aspects linked to CPP plus related control mechanisms and sanctions. Topics range from the principle of military necessity to the Law of War and international treaties. Compared and analyzed are different opinions of leading juridical experts. Possible solutions for different identified challenges and dilemmas are discussed by focusing on opportunities that, for example, derive from new military tasks in the context of peace keeping and reconstruction missions. Strategies addressed take into account the identification of common denominators and deliverables for different parties. Special attention is given to education and practical training while different training strategies are introduced and compared.

Finally, a paragraph is dedicated to the outcomes and potential deliverables of the study by presenting a set of results that can be perceived and used as recommendations to be considered by all stakeholders in the field of Cultural Property Protection. This section also serves as a valorization of the study. The dissertation includes references, a glossary, and a section with appendixes. Appendixes listed are: the chapter on culture of the CIMIC Group North Civil Assessment Team Iraq dating from 2003, the definition of Cultural Property according to the Hague Convention of 1954, the NATO CIMIC Doctrine AJP 9, the CENTCOM regulation Number 200-2 Environmental Quality CENTCOM Contingency Environmental Guidance, the

STANAG 7141 EP JOINT NATO Doctrine for Environmental Protection, the report of the Civil-Military Assessment Mission for Egyptian Heritage by Blue Shield and IMCuRWG from February, 2011 and the contents of Antiquities under Siege of which my chapter 16 is included in Part II.