



Shushi, Artsakh (Nagorno Karabakh)

Holy Savior Cathedral before shelling

# Cultural Genocide in International Law:

A Case Study of Artsakh (Nagorno Karabakh)



Holy Savior Cathedral after shelling



HELSINKI CITIZENS' ASSEMBLY-VANADZOR

# **Cultural Genocide in International Law: A Case Study of Artsakh (Nagorno Karabakh)**

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The report was initiated by the Helsinki Citizens' Assembly-Vanadzor NGO

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Picture source: <https://www.youtube.com/watch?v=L-IWmVlwT9Q&t=19s>

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## Contents

1. Aim & Purpose of this Report .....	5
1.2 What is cultural property? .....	6
2. Motivations for Destruction .....	7
2.2 Effects of destruction.....	8
3. The Legal Protection of Cultural Property .....	9
3.1 Treaties .....	9
3.2 Application of International Law .....	11
3.3 National Legislation.....	12
4. The Jurisprudence of Cultural Property Protection .....	12
4.1 International Criminal Tribunal for the former Yugoslavia (ICTY) .....	12
4.2 Jurisprudence of the ICTY .....	14
4.2.1 The Prosecutor v. Tihomir Blaškić (IT-95-14) .....	15
4.2.2 The Prosecutor v. Dario Kordić & Mario Čerkez (IT-95-14/2).....	16
4.2.3 The Prosecutor v. Radoslav Brđanin (IT-99-36-T).....	17
4.3 Application of the ICTY Cases.....	19
4.4 Hate Speech in the Public Sphere .....	24
5. Cultural Genocide by Islamic Extremist Groups .....	26
5.1 International Law Applicable to War Crimes Committed by ISIL .....	27
5.2 Cultural Property Damaged or Destroyed in Mali .....	28
5.3 The Prosecutor v. Ahmad Al Faqi Al Mahdi (ICC-01/12-01/15).....	29
Notable Cultural Sites Damaged or Destroyed .....	29
5.4 Cultural Property Damaged or Destroyed in Iraq and Syria .....	30
5.5 The International Reaction to the Destruction in Syria and Iraq.....	31
6. Problems with the Current Approach to Protecting Cultural Property .....	34
7. The Situation in Nagorno Karabakh .....	35
7.1 The Human Rights Ombudsman Report .....	35
7.2 Why would Azerbaijani's destroy Armenian Iconography? .....	44
7.2.1 Armenophobia .....	44
7.2.2 Historical Revisionism .....	46

7.2.3 Cultural Revisionism.....	47
7.2.4 The UNESCO Technical Mission .....	50
7.3 Potential Outcomes .....	51
7.4 Proactive Measures .....	53
8. Concluding Thoughts .....	53
Books.....	54
Case Law.....	54
European Court of Human Rights .....	54
International Criminal Court.....	54
International Criminal Tribunal of the former Yugoslavia.....	55
International Human Rights Legislation.....	55
Journal Articles.....	55
United Nations .....	56
UNESCO.....	57
Web Articles.....	57
Websites .....	60
Other .....	60

## **Cultural Genocide in International Law: A Case Study of Artsakh (Nagorno Karabakh)**

There is no choice between protecting human lives and safeguarding the dignity of a people through its culture. Both must be protected, as the one and the same thing. There is no culture without people and no society without culture.

- Irina Bokova, UNESCO Director-General 2009 – 2017.

### **1. Aim & Purpose of this Report**

During the Nagorno Karabakh/Artsakh conflict in 2020, much of the focus was on the threat to life and the displacement of peoples. Yet in the aftermath, it became clear that not only were lives lost, but important cultural sites, buildings and monuments had been damaged or destroyed. Artefacts dating back to the 4<sup>th</sup> century had been damaged beyond repair, churches and mosques shelled and statues toppled.

It is not uncommon for such ‘cultural cleansing’ to occur during wartime; in fact it is well recognised throughout history as being a common outcome, and has many academic papers dedicated to it. In response, international treaties and laws have developed to protect the cultural properties of all peoples, and many cases have passed through the International Criminal Court in recent years which hold perpetrators to account. It is well understood by nations throughout the world that destruction of cultural property is a crime against mankind, yet it continues to occur even now.

This report aims to understand why cultural property has been actively and deliberately destroyed during the conflict in Nagorno Karabakh, identify the scope of crimes committed against Armenian culture and consider any potential resolutions available to Artsakh. It should be noted at this stage that this report does not intend to minimise the human cost suffered in the conflicts discussed below. It is without contention that cultural property destruction almost inevitably follows armed conflict. As stated by the Chamber of the International Criminal Court in the case of *The Prosecutor v Al Mahdi*, ‘[i]n the view of the Chamber, even if inherently grave, crimes against property are generally of lesser gravity than crimes against persons.’<sup>5</sup>

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<sup>5</sup> *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, no. ICC-01/12-01/15, TC VIII, Judgment and Sentence, 27 September 2016.

## 1.2 What is cultural property?

Before we can discuss the motivations for such damage and destruction, and the related jurisprudence, we must first understand what cultural property is. Most people have a working understanding of what it is – the museums, libraries, monuments, historical sites and places of worship that tell the story of people in every form. These are the sites of interest you visit when travelling, drawing people from all over the world to observe and learn about the lives of others in an attempt to enrich their own. They reflect the achievements of humanity – artwork, literature, construction, language, science and social structures. They tell stories and connect us to our ancestors.

The importance of these places and monuments is well-established in international law. The Hague Regulations 1907 prohibits the destruction of *'building[s] dedicated to religion, art, science, or charitable purposes, historic monuments'*.<sup>6</sup> The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict goes even further and recognises *'movable or immovable property of great importance to the cultural heritage of every people'*; *'buildings whose main and effective purpose is to preserve or exhibit the movable cultural property'*, and *'centres containing a large amount of cultural property'*.<sup>7</sup> Intentional and unintentional damage to such cultural property is criminalised, and amounts to a war crime or crime against humanity under the Geneva Conventions; *'it is prohibited: (a) to commit any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples; (b) to use such objects in support of the military effort; (c) to make such objects the object of reprisals.'*<sup>8</sup>

As a result, there is ongoing cooperation between a number of agencies (the UN, UNESCO and Blue Shield International) to protect cultural property, actively sending missions to assess the damage inflicted and investigating the background to the damage. Fittingly, UNESCO adopted its Convention concerning the Protection of World Cultural and National Heritage in 1972; *'it is incumbent on the international community as a whole to participate in the protection of the cultural and natural heritage of outstanding universal value'*.<sup>9</sup> Note that even the title of the Convention accepts that the value of culture transcends borders. In 2003 this protection was extended to intangibles – *'living heritage'* such as rituals, musical styles and traditional methodology.<sup>10</sup>

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<sup>6</sup> Article 27.

<sup>7</sup> Article 1.

<sup>8</sup> Additional Protocol I 1977 to the 1949 Geneva Convention, Article 53.

<sup>9</sup> <http://whc.unesco.org/uploads/activities/documents/activity-562-4.pdf> > accessed 12 March 2021.

<sup>10</sup> Convention for the Safeguarding of the Intangible Cultural Heritage, UNESCO <https://ich.unesco.org/doc/src/15164-EN.pdf> > accessed 12 March 2021.

## 2. Motivations for Destruction

The intentional destruction of cultural property is increasingly common in modern-day armed conflicts, and is accompanied by the looting, theft and sale of precious artefacts. Examples include the systematic destruction of religious sites during the conflict in the Former Yugoslavia, and the damage and looting caused during the 'war on terror' in Iraq, Syria and Afghanistan.

In his paper 'The Weaponizing Monuments', Ross Burns discusses the potential reasons for these places and objects becoming casualties of war;

1. **They get in the way.** Although the 1954 Hague Convention requires parties to actively safeguard monuments and respect their cultural and historical importance, many fighting groups are, as the author puts it, 'not simply ignorant of but actively hostile' towards this requirement. Many historic and religious buildings offer significant military advantage – minarets for example, provide vantage points, and mosques can be converted to barracks;
2. **Clearing areas is a military objective of many groups.** By flattening whole neighbourhoods, they can be made uninhabitable and prevent rival groups using them to their advantage;
3. **For profit.** Illegally obtained artefacts and objects from destroyed cultural sites are of high value to private collectors, and thus a black-market trade exists. Non-state actors in particular can gain monetary value from this trade to bolster their own coffers; and
4. **As a 'weapon of terror'.** By destroying cultural property, the aggressor displays they have no respect for the country or culture they've assaulted, and are prepared to go to extreme means to ensure submission of the populace.

The first few points cover strategic and practical reasons, but it is the final point that is particularly relevant to this report. An assault on a country's culture has been perceived to be as devastating as a physical assault. How else could one explain why the CIA spent millions installing offices in 35 countries in the 1960s with the sole aim of destroying communist sentiment and reducing the threat of the Soviet Union's influence globally?<sup>11</sup>

In her paper 'Deliberate Warfare: Destruction Of Cultural Property During Armed Conflict In Bosnia And Armenia' Maria Ilyas also picks up on the destruction of cultural property as a means of controlling a population by eradicating or reframing their culture. For example, between 1915 and 1923 the Young Turks government of the Ottoman Empire committed genocide, systematically murdering up to 1 million Armenians and deliberately destroying their cultural heritage; and in Mali, ISIL sought to embed its Islamist ideals by reframing the cultural property in Timbuktu as historically Islamic. Ilyas points out that in such cases, the

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<sup>11</sup> Ed Vulliamy, "Rockers and spies' – how the CIA used culture to shred the iron curtain' (*The Guardian*, 3 May 2020) <https://www.theguardian.com/us-news/2020/may/03/rockers-and-spies-how-the-cia-used-culture-to-shred-the-iron-curtain> > accessed 13 march 2021.



*'[p]erpetrator wants to neither kill nor displace a minority group, but, rather, destroy the group's affiliating cultural property such that there is no trace of the group's culture, heritage, or ideology. In its place, [the] perpetrator wants to impose a different agenda or ideology on the population'*.<sup>12</sup> Therefore the destruction of cultural property erodes the territorial claim of the existing population, and the construction or repurposing of it is a means of 'cementing' the occupier's authority.

## 2.2 Effects of destruction

Gabriella Venturini notes that despite the complex legal framework prohibiting the destruction of cultural property, *'intentional destruction has been increasingly frequent in contemporary armed conflicts'*.<sup>13</sup> By destroying such cultural property, either deliberately ('cultural cleansing' or for military purposes) or collaterally, communities are deprived of the ability to maintain their physical and intangible cultural identities.

The International Committee of the Red Cross has also pointed to the recent cases of such destruction by the Islamic State (ISIL) in Syria, Iraq and Mali as further examples of this. The targeted destruction of religious and cultural property served ISIL to *'end traditions and erase memory, in order to create new historical narratives affording no alternative vision to their own'*.<sup>14</sup>

The destruction of cultural property can therefore have *'a severe impact on the identity of those people, communities and societies that survive'* armed conflicts.<sup>15</sup> Furthermore, in post-conflict situations, the denial of access to cultural heritage can breed division between communities and States. Following the war in the Balkans, the Special Rapporteur noted that *'impediments to freedom of movement [...] obstruct interaction between people and deepen mistrust between communities. Such divisions constitute a serious obstacle to social cohesion, and are conducive to violations of cultural rights'*.<sup>16</sup> This is a situation familiar to the people of Armenia and the Republic of Nagorno-Karabakh, who have witnessed their cultural property be destroyed by Azerbaijan forces throughout history.

In her book *'The Destruction of Cultural Property as a Weapon of War'*, Helga Turku suggests that the destruction of cultural property serves to *'negative physiological impact*

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<sup>12</sup> Mariya Ilyas, 'Deliberate Warfare: Destruction Of Cultural Property During Armed Conflict In Bosnia And Armenia'. *The Fletcher Project at Tufts University*, April 2018.

<sup>13</sup> Gabriella Venturini, 'International Law and Intentional Destruction of Cultural Heritage'. *Cultural Heritage. Scenarios*, 2015-2017, 108.

<sup>14</sup> Andrew Miles, 'Conserving Culture: The Shift Towards International Criminal Liability for the Destruction of Cultural Property'. *Minnesota Journal of International Law*. Winter 2018 Vol 27(2), 1072.

<sup>15</sup> *ibid*, 1073.

<sup>16</sup> Report of the Special Rapporteur in the Field of Cultural Rights, "Addendum: Mission to Bosnia and Herzegovina (13–24 May 2013)", UN Doc. A/HRC/25/49/Add.1, 3 March 2014, [http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a\\_hrc\\_25\\_49\\_add\\_1.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_25_49_add_1.pdf)> accessed 25 January 2021.

*and foment hopelessness*'. The loss serves to sever links between generations, by destroying a culture's memory and therefore warping its future. Without identity, it is difficult to build or foster a nation. Destroying cultural property can serve to destabilize and therefore divide a nation, and in turn allow aggressors to rebuild in its own name. It is no accident that militaries around the world seek to exploit misinformation and proliferate 'fake news' with the same intentions. History has shown us that empires do not simply 'fall'; they are appropriated and consumed by the victors.<sup>17</sup>

Turku goes on to suggest that *'By exercising power over cultural heritage that is a testament to civilizations' achievements across millennia, [transgressors] are exercising power over humanity's shared legacy.'*<sup>18</sup> Those who seek to destroy cultural property harm more than their foes, they harm humanity as a whole. To destroy or damage cultural property is to attempt to rewrite history. It is true that the victors write history, but one can only hope that we have progressed in our understanding of culture enough to protect the culture of the losers as well as that of the victors. After all, *'A man's [sic] character is most evident by how he treats those who are not in a position either to retaliate or reciprocate.'*<sup>19</sup>

### **3. The Legal Protection of Cultural Property**

#### **3.1 Treaties**

International treaties affirm fundamental principles agreed throughout the world; their measures are enforceable and the rulings of their courts create precedent at an international and domestic level for the ratifying States. However, treaties are only applicable to countries who have signed and ratified them. In some cases this puts them out-with the protections of certain bodies such as the International Criminal Court.

The **Geneva Conventions** of 1949 define the human rights of civilians and military personnel in and around warzones, such as establishing protections for the wounded. Two further protocols were added in 1977; the First (I) regarding the Protection of Victims of International Armed Conflicts, and the Second (II) regarding the Protection of Victims of Non-International Armed Conflicts. Armenia is a party to all four Conventions and both the above Protocols (ratified in 1993). Azerbaijan is a party to the Conventions (1993), but has not yet agreed to the Protocols.

All states who are party to these Conventions are under a legal obligation to investigate and prosecute potential breaches within their jurisdiction, though in extreme cases a separate tribunal may be created to deal with grave breaches, such as the International Criminal Tribunal for the former Yugoslavia (ICTY) which is discussed later in this report.

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<sup>17</sup> Helga Turku, *The Destruction of Cultural Property as a Weapon of War: ISIS in Syria and Iraq* (Palgrave MacMillan, 2018), 68 - 77.

<sup>18</sup> *ibid*, 68.

<sup>19</sup> Paul Eldridge, *Maxims for a Modern Man* (Thomas Yoseloff, 1965).

There are two other treaties which are of particular importance. The **Hague Regulations 1907** which created international laws to be followed during wartime and defining what constitutes a war crime. Of particular relevance to this report is the **Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954**. This convention was formally adopted by Armenia in 1993 via ratification, and by Azerbaijan in 1993 via accession. The 1954 recognised the importance of cultural property to humankind, and set up a number of obligations for members to observe at all times; *‘[t]he High Contracting Parties undertake to prepare in time of peace for the safeguarding of cultural property situated within their own territory against the foreseeable effects of an armed conflict, by taking such measures, as they consider appropriate’* (Article 3). This includes the obligation to respect cultural property in their own territory and that of other signatories, and to only commit hostile acts against such property if military necessity demanded it (Article 4).

UNESCO affirmed the modern relevance of the Hague Convention at the 1993 General Conference, stating that *‘(a) the object and purpose of the 1954 Hague Convention [for the Protection of Cultural Property] are still valid and realistic’* and therefore *‘in the event of armed conflict could be considered part of customary international law’*.<sup>20</sup>

The Second Protocol (1999) was ratified by both Armenia (2006) and Azerbaijan (2001) and serves to enhance this protection. Under this protocol a list of cultural property was to be drawn up which was not to be targeted under any circumstances, even if it had become a military object. It also significantly limited the use of the military necessity exception: *‘a waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to direct an act of hostility against cultural property when and for as long as:*

- (i) that cultural property has, by its function, been made into a military objective; and*
- (ii) there is no feasible alternative available to obtain a similar military advantage to that offered by directing an act of hostility against that objective’*

This also required parties to give the opposition advance notice of the attack, and limited the ordering of such an attack to certain ranks of military personnel.

In 1992, Armenia also ratified the Charter of the United Nations and became a member. Armenia is therefore required to fulfill all obligations placed upon it by its corresponding international treaties.<sup>21</sup> Much of the practical work of preserving and promoting cultural objects is undertaken by UNESCO, the United Nations organisation dedicated to *‘promoting world peace and security through international cooperation in education, the sciences, and culture’*. Armenia and Azerbaijan have both been members of UNESCO since 1992. This often involves the education of grassroots organisations to protect cultural property.

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<sup>20</sup> UNESCO, General Conference, Res. 3.5, 13 November 1993, preamble.

<sup>21</sup> Charter of the United Nations, Article 2(2).

Finally, we have the Rome Statute, which is the governing treaty of the International Criminal Court (ICC). This Statute was adopted in 1998, and created the ICC which enforces the treaties discussed above. Articles 8(2)(b)(ix) and (e)(iv) of the Statute specifically provide that '*[i]ntentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, [or] historic monuments ... provided they are not military objectives*' constitutes a war crime in both international and non-international armed conflicts.

### **3.2 Application of International Law**

For treaties such as those mentioned above to matter, they must of course have 'teeth' - there must be resources available in law to those who subscribe to them.

In the 1990s, the United Nations Security Council set up two Tribunals in response to large-scale atrocities committed in the former Yugoslavia (ICTY: International Criminal Tribunal for the former Yugoslavia in 1993) and Rwanda (ICTR: International Criminal Tribunal for Rwanda in 1994). This highlighted the need for a permanent court to implement the investigation and punishment of war-crimes effectively. In particular, the case of *The Prosecutor v Tadic* (1995)<sup>22</sup> where the accused challenged the legitimacy and jurisdiction of the ICTY. It was determined that the Tribunal (and by extension, any Tribunal created by the UN Security Council and validly constituted) was '*authorised to apply, in addition to customary international law, any treaty which: (i) was unquestionably binding on the parties at the time of the alleged offence; and (ii) was not in conflict with or derogating from peremptory norms of international law, as are most customary rules of international humanitarian law.*' As long as a Tribunal is established in accordance with the proper international standards, the provision of guarantees of fairness, justice, and even-handedness, in full conformity with internationally recognized human rights instruments, its decisions are legitimate and will have primacy over domestic courts.

In response to this requirement for an established permanent Tribunal court to enforce the treaties, the International Criminal Court was established in 1998. Its jurisdiction only extends to that of its Members - these are the States who have signed the Rome Statute. The ICC can therefore only investigate and prosecute crimes that have been committed by nationals of its member states, or within the territory of its member states. Azerbaijan and Armenia have not signed the Rome Statute and therefore do not have the right to request that the court investigate criminal matters committed on their soil. There is an exception - it is possible for the matter to be referred to the ICC by the United Nations Security Council directly. However, such a referral can be vetoed by its members.

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<sup>22</sup> *The Prosecutor v. Dusko Tadić*, IT-94-1-AR72, Appeals Chamber, Decision, 2 October 1995.

### 3.3 National Legislation

It is also important to consider the protections and laws affecting cultural property at the domestic level. Given that the territory this report is concerned with now falls within the borders of Azerbaijan, we must examine their national legislation.

Azerbaijan has a civil legal system, meaning the Criminal Code of the Republic of Azerbaijan (1999) lists all possible crimes within the territory. It provides several mentions of cultural life and property within;

**Article 111** prohibits acts which are to organise and maintain the *'superiority of one racial group or destroying of another racial group'* such as *'realization of any legislative or other action with a purpose, of hindrance to participation of racial group or groups in political, social, economic and cultural life of the country'*.

**Article 183** prohibits the *'plunder of subjects which have special value'* with particular attention paid to *'subjects or documents having special historical, scientific, art or cultural value, irrespective of plunder way'* which is punishable by imprisonment between five and eight years. It goes on to specify that if the destruction of such property is an organized campaign by a *'group of persons or by organized group'* then the imprisonment term available is extended to fifteen years.

**Article 245** punishes the *'violation of a tomb or corpse'* with correctional labour or two-five years imprisonment, and **Article 246** prohibits the *'deliberate destruction or damage of history and culture monuments, taken under protection of the state'*. Violations of Article 246 are punishable by up to two years imprisonment.<sup>23</sup>

Therefore there is no doubt that Azerbaijan's Criminal Code recognizes the importance of preserving cultural property. Each of these crimes are punishable in Azerbaijani courts and require no recourse to an international authority.

## 4. The Jurisprudence of Cultural Property Protection

### 4.1 International Criminal Tribunal for the former Yugoslavia (ICTY)

Although the protection of cultural property has long been enshrined in international law, little jurisprudence was available until the 1980s with the establishment of the International Criminal Tribunal of the Former Yugoslavia ('ICTY').

The wars that occurred during this period were due to perceived differences between the various Balkan ethnicities within the territory, and led to mass destruction of culturally significant property of each ethnic group. This mirrors the perceived differences between ethnic Armenians and Azerbaijanis, allowing us to draw significant comparisons.

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<sup>23</sup> Criminal Code of the Republic of Azerbaijan (1999).

The International Criminal Tribunal for the Former Yugoslavia (ICTY)(1993 – 2017) was a United Nations court of law created to hold military and political leaders to account for war crimes committed throughout the conflicts in the Balkans throughout the 1990s. The Hague and Geneva Conventions had been massively violated by key actors during this period; considerable destruction and damage was inflicted on religiously significant buildings and therefore it was deemed necessary to set up a separate Tribunal to deal with the perpetrators effectively. Most notably, the ICTY specifically gave victims the opportunity to tell their stories in their own words, and fleshed out international criminal law concepts, contributing significant jurisprudence.

The ICTY was established and its statute adopted in 1993 by United Nations Security Council Resolution 827 (1993).<sup>24</sup> As a charter member of the United Nations, the Federal People's Republic of Yugoslavia (1945–1963), later Socialist Federal Republic of Yugoslavia (1963–1992) was bound to comply with the ICTY, as were the States who had declared independence from the Republic as a direct result of the conflict. The individuals held responsible for war crimes were to be prosecuted under the jurisdiction of the ICTY Statute (rather than the Rome Statute of the ICC).

The Statute gave the Tribunal jurisdiction and prosecutorial power over serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991, which included (but not limited to);

- Article 2 – grave breaches of the Geneva Conventions (1949);
- Article 3 – violations of the laws and customs of war;
- Article 4 – genocide; and
- Article 5 – crimes against humanity; and
- Article 9 – National courts held concurrent jurisdiction, but the ICTY had supremacy and the state was bound to comply with ICTY requests.<sup>25</sup>

Article 3 of the Statute is of particular importance to this report;

*The International Tribunal shall have the power to prosecute persons violating the laws or customs of war. Such violations shall include, but not be limited to:*

*(a) employment of poisonous weapons or other weapons calculated to cause unnecessary suffering;*

*(b) wanton destruction of cities, towns or villages, or devastation not justified by military necessity;*

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<sup>24</sup> [https://undocs.org/S/RES/827\(1993\)](https://undocs.org/S/RES/827(1993)) > accessed 31 December 2020.

<sup>25</sup> Sonja Boelaert-Suominen, 'The International Criminal Tribunal for the former Yugoslavia and the Kosovo conflict', 31 March 2000. *International Review of the Red Cross*, No. 837. <https://www.icrc.org/en/doc/resources/documents/article/other/57jqd2.htm> > accessed 21 January 2021.

*(c) attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings;*

*(d) seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science;*

*(e) plunder of public or private property.*<sup>26</sup>

Much of the language and scope of Article 3 is founded on existing human rights legislation. Most notable is Article 147 of the 1949 Geneva Convention, which states that '*seizure of, destruction or wilful damage done to institutions, dedicated to religion, charity and education, the arts and sciences, historic monuments and works or art and science*' are grave violations of the law or customs or war. This was accordingly directly incorporated into the ICTY Statute under Article 3(d).

The 1977 Additional Protocols (AP) of the Geneva Convention were also incorporated into the Statute of the ICTY. These protocols prohibit any acts of hostility against, or military-based use of, historic monuments, works of art or places of worship which make up the cultural or spiritual heritage of peoples. This was on the basis that such actions would transform the property into a military target, and risk its destruction. In particular, Article 53 of AP I prohibits reprisals against cultural property: such properties cannot be destroyed as an act of revenge (a direct reference to Article 4 of the Hague Convention 1954).

## **4.2 Jurisprudence of the ICTY**

A select number of these cases which passed through the ICTY will be discussed below. It is important to note that whilst the accused were indicted on many charges, including *inter alia* genocide and torture, this report is focused upon the destruction of cultural and religious property. In most cases, this was the result of an adopted policy to 'cleanse' the area in question of an opposing ethnic group. Therefore the case analyses and specific charges discussed will therefore focus on these specific areas of law during the war in Bosnia & Herzegovina (1992-1995).

The first two cases are concerned with the policy employed by Bosnian Serb leaders in the Lašva Valley area. In April 1993, Bosnian Croats attacked villages in the Lašva with the specific aim of 'cleansing' the area of Muslims, and as a result approximately 120 were murdered including 32 women and 11 children. In a further effort to remove Islamic culture, two Mosques were destroyed by the careful placement of explosives around their base.<sup>27</sup>

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<sup>26</sup> Updated Statute of the International Criminal Tribunal for the Former Yugoslavia.  
[https://www.icty.org/x/file/Legal%20Library/Statute/statute\\_sept09\\_en.pdf](https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf) > accessed 22 January 2021.

<sup>27</sup> *Blaškić* Trial Judgement no. IT-95-14-T, 3 March 2000.

The Croat population of the village was largely unharmed; it was reported that they had been warned of the attack and had evacuated the evening prior.<sup>28</sup>

#### 4.2.1 The Prosecutor v. Tihomir Blaškić (IT-95-14)

Tihomir Blaškić was a Colonel (Major-General) in the Croatian Defence Council (HVO) during the conflict from 1994 - 1995, and was indicted on charges, *inter alia*, of destruction of institutions dedicated to religion without justification by military necessity under Article 3 of the Statute of the Tribunal. These attacks are notable in that they targeted civilian Bosnian Muslims living within Bosnia and Herzegovina, and thus contributed to the regime's criminal aim to ethnically cleanse the territory.

##### Notable Cultural Sites Damaged or Destroyed

Religious sites in were torched,<sup>29</sup> and mosques looted, damaged or demolished.<sup>30</sup> In Ahmići the mekteb – the Muslim religious and cultural centre of the village – was destroyed, along with the main Donji Ahmići mosque. In contrast, the homes and cultural and religious sites of the Croat population were largely unharmed.

Several command orders were presented as evidence. The ICTY noted that the orders included emotive language, specifically designed to incite 'hatred and vengeance' against the Muslim populations;

*"[The] enemy continues to massacre Croats in Zenica where Muslim forces are using tanks to fire at people, mostly women and children".*

*"In the combats that raged yesterday, the enemy used the favourite method of the chetniks: pushing women and children in front, to use them as a shield and then to occupy the main strategic objects".<sup>31</sup>*

The Chamber considered this language to 'have connotations of "eradication"'. The second statement in particular attempts to set up a 'military necessity' exemption; by claiming the local Muslim population would draw fire to religious properties by using the buildings in a strategic manner.

The Chamber accordingly held that the specific damage or destruction and looting of the religious buildings and mosques was committed intentionally. They were not subject to the military use exception; in fact many of the buildings were deemed impossible to have

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<sup>28</sup> *Kordić and Čerkez* Judgment no. IT-95-14/2, 26 February 2001.

<sup>29</sup> *ibid*, 597 & 600.

<sup>30</sup> *ibid*, 608 & 626.

<sup>31</sup> *Blaškić* Trial Judgement no. IT-95-14-T, 3 March 2000, 644 – 646.



defended and thus could have no strategic military importance.<sup>32</sup> The Trial Chamber took into account the statement of a witness who had stated that the mosque would have been impossible to defend, and therefore its use as a shelter was wholly implausible. The Trial Chamber therefore concluded that *'[t]he only reasons to explain such an act were reasons of discrimination'*.<sup>33</sup>

#### **4.2.2 The Prosecutor v. Dario Kordić & Mario Čerkez (IT-95-14/2)**

Dario Kordić was President of the Croatian Democratic Union of Bosnia and Herzegovina (HDZBiH)(1992-1995) and later Vice-President and member of the subsequent Croatian Community of Herceg-Bosna (HZ H-B) / Croatian Republic of Herceg-Bosna (HR H-B). He was the Senior Regional politician of the Lašva Valley territory in which multiple massacres and ethnic cleansing of Muslim populations occurred during the breakup of Yugoslavia, including the Ahmići village attack. As a member of the Croatian Defence Council (HVO) he directed large-scale military attacks to this effect, despite not being a commander.

Mario Čerkez was Commander of the Vitez Brigade of the HVO from 1992 until mid 1993, and was directly responsible for the imprisonment and cruel treatment of between 200-300 Bosnian Muslims following the attack on Ahmići.<sup>34</sup>

#### **Notable Cultural Sites Damaged or Destroyed**

Muslim shops and restaurants were destroyed;<sup>35</sup> a mosque was torched and razed; in Gomionica the Mekteb and Turbe (mausoleum) were destroyed; and Stari Vitez mosque shelled.<sup>36</sup> Again in many cases the only remaining houses or sites remaining after the attack were those belonging to the Croat population.<sup>37</sup>

During the trial, the Trial Chamber was presented with 'overwhelming' evidence that a campaign of persecution against the Bosnian Muslims had existed. They found that the persecution of the Muslim population had been systematic and could not be justified by corresponding attacks by Muslims on Croats in other regions.

The accused sought to rely on the defence that (One) the 'military necessity' exception applied; and (Two) that if the Trial Chamber did not accept the above, that the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 stipulates that "special protection" is granted only to property registered under the International Register of Cultural Property under Special Protection. Therefore any buildings

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<sup>32</sup> *Blaškić* Trial Judgement no. IT-95-14-T, 3 March 2000, 85.

<sup>33</sup> *Blaškić* Trial Judgement no. IT-95-14-T, 3 March 2000, 421.

<sup>34</sup> *Kordić and Čerkez* Case Information Sheet

[https://www.icty.org/x/cases/kordic\\_cerkez/cis/en/cis\\_kordic\\_cerkez\\_en.pdf](https://www.icty.org/x/cases/kordic_cerkez/cis/en/cis_kordic_cerkez_en.pdf) > accessed 22 January 2021.

<sup>35</sup> *Kordić and Čerkez* Judgment no. IT-95-14/2, 26 February 2001, 805.

<sup>36</sup> *ibid*, 807.

<sup>37</sup> *ibid*, 806.

not registered would not receive this heightened level of protection and could be destroyed or damaged where military necessity existed.<sup>38</sup>

The second defence was important in that it questioned the designation of property, attempting to solely rely on the Hague Convention's interpretation. The Trial Chamber therefore sought to determine which kinds of property could be designated as falling under the special protection afforded by the 1954 Convention. In their discussion, the Chamber considered the Hague Regulations 1907; Additional Protocol I to the 1949 Geneva Convention and the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.<sup>39</sup>

The Trial Chamber confirmed that the property damage sustained by the villages fell within the descriptions of religious property above. In response to the second defence, the Chamber reasoned that regardless of the designation of the property, this protection was lost when it was used for military purposes. Therefore if the accused could show military necessity, no in-depth discussion of the building's purpose was required.<sup>40</sup> They also noted that '*all of humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects*'.<sup>41</sup>

The Appeal Chamber also provided some relevant commentary on the scope of cultural property protected by the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954. They interpreted Article 53 of the Additional Protocols I (to the Geneva Convention 1949) as covering objects whose value '*transcends geographical boundaries, and which are unique in character and are intimately associated with the history and culture of a people*', affirming the International Committee of the Red Cross' commentary on the legislation.<sup>42</sup>

#### **4.2.3 The Prosecutor v. Radoslav Brđanin (IT-99-36-T)**

Radoslav Brđanin was the first vice-president of the Autonomous Region of Krajina (ARK), and held various key positions at all levels of governance throughout the conflict. ARK was a majority-Serb region which formed part of the north-westerly corner of Bosnia & Herzegovina, and declared itself autonomous in 1991. Alongside other majority-Serb regions, a plan was formed to forcibly eject all non-Serb peoples living within their borders, destroy their cultural legacy, and to separate Yugoslavia based on ethnic background. The ultimate aim was to establish an independent Bosnian Serb state.

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<sup>38</sup> *ibid*, 357.

<sup>39</sup> *ibid*, 358-9.

<sup>40</sup> *ibid*, 362.

<sup>41</sup> *ibid*, 207.

<sup>42</sup> *Kordić and Čerkez* Appeal Judgment no. IT-95-14/2-A, 17 December 2004, para 90; Sandoz, Y., Swinarski, C., & Zimmermann, B. (Eds.) (1987), 'Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949'. *International Committee of the Red Cross*, 646 and 1469 – 1479.

Brđanin was charged with grave breaches of the Geneva Conventions 1949 under Article 2 of the statute for, *inter alia*, extensive destruction of property not justified by military necessity and violations of the laws or customs of war under Article 3 for destruction or wilful damage done to institutions dedicated to religion.

### **Notable Cultural Sites Damaged or Destroyed**

The Trial Chamber notes that in Bosnia & Herzegovina, the three largest ethnic groups were the Bosnian Serbs, Bosnian Muslims and Bosnian Croats. Despite cultural and traditional differences between the three groups, they had lived peacefully for the majority of their coexistence within the area.<sup>43</sup> In the attacks, homes, business premises and religious buildings were destroyed by Serb forces. In this case, this included both Islamic (Bosnian Muslim) and Roman Catholic (Bosnian Croat) sites.<sup>44</sup> The Trial Chamber noted that in most cases, the population fled and offered little to no resistance.<sup>45</sup>

As one of the leading political figures, Brđanin was found to have made a significant contribution to the aforementioned plan against Bosnian Muslims and Croats. In particular, the Trial Chamber found on the evidence that his public statements had created an atmosphere of hatred and fear between the various ethnic groups within the region. Regardless of his motive, the statements incited criminal behaviour amongst the Serb population and also dissuaded more sympathetic citizens from aiding non-Serbs. As a result, many Bosnian Muslims and Croats understood his public statements to be 'direct threats to leave the areas under Bosnian Serb occupation' and 'did so in fear of their lives'.<sup>46</sup>

Examples of these statements are as follows;

*"Those who are not loyal are free to go and the few loyal Croats and Muslims can stay (...) If Hitler, Stalin and Churchill could have working camps so can we. Oh come on, we are in a war after all"*

*"I am surprised that the Muslims are rushing to buy firewood for the winter. It seems they believe they are going to spend the winter here"*

The Trial Chamber considered that deliberate destruction by Bosnian Serbs of churches, mosques and minarets had been carried out not because of any military threat or significance, but because of their religious significance to the Bosnian Croat and Muslim

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<sup>43</sup> *ibid*, 54.

<sup>44</sup> *ibid*, 249 & 112.

<sup>45</sup> *ibid*, 104, 105, 107, 109 & 110.

<sup>46</sup> *Brđanin* Case Information Sheet. [https://www.icty.org/x/cases/brdanin/cis/en/cis\\_brdjanin\\_en.pdf](https://www.icty.org/x/cases/brdanin/cis/en/cis_brdjanin_en.pdf) > accessed 22 January 2021.

communities.<sup>47</sup> Furthermore, there was clear evidence that during the accused's political tenure he had been aware of these crimes against religious property, and therefore had aided and abetted these offences.<sup>48</sup> The Appeal Chamber commented that the sites were destroyed as '*part of a campaign to ethnically cleanse the area of its Muslim and Croat citizens*'.<sup>49</sup>

### 4.3 Application of the ICTY Cases

During its tenure, the ICTY indicted 161 people, of which 90 were sentenced and convicted. As a court of the UN, 86 judges from 56 member states sat on the Tribunal and contributed a significant amount of jurisprudence on international matters, including the criminal responsibility for the destruction of cultural property, and the damage to society caused by it. Indeed, in the Kordić and Čerkez case, the Trial Chamber notes that '*all of humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects*'.<sup>50</sup>

The three cases above helped shape the international understanding of what constituted cultural property in the eyes of the law. There are two aspects of the jurisprudence developed in the ICTY which is directly relevant to the 2020 Nagorno-Karabakh conflict - the discussion of the military use exception, and the use of hate speech to incite violence and justification for destruction.

Although the First Protocol to the Geneva Convention 1949 Article 53 prohibits acts of hostility towards cultural property, an exception is carved out in the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954). This allows for damage to institutions in very narrow circumstances, namely when the opposing forces are using the property for a military purpose.

In Blaškić's case, it was shown that the destroyed Mosques were unlikely to have been used for military purposes. It is important to understand that the ICTY did not require definitive proof that the cultural property had not been used for military purposes by the Muslim population, only that on the balance of probabilities, it was unlikely.

In the Kordić and Čerkez case, the ICTY reasoned that any property which fell within the scope of the Hague Regulations 1907 ('*historic monuments*'), AP I 1977 ('*historic monuments [or] works of art which constitute the cultural or spiritual heritage of peoples*') or the Hague Convention 1954 ('*movable or immovable property of great importance to the cultural heritage of every people*') is protected under international law. Each of these pieces of

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<sup>47</sup> *Brđanin* Trial Judgment no. IT-99-36-T, 1 September 2004, 596-599 and Appeal Judgment no. IT-99-36-A, 3 April 2007, 340-341.

<sup>48</sup> *Brđanin* Trial Judgment no. IT-99-36-T, 1 September 2004, 677.

<sup>49</sup> *Brđanin* Appeal Judgment no. IT-99-36-A, 3 April 2007, 340.

<sup>50</sup> *Kordić and Čerkez* Judgment no. IT-95-14/2 26 February 2001, 207.

legislation provides for their damage or destruction in the case of military necessity, the ICTY interpreted this narrowly in all the cases discussed above. Therefore the accused in any such case would have to make a clear and strong argument to show that such damage or destruction was completely necessary, and even then this would be heavily scrutinised.

There are a number of examples of property being damaged or destroyed in the Nagorno-Karabakh conflict of 2020 which would likely fall within the above definition, and are therefore afforded protection through international law. The village of Talish is one such example, which was decimated by Azerbaijani armed forces during the April War in 2016. Most of the 580 ethnic Armenians were forced to flee and the rest were executed or subjected to torture<sup>51</sup>.

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<sup>51</sup> Azerbaijani Soldiers Execute Elderly Armenian Couple in Artsakh; Then Cut Off Their Ears (*HETQ*, 3 April 2016) <https://hetq.am/en/article/66976> > accessed 27 July 2021.

Following the 2016 conflict, the ‘Revived Talish’ memorial was opened within the village. This included the presentation of newly carved Khachkar – stones carved with the shape of crosses to symbolise the triumph of Christianity, military victory, or simply to express gratitude. They are an important symbol of Armenian culture and hold strong religious connotations.<sup>52</sup> It is therefore clear that although only four years old, this memorial meets the definition of cultural property under international law.



*Revived Talish opening ceremony, June 2017.<sup>53</sup>*

However, Azerbaijani forces seized the village during the Artsakh war in 2020. In a video released by the Azerbaijani Defence Ministry that same month shows the memorial was intact at that point in time.

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<sup>52</sup> World Catalogue of Khachkars: <https://www.khachkar.pro/en/about-khachkars.html> accessed 7 Feb 2021.

<sup>53</sup> Opening Ceremony of “Revived Talish” Monument (Massis Post, 19 June 2017) <https://massispost.com/2017/06/opening-ceremony-revived-talish-monument/> > accessed 21 February 2021.



*Footage by the Azerbaijan Military, released 10 October 2020.<sup>54</sup>*

However, photographs taken by journalist Kirill Krivosheev show extensive graffiti and damage to the Khachkar by December 2020.

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<sup>54</sup> Azerbaijan's Defense Ministry releases footages of liberated from occupation Talish village (*Azertag.Az*, 5 October 2020) <https://video.azertag.az/en/site/video/103481> > accessed 21 February 2021



Talish Monument after Azerbaijani occupation, December 2020.<sup>55</sup>

<sup>55</sup> Djulfa.com Facebook page: <https://www.facebook.com/silencedstones/posts/5037252052966647> > accessed 12 March 2021.



The Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation signed a ceasefire statement on 9 November 2020<sup>56</sup>. We can conclude therefore, that this damage was sustained between October and December 2020, and was likely undertaken by Azerbaijani forces or civilians. It is unclear whether this happened during the conflict or after the ceasefire; either way it is clear that the region was under Azerbaijani control at the time of the destruction. It is objectively clear that the site held no strategic military importance – had this been the case, damage would have been sustained before the village was captured, not after.

Therefore it is unlikely that an international court would accept the military necessity argument in this case. The case might be made that the wider area was of military strategic importance much like the Lašva Valley area in Yugoslavia; however the cultural property within Talish objectively held no military significance and therefore any deliberate damage to it would not be justified under international law.

#### **4.4 Hate Speech in the Public Sphere**

It is clear that throughout history, the destruction of cultural property is almost always accompanied by rhetoric which demonizes the opposition in some form, turning them into an ‘other’ which is sub-human, and therefore attacks against their person or property can be justified.

In the Nuremberg Trials, it was demonstrated clearly that the genocide of Jewish peoples was prefaced by anti-Semitic rhetoric and campaigns. Among the defendants were Julius Streicher, Chief Editor of the anti-Semitic tabloid *Der Stürmer*; Hans Frtzsche, head of the Radio Division of the Propaganda Ministry; and Otto Dietrich, Press Chief of the Third Reich. In these judgements, the judges discussed the connection between hate speech and large-scale human rights violations, namely genocide. In his paper analysing the ‘Propaganda Persecutions’; Gregory S Gordon notes;

*‘To poison German attitudes toward Jews, the Nazis built a tremendous propaganda machine. But what were its components? Hitler and his henchmen persuaded German citizens to destroy the Jews [...] through pervasive hate rhetoric from leading members of the Nazi power hierarchy’*

This propaganda had the following properties;

1. **Dehumanizing Jews** – reimagining the race as subhuman, a virus to be wiped out; and
2. **Fabricating False Threats** – years of commentary suggesting the Jewish people were at the root of all problems plaguing 1930s Germany.

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<sup>56</sup> Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation (*Prime Minister of Armenia*, 10 Nov 2020) [https://www.primeminister.am/u\\_files/file/Haytararutyunner/Haytararutyun.pdf](https://www.primeminister.am/u_files/file/Haytararutyunner/Haytararutyun.pdf) > accessed 28 July 2021.

The Nazi's, via Joseph Goebbels's Propaganda Ministry, were able to reclassify the Jewish population as 'subhuman' in the minds of the German people through constant insidious anti-semitic rhetoric. This in turn allowed the Nazi regime to justify the ill-treatment of the Jewish population, and reduce dissent in the general German population. The trial judges in these cases agreed that hate speech, calling for action against a group of peoples, could constitute the basis for a crime against humanity charge.

In comparison, the ICTY dissented from this view. The Trial Chamber decided that the anti-Muslim rhetoric discussed in the Kordić & Čerkez case was not enough to charge the defendants with a crime against humanity under Article 5 of the Statute. The TC found that a campaign to ethnically cleanse the area was no doubt underway; "*encouraging, instigating and promoting hatred, distrust, and strife on political, racial, ethnic or religious grounds, by propaganda, speeches and otherwise.*"<sup>57</sup> However this campaign could not be classed as persecution as it fell short of inciting action. The TC arrived at a similar outcome in Brđanin's, given that it could not be proven that his statements directly incited action against Bosnian Muslims and Croats.

Therefore in order for those who are involved in smear campaigns against a group of peoples to be held responsible for the damage or destruction of cultural property, there must therefore be a direct causal link established.

There are many examples of hate-speech by Azerbaijani key actors which appears to be designed to incite such action against Armenians.

In their paper on Armenophobia in Azerbaijan, Adibekyan and Elibegova outlined some of the more recent statements made by Armenian and Azerbaijani politicians, journalists and academics;

*Ilham Aliyev, the President of Azerbaijan - '[T]here are forces which dislike us and wish us evil. They can be divided into several groups: In the first place, our main enemy is the global Armeniandom as well as hypocritical politicians who do their bidding enmeshed in corruption and bribery.'*

*Abulfaz Elchibey, ex-President of Azerbaijan - 'Armenians are not capable of building a state [...] Russians have built the state for Armenians; they always commanded: Stand there! Sit here!'*

*Ilham Aliyev, the President of Azerbaijan - 'What do we have to do to make Armenians shut up? Doubtlessly, every act of Armenians contradicts the international rules and standards. Armenians are a breed of a sort that will be judged by the history itself.'*

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<sup>57</sup> Kordić and Čerkez Judgment no. IT-95-14/2, 59.

**The Azerbaijani website Vesti.az - ‘Deceit, perfidy, sycophancy, cowardice, savagery, barbarism, immorality and stabbing in the back are the main symptoms of the ‘Armenian disease’.**<sup>58</sup>

This language has strong parallels between that discussed in the Nuremberg and ICTY trials – it no doubt attempts to dehumanize Armenians and infer that any alliance or compromise between the two nations would be impossible; that the Armenians are incapable of sticking to their word. This serves to justify the harassment of Armenians living in Nagorno-Karabakh, or the destruction of their cultural property, rather than attempt to integrate them into Azerbaijani life.

## **5. Cultural Genocide by Islamic Extremist Groups**

The second group of cases concerns the destruction within the territories occupied by the so-called Islamic State. Although the perpetrators of much of the damage were non-State actors, the case law and commentary provides a more recent summary of the international community’s attitude towards cultural property.

The Islamic State of the Iraq and the Levant (ISIL),<sup>59</sup> otherwise known as the Islamic State (IS) or Daesh, is a militant extremist group established around 1999 with the aim of creating an independent Islamic state (or ‘caliphate’). The predominant ideology is based on *Wahhabism* which embodies a very strict and literal interpretation of Islam and Sharia law. The group promotes violence against non-Muslims and is known for filming and sharing beheadings of captured civilians from enemy states. It has been designated a terrorist organisation by the United Nations and is the subject of significant military effort by member states which is ongoing today.

The group conducted attacks on opposing factions as well as government forces, and by the end of 2015 had dominion over a vast area extending from eastern Syria to Western Iraq, which held between 8 and 12 million people.<sup>60</sup> Raqqa in Syria (captured in 2013) was considered the *de facto* capital of the caliphate, and Mosul in Iraq (captured in 2014) was the largest city held by ISIL with over half a million living within the city itself.

This wholesale repurposing and destruction of cultural sites was widely publicised by the Islamic State, who used social media to share images, videos and articles. The shocking

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<sup>58</sup> A. Adibekyan and A. Elibegova, ‘Armenophobia in Azerbaijan’. *Information and Public Relations Center of the Administration of the President of the Republic of Armenia* (2015), 82-85.

<sup>59</sup> This is the acronym used by the United Nations Security Council, and accordingly will be used in all references to the group in this report.

<sup>60</sup> Paul Shinkman, ‘ISIS by the Numbers’ (*US News*, 27 December 2017)

<https://www.usnews.com/news/world/articles/2017-12-27/isis-by-the-numbers-in-2017> > accessed 24 January 2021.

nature of these crimes echoed around the world, garnering more attention for their cause and in turn encouraging ISIL to continue the practice.

### **5.1 International Law Applicable to War Crimes Committed by ISIL**

This leads us to the more recent cases of cultural property destruction which are discussed below. Although on the surface it may appear that the crimes committed by ISIL against cultural property are equivalent to those suffered in the former Yugoslavia, the context surrounding them is vastly different. The ICTY had enjoyed jurisdiction over all six states which had previously made up Yugoslavia from 1993, whilst the conflict was ongoing. In comparison, the states occupied by ISIL have not coexisted in the same manner in recent times. Therefore all prosecution of those responsible for the destruction have been carried out by the International Criminal Court and by domestic courts, meaning we can draw comparisons between the jurisprudence and reaction of the various states. Furthermore, military assistance had been provided by many member states of the United Nations, allowing us to take into account the reaction of the international legal community.

Syria, Iraq and Mali are subject to international humanitarian law, and therefore cultural property is afforded protection by Article 3 of the Geneva Conventions of 1949. Additional Protocol I (of the Geneva Conventions, 1977) is applicable to international armed conflict and therefore applies to this conflict. AP II prohibits any acts of hostility against, or military-based use of, historic monuments, works of art or places of worship which make up the cultural or spiritual heritage of peoples. Cultural property is also protected by the 1954 Hague Convention, to which Syria has been a party since 1958, and Iraq since 1967.

The Rome Statute of the International Criminal Court also makes the deliberate destruction of or damage to “buildings dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science” (with the exception of military necessity as discussed above) in international armed conflicts a crime under art. 8(2)(b)(ix) and non-international under art 8(2)(e)(iv).<sup>61</sup> It is without doubt then that cultural property in Iraq, Syria and Mali is protected under international law, and the states are obliged to take reasonable measures to protect it and prevent such violations from occurring.<sup>62</sup>

However the jurisdiction of the ICC does not extend to Syria and Iraq automatically. Mali ratified the Rome Statute in 2002 and as a member, can request help from the ICC. In comparison, Syria and Iraq are not members and would only receive assistance if referred by the United Nations Security Council. Therefore it is useful to look at how the destruction of cultural property in Mali was managed by the international community, and compare this with the response in Syria and Iraq.

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<sup>61</sup> The Rome Statute of the International Criminal Court, 2011 [https://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome\\_Statute\\_English.pdf](https://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome_Statute_English.pdf) > accessed 30 December 2020.

<sup>62</sup> *International Committee of the Red Cross*, customary International Humanitarian Law, Rule 144 [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule144](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule144) > accessed 24 January 2021.

## 5.2 Cultural Property Damaged or Destroyed in Mali

Between April 2012 and January 2013, Timbuktu was captured and controlled by non-State Islamic extremist groups *Ansar Dine* and the *Islamic Maghreb*. During this time, many buildings and monuments dedicated to culture and religion were destroyed by the two groups as they believed that the monuments in question had represented an alternate version of Islam and therefore had to be destroyed.<sup>63 64</sup>

Although international law had been breached, the ICC will not automatically involve itself in domestic affairs. The Court relies on the principle of complementarity, meaning it will not investigate international criminal cases if the member or country in question has the will and resources to bring the prosecution at a domestic level.<sup>65</sup> Although Mali is a signatory to the Rome Statute, its government felt unable to bring the perpetrators to justice and therefore requested that the large-scale destruction of cultural and religious artefacts in Timbuktu be investigated by the ICC.<sup>66</sup> This led to the prosecution of Ahmad Al Faqi Al Mahdi, which is discussed further below.

### 5.2.1 Mali's Response

In early 2012, the National Movement for the Liberation of Azawad (MNLA) began its campaign to liberate the northern state of Azawad from Mali Government rule. Despite being a non-State actor, the MNLA established a department which raised awareness of protecting cultural heritage amongst the population and its own fighters. This led to the group being active in their protection of cultural heritage, going so far as actively seeking to recover missing artefacts, however of these objects were allegedly stolen and destroyed by Islamist groups during the ensuing conflict.<sup>67</sup> UNESCO also assisted the efforts of the transitional authorities in Mali, assembling the Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) peacekeeping taskforce to help protect the remaining cultural and historical sites.<sup>68</sup> This is of particular note to the situation in Nagorno-Karabakh as UNESCO has proposed sending a similar mission to the region, which will be discussed later.

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<sup>63</sup> 'Timbuktu shrines damaged by Mali Ansar Dine Islamists', (*BBC News*, 30 June 2012) <https://www.bbc.co.uk/news/world-africa-18657463>> accessed 25 January 2021.

<sup>64</sup> "Islamists destroy 15<sup>th</sup> Century Timbuktu Mosque" (*The Telegraph*, 3 July 2012) <https://www.telegraph.co.uk/news/worldnews/africaandindianocean/mali/9371604/Islamists-destroy-15th-century-Timbuktu-mosque.html> > accessed 25 January 2021.

<sup>65</sup> *ibid* (no. 14), 588.

<sup>66</sup> Russell Goldman and Marlise Simons, 'Why the Terrorist Who Destroyed Palmyra Won't Face Justice' (*The New York Times*, 29 September 2016) <https://www.nytimes.com/2016/09/30/world/africa/icc-hague-court-antiquities.html>> accessed 25 January 2021.

<sup>67</sup> Marina Lostal, Kristin Hausler and Pascal Bongard, 'Armed Non-State Actors and Cultural Heritage in Armed Conflict', *International Journal of Cultural Property* (2017) 24: 407-427, 420.

<sup>68</sup> David N. Chang, 'Stealing Beauty: Stopping the Madness of Illicit Art Trafficking', *Houston Journal of International Law*, Vol. 28, No. 3, 2006, 847.

### 5.3 The Prosecutor v. Ahmad Al Faqi Al Mahdi (ICC-01/12-01/15)

Ahmad Al Faqi Al Mahdi was a member of *Ansar Dine* and found to be jointly responsible for ordering attacks on these protected objects between June and July 2012. He was detained in Niger (a fellow signatory of the Rome Statute) and handed over to the International Criminal Court, demonstrating international cooperation and deference to the court's jurisdiction.

#### Notable Cultural Sites Damaged or Destroyed

In total, nine mausoleums and one mosque were destroyed by *Ansar Dine* under the instruction of Al Mahdi. With one exception, these buildings all had the status of protected UNESCO World Heritage sites. These buildings were of historical and religious importance, being used for prayer and pilgrimage, and constituting a common heritage for the community living in Timbuktu.<sup>69</sup> The ICC chamber found that none of these buildings were military objectives at the time.

#### *Trial Chamber*

In its deliberations, the chamber made a specific point to note that the buildings had '*reflected [the citizen's of Timbuktu's] commitment to Islam and played a psychological role to the extent that they were perceived as protecting the people of Timbuktu [...] The mausoleums were among the most cherished buildings of the city and they were visited by the inhabitants of the city*'.<sup>70</sup> Furthermore, they noted that such destruction affected the wider community; '*destruction does not only affect the direct victims of the crimes, namely the faithful and inhabitants of Timbuktu, but also people throughout Mali and the international community*'.<sup>71</sup>

The role in the cultural life of the residents of Timbuktu was used to establish the gravity of the crime committed, and therefore inform Al Mahdi's sentencing.

It is interesting to note that the ICC made it a point to state that the destruction of cultural property does not only affect the local community, but has ramifications felt throughout the world. The International Committee of the Red Cross called this a '*bold and notable move [...] [extending] the right to reparations to the international community at large*'. As seen from the other cases discussed above, previously the ICC has been reluctant to causally link the damage to cultures directly to the destruction of cultural property, but their judgement in Al Mahdi perhaps signals a shift in attitude towards a more subjective approach.

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<sup>69</sup> Summary of the Judgment and Sentence in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, ICC; <https://www.icc-cpi.int/itemsDocuments/160926Al-MahdiSummary.pdf> accessed 8 February 2021, 18 – 20.

<sup>70</sup> *ibid*, para 37.

<sup>71</sup> ICC, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, Judgment and Sentence, 27 September 2016, 80.

#### 5.4 Cultural Property Damaged or Destroyed in Iraq and Syria

The atrocities committed in Mali during 2012 were noted by the global media, but without nearly as much detail or discussion. Of the 300 private newspapers in Mali, only around 30 were regularly publishing at the time. The International Exchanges and Research Board commented that this was likely as '*[c]onditions in rebel- and Islamist-held areas in the north were, and continue to be, notably less conducive to a sustainable, independent media*'.<sup>72</sup>

In contrast, global media outlets were quick to report on developments in the middle-east as it covered the growing ISIS threat in the middle east, having established bases following the US –led 'War on Terror' in Iraq and Afghanistan. The cataloguing of damage in Syria and Iraq is still ongoing,<sup>73</sup> but it is undeniable that many notable sites of great historic and cultural importance have suffered extreme damage at the hands of ISIL.

Ancient Nimrud, a site located 30km south of Mosul in Iraq, is recognized as the 'cradle' of the 13<sup>th</sup> Century Assyrian civilization. Nineteenth century excavations revealed the remains of the city, including palaces and artefacts which had been buried for centuries. Yet in early 2015, ISIL bulldozed the city walls, demolished the palace and removed all friezes which had lined its walls. In total, around 90% of the ancient city was destroyed.

The 2,000 year old fortified city of Hatra (Iraq), the archaeological site of Nimrud (Iraq) and other major historic landmarks in Palmyra (Syria) were systematically targeted by ISIL in an effort to 'culturally cleanse' the territory they had amassed. This was wholly intentional – evidence has shown that explosives were planted below monuments by fighters tunnelling beneath their foundations. This 'weaponisation' of monuments was employed to terrify local populations and erase the cultural heritage which was at odds with the ideologies professed by ISIL.<sup>74</sup> It further served to generate revenue via illegal trade of cultural items found within.<sup>75</sup>

Monuments were also used for military purposes under ISILs tenure. Using high-resolution satellite imagery dating back to 2007, researchers were able to document the extent of the damage to historical sites in ISIL's apparent territory.<sup>76</sup> Hundreds of sites of historic importance on the Syrian-Iraqi border had been utilised as garrisons or fortifications, with significant earth-moving occurring to convert them for such purposes, and more than 360 had been looted to some degree.

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<sup>72</sup> IREX Media Sustainability Index 2012 - <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-africa-2012-mali.pdf> > accessed 25 January 2021.

<sup>73</sup> Benjamin Isakhan, 'Creating the Iraq cultural property destruction database: calculating a heritage destruction index' (2015). *International Journal of Heritage Studies*, 21:1, 1-21.

<sup>74</sup> Ross Burns, 'Weaponizing Monuments', *International Review of the Red Cross*, Volume 99 Number 906 December 2017.

<sup>75</sup> Statement given by UN Security Council President on 15 December 2015 - <https://www.un.org/press/en/2015/sc11804.doc.htm> > accessed 30 December 2020.

<sup>76</sup> Casana J, Laugier EJ, 'Satellite imagery-based monitoring of archaeological site damage in the Syrian civil war' (2017). *PLoS ONE* 12(11): <https://doi.org/10.1371/journal.pone.0188589>

## 5.5 The International Reaction to the Destruction in Syria and Iraq

It is notable that despite prosecuting Ahmad Al Faqi al Mahdi for the destruction in Mali, the ICC have not prosecuted individuals for the damage caused in Syria and Iraq, and are not in a position to do so.<sup>77</sup>

The Rome Statute, which is the UN Treaty which established the International Criminal Court in 1998, and has been signed by 123 nations. As previously mentioned the Statute prohibits the deliberate destruction of or damage to cultural property, and provides an exception for military necessity defence as other legal instruments have done previously.<sup>78</sup> However Syria and Iraq are not signatories to the Rome Statute and do not accept its jurisdiction within their borders. There is an alternate route to referral – the United Nations Security Council has the power to refer cases to the ICC, but have declined to do so in Syria and Iraq.<sup>79</sup> This would be the same route available to Armenia, as they are also not a signatory to the Rome Statute.

This is not to say that the international community did not attempt resolution by other means, but negotiations between ISIL and the UN were unsuccessful and the help international humanitarian agencies could offer was severely restricted. Throughout the conflict, ISIL continued to ignore international humanitarian law and refused to acknowledge other states.<sup>80</sup> It is hard to have faith in legal instruments that are ‘widely neglected by [...] state armed forces’ and ‘seem inadequate to mitigate, let alone to prevent, the gravest of consequences of armed conflict on cultural property’.<sup>81</sup>

A turning point was reached with the passing of UN Security Council Resolution 2199 in 2015 which condemned the destruction of and looting of cultural property by ISIL in Iraq and Syria.<sup>82</sup> The resolution also created the obligation that States ‘*take appropriate steps to prevent the trade in [illegally obtained] Iraqi and Syrian property*’ and prohibited cross-border trade. As a direct result, UNESCO created an action-plan for protecting cultural heritage before, during and after a conflict.<sup>83</sup>

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<sup>77</sup> *ibid* (no. 14), 581.

<sup>78</sup> Articles 8(2)(b)(ix) and 8(2)(e)(iv).. The Rome Statute of the International Criminal Court, 2011 - [https://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome\\_Statute\\_English.pdf](https://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome_Statute_English.pdf) > accessed 30 December 2020.

<sup>79</sup> *ibid*, (no. 14), 589.

<sup>80</sup> Polina Levina Mahnad, ‘Protecting Cultural Property in Syria’, *International Review of the Red Cross*, Volume 99 Number 906 December 2017, 1037.

<sup>81</sup> *ibid* (no. 13), 110.

<sup>82</sup> Director-General requests UN Security Council meeting on destruction of heritage in Mosul - <http://whc.unesco.org/en/news/1239/> > accessed 30 December 2020.

<sup>83</sup> UNESCO, *Operational Guidelines for the Implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*, Paris, 1970, cited in E. Cunliffe, N. Muhsen and M. Lostal, above note 73, 2016.



### 5.5.1 Safe Havens for Cultural Property

In 2017, following the expulsion of ISIL from the majority of its apparent territory, the Security Council passed Resolution 2347. This focused specifically on cultural heritage, to which the international community offered unanimous support. This also recognised that UN peacekeeping operations should include the protection of cultural heritage in the strategy adopted by the 38<sup>th</sup> General Conference by *‘engaging with relevant stakeholders outside the culture domain’* particularly *‘humanitarian, security and peace-building actors’*.<sup>84</sup>

The 1954 Hague Convention had envisioned international cooperation in preserving cultural documents and artefacts, and modern technology has allowed this to be realised globally.

The strategy adopted at the 38<sup>th</sup> General Conference embodies this very vision by encouraging nations to create and preserve digitized copies of documents which are at risk. France and the United Arab Emirates have proposed a strategy – the Abu Dhabi Declaration – to create such ‘safe havens’ which was adopted by more than 40 States, international and private organisations. The text adopted commits to *‘the creation of an international network of safe havens to temporarily safeguard cultural property endangered by armed conflicts or terrorism’*, either within that country or further afield where necessary.<sup>85</sup> Finland has already undertaken ‘extensive digitisation efforts’ of endangered cultural documents in Damascus, which have been stored digitally in Helsinki.<sup>86</sup> It is hoped that other States will follow suit and create ‘safe havens’ for cultural property in digitised form.

The Abu Dhabi Declaration also led to the creation of a fund to take urgent action when cultural property is endangered during armed conflict, removing it where possible and rebuilding where it is not. This has received financial support from seven nations (France, Saudi Arabia, Kuwait, United Arab Emirates, Luxembourg, Morocco and Switzerland) and political support from many others.<sup>87</sup> This demonstrates that an appetite does exist in the international community to protect cultural property, and is not restricted to that found within their own respective borders.

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<sup>84</sup> UNESCO, *Reinforcement of UNESCO's Action for the Protection of Culture and the Promotion of Cultural Pluralism in the Event of Armed Conflict*, UN Doc. 197 EX/10, 17 August 2015, 32 and 48.

<sup>85</sup> Following the “Conference on Safeguarding Endangered Cultural Heritage”: *International Council on Monuments and Sites (ICOMOS)*, “Abu Dhabi Declaration on Heritage at Risk in the Context of Armed Conflicts”, 3 December 2016, available at: <https://www.icomos.org/en/what-we-do/image-what-we-do/401-heritage-at-risk/8262-icomos-adopts-the-abu-dhabi-declaration-on-heritage-at-risk-in-the-context-of-armed-conflicts> > accessed 25 January 2021.

<sup>86</sup> Ministry of Education and Culture, ‘Endangered Syrian Documents Taken into Safekeeping at the National Archives of Finland’, Finland, 2 December 2016.

<sup>87</sup> International Alliance for the Protection of **Cultural** Heritage in **Conflict** Areas (ALIPH), based in Geneva. UNESCO, ‘UNESCO, France and the Emirates Launch an International Alliance for the Protection of Heritage’, 20 March 2017.

### 5.5.2 Counter Measures for Illicit Trafficking

Security Council members have since proposed many measures designed to strengthen the protection of movable cultural property which is particularly vulnerable to illicit trafficking. In 2016, a system was proposed to catalogue and repatriate cultural property which has been displaced due to armed conflict and share information with the relevant authorities (Interpol, UNESCO and other agencies). A similar system to create national inventories and share information about cultural property at risk during armed conflicts has also been anticipated,<sup>88</sup> but it is yet to be seen whether these measures will be imposed.

Outside of the UN, some States have actively implemented task forces to reduce the illicit trafficking of cultural items, and protect or restore existing sites. For example, the EU has integrated cultural property protection experts into all 15 of its missions, and has dedicated resources to restoring damaged or destroyed cultural sites.<sup>89</sup> The UNESCO Plan of Action in 2013 recommended that Red Cross staff should be trained to evaluate the condition of cultural heritage so that UNESCO and the Directorate-General of Antiquities & Museums in Syria (DGAM) could estimate the extent of the damage suffered and document the destruction suffered. Notable about this recommendation is the utilisation of non-State actors such as the Red Cross in the protection efforts.

### 5.5.3 Other Measures

Resolution 2379 created an independent task-force dedicated to holding ISIL accountable for crimes committed in Iraq, with specific reference to the damage caused to cultural property and trafficking of artefacts to fund their cause.<sup>90</sup>

This clearly demonstrates the heightened recognition that the protection of heritage is essential for continued peace and security amongst nations.<sup>91</sup> Ironically, by publicising their actions ISIL had turned the international community's attention onto the lack of protection cultural sites and artefacts held, and strengthening the protection afforded to them.

At a grassroots level, local community volunteers stepped in to physically protect archaeological sites from looting, recovered stolen artefacts and documented or researched at-risk objects. Some volunteers were even trained by the Smithsonian Institute to use sandbags and other materials found locally to reduce the damaging effects of munitions on the cultural sites.

A notable outcome of the international effort to preserve cultural property in the region is the creation of the world's first Cultural Property Database. The team behind the Iraq Cultural Property Database documented the destruction and provided a methodology for

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<sup>88</sup> Memorandum of Understanding between UNESCO and the ICRC, 29 February 2016, Art. 1(v–vi).

<sup>89</sup> UNESCO, *Regional Training on Syrian Cultural Heritage: Addressing the Issue of Illicit Trafficking*, Final Report and Recommendations, Amman, 10–13 February 2013.

<sup>90</sup> UNSC Resolution 2379, 21 September 2017, Preamble, fourth recital.

<sup>91</sup> 'UN Security Council Adopts Historic Resolution for the Protection of Heritage', (UNESCO, 24 March 2017).

recording tangible cultural property, including the creation of the Heritage Destruction Index - 'a scale for measuring both the heritage 'significance' of a site and the overall level of destruction'.<sup>92</sup> This important work provides a blueprint for other organisations to use in mass heritage destruction contexts.

## **6. Problems with the Current Approach to Protecting Cultural Property**

The international response to the protection of cultural heritage in Syria and Iraq has demonstrated that when international law fails, innovation can prevail. Interestingly, the response from non-state actors have been particularly effective and innovative.

Yet despite the galvanisation of the international community to create an appropriate safety net for cultural property at risk, it is far from guaranteed that cultural property will be protected in times of crisis. In their paper on 'Protecting cultural property in Syria', the ICRC identifies several 'gaps' in the current approach.<sup>93</sup>

First, the 'military necessity' defence found in the 1954 Hague Convention and its Second Protocol. From the case law above, we can see that this has been deployed by those accused of war crimes, sometimes successfully. The ICRC has questioned why this exception is endorsed at all, as it '*permits favouring military advantage over the protection of cultural property*'. It has also been noted by the Special Rapporteur that whilst the destruction or damage to cultural property is permitted by the aforementioned Convention and Second Protocol, the prohibition '*on [the] theft, pillage, vandalism, and misappropriation and requisition of cultural property*' is absolute. This puts the law in the unusual position of valuing individual artefacts above geographical cultural sites, something that the signatories of the 1954 Hague Convention were unlikely to have envisioned. The Special Rapporteur accordingly urges States to '*adopt the narrowest possible interpretation*' of the legislation.<sup>94</sup> This approach was adopted by the United States in the First Gulf War. Iraqi aircraft had been placed next to the ancient Sumerian site of Ur, which housed many historic monuments and artefacts. Although the legal framework would allow the US to destroy this target under the 'military necessity' exception, they refrained from doing so, having deemed the protection of a cultural site more important.

The ICRC also points to problems with the 'State-centric' approach on which the 1954 Hague Convention is based. They suggest further engagement with non-State actors would increase the effectiveness of the international approach; for example, engaging with the art market to develop policies which would deter the plunder and trade of stolen cultural objects. If such objects were 'too hot to handle' and difficult to trade, this could deter the looting and pillaging of cultural sites altogether.

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<sup>92</sup> *ibid* (no. 73), 1.

<sup>93</sup> *ibid* (no. 80), 1068-69.

<sup>94</sup> *Report of the Special Rapporteur in the Field of Cultural Rights*, above note 115, 63-64.

UNESCO is prohibited by its Constitution from intervening with the internal affairs of its members, and accordingly has not reached out to ISIL in Syria or Iraq to attempt any protection of cultural property.<sup>95</sup> This is unsurprising as ISILs core doctrine is that it does not recognise the authority, and therefore law, of non-Islamic State actors.<sup>96</sup>

## 7. The Situation in Nagorno Karabakh

To those familiar with the decades-long Nagorno Karabakh conflict, it is unsurprising that cultural property continues to be one of the casualties of war. It is well documented that such atrocities have been committed since at least 1920, just a few short years after the Republic of Armenia was established. Although the devastation of war has not developed fundamentally, the world has become so connected that it is difficult to shy away from or cover up the destruction of cultural property. There are concerns being expressed by journalists around the globe, attracting the attention of major news outlets like France24<sup>97</sup> and the New York Times.<sup>98</sup> The eyes of the world are on Nagorno-Karabakh.

### 7.1 The Human Rights Ombudsman Report

In January 2021, the Human Rights Ombudsman of the Republic of Artsakh released a report detailing the near-1500 historical and cultural sites now under Azerbaijani control and at risk of damage, vandalism or total destruction.<sup>99</sup>

An outsider might suggest this concern is misplaced; however it is well documented that in previous conflicts, many such monuments have fallen victim to neglect, repurposing or total destruction at the hands of Azerbaijani forces. The recent destruction in Talish discussed above being one such example.

The Human Rights Ombudsman's report details a high number of cultural casualties from the most recent conflict in 2020. Some sites were damaged during the fighting, and some after Azerbaijan took control of the territory. An example of both is the Holy Saviour Ghazanchetsots Cathedral in Shushi built in 1888. In October 2020 the Cathedral was twice struck by Azerbaijani missiles, and the city occupied by Azerbaijani forces. The damage was documented in video and photographic formats.

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<sup>95</sup> UNESCO Constitution, Art. 1(3), accessed at [http://portal.unesco.org/en/ev.php-URL\\_ID=15244%26URL\\_DO=DO\\_TOPIC%26URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15244%26URL_DO=DO_TOPIC%26URL_SECTION=201.html)> accessed 25 January 2021.

<sup>96</sup> *ibid* (no.73).

<sup>97</sup> 'Armenians in Nagorno-Karabakh fear destruction of their cultural heritage' (*France 24*, 18 November 2020). <https://observers.france24.com/en/asie-pacifique/20201124-armenians-in-nagorno-karabakh-fear-destruction-of-their-cultural-heritage> > accessed 12 February 2021.

<sup>98</sup> Stephan Rabimov, 'The Destruction of Cultural Heritage In Nagorno-Karabakh Is A Tragedy for Azerbaijanis And For All Humanity' (*The New York Times*, date unknown). <https://www.thenyctimes.com/the-destruction-of-cultural-heritage-in-nagorno-karabakh-is-a-tragedy-for-azerbaijanis-and-for-all-humanity/> >accessed 12 February 2021.

<sup>99</sup> 'The Armenian Cultural Heritage In Artsakh (Nagorno-Karabakh): Cases Of Vandalism and At Risk Of Destruction by Azerbaijan' (*Stepanakert*, 26 January, 2021), 3.

Both the Human Rights Ombudsman of the Artsakh Republic and the Human Rights Watch have published reports indicating that the Cathedral was deliberately attacked, a war crime contravening Article 4 of the Hague Convention 1954.<sup>100</sup> This was also pointedly condemned by UNESCO, though they did not point the finger at Azerbaijan specifically. Devastatingly, the Human Rights Watch also reported that citizens of Nagorno-Karabakh had used the Cathedral basement to shelter during the shelling of Shushi. This points to the fundamental belief that the Cathedral was a place of sanctuary to the city's residents. They believed that the occupiers would not attack such a monument due to its cultural importance. Thankfully nobody was killed in the attacks, but a number of journalists were harmed during the second strike. They had been documenting the damage sustained;

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<sup>100</sup> 'Azerbaijan: Attack on Church Possible War Crime', (*Human Rights Watch*, 16 December 2020) <https://www.hrw.org/news/2020/12/16/azerbaijan-attack-church-possible-war-crime> > accessed 12 March 2021.





Figures № 1 - *Photographs taken by Russian journalists of the damage sustained in the first attack on Holy Saviour Ghazanchetsots Cathedral.*<sup>101</sup>

President Ilham Aliyev denied that the attack was deliberate, stating that any damage must have been a mistake and the Cathedral was “*not among military targets*”<sup>102</sup> despite it being struck twice, hours apart, on the same day. Even if this were true, and the attack had been accidental, this does not explain or justify the findings by the Human Rights Watch. Their rapporteurs found that the Cathedral was the only damaged site in the city; that evidence shows that the ordinance likely held a targeted guidance system, and that subsequent damage was sustained to the Cathedral once Azerbaijan occupied the city. Between 31 October and 15 November, the Cathedral was desecrated and vandalised. This points to deliberate further damage long after military force was required, and therefore it is unlikely Azerbaijan could justify this under Article 4(2) of the Hague Convention (the military necessity waiver).

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<sup>101</sup> *ibid* (n. 100).

<sup>102</sup> ‘Nagorno-Karabakh: President Ilham Aliyev speaks to the BBC’ (*BBC News*, 9 November 2020): <https://www.bbc.co.uk/news/av/world-europe-54865589> > accessed 12 March 2021.



Figure № 2 - Video still of the Holy Saviour Ghazanchetsots Cathedral after Azerbaijani occupation.<sup>103</sup>

Under Article 4(1) of the Hague Convention, States have a positive obligation to protect cultural property inter alia ‘by refraining from any act of hostility, directed against such property.’ The Holy Saviour Ghazanchetsots Cathedral is not a small, unused or unnoticeable cultural site; it is a majestic building at the centre of a populated city. It cannot be argued that Azerbaijan was not aware of its importance historically, culturally and spiritually. Therefore even if the damage was caused by civilians rather than military or other State forces, Azerbaijan has a positive obligation to protect the site, or to investigate any apparent crimes of this nature, but has failed to do so.

This is a tale repeated throughout the report; a further 14 sites are documented as having been damaged either during or following the war. A church was ‘deliberately targeted’ and seriously damaged, and an archaeological site shelled despite having ‘no valid military target’. To add insult to injury, Azerbaijani flags have been installed at many sites important to Armenians.

The damage continues to this day, despite the ceasefire agreement. In May 2021, media outlets published photographs of the Ghazanchetsots Cathedral (referring back to Figure № 2), which clearly shows that the domes have been removed.<sup>104</sup> Using similar techniques to that of the researchers looking at a post-ISIL Syria (discussed earlier in this report), the Caucasus Heritage Watch monitors satellite imagery to identify and document the

<sup>103</sup> Sargis Harutyunyan, ‘Holy Savior Cathedral of Shushi has been vandalized’ (*Radio Liberty*, November 15, 2020), <https://www.azatutyun.am/a/30951252.html> > accessed 12 March 2021.

<sup>104</sup> Zartok Media Facebook Post, posted 3 May 2021; <https://www.facebook.com/ZartokMedia/photos/a.2108679539214335/3923997404349197/> > accessed 14 July 2021.



destruction of Armenian cultural sites. Their most recent report, published in June 2021 shows top-down evidence of the damage to Ghazanchots Cathedral, as well as evidence of the complete removal of mosques and cemeteries.<sup>105</sup> Helsinki Citizens Assembly Vanadzor has also received videos and reports of damage to statues and monuments in the region. In a video taken by what appears to be an Azerbaijani soldier, a digger can be seen toppling an Armenian statue in Shushi. The occupant of the digger is in military dress, in the background is a military vehicle, and the voices of Azerbaijani armed forces can be heard laughing as the statue falls. A photo taken shows the damage inflicted;



Figures № 3– *Monument at Shushi toppled using an excavator.*<sup>106</sup>

There is also pieces of video evidence of Azerbaijani soldiers kicking over Armenian gravestones, desecrating burial sites. These acts have been filmed by Azerbaijani soldiers and posted to social media sites such as TikTok, Facebook and Twitter.

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<sup>105</sup> June 2021 Report (*Caucasus Heritage Watch*, 26 June 2021):

<http://caucasusheritage.cornell.edu/index.php/report> > accessed 14 July 2021.

<sup>106</sup> Available at: [https://drive.google.com/file/d/1UYqVTDjuAdMnGxdw\\_5b\\_uyuIEtmkHuoa/view?usp=sharing](https://drive.google.com/file/d/1UYqVTDjuAdMnGxdw_5b_uyuIEtmkHuoa/view?usp=sharing)  
Primary Source: <https://www.facebook.com/100002331032369/videos/3620336181387381/> > accessed 12 March 2021.



Figures № 4 – Azerbaijani soldiers desecrate an Armenian’s grave in Nagorno-Karabakh.<sup>107</sup>

Even now (July 2021 at the time of publishing) - 9 months after the conflict has ceased - this destruction continues. On 4th May, the Caucasus Heritage watch published satellite imagery showing that an Armenian cemetery in Mets Tagher had been bulldozed.<sup>108</sup> On 30th May, similar pictures were shared on Facebook of the cemetery in Syghnakh - the satellite and ground images show that it has been razed to the ground.<sup>109</sup> In June 2021, photographs emerged showing that Azerbaijanis had destroyed another memorial, this time at Hadrut which was dedicated to the soldier who had died during the Artsakh war.<sup>110</sup> Earlier in the year, the President of Azerbaijan himself was witnessed instructing troops to polish away medieval Armenian inscriptions in a church within the territory.<sup>111</sup> This is irrefutable evidence that this campaign of revisionism and damage to cultural property comes from the very top. The actions of soldiers in the Azerbaijani army are not one-off incidents, they are endorsed by the Azerbaijani government.

<sup>107</sup> Posted on TikTok by an unknown user. Reported in ‘Azerbaijani soldiers filmed destroying more Armenian graves: video’ (*Al Masdar News*, 27 November 2020). <https://www.almasdarnews.com/article/azerbaijani-soldiers-filmed-destroying-more-armenian-graves-video/> > accessed 13 March 2021.

<sup>108</sup> Caucasus Heritage Watch, 4 May 2021. <https://twitter.com/CaucasusHW/status/1389639754602491904> > accessed 14 July 2021.

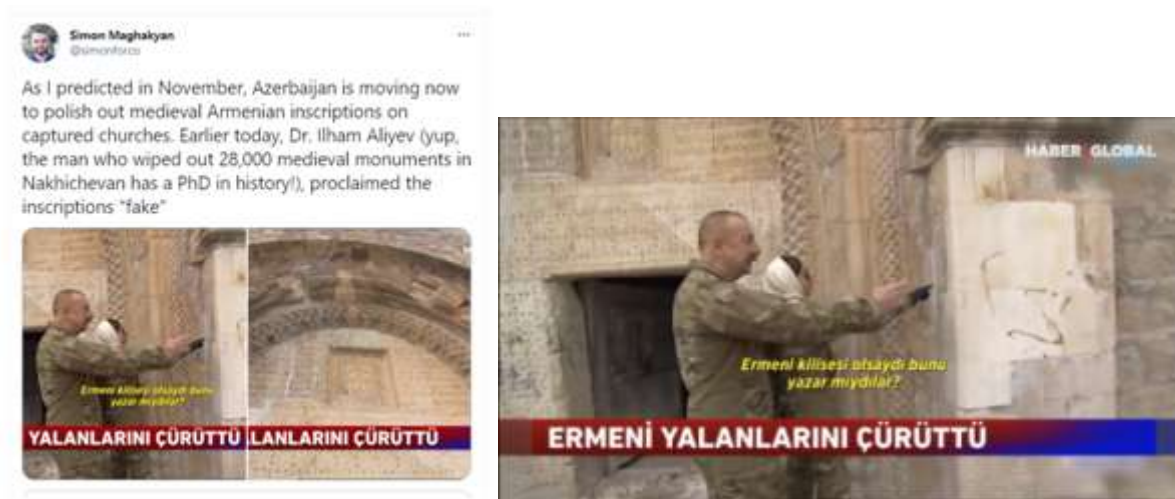
<sup>109</sup> ‘Destruction of the cemetery of Syghnakh’ (*Monument Watch*, 9 June 2021). <https://monumentwatch.org/alerts/destruction-of-the-cemetery-of-syghnakh/?fbclid=IwAR1-8czVlfnK9FBoiea5Tkx4Y4gZ0brySDtCT5O7KDhkGhRTpIVkVLD59x8> > accessed 14 July 2021.

<sup>110</sup> ‘Destruction of the memorial to the soldiers in Hadrut’ (*Monument Watch*, 24 June 2021). [https://monumentwatch.org/alerts/destruction-of-the-memorial-to-the-soldiers-in-hadrut/?fbclid=IwAR00R6H0I2Py4mzyUclQseGdlmy4NI1SI98WY\\_Km5\\_RyQBcaZfCj28pVZYs](https://monumentwatch.org/alerts/destruction-of-the-memorial-to-the-soldiers-in-hadrut/?fbclid=IwAR00R6H0I2Py4mzyUclQseGdlmy4NI1SI98WY_Km5_RyQBcaZfCj28pVZYs) > accessed 14 July 2021.

<sup>111</sup> Simon Maghakyan, 16 March 2021 <https://twitter.com/simonforco/status/1371951305267277832>



Figures № 5 - The monument at Hadrut in July 2021, compared with 2009.



Figures № 6 - President Ilham Aliyev directs workers to remove Armenian inscriptions in a church. The white area shows where the inscriptions have been 'repaired' (removed).

This physical erasure of Armenian culture has not gone unnoticed by the outside world. In March 2021 BBC correspondent Jonah Fisher uncovered another stark example of post-war destruction on a visit to the town of Mekhakavan in Jabrayil, Nagorno-Karabakh. Having seen a video of Azerbaijani soldiers standing atop the Mekhakavan church post-occupation (retweeted by the Armenian National Commission for UNESCO),<sup>112</sup> he was keen to investigate its current state. He was able to find the site, but the church had disappeared entirely (see Figures № 7 and № 8 below).

<sup>112</sup> Armenian National Commission for UNESCO, 25 March 2021  
<https://twitter.com/ArmUnesco/status/1374981132136120320> > accessed 28 March 2021.



Figure № 7 - Mekhakavan church after it was occupied by Azerbaijani forces on 9 October 2020.



Figure № 8 - The same spot in March 2021.<sup>113</sup>

<sup>113</sup> 'Nagorno-Karabakh: The mystery of the missing church' (*BBC News*, 25 March 2021). <https://www.bbc.co.uk/news/av/world-europe-56517835> > accessed 28 March 2021.

## 7.2 Why would Azerbaijani's destroy Armenian Iconography?

From the evidence provided above, it appears that the motivations for Azerbaijan damaging and destroying Armenian cultural property can be roughly divided into two categories;

1. **Armenophobia** – a deep-rooted prejudice against Armenians is being manifested in the destruction of things they as a people hold dear; and
2. **Revising History** - to allow Azerbaijan to claim the region of Nagorno-Karabakh as its own, which implies that Azerbaijan is simply reclaiming the region rather than occupying it.

### 7.2.1 Armenophobia

There appears to be no military necessity argument in almost every recorded instance of cultural property destruction recorded by international and local agencies. In fact, Azerbaijan's President is on record stating that the global media are reporting '*fake news*' and painting Azerbaijan as the aggressors. He claims that Armenia is the instigator of all violence and destruction, yet is unable to offer any reason as to why journalists and impartial NGOs would fabricate such claims against Azerbaijan instead.<sup>114</sup>

As mentioned previously in this report, there is a deep-rooted and long-standing bias against Armenians by Azerbaijanis, an attitude which is fostered and encouraged by its government. Rather than admit to genocide, Azerbaijan's government seeks to rely on the notion dispersed amongst its peoples that Armenians are sub-human and barbaric, so it is 'kill or be killed': '*Over the past century, the Armenians killed around 2 million Azerbaijani and Turkic people. The perpetrators of these murders were the Armenian nationalists*' (Oqtay Asadov, Chairman of the Azerbaijan Parliament).<sup>115</sup> Ziyafat Asgarov, First Deputy Speaker of the National Assembly of Azerbaijan also spoke in 2013 of the 'Armenian disease', implying the Armenian peoples were delusional: '*Unless this disease is treated, its complications gradually become more serious [...] the so-called genocide [of Armenians] is groundless from historical, legal or spiritual point of view. Simply, the Armenians live with this fantasy and disease.*'<sup>116</sup> This is particularly upsetting as it denies the genocide of approximately 1 million Armenians, a fact which is indisputable and an important memory in the minds of the Armenian people, and a key predecessor to the Nagorno-Karabakh conflict

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<sup>114</sup> Ibid (no. 102).

<sup>115</sup> Огтай Асадов: 'За последнее столетие армяне убили около двух миллионов азербайджанцев и тюрков', (*Vesti.az*, 24 February 2012).

<sup>116</sup> Ziyafat Asgarov, 'Armenia Is Among Unpromising Countries' (*Apa.az*, 16 April 2013) <http://en.apa.az/azerbaijan-politics/foreign-news/ziyafat-asgarov-armenia-is-among-unpromising-countries.html> > accessed 17 March 2021.

itself.<sup>117</sup> By denying the genocide, Azerbaijan can deny that the concerns of Armenia are legitimate.

It is also not unusual for public figures and journalists to echo such sentiments: PR and media manager of the Azerbaijani football club 'Qarabag', Nurlan Ibrahimov tweeted that *'We must kill Armenians. No matter whether a woman, a child, an old man [...] We should not feel sorry; we should not feel pity. If we do not kill (them), our children will be killed'*.<sup>118</sup> Rather than admit to the destruction of cultural property, Azerbaijan disseminates the idea that Armenian culture is sub-par or appropriated from Azerbaijan. This attitude seeks to lessen the crimes committed - how could it be a crime against humanity if Armenians are not human?

For decades Azerbaijan has pursued this campaign of 'othering' Armenians, the results of which are two-fold. They not only justify attacks against Armenia and its culture, but also inspire Azerbaijanis to endorse this behavior and emulate it without requiring explicit instruction to do so. The hatred is insidious; the endless propaganda resembles the output of Joseph Goebbels's Ministry of Propaganda, or Radoslav Brđanin's incessant hate-speech.

Although much of this is covered in the report made by A. Adibekyan and A. Elibegova,<sup>119</sup> the armenophobia displayed by Azerbaijan's President Ilham Aliyev and others. On 9 October 2020 he gave an address to the nation calling Armenians 'barbarians', 'vandals' and 'rats' and stating that *'They have neither conscience nor morality. They don't even have the brain'*.<sup>120</sup> His twitter account abounds with similar sentiment. On 3 November 2020, after the conflict had ended, he tweeted that *'we not only liberate our lands from the enemy, but also suppress Armenian fascism, which is a source of great threat to the region'*.<sup>121</sup> The President's Twitter banner currently proclaims that 'Karabakh is Azerbaijan!' (as of 17 March 2021). As pointed out by the Artsakh Human Rights Ombudsman, ethnic and religious hatred is demonstrated every day through acts of disrespect and desecration by Azerbaijani forces, evidence of which is shared without fear of consequence (see tweet for vandalism against the St. Yeghische Armenian Church in Mataghis).<sup>122</sup> There is no doubt that this

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<sup>117</sup> Vicken Cheterian, 'The Uses and Abuses of History: Genocide and the Making of the Karabakh Conflict' (2018). *Europe-Asia Studies*. 70 (6): 884–903.

<sup>118</sup> PR and media manager of the Azerbaijani football club "Qarabag", Nurlan Ibrahimov; as quoted by The Human Rights Defender of Armenia and The Human Rights Ombudsman of Artsakh in their Ad hoc Report 'Organised Hate Speech and Animosity towards Armenians in Azerbaijan as Root Causes of Ethnically-based Torture and Inhumane Treatment by Azerbaijani Armed Forces' (Yerevan, *Stepanakert*, December 2020), 10.

<sup>119</sup> *ibid* (n. 58).

<sup>120</sup> 'Aliyev addressed the nation' (*President of the Republic of Azerbaijan*, 17 Oct 2020).

<https://en.president.az/articles/43334> > accessed 30 July 2021.

<sup>121</sup> Ilham Aliyev (*Twitter*, 20 November 2021)

<https://twitter.com/presidentaz/status/1323567484809678849?s=20>

<sup>122</sup> Artsakh / Karabakh Human Rights Ombudsman, 27 March 2021

[https://twitter.com/ArtsakhOmbuds/status/1375874480459943948?fbclid=IwAR1RcIIIVSC8wARHvLJbD2OKVHJ33t-G8T5kckvpl2B63JAgS4xVEaxhl\\_XY](https://twitter.com/ArtsakhOmbuds/status/1375874480459943948?fbclid=IwAR1RcIIIVSC8wARHvLJbD2OKVHJ33t-G8T5kckvpl2B63JAgS4xVEaxhl_XY) > accessed 28 March 2021.

hostility continues to this day, and no doubt suits the government of Azerbaijan to maintain this attitude in anticipation of any future trouble.

### 7.2.2 Historical Revisionism

The territory of the Republic of Armenia only covers about 7.43% of the Historic Armenian Highlands, an area approximately 400,000 km<sup>2</sup> with a consistent genetic heritage dating back around 3,000 years.<sup>123</sup> This means many of its cultural artefacts are vulnerable as they are now found outside Armenia's border, and have been lost, neglected or destroyed over time by those who seek to eradicate or revise its culture and history.<sup>124</sup> Although international law has developed to protect cultural property, even that which has been displaced, it continues to occur and has been particularly prevalent for Armenia during the past 100 years.

What is incredibly worrying for all actors involved is this campaign of destroying cultural property to 'de-Armenize' a region is an established campaign.<sup>125</sup> The large-scale destruction of the khachkars at Djulfa is evidence of this attitude - between 1998 and 2003 the Azerbaijan government was responsible for destroying more than 800 khachkars and razing the 1500 year old site. Azerbaijani military forces were witnessed by Russian news agencies toppling the crosses.<sup>126</sup> Azerbaijan continues to deny these claims despite irrefutable photographic, video and satellite evidence to the contrary. In fact, they have doubled down and denied the existence of any Armenian heritage at all. The deputy scientific director of Azerbaijan's Institute of Archaeology and Ethnography of the National Academy of Sciences is on record as stating that *'there is not even the slightest trace of Armenians in the Southern Caucasus [...] This land has never had any Armenian root whatsoever'*.<sup>127</sup> More recently, President Aliyev claimed in his October address that *'[Armenians] changed the names of our cities, changed the borders of our districts, changed the names of our villages, wanted to Armenianize our lands but could not achieve this.'* He went on to threaten the Armenians living in the area; *'we should all know, that there is nothing left of the town anymore, no monument, no sound building. For 30 years, it was in*

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<sup>123</sup> 'Genetic evidence for an origin of the Armenians from Bronze Age mixing of multiple populations', Marc Haber, Massimo Mezzavilla, Yali Xue, David Comas, Paolo Gasparini, Pierre Zalloua, Chris Tyler-Smith. *European Journal of Human Genetics* (2016) June; 24(6): 931–936.

<sup>124</sup> Notably, the Islamic Republic of Iran is the only nation which has *'always treated Armenian monuments within its territory with respect'*. Research on Armenian Architecture: Azerbaijan Out of Civilization. [http://www.raa-am.com/raa/pdf\\_files/173.pdf](http://www.raa-am.com/raa/pdf_files/173.pdf) > accessed 12 March 2021.

<sup>125</sup> Chapter 14. Destruction of the cultural and historic Armenian heritage (*StopHateSpeech.net*, date unknown) [http://www.stophatespeech.net/en/destruction-of-the-cultural-and-historic-armenian-heritage.html#\\_ednref410](http://www.stophatespeech.net/en/destruction-of-the-cultural-and-historic-armenian-heritage.html#_ednref410) > accessed 14 March 2021.

<sup>126</sup> 'The Story' (*Djulfa Virtual Memorial and Museum*, date unknown) [https://www.djulfa.com/the\\_Story/](https://www.djulfa.com/the_Story/) > accessed 14 March 2021.

<sup>127</sup> 'If France needs the Armenians to be an ancient people, believe me, it will be so - Deputy Director of the Institute of Archeology and Ethnography of the National Academy of Sciences of Azerbaijan, Najaf Museibli' (*Trend.az.*, 15 November 2007) <http://trend.az/life/history/1069614.html> > accessed 14 March 2021.

*the hands of wild beasts, in the hands of predators, in the hands of jackals [...] If they do not leave our lands of their own free will, we will chase them away like dogs and we are doing that*'.<sup>128</sup> There is a concerted campaign to deny the existence of any Armenian heritage at all, despite credible and longstanding evidence to the contrary, and the longstanding prejudice against Armenians is used to justify it.

### 7.2.3 Cultural Revisionism

One of the starkest examples of the above prejudice and revisionism is found in the destruction of the Mekhakavan church discussed previously. In the report made by the BBC in March 2021, Jonah Fisher asks an Azerbaijani police officer what had happened to the church, he replies *'during the war, it was destroyed'*. When Jonah points out that there is video evidence of the church standing when it was captured in October 2020, the officer changes his story: *'they [the Armenians] destroyed it themselves'*. In response to the video, the Armenian National Commission for UNESCO tweeted they *'Strongly condemn yet another act of cultural crime by Azerbaijan. As BBC found out Armenian church disappeared after Azerbaijani got control over it. Destruction was complete'*, followed by *'Armenian monuments of Artsakh under Azerbaijani occupation are vandalized and destroyed in ISIS-style'*.<sup>129</sup>

Azerbaijan's Ministry of Foreign Affairs put out a statement claiming that;

*'The chapel in question was unlawfully constructed during Armenia's nearly thirty-year occupation of land that is internationally recognized as Azerbaijan, and that was solely populated by ethnic Azerbaijanis prior to the unlawful occupation in 1993 [...]*

*The chapel cannot be considered a part of Jabrayil's cultural history when its construction, reportedly only five years ago, solely served the occupying forces of Armenia'*.<sup>130</sup>

This is a clear attempt to revise the history of the area as Azerbaijani (Albanian) and therefore any building built there within the period 1993 - 2020 does not 'belong'. The Ministry uses several lines of argument to defend this obvious and undeniable destruction. First, they claim that anything built within the past five years cannot be cultural property, even if it has clear religious and cultural links. By this logic, the roof of the Notre Dame, -

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<sup>128</sup> *ibid* (no. 120). Note that the speech at 'President Ilham Aliyev addressed the nation' (*Ministry of Transport, Communications and High Technologies of the Republic of Azerbaijan*, 20 October 2020).

<https://mincom.gov.az/en/view/news/1023/president-ilham-aliyev-addressed-the-nation> > accessed 17 March 2021, has since been edited to remove the reference to Armenians as 'dogs'.

<sup>129</sup> Armenian National Commission for UNESCO, 25 March 2021

<https://twitter.com/ArmUnesco/status/1374978285554253825> > accessed 28 March 2021.

<sup>130</sup> 'No:104/12, Commentary of the Press Service Department of the Ministry of Foreign Affairs of the Republic of Azerbaijan about unfounded claims by Armenia on committing "cultural crimes" in the liberated territories of Azerbaijan' (*Republic of Azerbaijan Ministry of Foreign Affairs*, 26 March 2021)

<https://mfa.gov.az/en/news/7258/view> > accessed 28 March 2021.



currently being rebuilt in Paris - isn't cultural property either. Second, they claim that *'the chapel had been built as part of a military compound in Jabrayil for use by Armenian soldiers.'* This is a clear attempt to use the 'military use' exception. It is a deliberate attempt to confuse the situation, when in legal terms it is very clear. The 'enemy' had been removed, and the chapel, even if built as part of a military base, was not being used as a military building at the time of its destruction. There is no legal recourse for this action.

Their third prong of their attack is the most troublesome of all: revenge. The statement made points out the alleged atrocities committed by Armenian forces against Azerbaijanis;

*The chapel was constructed during a period when Armenia was destroying the homes and cultural heritage of Azerbaijanis that had lived in Jabrayil and other occupied regions of Azerbaijan for generations [...]*

*The country that deliberately targeted the Azerbaijani heritage, conducted cultural cleansing and numerous war crimes in the once occupied territories, including the destruction of 927 libraries, more than 60 mosques, 44 temples, 473 historical sites, palaces and museums has neither legal nor moral right to accuse Azerbaijan.<sup>131</sup>*

Although not said outright, it is clear that Azerbaijan perceives any destruction of Armenian cultural property as justified and as 'payback'. In common sense terms, this is ill-conceived: violence encourages violence, and creates an endless circle of destruction.

In legal terms, Article 53 of the Additional Protocol I to the Geneva Conventions specifically prohibits acts of hostility towards *'historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples [...or] to make such objects the object of reprisals'*.<sup>132</sup> Therefore it is without doubt that deliberate destruction of any such properties is completely at odds with international law. There is no time limit on what constitutes cultural property; it is irrelevant whether the property was found on 'military' land; and it is completely forbidden to destroy cultural property as an act of revenge. It is concerning that once again Azerbaijan's official response openly admits breaching international law, and seeks to justify it.

In his article for the International Committee of the Red Cross, Ross Burns described this behaviour by aggressors as 'cultural terrorism': *'perpetrators also seek to underline that they have no respect for the country's heritage and that they are prepared to go to any ends to convey their seriousness of purpose.'*<sup>133</sup> However in the modern world, it is not easy to 'get away' with the destruction of cultural property given the proliferation of global connectivity and it is well prohibited under international law. Therefore, Azerbaijani forces have taken an alternative approach – by repurposing and 'revising' the history of such monuments, they

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<sup>131</sup> *ibid* (no. 130).

<sup>132</sup> Additional Protocol I 1977 (Geneva Conventions 1949).

<sup>133</sup> *ibid* (no. 74), 940.

intend to claim them as their own to do with what they will. This approach also serves to deny Armenians ownership of the territory: *'This rather bizarre argument has the strong political subtext that Nagorno Karabakh had in fact been Caucasian Albanian and that Armenians had no claim to it'* (Thomas de Waal, scholar at the Carnegie Endowment for International Peace).<sup>134</sup>

The Ombudsman considers this to be a campaign of 'Historical Revisionism' by Azerbaijan: *'In an effort to strengthen its ties to these lands, Azerbaijan revises and rewrites history by claiming that the Armenian churches and cross-stones belong to Caucasian Albanians, and that Caucasian Albanians are Azerbaijani peoples' ancestors.'* This is particularly effective as it exploits the length and history of the conflict. Had this conflict been restricted to the war in 2020, it would be very easy to point to the transfer of territory and the clear history of the Artsakh peoples. However the troubles of Nagorno-Karabakh conflict stretch back decades, and cover a period of time where information was not as easy to share or verify. It is nearly impossible to establish certain facts, and Azerbaijani forces seek to rely on this to muddy the legal waters.

This is well documented by statements made by the Azerbaijan Government – in January 2021 President of Azerbaijan Ilham Aliyev claimed that it was in fact Armenians who had first 'revised' history: *'They brought people of Armenian origin from different parts of the world and settled them in the historical territories of Azerbaijan [...] They changed the names of our cities and villages, and even changed the origin of Christian religious monuments. They changed the origins of the religious heritage of the ancient Udis who worshiped Christianity. They turned the churches of ancient Caucasian Albania into Armenian churches. Thus, they committed many criminal acts'*.<sup>135</sup> He went on to frame the damage caused to Armenian monuments as *'Infrastructure projects, city planning and [...] important elements of reconstruction'*.

As pointed out by the Human Rights Ombudsman, this is easily rebutted by the historical evidence of Armenian carvings and language dating back far beyond the 19<sup>th</sup> century, with evidence of Armenian occupation going back as far as the 4<sup>th</sup>. There is mounting evidence that Azerbaijan is removing such references on cultural monuments in order to deny this historical link. Many of these have been documented in the Human Rights Ombudsman's Report (see Figure № 8 below).

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<sup>134</sup> Quoted by the Human Rights Watch, *ibid* (no. 93). Primary source: Thomas De Waal. *The Caucasus: An Introduction*. Oxford University Press, USA. 2010, p. 107 .

<sup>135</sup> 'Azerbaijan starts counting damage caused by Armenia in Karabakh – Aliyev', (*Interfax*, 13 January 2021) <http://interfax.az/view/824324> > accessed 12 March 2021.



Figures № 9 – *Before and After photographs of an Armenian tombstone in Nijj which had its text removed during the church's 'restoration'.*<sup>136</sup>

#### **7.2.4 The UNESCO Technical Mission**

The very fact we are able to identify and discuss this campaign of revisionism shows that the Azerbaijani campaign of disinformation and revision has not been successful. This is demonstrated by the concern expressed by a number of international agencies.

In November 2020 UNESCO proposed sending a technical mission to Nagorno-Karabakh to assess the risk to the region's cultural property. The Director-General proposed creating an inventory of cultural property in order to create a plan to protect the region's cultural heritage. This would require the agreement of all parties involved, and was subsequently welcomed by Armenia.<sup>137</sup> This proposition was also formally endorsed by the Committee of the Hague Convention 1954 for the Protection of Cultural Property in the Event of Armed Conflict and its Second Protocol (1999). Despite this, Azerbaijan has failed to respond to the request and has not yet agreed – as of July 2021 – to cooperate with this mission, and claims

<sup>136</sup> Simon Maghakyan, 'Triumph of Tolerance or Vandalism' (*HETQ*, 29 May 2006) <https://hetq.am/en/article/10215> > accessed 15 March 2021.

<sup>137</sup> 'Nagorno-Karabakh: Reaffirming the obligation to protect cultural goods, UNESCO proposes sending a mission to the field to all parties' (*UNESCO*, 20 November 2020) <https://en.unesco.org/news/nagorno-karabakh-reaffirming-obligation-protect-cultural-goods-unesco-proposes-sending-mission>

that it is in fact Armenia preventing the mission, claiming that ‘this mission was prevented due to the occupation of these territories by the Armenian military forces’.<sup>138</sup>

The Armenian delegation to the UN has accused Azerbaijan of creating ‘artificial obstacles’ to delay UNESCOs involvement and obstruct the mission.<sup>139</sup> The delegation calls on UN Member States to make the unilateral decision to send the task force: ‘*[i]n the absence of adequate response from the Azerbaijani government, proactive measures of the international community become ever more important to prevent further destruction and vandalism and preserve the Armenian cultural and religious heritage*’. Azerbaijan has not submitted a response or its own statement as of 15 July 2021.

If Azerbaijani forces are simply ‘correcting’ the cultural monuments to reflect accurate history as they claim, there would be no reason to block this request. The lack of cooperation - alongside the picture and video evidence coming from Nagorno-Karabakh - suggests that Azerbaijani forces are actively damaging, destroying and repurposing cultural property in an attempt to erase the Armenian identity. If Azerbaijan had nothing to hide, they would be forthcoming in their cooperation.

Therefore the longer it takes UNESCO’s technical mission to enquire and investigate this issue, the longer Azerbaijani forces have to repurpose Armenian historical monuments in an attempt to pass them off as their own. Azerbaijan is literally rewriting history and as long as international agencies refrain from intervening, the more cultural property will be destroyed irrevocably.

### **7.3 Potential Outcomes**

As discussed previously, neither Armenia nor Azerbaijan are signatories to the Rome Statute, and therefore do not have the power to directly request intervention from the UN. The only route to investigation and therefore holding those responsible to account in the International Criminal Court would be by another member sponsoring a request. However, three of the UNSC members (the United States of America, China and Russia) have not ratified the Rome Statute and are therefore able to veto a referral to ‘*immunize themselves and their allies from any potential investigation or prosecution*’.<sup>140</sup> Russia has used this P5 veto previously – for example following their actions in Chechnya, Russia vetoed the referral to the ICC and therefore no international investigation occurred. This is of particular importance to the Nagorno Karabakh conflict given that Russia is a key actor.

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<sup>138</sup> *ibid* (no. 130).

<sup>139</sup> Delegation Of The Republic Of Armenia: Position paper on crimes against cultural property (*United Nations Office on Drugs and Crime*) A/CONF.222/G/ARM [https://www.unodc.org/documents/congress/Documentation/Statements\\_Governments/ACONF222\\_G\\_ARM\\_Armenia.pdf](https://www.unodc.org/documents/congress/Documentation/Statements_Governments/ACONF222_G_ARM_Armenia.pdf)> accessed 13 March 2021.

<sup>140</sup> *ibid* (no. 14), 588.

There is also little likelihood of Azerbaijan domestically punishing those who desecrate or destroy cultural property within Nagorno-Karabakh. In 2006, Ramil Safarov, a lieutenant in the Azerbaijani army was convicted of the murder of two Armenian officers in Hungary and sentenced to life imprisonment (minimum of 30 years). Following his transfer to Azerbaijan in 2012, he was immediately freed, pardoned by President Aliyev and even promoted to Major in a public ceremony. He had only served 6 years of his sentence. This speaks volumes to the attitude of Azerbaijan's government - they not only condoned the murder of Armenians, they rewarded it. This result was challenged by the victims' family in the European Court of Human Rights. The ECHR expressed serious concern about the attitude of Azerbaijan's government; *'the Court finds particularly disturbing the statements made by a number of Azerbaijani officials glorifying R.S., his deeds and his pardon [...] a large majority of those statements expressed particular support for the fact that R.S.'s crimes had been directed against Armenian soldiers, congratulated him on his actions and called him a patriot, a role model and a hero.'*<sup>141</sup> The court found that there had been a violation by Azerbaijan of Article 14 taken in conjunction with Article 2 of the Convention and Article 2 in its procedural limb. If Azerbaijan's government will not uphold basic legal standards domestically when it comes to the murder of Armenian people, it follows that they will not respect legal standards regarding cultural property either.

The President of Azerbaijan himself has been shown directing the removal of Armenian inscriptions from a church (see the figure № 5 above). This demonstrates a complete lack of respect for international law. President Aliyev believes he can act with impunity; that the international court cannot punish him for his transgressions. He has gone on record to voice this disdain; *'Unfortunately, international law does not work in international relations. If it did, four UN Security Council resolutions would have been implemented long ago. We waited for 20 years for these resolutions to be implemented. They simply remained on paper. [...] Our fist is a fist of unity, the unity of our people, a fist of focused activities, the adoption of decisions and resolutions at the international level that benefit us and reflect justice.'*<sup>142</sup>

Furthermore, UNESCO has in recent decades had a troubling response to Azerbaijan's transgressions. UNESCO has been cautious to investigate perceived transgressions by Azerbaijan, including the mass destruction of thousands of 16th century Armenian khachkars in Djulfa. Azerbaijan donated \$5 million to UNESCO in 2013.<sup>143</sup> Furthermore, there is serious concern by both Armenia and Azerbaijan that international agencies who were established to hold such behaviour to account may stand back whilst the destruction is ongoing, and/or fail to hold anyone to account.

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<sup>141</sup> Case of *Makuchyan and Minasyan v. Azerbaijan and Hungary* (Application No. 17247/13), Judgment of 26/05/2020, 216.

<sup>142</sup> *ibid* (n.120).

<sup>143</sup> The Republic of Azerbaijan Donates US\$ 5 Million to UNESCO (*UNESCO*, July 2013).

<https://en.unesco.org/news/republic-azerbaijan-donates-us-5-million-unesco-0> > accessed 13 March 2021.

## 7.4 Proactive Measures

It is not only legal intervention that may be of value to the cultural sites in Nagorno-Karabakh. Like in Iraq and Syria, it is imperative that NGOs attempt to catalogue these sites and establish their status. There is no guarantee that UNESCO's technical mission will ever receive support from Azerbaijan, so it may be the only option. The Human Rights Ombudsman has begun this process in their report, documenting sites which have fallen under the control of Azerbaijan following the ceasefire in 2020.<sup>144</sup>

Another positive approach is that taken by the Djulfa Virtual Memorial and Museum. Following the destruction of the khachkars, intense efforts were made to rescue the remaining cultural property and to document the destruction. These efforts allow Armenians, and humankind, to view and remember the khachkars virtually and at museums throughout Armenia. Importantly, this preserves their memory, and therefore their culture.

By documenting and recording in this manner, we are able to continue producing irrefutable evidence of the damage and repurposing of cultural sites and artefacts. This not only holds Azerbaijan to account on the international stage, this could encourage Azerbaijani authorities to cease their activity. Either way, overwhelming evidence can be used to demonstrate an ongoing campaign against Armenian culture, and therefore the culture of humankind as a whole.

## 8. Concluding Thoughts

This report has attempted to review both the jurisprudence and practical measures taken by the international legal community over the past 100 years to understand the importance of, and protect, cultural property. It is clear that whilst those who are signatories to the Rome Statute enjoy the protections of the United Nations and the deterrent of the International Criminal Court, those who are not signatories are expected to make a more proactive approach to protecting their own cultural property. In the case of Artsakh, this is simply not possible as Azerbaijan holds the territory and therefore Armenian agencies cannot enter the area or take proactive steps to protect sites or artefacts without being endangered or accused of nefarious activity.

On a positive note, it is extremely encouraging to see third party States step in to aid the protection and preservation of cultural property, particularly in Syria and Iraq following ISIL's occupation. This serves to demonstrate that the protection of cultural property is an international issue and is best managed by careful cooperation between States.

Moving forward, this report concludes by calling for more formal and international-level support for states to protect cultural properties. For this, we believe that UNESCO should make every effort to visit these territories, especially those under the control of Azerbaijan, in order to compile a list of the most significant cultural sites, give an independent

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<sup>144</sup> *ibid* (no. 99).

assessment of their condition and damage caused, and take all necessary measures to protect the Armenian cultural heritage. This will facilitate the monitoring and preservation of historically Armenian cultural heritage, and if necessary, allow UNESCO to become an intermediary in the process of returning cultural property to its country of origin where appropriate. We also suggest that the UN Special Rapporteur for Cultural Rights and other responsible bodies visit these territories immediately to prepare a report, documenting the present state of the cultural property and therefore deterring any interference by Azerbaijani authorities, or encouraging their protection from non-governmental actors who may wish harm upon them. With the correct and careful intervention by third-party actors, the destruction and abuse of cultural property can be safely mitigated without the risk of further conflict in Artsakh.

## Bibliography

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### **Books**

Helga Turku, *The Destruction of Cultural Property as a Weapon of War: ISIS in Syria and Iraq* (Palgrave MacMillan, 2018).

Paul Eldridge, *Maxims for a Modern Man* (Thomas Yoseloff, 1965).

*The Palgrave Handbook on Art Crime* (2019, Palgrave), Eds Saskia Hufnagel, Duncan Chappell.

Saskia Hufnagel, 'INTERPOL and International Trends and Developments in the Fight Against Cultural Property Crime'.

Joris D. Kila, 'Iconoclasm and Cultural Heritage Destruction During Contemporary Armed Conflicts'.

### **Case Law**

#### **European Court of Human Rights**

*Makuchyan and Minasyan v. Azerbaijan and Hungary* (Application No. 17247/13), Judgment of 26/05/2020, 216.

#### **International Criminal Court**

*The Prosecutor v. Ahmad Al Faqi Al Mahdi*, no. ICC-01/12-01/15, TC VIII, Judgment and Sentence, 27 September 2016.

Summary of the Judgment and Sentence in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, ICC; <https://www.icc-cpi.int/itemsDocuments/160926Al-MahdiSummary.pdf>

## **International Criminal Tribunal of the former Yugoslavia**

Brđanin Case Information Sheet.

[https://www.icty.org/x/cases/brdanin/cis/en/cis\\_brdjanin\\_en.pdf](https://www.icty.org/x/cases/brdanin/cis/en/cis_brdjanin_en.pdf)

Brđanin Trial Judgment no. IT-99-36-T, 1 September 2004. Brđanin Appeal Judgment no. IT-99-36-A, 3 April 2007.

Blaškić Trial Judgement no. IT-95-14-T, 3 March 2000.

Kordić and Čerkez Case Information Sheet

[https://www.icty.org/x/cases/kordic\\_cerkez/cis/en/cis\\_kordic\\_cerkez\\_en.pdf](https://www.icty.org/x/cases/kordic_cerkez/cis/en/cis_kordic_cerkez_en.pdf)

Kordić and Čerkez Judgment no. IT-95-14/2, 26 February 2001.

The Prosecutor v. Dusko Tadić, IT-94-1-AR72, Appeals Chamber, Decision, 2 October 1995.

## **International Human Rights Legislation**

Hague Regulations 1907.

Charter of the United Nations 1945.

1949 Geneva Convention I – IV and Additional Protocols I & II.

1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

UNESCO Convention 1972.

Additional Protocol I 1977 to the 1949 Geneva Convention.

Updated Statute of the International Criminal Tribunal for the Former Yugoslavia (1993 – as amended July 2009).

UNESCO Convention 2003.

The Rome Statute of the International Criminal Court (2011).

## **Journal Articles**

Andrew Miles, 'Conserving Culture: The Shift Towards International Criminal Liability for the Destruction of Cultural Property'. *Minnesota Journal of International Law*. Winter 2018 Vol 27(2), 1072.

Benjamin Isakhan, 'Creating the Iraq cultural property destruction database: calculating a heritage destruction index' (2015). *International Journal of Heritage Studies*, 21:1.



Casana J, Laugier EJ, 'Satellite imagery-based monitoring of archaeological site damage in the Syrian civil war' (2017). PLoS ONE 12(11).

David N. Chang, 'Stealing Beauty: Stopping the Madness of Illicit Art Trafficking', *Houston Journal of International Law*, Vol. 28, No. 3, 2006, 847.

Gabriella Venturini, 'International Law and Intentional Destruction of Cultural Heritage'. *Cultural Heritage. Scenarios*, 2015-2017, 108.

Marc Haber, Massimo Mezzavilla, Yali Xue, David Comas, Paolo Gasparini, Pierre Zalloua, Chris Tyler-Smith, 'Genetic evidence for an origin of the Armenians from Bronze Age mixing of multiple populations'. *European Journal of Human Genetics* (2016) June; 24(6): 931–936.

Marina Lostal, Kristin Hausler and Pascal Bongard, 'Armed Non-State Actors and Cultural Heritage in Armed Conflict', *International Journal of Cultural Property* (2017) 24: 407-427.

Mariya Ilyas, 'Deliberate Warfare: Destruction Of Cultural Property During Armed Conflict In Bosnia And Armenia'. The Fletcher Project at Tufts University, April 2018.

Polina Levina Mahnad, 'Protecting Cultural Property in Syria', *International Review of the Red Cross*, Volume 99 Number 906 December 2017.

Ross Burns, 'Weaponizing Monuments', *International Review of the Red Cross*, Volume 99 Number 906 December 2017.

Sandoz, Y., Swinarski, C., & Zimmermann, B. (Eds.) (1987), 'Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949'. *International Committee of the Red Cross*, 646 and 1469 – 1479.

Sonja Boelaert-Suominen, 'The International Criminal Tribunal for the former Yugoslavia and the Kosovo conflict', 31 March 2000. *International Review of the Red Cross*, No. 837. <https://www.icrc.org/en/doc/resources/documents/article/other/57jqd2.htm>

Vicken Cheterian, 'The Uses and Abuses of History: Genocide and the Making of the Karabakh Conflict' (2018). *Europe-Asia Studies*. 70 (6): 884–903.

## **United Nations**

Report of the Special Rapporteur in the Field of Cultural Rights, "Addendum: Mission to Bosnia and Herzegovina (13–24 May 2013)", UN Doc. A/HRC/25/49/Add.1, 3 March 2014, [http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a\\_hrc\\_25\\_49\\_add\\_1.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_25_49_add_1.pdf)

United Nations Press Release, Statement given by UN Security Council President on 15 December 2015 -<https://www.un.org/press/en/2015/sc11804.doc.htm> > accessed 30 December 2020.

United Nations Security Council Resolution 827 (1993) [https://undocs.org/S/RES/827\(1993\)](https://undocs.org/S/RES/827(1993))

## **UNESCO**

UNESCO Convention concerning the Protection of World Cultural and National Heritage (1972) <http://whc.unesco.org/uploads/activities/documents/activity-562-4.pdf>

UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (2003) <https://ich.unesco.org/doc/src/15164-EN.pdf>

UNESCO General Conference 1993

UNESCO, Operational Guidelines for the Implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, Paris, 1970, cited in E. Cunliffe, N. Muhsen and M. Lostal (2016).

UNESCO, Reinforcement of UNESCO's Action for the Protection of Culture and the Promotion of Cultural Pluralism in the Event of Armed Conflict, UN Doc. 197 EX/10, 17 August 2015.

UNESCO, 'Standard Plan of Action to Protect Cultural Property in the Event of Armed Conflict' Doc. CLT-11-CONF-209-INF12011, 12 December 2011.

UNESCO, 'Standard Plan of Action to Protect Cultural Property in the Event of Armed Conflict' Doc. CLT-13/10HCP/CONF.201/INF.3, 21 November 2013.

UNESCO, 'UNESCO, France and the Emirates Launch an International Alliance for the Protection of Heritage', 20 March 2017.

## **Web Articles**

Aliyev addressed the nation' (President of the Republic of Azerbaijan, 17 Oct 2020). <https://en.president.az/articles/43334>

'Armenians in Nagorno-Karabakh fear destruction of their cultural heritage' (France24, 18 November 2020) <https://observers.france24.com/en/asia-pacifique/20201124-armenians-in-nagorno-karabakh-fear-destruction-of-their-cultural-heritage>

'Azerbaijan's Defense Ministry releases footages of liberated from occupation Talish village' (Azertag.Az, 5 October 2020) <https://video.azertag.az/en/site/video/103481>

‘Azerbaijan: Attack on Church Possible War Crime’ (Human Rights Watch, 16 December 2020) <https://www.hrw.org/news/2020/12/16/azerbaijan-attack-church-possible-war-crime?fbclid=IwAR2xjqiTjFOCPSRpsVIMKI9jGG-4SnZdHpaSHimYtToYss6V7J5bE0u6czg>

Azerbaijani Soldiers Execute Elderly Armenian Couple in Artsakh; Then Cut Off Their Ears (HETQ, 3 April 2016) <https://hetq.am/en/article/66976>

‘Conference on Safeguarding Endangered Cultural Heritage: Abu Dhabi Declaration on Heritage at Risk in the Context of Armed Conflicts’ (International Council on Monuments and Sites (ICOMOS), 3 December 2016). <https://www.icomos.org/en/what-we-do/image-what-we-do/401-heritage-at-risk/8262-icomos-adopts-the-abu-dhabi-declaration-on-heritage-at-risk-in-the-context-of-armed-conflicts>

‘Destruction of the memorial to the soldiers in Hadrut’ (Monument Watch, 24 June 2021). <https://monumentwatch.org/alerts/destruction-of-the-memorial-to-the-soldiers-in-hadrut/?fbclid=IwAR00R6H0I2Py4mzyUclQseGdlmy4Nl1Sl98WY Km5 RyQBcaZfCj28pVZYs>

Director-General requests UN Security Council meeting on destruction of heritage in Mosul - <http://whc.unesco.org/en/news/1239/>

Ed Vulliamy, ‘Rockers and spies’ – how the CIA used culture to shred the iron curtain’ (The Guardian, 3 May 2020) <https://www.theguardian.com/us-news/2020/may/03/rockers-and-spies-how-the-cia-used-culture-to-shred-the-iron-curtain>

‘If France needs the Armenians to be an ancient people, believe me, it will be so - Deputy Director of the Institute of Archeology and Ethnography of the National Academy of Sciences of Azerbaijan, Najaf Museibli’ (Trend.az., 15 November 2007) <http://trend.az/life/history/1069614.html>

‘Islamists destroy 15<sup>th</sup> Century Timbuktu Mosque’ (The Telegraph, 3 July 2012) <https://www.telegraph.co.uk/news/worldnews/africaandindianocean/mali/9371604/Islamists-destroy-15th-century-Timbuktu-mosque.html>

‘More than bricks: How international law protects cultural sites’ (Al Jazeera, 9 January 2020) <https://www.aljazeera.com/features/2020/1/9/more-than-bricks-how-international-law-protects-cultural-sites>

‘Nagorno-Karabakh: The mystery of the missing church’ (BBC News, 25 March 2021). <https://www.bbc.co.uk/news/av/world-europe-56517835>

‘No:104/12, Commentary of the Press Service Department of the Ministry of Foreign Affairs of the Republic of Azerbaijan about unfounded claims by Armenia on committing “cultural crimes” in the liberated territories of Azerbaijan’ (Republic of Azerbaijan Ministry of Foreign Affairs, 26 March 2021) <https://mfa.gov.az/en/news/7258/view>

‘Opening Ceremony of “Revived Talish” Monument’ (Massis Post, 19 June 2017)  
<https://massispost.com/2017/06/opening-ceremony-revived-talish-monument/>

Огтай Асадов: ‘За последнее столетие армяне убили около двух миллионов азербайджанцев и турок’, (Vesti.az, 24 February 2012).

Paul Shinkman, ‘ISIS by the Numbers’ (US News, 27 December 2017)  
<https://www.usnews.com/news/world/articles/2017-12-27/isis-by-the-numbers-in-2017>

‘President Ilham Aliyev addressed the nation’ (Ministry of Transport, Communications and High Technologies of the Republic of Azerbaijan, 20 October 2020)  
<https://mincom.gov.az/en/view/news/1023/president-ilham-aliyev-addressed-the-nation>

Russell Goldman and Marlise Simons, ‘Why the Terrorist Who Destroyed Palmyra Won’t Face Justice’ (The New York Times, 29 September 2016)  
<https://www.nytimes.com/2016/09/30/world/africa/icc-hague-court-antiquities.html>

Statement given by UN Security Council President on 15 December 2015 -  
<https://www.un.org/press/en/2015/sc11804.doc.html>

Simon Maghakyan, ‘Triumph of Tolerance or Vandalism’ (HETQ, 29 May 2006)  
<https://hetq.am/en/article/10215> > accessed 15 March 2021.

‘The Destruction of Cultural Heritage In Nagorno-Karabakh Is A Tragedy for Azerbaijanis And For All Humanity’ (The New York City Times, 16 October 2020)  
<https://www.thenyctimes.com/the-destruction-of-cultural-heritage-in-nagorno-karabakh-is-a-tragedy-for-azerbaijanis-and-for-all-humanity/>

‘Timbuktu shrines damaged by Mali Ansar Dine Islamists’, (BBC News, 30 June 2012)  
<https://www.bbc.co.uk/news/world-africa-1865746>

‘Nagorno-Karabakh: Reaffirming the obligation to protect cultural goods, UNESCO proposes sending a mission to the field to all parties’ (UNESCO, 20 November 2020)  
<https://en.unesco.org/news/nagorno-karabakh-reaffirming-obligation-protect-cultural-goods-unesco-proposes-sending-mission>

‘UNESCO adopts declaration on cultural property protection and creation of independent technical mission in Nagorno-Karabakh’ (Panorama.am, 14 December 2020)  
<https://bit.ly/3cvpMYa>

Ziyafat Asgarov, ‘Armenia Is Among Unpromising Countries’ (Apa.az, 16 April 2013)  
<http://en.apa.az/azerbaijan-politics/foreign-news/ziyafat-asgarov-armenia-is-among-unpromising-countries.html>

## Websites

Cultural Heritage Watch <http://caucasusheritage.cornell.edu/>

Djulfa Virtual Memorial and Museum [https://www.djulfa.com/the\\_Story/](https://www.djulfa.com/the_Story/)

International Committee of the Red Cross, customary International Humanitarian Law  
[https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule144](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule144)

IREX Media Sustainability Index 2012 <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-africa-2012-mali.pdf>

StopHateSpeech.net [http://www.stophatespeech.net/en/destruction-of-the-cultural-and-historic-armenian-heritage.html#\\_ednref410](http://www.stophatespeech.net/en/destruction-of-the-cultural-and-historic-armenian-heritage.html#_ednref410)

World Catalogue of Khachkars <https://www.khachkar.pro/en/about-khachkars.html>

## Other

A. Adibekyan and A. Elibegova, 'Armenophobia in Azerbaijan'. Information and Public Relations Center of the Administration of the President of the Republic of Armenia (2015).

Criminal Code of the Republic of Azerbaijan (1999).

Djulfa.com Facebook page:

<https://www.facebook.com/silencedstones/posts/5037252052966647>

Ministry of Education and Culture, 'Endangered Syrian Documents Taken into Safekeeping at the National Archives of Finland', Finland, 2 December 2016.

Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation (Prime Minister of Armenia, 10 Nov 2020) [https://www.primeminister.am/u\\_files/file/Haytararutyunner/Haytararutyun.pdf](https://www.primeminister.am/u_files/file/Haytararutyunner/Haytararutyun.pdf)

Zartok Media Facebook page: <https://www.facebook.com/ZartokMedia/>

