

CRIMES AGAINST CULTURAL PROPERTY IN THE CONTEXT OF CONTEMPORARY ARMED CONFLICTS

Crímenes contra los bienes culturales en el contexto de los conflictos armados contemporáneos

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ABSTRACT This piece addresses the problem of today's increasing damage and destruction of cultural heritage during conflict and turmoil, especially as this is currently taking place in Syria, Egypt, Libya, Iraq and Mali, while in places like Ukraine and Serbia cultural property is at risk. At this time its focus is not on the growing number of art theft cases taking place in Western Europe and the U.S., triggered by the economic crisis, but cultural property (war) crimes in times of conflict. It must be taken into account that the concept of armed conflict in today's context and its connection with international terrorism and counter-terrorism stretches out from the pre- to post conflict phases. This is relevant for designing and planning risk-preparedness strategies for the safe guarding of cultural heritage, preferably following national, and international legal obligations. The legalities include new developments in International Criminal Law. Aim is to give the readers an impression of the complexity of cultural property protection (CPP) as a phenomenon that, unfortunately is part of contemporary asymmetric conflicts. Throughout suggestions will be made for practical solutions and measures improving CPP. Of course there are also pure scientific outcomes that will help the topic of heritage and conflicts to become and stay part of the international heritage discourse.

Key words: Armed Conflict, Cultural Property Protection, Military, Juridical Frameworks.

RESUMEN Este artículo aborda el problema actual del incremento del deterioro y la destrucción del patrimonio cultural en el transcurso de conflictos y tumultos, sobre todo porque esto está ocurriendo en Siria, Egipto, Libia, Iraq y Mali, mientras que en otros lugares como Ucrania y Serbia los bienes culturales están en riesgo. No se trata, por tanto, de estudiar el creciente número de casos de robo de arte que tienen lugar en Europa Occidental y los EE.UU., provocado por la crisis económica, sino analizar los delitos contra los bienes culturales en tiempos de conflicto. Hay que tener en cuenta que el concepto de conflicto armado en el contexto actual y su conexión con el terrorismo internacional y consecuentemente con el contra-terrorismo se extiende a las fases previas y posteriores del mismo. Esto es relevante para el diseño y la planificación de estrategias de prevención del riesgo para la tutela efectiva del patrimonio cultural, siendo preferible para ello que se cumplan las obligaciones legales nacionales e internacionales. Los

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aspectos legales incluyen nuevos desarrollos en el Derecho Penal Internacional. El objetivo es dar a los lectores una idea de la complejidad de la protección de los bienes culturales (CPP, por sus siglas en inglés) como un fenómeno que, por desgracia, es parte de los conflictos asimétricos contemporáneos. Se propondrán sugerencias de soluciones prácticas y medidas prácticas de mejora de los CPP. Por supuesto también hay resultados científicos puros que ayudarán a que el tema del patrimonio y de los conflictos se convierta y permanezca como parte del discurso internacional sobre el patrimonio.

Palabras clave: Conflicto armado, Protección de los bienes culturales, Militar, Marcos jurídicos.

INTRODUCTION

On March 13, 2009 the U.S. Senate ratified the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict; the ratification makes it mandatory for the U.S. government and any of more than 115 governments (only the UK still did not sign or ratify) that are a State Party to this treaty for cultural property protection (CPP). Obligations deriving from this convention are also valid for the respective Armed Forces of such State Parties though it has to be noted that different obligations occur due to a party's (non) ratification of the Convention's two protocols. The U.S. did not ratify the two protocols. Spain ratified The Hague 1954 Convention in 1960, its first protocol in 1992, and the Second Protocol in 2001¹.

This piece addresses the problem of today's increasing damage and destruction of cultural heritage during conflict and turmoil, especially as this currently happens in Syria, Egypt, Libya, Iraq and Mali, while in places like Lebanon, Ukraine and Serbia cultural property is at risk. At this time its focus is not on the growing number of art theft cases taking place in Western Europe and the U.S., triggered by the economic crisis, but cultural property (war) crimes in times of armed conflict. It should however be noted that not all damage inflicted against cultural property is considered a (war) crime there are exceptions when it can be proven that military necessity urged such mutilation (Kila, 2012:176-179). Having said this it must be taken into account that the concept of armed conflict in today's context stretches out from the pre- to post conflict phases. This is relevant for planning risk-preparedness strategies for the safe guarding of cultural heritage, preferably following national, and international legal obligations.

My goal is to give the readers an impression of the complexity, not only of the conflicts that cause or further destruction and damage of cultural heritage but also of cultural property protection (CPP) as a phenomenon that, unfortunately is part of contemporary asymmetric conflicts (Quinion, 2001). Throughout this piece suggestions will be made for practical solutions and measures improving CPP. Of course there are also pure scientific outcomes that will help the topic of heritage and conflicts to become and stay part of the international heritage discourse. Because of my essayistic approach I took the liberty to make some references to my earlier publications (Kila, 2012; 2013; Kila and Zeidler, 2013) the criminological perspectives are addressed in Cultural Property Crime (Kila and Balcells, 2015).

1. Spanish Cultural Heritage legislation as at July 2010. (2010, July 29). <http://www.eui.eu/Projects/International Art Heritage Law/Spain.aspx> (Retrieved 11/03/2014).

Within the scope of a paper it is not possible to give a complete overview of all dilemmas and facts referring to the current problems affecting cultural property also there are continue developments of which important ones will take place in the time span between writing and publishing a piece like this. There for this article is a snapshot in time whereas aspects mentioned should be seen as a mere set of indications that will hopefully trigger discussions and stimulate people to engage in CPP in a proactive manner. It is unavoidable to go into some of the legal issues that are intermingled with CPP the same goes for military aspects. However showing the multidisciplinary and complex nature of the subject illustrates the need for exchanging knowledge between at least cultural specialists, legal experts and military professionals. I hope this article can contribute to that, especially in Spanish speaking communities.

Before going into details we must realize that there are overarching issues that prevent basic work on CPP in the event of conflict. Crucial is the lack of funding, to be discussed later but also the bureaucratic, risk avoiding attitudes of organizations and individuals that block simple solutions plays a role (Wilson, 1998; Kila, 2012). To give an example of the latter: in 2013 the UN send a team of observers to Syria especially to Aleppo to investigate accusations concerning the use of chemical weapons. The specialists taking part in this team were trained in The Hague, my home town, also known from the Hague Convention of 1954. For years articles were written and appeals made to organizations such as NATO and the UN (UNESCO) to make use of the services of the relatively small group of those willing to join missions as (militarized) cultural experts to assess and register damages to cultural property. Unfortunately never any answers from the organizations mentioned were received. The chemical weapons mission to Syria would have provided a chance to investigate the heritage devastations in Aleppo thus making it possible after the conflict in Syria to prosecute those responsible under either the Hague 1954 convention, the World Heritage Convention or the Rome Statute of 1998. The Aleppo idea was also mentioned to a representative of the UN during a conference on CPP in Copenhagen. Without result, a missed opportunity. And to be clear: such participation would not have been in the way of the chemical weapons assessment nor would it hinder any humanitarian aid missions or appropriate allocated funding for humanitarian aid.

CPP has developed into a multidisciplinary subject comprising a variety of stakeholders with different interests, different cultures, various types of expertise and dilemmas concerning for instance selection of objects to be protected. The fact that all these elements do not mix easily and the respective players are not communicating (enough) with each other, let alone work together makes effective CPP measures and actions extremely difficult. So far the lack of international and domestic and interagency cooperation are the reasons that large scale devastations of cultural heritage especially in the event of conflict, also caused by lack of preparations for CPP in peace time, are not prevented, or at least monitored in situ, for legal actions later.

A number of examples will be presented to indicate and illustrate problems and dilemmas that occur when trying to protect or prepare for safeguarding cultural property. This way the reader will get an idea of the sensitive and complex conditions heritage protectors are facing.

Although the last decades several heritage disasters happened that are related to conflict (for instance in Iraq, Afghanistan, Libya, Mali and former Yugoslav) no lessons have been learned about prevention and practical solutions.

A serious issue is that many stakeholders do not seem to realize that CPP in the context of armed conflict cannot be implemented without taking the military into account. In other words; it is impossible to research and prevent arson while excluding the fire brigade. This does not mean that the ethical beliefs of heritage rescuers are discarded it is just a simple fact precluding a desired broader scope with a depoliticized CPP system. It also does not suggest that the military are automatically willing or interested in implementing CPP as mandatory under The Hague 1954. Involving the military calls for a strategic and intelligent approach plus knowledge of military organizations, cultures, semantics and operational planning.

While appropriate CPP legislation comprising of International Humanitarian Law (IHL), domestic laws, and even some military regulations, is in place, in the practical sense such legislation is not (enough) applied and related penal sanctions rarely enforced. Adding to this is the fact that CPP in the event of conflict including the military perspective is not or just ample a topic in the academic heritage debate. In addition there is not much joint research and cooperation between archaeologists/art historians and legal experts. Sure, there has been an ethical debate among archaeologists about engaging with the military but this did not contribute to any solutions since intense ethical emotions drove opposing arguments, many of them not supported by knowledge about legislation, military organizations, checked sources and concepts of modern conflict². Nevertheless the contemporary general and quite conceptual scholarly debate on Cultural Heritage (Tilmans *et al.*, 2010) can be of vital importance to CPP but is of a more abstract and profound level compared to the discussion about CPP's military aspects and related issues. Creating more awareness by shedding light on CPP's complex playing field, players and their different interests and cultures that create dilemmas resulting in not preventing today's devastations is necessary. A good overview and analysis will help lifting the subject in the academic debate thus stimulate providing theoretical frameworks that are not dominated by fierce emotional issues that CPP, given the current heritage disasters in conflict areas, cannot afford. Having said this it should be stressed again that a major problem for CPP activities including research, awareness raising and education is lack of funding (Kila and Zeidler, 2013:351-353). It is not expected that help will come from organizations that are earmarked to carry responsibility, for instance in the 1954 Hague Convention. The last decades showed that they are incapable to act, mainly because they are, or at least behave, bureaucratic, risk avoiding and too political. In addition they argue to suffer from budget problems. It seems fair to say that at this stage people are needed that are not afraid to stick out their necks or to be creative and flexible.

CULTURAL HERITAGE AND TODAY'S CONFLICTS

When considering countries in conflict and turmoil, Van der Auwera sees a "prevalence of contemporary wars in weak or failed states, and a multiplicity of actors engaged"

2. During the World Archaeological Congress (WAC 2008) in Dublin, this led to a confrontation. CPP experts working with the military gave papers, participated in panels, and had to face fierce opposition. Those who had chosen to partner with the military were labeled as 'part of the problem' and accused of having lost their impartiality.

(Auwera, 2012). This implies that per case many different groups, including religions and consequently various cultural properties can be involved. I want to add dictatorial ruled states to the mentioned weak and failed states and do sense another prevalence namely for archaeological source countries (countries with an abundance of archaeological resources, understood also as cultural resources, e.g. Iraq, Syria and Egypt). A lot of these are at the same time, developing countries that are urged to concentrate on internal economic matters and therefore do not have enough financial resources to sufficiently manage their cultural resources.

Countries with adequate financial means and an interest in global archaeology, at times based on previous colonial ties, are active in archaeological source countries thus interpreting the host country's or local community's heritage from a different, often Western perspective. Here we touch upon potentially complicated situations that ask for professional and ethical considerations. Also we find another (potential) antagonism between global and local heritage studies including archaeology, creating a dilemma between conducting professional activities according to Western academic standards in local communities versus the incorporation of culturally relevant modifications. To put it simpler; anticipate on the fact that inclusion of local 'voice' can clash with adherence to objective professional standards (McManamon *et al.*, 2008).

Nevertheless, the lack of sufficient heritage management and maintenance can be caused by political reasons too for example Libya was not a poor country but former dictator Kadhafi considered archaeology a colonial activity that was not important. On the one hand this was reason for him not to abuse cultural property in battle but on the other hand, as a result the country's cultural heritage is currently in a state of neglect and needs maintenance and restoration (Kila, 2012). Today violence in Libya started again and its cultural heritage is seriously threatened by Jihadists groups that want to copy the Iconoclast actions that IS carried out in Syria and Iraq.

CONTEMPORARY TRENDS AND THREATS TO CULTURAL PROPERTY

As established the world's cultural resources or, to use the legal term, cultural properties³ are under continuous and serious threat of damage and destruction. Especially a number of current armed conflicts as well as local turmoil situations contribute to this situation. Present examples are Mali, where recently deliberate destruction of Sufi shrines and mosques took place, Libya that after its revolution still suffers from illicit traffic of cultural property and deliberate destruction of shrines and mosques, Egypt with ongoing looting mainly because of the lack of guards and police and Afghanistan where there is continuous looting and trafficking. However the most severe circumstances are found in Syria and Iraq where destruction of monuments and sites, looting and trafficking happens on a daily basis. There are reports of serious destruction (Cunliffe, 2012). In Syria, damages resulted from shelling, army occupation, terrorism, looting and uncontrolled demolition (similar

3. The term "cultural property", refers to the official definition used in Article 1 of the 1954 Hague Convention.

to *Al Hatra*, Iraq). World Heritage Sites like the ancient villages of northern Syria, *Krak des Chevaliers*, cultural properties in Damascus, Aleppo, and Palmyra are amongst the sites which have been damaged. More destruction is being listed as “Concerned citizens within the country, expatriates and Syrian heritage organisations are monitoring damages as best they can while sending information to the outside world” (Cunliffe, 2012: 4).

Apart from these countries, Jordan and Lebanon are (still) at risk. We can even see a revival of iconoclasm⁴ developing into a pattern becoming visible in a region stretching between Mali and Syria. A recent low were the devastations in Mosul, Nimrud, Hatra (Iraq) and Palmyra (Syria).

Iconoclasm can be described as cultural destruction causing (or aimed at) historical obliteration leading to damage or eradication of identities. For example in the town of Timbuktu in the north of Mali mosques and mausoleums containing tombs of Sufi “Saints”, many of these recognized by UNESCO and registered on the list of endangered World Heritage sites, were damaged or even demolished by members of the extremist Muslim group Ansar ad-Din. The extremists regard the shrines as idolatrous (lám. 1). Just before this article went to press the news came that the International Court in the Hague had a relatively important Ansar-ad-Din Leader arrested for war crimes involving the destruction of historic and religious monuments. The same happened in Libya; on August 25th 2012 a historical Mosque library containing important manuscripts and several adjacent Sufi shrines and monuments were demolished in the town of Zlitanin. In Tripoli on August 26th 2012 Salafists destroyed a Sufi Mosque and Shrines⁵.

Here we see a clear parallel with events from the past as for instance the iconoclastic outburst during the reign of Byzantine Emperor Leo III that became known as the first Byzantine iconoclastic outbreak. This began as an iconoclastic campaign by ordering the removal of an image of Jesus from the main entrance to the Great Palace of Constantinople known as the Chalke gate. Another classic example of iconoclasm and the involvement of religion as a stakeholder in cultural property issues is a case dating from the Netherlands in 1566, the so-called “Beeldenstorm” caused by a religious conflict between Calvinists and Catholics resulting in large scale damaging of church interiors and monasteries.

Contemporary iconoclasm resembles the classic religious driven form known from the European middle-ages. The phenomenon returned in the international news in 2001 with the destruction of the Bamiyan Buddha’s by the Taliban in 2001 in Afghanistan. The Taliban considered the statues irrelevant since they were pre-Islamic⁶. Common denominators for Iconoclasm in old and contemporary cases are idolatry and depicting human figures.

4. Iconoclasm is not new. Early examples are found in ancient Egypt and Rome. The Romans knew iconoclasm as *damnatio memoriae*, literally meaning “condemnation of memory.” In fact through ancient iconoclasm Egypt and Rome show early evidence of governmental involvement in a cultural property issue. Recent examples include the destruction of the Mostar Bridge, damage to the library in Sarajevo, and intangible heritage bans on certain languages and national hymns. Such actions are sometimes referred to as immaterial and material identity rape.

5. See: Islamist Hardliners Blamed for Demolition of Mosque in the Heart of Tripoli. (2008, August 26). The Tripoli Post. <http://www.tripolipost.com/articledetail.asp?c=1&i=9087> (Retrieved 15/07/2013).

6. Different motives are given: the leader of the Taliban referred to a fatwa stating false gods or Idols should be removed and claimed the act was necessary for the implementation of Islamic order. See also Buddhas of Bamyán. (n.d.), <http://www.hazarapeople.com/buddhas-of-bamyán/> (Retrieved 17/07/2011).

Both are religious motivated. But there are also non-religious driven equivalents from the past such as the pattern of conquest established by the Romans that allowed victors to appropriate cultural treasures of conquered peoples as trophies of war, display them in triumphal marches, and later install them in the Roman Forum (Merryman, 2005). Incidents throughout history have shown the conquering powers trying to exterminate the identity of enemies from memory by destroying the objects associated with their culture. A drastic example is the destruction of Carthage by the Romans after the Third Punic War. Here iconoclasm merged with Urbicide a term that literally translates as ‘violence against the city or as Bevan puts it “the murder of a city” (as a strategy) thus erasing its character and identity from the memory of its (former) inhabitants and mankind e.g. Carthage, Sarajevo, Beirut (Bevan, 2006; Sandes, 2013).

Robert Bevan takes it a step further by seeing the activity of destroying, in this case of architecture, while causing many civilian victims (genocide), as a means to extinguish the community body and its collective life and cultural identity (cultural genocide) (Bevan, 2006: 209-210). This happened for instance in 1697 when the defeat of Mesoamerica was completed by the Spanish by burning and wiping out the last Maya capital Tayasal. But there are more new phenomena or trends that enter the realm of CPP and are also relevant for military, cultural and legal stakeholders. Today Iconoclasm is exercised by Islamic State in a very nasty fashion. The Caliphate apparently sees it as a perfect business model to please their followers by destructions of hedonistic objects but at the same time objects are selected before the destruction to be sold to finance the conflict, finally monuments and cultural objects are destroyed as part of psychological warfare criming at identity rape and obliteration from the historical memory of certain groups and individuals. Certainly a triple agenda bringing CPP into the realm of global security and crimes against humanity.

A general complicating development is cultural heritage’s expanding nature and changing status. What falls under cultural heritage? This is subject to change; new trends and topics are for instance cultural landscapes, the question how people memorialize the past culminating in places of memory or *lieux de memoires*⁷, the so-called Traumascape⁸ (e.g. Ground Zero New York) and intangible heritage that includes traditions or living expressions inherited from our ancestors and passed on to our descendants, e.g. oral traditions, performing arts, social practices, rituals, festive events and skills to produce traditional crafts⁹. Just as we have the UNESCO initiated Hague 1954 Convention that protects tangible heritage there is a 2003 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage¹⁰.

7. Introduced by Pierre Nora, *Les Lieux de Mémoire* (7 parts, 1984-1992).

8. See Tumarkin, 2005: “In the world we inhabit, traumascape are everywhere. They are the physical sites of terror attacks, natural and industrial catastrophes, genocide, exile, ecological degradation, and communal loss of heart. They are part of a scar tissue that stretches across the world, from Hiroshima to Auschwitz, Dresden to Srebrenica, Sarajevo to New York, Bali, London, Jerusalem, and New Orleans. Traumascape are haunted and haunting places, where visible and invisible, past and present, physical and metaphysical, come to coexist and share a common space...”

9. What is Intangible Cultural Heritage? (n.d.) <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00002> (Retrieved 01/06/2012).

10. Convention for the Safeguarding of the Intangible Cultural Heritage 2003. (2003, October 17), http://portal.unesco.org/en/ev.php-URL_ID=17716&URL_DO=DO_TOPIC&URL_SECTION=201.html (Retrieved 01/06/2012).

The above mentioned, continuous developing and sometimes changing, heritage classifications have an effect on the sensitivity and potential explosiveness of cultural property in relation to media information and (strategic) communication. To give an example the media input regarding the Baghdad Museum looting made the already low international support from within society for the Iraq War almost disappear, especially the CNN images of looters and museum staff in the shambles of the museum contributed to that. In spite of the fact that the United States later tried to limit the damage, they got saddled with the image of a “destroyer of culture” that remains intact until today. Today’s new media start to play key roles since they are capable of provoking negative (inter)national reactions or triggering positive media coverage, whereas the latter can generate military force multipliers, *i.e.* the 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, like enlarging force acceptance. One should not underestimate the influence of bloggers and web sites that can be driven either by individuals or by specific interest groups, they have a great potential to influence opinions. An example of the weight such new media or to be more specific the social media can carry is the 2011 revolution in Egypt (1ám. 2). Today social media like Google earth and twitter contribute when difficult unsafe areas need to be monitored to see if heritage crimes took place. It has to be said that they will never replace personal assessments in situ to gather evidence.

The social media’s influential powers became eminent through the particular role that they played in terms of intensifying awareness and creating support among anti-government protesters (Mainwaring, 2011). Additionally the input of social media helps to spread cognitive dissonance by connecting opinion makers, community leaders and protesters to common citizens thus swiftly increasing the group of people who become willing to take decisive action. Examples of internet platforms potentially capable of doing so are networks like Facebook, LinkedIn, Twitter (Laracuate, 2012) and You Tube¹¹.

Overlaps between cultural and natural heritage

A development to take into account is the phenomenon of cultural sites that also classify as natural heritage. Examples are, what are called, cultural landscapes like Uluru-Ayers Rock in Australia, the Loire Castles in France and even animals such as the Dugong, a large marine mammal are classified as cultural heritage. The acknowledgement of the latter’s cultural identity was even subject in a law case the so-called Dugong case¹². Currently there are many reports that natural/cultural heritage of African countries such as Ivory and Ivory art objects are looted and smuggled to finance insurgent groups an example is the Lord’s Resistance Army (LRA), a guerrilla group that operated in Uganda.

11. A derivative of this is called Viral Marketing also named “going viral” referring to marketing techniques that use pre-existing social networks to produce increases in awareness concerning brands or certain topics. Viral in this context is used to point at the self-replicating spreading process of viruses.

12. Source: http://www.anpomovie.com/Dugong_vs_Rumsfeld_Summary.pdf (Retrieved 07/06/2012).

These examples show that cultural heritage is not always easy to distinguish from natural heritage which is supported by actual developments in the interpretation of natural and cultural heritage legislation, on both national and international levels, influenced by socio-political and environmental aspects such as the cultural landscapes.

Still this “overlap” has positive side effects that can help to establish CPP capabilities within the military in accordance with the international legal obligations and military regulations. This is for instance illustrated to NATO’s military members by the NATO STANAG 7141 EP doctrine¹³ in which natural and cultural resources are considered characteristics of the environment that have to be taken into account in relation to NATO led military activities¹⁴.

In the U.S. in 1990, legislation passed Congress establishing the Legacy Resource Management Program that provides financial assistance to the Department of Defense (DoD) efforts to preserve U.S. natural and cultural heritage. The program assists the DoD in protecting and enhancing resources while supporting military readiness. The program supported and sponsored a lot of CPP activities among them the famous U.S. Military CPP playing cards.

Another important provision fitted in existing military environmental management is the Regulation Number 200-2 Environmental Quality (U.S.) CENTCOM Contingency Environmental Guidance. It states that U.S. CENTCOM forces will actively prevent pollution and respect the natural, historical and cultural resources of the host nation¹⁵. Regulation 200-2 contains essential guidance, best management practices and environmental enforcement capability for heritage preservation for U.S. base camps and all contingency operations within the USCENTCOM Area of Responsibility¹⁶.

These institutionalized and codified connections between cultural and natural resources open new perspectives for international, joint and multidisciplinary cooperation especially for embedding of CPP capabilities in set structures for environmental issues.

Re-use of cultural property in battle

A remarkable development is an increasing use, from a military perspective, of strategically-located sites such as ancient fortifications on elevated terrain. Examples are citadels, towers and castles that already are (historical) fortifications or towers and minarets, a strange approach to recycling. An example of this type of misuse is the spiral minaret of Samarra in Iraq also known as the Malwiya tower, built by Caliph al-Mutawakil in the 9th century. In 2005 insurgents blew up the top section of the 52m (162ft) tower, which had

13. Under 7 b. (5) see also (7).

14. Under c. see also e.

15. In August 2009 CPP recommendations drafted by members of the CCHAG were accepted for inclusion in Chapter 6 [“Historical and Cultural Preservation”] of the USCENTCOM Contingency Environmental Guidance: Environmental Quality Regulation (*R 200-2).

16. Source: www.cchag.org (Retrieved (26/07/2012)). CENTCOM’s area of responsibility includes a.o.: Iraq, Afghanistan, Egypt, Jordan, Syria, Yemen, Iran, Qatar, the Emirates and Saudi Arabia.

been used by US soldiers as a lookout position¹⁷. The current situation in Syria shows the results in shelling of national heritage sites including the 12th century Crusader fortress of Krak des Chevaliers and the Citadel, the medieval fortress at the center of Aleppo. It seems wise to give protection of such sites high priority in risk preparedness plans while taking into account the so-called military necessity implications such sites can evoke. In this situation Military Necessity forms part of a basic conflict of interest between military necessity that is used as a reason to solve (or end) a conflict as soon as possible and civil interests in CPP related to matters like identity, economy and science in post-conflict conditions.

Looting and plundering

Looting has military parallels, already the Romans allowed their soldiers to plunder. Actually in the past soldiers (often mercenaries) were allowed 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. All looting, stealing and smuggling of artifacts 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 (O’Keefe, 1997). Cultural objects that are first looted and then smuggled out of conflict zones end up in the antique and art markets of the Western hemisphere. Profits stimulate belligerent and rebelling parties to continue stealing and looting to generate funds for weapons and ammunition thus prolonging a conflict. Cultural Property Protection is in this context an instrument to deny resources to the opponent consequently reaching the end state of a military operation sooner by creating a Military Force Multiplier.

Still it should be stressed that motives for plunder and looting differ. Mac Ginty (2004: 857-870) gives more refined perspectives on looting; he finds the terms “looting” and “looters” generally to be considered depreciative. From this perspective the negative label prevails over an objective description of looting as a certain activity. Many looters choose not to interpret their activities in a negative way, but see it as justifiable and legitimate. Some point to the fact that they are unemployed and need to provide for themselves and their families. Others justify looting as an act of taking back items that were in possession of a regime by entering its former facilities or as an act to express their anger by just vandalizing objects. A recent example was, for instance, the takeover of Kaddafi’s house in Tripoli by rebel forces during which statues and even a golden mask of the Colonel were damaged in anger as a form of revenge. From that angle, certain lootings can be even explained as redistribution or, as the former British Defense Minister Geoff Hoon stated in 2003 referring to plunder in Iraq, “liberating those items that are in the charge of the regime by entering its former facilities and the secret organizations and redistributing that wealth among the Iraqi people” (Mac Ginty, 2004: 857). From another perspective, looting is regarded as a by product of violent protest and riots especially in

17. Ancient minaret damaged in Iraq. (2005, April 1), http://news.bbc.co.uk/2/hi/middle_east/4401577.stm (Retrieved 06/08/2013).

the so-called flash or mob lootings happening through sudden outbursts. Finally, looting can be organized by one's own government to serve as a motive to take tough action against protesters, while withdrawing fighters or armed forces can deliberately destroy objects because they do not want the winning party to take them in possession (scorched earth policy). It is obvious that looting has several dimensions that have to be considered specifically in relation to military cultural intervention.

To what extent can iconoclasts and looters be brought justice?

There are legal instruments that give a legal framework for safe guarding Cultural Property, especially in the event of conflict. Important is The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague 1954). The convention dates from 1954 and has two protocols (1954 and 1999). The Hague 1954 was designed with World War II as a reference, in other words the treaty works optimal in case of relatively dated types of conflict we call symmetric, as opposed to modern asymmetric conflicts. Therefore problems can occur when one or more belligerents involved in a conflict are no state party to The Hague 1954 or are not recognized as an official party which is often the case with insurgents and rebels.

Nevertheless it is possible to hold people responsible for heritage crimes in the event of non-international conflicts. The Second Protocol of The Hague 1954 mentions individual criminal responsibility¹⁸ but this legal provision does not to apply in the cases such as the Mali occupation mentioned earlier. Mali has not signed the Second Protocol also the Jihadists were not an official recognized party to The Hague 1954. Nevertheless the International Criminal Court (ICC) has options to prosecute crimes committed by individuals, such as the deliberate destruction of cultural property and Mali is a party to the Rome Statute of 1998 that established the International Criminal Court based in The Hague¹⁹. According to the principle of complementarity, the ICC complements national legislation of its state parties in the earlier-mentioned cases. This means that if the national criminal laws of Mali cannot be enforced or are no longer working, the provisions laid down in the Rome Statute can function as a substitute. The ICC stated that: "Nations agree that criminals should normally be brought to justice by national institutions. But in times of conflict, whether internal or international, such national institutions are often either unwilling or unable to act..."²⁰. The 1998 Rome Statute, constitutes a landmark treaty on individual responsibility regarding international crimes and contains important provisions for crimes against cultural property (Hector, 2010). Two sections are relevant in article 8 of the Statute where a description is given of certain places and buildings that cannot be deliberately attacked unless they are made into military objectives, this can be the case if for instance anti-aircraft guns or other weapons or snipers are installed

18. Second Protocol to The Hague Convention of 1954 for the Protection of Cultural Property. Chapter 4 Criminal responsibility and jurisdiction.

19. Mali signed the Rome Statute on 17 July 1998 and deposited its instrument of ratification on 16 August 2000.

20. Source: <http://untreaty.un.org/cod/icc/general/overview.htm> (broken link)

in such places. Examples are buildings dedicated to religion and historic monuments. In the Timbuktu case the Mosques and tombs fall under both categories.

Those who intentionally undertake such deliberate acts of violence are considered to be guilty of committing war crimes. The Rome Statute generates individual criminal responsibility; however in the best case scenario a country in which the cultural property crimes took place has (or is expected to have) already implemented national legislation for investigation and prosecution of such crimes and the Rome Statute (if applicable) works complimentary.

THE POSITION OF THE MILITARY AS A CPP STAKEHOLDER

I do not want to suggest that there is such a thing as “the military” because they consist of a variety of institutions, individuals and cultures. I use the term for the sake of argument. The military is sometimes addressed as the Armed Forces, MoD, or DoD. They comprise paramilitary police like the Italian Carabinieri and the Spanish Guardia Civil. Therefore when referring to the military as the armed forces it is more effective to speak about Ministries of Defense (MoD) or the U.S. Department of Defense (DoD). Per definition, military are involved in all aspects of armed conflict including protection of cultural property, or in a negative sense destruction of cultural property. Apart from the fact that the military are often the first to arrive within the conflict area and have logistical assets to operate in cultural emergency situations there are more aspects, including legal obligations, that demonstrate the logic of positive military involvement in CPP. In fact it is a military responsibility that plans to limit damage and should be implemented before kinetic operations begin. Lack of CPP planning can exacerbate social disorder; eradicate national, ethnic, and religious identities; and elicit international condemnation; and, prolong conflict. If planned and executed correctly, CPP can be a force multiplier by concurrently ensuring international and domestic stability and goodwill, the latter resulting in an increase of Force Acceptance. Conclusion; military can benefit from partaking in the protection of cultural property.

CPP was implemented by military organizations in the later phase of World War II (via the so called Archives and Monuments Men) but this CPP strategy and military field experiences gained World War II seem to have been forgotten. As a result the wheel had to be reinvented by those that attempted to implement (military) CPP after the topic returned in the international limelight following the cultural devastations in former Yugoslavia (lám. 3), Afghanistan and Iraq.

Clearly the earlier circumstances were not the same as contemporary situations. Generally speaking World War II cultural strategies would not be very accurate today since they were predominantly based on dated symmetrical interstate concepts of warfare/conflict. At present particularly problems as how to utilize and deploy military or militarized experts have to be solved and (re)discussed after studying practical examples and the new asymmetrical challenges. In *Heritage under Siege* (Kila, 2012) I used a number of case studies, e.g. Uruk and protection against looters, Matejce and Iconoclasm, to demonstrate problems as well as examples of good and bad practice followed by possible solutions and recommendations for better practice.

Issues to take into account include the shifting status and fluctuating appraisal of cultural objects involved in the complex of risk preparedness, actual conflicts, hostilities and reconstruction.

Furthermore; today's military operate in an increasingly complex setting. 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' specialisms required by the military, taking its place alongside other skills such as civil administration, economic development, humanitarian affairs and civil infrastructure. Of course I am aware of the discussions about whether it is ethical to work with the military. These discussions are especially fed from the UK (see for instance Gemma Smith, 2014) and so far are lacking scientific substance and sources. I can only hope that those that now produce unsubstantiated writings will put their energy in getting the UK to ratify the convention of 1954 dealing with obligations, including military, to protect cultural heritage in the context of armed conflicts.

This brings me to the subject of international treaties and legal concepts that do affect the military in case their country is a signatory to these agreements. The most significant that (can) comprise cultural property are:

1. Obligations deriving from The Hague Convention of 1954 and protocols to be found under article 3. Safeguarding of cultural property, article 4. Respect for cultural property, Article 5. Occupation, Article 7. Military measures, Article 25. Dissemination of the convention and in the 2nd protocol article 2. Organization of control. NB. an important legal argument for the deploying of archaeologists in military settings is the fact that: The Hague convention of 1954 states in chapter 1 under General provisions regarding protection article 7- Military measures (2) that it is mandatory for the military forces of signatories to employ specialist personnel (being art historians, archaeologists and the like).
2. Obligations deriving from the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970 also referred to as the UNESCO treaty of 1970.
3. Obligations deriving from the Convention for the Safeguarding of the Intangible Cultural Heritage UNESCO 2003. Article 1 – Purposes of the Convention: (A) to safeguard the intangible cultural heritage; (B) to ensure respect for the intangible cultural heritage of the communities, groups and individuals concerned; (C) to raise awareness at the local, national and international levels of the importance of the intangible cultural heritage, and of ensuring mutual appreciation thereof; (D) to provide for international cooperation and assistance.
4. Convention on the Protection of the Underwater Cultural Heritage UNESCO 2001
5. The 1998 Rome Statute of the International Criminal Court²¹.

21. Rome Statute of the International Criminal Court (last amended 2010). (1998, July 17), <http://www.refworld.org/docid/3ae6b3a84.html> (Retrieved 07/08/2013).

6. The 1972 UNESCO World Heritage Convention. This instrument in fact aims at creating a system of cooperation to protect the world's cultural heritage.

It is also possible that national legislations are in place e.g. The US DoD has an obligation under the National Historic Preservation Act of 1966 – Extraterritorial Provisions Upheld In 9th Circuit Court. In addition, the Ninth District Court of the United States has found that Section 402 of the National Historic Preservation Act applies to any area in the world under the responsibility of the DoD. Failure to take into consideration heritage property could easily result in the DoD being sued both by US citizens and possibly in an international court.

The principle of military necessity; necessity or military convenience?

The notion of Military Necessity creates a basic conflict of interest between CPP and the military aim to reach a conflict's end state as soon as possible.

In order to get an idea of the legal context in which, in this case CPP implementation and legal restrictions function it is necessary to take a further look at the rather ill-defined principle of military necessity.

“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” this was not said by an anarchist but by a famous military²².

According to David Turns “Military necessity is one of the most fundamental yet most misunderstood and misrepresented principles of the international law of armed conflict. It has been invoked by military operators to justify any violent measures deemed necessary to win a given conflict, and it has also been dismissed by human rights groups, nongovernmental organizations, and other critics of the armed forces as a typical military excuse to explain away shocking collateral damage in modern military operations” (Turns, 2012).

Basically military necessity or urgent military need is considered part of “just war” theory dealing with the conduct of warfare²³. It is also a legal concept used in International Humanitarian Law (IHL) as part of the legal justification for attacks on legitimate military targets that may have adverse consequences for civilians and civilian objects. It implies that military forces in planning military actions are permitted to take into account the practical requirements of a military situation and the imperatives (prerequisite) of winning at any given moment.

Military necessity acknowledges that even under the laws of war, winning the war or battle is a legitimate consideration, though it must be put alongside other considerations of IHL (Hampson, 2011).

This does not mean that military necessity gives armed forces immunity for taking actions that would otherwise be impermissible, for it is always balanced against humanitarian

22. General Eisenhower, December 29th 1943.

23. Just War Theory has 3 main components, a. *jus ad bellum*: the justice of going to war, b. *jus in bello*: the means by which war is conducted and c. *jus post bellum*: the means by which the war is concluded and the peace restored.

requirements of IHL. Three requirements or constraints upon exercising military necessity are of importance:

First, any attack must be intended and tend toward the military defeat of the enemy; attacks not so intended cannot be justified by military necessity because they would have no military purpose. Second, even an attack aimed at the military weakening of the enemy must not cause harm to civilians or civilian objects that is excessive in relation to the concrete and direct military advantage anticipated. Third, military necessity cannot justify violation of the other rules of IHL.

Aside from all this there are related aspects regarding military necessity such as the principle of proportionality or to put it simple the amount of force to be used. Proportionality is difficult to interpret in relation to the protection of cultural property.

It goes without saying that this entire system causes constant tensions between different interests that can be contradictory and on occasion multi-interpretable. Also military necessity is not a static phenomenon nor are the conditions, perspectives or rules under which it can be applied. In fact today military necessity is treated as a tool just as CPP can be a tool to reach the end state of a mission.

Military commanders on the ground have already relied on this tool in the past (Boylan, 2002) for example when arguing that a certain high church tower might be used for military purposes such as observation or sniping by the defending forces and it is a fact that military necessity was a standard defence used by accused war criminals in trials following World Wars I and II (Dunbar, 1952: 452).

Having established the flexible nature of military necessity it is understandable why Eisenhower and Boylan wonder whether it is used as a response to a “necessity” or as a “military convenience”?

Military necessity is often cited as a reason, or excuse for cultural destruction. To make things less convenient Boylan (2002), who drafted the Second protocol of The Hague Convention did seek to restrict the military necessity exemption. While at the same time anticipating on the changing methods and conditions of warfare and conflict he created the Second Protocol to the Convention.

Article 11 – 2 of the new protocol states that immunity as granted to cultural property according to Chapter II article 8 can be lifted in case of “exceptional cases of unavoidable military necessity”. This necessity can only be established by a commander of a force the equivalent of a division in size or larger. It appears to be an indication of the high importance the treaty gives to the quality of military decision making on the subject and the quality of expert advice obviously needed for a commanders’ considerations while making the decision. In practice the commander of a division equivalent will be at least a two-star general often heading a multinational mission. And here we are back to today’s problem: from a logical point of view advice concerning withdrawing immunity has to be given by military strategic experts, military lawyers and last but not least subject matter experts, in this case cultural property experts. Results of assessments and research undertaken prior to the mission should normally play a role in this and this pro-active attitude is currently not exercised.

There is a risk of erosion, deflation and misuse of the concept of military necessity. In an attempt to restrain this emphasis is put on the addition *Imperative*. Thomas Desch (2002:13) states in *Protection of Cultural property in the event of Armed Conflict* that the

term imperative is not defined for use in connection with military necessity within the treaty text. Therefore it is up to each States Party to interpret the term causing ambiguity in the respective states practices as well as the risk of misuse.

Developments in international criminal law (ICL) for the prosecution of heritage crimes

Legal tools for the protection of cultural property in the event of contemporary armed conflicts are limited. As established The Hague 1954 convention is based on older asymmetric types of warfare between official combatants. Penal sanctions from this convention are not applicable in case of unofficial combatants like rebel groups. Therefore we have to look at new developments. In practice this mostly involves instruments given by International Criminal Law (ICL) to prosecute the individuals that commit cultural property (war) crimes. International criminal law is a subsection of international law its sources are identical to those that cover international law. It should be emphasized that institutions such as the ICL will only work in cases where domestic courts are unwilling or unable to do so. In the event national prosecution is (still) possible we speak about ICL in the narrow sense: individual criminal responsibility under international law²⁴.

THE RELATIONSHIP BETWEEN CULTURAL PROPERTY AND IDENTITY

It is clear that there is a trend towards misuse and abuse of cultural, often archeological objects and sites in the context of conflict. This is as opposed to the more traditional theft of paintings and sculptures combined with devastations of monuments, libraries, archives and museums deriving from collateral damage as known from conflicts like World War II. In other words there seems to be a shift affecting sites and objects that have a connection with identity either religious or non-religious. This explains for the iconoclastic often religious motivated perspective that drives certain opposing and insurgent forces. But what is the current understanding of identity? National identities for instance are relatively new. This trend, also known as nationalism, developed in Western Europe after the French and American revolutions where it replaced theology and royal dynasties as the primary instrument used by the state to justify its power. In fact, this actual invention of nationalism gave way to development of different types of group related identities linked to cultural heritage and cultural properties. In the late 20th century identity related questions especially on individual levels became more manifest because of the development of new social movements, many starting in the sixties like black power and Women's Lib. This intensifying of distinctiveness and uniqueness gave an extra boost to identity related cultural property claims, some of the intangible kind, some deriving from an urge for

24. Source: a presentation by Astrid Reisinger Coracini, "Penal aspects of the protection of cultural property in the event of armed conflict" at the International Seminar on the Implementation of the 1954 The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Two Protocols for Sub-Saharan African Countries, Vienna, 3 December 2013.

individualism. Concerns began to include the use and ownership of cultural properties in connection with the new information society (Brown, 2005).

Cultural objects, when representing an identity, are inherently charged, often, with the past or in fact the (idealized) reconstruction of the past in the present. Clearly this historical reconstruction is not taking place according to set rules. It depends on constantly shifting local, political and social circumstances.

Collective identities overlap with social and personal identity and are constructed, so in general not biologically determined. This category is clearly occupied with constructing meanings referring to cultural property. Collective identities often demonstrate unambiguous that their identity co-depends on cultural objects, e.g. free-masons, soccer teams, military regiments, religions.

It can be said that cultural property is available or can be made available for manipulation. There are more reasons for this supposition, for instance cultural property can be located in the public space, intangible heritage is always vulnerable, exhibitions and museums are relatively approachable. An example: a well-trying method for manipulation was to take items representing a cultural identity to add to your own group e.g. just before the 2nd World war the Nazi's defined paintings from Rembrandt as being "Nordic and/or Germanic" thus part of the German culture (Nicholas, 1994).

The identity aspect of cultural heritage is critical, it is one of the key elements in the civil heritage debate. These significant elements are: identity, authenticity and uniqueness. The civil discourse also aims at demonstrating the link between heritage sites and "cultural" landscapes or the cultural and natural aspects (Luengo, 2009) of heritage²⁵. Since the spectrum of cultural heritage comprises war and crime too, Bevan (2006) in *The Destruction of Memory*, analyses the connection of cultural property with identity and conflict and the potential openings for strategic use by military or other opposing forces. An example of denying a people its past as well as its future could be the 1993 destruction of the Mostar Bridge in former Yugoslavia. Seen from this perspective military interests can lead to *exterminate the enemy by obliterating its culture*. The scope is relatively wide since the threat to common objects especially buildings is considered a threat to identity besides to the collective memory maintaining a group's consciousness.

A SELECTION OF DILEMMAS AND RESTRAINTS

It should be taken into account that cultural property or cultural heritage and its protection are complex issues. They touch upon a wide range of interests and involve different cultural backgrounds, of both the heritage that has to be protected as well as of all protection stakeholders including their types of expertise and various religious, scientific, social, ethnographic, political, historical, philosophical, legal, ethical, sociologic (tribal) and semantic aspects. To mention an example of the latter: the general use of the

25. Convention Concerning the Protection of The World Cultural and Natural Heritage Adopted by the General Conference at its seventeenth session Paris, 16 November 1972. (1972, November 17) <http://whc.unesco.org/archive/convention-en.pdf> (Retrieved 01/03/2014).

nouns property and heritage in connection with the adjective cultural indicates room for disputes about ownership and makes cultural property prone to manipulation. Then there are problems regarding perception dissimilarities between U.S and European armed forces, deriving from cultural differences to be read as corporate cultural dissimilarities, and public insights on matters as Counter Insurgency (COIN) that in Europe is perceived as secret intelligence operations while in the U.S. CPP is a legitimate part of COIN. The status of military and for instance reservists in society differs as do budgets spend on military institutions. The budget problem becomes also apparent in the excuse used by military organizations that they will only act when directly ordered by politics, knowing that policy and decision makers are lacking awareness on the subject or exercising bureaucratic and risk avoiding behavior often based on financial restraints but to the same extent cultural heritage and CPP are highly politicized and there are organizations and countries that claim certain market shares. NGO's tend to defend their market shares and while doing that see CPP as humanitarian aid, resulting in disapproval of military implementing CPP.

Other problems include legal aspects and their interpretation by cultural and legal experts restrained by lack of research and dialogue. The international community should be aware that CPP solutions are only possible via pro-active measures. In order to take such measures people have to be educated and trained. To give an example: cultural experts have to be educated about military strategic and tactic issues and the chain of command because we need heritage experts to help getting the CPP obligations in military operational planning documents and procedures. This works the other way around too; military experts need cultural heritage education to be able to integrate CPP skills in planning and training. A good illustration of generating added value by cooperation could be collaboration between civilian and military cultural experts, within ethical boundaries, on contemporary technical developments like utilizing Geographic Information Systems (GIS) and archaeological remote sensing technologies. At this moment there is no university in the world that created a chair on CPP in the event of armed conflict. Though internationally there is a lot of demand by students from all levels to obtain degrees on this specific multi-disciplinary subject, so far no university takes the initiative, this is really something to think about.

JOINT STRATEGIES AND INTERNATIONAL COOPERATION

Joint in this context stands for integration of the various service branches of a state's armed forces. It seems clear that international cooperation in establishing military responsibility in CPP is necessary. In most cases, financial and personnel resources are insufficient to achieve a comprehensive solution.

By combining forces, cost-efficient training, exercises, interagency cooperation, research, academic education, in-theatre assessments, and the development of educational tools, will be possible. The benefits are timely implementation, which is important given the current conflicts where cultural heritage is at risk, efficiency at a low (tactic) level, and effective synergy. Apart from complying with obligations under international law, CPP can generate important force multipliers and help end military missions sooner, while contributing to post-conflict reconstruction, for example by stimulating tourism and strengthening national identities.

Policy makers are gradually becoming aware of two important factors in the assessment and study of international CPP cooperation. First, cooperation brings efficiency; second, it enhances cultural diplomacy, loosely defined as “the exchange of ideas, information, art, and other aspects of culture among nations and their peoples in order to foster mutual understanding” (Cummings, 2003). CPP as part of Cultural Diplomacy also provides the means to restore old or develop new contacts after conflict with countries with subversive governmental systems or ideology. “Cultural diplomacy is the first resort of Kings,” says Diplomat Richard Arndt (2005). One still must be very careful: Nemeth suggested in *The Chicago Tribune* (Nemeth, 2012) that there is a potential for proactive protection of cultural artifacts, particularly in the light of the U.S. ratification of The Hague 1954 Convention (March 13, 2009). Nemeth claims that U.S. foreign policy can transform the risk related to the potential loss of cultural property into a diplomatic gain by insisting that military interventions include a strategy for securing cultural sites and avoiding collateral damage. This approach is mandatory under IHL; however, he forgets to mention that the U.S. has not ratified the Protocols of The Hague 1954. This means that using this treaty to promote certain ethically driven values could backfire when it will be stressed that the U.S. evokes a treaty for which they do not want to carry full responsibility. The sanctions are put down in the Protocols 1 and 2 (1954 and 1999 respectively) and the United States did not sign or ratify these protocols. Nevertheless, The Hague 1954 treaty and protocols should be used in strategic communication and cultural diplomacy albeit only by the parties who fully endorse them. If demonstrable success implementing the convention should be the condition for its use; not many states or parties would qualify. Therefore, promoting CPP for diplomatic or even economic reasons is a valid and potentially beneficial idea but should be addressed cautiously.

As established, a vital aspect of international cooperation would be to create a military or militarized cultural emergency assessment capability which, at the very least, is able to monitor and mitigate cultural destruction during conflicts. NATO or the United Nations can serve as an institutional umbrella for such a capability. In addition a civilian counterpart capability has to be created to take over from the military team as soon as situations permit. It would be highly recommendable if the creation of such entities will not be restrained by political motives, competence struggles and bureaucracy. It is time to include individuals that proved to be inspired by the subject instead of merely career driven opportunists.

I have tried together with my colleagues Karl von Habsburg and Hafd Walda²⁶ to set an example by undertaking emergency assessments to Egypt (during the 1st revolution) and Libya (twice during the overthrow of power) and earlier this year I managed to assess the situation at the Villa Gasdagli near Tahrir Square in Egypt (lám. 4)²⁷. These initiatives were not externally funded. Regrettably our examples have not been followed.

26. Dr. Walda was with us in Libya, in Egypt we were accompanied by Tilly Mulder.

27. http://www.ancbs.org/cms/images/Heritage_in_danger_a_Cairo_landmark_burned_and_looted_Joris_Kila.pdf
http://www.blueshield.at/egypt_2011/mission_report_egypt_02_2011.pdf
http://blueshield.at/libya_2011/09-2011/mission_report_libya_09-2011.pdf
http://blueshield.at/libya_2011/11-2011/mission_report_libya_11-2011.pdf
 (all entered 12 August 2013).

EPILOGUE

Beginning of 2014 the premiere of a major movie production called “monuments men” took place (Minzesheime, 2013).

This helped a little to raise awareness but did not led to support for the small group of individuals undertaking actions to save cultural heritage in today’s war zones while trying to do research on the causes of its destruction. I fear that without such recognition and financial resources they will not be able to continue. Since I wrote this piece in 2013 important things happened I added a limited number of indications in the article but not enough to cover all developments of 2015. Important recent issues include: CPP as a force multiplier is even more relevant because there is overwhelming prove that insurgent/terrorist groups (IS) finance part of the conflicts via looting, trafficking and selling artefacts on the international markets. The U.S. State Department recently declassified documents and pictures/graphics found during a raid by special forces (US Delta) on the dwelling of IS leader Abu Sayyaf. This individual from Tunisian descend was killed while resisting arrest during the raid that took place the night of 15 to 16 May 2015. During the operation cultural objects were found proving the illegal IS trade in antiquities. Also documents were found that show that IS has a special antiquities department (part of a Diwan). This department also issues (sells) licence to loot to individuals. Revenues are used to at least extent the conflicts. Selling the objects causes that international criminal organizations (transnational crime) are getting more involved. Iconoclasm is increasing thanks to groups like IS. At the same time objects that are easy to handle are set aside to be sold illegally, a win-win business case for both insurgent movements as well as certain governments (e.g. Syria). Iraq is back as a country where looting, and damaging is flourishing sad examples are Mosul, El Hatra, Nimrud and in Syria Palmyra. Libya is again at risk. It seems fair to draw the conclusion that CPP is now also a global security issue and therefore no longer a topic for only cultural experts. Security and intel military departments are getting more involved. The overlap between natural and cultural heritage becomes more manifest e.g. terrorist groups in Africa are financed by Ivory smuggle, the international demand for objects is still increasing so it pays off to loot and smuggle.

The international community and organizations tasked with protecting culture react by doing even less now than they did at the time the original version of this article was written in 2013.

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Lám. 1.—The destroyed holy door of Sidi Yayah, refilled with bricks, in Timbuktu January 2014 (Photo Joris Kila).



Lám. 2.—The office of Zahi Hawass in Cairo under siege on 13 February 2011 Cairo Photo (Joris Kila).



Lám. 3.—Matejce Monastery in Macedonia (FYROM). Damaged mural of St. Peter in 2002 (Photo Joris Kila).



Lám. 4.—Cairo: Villa Casdagli looted and burnt February 2013 (Photo Joris Kila).