



Cultural Property Protection (CPP) A CCOE Fact Sheet

Introduction:

The protection of cultural property in the event of armed conflict is a legally mandated military task, applicable to the spectrum of operational (and peacetime) activity. This fact sheet aims to inform the reader about the basics of cultural property (CP) and cultural property protection (CPP); what is it, why is it relevant and how does it affect NATO in general and CIMIC specifically?

What is cultural property and cultural property protection?

In international law, CP is defined as “movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history [...], buildings whose main and effective purpose is to preserve or exhibit the movable cultural property [...] and centres containing a large amount of cultural property [...]”.¹

The protection of CP entails “the safeguarding of and respect for such property”.²

Within NATO, CP is considered more broadly; cultural objects and all places of worship are taken into account. CP is defined as moveable or immovable property that enjoys recognition and protection under customary international law and, as applicable, treaty law.³

In practice, CPP is used to describe all efforts dedicated to managing the various challenges related to CP in the event of armed conflict.⁴

Why is CP/CCP important?

Several reasons can be put forward to indicate the relevance of CPP during the mission. These can be summarised in legal, strategic, and ethical considerations and current developments.

Legally, international law obligates states and individuals to abstain from certain conduct that possibly destructs CP (see section Legal implications). Besides, the protection of CP is formulated as one of NATO's goals according to the North Atlantic Treaty.⁵

Strategically, CPP is regarded as an element of mission success. Destruction of CP (a failure to protect) may cause increased violence and an escalation of conflict due to local resentment and public outrage.⁶ CPP may also prevent looting of CP, which is a significant source of income for armed non-state actors.



Another strategic consideration is the role CP can play as a tourist attraction, becoming a source of income for the host nation after conflict. As the military is increasingly asked to establish a stable post-conflict country, the protection of CP is a vital part of achieving that goal.⁷

Ethically, CP should be protected as part of the identity of people. It constitutes a societal memory that cannot be repaired or recovered when removed or destroyed.

Some **current developments** increase the importance of CPP. Public opinion has become more important in legitimising a conflict due to social media and globalisation. Destruction of CP can have a significant influence on public opinion, and can therefore influence the legitimacy of a conflict.⁸ Furthermore, destruction of CP is used by terrorist groups to widen sectarian divisions as part of their identity politics.⁹ A third factor that shows the importance of CPP in the current timeframe is the increased urbanisation of conflict. As CP is mostly located in urban areas, it becomes more vulnerable for destruction.¹⁰

Finally, a negative consequence of the growing attention for CPP is that it increases the value of CP as a strategic/tactical target. Adversaries might use this and popularise CP as a weapon of war.¹¹



Legal implications:

The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 (HC54) and its two protocols are the international standard for responsibilities regarding CP. The 2016 UNESCO Military Manual provides a clear and complete overview of the various international legal rights and obligations regarding CP.¹²

Responsibilities as state

During peace time states that are party to the HC54 are obliged to:

1. Prepare inventories;
2. Make (emergency) plans for safeguarding CP;
3. Make command, control and coordination arrangements;
4. Train and rehearse on these plans.

During hostilities states are bound to the following rules to protect CP:

1. **Identification of CP**: both pre-conflict and during conflict, states should gather information on CP and should communicate this information in an accessible, utilisable form. The information should include the significance of CP (to assist in prioritisation and proportionality considerations).
2. **Restraint of targeting CP**: states should refrain from any act of hostility against CP, this includes:
 - a. Doing everything feasible to verify that CP is not targeted;
 - b. Taking all feasible precautions in choice of means and methods of attack to avoid/minimise damage to CP;



- c. Cancelling or suspending an attack when damage to CP would be excessive (in terms of proportionality).
3. **Restraint of damaging and destructing CP:** states may not damage or destruct CP under their own control, or use CP or its surroundings for purposes that are likely to expose it to destruction or damage.
4. **Constraint of protecting CP:** states should protect CP against the dangers resulting from military operations, by removing CP from the vicinity of military objectives, by providing adequate in situ protection, and by avoiding locating military objects near CP.
5. **Exception:** the obligations regarding targeting, destruction and protection (numbers 2, 3 and 4) may be waived in cases of military necessity; when damage to CP is imperatively required by offering a definite military advantage without the existence of a feasible alternative.
6. **Prohibition of theft:** states must (strictly) prohibit, prevent, and (to their best endeavours) put a stop to theft, pillage, misappropriation, and vandalism of CP.
7. States are prohibited to **requisition** CP or use CP as **retaliation**.
8. CP under **special or enhanced protection** (two special legal regimes for CP, on request by states) receive more legal protection; the military necessity exception does for example not apply to CP under enhanced protection.¹³
9. For obligations of an occupying power during **belligerent occupation** see the UNESCO Military Manual and the CCOE make sense publication on CPP (forthcoming).

Responsibilities as NATO

CP is always the property of the owning state party; it is never NATO's CP, even during legal military occupation. This does not mean, however, that NATO does not have any responsibilities towards CP during armed conflict. Personnel acting on behalf of NATO are first and foremost acting on behalf of their own nation state, and must therefore comply with the obligations set out above. NATO's implied CPP task is to support the host nation in their obligations of CPP. Moreover, in accordance with the Law of Armed Conflict (LOAC), NATO should protect CP to the maximum extent possible during the execution of its mission. Note that this also applies to field training, exercises and peacekeeping operations. So, NATO should adhere to the obligations outlined above, and, in times of belligerent occupation, the obligations are even more extensive.

Responsibilities as individual soldier

Under the Law of Armed Conflict, individual soldiers hold responsibility for their personal conduct towards CP. The intentional destruction, damage or misuse of CP in armed conflict may amount to a war crime. Destruction of CP can both be prosecuted by specific provisions on CP, and by more general provisions such as crimes against humanity.¹⁴

Mission implications:



CPP is identified as a cross-cutting topic (CCT). CCTs are described as subjects that could affect a mission in multiple ways, but which fall outside the military's primary responsibilities. CCTs do not belong to one specific military discipline or branch and should be considered at different command levels. CCTs have a significant impact on all missions.¹⁵

Within NATO, **CIMIC (J9)** is the main area where CPP comes into play. An effective liaison and coordination with the host nation ministries of culture or equivalent should be established to support the state in executing their CPP responsibilities. Liaison with local and international experts offers information on CP in the area, enabling the military to make valid (risk) assessments of CP.

To conduct proper protection of CP, CP must already be taken into account in the planning process (before the boots are on the ground). So the relevance of **Intelligence (J2)** taking into account CP intelligence (among which imagery intelligence), of **Operations and Targeting (J3)** where CP should be included in the targeting cycle (no-strike list) and of **Plans (J5)** considering CPP in the operations planning cycle, should not be underestimated. In Libya this resulted in a successful application of the no-strike list; *for example* during Operation Unified Protection in Libya Gadhafi loyalists had placed targets near CP, which was identified on the no-strike list. By employing more precise weapons the targets could be eliminated while protecting the CP site.¹⁶

In the field of **Engineering (JENG)**, especially Environmental Protection, and **Logistics (J4)** CP should be considered to prevent destruction of CP by their activities; *for example* in Afghanistan an enlargement of the base caused damage to ancient water systems, that were both historically important and were still used by the local population.¹⁷

Other relevant areas are:

- Stability policing - may support the host nation with police capacity to prevent illicit funding from looting.
- Military police - responsible for investigating CPP violations of NATO military personnel.
- Strategic communication - communicating NATO's effort to protect CP and adversaries' violations of CPP influences the support of the public and increases the legitimacy of a mission.
- Legal advisors - provide guidance on the application of (inter)national law regarding CP in various circumstances. All stakeholders must take legal advice before choosing to take CP into operational use.

Note that all levels of command should be involved. Only then is it possible to both obtain mission success and to fulfil the obligations regarding CPP.

CP is important in a wide variety of military areas, and a successful implementation of CPP requires a commitment of all relevant actors.

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CIMIC specific tasks and implications:



CIMIC's main goal on CPP is to safeguard cultural property while enhancing mission outcomes during operations. This goal requires continuous prioritisation and balancing of CPP and military considerations. It goes beyond adding an inventory of CP to a 'no-strike list' in support of targeting, and includes the following specific tasks for CIMIC:

1. Identify salient CP in the area;
2. Conduct a risk assessment of CP to obtain the threats, vulnerabilities, likelihoods and possible mitigation measures as input for the operations planning process;
3. Determine NATO and host nation responsibilities for CPP;
4. Liaise proactively with the host nation, centres of CP expertise and local experts;
5. Determine the recommended course of action to deliver optimal CPP.

Challenges

CPP has gained importance over the past years as a subject for the military. This has led to an increase in attention and a variety of actions regarding CPP. However, several challenges remain. First, data on CP should become available, and should be incorporated in an early stage of the operations planning cycle. Secondly, the actions on CPP are often not structured and not embedded in a comprehensive line of action across NATO. This results in a scattered framework. For example, the amount of apps and databases to collect data on CP has grown significantly, but these are often not aligned with other nations or departments. This results in double work and gaps in data. The sharing of information, data, and databases, but also standardisation and a check of sources in data collection are important steps to be taken. Thirdly, education and training remain topics of attention, across all divisions. Finally, partnerships between the civil and the military, but also between specialised military departments should be enhanced.

Sources of additional information:

Leading Organisations

- UNESCO: United Nations Educational, Scientific and Cultural Organisation (<https://en.unesco.org/>);
- Blue Shield: A non-profit organisation committed to the protection of CP across the world ('the cultural equivalent of the Red Cross') (<https://theblueshield.org/>), see <https://theblueshield.org/resources/documents/> for an extensive overview of and access to relevant CPP sources;
- ICCROM: International Centre for the Study of the Preservation and Restoration of Cultural Property, leading in publications and best practices about CP first aid (recovery of CP after damage has occurred);
- Interpol, Europol, and Eurojust: organisations that fight trafficking and illegal trade of CP artefacts.

Most important legal sources



- 1954** - Hague Convention for Protection of Cultural Property in the Event of Armed Conflict and its First Protocol (1954) and Second Protocol (1999).
- 1949** - Geneva Convention on International Humanitarian Law, and First and Second Protocols (1977).
- 1970** - UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.
- 1972** - UNESCO World Heritage Convention.

Most important sources for the military

- Bi-Strategic Command Directive 086-005. Implementing Cultural Property Protection in NATO and NATO-led operations and missions (SH/J9/CL/SG/TT001345).
- International Institute of Humanitarian Law, UNESCO. (2016). *Protection of Cultural Property: Military Manual*.
- ICCROM, UNESCO. (2016). *Endangered Heritage: Emergency Evacuation of Heritage Collections*.
- NATO SPS Programme, Nordic Centre for Cultural Heritage and Armed Conflict. (2017). *NATO and Cultural Property. Embracing New Challenges in the Era of Identity Wars*.
- ICCROM, Prince Claus Fund. (2018). *First Aid to Cultural Heritage in Times of Crisis*.
- NATO. (n.d.). *Cultural Property as a Force Multiplier: Implementation for all Phases of Military Operation*

References:

- ¹ Article 1 Hague Convention for Protection of Cultural Property in the Event of Armed Conflict (1954).
- ² Article 2 Hague Convention.
- ³ Bi-Strategic Command Directive 086-005. Implementing Cultural Property Protection in NATO and NATO-led operations and missions (SH/J9/CL/SG/TT001345).
- ⁴ NATO SPS Programme, Nordic Centre for Cultural Heritage and Armed Conflict. (2017). *NATO and Cultural Property. Embracing New Challenges in the Era of Identity Wars*.
- ⁵ Preamble North Atlantic Treaty (1949).
- ⁶ *Example* the destruction of the Al-Askari Mosque in Iraq; in Cunliffe, E., Fox, P., and Stone, P. (2018). The Protection of Cultural Property in the Event of Armed Conflict: Unnecessary Distraction or Mission-Relevant Priority? *NATO Open Publications* 2 (4).
- ⁷ Cunliffe, Fox, Stone (2018).
- ⁸ NATO SPS Programme (2017).
- ⁹ NATO SPS Programme (2017); Cunliffe, Fox, Stone (2018).
- ¹⁰ NATO SPS Programme (2017).
- ¹¹ NATO SPS Programme (2017).
- ¹² International Institute of Humanitarian Law, UNESCO. (2016). *Protection of Cultural Property: Military Manual*.
- ¹³ Please see the 2016 UNESCO Military Manual and the CCOE make sense publication on CPP (forthcoming) for more information.
- ¹⁴ Rome Statute of the International Criminal Court (1998).
- ¹⁵ AJP-3.19 *Allied joint doctrine for civil-military cooperation*
- ¹⁶ Cunliffe, Fox, Stone (2018).
- ¹⁷ CCOE (2015). *Cultural Property Protection Makes Sense; A Way To Improve Your Mission*.

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