

Cultural Property Protection: Perspective of the Canadian Armed Forces

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Agenda

- **WHY** cultural property protection is important and how does it contribute to security and peace building?
- **WHO** are the stakeholders in Canada in the implementation of the Hague Convention and its protocols?
- **WHAT** is done by the Canadian Armed Forces to ensure that cultural property is protected?
- **WHAT** could we do in the Canadian Armed Forces to do it better?

Why cultural property protection is important and how it contributes to security and peace building

- “Wilful attacks on cultural heritage constitute a centuries-old practice that remains a feature of modern conflict”. *Office of the Prosecutor ICC 2021 Policy on Cultural Heritage*
- “Recognizing that cultural property has suffered grave damage during recent armed conflicts and that, by reason of the developments in the technique of warfare, it is in increasing danger of destruction;” *Preamble 1954 Convention*
- “Being convinced that damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world;” *Preamble 1954 Convention*
- “Russia's war against Ukraine is an attempt to erase the identity and culture of a sovereign nation, including through strategic and targeted acts of destruction of cultural heritage sites” *Verheyen MEP, Culture and Education Committee.*

Why cultural property protection is important and how it contributes to security and peace building

Government of Canada's Position

Cultural property has great value for the citizens of all countries and it is irreplaceable. As a supporter of multilateral relations, Canada has a responsibility to help countries preserve their cultural property so that future generations may benefit from it. *Minister of Heritage when Canada acceded to the Convention's two Protocols*

Canada continues to contribute to peace and security on the international stage. Our military personnel are trained to carry out any mission, while remaining vigilant with respect to the protection of cultural property. *Minister of National Defence when Canada acceded to the Convention's two Protocols*

Facilitates Military Operations and Cooperation

- Protection of cultural property affords a swifter return to normality post-conflict
- Demonstrates Canada's moral leadership and obligation to the communities among which it operates (Strategic Communication)
- Increased Influence and Reputation
- Improves Force Protection and Lowers Risk of Terrorist Funding
- Improves Campaign Legitimacy (Strategic Communication)

Who are the stakeholders in Canada in the implementation of the Hague Convention and its protocols

1. The stakeholders in Canada are:

- The Minister of Canadian Heritage - The Department of Canadian Heritage
- The Minister of Foreign Affairs - Global Affairs Canada
- **The Minister of National Defence – Department of National Defence and the Canadian Armed Forces**
 - **Every member of the Canadian Armed Forces**
- The Minister of Justice and Attorney General of Canada
- The Minister of Public Safety (War Crimes Program)
 - Royal Canadian Mounted Police (RCMP) (federal police service)
 - Canada Border Services Agency (CBSA)
 - Immigration, Refugees and Citizenship Canada (IRCC)

1. How Canada acceded to the Convention and Protocols:

- To accede, legislation was enacted allowing Canada to prosecute Canadians for criminal acts committed abroad, through *An Act to Amend the Criminal Code and Cultural Property Export and Import Act*.

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Specific Amendments to Various Acts of Parliament

Cultural Property Export and Import Act

- Prohibits illegal export from an occupied territory of another State Party to the Second Protocol
- Allows for return of cultural property illegally exported from another State Party of the Convention and First or Second Protocol

Criminal Code of Canada

- Extends jurisdiction over theft, arson, vandalism and other acts already prohibited against any type of property in Canada to instances where they are committed against cultural property by a Canadian anywhere abroad *at any time*, if the cultural property is sufficiently important to meet the Hague definition

All other types of acts prohibited by the Hague instruments could be prosecuted under already-existing provisions of:

- the ***National Defence Act*** or
- the ***Crimes Against Humanity and War Crimes Act***

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1. *Canada's Crimes Against Humanity and War Crimes Act* establishes the authority in Canadian law to prosecute war crimes. That includes acts against culture property that are prohibited under the protocols to the *Geneva Convention* and similar acts prohibited under the *Hague Convention*.
2. *Canada's National Defence Act* provides obligations for conduct of Canadian Armed Forces members that mirror obligations on the military under the *Hague Convention*.
3. Canadian Armed Forces members are subject to the jurisdiction of the Code of Service Discipline on a 24/7 basis any where in the world. This disciplinary code is part of the *National Defence Act*.
4. These Canadian laws allow for the prosecution of offences when committed outside Canada. These laws also provide for a mechanism for the restitution of cultural property.
5. Canadian Armed Forces members in Latvia must obey applicable Canadian and international laws, and respect Latvian law.
6. These legal obligations are translated into orders and directives to Canadian Armed Forces members.

WHAT is done by the Canadian Armed Forces to ensure that cultural property is protected?

- **Training (in Peacetime and in Armed Conflict)**
 - Ensure every member understands their obligations under the law
 - Training specialists in accordance with Article 7 of the Convention
- **Military Operations - Directives and Orders**
 - IHL is a national responsibility. Military orders must reflect national policies, legal obligations and national, bilateral, and multilateral objectives
- **Planning**
 - Involvement of key cultural property protection stakeholders
 - Identification of objects entitled to protection to avoid locating military activities or military objects in or near protected cultural objects and places of worship
- **Military Operations – Targeting**
 - Rules of Engagement and Targeting Directive in accordance with IHL
 - Dedicated legal support to enable operations in accordance with law applicable to Canadian armed forces operations.
- **Reporting, Investigating and Prosecuting Violations of IHL**
 - Every Canadian Armed Forces member has a duty to report violations of IHL
 - State and Command Responsibility

1954 Hague Convention and Protocols – scope of application

Range of protected property:

- **Movable or immovable property** of “great importance to the cultural heritage of every people”: monuments, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; scientific collections and important collections of books or archives;
- **Buildings whose main and effective purpose is to preserve or exhibit the movable cultural property** described above: museums, large libraries and archives, and refuges intended to shelter such property in the event of armed conflict;
- **“Centers containing monuments”**: centers containing a large amount of cultural property described above

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Training for Canadian Armed Forces Members:

- **Basic training** includes instruction re: respect for cultural property;
- **Additional education on IHL** (including aspects relating to cultural property) is offered 4-7 times annually to senior non-commissioned members and officers;
- Instruction in IHL is also mandatory for all officers and must be completed in the individual offer's first few years of service;
- All **mission-specific pre-deployment and deployment training** includes information about the country in question, and specific information about sites could be provided as part of this training; and

Legal advice and support:

- The Office of the Judge Advocate General advises the Canadian Armed Forces chain of command and deploy to provide dedicated legal support on the ground.

What could we do in the Canadian Armed Forces to do it better?

- **States make international law – our words and actions matter**
 - Promote compliance
 - Lead by example
 - Work in close cooperation with key stakeholders
 - Lose the trust of the local population
 - Lose the trust of the Canadian public
- **Lessons Learned**
 - The majority of the work needs to be done now, in peacetime
 - Collect lessons learned and improve military doctrine
 - Collaborate with various agencies
- **Promoting awareness, training, and deterrence through enforcement**
 - Prevention: Insert specialists such as legal and cultural advisors in key positions
 - Training: From new recruit to general, respect for IHL must become a reflex
 - Deterrence: Investigate and hold accountable violators at all ranks



Paldies

Canada's commitment to the Hague Convention reaffirms the Canadian Armed Forces' long-standing commitment to protect cultural property while on operations. It is part of Canada's commitment to Latvia.

