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Cultural Heritage and the Armed Forces

*Rajiv Tewari**

Imagine if there is a war between India and Pakistan and the National Museum at New Delhi was vandalised and precious historical artefacts and other historical objects were stolen; or close your eyes and visualise India without the Taj Mahal which may be destroyed in an air attack. The standing bodhisattvas, dating back to seventh century AD, and the arms and armours of the Mughal era are some of the fabulous cultural wealth stored in the National Museum that is priceless for the nation and the loss of which can be the loss of the entire golden history of that era. That is literally what has happened to the Iraq National Museum in Baghdad (the Archaeological Institute of America has raised concern on the subject). Many artefacts contained in the museum were excavated from what has come to be known as the “Cradle of Civilisation” and artefacts—like a Sumerian marble head of a woman from Warka, dated 3000 BC and measuring 20 cm high—were found stolen from the National Museum in Baghdad. The fog of war and the instability that followed led to the looting and disappearance of thousands of such priceless artefacts from Baghdad National Museum and have sent alarm bells ringing regarding the preservation of cultural heritage in any armed conflict. The Chinese Cultural Revolution was another example of what harm can be done to the cultural heritage and how history can be obliterated and precious artifacts destroyed in the event of hostility breaking out.

In any armed conflict, it is the collateral damage that causes immense harm to the cultural property of both the nations and leads to the loss of a heritage that cannot be recovered once lost. The “Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1954” is the international convention that regulates the behaviour of the armed forces with regard to the treatment and handling of cultural heritage. The Convention has described the term “cultural property” in Article 1 in a very exhaustive manner. However, as mentioned above, it is the collateral damage that leads to irreversible loss. The invasion of Iraq and the subsequent looting of the National Museum in Baghdad is a case in recent history and, of course, the Second World War looting by the Nazis is a case in point. The Article 2 of the Convention clearly states that all the high contracting parties should take measures to respect and protect the cultural property of either side.

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However, the provision of Article 2 is quite debatable in the absence of any clear-cut and laid-down standing operating procedures in most of the armies on the subject. It is amply clear to any defence practitioner that when wars are planned, the protection of the cultural centres and heritage is hardly a topic that takes up the attention of the commanders. There is no trained manpower, nor experts, in the payroll of the armed forces to offer advice on the issue. In the absence of advisories and experts, it is apparent that the loss and destruction is going to be there, and concerted effort has to be made in peacetime so as to ensure that minimal damage is incurred by these priceless heritage sites. The United States of America, Department of Defence, Legacy Programme has realised the importance of having trained experts in the field.

The Article 3 of the Convention makes it mandatory to the belligerent nations to take appropriate measures in peacetime to preserve the cultural property of either of the parties. Although the preservation of the cultural property is the avowed aim, yet, Article 4, sub-para b, allows waiver in view of "military necessity". Thus, this particular international humanitarian law gives enough space to military necessity and the military leaders to plan their operations and, of course, take measures to preserve the cultural heritage which belongs to the entire humanity.

It is the avowed aim of all wars to carry out the disablement of the opposing forces to a level that leads to the achievement of the political aim. It is in this context that the humanitarian law aims at making the warfare as humane as possible. Although the military aim is paramount in the war, yet the preservation of the historical heritage is equally important. Thus, the Convention states outright to refrain "from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility, directed against such property".¹ Therefore, the peacetime preparations mentioned in Article 3 involve that no use of a historical or cultural centre is carried out in the conduct of war. However, this provision is more on paper than practised in principle.

The aspect of the provision regarding the prevention of cultural property and area surrounding it from any use involving the armed conflict is very sketchy and difficult to implement. Since the preparation for war is an ongoing process, thus it is paramount that the countries take these provisions seriously and ensure that none of these properties or adjacent areas are used for military purpose. The issue of the responsibility of the respective national authorities in preserving and safeguarding these properties is clearly defined in the Article 5 of the Convention. It also lists the necessary cooperation between the occupying forces and the authority of the belligerent nation in jointly taking steps to ensure that no damage to the assets is done.

The issue of recognition of such properties of cultural value has been addressed in Articles 16 and 17 as they elaborate on the distinctive marking that needs to be carried out to identify these properties and centres and ensure that they are not damaged in the war. The distinctive emblem approved by the Convention is as given in Figure 1.

Figure1: Emblem of the Convention



The distinctive emblem of the Convention takes the form of a blue and white shield, pointed below (a shield consisting of a royal blue square, one of the angles of which forms the point of the shield, and of a royal blue triangle above the square, the space on either side being taken up by a white triangle on either side). The emblem shall be used alone, or repeated three times in a triangular formation (one shield below), under the conditions provided for in Article 17. The Convention, in fact, grants the same respect to the personnel looking after the cultural property as is given to the medical personnel. It asks for the parties in conflict to respect them and allow them to carry on their duties of protecting these properties from looting and vandalism. In this context, it is relevant to quote the provisions of the Convention concerning the Protection of the World Cultural and Natural Heritage adopted by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) meeting held in Paris in November 1972. The Convention asks that every state party to this Convention shall, insofar as possible, submit to the World Heritage Committee an inventory of property forming part of the cultural and natural heritage, situated in its territory. On the basis of the inventories submitted by the states, the World Heritage Committee shall establish, keep up to date and publish, under the title of “World Heritage List”, a list of properties forming part of the cultural heritage and natural heritage, as defined in Articles 1 and 2 of this Convention, which it considers as having outstanding universal value. An updated list shall be distributed at least every two years. This list gives the data to both the belligerent sides to identify these centres and take steps to prevent their damage in any military operation.

In the event of a conflict breaking out, the “Regulations for the Execution of the Convention for the Protection of Cultural Property in the Event of Armed Conflict” empower the Director General of UNESCO to appoint a commissioner general for cultural property from the list of qualified personnel held by him. An “International

Register of Cultural Property under Special Protection” shall be prepared by the UNESCO to keep an inventory of the sites requiring protection in war. The commissioner general appointed can also investigate the matter pertaining to the damage caused to the cultural property. In the Iraq war, the United States (US) forces were severely criticised for their role in the destruction and for not taking adequate steps to protect the cultural sites. In the wars, where the main aim is to win the hearts and minds of the population, this kind of criticism does not go well in the overall strategy of any nation. Thus, it is pertinent to provide hands-down training to the armed forces personnel who are going to participate in the operations. This is a very serious grey area in the strategy of any nation. The need to create a military archaeology community is very strong and it is important that in the event of a conflict, these personnel give necessary briefing to the troops participating in the operations. This aspect should also become part of the curriculum of the various courses being run in various training establishments. It is important that the data of important cultural and archaeological sites be updated regularly and passed down to the formations in the field. This training should also incorporate the customs department, the law enforcement agencies and the armed forces so that a cohesive strategy regarding the preservation of cultural sites and centres is worked out during the hostilities.

In this context, it is pertinent to take into account the efforts undertaken by the Archaeological Survey of India (ASI) and the Indian National Trust for Art and Cultural Heritage (INTACH). The ASI has also initiated to prepare and publish an “Inventory of Monuments and Sites of National Importance”, containing details of centrally protected monuments and sites under various circles, along with their plans and photographs, so that it could cater to the needs of the heritage administrators, scholars and tourists. This list can be of immense utility to the commanders on the field and can be part of contingency plans to protect these sites and educate the troops regarding their intrinsic importance. The INTACH has chapters in all the states and also in most of the cities near the international border. These chapters are very well organised and can provide expertise and information regarding the management of these sites in the event of hostilities. The historical legacy of nation is an important heritage and it should be the endeavour of the nation to ensure that it is passed onto the future generations. This should be one of the important step in the confidence-building measures (CBMs) with the neighbours of our country. The list of cultural and historical sites should be circulated between the countries as part of the CBMs so that our history is not wiped out in the fog of war. Even approved maps with the historical and cultural sites marked can be exchanged so that both the armies are aware of the location of the historical sites on either side of the border.

The Libyan campaign also saw the UNESCO taking proactive steps by asking the coalition parties to protect the precious cultural heritage of Libya. The historical

site of Old Town of Ghadamès and the Rock-art sites of Tadrart Acacus are some of the sites which were in the UNESCO's World Heritage List and the UNESCO asked the signatories from taking all possible steps to protect these sites. The June 1998 Rome Statute of the International Criminal Court establishes in Articles 8(2)(b)(ix) and 8(2)(e)(iv), its jurisdiction over intentional attack "against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives"², occurring both in international and non-international armed conflicts. Article 3(d) of the Statute of the International Criminal Tribunal for the former Yugoslavia established the jurisdiction of the tribunal over violations concerning "seizure of, destruction or willful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science"³. Thus, it is apparent that the war crimes against damage to cultural property are being taken cognisance of and hence, it is pertinent that the awareness level on this issue amongst the armed forces personnel is enhanced.

A war's ultimate aim is to achieve the political aim by disabling and destroying the armed forces of the opponent. However, in the fog of the battle, it should not happen that irreparable damage to the cultural heritage is done, thereby antagonising the civil populace. The cultural heritage of any country is close to the heart of the population. Any destruction whatsoever will be two steps backward in the effort to win the hearts and minds of the population and also deprive future generations, for posterity, to reflect on what their ancestors did in reaching the current stage of development.



Notes:

1. "Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954", available on <http://unesdoc.unesco.org>.
2. Ibid.
3. Ibid.