

Destruction of Cultural Heritage Sites in Ukraine: Is There a Need for a New Framework to Address Cultural Loss?

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I. INTRODUCTION

Pursuant to international law and conventions, the deliberate destruction of cultural and natural heritage sites is a war crime and punishable offense for which offenders must be held responsible in

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international or state forums. The purposeful targeting of cultural heritage sites aims to destroy and erase a nation's memory and identity. On February 24, 2022, Russia invaded Ukraine, beginning with missile strikes across multiple cities throughout the country.¹ Within weeks, Russian troops were in control of the border areas and had advanced to Ukraine's capital city of Kyiv.² In addition to the destruction of Ukraine's physical territory, Russian forces have targeted the destruction of cultural sites, religious sites, museums, monuments, and other spaces of Ukrainian culture.³ Destruction of cultural heritage is centered on targeting a group's history and influencing their "cultural continuity," which acts as an existential threat to their belonging.⁴ Extremist groups are more well-known perpetrators of cultural destruction; however, governments and state powers have too carried out campaigns of cultural destruction and cultural cleansing.⁵ Once Russian forces occupied cultural sites, they plundered the property and removed cultural objects or artifacts for "safekeeping" in unknown locations.⁶ Other sites have been destroyed and replaced with exhibits or structures honoring and glorifying Russia's cultural heritage.⁷

Ukraine is a State Party to the UNESCO⁸ World Heritage Convention and has eight properties inscribed on the World Heritage list.⁹ As a State Party to the World Heritage Convention, UNESCO monitors cultural sites and institutions in Ukraine with special consideration for

1. The Visual Journalism Team, *Ukraine in Maps: Tracking the War with Russia*, BBC (March 24, 2025), <https://www.bbc.com/news/world-europe-60506682>.

2. *Id.*

3. Vitaly Shevchenko, *Heritage Under Attack: Ukrainians Revive Interest in Culture*, BBC (Aug. 26, 2024), <https://www.bbc.com/news/articles/cd9dyn3vg4do>.

4. *Protecting Cultural Heritage*, GLOBAL CENTRE FOR THE RESPONSIBILITY TO PROTECT (last visited Mar. 30, 2025), <https://www.globalr2p.org/cultural-heritage/#:~:text=The%20Global%20Centre%20for%20the,heritage%20and%20acts%20of%20genocide%2C>.

5. Simon Adams, *Cultural Cleansing and Mass Atrocities*, in *CULTURAL HERITAGE AND MASS ATROCITIES* 286 (James Cuno & Thomas G. Weiss eds., 2022).

6. Shevchenko, *supra* note 3.

7. *Id.*

8. *See Who we are*, UNESCO (last visited Apr. 3, 2025), <https://www.unesco.org/en/brief#:~:text=UNESCO%2C%20the%20United%20Nations%20Educational,science%2C%20culture%2C%20and%20communication>. (UNESCO refers to the United Nations Educational, Scientific and Cultural Organization which "is a specialized agency dedicated to strengthening our shared humanity through the promotion of education, science, culture, and communication").

9. UNESCO, *Ukraine*, UNESCO (last visited Mar. 31, 2025), <https://whc.unesco.org/en/statesparties/ua>; *See also UNESCO World Heritage in Ukraine: what places are definitely worth seeing*, VISIT UKRAINE (Aug. 25, 2023), <https://visitukraine.today/blog/1725/unesco-world-heritage-in-ukraine-what-places-are-definitely-worth-seeing?srsId=AfmBOorlRUKC6TvI9YelJcWN3eOHtfcPPdLufgIheYzYXdsgFpCAYlu>.

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those listed on the World Heritage List or the Danger List. As of February 19, 2025, UNESCO verified the damage to 485 cultural sites, including those on the World Heritage List, in Ukraine.¹⁰ The extensive destruction and impact on Ukrainian culture and heritage have sparked both domestic and international responses. Ukrainian art initiatives have held exhibitions highlighting both the destruction and perseverance of the Ukrainian people.¹¹ Internationally, funding initiatives and projects have been created to support the reconstruction and repair of many of the damaged cultural sites. However, there is a lack of international action beyond condemnation of the Russian government's actions.

The destruction of cultural heritage sites and loss of other cultural objects in Ukraine reveal the necessity of understanding the existing international frameworks, and their obligations. Specifically, the obligations of countries to prevent similar destruction from occurring and how countries should respond to actors who perpetrated the harm in Ukraine. First, this Comment outlines the existing international conventions and customary international law addressing genocide and the destruction of cultural objects and heritage sites. Second, this Comment identifies, based on UNESCO reports and other reporting bodies, the destruction of two cultural sites in Ukraine as a result of Russia's invasion. Both sites were inscribed on the UNESCO World Heritage List and have suffered severe destruction because of missile attacks, and the subsequent annexation of Tauric Chersonese has negatively impacted the sites' cultural value. Third, this Comment analyzes the obligations countries have under the international conventions to protect cultural sites and respond to threats to their safety.

Furthermore, this Comment argues that existing international conventions governing UNESCO World Heritage Sites and the destruction of cultural objects sufficiently address the concept of cultural genocide. Moreover, a convention designed solely to address cultural genocide is not required because existing frameworks correctly place the onus on countries to timely request monitoring of cultural sites and respond to human rights violations where heritage has been destroyed.

10. See UNESCO, *Damage and Victims*, UNESCO: REBUILDING THE FOUNDATIONS OF PEACE IN UKRAINE (last visited Mar. 29, 2025), <https://www.unesco.org/en/ukraine-war/damages-and-victims> ("149 religious sites, 33 museums, 249 buildings of historical and/or artistic interests, 33 monuments, 18 libraries, 1 archive, and 2 archeological sites").

11. Geraldine Kendall Adams, *Unesco Verifies Damage to 343 Cultural Sites as War in Ukraine Enters Third Year*, MUSEUM ASSOCIATION (Feb. 29, 2024), <https://www.museumassociation.org/museums-journal/news/2024/02/unesco-verifies-damage-to-343-cultural-sites-as-war-in-ukraine-enters-third-year/>.

Instead, there needs to be more responses by States to pursue sanctions or criminal actions against those individuals or countries that sponsor the destruction of cultural objects. Finally, this Comment provides concluding remarks and possibilities for further research on the destruction of cultural heritage sites.

II. BACKGROUND: INTERNATIONAL LAW AND ENFORCEMENT

There are multiple conventions within international law that discuss the effects of genocide and the destruction of cultural objects during conflict. These instruments are foundational to the international framework used to protect cultural heritage and respond to attacks on cultural sites. This includes the Genocide Convention of 1948, the Hague Convention of 1954, and the World Heritage Convention of 1972.

A. *International Law and Cultural Heritage Specific Conventions*

In response to the atrocities of the Second World War and the Holocaust, the international community developed a framework to promote international human rights and prevent similar harm.¹² The Convention on the Prevention and Punishment of the Crime of Genocide, known as the Genocide Convention of 1948, defined genocide for international law purposes and created obligations for those States that signed the Convention to prevent and punish the crime of genocide. Genocide is defined as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group,” such as:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.¹³

12. Office on Genocide Prevention and the Responsibility to Protect, *Ratification of the Genocide Convention*, UNITED NATIONS (last visited Mar. 29, 2025), <https://www.un.org/en/genocide-prevention/legal/ratification>.

13. Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948 art. 1 https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention

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Article IV establishes that those who commit genocide or any of the other enumerated acts must be punished.¹⁴ Articles V and VI delineate the obligations States have as signatories to this treaty to punish and hold those accountable who commit these serious crimes, such as creating sufficient penalties and trying individuals in competent tribunals.¹⁵

While genocide refers to the loss of physical life, it also refers to the deprivation of a social identity and belonging that was destroyed at the hands of an individual or a collective.¹⁶ The term “cultural genocide” was proposed by Raphael Lemkin during the proposals step in the UN Convention on the Prevention and Punishment of the Crime of Genocide; however, it was deleted from the final text after negotiations.¹⁷ Countries such as the United States, France, and Canada opposed the inclusion of this concept in the Convention because of fear that it would infringe on national sovereignty. These States felt this was better addressed in the arena of human rights.¹⁸ In their Genocide Convention proposal, Lemkin, Donnedieu de Vabres, and Pella created the category of cultural genocide as denoting the destruction of a group’s characteristics by:

- a) Forcible transfer of children to another human group; or
- b) Forced and systematic exile of individuals representing the culture of a group; or
- c) Prohibition of the use of the national language even in private intercourse; or
- d) Systematic destruction of books printed in the national language or of religious works or prohibition of new publications; or
- e) Systematic destruction of historical or religious monuments or their diversion to alien uses, destruction of documents and objects of

%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf.

14. *Id.* at art. IV

15. *Id.* at art. V & VI.

16. Mohammed Abed, *The Concept of Genocide Reconsidered*, 41 SOC. THEORY & PRAC. 328, 353 (2015).

17. Friederike Drews, *The Concept of Cultural Genocide, in CANADA’S VIOLENT LEGACY* 8, 9 (2022); *See also* Patty Gerstenblith, *Protecting Cultural Heritage: The Ties between People and Places, in CULTURAL HERITAGE AND MASS ATROCITIES* 361, 365 (James Cuno and Thomas G. Weiss eds., 2022).

18. Drews, *The Concept of Cultural Genocide* at 13.

historical, artistic, or religious value and of objects used in religious worship.¹⁹

The argument for the inclusion of the concept of cultural genocide is that it denotes a destruction of a group's sense of belonging to a certain cultural, moral, and religious life.²⁰ This destruction is a result of an intention to force integration, diaspora, or assimilation on another group of people.²¹

Similar to the motivations for drafting the Genocide Convention, the international community responded to the destruction of property during World War II by drafting the Convention for the Protection of Cultural Property in the Event of Armed Conflict, known as the Hague Convention of 1954. This Convention codified guidelines for preserving cultural and historical sites, landmarks, and monuments in the case of intense conflict.²² The Convention was created in response to a recognition that cultural property is imperative to national belonging and that destruction of said property during armed conflict poses grave consequences for affected communities. The Hague Convention of 1954 defined "cultural property" as including:

- (a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
- (b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);

19. Bonnie St. Charles, *You're on Native Land: The Genocide Convention, Cultural Genocide, and Prevention of Indigenous Land Takings*, 21 UNIV. OF CHI. L. SCH. (last visited April 6, 2025), (<https://cjl.uchicago.edu/print-archive/youre-native-land-genocide-convention-cultural-genocide-and-prevention-indigenous#heading-2>).

20. Drews, *supra* note 17, at 13.

21. Shamiran Mako, *Cultural Genocide and Key International Instruments: Framing the Indigenous Experience*, 19 INT'L J. ON MINORITY AND GROUP RTS. 175, 182 (2012).

22. Convention for the Protection of Cultural Property in the Event of Armed Conflict, May 14, 1954, 249 U.N.T.S. 215.

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(c) centers containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as “centers containing monuments.”²³

Article 5 of the Convention requires that occupying forces allow authorities to maintain the preservation and protection of existing cultural property within the borders.²⁴ Other articles in the Convention establish the designation of cultural property under special protection and the obligations of signatory States in preserving cultural sites during armed conflict.²⁵

There were two subsequent Protocols passed after the signing of the 1954 Convention, which strengthened several different provisions by clarifying solicited conduct during different times of war.²⁶ The Second Protocol adopted in 1999 required that States criminalize violations of the Hague Convention, specifically the intentional destruction that results in grave or severe damage.²⁷ Furthermore, the Protocol created an “enhanced protection” provision for cultural property of the “greatest importance for humanity,” which placed the highest protection levels for those properties and prohibited using them for military purposes.²⁸

There are multiple conventions on the subject of preserving culture and other heritage forms, as well as international monitoring bodies that identify and develop preservation strategies. However, the central governing convention is the World Heritage Convention created by UNESCO in 1972, which currently has been ratified by 196 countries.²⁹

The World Heritage Convention was designed to supplement and assist national efforts to protect cultural sites and landscapes, not to compete with other national forums.³⁰ It is an international treaty whereby those countries that have ratified the Convention agree to cooperate in

23. *Id.* at art. I.

24. *Id.*; See also Captain Joshua E. Kastenber USAF, *The Legal Regime for Protecting Cultural Property During Armed Conflict* 42 AIR FORCE L. REV. 277, 292 (1997) https://digitalrepository.unm.edu/law_facultyscholarship/421.

25. See *supra* note 22, at art. 6, 8, 9, & 10.

26. *Hague Convention And Its Two Protocols*, HERITAGE FOR PEACE (last visited Mar. 29, 2025), <https://www.heritageforpeace.org/heritage-for-peace/legal-framework/hague-convention-and-its-two-protocols/>.

27. Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (Mar. 26, 1999), <https://www.unesco.org/en/legal-affairs/second-protocol-hague-convention-1954-protection-cultural-property-event-armed-conflict?hub=66535>; See also Gerstenblith, *supra* note 17, at 367.

28. *Id.* at art. 10.

29. UNESCO, *State Parties*, UNESCO: HERITAGE CONVENTION (last visited Mar. 30, 2025), <https://whc.unesco.org/en/statesparties/>.

30. *How the World Heritage Convention Works*, 12 AMBIO 140, 140 (1983).

“the conservation and protection of their cultural and natural heritage sites.”³¹ The World Heritage Convention defined both “cultural heritage” and “natural heritage” for purposes of establishing which objects and sites must be protected in accordance with later provisions.³² Specifically, “cultural heritage” includes architectural works, monuments, structures, inscriptions, groups of buildings that are of “outstanding universal value from the point of view of history, art or science,” and archaeological sites “which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.”³³ “Natural heritage” refers to natural features, geological and physiographical formations, and natural sites that exhibit outstanding universal value from the “aesthetic or scientific point of view.”³⁴

The Convention places the onus on individual State Parties to identify cultural and natural heritage sites within their borders and refer them to the World Heritage Committee for inscription on the Heritage List.³⁵ The Convention became functional and operational with the creation of the World Heritage Committee and World Heritage Fund in 1976.³⁶ Both institutions established mechanisms for funding and created systems that monitor and report on the conditions of each heritage site that a State is either submitting for inscription or already has inscribed on the List.³⁷

All State Parties to the World Heritage Convention can nominate properties or landmarks within their borders that meet one or multiple of the selection criteria.³⁸ The Committee emphasizes the need for protection of those cultural and natural sites that have outstanding universal value.³⁹ The concept “outstanding universal value” refers to “cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future

31. Gustavo Araoz, *How the World Heritage Convention*, NAT'L PARK SERV. (Aug. 2014), <https://www.nps.gov/articles/how-the-world-heritage-convention-works.htm>.

32. See Convention Concerning the Protection of the World Cultural and Natural Heritage, art. 1 & 2 (Nov. 16, 1972), <https://whc.unesco.org/en/conventiontext>.

33. *Id.* at art. 1.

34. *Id.* at art. 2.

35. *Id.* at art. 3 & 11.

36. UNESCO, The Operational Guidelines for the Implementation of World Heritage Convention, UNESCO 1, 15 (2024) <https://whc.unesco.org/en/guidelines/>.

37. *Id.* at art. 5 & 6.

38. AMBIO *supra*, note 30, at 141.

39. Araoz, *supra* note 31.

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generations of all humanity.”⁴⁰ In order to meet this requirement, cultural sites have to meet any of the six criteria, such as “a masterpiece of human creative genius” or “outstanding example of a type of building.”⁴¹ The World Heritage Committee’s work is centered around the following three major pillars: heritage preservation, the promotion of “intercultural dialogue,” and “the promotion of artistic creativity.”⁴² In 2002 and 2007, the World Heritage Committee adopted the following “five C’s”: (1) credibility, (2) capacity-building, (3) communities, (4) conservation, and (5) communication.⁴³ These principles are strategies devised to effectively identify, protect, and preserve heritage sites. Centering the Committee’s responsibilities around these objectives allows the organization to focus on encouraging the continued discovery of cultural objects and sites.⁴⁴

The World Heritage Committee is composed of twenty-one members who gather annually to discuss nominations submitted by State Parties to the World Heritage List, examine current conservation efforts, procedures, and resources of the World Heritage Fund.⁴⁵ When necessary, the Committee meets for emergency sessions to discuss the inscription of the cultural or natural heritage sites that are under threat of damage or harm to the World Heritage List or the Danger List.⁴⁶ Notably, the “in danger” designation does not have any enforcement guarantees; however, it is theoretically desired for its possible deterrent factor to those in a position to destroy or damage a cultural and natural site. The cultural and natural sites are monitored and reported on by national experts, as well as the International Council on Monuments and Sites, which provides technical reports on the admission of a cultural property to the Heritage list.⁴⁷

Notably, the World Heritage Convention has limited consequences for those who harm or attack cultural and natural heritage sites.⁴⁸ The

40. *Outstanding Universal Value*, WORLD HERITAGE (last visited Apr. 3, 2025), <https://worldheritage.gsu.edu/outstanding-universal-value/#:~:text=According%20to%20UNESCO%2C%20%20Outstanding%20Universal,future%20generations%20of%20all%20humanity>.

41. *Id.*

42. Yudhishtir Raj Isar, *International organizations and culture: new horizons for policy advice?* 2 POL’Y ADVICE AND POL. CONSULTING 609, 613 (2009).

43. *The World Heritage Convention*, UNESCO WORLD HERITAGE CONVENTION (last visited Mar. 29, 2025), <https://whc.unesco.org/en/convention/>.

44. Isar, *supra* note 42, at 614.

45. UNESCO, *supra* note 36, at 14.

46. *Id.* at 50.

47. Isar, *supra* note 42, at 615.

48. James A. R. Nafziger, *International Penal Aspects of Protecting Cultural Property*, 19 INT’L LAW. 835, 837 (1985).

Convention does not impose penal consequences beyond possible delisting of a State's site, which is used as a method for coercing compliance.⁴⁹ Non-compliance with the Committee's guidelines or the Convention's principles risks significant consequences politically and reputationally.⁵⁰

B. Enforcement: The Case of Mali and the International Criminal Court (ICC) in Response to the Destruction of Cultural Heritage Sites

In conjunction with the customary international law on the subject of cultural heritage, States can enforce these principles through criminal proceedings, nationally and internationally. A possible response to the destruction of cultural heritage sites is criminal prosecution in international forums such as the International Criminal Court (ICC). The ICC is the first permanent international criminal court that functions as "a court of last resort" governed by the Rome Statute, an international treaty.⁵¹ Those countries that are State Parties to the Rome Statute can refer cases of cultural destruction to the ICC for prosecution as a war crime.⁵² The Rome Statute criminalizes those acts that are directed against cultural and historic monuments, as long as those acts are not based on justifiable military objectives.⁵³ In 2016, the ICC, for the first time, convicted an individual of a war crime for the intentional destruction of cultural heritage sites.⁵⁴ Ahmad al-Faqi-al-Mahdi led a campaign of attacks with the aim of destroying mausoleums and other sacred cultural property in Timbuktu.⁵⁵ There, the Trial Chamber found Ahmad al-Faqi-

49. Véronique Guèvremont, *Compliance Procedure: Convention Concerning the Protection of the World Cultural and Natural Heritage*, OXFORD PUB. INT'L L. (July 2019), <https://opil.ouplaw.com/display/10.1093/law-mpeipro/e3246.013.3246/law-mpeipro-e3246#:~:text=4%20Another%20feature%20of%20the,from%20the%20World%20Heritage%20List>.

50. *Id.*

51. *About the Court*, INT'L CRIM. CT. (last visited Apr. 6, 2025), <https://www.icc-cpi.int/about/the-court>.

52. UN General Assembly, Rome Statute of the International Criminal Court (1998); See also Elements of Crime Article 8 (2) (b) (xxiv); Office of the Prosecutor, Policy on Cultural Heritage, OTP POL'Y PAPER 1, 15 (June 2021), <https://www.icc-cpi.int/sites/default/files/items/Documents/20210614-otp-policy-cultural-heritage-eng.pdf>.

53. ICC RS at 8(2)(b)(ix) and 8(2)(e)(iv).

54. *Protecting Cultural Heritage*, GLOBAL CENTRE FOR THE RESPONSIBILITY TO PROTECT (Feb. 14, 2019), [https://www.globalr2p.org/resources/protecting-cultural-heritage/#:~:text=The%20Global%20Centre%20for%20the,heritage%20and%20acts%20of%20genocide%2C;See also Prosecutor v. Al Mahdi, ICC-01/12-01/15, Judgement and Sentence, ¶ 13 \(Sep. 27, 2016\).](https://www.globalr2p.org/resources/protecting-cultural-heritage/#:~:text=The%20Global%20Centre%20for%20the,heritage%20and%20acts%20of%20genocide%2C;See%20Prosecutor%20v.%20Al%20Mahdi,ICC-01/12-01/15,Judgement%20and%20Sentence,%20¶%2013%20(Sep.%2027,%202016).)

55. Cara Solomon, *Alumni Perspective: "The Significance of the al-Mahdi Case and the War Crime of Destruction of Cultural Heritage,"* INT'L HUM. RTS. CLINIC HARV. L. SCH. (Sep. 30,

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al-Mahdi guilty of a war crime as a result of the cultural destruction and atrocities targeted against Timbuktu, Mali.⁵⁶ The Trial Chamber found that this provision in the Rome Statute encompassed the conduct of al-Faqi-al-Mahdi without the explicit mention of cultural property.⁵⁷ The Trial Chamber reasoned that there were international norms and protections awarded to cultural heritage sites such as those in Timbuktu, and therefore, Ahmad al-Faqi-al-Mahdi's actions constituted a direct attack in violation of these protections.⁵⁸

This case introduced an acceptance of the genuine and real connection between the destruction of cultural sites and harming the human experience of heritage.⁵⁹ The decision ushered in a shift towards identifying and characterizing the physical destruction of cultural sites as an attack on people with tangible impacts on a community.⁶⁰

III. THE CASE OF UKRAINE: DESTRUCTION OF CULTURAL HERITAGE SITES

While approximations of the exact damage and loss to cultural properties and sites are continuously updated, UNESCO verified the damage to hundreds of cultural and natural heritage sites.⁶¹ The Ministry of Culture and Strategic Communications of Ukraine reported that by the end of January 2025, there were approximately 1,333 cultural heritage

2016), <https://humanrightsclinic.law.harvard.edu/alumni-perspective-the-significance-of-the-al-mahdi-case-and-the-war-crime-of-destruction-of-cultural-heritage/>; Mark A. Drumbl, *From Timbuktu to The Hague and Beyond*, 17 J. OF INT'L CRIM. JUST. 77, 78 (2019).

56. *Mass Atrocities, the Responsibility to Protect and Cultural Heritage* Global Centre for the Responsibility to Protect, GLOBAL CTR. FOR THE RESP. TO PROTECT (May 31, 2019), <https://www.globalr2p.org/publications/mass-atrocities-the-responsibility-to-protect-and-cultural-heritage/>.

57. Marina Lostal, *The Misplaced Emphasis on the Intangible Dimension of Cultural Heritage in the Al Mahdi Case at the ICC*, 1 INTER GENTES 45, 48 (2017), https://intergentes.com/wp-content/uploads/2017/07/the-misplaced-emphasis-on-the-intangible-dimension-of-cultural-heritage-in-the-al-mahdi-case-at-the-icc_marina-lostal.pdf.

58. *Al Mahdi*, ICC-01/12-01/15 at ¶ 14-15.

59. Haydee J. Dijkstal, *The ICC and Human Rights: The Crime Against Destruction of Cultural Heritage as Part of a Trend Towards Greater Human Rights Influence*, 31 IND. INT'L & COMP. L. REV. 379, 380 (2021).

60. *Id.* at 381.

61. Alexandre Larcen, *Damaged Cultural Sites in Ukraine Verified by UNESCO*, UNESCO (Feb. 28, 2025), <https://www.unesco.org/en/articles/damaged-cultural-sites-ukraine-verified-unesco>; See also UNESCO, *Ukraine: Nearly 30 States pledge support UNESCO's efforts in the recovery of the cultural sector*, UNESCO (Feb. 7, 2024 3:00PM), <https://www.unesco.org/en/articles/ukraine-nearly-30-states-pledge-support-unescos-efforts-recovery-cultural-sector#:~:text=Called%20for%20by%20Volodymyr%20Zelensky,States%20from%20North%20America%2C%20Asia>.

sites and 2,185 cultural infrastructure facilities that were damaged by Russian forces.⁶² In light of the recurring destruction and attacks in Ukraine, representatives have gathered for emergency sessions to update the World Heritage Danger List and provide additional protection for those sites that have been targeted by Russian forces. For example, in September 2023, the Committee met in an extraordinary session to inscribe the “Saint Sophia Cathedral and Related Monastic Buildings and Lavra of Kyiv-Pechersk” and “L’viv—the ensemble of the historic centre.”⁶³

Tauric Chersonese and the Historic Center of Odesa, both inscribed on the World Heritage List, were selected in order to analyze the domestic and international obligations of States to protect cultural landmarks and natural landscapes. These sites are important because they have outstanding cultural value under the World Heritage Committee’s criteria. Furthermore, because both sites have experienced damage, they are relevant to analyzing the effectiveness of current international obligations on protecting cultural heritage and whether additional laws are required.

A. *Spotlight: Tauric Chersonese*

Tauric Chersonese is a heritage site located in the Crimea region that features the remains of a city founded by Dorian Greeks in the fifth century BC.⁶⁴ The heritage site contains multiple components, including urban and agricultural remains.⁶⁵ The site and surrounding landscape have been uninhabited since the fourteenth century, thereby preserving representations of Byzantine culture.⁶⁶

62. Ilias Maroutsis, *Heritage Funds for the Restoration of Ukrainian Monuments*, CREATIVES UNITE (Feb. 3, 2025), <https://creativesunite.eu/article/heritage-fund-for-the-restoration-of-ukrainian-monuments>.

63. UN Press Release, *Ukraine: UNESCO Sites of Kyiv and L’viv Are Inscribed on the List of World Heritage in Danger*, U. N. UKR. (15 Sep. 2023), <https://ukraine.un.org/en/246096-ukraine-unesco-sites-kyiv-and-l%E2%80%99viv-are-inscribed-list-world-heritage-danger>; See also Baraa Anwer, *UNESCO puts 2 locations in war-ravaged Ukraine on its list of historical sites in danger*, ASSOCIATED PRESS (Sep. 15, 2023, 12:17PM), <https://apnews.com/article/ukraine-russia-un-heritage-war-54620f9e495fe50349cc568c8347ab87#:~:text=Sophia%20Cathedral%20in%20the%20capital,could%20help%20deter%20Russian%20attacks>.

64. *Ancient City of Tauric Chersonese and its Chora*, UNESCO (last visited Mar. 14, 2025), <https://whc.unesco.org/en/list/1411/>; See also *Ancient City of Tauric Chersonese and its Chora*, UNESCO (last visited Mar. 14, 2025), <https://whc.unesco.org/en/list/1411/maps/>; *Ancient City of Tauric Chersonese and its Chora: Ukraine*, UNESCO (last visited Mar. 15, 2025), <https://whc.unesco.org/en/soc/3483/>.

65. *Id.*

66. The Editors of Encyclopaedia Britannica, *Tauric Chersonese*, BRITANNICA (last visited Mar. 30, 2025), <https://www.britannica.com/place/Tauric-Chersonese>.

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Tauric Chersonese was added to the UNESCO World Heritage List in 2013 during the thirty-seventh World Heritage Committee of UNESCO.⁶⁷ Due to the conflict between Ukraine and Russia about the belonging of the Crimea region, there were obstacles to the inscription process for Tauric Chersonese. The territory of Sevastopol, which encompasses Tauric Chersonese, has long been the headquarters for both the Russian and Ukrainian naval forces which has resulted in ongoing tensions for Russian-Ukrainian relations.⁶⁸ Since the annexation of this territory by Russia in 2014, unrecognizable changes have been made to the landscape, which threatens the safety of the burial sites and other artifacts under the surface.⁶⁹ Specifically, Russian authorities have constructed an amphitheater on the surface of original structures dating back to the fifth century BC.⁷⁰ With funding from a state corporation, the Ministry of Defence created the complex, calling it “New Chersonese” with a focus on its relationship to the Russian statehood.⁷¹ While the damage to the integrity of the heritage site began prior to Russia’s invasion of Ukraine in 2022, this example reveals cultural destruction through systematic, conscious efforts to erase the historic value of a World Heritage Site. Tauric Chersonese is still listed and recognized as part of Ukraine by UNESCO and the World Heritage Committee.⁷² However, UNESCO monitoring bodies have been unable to visit or assess the damage done to Tauric Chersonese since around the annexation of the territory in 2014.⁷³

67. *Tauric Chersonesos*, UKR. INST. (last visited Mar. 14, 2025), <https://ui.org.ua/en/postcard/tauric-chersonesos/>; *See also Russians are destroying Tauric Chersonese, A UNESCO World Heritage Site*, CRIMEA PLATFORM (last visited Mar. 14, 2025), <https://crimea-platform.org/en/news/russians-destroyed-tauric-chersonese-a-unesco-world-heritage-site/>.

68. *Sevastopol*, ENCYCLOPEDIA OF UKRAINE (last visited Mar. 30, 2025), <https://www.encyclopediaofukraine.com/display.asp?linkpath=pages%5C%5CE%5CSevastopol.htm>.

69. Sophia Kishkovsky, *Ukraine calls for UN to intervene after ancient Crimean heritage site transformed into cultural complex*, ART NEWSPAPER (Aug. 9, 2024), <https://www.theartnewspaper.com/2024/08/09/ukraine-calls-for-un-to-intervene-after-ancient-crimean-heritage-site-transformed-into-cultural-complex>.

70. Daryna Vialko, *Russians destroying Tauric Chersonese*, RBC-UKRAINE (July 24, 2024 08:03PM), <https://newsukraine.rbc.ua/news/russians-destroying-tauric-chersonese-1721839774.html>.

71. Kishkovsky, *supra* note 69.

72. *See* UNESCO, *supra* note 63.

73. Halya Coynash, *Russia is barbarically vandalizing UNESCO world heritage site at Chersonese in occupied Crimea*, HUM. RTS. IN UKR. (Sep. 20, 2019), <https://khp.org/en/1566744112>; *See also Follow-up to Decisions and Resolutions Adopted by the Executive Board and the General Conference at their Previous Sessions*, UNESCO (Sep. 10, 2021) <https://unesdoc.unesco.org/ark:/48223/pf0000378910?fbclid=IwAR3LX1lau-U81jszefMskmTWZeVZL-aX-QAwkDZieOIY5RXxXrb8PB1FDfE>.

B. Spotlight: The Historic Center of Odesa

In response to the growing concerns about the destruction of other UNESCO Heritage sites in Ukraine, the World Heritage Committee met in January 2023 during an extraordinary session to place the Historic Center of Odesa as an emergency addition to the list of protected “in danger sites.”⁷⁴ The Historic Center of Odesa is a “time capsule” of urban planning in the nineteenth century and is composed of historic buildings that “reflect the rapid economic development of the city in the 19th and early 20th centuries.”⁷⁵ The city center is a reflection of Ukraine’s ethnic and religious diversity, representative of “the growth of multicultural and multi-ethnic Eastern European cities of the 19th century.”⁷⁶ This inscription placed an obligation on Ukraine to create a program of corrective measures and guidelines should the site become damaged or impacted by any harm.⁷⁷

UNESCO condemned the attacks in November 2024 against the Historic Center of Odesa, calling for the cessation of directed attacks against cultural property in Ukraine.⁷⁸ In addition to harming cultural sites, these attacks have destroyed museums and libraries that preserved other forms of cultural and historical heritage in Ukraine.⁷⁹ Nina Kuriata, a journalist and native of Odesa for twenty years, wrote that Odesa is a city of “diverse heritage” and one with a history that embraces its multiculturalism.⁸⁰ Kuriata noted that while the Russian forces have disseminated a message urging the liberation of Odesa and the revitalization of Russia in the Historic Center, the people of Odesa will continue to resist the colonial past.⁸¹ In January 2025, Russian military

74. UNESCO, *Convention Concerning the Protection of the World Cultural and Natural Heritage*, REPORT OF THE DECISIONS ADOPTED BY THE WORLD HERITAGE COMMITTEE 18TH EXTRAORDINARY SESSION JANUARY 24-25, 1, 9 (2023).

75. UNESCO, *The Historic Centre of Odesa*, UNESCO: WORLD HERITAGE CONVENTION (last visited Mar. 30, 2025), <https://whc.unesco.org/en/list/1703/>.

76. *Id.*

77. UNESCO, *supra* note 36, at 11.

78. Kateryna Hodunova and The Kyiv Independent news desk, *UNESCO Condemns Recent Russian Attack on Historic Center of Odesa*, KYIV INDEP. (Nov. 18, 2024 11:45PM), <https://kyivindependent.com/unesco-condemns-russian-recent-attack-on-historic-center-of-odesa/>.

79. Sabine Oelze, *Odesa: Damaged Cultural Sites of ‘Universal Importance,’* DW (July 25, 2023), <https://www.dw.com/en/odesa-damaged-cultural-sites-of-universal-importance/a-66332353>.

80. Nina Kuriata, *Odesa’s True Identity: Countering Russian Propaganda and Imperialist Myths*, NEW EASTERN EUROPE (Mar. 4, 2025), <https://neweasterneurope.eu/2025/03/04/odesas-true-identity-countering-russian-propaganda-and-imperialist-myths/>.

81. *Id.*

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forces launched explosions at Odesa, including the historic city center.⁸² Odesa's mayor informed the press that included in the destruction was a building that was protected and monitored by UNESCO after its 2023 inscription.⁸³ President Zelensky stated that the grand opera house and landmark building constructed in the nineteenth century were damaged as a result of the strikes.⁸⁴

IV. STATE OBLIGATIONS TO PREVENTING AND RESPONDING TO CULTURAL DESTRUCTION IN UKRAINE

A. *Domestic Obligations to Protect and Restore World Heritage Sites*

Provisions for cultural heritage protection in Ukraine are governed by the Law of Ukraine on Cultural Heritage Protection, which was adopted in 2000.⁸⁵ This law regulates the field of cultural heritage and places an obligation on municipal and local actors to prioritize the protection of cultural objects.⁸⁶ The Law on the Protection of Archaeological Heritage regulates the protection of cultural heritage with a focus on Ukraine's historical and archaeological past.⁸⁷ The highest Ukrainian domestic authority governing cultural heritage, is the Ministry of Culture and Information Policy of Ukraine.⁸⁸ This position is responsible for monitoring the protection and preservation of cultural heritage sites in Ukraine.⁸⁹ There are also municipal bodies that help

82. Reuters, *Russian missile attack seriously damages historic centre of Ukraine's Odesa*, REUTERS (Jan. 31, 2025 7:10PM), [https://www.reuters.com/world/europe/russian-forces-launch-missile-attack-historic-centre-ukraines-odesa-2025-01-31/#:~:text=Russian%20missile%20attack%20seriously%20damages%20historic%20centre%20of%20Ukraine's%20Odesa,-By%20Reuters&text=Jan%2031%20\(Reuters\)%20%2D%20Russian,seven%20people%2C%20local%20officials%20said](https://www.reuters.com/world/europe/russian-forces-launch-missile-attack-historic-centre-ukraines-odesa-2025-01-31/#:~:text=Russian%20missile%20attack%20seriously%20damages%20historic%20centre%20of%20Ukraine's%20Odesa,-By%20Reuters&text=Jan%2031%20(Reuters)%20%2D%20Russian,seven%20people%2C%20local%20officials%20said).

83. *Id.*; See also Kateryna Denisova, *Update: Russian missiles strike Odesa's historic center, injuring 7*, KYIV INDEP. (Feb. 1, 2025 2:04AM), <https://kyivindependent.com/russian-missile-attack-targets-odesa-historical-center/>.

84. Jon Jackson, *Russian Strike on Odesa's Historic Center Damages Opera House, Famous Hotel*, NEWSWEEK (Jan. 31, 2025, 09:23PM), <https://www.newsweek.com/russia-attack-ukraine-odesa-historic-center-2024543>.

85. UNESCO, *supra* note 75.

86. *Materials*, CRIMEAN INST. FOR STRATEGIC STUD. (last visited Mar. 30, 2025), <https://ciss.org.ua/en/zakonodavstvo.html#:~:text=On%20Protection%20of%20Cultural%20Heritage&text=Objects%20of%20cultural%20heritage%20located,and%20local%20self%2Dgovernment%20bodies>.

87. *The Law of Ukraine On Protection of Archaeological Heritage*, VIDOMOSTI OF VERKHOVNA RADA No. 26, 1,1 (2004), https://media.unesco.org/sites/default/files/webform/mhm001/ua_law_protection_archaeological_heritage_engtof.pdf.

88. UNESCO, *supra* note 75.

89. *Id.*

ensure that modern city planning is in compliance with the obligations of preserving the historic value of sites such as the Historic City Center of Odesa.⁹⁰ An integrated protection zone was added to the General Plan of Odesa, which is in accordance with the Historical and Architectural Reference Plan of Odesa.⁹¹

As a signatory to the World Heritage Convention, Ukraine's domestic obligations require that it develop plans, such as the General Plan, in order to prevent the deterioration or destruction of the cultural heritage sites within its borders.⁹² These plans are intended to promote the allocation of necessary resources to monitoring and evaluating the vulnerabilities of the sites.⁹³

The Ukrainian government also has the obligation of monitoring and submitting reports on the condition of the cultural sites.⁹⁴ Ukraine promptly notified the UNESCO World Heritage Committee of the potential threats and concerns about harm to its sites, including Tauric Chersonese and the Historic Center of Odesa. Since Russia annexed the region where Tauric Chersonese is located, the Ukrainian government's obligation to UNESCO in protecting this site is centered on providing any information on the alterations that have occurred, as well as the current integrity of the site. After the Historic Center of Odesa was added to the World Heritage List in Danger, Ukraine has a heightened obligation to protect the site through the implementation of urgent measures to mitigate current damage; however, due to the immense destruction Ukraine has experienced, international action is required.⁹⁵ Specifically, as a State Party, Ukraine has the power to decide if additional measures are required and to inform the Committee of the eventual removal of the site from the Danger List once the threat no longer exists.⁹⁶

B. International Obligations to Protect and Restore World Heritage Sites

International organizations and political actors frequently call for the stoppage of deliberate destruction of cultural property and heritage sites.⁹⁷

90. *Id.*

91. *Id.*

92. UNESCO, *supra* 36 note at 33.

93. *Id.* at 35.

94. *Id.* at 63.

95. *Id.* at 61-62.

96. *Id.* at 62.

97. See UNESCO Calls for Mobilization to Stop "Cultural Cleansing" in Iraq, UNESCO (Feb. 27, 2025), <https://whc.unesco.org/en/news/1242> (calling for the action in response to the

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International laws and conventions have been interpreted differently, creating different understandings as to whether issues of cultural property destruction are solely an issue of individual state sovereignty, thereby classifying a landmark as a nation's property, or as an object of international protection.⁹⁸ In theory, this principle, shifts state sovereignty regarding prosecuting and responding to cultural destruction to the international forum to account for the serious human rights violations.⁹⁹ Existing international norms and protections allotted to cultural property and potential destruction reveal a priority for action when there is intention or disregard.¹⁰⁰

An element of international obligation and cooperation is fueled by "soft power," such as inducing a State to comply with its obligations through attractive funding instead of forceful coercion.¹⁰¹ Soft power refers to the idea that a "state's power is also based on its attractiveness and its appeal to shared values."¹⁰² This concept has been recently introduced in relation to the field of cultural heritage because the ways that States shape their domestic policies on preserving heritage reveal how soft power is increasingly important as an instrument in public diplomacy.¹⁰³ Designating certain sites on UNESCO's World Heritage List can be political in nature, and by establishing that label, the Committee legitimizes those properties as "acceptable forms of national, group or unit identities."¹⁰⁴ Complying with international obligations to preserve cultural heritage properties is a way for States to build "their image in international relations."¹⁰⁵

In addition to compliance through the exercise of soft power, the international community can proceed with responding to cultural heritage

destruction in Iraq and the illicit trading of cultural artifacts); *See also* Motion for a resolution on the destruction of cultural sites perpetrated in Syria and Iraq B8-0375/2015 (April 27, 2015), https://www.europarl.europa.eu/doceo/document/B-8-2015-0375_EN.html.

98. James Cuno, *The Responsibility to Protect the World's Cultural Heritage*, 23 BROWN J. OF WORLD AFFS. 97, 98 (2016).

99. Jadranka Petrovic, *What Next for Endangered Cultural Treasures? The Timbuktu Crisis and the Responsibility to Protect*, 11 NZ JOURNAL OF PIL 381, 383 (2012).

100. Patty Gerstenblith, *The Destruction of Cultural Heritage: A Crime Against Property or A Crime Against People?*, 15 J. MARSHALL REV. INTELL. PROP. L. 336, 391 (2016).

101. Mako, *supra* note 21, at 188.

102. Hanna Schreiber, *Intangible Cultural Heritage and Soft Power—Exploring the Relationship*, 12 INT'L J. INTANGIBLE HERITAGE 44, 44 (2017); *See also* JOSEPH NYE, BOUND TO LEAD: THE CHANGING NATURE OF AMERICAN POWER (1991).

103. Schreiber, *Intangible Cultural Heritage and Soft Power—Exploring the Relationship*, at 46.

104. *Id.*

105. *Id.* at 47.

destruction through prosecution. International developments, such as prosecuting crimes of cultural destruction, have highlighted how concern extends beyond an individual State's obligations to protect cultural heritage and implicates international liability to respond to those actors who commit said attacks.¹⁰⁶ The UN World Summit Outcome Document in 2005 outlined the Responsibility to Protect (R2P) international idea, which places an obligation on the general international community to respond in some form to cultural and ethnic cleansing, genocide, crimes against humanity, and war crimes.¹⁰⁷ R2P, initially proposed during the Yugoslavia atrocities, denotes an international norm that forces States to protect their citizens against and respond to serious international crimes such as cultural cleansing.¹⁰⁸ R2P has been used in sixty resolutions by the UN Human Rights Council and around eighty resolutions by the Security Council.¹⁰⁹ While this has been invoked in cases of cultural heritage destruction such as Syria, it has yet to end the eradication of cultural monuments in those regions, nor provide substantive punitive accountability for perpetrators.¹¹⁰

C. *Reparations and Recovery for Cultural Loss*

In addition to enforcement and penal consequences as a response to cultural destruction, funding initiatives to repair and recover damaged or destroyed heritage sites are essential to rebuilding national identity. Policies and organizations targeted at supporting culture also pave the way for support of an individual and distinct "national culture."¹¹¹ In light of the destruction across Ukraine, the international community devised plans for recovery and reparations for damage to cultural heritage sites. Restoration costs in Ukraine have been estimated to cost approximately 9 billion dollars.¹¹² The U.S. Department of State's Bureau of Educational and Cultural Affairs (ECA) committed 10.5 million dollars to support

106. Francesco Francioni, *The Human Dimension of International Cultural Heritage Law: An Introduction*, 22 EUR. J. INT'L L. 9, 13 (2011).

107. *What is R2P*, GLOB. CTR. FOR THE RESPONSIBILITY TO PROTECT (last visited Mar. 30, 2025), <https://www.globalr2p.org/what-is-r2p/#:~:text=The%20Responsibility%20to%20Protect%20populations,Background%20Briefing%20on%20R2P>.

108. *The Responsibility to Protect: A Background Briefing*, GLOB. CTR. FOR THE RESPONSIBILITY TO PROTECT (Jan. 14, 2021), <https://www.globalr2p.org/publications/the-responsibility-to-protect-a-background-briefing/>.

109. Adams, *supra* note 5, at 285.

110. *Id.*

111. Isar, *supra* note 42, at 611.

112. Maroutsis, *supra* note 62.

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Ukrainian efforts to protect its cultural heritage and cultural sites.¹¹³ Under the International Centre for the Study of the Preservation and Restoration of Cultural Property, the United States provided the Ukraine Cultural Heritage Response Initiative another \$1 million.¹¹⁴

UNESCO World Heritage Fund is made up of obligatory and voluntary contributions from countries that joined the Convention.¹¹⁵ The Ukraine Heritage Response Fund was launched by the World Monuments Fund to devise a plan for reparations and recovery of Ukraine's lost cultural sites.¹¹⁶ Partners within the European Union and UNESCO have united to establish a Ukraine Heritage Fund to restore monuments, cultural sites, and museums.¹¹⁷ International monetary contributions for cultural destruction restoration have previously aided other regions that experienced similar impacts. In 2014, UNESCO led the restoration project of fourteen medieval shrines in Timbuktu to recover the cultural heritage sites that were severely damaged in 2012.¹¹⁸ This restoration project was funded by multiple countries, the EU, the World Bank, and the United States Agency for International Development.¹¹⁹

D. Future Directions: Is There a Need for a Separate Cultural Genocide Framework within Existing International Law?

While there is support for the development of a new international framework to govern the destruction of cultural property with a focus on the creation of the crime of cultural genocide, this is not a requirement because existing law is sufficient on the subject. Establishing a new crime of cultural genocide and new international legislation is not required because it would create unnecessary overlap with existing criminal statutes, such as the Rome Statute. Instead, the issue is a need for stricter

113. Usun Rome Mission, *Press Release: U.S. Helps Ukraine Safeguard its Cultural Heritage through \$1 million Project with ICCROM*, U.S. MISSION TO THE UN AGENCIES IN ROME (Sep. 19, 2024), <https://usunrome.usmission.gov/press-release-u-s-helps-ukraine-safeguard-its-cultural-heritage-through-a-1-million-project-with-iccrom/>; See *U.S. Department of State Announces Project to Protect Ukrainian State Archives*, U.S. EMBASSY IN UKRAINE (Feb. 22, 2024), <https://ua.usembassy.gov/u-s-department-of-state-announces-project-to-protect-ukrainian-state-archives/>.

114. Mission, *Press Release* (Sep. 2024).

115. AMBIO, *supra* note 30, at 140.

116. *Ukraine Heritage Response Fund*, WORLD HERITAGE FUND (last visited Apr. 3, 2025), <https://www.wmf.org/programs/ukraine-heritage-response-fund>.

117. Maroutsis, *supra* note 62.

118. *Cultural Heritage Sites of Mali*, WORLD MONUMENTS FUND (last visited Apr. 6, 2025), <https://www.wmf.org/monuments/cultural-heritage-sites-mali>.

119. *Id.*

enforcement within existing law and not the absence of an additional legal framework to define cultural destruction.

The designation of “World Heritage Site” provides additional protection and increased awareness for cultural and natural heritage properties and sites.¹²⁰ This designation as a “World Heritage Site” gives notice to the international community that there is an increased concern for the preservation of the property and that damage or destruction will be responded to by the international community as a whole. However, threats to World Heritage Sites have continued to persist in both developing and developed nations.¹²¹ The existing conventions allocate obligations to individual States and to the international community to identify and monitor cultural sites and create development plans for the conservation of the site. In conjunction with the World Heritage Conventions, the Ukrainian government devised conservation and preservation methods in local and national policies, such as the General Plan.¹²²

Cultural cleansing effectively erases a community’s heritage and impacts their ability to commemorate and honor sites that are essential to their national belonging. Cultural cleansing refers to the erasing of “diversity as well as collective history and memory of group identity.”¹²³ The deliberate destruction of cultural heritage is a vital component of the pursuit of cultural cleansing and eliminating a collective group’s identity.¹²⁴ There is an ethical duty of governments and relevant organizations to protect and preserve cultural and natural sites for people to be able to continue to observe and appreciate them. The destruction of cultural sites is often connected to regional political climates and to the committing of serious international crimes that target specific populations, such as in Mali or the former Yugoslavia.¹²⁵

Due to the gravity of this issue and the severe consequences of irrevocable harm and cultural destruction, it is imperative that there are improvements to the existing monitoring system so that responses to destruction can be handled more promptly. In the case of Ukraine, there

120. AMBIO, *supra* note 30, at 142.

121. *Id.*

122. UNESCO, *supra* note 75.

123. Rose Maginnis, *Cultural Cleansing as an Emerging Form of Mass Atrocity: A Comparative Analysis of the Protection Against Intentional Destruction of Cultural Heritage under International Law and Islamic Law*, 5 ASIA PAC. J. INT’L HUMANITARIAN L. 1, 2 (2024).

124. *Id.*

125. *Statement by ICC Prosecutor, Fatou Bensouda, at the conclusion of her visit to Mali: “Cultural heritage must no longer be attacked and destroyed with impunity,”* OFF. OF THE PROSECUTOR (Apr. 7, 2021), <https://www.icc-cpi.int/news/statement-icc-prosecutor-fatou-bensouda-conclusion-her-visit-mali-cultural-heritage-must-no>.

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is international cooperation regarding the Heritage Trust Fund and other monetary initiatives to support reconstruction and recovery efforts within the country.¹²⁶ There needs to be greater use of international forums to hold those perpetrators of cultural destruction criminally and civilly accountable. The international community should enforce stricter criminal penalties through the ICC, as exhibited in the case of Al Mahdi.¹²⁷ Furthermore, UNESCO should create more detailed warning mechanisms that would employ specialized teams to intervene in the recovery process of cultural destruction sooner, such as the Blue Shield Network.¹²⁸ The Blue Shield Network is an international team, composed of thirty national committees, that aims to protect heritage during a crisis or conflict and immediately after.¹²⁹ Establishing mechanisms that raise concerns sooner or prior to a conflict escalation is imperative to mitigating the severity of destruction.

Uniformity in approaches to domestically responding to cultural destruction, such as through the creation of similar prevention standards and procedures, can foster a stronger deterrence factor. For example, UNESCO should encourage individual States to create and bring awareness to “no strike” lists of cultural sites that must not be impacted by conflict or war.¹³⁰ This mechanism is both preventative in nature and promotes consistency in State responses to acts of cultural destruction. Furthermore, States can incorporate training on how to protect and preserve cultural and natural heritage in their military operations training, such as the United States.¹³¹ This would help to combat the damage to cultural sites during conflict or other military engagements; however, it would provide limited effectiveness against individual actors or insurgency groups that deliberately target heritage properties.

126. *Supra* note 113.

127. *See supra* note 58.

128. *See What is the Blue Shield? Who Is In It? How Does It Protect Cultural Property in Crisis and Conflict?* Blue Shield International (last visited Mar. 31, 2025), <https://theblueshield.org/>.

129. *Id.*

130. *No Strike List for Aleppo*, HERITAGE FOR PEACE (last visited Apr. 3, 2025), <https://www.heritageforpeace.org/news/no-strike-list-for-aleppo/>; *See also* Emma Cunliffe, *No Strike Lists—From Use to Abuse?*, HERITAGE IN WAR (last visited Mar. 31, 2025), <https://www.heritageinwar.com/single-post/2020/01/24/trump-and-iranian-cultural-property-heritage-destruction-war-crimes-and-the-implications>; *See also* Adam Jux & Adrian Parker, *Targeting with Due Regard to Cultural Property*, 35 J. JAPCC 1, 68 (Feb. 2023).

131. *See Air Force Doctrine Publication 3-60*, U.S. AIR FORCE 1, 48 (Nov. 12, 2021), https://www.doctrine.af.mil/Portals/61/documents/AFDP_3-60/3-60-AFDP-TARGETING.pdf; *See also* Major Kristoffer T. Mills & Laurie Rush, *Integration of Cultural Property Protection into a Decisive Action Training Exercise*, MIL. REV. 106, 110 (2017).

V. CONCLUSION

Cultural property and heritage sites hold great historical and social significance for many communities around the world. These monuments and heritage sites are imperative in creating a sense of belonging within individual countries. Destruction of these sites poses grave consequences and harms those who value the commemoration of their heritage through those landmarks. Beyond destroying sites such as Tauric Chersonese or the Historic City Center of Odesa, which provide substantial historical value and insight into past civilizations, destroying these forms of history erases current forms of national identity and heritage.

Beginning with the Genocide Convention in 1948, the international community has considered the consequences of targeting a community, and later codified principles of prevention and punishment related to those who attempt or commit crimes that destroy cultural heritage sites. The Hague Convention of 1954 introduced consideration for artifacts and cultural objects during moments of both peace and war. The World Heritage Convention and the creation of the World Heritage Committee created a framework of obligations that State Parties have in identifying, protecting, preserving, and responding to threats against property of outstanding value to cultural heritage.

While these conventions clearly established obligations for State Parties, such as to act with prevention in mind as well as identify perpetrators for purposes of punishment, these cultural conventions have limited penal consequences. This Comment argued that there is sufficient international law and norms on the subject of cultural and natural heritage sites to govern the protection of these areas, as well as to guide the punishment of those individuals who threaten the safety of these sites. Instead, what is needed is greater international cooperation to identify the individuals who are perpetrating cultural destruction and hold them accountable in international forums such as the ICC. While the ICC cannot prosecute Russia directly for the destruction or attempted destruction of cultural heritage sites, such as Tauric Chersonese, it can prosecute individual perpetrators.

Furthermore, the World Heritage Convention and the World Heritage Committee have established substantial guidelines for creating a funding system to repair cultural or natural destruction. As discussed previously, there is a clear consensus and support through monetary funds and initiatives designed to rebuild Ukrainian museums, monuments, and other landmarks so that Ukrainian heritage is not forgotten.

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It is the responsibility and duty of governments to preserve their nation's history and, as members of the international community, to act in the face of grave destruction and threat to another country's history. Preservation of culture and history is essential to community belonging, and during times of war, destroying cultural landmarks is frequently connected to oppressing and cleansing people of their sense of identity. The destruction in Ukraine is not the first example of attempting to erase a community's identity, and it will not be the last one; therefore, the international community needs to more strictly adopt early enforcement mechanisms and pursue criminal penalties.