

NATO-led Military Operations and Cultural Property Protection

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An overview of the NATO Science for Peace and Security project “Best Practice for Cultural Property Protection in NATO-led Military Operations”.

In 2014, NATO Member States approved a NATO Science for Peace and Security program (SPS) series of Advanced Research Workshops (ARWs) titled “Best Practice for Cultural Property Protection in NATO-led Military Operations” (NATO SPS CPP) that was to be held in 2014-2016. The NATO SPS Program is a NATO policy tool, which aims at increasing the cooperation and dialogue between NATO Member States and partners based on scientific research and knowledge exchange.²

The NATO SPS CPP can be seen as a follow-up to NATO’s role in Kosovo, where KFOR provided security for designated religious and cultural heritage sites³ and the lessons identified in Operation Unified Protector⁴ to protect Libya’s cultural heritage.⁵ The NATO SPS CPP has offered an academic and analytical approach for NATO to consider further integrating and institutionalising

¹ The current text will be published in the periodical NATO Legal Gazette but there is plenty of room for elaborating it further to a book chapter.

² See http://www.nato.int/cps/en/natohq/topics_85373.htm? The SPS Award for this NATO SPS CPP was EURO 110.000 earmarked for operational costs of running workshops and containing no overhead for institutions or salary for co-directors or assistants. The NATO SPS Committee approved the NATO SSP CPP with co-directors from Bosnia-Herzegovina (Hadzim Hodsic) and Denmark (Frederik Rosén), while co-directors from UK (Richard Osgood) and US (Laurie Rush) were added immediately after project launch. The project is hosted by the Danish Institute for International Studies (DIIS) in Copenhagen, Denmark.

³ http://www.nato.int/cps/en/natohq/topics_48818.htm?selectedLocale=en
⁴ http://www.nato.int/cps/en/natohq/topics_71652.htm?selectedLocale=en see also
http://www.jallc.nato.int/products/docs/factsheet_cpp.pdf

⁵ http://www.nato.int/cps/en/natohq/news_82441.htm?selectedLocale=en

CPP in its operational planning.⁶ The stated aim of the NATO SPS CPP includes developing recommendations on how NATO should approach the question of policy, doctrine and training related to CPP. Furthermore, it aims to stimulate NATO HQs and allied nations in thinking about the challenges posed by the increasingly complex role of cultural property in armed conflict. This article describes the NATO SPS CPP project, its methods, activities, and accomplishments so far.

NATO's readiness to address CPP

International Humanitarian Law (IHL) provides a comprehensive framework for protecting cultural property.⁷ As of 2016, 26 out of the 28 NATO Member States are signatories to the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict⁸ and its First Protocol, and many to its Second Protocol, as well as other relevant UNESCO Conventions. While NATO itself is not a signatory to these conventions, individual Member States bear the responsibility to comply with their international legal obligations. Under the 1954-regime, NATO Member States are under an obligation to take all feasible care during military operations to avoid harming cultural property, including avoiding causing damage as a result of base and infrastructure construction. More specifically, the 1954 Convention obligates Member States to “plan or establish in peace-time, within their armed forces, services or specialist personnel whose purpose will be to secure respect for cultural property and to co-operate with the civilian authorities responsible for safeguarding it.”⁹

⁶ Recognising the conceptual differences and overlap between the concept of “cultural heritage” and “cultural property”, the concept of ‘cultural property’ will be used throughout this article.

⁷ For thorough account of the international legal framework of CPP, see Roger O’Keefe (2006): *The Protection of Cultural Property in Armed Conflict*. Cambridge: Cambridge University Press.

⁸ United Kingdom signed the Convention on 30 December 1954, and is currently considering to ratify: <http://www.bbc.com/news/uk-33213911>

⁹ Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954, Art 7(2).

However, research conducted by the NATO SPS CPP in collaboration with SHAPE combined with the general information collected by the NATO SPS CPP throughout the project indicate that few states have taken steps to plan or set up a CPP capacity in their military forces, and CPP remains a somewhat overlooked topic in training. Considerations are most often limited to general principles of IHL. However, not least as response to how CPP has become a complex challenge in many contemporary conflicts, some states have started to establish more proactive approaches that moves beyond IHL obligations. For instance, The Italians demonstrates the most active commitment in the area; similarly, Poland has broad doctrine in place; the US Army hosts a world famous CPP program and training facilities at Fort Drum, NY; and the UK recently started to take steps to include dedicated CPP capacity in their defence forces. Hence, the lack of institutionalisation does not per se mean that military organisations do not consider CPP. Also, surveys conducted by the NATO SPS CPP and HQ SACT found plenty of CPP-relevant elements in NATO lower level doctrines, and CPP is indeed considered by NATO Military Headquarters and NATO COEs. Altogether, CPP is not an alien element to NATO, even if NATO lacks an overview of and a framework for mainstreaming CPP across the NATO work strands.

The Role of the NATO SPS CPP

When the NATO SPS CPP commenced, the Environment Protection Working Group (EPWG) provided the lead forum for CPP in the working group structure. The role of the EPWG was however limited to monitor CPP developments in NATO and keep the Military Committee Joint Standardization Board (MCJSB) informed without initiating any work on CPP. While EP naturally needs to consider CPP as one of its many elements, it was also clear that EP for various reasons should not be the primary “home” for CPP. The first task for the NATO SPS CPP was thus to start exploring where in the NATO-framework to accommodate CPP. Consultations were held with a

range of representatives from NATO Headquarters (Brussels), SHAPE, HQ SACT, and NATO Civil-Military Cooperation Centre of Excellence (CCOE). In addition to gathering knowledge, this process contributed to identifying a network of relevant stakeholders across NATO s and some of NATO's Centres of Excellence, and to socialise the project with academia as well as other international organisations and non-governmental organisations.

Advanced Research Workshops

The subsequent series of Advanced Research Workshops (ARWs) arranged by the NATO SPS CPP Project brought together key stakeholders from NATO HQs, other international organisations (UNESCO, United Nations), Member States, and leading experts to offer different perspectives on CPP in a military and operational context. The workshops consolidated networks, partnerships, and provided a forum for disseminating and discussing findings, perspectives and recommendations of the NATO SPS CPP Project. The actual work of the NATO SPS CPP Project and the related work in NATO's different Headquarters however took place in-between the workshops. The ARWs mostly functioned as events for the NATO SPS CPP Project to coordinate work.

The first ARW was held in Sarajevo in June 2015. In order to align the workshop focus, format and participants as much as possible, the workshop was organised in close cooperation with key stakeholders in NATO Headquarters. The key topics addressed at the workshop were: 1) the conceptual dimension of CPP; 2) International law, CPP, and NATO; 3) the role of GIS in a NATO approach to CPP; 4) the role of SHAPE as a focal point keeper of CPP on behalf of NATO Allied Command Operations (ACO); 5) NATO and training related to CPP. The workshop participants included staff from SHAPE, the CCOE, the Protection of Civilians team in NATO Headquarters

(Brussels), HQ SACT Office of the Legal Advisor, , and SHAPE, as well as non-NATO subject matter experts.

A main conclusion was that ‘Cultural property protection’ (CPP) is not a legal term. Rather, the expression is a descriptive label for a range of practices geared towards respecting and safeguarding cultural property in the event of armed conflict. Some of these practices are obligatory as a matter of international law, whilst others are not. The workshop outcome emphasized the tactical and strategic value for NATO of observing CPP, and the crosscutting nature of CPP. The workshop also found that to bring forward the work on CPP, NATO would benefit from knowledge about already existing CPP activities in Member Nations. Consequently, SHAPE sponsored a survey among NATO Nations with the purpose of identifying national best practice. HQ SACT on the other hand, reviewed the integration of CPP in NATO Standards and in exercises and training.

Furthermore, the workshop also identified GIS – Geospatial Imaging Systems – as a critical enabler for considering protection of cultural heritage during all phases of a military operation. Military operations are an inherently geographical practice and maps are key to the planning and conduct of military operations. Hence, adding a cultural property layer to maps appears to be a precondition for engaging with this dimension of military geography at the strategic, operational and tactical levels.

The second ARW took place in April 2016 in Turin, Italy, where the two aforementioned surveys were presented and discussed. The SHAPE survey sent out on the 30 January 2016 by SHAPE Vice Chief of Staff to the national military representations at SHAPE, inviting information about national policy, doctrine, capacity and best practice related to CPP in order to support the work of the NATO SPS CPP Project. The survey responses indicated very diverging approaches to CPP. The HQ SACT

survey (within the ACT Legal community) identified CPP-related material in NATO Standards and the existence of CPP or CPP-related material in NATO training and exercises. The findings showed that CPP is integrated in several fields such as a component of IHL instructions, and in the areas of environmental protection standards and civil-military relations. Moreover, CPP is included in NATO training and exercises, but on an ad hoc basis.

In addition to the ARWs in Sarajevo and Turin, an ARW on training was in August 2016 held in Krems, Austria. The Terms of References (ToR) for the NATO SPS CPP Project mentions the production of suggestions for NATO training material as a key outcome, in addition to suggestions for policy and doctrine. However, in the context of NATO, the development of training material is a long process that depends on training needs assessment, and thus not a feasible outcome of an SPS-project. The Project therefore adjusted its outcome goal to developing a compendium of educational materials to be made available to NATO Nations as well as non-NATO countries.

In September 2016, the NATO SPS CPP Project organised a technical workshop in New York City, USA, dedicated to NATO Headquarters' GIS initiative. A key finding of this workshop was that the technical platforms for launching a NATO "CPP Viewer" are simple and available, but that the building of cultural property inventories appears far more difficult: the barrier for realising a NATO CPP viewer is not technical but organisational and political. The lack of NATO capacity to source and organise data constitutes a key challenge. For NATO to receive inventory data from a single NATO Member State would require screening and approval by the other 27 states. In the end, NATO SPS CPP Project instigated a dialogue between NATO and UNESCO, UNOSAT and the German Institute for Archaeology to find a solution.

Finally, in December 2016, the NATO SPS CPP conference at the Sanremo Institute for Humanitarian Law in Italy brought together some 60 participants for a three-day conference on CPP in NATO and armed conflicts more broadly. In addition to NATO stakeholders, the conference enjoyed the participation of representatives from UNESCO, United Nations Department of Peacekeeping Operations /Department of Field Support (DPKO/DFS), UNOSAT/UNITAR, NATO Defence College, INTERPOL, Smithsonian Institute (US), International Criminal Court (ICC), International Tribunal for Former Yugoslavia (ICTY), US Army, US Defense Intelligence Agency, Defense ministries, and leading academic experts.

Corporation and dialogue

Following the spirit of SPS, the NATO SPS CPP Project facilitated cooperation and dialogue between NATO member countries, partners including international organisations, and academic experts. Despite the high attention paid to cultural property in recent conflicts, the NATO SPS CPP Project stands as the only international initiative that seeks to advance a conceptual and practical military approach to CPP in close cooperation with key stakeholders. As such, the project came to play a role in connecting allied nations who are in the process of developing CPP mechanisms, as well as building ties between key initiatives in international organisations. Also, the United Nations Secretariat has been kept in the loop and received outcome documents, briefings and sometime participated in meetings.

Finally, the enabling role of the NATO SPS CPP Project with regard to bringing together stakeholders and “translating” across branches and functions not only stands as a success. It also presents some general lessons learned about installing crosscutting issues into the silo-world of defence organisations. Engaging with crosscutting issues in an organisation such as NATO requires

skills to translate concepts and objectives across branches and stakeholders with very different organisational outlooks. In that regard, the NATO SPS CPP Project benefitted very much from the interdisciplinary team of co-directors, which possessed both broad academic skills as well as profound experience from working with military organisations.

Update of NATO doctrine AJEPP 2B

The NATO SPS CPP Project team drafted the ANNEX I to STANAG AJEPP 2B on Environment Protection best Practices and Standards for Military Camps in NATO-Led Military Operations, which NATO updated in 2016. The annex seeks to remedy the situations we have seen in Afghanistan where ISAF forces generally failed to consider cultural property when building camps and other infrastructure. In fact, NATO SPS CPP has been able to identify little practical attention to the rich cultural property environment of Afghanistan in the processes of rolling out the enormous stabilisation project in Afghanistan including the construction of infrastructure for Afghan national forces and police. Annex I outlines best practice for considering cultural property building camps and other military infrastructure in areas of operation, as clearly required by International Humanitarian Law.

Policy and doctrine

As the NATO SPS CPP Project commenced its work, some confusion in NATO HQs surrounded the question of what kind of CPP policy or doctrine NATO needed to further integrate and institutionalise CPP in its operational planning. The international community and experts tend to address CPP as a separate thematic issue. Yet, from a military organisational perspective, CPP is a crosscutting issue that calls for awareness across operational planners and commanders. For that reason, a key finding of the NATO SPS CPP Project is that NATO does not need a stand-alone

policy or a department for CPP. Rather, NATO needs a set of NATO standards, and a function to mainstream these standards across relevant stakeholders so that CPP becomes a natural outlook of the organisation during all phases of an operation. As NATO already considers CPP, as verified by the HQ SACT survey in combination with general findings of the NATO SPS CPP Project, such a mainstreaming is more about connecting the dots than building something new. Moreover, it would easily pave the way for adopting the more proactive outlook needed to deal with the increasingly complex CPP challenges in contemporary armed conflicts. Consequently, engaging CPP more effectively during NATO missions, planning and conduct is neither rocket science nor a zillion-dollar expense for NATO Member States. Rather, it seems like a low-cost high-gain step to take.

This is an important finding, as Nations tends to push back new work areas that may entail financial costs. Hence, when the NATO SPS CPP Project asked a Member State to raise the question of CPP policy among the 28 nations, the answer was that they were concerned that this would create an expectation that they took the lead on the strategic work; something they could not prioritise under their current departmental dispositions. While such concerns are understandable, the fear that introducing CPP in NATO would be a costly affair stands unsubstantiated.

In addition, a tendency in NATO HQs as well as among allied nations to complicate matters unnecessarily, at least that is the impression of the NATO SPS CPP Project, seems to cause NATO stakeholders to shy away from the topic. In that regard, the NATO SPS CPP Project noticed that military personnel, and particularly those who have served in countries rich with cultural property, like Iraq and Afghanistan, usually appreciate the importance of CPP based on their own experiences.

In order to ensure that CPP remains prominently addressed and incorporated in the operational planning and execution of operation, the NATO SPS CPP advises NATO to consider the development of a NATO STANAG (Standardization Agreement) on CPP. A STANAG is a ‘normative document that records an agreement among several or all NATO member states – ratified at the authorized national level – to implement a standard, in whole or in part, with or without reservation.’¹⁰ The STANAG should embrace best practices for implementing IHL obligations as well as wider strategic and tactical considerations of relevance to CPP in the context of NATO-led operations. There are two good reasons for commencing this process. Firstly, to establish agreed NATO best practice on CPP as a crosscutting issue. Secondly, to establish a process that keeps alive the discussion of CPP in NATO (a STANAG takes around two years to complete).

If this approach is adopted, then it will require the active involvement and support of the Allied Nations. In this process, it may be very helpful to find dedicated support from one or two nations to underpin the development of STANAG and ensuring interim CPP readiness. As the NATO SPS CPP Project has formed the basis for CPP in NATO, this should not be difficultly nor costly. Alternatively, it could be considered a possibility to sustain the NATO SPS CPP Project for these activities. Furthermore, at the national level NATO Member States and partner Nations may benefit from such an initiative when pursuing implementation of national IHL obligations as well as when thinking through CPP challenges and developing national capacities.

Conclusion

¹⁰ <http://www.nato.int/cps/en/natolive/publications.htm>

The NATO SPS CPP Project and related initiatives in NATO HQs has established NATO as the most progressive defence organisation when it comes to developing military approaches for handling challenges related to cultural property in armed conflicts. As military organisations generally lack policy, doctrine and dedicated capacities for addressing CPP, the developments enabled by NATO initiatives may blaze the trail and drive a global mainstreaming of military approaches to CPP broadly viewed. NATO member States and commands should embrace this opportunity and make sure that NATO takes the necessary steps to consolidate this development.