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

* Lieutenant-Colonel (reserve); adviser to the Dutch Ministry of Defence on the protection of cultural property and member of the International Military Cultural Resources Working Group (IMCRWG). This article was written in his personal capacity. The opinions in this essay are solely his and do not necessarily represent those of the Kingdom of the Netherlands.

1 Arthur Schopenhauer.

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

3 Article 25, Dissemination of the Convention.

4 Article 30: Dissemination.


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

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

2. The importance of CPP, especially for military organisations

At present nations, peoples and groups seem increasingly driven to define or reafﬁrm themselves as distinctive entities. This creates a complex of tensions, in which a sense of identity is central and conﬂicting processes of identity formation and maintenance by other nations and groups also play a role. Protection and destruction of cultural property 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 Convention.

---

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