

The Journey of Cultural Heritage Protection as a
Common Goal for Human Kind:

Rosenberg to Al-Mahdi

ELTE International Criminal Law Course

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Introduction

“The best way to take someone down is to strike him in the cultural and religious aspect, at everything that is important to him.”¹

The current and constant power struggles in the Near-East and the Northern Africa regions has had devastating effects on the people living in the region as well as to its common cultural heritage sites.² Nevertheless, such conflicts in which cultural heritage has been affected by arms can be dated back to earlier times such as the persecution of Jews prior to the Second World War (WWII). The most notorious example of such persecution is illustrated by the Night of Broken Glass in which synagogues, Jewish homes and businesses were torched to the ground together with hundreds of years' worth of cultural memorabilia. In light of such horrendous outcomes, different mechanisms were established to tackle this issue and attempt to protect common heritage barring importance for all of human kind.

This paper will assess the terms cultural property and cultural heritage. Furthermore, it will look at the differences between tangible cultural property which include “monuments, buildings, cultural sites, and works of art such as painting, sculpture, or the like”³ and intangible cultural property such as, oral poetry or musical traditions, ceremonial and ritual traditions and compare them to the wider definition of cultural heritage. Additionally, two well-known cases which had a major influence on the protection of cultural heritage and showcase the development curve of such protection provided by international criminal law will be assessed. To conclude, the current stage where international criminal law stands today will be discussed and exemplified by the *Al-Mahdi* case.⁴

¹ The Prosecutor v. Ahmad al-Faqi al-Mahdi (witness testimony) ICC- 01/12-01/15 (22-24 August 2016).

² Cultural heritage is “The physical and intangible elements associated with a group of individuals which are created and passed from generation to generation as defined by D. Fincham in Derek Fincham, ‘The Distinctiveness of Property and Heritage’ (2011) 115 Penn State Law Review 641, 668.

³ Jiri Toman, *Protection of Cultural Property in the Event of Armed Conflict* (1 edn, Dartmouth Publishing Company 1996) 40. In addition, the terms cultural property and cultural heritage will be used interchangeably in the paper.

⁴ The Prosecutor v. Ahmad al-Faqi al-Mahdi (Witness Testimony) ICC- 01/12-01/15 (27 September 2016).

Cultural Property or Heritage: Problematic Terms

The discussion regarding the definition of cultural heritage versus cultural property is a complex one and has yet to produce a globally exclusive definition. To begin with, certain authors interpret the term “cultural property” to be more explicit than the term “cultural heritage”; therefore, believe that both terms could be used to complement each other. However, others disagree and suggest that “cultural property cannot be seen as a counterpart of the cultural heritage”.⁵ This separation of terms is clearly visible when glancing at the 1954 Hague Convention and the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention which use the term “cultural property” while Council of Europe regulations,⁶ the 1972 World Heritage Convention, and the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage use “cultural heritage”.⁷ Furthermore, Alper Taşdelen explains the difference between the two terms by arguing that “[c]ultural heritage emphasizes the (...) emotional bond between certain items and their source nation, whereas cultural property stresses (...) ownership and the fact that cultural objects are material goods which can be traded (...)”.⁸

The basic definition of cultural property is that something can be the property of a cultural group; thus, grant a set of collective rights regarding ownership, use, and in some cases, even title to the property if it is held in individual hands. The term, consequently, raises numerous questions relating to cultural groups, the nature of property and the correlation between them. Nevertheless, an attempt to decipher the meaning of “Cultural heritage” will lead one to the definitions found in the 1954 Hague Convention and the 1970 UNESCO Convention which could suggest that the category of cultural heritage is broader than, and perhaps covers that of cultural property.⁹

⁵ Manlio Frigo, ‘Cultural property v. cultural heritage: A “battle of concepts” in international law?’ (2004) 86 *International Review of the Red Cross* 367, 377.

⁶ Such as the 1969 European Convention on the Protection of the Archaeological Heritage and the 1985 Convention for the Protection of the Architectural Heritage of Europe.

⁷ Janet Blake, ‘On Defining the Cultural Heritage’ (2000) *The International and Comparative Law Quarterly* 61, 65. The 1978 UNESCO Recommendation gives the following definition: “movable cultural property shall be taken to mean all movable objects which are the expression and testimony of human creation or of the evolution of nature and which are of archaeological, historical, artistic, scientific or technical value and interest.” Recommendation for the Protection of Movable Cultural Property, United Nations Educational Scientific Cultural Organization (UNESCO) 28 November 1978.

⁸ Alper Taşdelen, *The Return of Cultural Artefacts: Hard and Soft Law Approaches* (Springer International Publishing 2016) 4.

⁹ Manlio Frigo, ‘Cultural property v. cultural heritage: A “battle of concepts” in international law?’ (2004) 86 *International Review of the Red Cross* 367, 369. The 1954 Hague Convention at article one defines cultural property as “movable or immovable property of great importance to the CH of every people”. UN Educational, Scientific and

Furthermore, Blake proposes that the strongest argument against the use of the term "cultural property" is that it is too limited in scope to encompass the possible range of both tangible and intangible cultural property.¹⁰ Moreover, Blake states that the "tangible" element relates only to physical remains which tend to naturally fall under law protecting cultural heritage, while "intangible" usually relates to knowledge or ideas and clearly portrays the limitations of applying the term cultural property to such elements. Additionally, Prott criticizes "cultural property" and suggests "that it is a purely Western legal category which is far too narrow" and that it should be disbanded to allow for the broader term of cultural heritage to take place.¹¹

To conclude this section, it is well established that the term cultural heritage is widely recognized and globally used by many non-legal professions in both the past and the present who are highly unlikely to use the term cultural property unless in a legal context. However, even the law which encompasses the notion of cultural property is losing its' importance as legal scholars increasingly recognize that it is inadequate for the vast range of matter covered by "cultural heritage".¹²

Cultural Organization (UNESCO), Convention for the Protection of Cultural Property in the Event of Armed Conflict, 14 May 1954, art. 1. The 1970 UNESCO convention states in article two that "the illicit import, export and transfer of ownership of cultural property is one of the main causes of the impoverishment of the cultural heritage of the countries of origin of such property" UNESCO, Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 14 November 1970, art 2.

¹⁰ "Tangible cultural property might include monuments and complexes of buildings, sites of archaeological or historic significance, ancient works of art (including rock carvings and cave paintings), ethnographic items, places associated with the development of a technology or industry, landscapes and topographical features, grave sites, sacred places and ritual sites, natural features endowed with special cultural significance to a people, items of clothing or jewelry, weapons, daily utensils, ritual items, musical instruments, objects associated with certain historical characters, coins, carved obsidian or ivory, fossils, skeletal remains, pollen samples, ancient copper or tin mines. Intangible cultural property might include the know-how related to a particular type of ship-building, oral poetry or musical traditions, ceremonial and ritual traditions, aspects of the way of life of certain societies and the special relationship between certain peoples and the land they inhabit." in Janet Blake, 'On Defining the Cultural Heritage' (2000) *The International and Comparative Law Quarterly* 61, 66. In addition, according to UNESCO, cultural heritage is the legacy of physical artefacts and intangible attributes of a group or society that are inherited from past generations, maintained in the present and bestowed for the benefit of future generations. UNESCO 'Tangible Cultural Heritage' (UNESCO Office in Cairo) <<http://www.unesco.org/new/en/cairo/culture/tangible-cultural-heritage/>> accessed 05 December 2018.

¹¹ Lyndel Prott, 'International Standards for Cultural Heritage' in UNESCO World Culture Report (UNESCO publishing 1998) 222-236.

¹² Lyndel Prott and Patrick O'Keefe, 'Cultural Heritage or Cultural Property?' (2007) 1 *International Journal of Cultural Property* 307, 319.

Protection of Cultural Heritage: Progress Curve

Historically not much consideration was given to the protection of cultural heritage sites in times of an armed conflict. The reigning motto was that the aim legitimizes the acts and therefore religious, ethnical, and cultural memorabilia were destroyed to allow for the aim to be realized. However, through different historical advancements this motto has suffered a considerable amount of damage and recently this damage has intensified with more and more international organizations such as UNESCO along with the United Nations itself condemning such actions.¹³

Nuremberg International Military Tribunal- Alfred Rosenberg

In addition, international law was traditionally viewed as a body of laws created for states and used to govern their relations. Nevertheless, it has developed significantly over time and is now believed to apply to individuals and places a responsibility to adhere to it at both the domestic and international level in front of tribunals and courts. Perhaps the most visible start of this process was the ratification of the 1907 Hague Regulations concerning the Laws and Customs of War on Land (1907 Hague Regulations) which, although are thought by many to fail at protecting cultural property during the First World War (WWI),¹⁴ were used as customary international law by the Nuremberg International Military Tribunal (Nuremberg Tribunal) to prosecute German major war criminals for their war-crimes in WWII.¹⁵

Many scholars contend that the Nuremberg Tribunal had a sole purpose of prosecuting German high-ranking officials only in relation to the mass atrocities Germany committed against civilian populations under their supervision. The abovementioned is perhaps true, however, in some of the Nuremberg cases the contrary is upheld. The Nuremberg trials set a precedent for

¹³ UNSC Res 2347 (24 March 2017) UN Doc S/RES/2347 and UNESCO Res 49 (02 November 2015) UNESDOC 38 C/48.

¹⁴ The Versailles Treaty, which marked the end of WWI, established extensive reparations caused by the Germans. Several looted artifacts were forcefully returned to their original owners, for example, “The Germans were ordered to return the original Koran of the Caliph Othman, which was removed from Medina by the Turkish authorities, and the skull of the Sultan Mkwawa, which was removed from the Protectorate of German East Africa, to the King of the Hedjaz.” Peace Treaty of Versailles (signed 28 June 1919) (1919) (Paris Peace Conference, XIII), (Senate document 51, 66th Congress, 1st session) article 246. However, it must be remembered that although reparations were ordered, “...no German was ever prosecuted for damage to cultural property during World War I ...”, David Keane, ‘The Failure to Protect Cultural Property in Wartime’ (2004) 14 DePaul Journal of Art, Technology & Intellectual Property Law 1, 8.

¹⁵ Ibid, 5.

crimes committed against cultural heritage and established individual criminal responsibility for such crimes. A closer assessment of article six of the Charter of the International Military Tribunal (IMT Charter), which the court used in its judgements, reveals that war crimes possess a wide definition which includes “plunder of public or private property” as well as the “wanton destruction of cities, towns or villages” not justified by military necessity.¹⁶

One of the German high-ranking officials to be prosecuted was Alfred Rosenberg, who was one of the most influential Nazi ideologists. During his career, Rosenberg held many highly authoritative posts. One of these roles was the head of the Einsatzstab Rosenberg unit which “...became a synonym for the worst plundering of art works in the modern history”.¹⁷ Rosenberg’s case depicts the aforementioned in an excellent way since, as an expression of individual criminal responsibility, he was tried and found guilty of several war crimes. This includes the part he played in organizing and directing the infamous Einsatzstab Rosenberg which plundered museums and confiscated different artifacts amongst other crimes.¹⁸ Regardless of his conviction, several scholars are raising question of doubt regarding the integrity of those who adjudicated the case. Birov writes that “...countries presiding over proceedings, [for example] the former Soviet Union, participated in their own cultural pillage (...) in retaliation for Hitler’s destruction of cultural heritage in Russia”.¹⁹

Regardless of the controversies surrounding it, the outcome of Rosenberg’s trial stands as an important precedent according to which individuals may be held criminally liable for the pillage and destruction of cultural heritage. Birov adds that “...this precedent is enormously influential in advancing international law in this area”.²⁰

¹⁶ ‘Charter of the International Military Tribunal’ (Avalon) <<http://avalon.law.yale.edu/imt/imtconst.asp#art6>> accessed 05 December 2018, article 6(b).

¹⁷ Victoria Birov, ‘Prize and Plunder: The Pillage of Works of Art and the International Law of War’ (1998) 30 New York University Journal of International Law & Politics 201, 210.

¹⁸ ‘Trial of the Major War Criminals Before the International Military Tribunal’ (Avalon) <https://www.loc.gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf> page 295, accessed 05 December 2018.

¹⁹ Victoria Birov, ‘Prize and Plunder: The Pillage of Works of Art and the International Law of War’ (1998) 30 New York University Journal of International Law & Politics 201, 211. In addition, “Estimates reveal that 1,000,000 books, 175,000 coins and medals, and 55,000 paintings, sculptures, and artworks taken from Germany are being exhibited in Russian state museums.” Russia Keeps WWII-Looted Art Newsday, Apr. 15, 1998, available in 1998 WL 2666580.

²⁰ Victoria Birov, ‘Prize and Plunder: The Pillage of Works of Art and the International Law of War’ (1998) 30 New York University Journal of International Law & Politics 201, 211.

International Criminal Tribunal for the Former Yugoslavia- Pavle Strugar and Duško Tadić

On 6 December 1991, the old city of Dubrovnik was heavily bombarded as part of the hostilities happening at that time in the Balkan states. One of the men responsible for this military campaign was Pavle Strugar, the commander of the Second Operational Group of the Yugoslav People's Army (JNA) whom were operating in the wider Dubrovnik area. As part of their operations in the area, the group took part in the unlawful and highly criticized shelling of Dubrovnik's old city. This tragic occurrence turned out to be of great significance since it led to a further development of cultural property protection under international law. In the aftermath of the hostilities in the former Yugoslavia, the International Criminal Tribunal for the Former Yugoslavia (ICTY) was created by a UN Security Council Resolution 827 with the main purpose of prosecuting international humanitarian law violations during the hostilities.²¹

One of the cases brought before the tribunal was on Pavle Strugar, who was tried for his responsibility and role in the bombardment of Dubrovnik's old city and found guilty of the war crime of "destruction or willful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science".²² The ICTY chamber found him guilty in two instances and chose to portray the importance of cultural heritage protection by noting that cultural heritage destruction is a war crime irrespective of whether it was an international or non-international conflict since "the jurisprudence of the International Tribunal indicates that protection of cultural property in customary international law applies in all situations of armed conflict".²³ Furthermore, the ICTY stated at the occasion of the conviction of those responsible for the shelling of Dubrovnik, that "the destruction of assets listed on the World Heritage List constituted a factor of aggravated individual responsibility".²⁴

In addition to the *Strugar* case, the ICTY also gave a very important ruling in the highly influential *Prosecutor v. Tadic (Tadic)*. Duško Tadic, a Bosnian Serb, was born in Kozarac, Bosnia and Herzegovina in 1955. He became a leading member of the Serbian Democratic Party (SDS)

²¹ UNSC Res 827 (25 May 1993) UN Doc S/RES/827.

²² 'Updated Statute of the International Criminal Tribunal for the former Yugoslavia' (United Nations International Residual Mechanism for Criminal Tribunals) <http://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf> accessed 05 December 2018 article 3(d).

²³ *Prosecuter v. Enver Hadzihasanovic and Amir Kubura (Appeals Chamber) ICTY-01-47 (11 March 2005) paras 44-48.*

²⁴ Elisa Novic, *The Concept of Cultural Genocide: An International Law Perspective* (Oxford University Press 2016) 129.

which is still considered by many to be an extremely nationalistic party which strives for the creation of Greater Serbia and is known for its xenophobic ideologies.²⁵ As a leading member of the SDS and different paramilitary groups, Tadic was charged with multiple offences including war crimes. However, for the purpose of this paper, the importance of this case stems from it being the ICTY's declaration that the intentional destruction of cultural heritage is criminalized under customary international law which cemented protection of cultural heritage as binding upon all states.²⁶

In conclusion of both cases mentioned above, a significant amount of progress was made by the ICTY in protecting cultural heritage during armed conflict. The Tribunal crystalized destruction of cultural or religious heritage as a war crime and through its elaborate case law shed light on future prosecution of such crimes.²⁷

²⁵ Greater/ Great Serbia is a term used by Serbian Nationalists to describe a Serbian state which would incorporate all traditionally important regions, including some which are outside of Serbia but are populated by Serbs. In addition, the US government is still investigating and sanctioning the SDS as can be seen in 'Recent OFAC Actions' (US Treasury, 16 December 2004) <<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20041216.aspx>> accessed 05 December 2018.

²⁶ Tadic Case (Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction) ICTY-94-1 (02 October 1995) para 98.

²⁷ Andrzej Jakubowski, 'State Responsibility and the International Protection of Cultural Heritage in Armed Conflicts' (2015) 1 Santander Art and Culture Law Review 147, 154.

Protection of Cultural Heritage: Current Stage

International Criminal Court (ICC): Ahmad Al Faqi Al Mahdi (Al Mahdi)

Another significant sign of progress is the initiation of investigations into the situation in Mali and the subsequent production of an arrest warrant against Ahmad Al Faqi Al Mahdi (Al Mahdi), one of the religious leading members of the Salafi-jihadist group called Ansar Al-Din. This group is regarded to be accountable for the vast majority of crimes against cultural heritage committed during the internal armed conflict in Mali between 2012 and 2013.²⁸

Al-Mahdi, also known as Abou Tourab, was born in a city called Agoune which is approximately 100 kilometers from the historic town of Timbuktu. He served as the head of the “Hisbah” also referred to as the Islamic religious police in Timbuktu and was one of the four Ansar Al-Din top commanders in the city during its vicious occupation of the city in 2012. On 26 September 2015, Al-Mahdi was extradited from Niger, to which he had escaped from Mali, to the custody of the ICC, who indicted him on numerous charges of war-crimes, specifically those found under Article 8(2)(e)(iv) of the Rome Statute which states that war crimes include “intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives”.²⁹

Scholars hailed the ICC for its handling of the *Al-Mahdi* case and called it a big victory for the ICC and international criminal law. To the surprise of many, the case unfolded relatively quickly and in an efficient manner. From the official Malian referral of the case to the ICC until the end of the Al Mahdi trial with the granting of the judgement only four years had passed, a record time for the notoriously slow court.³⁰ Although some have applauded the quick and efficient prosecution of Al-Mahdi, others criticized the court’s choice of adjudicating the relatively unknown Al-Mahdi for a rather insignificant crime.³¹

²⁸ Stanford University, ‘Ansar Dine’ (Mapping Militant Organizations, 1 May 2009) <<http://web.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/437>> accessed 30 November 2018.

²⁹ Rome Statute of the International Criminal Court, (adopted 17 July 1998, entered into force 01 July 2002) 38544 UNTS 2187 (Rome Statute) art. 8(2)(e)(iv).

³⁰ Mark Kersten, ‘Some Thoughts on the al Mahdi Trial and Guilty Plea’ (Justice in Conflict, 24 August 2016) <<https://justiceinconflict.org/2016/08/24/some-thoughts-on-the-al-mahdi-trial-and-guilty-plea>> accessed 03 December 2018.

³¹ Amnesty International’s Senior Legal Advisor Erica Bussey said that “...we must not lose sight of the need to ensure accountability for other crimes under international law, including murder, rape and torture of civilians...”. Amnesty International, ‘Mali: ICC trial over destruction of cultural property in Timbuktu shows need for broader accountability’

The conviction was a noteworthy legal development in international criminal law for several reasons. Firstly, it showcased the ICC prosecutor's interest in adjudicating cases in which cultural heritage sites are deliberately targeted and wrecked during armed conflicts. Furthermore, such adjudication gives out signals that the ICC will not tolerate future violations of international criminal law regarding the protection of cultural heritage and will vigorously prosecute such attacks by those found guilty.³² The abovementioned is considered by many as an important development especially in such time where armed conflicts around the world cause a significant amount of damage to cultural property.³³

Secondly, *Al-Mahdi* was the first case brought before the ICC for prosecution which concerned the destruction of cultural heritage and it may offer insights into the different layers of substantive international criminal law in the specific area and how the ICC interprets the relevant legal provisions found in the Rome Statute in addition to other sources of law and how it uses them to define "war crime" in the context of destruction of cultural property.

Thirdly, Al Mahdi, for the first time in the court's history, pled guilty in exchange for a betterment in his sentencing.³⁴ Although the facts of *Al-Mahdi* are quite unique, it is interesting to examine the effects that admission of guilt, expression of remorse and proper cooperation with the investigative process had on the court's judgement. The *Al-Mahdi* case might be used as a guide for future cases, considering the different methods of action used by the ICC when it deals with plea agreements and might shed some light on sentencing of defendants who admit their guilt to the court.

Al-Mahdi is a great example of a growing idea according to which the destruction of cultural heritage should be equated to an attack on the values of humanity as a whole. Moreover, since law is closely connected to the general norms of society, the increasing recognition of international law that the destruction of cultural heritage is an international crime can and should

(Amnesty International, 22 August 2016) <<https://www.amnesty.org/en/latest/news/2016/08/mali-icc-trial-over-destruction-of-cultural-property-in-timbuktu-shows-need-for-broader-accountability/>> accessed 03 December 2018.

³² Marina Aksenova, 'The Al Mahdi Judgment and Sentence at the ICC: A Source of Cautious Optimism for International Criminal Justice (EJIL: Talk!, 13 October 2016) <<https://www.ejiltalk.org/the-al-mahdi-judgment-and-sentence-at-the-icc-a-source-of-cautious-optimism-for-international-criminal-justice/>> accessed 04 December 2018.

³³ Marina Lostal, 'Prosecutor v. Al Mahdi: A Positive New Direction for the ICC?' (OpinioJuris 26 October 2016) <<http://opiniojuris.org/2016/10/26/prosecutor-v-al-mahdi-a-positive-new-direction-for-the-icc/>> accessed on 04 December 2018.

³⁴ Mark Kersten, 'Some Thoughts on the al Mahdi Trial and Guilty Plea' (Justice in Conflict, 24 August 2016) <<https://justiceinconflict.org/2016/08/24/some-thoughts-on-the-al-mahdi-trial-and-guilty-plea>> accessed 03 December 2018.

continue. Regardless of the few cases ending up in courts, it is supremely important for the protection cultural heritage, that international criminal law regard such attacks in a serious manner which should lead to severe consequences.³⁵

³⁵ Amy Strecker, 'The Destruction of Cultural Heritage as a War Crime: The Al Mahdi Case at the' (Is destroying cultural heritage a war crime? 04 March 2016) <<https://www.leiden-delft-erasmus.nl/en/news/the-destruction-of-cultural-heritage-as-a-war-crime-the-al-mahdi-case-at-the-icc>> accessed 04 December 2018.

Conclusion

Recent armed conflicts such as those in Syria, Iraq, Afghanistan and Mali feature multiple issues which the international community must stand up to and act against when attempting to protect cultural heritage armed conflicts. These challenges and the severity of the threat stemming from them, oblige the international community to reach an agreement regarding whether to use the term cultural property or cultural heritage and how state should act to protect it.

This paper showcased the extensive debate regarding the different terms and discussed the progress of cultural protection by the international community using international law. Regardless of the optimistic message this paper wishes to convey, perhaps international law cannot invest more effort into protecting cultural property in times of armed conflict because frequently, the majority of that effort is used to protect life. This is the reality of war, and despite the increasing protection provided by international law, war is always accompanied by uncertainty. Keane adds that “[i]f war cannot be prevented, it may seem that the destruction of cultural property cannot be prevented”.³⁶ Nonetheless, it is a prevailing hope that as the protection of cultural heritage increases in capacity and international law “...erodes the impunity of wartime...” that the perceived legitimacy of the regime governing cultural heritage will gain a wider margin of acceptance.

³⁶ David Keane, ‘The Failure to Protect Cultural Property in Wartime’ (2004) 14 DePaul Journal of Art, Technology & Intellectual Property Law 1, 38.

Bibliography

Treaties

Peace Treaty of Versailles (signed 28 June 1919) (Paris Peace Conference, XIII) Senate document 51, 66th Congress, 1st session

Rome Statute of the International Criminal Court, (adopted 17 July 1998, entered into force 01 July 2002) 38544 UNTS 2187

UN Documents

UNSC Res 827 (25 May 1993) UN Doc S/RES/827

UNESCO Res 49 (02 November 2015) UNESDOC 38 C/48

UNSC Res 2347 (24 March 2017) UN Doc S/RES/2347

Case-law

Tadic Case (Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction) ICTY-94-1 (02 October 1995)

Prosecuter v. Enver Hadzihasanovic and Amir Kubura (Appeals Chamber) ICTY-01-47 (11 March 2005)

The Prosecutor v. Ahmad al-Faqi al-Mahdi (Witness Testimony) ICC- 01/12-01/15 (22-24 August 2016)

Books

Novic E, *The Concept of Cultural Genocide: An International Law Perspective* (Oxford University Press 2016)

Taşdelen A, *The Return of Cultural Artefacts: Hard and Soft Law Approaches* (Springer International Publishing 2016)

Toman J, *Protection of Cultural Property in the Event of Armed Conflict* (1 ed. Dartmouth Publishing Company 1996)

UNESCO Director-General, *UNESCO World Culture Report* (UNESCO publishing 1998)

Journal Articles

Birov V, 'Prize and Plunder: The Pillage of Works of Art and the International Law of War' (1998) 30 New York University Journal of International Law & Politics 201-230

Blake J, 'On Defining the Cultural Heritage' (2000) The International and Comparative Law Quarterly 61-85

Fincham D, 'The Distinctiveness of Property and Heritage' (2011) 115 Penn State Law Review 641-684

Frigo M, 'Cultural property v. cultural heritage: A "battle of concepts" in international law?' (2004) 86 International Review of the Red Cross 367-378

Jakubowski A, 'State Responsibility and the International Protection of Cultural Heritage in Armed Conflicts' (2015) 1 Santander Art and Culture Law Review 147-174

Keane D, 'The Failure to Protect Cultural Property in Wartime' (2004) 14 DePaul Journal of Art, Technology & Intellectual Property Law 1-38

Prott L and O'Keefe P, 'Cultural Heritage or Cultural Property?' (2007) 1 International Journal of Cultural Property 307-320

Websites

Aksenova M, 'The Al Mahdi Judgment and Sentence at the ICC: A Source of Cautious Optimism for International Criminal Justice (EJIL: Talk!, 13 October 2016) <<https://www.ejiltalk.org/the-al-mahdi-judgment-and-sentence-at-the-icc-a-source-of-cautious-optimism-for-international-criminal-justice/>>

Amnesty International, 'Mali: ICC trial over destruction of cultural property in Timbuktu shows need for broader accountability' (Amnesty International, 22 August 2016) <<https://www.amnesty.org/en/latest/news/2016/08/mali-icc-trial-over-destruction-of-cultural-property-in-timbuktu-shows-need-for-broader-accountability/>>

'Charter of the International Military Tribunal' (Avalon) <<http://avalon.law.yale.edu/imt/imtconst.asp#art6>>

Kersten M, 'Some Thoughts on the al Mahdi Trial and Guilty Plea' (Justice in Conflict, 24 August 2016) <<https://justiceinconflict.org/2016/08/24/some-thoughts-on-the-al-mahdi-trial-and-guilty-plea>>

Lostal M, 'Prosecutor v. Al Mahdi: A Positive New Direction for the ICC?' (OpinioJuris 26 October 2016) <<http://opiniojuris.org/2016/10/26/prosecutor-v-al-mahdi-a-positive-new-direction-for-the-icc/>>

'Recent OFAC Actions' (US Treasury, 16 December 2004) <<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20041216.aspx>>

Stanford University, 'Ansar Dine' (Mapping Militant Organizations, 1 May 2009) <<http://web.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/437>>

Strecker A, 'The Destruction of Cultural Heritage as a War Crime: The Al Mahdi Case at the' (Is destroying cultural heritage a war crime? 04 March 2016) <<https://www.leiden-delft-erasmus.nl/en/news/the-destruction-of-cultural-heritage-as-a-war-crime-the-al-mahdi-case-at-the-icc>>

'Trial of the Major War Criminals Before the International Military Tribunal' (Avalon) <https://www.loc.gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf>

UNESCO 'Tangible Cultural Heritage' (UNESCO Office in Cairo) <<http://www.unesco.org/new/en/cairo/culture/tangible-cultural-heritage/>>

'Updated Statute of the International Criminal Tribunal for the former Yugoslavia' (United Nations International Residual Mechanism for Criminal Tribunals) <http://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf>