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Claremont McKenna College

Vulnerable Culture: Protecting History in War and Peace

Submitted to
Professor Jonathan Petropoulos

By
Molly Elizabeth Luce

for
Senior Thesis
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Abstract

Cultural, historic, and religious sites and objects have a strong correlation with the identity of the community they belong to, in addition to that of humanity. Rosilawati et al. assert that “Cultural heritage and social identity exists in correlation and are interconnected. The shared identity associated with one’s cultural background and historic setting may initiate feelings of pride in one’s culture.”¹ Essentially, the looting and destruction of such sites and antiquities is not only an attack on the tangible, but the very essence of a population. As the War in Ukraine rages on, Ukrainian cultural heritage sites and historic monuments continue to be a target for the Russian forces. It is part of a systematic approach to erase the Ukrainian people. Unfortunately, the destruction of culture during times of war is nothing new and is an ongoing, pertinent issue. This paper aims to uncover why culture so often goes unprotected during conflict and what lessons can be extracted from initiatives to counter cultural destruction in the past.

¹ Rosilawati et al., “Cultural Psychology, Social Identity, and Community Engagement in World Heritage Conservation Sites,” 2.

Introduction

The issue of art and antiquities looting, during peacetime or conflict, is pervasive and prevalent. The twenty-first century has borne witness to the illegal pillaging, trafficking, and destruction of cultural patrimony across the globe under a variety of circumstances. Much of the coverage of cultural heritage looting has been focused on West Asia—in the early 2000s the focus was on Iraq with the looting of the Baghdad Museum while in the 2010s it shifted to the cultural racketeering conducted throughout Iraq and Syria by terrorist organizations. More recently with the current War in Ukraine, the international community is reminded, yet again, of how systemic cultural racketeering and destruction is a weapon of war and tool for genocide.

One such instance of cultural looting during this conflict is the plundering of Kherson. After being occupied by Russian forces for eight months, the Ukrainian city of Kherson was looted and pillaged by Russian military personnel and civilians before withdrawing. Countless artifacts and objects were stolen from two museums (the Kherson Regional Art Museum and the Kherson Regional Museum), St. Catherine's Cathedral, and the Kherson Region National Archives. According to Belkis Wille, the crisis and conflict expert and associate director at Human Rights Watch:

In the final days of occupying Kherson, Russian forces loaded paintings, gold, silver, ancient Greek artifacts, religious icons, and historical documents onto trucks bound for Russian-controlled territories. This systematic looting was an organized operation to rob Ukrainians of their national heritage and amounts to a war crime for which the pillagers should be held to account.²

² "Ukraine: Russians Pillage Kherson Cultural Institutions." *Human Rights Watch*, 20 Dec. 2022, <https://www.hrw.org/news/2022/12/20/ukraine-russians-pillage-kherson-cultural-institutions>.

Between October 26, 2022 and November 11, 2022, thousands of relics, objects, and art works were loaded onto trucks and shipped out of Kherson into Russian controlled territories. Beyond the extensive looting, Ukrainian cultural institutions have remained a target of Russian attacks since the beginning of the war in February 2022. Up to this point in the conflict, 14 months since the initial invasion, very little has been done to effectively protect the cultural heritage of Ukraine.

This is not the first time a major, modern world power has targeted an adversary's culture as an annihilation tactic. Perhaps the most notorious example of cultural looting in recent history was the Nazi regime's methodical plunder of art and cultural treasures across Europe. These atrocities were countered by the Monuments, Fine Arts, and Archives (MFAA) Section of Civil Affairs of the Western Allied Armies, nicknamed the "Monuments Officers." While the most recent and most infamous cases of cultural heritage looting have been and are conducted by nation states, not all looters are state actors. Armed non-state actors, particularly terrorist organizations or militant groups, also loot, destroy, and traffic cultural heritage sites to fund their illicit activities. As stated in by Deborah Lehr in a hearing before the Subcommittee on Counterterrorism and Intelligence of the Committee on Homeland Security:

Millions of archeological, historic, and religious sites in this region--including the Cradle of Civilization--are threatened by organized plunder or destruction from armed conflict by terrorist organizations such as ISIL, the al-Nusrah Front, and other al-Qaeda affiliates.³

³ *FOLLOWING THE MONEY: EXAMINING CURRENT TERRORIST FINANCING TRENDS AND THE THREAT TO THE HOMELAND*. U.S Government Publishing Office, 12 May 2016, <https://www.govinfo.gov/content/pkg/CHRG-114hhrg22761/html/CHRG-114hhrg22761.htm>.

Many of these terrorist organizations that have looted or destroyed culture, such as ISIL or Ansar Dine, not only conduct such acts to fund their activities, but to purge the world of objects and sites deemed “haram.”⁴ Based in Islamic extremism, this practice has resulted in the destruction of multiple World Heritage Sites (Timbuktu and Palmyra) as these spaces did not align with the radical ideology. These practices are reminiscent of the early Christians’ pillaging and destruction of classical heritage in the late-antiquity period.⁵

Cultural looting and racketeering, while it does occur during periods of stability, is most rampant and destructive in times of conflict. States and non-state actors alike have utilized the power of culture as it relates to a population’s identity to harm their enemies through plundering and destruction. Even instances of cultural racketeering that occurred during the mid-twentieth century are still affecting people and places today, which is demonstrated by the hundreds of ongoing art restitution cases.

This thesis aims to examine why cultural heritage sites and monuments go unprotected during times of conflict and what lessons can be taken from the counter measures that have been implemented by states and international organizations for future initiatives. Chapter I outlines the conventions and legal infrastructure implemented by the United Nations (therefore the international community at large) to combat the looting, pillaging and destruction of cultural patrimony. Chapter 2 discusses how certain nations have dealt with this crisis, which is contextualized by a synopsis of the Nazi Regime’s art

⁴ “Haram” in Islamic law is the forbidden. Depending on the interpretation of Quran, different actions, objects, and spaces qualify.

⁵ For more information on the cultural destruction committed during pre-Christian Rome and the weaponization of monotheism, read *The Darkening Age: The Christian Destruction of the Classical World* by Catherine Nixey.

looting campaign. Chapter 3 will focus on art crime responses, particularly during peace, and how they differ during wartime. Chapter 4 will examine the recent cases of cultural racketeering in Timbuktu, Palmyra, and Ukraine and describe the devastating ramifications when there is no intervention. Chapter 5 highlights the promising action steps that nations can undertake to better protect cultural heritage during conflict.

Chapter I: International Legal Infrastructure

While the cases referenced in the Introduction may insinuate that the looting and plundering of cultural heritage has only become a problem in the past century, it is important to explain that cultural pillaging is not a recent development. Not only has it been a longstanding problem, but it was also a common and expected practice during war. Ancient civilizations, notoriously the Romans and later the Mongols, pillaged the cities in which they invaded. The U.S. Committee of Blue Shields further exemplifies this ageless phenomenon:

The armies of the Fourth Crusade devastated the cultural heritage of the eastern Mediterranean region, sacked Constantinople in 1204, and plundered palaces, churches, monasteries, and libraries. Among the booty were the famed ancient horses that were placed in the cathedral of St. Mark in Venice. The horses were in turn taken by Napoleon but returned to Venice after his defeat.⁶

Powerful civilizations and states, throughout their histories, maintained plundering practices often as rewards for their warriors. In more recent history, these customs were mainly seen in the colonization period of the nineteenth and twentieth centuries during the “Scramble for Africa.” In the Boer War (1899-1902), looting and pillaging the norm. As stated by Nigel Robson, a senior historian at the Office for Māori Crown Relations, in an article on New Zealand soldiers during the Boer War:

[New Zealand soldier] Trooper Luke Perham jokingly told his mother that contingent members were turning into ‘notorious thieves’, while his brother Frank

⁶ “Background of Protection of Cultural Property.” *US Committee of the Blue Shield*, US Committee of the Blue Shield, <https://uscbs.org/background/>.

described operations in the field: ‘At the first farm house we reached, the fun commenced. We were told we could take whatever we liked.’⁷

The booty seized ranged from bibles and letters to watches and sculptures. The French, English and Belgian Empires (among others) would also loot and pillage their colonized areas throughout the global south for their resources and cultural relics. In the chapter “Prohibition Regimes” of the book *Looting and Rape in Wartime: Law and Change in International Relations*, author Tuba Inal states that:

the Visigoths pillaged Rome in 409 and the Vandals pillaged the city in 455; the Crusaders pillaged Belgrade and many villages and towns in Asia Minor in 1096, Jerusalem in 1099, and Constantinople and the Greek islands in 1204; the Napoleonic armies looted Italian towns in 1805–6, and in return the Russian army looted the French countryside. These lootings included destruction and plunder of food, gold, silver, art treasures, holy relics (as in the case of Constantinople), literary classics, and all kinds of transportation resources.⁸

After thousands of years of pillaging and looting as a common wartime practice, it was formally condemned by the international community in the early twentieth century at the Hague Convention of 1907. The 1907 Convention was the second attempt at imposing guidelines among the Western nations during warfare, both land and naval, after the failed Convention of 1899. The Convention of 1899, which was a revolutionary endeavor in international governance, aimed to achieve three main objectives:

[impose] (1) a limitation on the expansion of armed forces and a reduction in the deployment of new armaments, (2) the application of the principles of the Geneva

⁷ Robson, Nigel. ““What a Trophy for One Christian to Loot from Another!”” *Stuff*, 13 Nov. 2019, <https://www.stuff.co.nz/national/117018477/what-a-trophy-for-one-christian-to-loot-from-another>.

⁸ INAL, TUBA. “Prohibition Regimes.” In *Looting and Rape in Wartime: Law and Change in International Relations*, 3. University of Pennsylvania Press, 2013. <http://www.jstor.org/stable/j.ctt3fj6s9.3>.

Convention of 1864 to naval warfare, and (3) a revision of the unratified Brussels Declaration of 1874 regarding the laws and customs of land warfare.⁹

On almost all counts, this convention failed, including the provisions regarding culture.¹⁰

Under the third objective, which was to regulate the laws and customs of land warfare, one of the items was the proscription of pillaging during war. While the 1899 Convention did not ratify the article prohibiting pillaging during war, it introduced the topic in dialogues involving nearly every European power.

The provision regarding looting cultural patrimony had been motivated by the U.S. Lieber Code, which was established in 1863. Written by Francis Lieber, a Prussian soldier who had fought in the Napoleonic Wars and Greek War for Independence, witnessed the extensive cultural looting conducted during these conflicts.¹¹ After he immigrated to the United States and established himself at the University of Columbia, President Lincoln requested that he drafted army conduct law, which included cultural protection regulation. The *Instructions for the Government of Armies of the United States in the Field General Order No. 100 (1863)*, or Lieber Code, stated that

property belonging to religious institutions, hospitals, ‘other establishments of an exclusively charitable character,’ and educational institutions ‘or foundations for the promotion of knowledge, whether public schools, universities, academies of learning or observatories, museums of the fine arts, or of a scientific character’ would not be subject to appropriation. Certain categories of cultural property, including collections of artworks, libraries, and scientific instruments, were to be protected ‘against all avoidable injury even when they are contained in fortified places whilst besieged or bombarded’.....Movable cultural objects could be

⁹ “Hague Convention.” Britannica, n.d. <https://www.britannica.com/event/Hague-Conventions>.

¹⁰ At the turn of the century, new technological innovations were being made rapidly. Many of these technologies had the capacity to dramatically change warfare as the European continent understood it. While the European powers failed at achieving its overarching mission of limiting armaments, it did succeed in banning dum dum bullets from land conflicts between European powers.

¹¹ “Background of Protection of Cultural Property.”

seized if removal did not injure them, but they could not be sold, ‘privately appropriated, or wantonly destroyed or injured.’ The ultimate disposition of such objects would be decided by the treaty of peace.¹²

By 1907, most nations present at the convention (which by 1907 included non-European states) altered their stances on many issues, including that of pillaging cultural patrimony during war. Within the 1907 Convention, there are three different articles that prohibit pillaging, yet it is explicitly banned in Regulations Article 47, which states “Pillage is formally forbidden.”¹³ Additionally, in Regulation Article 27 of the 1907 Convention, it states that “all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments.”¹⁴ This convention was the watershed, as it made acquisitions like that of the Elgin Marbles or Benin Bronzes illegal moving forward. It also made attacks against cultural, historic, or religious institutions (while not explicitly forbidden) disfavored.

It wasn’t until the Treaty of Versailles in 1919 that the 1907 Convention was fully implemented. The convention was invoked to punish Germany for its attacks against the Belgian people and cultural institutions during World War I. On the night of August 25, 1914, a few days after Germany violated Belgium’s neutrality to march into France, German forces committed a number of atrocities in Louvain. One of which was the arson of the University of Louvain’s library.¹⁵ While the University of Louvain was founded in 1425, the library was established in 1636 and by 1914, had a collection of over 300,000

¹² Background of Protection of Cultural Property.”

¹³ Hague Convention of 1907, Regulation Article 47 § (n.d.). <https://ihl-databases.icrc.org/en/ihl-treaties/hague-conv-iv-1907/regulations-art-47?activeTab=undefined>.

¹⁴ Ibid.

¹⁵ Ovenden, Richard. “One of Europe’s Great Libraries Didn’t Stand a Chance... In Either of the World Wars.” Literary Hub, December 2, 2020. <https://lithub.com/one-of-europes-great-libraries-didnt-stand-a-chance-in-either-of-the-world-wars/>.

volumes. Very little survived. The other offenses committed by the German forces that night included the forced removal of civilians from their homes and their subsequent executions. The *Daily Mail* days later called it a “crime against the world.”¹⁶ After Germany lost the war, Allied forces (considering the suffering of Louvain) decided to hold Germany to the 1907 Convention. As a form of reparations, Germany was required to replace what its force’s burned and as such, Article 247 of the Treaty of Versailles asserts:

Germany undertakes to furnish to the University of Louvain, within three months after a request made by it and transmitted through the intervention of the Reparation Commission, manuscripts, incunabula, printed books, maps and objects of collection corresponding in number and value to those destroyed in the burning by Germany of the Library of Louvain. All details regarding such replacement will be determined by the Reparation Commission.¹⁷

Furthermore, the Allied forces deemed Germany’s atrocities against Belgium severe enough that Germany was mandated to return two Belgian works that had been previously stolen: panels of the Ghent Altarpiece and the Altarpiece of the Holy Sacrament. This restitution requirement was also stated in Article 247 of the Treaty of Versailles:

Germany undertakes to deliver to Belgium, through the Reparation Commission, within six months of the coming into force of the present Treaty, in order to enable Belgium to reconstitute two great artistic works: (1) The leaves of the triptych of the Mystic Lamb painted by the Van Eyck brothers, formerly in the Church of St. Bavon at Ghent, now in the Berlin Museum; (2) The leaves of the triptych of the Last Supper, painted by Dierick Bouts, formerly in the Church of

¹⁶ Ovenden, “One of Europe’s Great Libraries Didn’t Stand a Chance... In Either of the World Wars.”

¹⁷ “Articles 231-247 and Annexes, Reparations.” Peace Treaty of Versailles, n.d.

<https://net.lib.byu.edu/~rdh7/wwi/versa/versa7.html>.

St. Peter at Louvain, two of which are now in the Berlin Museum and two in the Old Pinakothek at Munich.¹⁸

As explained by Michael J. Kurtz, archivist and adjunct professor at the University of Maryland, in his book *America and the Return of Nazi Contraband: Article 247 of the Treaty of Versailles* “for the first time was articulated a requirement to reintegrate works of art into a nation’s historical and artistic heritage... Through those actions, the Allies clearly established the principle of using works of art as reparations.”¹⁹

Decades later, after World War II, there was resurgence of international regulation. The war crimes committed by the Nazi Party from 1933 to 1946 left the international community scrambling for order. One of the *many* atrocities executed by the Nazi Regime was the extensive looting of cultural patrimony across Europe. According to Greg Bradsher, the National Archives and Records Administration Assistant Chief, “upwards 20% of the art of Europe was looted by the Nazis.”²⁰ The Third Reich’s actions rallied the international community together to implement a higher criterion of the prohibition regime against pillage, as pillaging was again explicitly proscribed at the Geneva Convention in 1949.²¹ As stated by Tuba Inal:

The Geneva Conventions continue to impose a high degree of obligation on state parties to observe the prohibition against pillage by both repeating the fact that it is prohibited and including “appropriation of property” (along with other war crimes) in the category of grave breaches.²²

¹⁸ “Articles 231-247 and Annexes, Reparations.”

¹⁹ Kurtz, Michael J. *America and the Return of Nazi Contraband: The Recovery of Europe’s Cultural Treasures*. 9.

²⁰ Bradsher, Greg. “Documenting Nazi Plunder of European Art.” National Archives, August 15, 2016. <https://www.archives.gov/research/holocaust/records-and-research/documenting-nazi-plunder-of-european-art.html>.

²¹ Inal, “Chapter 1 Prohibition Regimes,” 24.

²² Inal, “Chapter 1 Prohibition Regimes,” 23.

International cultural protection legislation was again reiterated at the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. This codification took the Geneva Convention a step further as it directly identified cultural property as:

monuments of architecture, art or history, archaeological sites, works of art, manuscripts, books and other objects of artistic, historical or archaeological interest, as well as scientific collections of any kind regardless of their origin or ownership.²³

The 1954 Convention not only reinstated plundering as an illegality, but it mandated its ratifiers to implement deterrence-based protocols and safeguarding measures in case of emergency (conflict or natural disaster) to protect cultural patrimony. Among several other policies, the Convention also required states to establish culture and art units within their military forces and had all culturally important monuments and buildings marked with a specific emblem of the Convention.²⁴

In the post-colonial period (1950-60s), as states in the global south were gaining their independence and establishing governments and economies separate from imperial powers, the looted antiquities trade boomed. Since these formerly colonized nations were developing their economies, which is an arduous process, poverty was rampant and widespread. Many of these emerging nations are considered “production” or “source” countries because they are rich in ancient culture, and locals took advantage. As stated by the Antiquities Coalition:

²³The Hague Convention. “1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.” UNESCO, July 25, 2021. <https://en.unesco.org/protecting-heritage/convention-and-protocols/1954-convention>.

²⁴ “1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.”

archaeological sites that local communities had preserved for millennia were being destroyed in mere months and years, the target of thieves in search of buried treasures to sell on the international black market.²⁵

Many looters, or *tombaroli* (“tomb raiders”) if in Italy, were (and are) simply motivated by the profits associated with such objects. In addition, most archeological and ancient heritage sites are located in quiet, rural areas which makes the opportunity cost for looters that much lower. However, not all looters are individuals. Organized crime syndicates, including the Mafia, have and continue to exploit these sites as funding sources. One example of the Mafia’s involvement cultural looting is described by Jason Felch and Ralph Frammolino in their book, *Chasing Aphrodite*: “the illicit trade had become so lucrative that the local Mafia in the region of Campania had begun using illegal immigrants from North Africa and Albania to dig for artifacts.”²⁶ Oftentimes, these criminal networks orchestrate the trafficking of the looted objects as well.

While the looters and traffickers damage and steal cultural heritage from local communities, nations, and the world, they do not operate alone. The looting and pillaging of cultural heritage sites would not have been (and continue to be) as prevalent a problem if the demand for antiquities was not strong. It was a poorly kept secret among museum directors and curators, and private collectors around the world that most of what they were buying during the post-war period and into the late 1960s was looted and smuggled.²⁷ These buyers fueled the black art and antiquities market with their demand

²⁵ The Antiquities Coalition. “The 1970 UNESCO Convention,” December 18, 2020. <https://storymaps.arcgis.com/stories/0bb299194fce46d38978213e04ada549>.

²⁶ Felch and Frammolino, *Chasing Aphrodite*, 184.

²⁷ Important to note: this acquisition behavior did not end with the ratification of the 1970 Convention but continues today. Collectors like Michael Steinhardt and museums such as Museum of the Bible have been recently embroiled in looted antiquities scandals that resulted in the objects being returned to their source country.

for cheap antiquities. The most notorious among these buyers was oil-tycoon and art connoisseur J. Paul Getty, however refined academics and culture-giants such as Thomas Hoving also purchased from illicit sources.²⁸

To combat this multifaceted network of criminality, that spanned from elite members of society in Western states to impoverished looters in the global south, UNESCO member states came together over the course of several months in 1969 and completed their work at the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

The 1970 Convention built upon the 1954 Convention, as it aimed to always protect cultural heritage, rather than focus specifically on wartime. As of 2022, 143 states had ratified the convention.²⁹ The 1970 Convention had three main policy measures: preventative measures, restitution provisions, and international cooperation.³⁰

Preventative measures designed to fight against illicit trafficking of cultural patrimony include:

the regular establishment of inventories; the establishment of export certificates; the application of controls and approval of traders; the application of criminal or administrative sanctions; the organization of information and education campaigns.³¹

²⁸ For more on J. Paul Getty and the Getty Museum's problematic looting scandals, read *Chasing Aphrodite: The hunt for looted antiquities at the world's richest museum* by Jason Felch and Ralph Frammolino.

²⁹ Fight Illicit Trafficking (Convention 1970). "List in Chronological Order." UNESCO. Accessed April 24, 2023. <https://www.unesco.org/en/node/66154>.

³⁰ "Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property." UNESCO, November 14, 1970.

³¹ "List in Chronological Order."

Articles 7 and 13 were the two primary provisions to focus on restitution, and the international corporation guidelines are outlined in Article 9.³² Not only did the 1970 Convention establish guidelines and protocols for individual nations to implement, but it formed five new international organizations to enhance the convention's mission: Meeting of Party States, Subsidiary Committee, UNESCO Secretariat to the 1970 Convention, UNESCO Intergovernmental Committee, and the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.³³

Even though most nations across the globe have since ratified the convention (the most recent being Malawi and Turkmenistan in 2022) it was not initially popular amongst many Western countries. As stated by University of Queensland professor, Lyndel V. Prott, in the report "Strengths and Weaknesses of the 1970 Convention: An Evaluation 40 years after its adoption:"

It has to be said that many of the States which might be designated as "holding States" because of their large public and private collections of art and artefacts, or "art market States" because the majority of commercial trade in cultural objects took place in those countries, were not enthusiastic to have such an international agreement.³⁴

The United States did not become party to the Convention until 1983, China in 1989, France in 1997, the United Kingdom and Japan in 2002, and Switzerland in 2003.³⁵ As of 2007, a Global Art Market Share by Value report showed that the United States, China,

³² "List in Chronological Order."

³³ For more on the breakdown of the 1970 Convention and the imperative need to protect culture, read "The Public Interest in Cultural Property" (1989) by John Henry Merryman published in the *California Law Review*.

³⁴ Prott, Lyndel V. "Strengths and Weaknesses of the 1970 Convention: An Evaluation 40 Years after Its Adoption." Paris: UNESCO, May 2012. 2.

³⁵ *Ibid.*

and the United Kingdom are the three largest art markets.³⁶ The 1970 Convention posed a threat to those markets and the activities of the elite collectors and cultural institutions within those nations, therefore these states were hesitant to ratify.

The 1970 Convention was the last substantial resolution issued by the United Nations to protect, preserve, and promote cultural heritage. Since then, cultural looting and trafficking has continued, especially by armed non-state actors, such as ISIS. Meaning, the international community has been relying on a 50-year-old convention to resolve a contemporary and constantly evolving problem. James Cuno, art historian and former president and CEO of the Getty Trust, states in his book *Who Owns Antiquity?* that:

It wouldn't be an exaggeration to see these many conventions as a bouillabaisse of good intentions and bureaucratic ambitions, all of which are, in the end, unenforceable, except insofar as the States Parties themselves have imposed internal laws and sanctions governing the activities addressed by the Conventions.³⁷

Ultimately, not only is the international community depending on a possibly outdated convention, but its efficacy is minimal. There needs to be adequate buy-in from member states to implement the policy recommendations, however even when this is done, it is not uniform. This allows for crimes against culture to occur with little resistance.

Not solely is cultural racketeering and plundering a despicable act in and of itself, but it often goes hand in hand with genocide. In the drafts of the 1948 United Nations' Convention on the Prevention and Punishment of the Crime of Genocide, many iterations

³⁶ Gray, Alex. "China Is Now the World's Second-Largest Market for Art." World Economic Forum, March 19, 2018. <https://www.weforum.org/agenda/2018/03/china-is-second-largest-art-market-in-world/>.

³⁷ Cuno, *Who Owns Antiquity?*, 49.

of the cultural genocide definition were workshopped. The first working draft of the Genocide Convention had a much more expansive view of what was considered cultural genocide. Article III of the draft defined cultural genocide as any “deliberate act committed with the intent to destroy the language, religion, or culture of a national, racial or religious group.”³⁸ As originally listed, there were five criteria included within that definition:

the forcible transfer of children to another human group; The forced and systematic exile of individuals representing the culture of a group; The prohibition of the use of the national language even in private intercourse; The systematic destruction of historical or religious monuments or their diversion to alien uses; The destruction or dispersion of documents and objects of historical, artistic, or religious value and of objects used in religious worship.”³⁹

While cultural genocide was ultimately excluded from the Genocide Convention definition, it remains a topic of conversation and debate within the field of genocide studies and international law.⁴⁰ Not only is it a debated subject but remains influential in understanding genocidal conflicts and how looting cultural patrimony impacts the victim population. Nations and groups that target cultural heritage are not simply attacking objects, artworks, or antiquities, but the identities of peoples.

The international legal framework established throughout the twentieth century frames the responses and behaviors of nations regarding cultural heritage protection. As Cuno alluded to, the conventions are imperfect: they are necessary for holding

³⁸ “The Genocide Convention - the Secretariat and Ad Hoc Committee Drafts.” UN Secretariat, May 1947. <http://www.preventgenocide.org/law/convention/drafts/#:~:text=II.,preventing%20its%20preservation%20or%20development.>

³⁹ Ibid.

⁴⁰ Kingston, Lindsey N. “Cultural Genocide: Law, Politics, and Global Manifestations.” Edited by Jeffrey S. Bachman. *Oxford University Press* 35, no. 2 (Fall 2021): 295. <https://muse.jhu.edu/article/836748/pdf>.

perpetrators accountable and providing policy guidelines for individual nations, but they rely heavily on “buy-in” from member states, which often results in the disjointed implementation of convention policies. In addition, crimes against cultural heritage are not qualified within the genocide convention, which limits the severity of punitive measures taken against perpetrators of cultural looting and destruction.

Chapter 2: Cultural Destruction Responses by Nations

The legal infrastructure created by the United Nations and its subsidiaries provide a framework for nations to establish their own laws, practices, and organizations to combat the looting and trafficking of art and antiquities, in peacetime or conflict. Since most of the comprehensive legislation and responses to protect culture during conflict were established post World War II, following the Nazi regime's art looting, this chapter will synopsise the Nazi regime's crimes against culture. After the contextualization, this chapter will examine the responses two independent nations have implemented to counter cultural looting and destruction during and after times of war. For representation of both great powers and weak states, as well as regional diversity, this chapter will examine two case studies: the United States and Lebanon.

Allied Response to Nazi Regime Art Looting

The Nazi Regime fixated on art and culture, both as a means to perpetuate its own agenda and as indicator of status and power. The Nazi regime's crimes against art began slowly, then all at once. Adolf Hitler (a failed artist himself as he was rejected from the Academy of Art in Vienna twice) viewed modern art, particularly that within the expressionist movement, to be degenerate. Modern art expressed raw emotion, freedom of thought, and above all, disobedience to the political and social status quo. Artworks from Picasso, Matisse, and Kokoschka (among many others) violated the traditionalist and Greco-Roman aesthetic the Nazi regime glorified. In 1937, the Nazi controlled government purged an estimated 15,550 modern artworks from German museums.⁴¹ In

⁴¹ "Degenerate Art." Tate Modern, n.d. <https://www.tate.org.uk/art/art-terms/d/degenerate-art>.

July 1937, a selection of 650 artworks from the purged collections of “degenerate art” were put on display in an exhibition titled, *Entartete Kunst*. This exhibition was intended to educate the public on the dangers of modern art and to draw attention to the correlation between Expressionism and the genetic and moral decay of certain members of society (Jews, communists, homosexuals, etc.). This exhibition marked one of the Nazi regime's first deliberate usage of art as a means of exercising power. In her book *Rape of Europa*, Lynn H Nicholas states that “before it closed on November 30 more than 2 million people poured through this exhibition, which was often so crowded that the doors had to be temporarily closed.”⁴² To this day, *Entartete Kunst* remains the most visited modern art exhibition in history.⁴³ After the exhibition, the degenerate art was either shoved away in storage or sold on the international art market at auction.

A mere five months later, on April 26, 1938, Hitler’s government issued the “Decree for the Reporting of Jewish-Owned Property” which required all Jews in both Germany and Austria (as this law passed weeks after the *Anschluss*) to register any property or assets valued at more than 5,000 *Reichsmarks*.⁴⁴ This began the second wave of “aryanization,” as it documented the wealth of every Jewish citizen in the Third Reich, which made it easier for the regime to either force the sale of these assets or steal them.⁴⁵

⁴² Nicholas, Lynn H. *The Rape of Europa: The Fate of Europe’s Treasures in the Third Reich and the Second World War*. 22.

⁴³ Tsoli, Despoina. “Entartete Kunst: The Nazi Project Against Modern Art.” *The Collector*, September 11, 2021. <https://www.thecollector.com/entartete-kunst-nazi-project-against-modern-art/>.

⁴⁴ Boissoneault, Lorraine. “A 1938 Nazi Law Forced Jews to Register Their Wealth—Making It Easier to Steal.” *Smithsonian Magazine*, April 26, 2018. <https://www.smithsonianmag.com/history/1938-nazi-law-forced-jews-register-their-wealthmaking-it-easier-steal-180968894/>.

⁴⁵ The first wave of “aryanization” began on September 15th, 1935 with the codification of the Nuremberg Laws. The Nuremberg Laws were a set of anti-semitic, racist laws that revoked German Jews citizenship, marriage and sex between Jews and persons with ‘German or related blood’ was prohibited, and ancillary orders to the laws disenfranchised Jews and stripped them of the majority of their rights. Jews lost most of their political rights and had limited protections. The Jewish population officially became the “other” in Germany and German occupied territory.

Shortly thereafter, artworks, antiquities, and artifacts were confiscated by the Nazi Regime throughout Germany and Austria from Jewish owners. If possible, some Jewish people sold their artwork under duress to immigrate from the Third Reich to avoid further prosecution or to buy themselves temporary protection.

As Jews were forced into ghettos across Germany and German occupied territory, their possessions were stolen from them. The wealthier members of the Jewish population had extensive collections of artworks and antiquities, such as the Bloch-Bauer estate which included works from the artistic genius, Gustav Klimt, were seized by the Nazi Regime. On September 1, 1939, Nazi Germany invaded Poland and began World War II. Once the Third Reich gained control over Poland, the Nazi regime began plundering from Jewish households

across the country, artworks from non-Jewish collections were also confiscated, acquired through extortion or plundered. The German army looted art objects and other cultural property belonging to aristocrats and wealthy owners in Poland, the Protectorate of Bohemia and Moravia, Hungary, and the then Soviet Union.⁴⁶

Upon Germany's invasion of Poland, France and the United Kingdom declared war on the Third Reich. In 1940, the *Einsatzstab Reichsleiter Rosenberg* (ERR) was established by the Nazi Regime and "charged with seizing Jewish and other cultural properties in occupied countries during World War II."⁴⁷ The ERR along with other high-ranking officials, like Hermann Göring or Bruno Lohse, systematically looted, cataloged, and

⁴⁶ Pasikowska-Schnass, Magdalena. "Jewish Art Collections – Nazi Looting." European Parliament, n.d. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/698872/EPRS_BRI\(2022\)698872_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/698872/EPRS_BRI(2022)698872_EN.pdf).

⁴⁷ National Archives. "The Einsatzstab Reichsleiter Rosenberg (ERR) Photographic Albums at the National Archives and Records Administration," August 15, 2016. <https://www.archives.gov/research/holocaust/international-resources/nara/err>.

stored art and antiquities throughout the German-occupied territories during the war. Not only were they looting and pillaging the countries they invaded, but signaled to the Allies that they may destroy these masterpieces. In addition, the fighting of war itself posed an immense risk to the thousands of museums, churches and cathedrals, galleries, and other cultural institutions. It wasn't until 1941 that the United States and the Soviet Union (as well as China and Japan) entered the conflict.

Naturally, the plunder and destruction of Europe's culture caused alarm among the Allied forces and civilian populations. One of the first U.S. civilian responses made was the establishment of the American Defense, Harvard Group. The group was created shortly after the fall of France in June 1940 and worked to identify and protect European art and monuments in danger of Nazi plundering or destruction. Not only were they focused on preserving European culture and architecture, but worked to provide

homes and educational opportunities for refugee British children and their mothers sent to the United States. It investigated military and naval training opportunities for students, supported selective service policies, and cooperated with the Harvard and Navy ROTC programs. The Group studied and analyzed foreign language press and radio broadcasts in New England, with readers and listeners eventually reaching a high of 200 individuals representing 35 different languages.⁴⁸

Resistance movements were prevalent throughout the occupied forces that attempted to mitigate the impacts of the Third Reich's reign of terror, most known among them being the French Resistance. One of the French Resistance members, Rose Antonia Maria

⁴⁸ "Records of American Defense, Harvard Group, 1940-1945." Harvard University Archives, n.d. <https://hollisarchives.lib.harvard.edu/repositories/4/resources/4139>.

Valland, became “French Culture’s heroine.”⁴⁹ Valland was an art historian and director of the Jeu de Paume Museum in Paris when the Nazi forces invaded and occupied the city. The ERR co-opted the Jeu de Paume Museum as a site to store and hold the “paintings and other works of art stolen from private French collectors and dealers, many of whom were Jews.”⁵⁰ Valland remained in her post and spied on the ERR theft operation and took meticulous notes of conversations she overheard (some of which included Lohse and Goering) as well as descriptions and locations of pieces that moved through the museum. In *Defending National Treasures: French Art and Heritage Under Vichy*, author Elizabeth Campbell Karlsgodt affirms that:

to the Germans, Vallad merely supervised the maintenance staff, ensuring adequate light and heat in the museum and hanging works of art. Showing remarkable courage, she also secretly worked on her own inventory of the looted works after the Germans had left the museum for the night.⁵¹

There was a significant amount of overlap between Valland’s mission and the newly established program, the Monuments, Fine Arts, and Archives (MFAA) of the Civil Affairs and Military Government Sections of the Allied armies. The Monuments, Fine Arts, and Archives program, also known as the "Monuments Men and Women," was a unit in the Civil Affairs and Military Government Sections of the Allied armies. Its purpose, which was in part inspired by the scholars behind the Harvard Defense Group, was to protect the cultural property located in and around war zones and to recover the Nazi looted art and artifacts. The unit was composed of a team of art historians, museum

⁴⁹ “Valland, Capt. Rose.” Monuments Men and Women Foundation, n.d.
<https://www.monumentsmenandwomenfnd.org/valland-capt-rose>.

⁵⁰ Ibid.

⁵¹ Karlsgodt, *Defending National Treasures*, 205.

curators, and other cultural experts who were deployed throughout Europe to locate and safeguard cultural property. Some of the notable pieces the Monuments Officers rescued or protected include the *Mona Lisa* and the *Last Supper* mural by Leonardo di Vinci, panels of the Ghent Altarpiece, and Michelangelo's *Madonna of Bruges*.⁵²

Throughout the war, the Allied forces also worked to prevent the destruction of cultural heritage by making a concerted effort to avoid bombing historical and cultural sites whenever possible. Unfortunately, this was not always successful, as demonstrated by the bombings of Dresden (Feb 13, 1945 – Feb 15, 1945). The Nazi regime often hid looted artworks and antiquities in mines, garages, and storage facilities. Allied forces would sometimes bomb such sites, unknowing of what was held within.

After the liberation of Paris in 1944, Valland cooperated with Monuments Man Capt. James Rorimer to use her notes from the occupation to recover stolen artworks and objects across Europe.⁵³ Her work unilaterally saved hundreds of invaluable pieces, spanning thousands of years of human achievement. After the war's end, in September 1945, the Monuments Officers' work was not complete — there were still many pieces to recover and retribute. Up to the present, organizations and individuals are still working to find some of the looted artworks such as the *Portrait of a Young Man* by Raphael or the *Vase of Flowers and a Bird's Nest* by Jan van Huysum.⁵⁴ These invaluable masterpieces,

⁵² Willett-Wei, Megan. "These Incredible Works Of Art Were Saved By The Real-Life 'Monuments Men' Of WWII." Business Insider. Accessed April 24, 2023. <https://www.businessinsider.com/monuments-men-famous-works-of-art-2014-2>.

⁵³ "Valland, Capt. Rose."

⁵⁴ "WWII Most Wanted Art." Monuments Men and Women Foundation, n.d. <https://www.monumentsmenandwomenfnd.org/wwii-most-wanted>.

among hundreds of others, still remain lost. Furthermore, decedents, lawyers, and experts work to have the recovered stolen works restituted to their rightful owners.

The Nazi regime's systematic and comprehensive looting of Europe's artworks and antiquities, predominately stolen from the Jewish population, was the first case in recent history that a major power utilized culture to (1) commit genocide, and (2) to threaten other major powers. This case forced nations to pay attention at the impacts of cultural looting and destruction, which in turn catalyzed the 1954 and 1970 Conventions.

The United States

The United States has implemented more initiatives than perhaps any other country to counteract the looting and destruction of cultural heritage, both at home and abroad. As previously stated, the United States was instrumental in the creation of the Monuments, Fine Arts, and Archives program, as it was established out of the U.S Roberts Commission. Some of the key figures in the unit were Americans, such as George Stout, James Rorimer, and Mason Hammond.⁵⁵ In 1954, the United States acceded to the Convention on the Protection of Cultural Property in the Event of Armed Conflict. One of the action items that resulted from that ratification was placing an emphasis in the US security apparatus on protecting cultural property during war, as "Several sections in the DoD Law of War Manual focus on the protection of cultural

⁵⁵ George Stout was an American art conservator and during his service in the "Monuments Men and Women" was instrumental in the recovery of many artworks and operated on the front lines helping to rescue cultural treasures in places like Caen, Maastricht, and Aachen. James Rorimer was an American museum curator and director who served as a captain in the Monuments Officers. He played a key role in the discovery of the Heilbronn and Kochendorf mines, which contained tens of thousands of artworks and other cultural objects (among many other notable victories). Mason Hammond was an American classics professor who managed the MFAA office in Barbizon, France (outside of Paris).

property.”⁵⁶ This emphasis is actualized through training of military personnel and cultural protection policies in war operations. These trainings and policies include identifying cultural property and avoiding or minimizing damage to it. The Department of Defense also

collaborates with other U.S. Government departments and agencies involved in the protection of cultural property. This includes the Department of State’s Bureau of Educational and Cultural Affairs, which chairs both the Interagency Cultural Heritage Coordinating Committee and the congressionally mandated Cultural Antiquities Task Force.⁵⁷

More recently in 2016, the 10th Mountain Division in Fort Drum, New York began consulting with the Cultural Resources Branch of the US Military to better train their officers for operating in and around archeological sites.⁵⁸ In addition, on August 12, 2022, the first class of Monuments Officers completed the US Army Monuments Officers Training (AMOT) after 71 years since the last Monuments Officers left Europe.⁵⁹ These officers will be tasked with protecting the cultural treasures of the territories in which they operate, which is a major step forward in the protection of culture. Alongside the military ordinances revolving around culture, the United States also formed several subsidiary law enforcement agencies in the twenty-first century, such as the FBI Art Crime Team (which is described in Chapter 3) and the ICE Cultural

⁵⁶ Anderson, Luke. “United States, Training of Military Personnel on the Protection of Cultural Heritage.” International Committee of the Red Cross. Accessed April 24, 2023. <https://ihl.in/case-study/united-states-training-military-personnel-protection-cultural-heritage>.

⁵⁷ Anderson, “United States, Training of Military Personnel on the Protection of Cultural Heritage.”

⁵⁸ Ibid.

⁵⁹ “A Renewed Commitment to the Preservation of Culture: The 21st Century Monuments Men and Women.” Monuments Men and Women Foundation, August 17, 2022. <https://www.monumentsmenandwomenfnd.org/post/a-renewed-commitment-to-the-preservation-of-culture>.

Property, Art, and Antiquity Program.

While DOD, the FBI, and ICE are military or law enforcement agencies, the United States has also established chapters of soft power international organizations. One of which is the US Committee of the Blue Shield, it works to protect cultural property during armed conflict by training and providing support to cultural heritage professionals, advocates for the protection of cultural sites, and recommends and drafts policies for state or national legislation. The US Committee of the Blue Shield has been urging the U.S. military to establish a no-strike list, that would identify cultural property that should be avoided during military operations.⁶⁰

In addition, the United States, through the Smithsonian Institute, created the Smithsonian Cultural Rescue Initiative. It is a program that works to safeguard cultural heritage sites and objects during crisis by providing training, support, and resources to local groups on the ground. Organizations such as the American Association for State and Local History (AASLH), the National Trust for Historic Preservation, and the National Endowment for the Arts and Humanities (the NEA and NEH) also work on issues of cultural heritage protection and preservation. Finally, the United States funds a multitude of international organizations and multinational institutions that work to combat these issues across the globe.

Motivated and urged to respond to the issue of cultural looting during World

⁶⁰ Stone, Peter. "War and Heritage: Using Inventories to Protect Cultural Property." The Getty Conservation Institute, Fall 2013.
https://www.getty.edu/conservation/publications_resources/newsletters/28_2/war_heritage.html.

War II, the United States has gone to farther lengths than most nations to protect culture, both at home and abroad.

Lebanon

While many Western nations were motivated to establish national agencies, units, or policies to protect culture during conflict in response to the atrocities committed by the Nazi Regime, many more countries created their programs after the 1954 and 1970 Conventions or after experiencing the negative effects of cultural destruction during wartime themselves. One of these nations was Lebanon.

For fifteen years, from 1975 to 1990, Lebanon was embroiled in a civil conflict. The civil war cost 150,000 lives, injured 300,000, and led to the emigration of almost a million people.⁶¹ Like most wars, there were a number of deeply rooted and multidimensional reasons behind its onset, however all of them can be boiled down to insecurity.⁶² The government under Fuad Chehab had increased the power of the state's security apparatus, which then gained an unfavorable reputation for oppression and corruption, especially among the Palestinian refugee population. In response, the Palestinian Liberation Organization began mobilizing in the refugee camps and began militarizing. The unrest this caused came to a head on

April 13, 1975, when the Phalangists attacked a bus taking Palestinians to a refugee camp at Tall al-Za'tar, Lebanon. The attack escalated an intermittent cycle of violence into a more general battle between the Phalangists [those that supported the Lebanese government] and the LNM, whose coalition of Lebanese leftists and Muslims supported the PLO's cause. In the months that followed, the

⁶¹ Gaub, Florence. "Lebanon's Civil War: Seven Lessons Forty Years On." European Union Institute for Security Studies, April 2015.

https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert_21_Lebanon_civil_war.pdf.

⁶² "Lebanese Civil War." Britannica, n.d. <https://www.britannica.com/event/Lebanese-Civil-War>.

general destruction of the central market area of Beirut was marked by the emergence of a “green line” between Muslim West Beirut and Christian East Beirut, which persisted until the end of the civil war in 1990, with each side under the control of its respective militias.⁶³

During this civil war, an immense amount of cultural heritage was destroyed and unearthed. While the scope of the devastation was extensive, the precise number of destroyed sites and objects remain unknown. One indicator of the devastation was the number of traditional and historic buildings that remained intact post-war. Of the 1,000 buildings identified by the Lebanese government for having cultural or historic significance, only 300 remained.⁶⁴ In the mid-1990s, Lebanon allowed for archeological teams from across the world to assist with the excavation and restoration of the various cultural sites throughout the country.⁶⁵ Through the Getty Conservation Institute, Iraqi archaeologist Selma Al-Radi, reported on these projects and recorded some of the damage done to the sites:

The Phoenician and Roman port of Tyre was seriously affected by the civil war. Its spectacular panorama—sweeping views of ruins set against the backdrop of the Mediterranean Sea—has been sullied by jerry-built constructions illegally thrown up during the war. Ten- and twelve-story buildings of cement and cinder blocks abut the walls of the Roman hippodrome and necropolis, intruding into the boundaries of ancient Tyre. Presumably, inhabitants of these buildings were also responsible for pillaging and vandalizing some of the sarcophagi in the necropolis. Many other sites around the old town were looted, including a unique Phoenician infant cemetery. Frequent Israeli air raids and the 1983 invasion have also left their mark on both Tyre and Sidon.⁶⁶

⁶³ “Lebanese Civil War.”

⁶⁴ Wood, Josh. “Fifteen Years of War Couldn’t Destroy Beirut’s Heritage, But a Construction Bonanza Might.” *Next City*, December 16, 2013. <https://nextcity.org/urbanist-news/fifteen-years-of-war-couldnt-destroy-beirut-heritage-but-a-construction-bo>.

⁶⁵ Al-Radi, Selma. “In the Aftermath of Civil War: Cultural Heritage in Lebanon.” *The Getty Conservation Institute*. Accessed April 24, 2023. https://www.getty.edu/conservation/publications_resources/newsletters/11_1/news2_1.html.

⁶⁶ Al-Radi, “In the Aftermath of Civil War: Cultural Heritage in Lebanon.”

Unsurprisingly, the sites were not only damaged from the bombings and bullets, but from the pillaging sparked by the economic insecurity of war. In addition to allowing archaeologists to excavate after the war's end, Lebanon also established the independent agency, Solidere, that was responsible for the reconstruction and development of Beirut's central district (which was one of the most heavily damaged areas).⁶⁷

It wasn't until 2017 that the Lebanese government established their chapter of the Emergency Heritage Management Response Program with the assistance of the ICOM. The program aims to safeguard and restore damaged cultural sites, provide training for cultural heritage professionals, and raise awareness about the importance of cultural heritage in building peace. Even though the most widespread damage to culture was caused by the civil war, Lebanon was motivated to take further action to protect its cultural heritage after a series of natural disasters and explosions occurred in the late 2010s. Lebanon ratified the 1954 Convention in 2019, and “undertook a commitment to build up proper measures to develop a national policy to secure natural and cultural heritage from any type of hazards, ranging from earthquakes, fire and floods, to social unrest and conflicts.”⁶⁸

While Lebanon's response was slow moving, it is finally taking the necessary steps to preserve and protect its cultural heritage, both through its own measures and via partnerships with UNESCO and Blue Shield International. Lebanon's cultural heritage protection policy evolution mirrors that of many countries in the global south. Either for a

⁶⁷ “In the Aftermath of Civil War: Cultural Heritage in Lebanon.”

⁶⁸ “UNESCO Revives the Lebanese Army's Interest in the Protection of Cultural Property .” UNESCO, November 11, 2021. <https://www.unesco.org/en/articles/unesco-revives-lebanese-armys-interest-protection-cultural-property>.

lack of political will or resources, culture does not list high on the totem pole of priorities. For these nations to act, it requires significant cataclysmic events with devastating consequences for cultural heritage sites for the issue to be considered significant enough to prioritize.

Chapter 3: Art Crime Efforts

Cultural looting and destruction not only occurs during times of war and conflict, but during times of peace as well. Art crime, since the twentieth century, has been on the rise. As stated in the *New York Times* Bestseller, *Priceless*, by the founder of the FBI Art Crime Team, Robert K. Wittman, “master paintings and great art have always been considered ‘priceless,’ but it wasn’t until the mid-twentieth century that their dollar value began a steep climb...As values rose, so did theft.”⁶⁹ The art market, alongside that of drugs and arms, is one of the most unregulated. While this has its benefits, it also presents more opportunities for criminals to exploit. In order to understand how nations, as well as the international community, can better protect culture during wartime there must be an understanding of how it’s countered during peacetime. There are hundreds of organizations that are involved in responding to art crime throughout the world, however the most influential among them are Interpol, UNESCO, the FBI Art Crime Team, the Carabinieri Art Squad, and the Art Loss Register. These organizations span the gamut of types of international organizations — from multinational institutions to private NGOs.

The two organizations that are multinational, in their membership, funding, and jurisdictional scope, are INTERPOL and UNESCO. The International Criminal Police Organization (INTERPOL) has a dedicated Art Crime Unit that works to prevent and investigate art theft, trafficking, and other culturally related crimes. INTERPOL also collaborates with law enforcement agencies and cultural heritage organizations around the world to recover stolen artworks and prosecute criminals. While INTERPOL is based in law enforcement, the UNESCO is predominately responsible for education and policy

⁶⁹ Wittman, *Priceless: How I Went Undercover to Rescue the World’s Stolen Treasures*, 16.

recommendations. The United Nations Educational, Scientific and Cultural Organization (UNESCO) promotes cultural diversity and advocates for the protection of cultural heritage sites, including museums, art collections, archeological sites, and more.

UNESCO works with member states to prevent the illicit trafficking of cultural property and to facilitate international cooperation in the fight against art crime, mainly through educational initiatives and policy recommendations.

Two of the organizations highlighted are art crime units from law enforcement agencies within the United States and Italy. The Federal Bureau of Investigation (FBI) in the United States has an Art Crime Team that investigates thefts and fraud involving art and cultural property. The team works closely with other law enforcement agencies and cultural heritage organizations to recover stolen art and prosecute criminals. In addition to the FBI Art Crime Team, another US agency, ICE's Homeland Security Investigations (HSI), has a specialized unit called the Cultural Property, Art and Antiquities Program. The Comando Carabinieri Tutela Patrimonio Culturale (TPC), more commonly referred to as the Carabinieri Art Squad, is a specialized unit of the Italian police force that is dedicated to protecting Italy's cultural patrimony. The unit investigates art thefts, forgeries, and lootings and has been involved in the recovery of hundreds of thousands of looted artworks and objects, both within Italy and across the globe.

Finally, the last organization mentioned is the Art Loss Register, which is classified as a private, non-governmental organization. While the previously mentioned agencies and organizations were affiliated either with specific governments or are multinational institutions, the Art Loss Register is an independent organization that maintains a database of stolen and missing artworks. The Register works with law

enforcement agencies (including INTERPOL, the FBI Art Crime Team and Carabinieri), art auction houses, dealers, and collectors to help recover stolen art and prevent the sale of stolen artworks.

This section aims to (1) examine these organizations and their responses to art crime during peacetime; (2) and analyze how their work is insufficient, or underutilized, during wartime.

INTERPOL

The International Criminal Police Organization (INTERPOL) is the primary international organization responsible for investigating art and antiquities crime throughout the world. It was established in 1923 to facilitate cross-border law enforcement in an increasingly globalized world. Composed of 195 member countries, INTERPOL enables the cooperation and sharing of data, technology, and operational support among them.⁷⁰ INTERPOL works on a wide range of crimes, including the theft, looting and trafficking of cultural property and artwork. Beginning in 1946, “INTERPOL began assisting law enforcement agencies worldwide in fighting the theft and trafficking of cultural property, and published the first international notice regarding the

⁷⁰ “What Is INTERPOL?” INTERPOL. Accessed April 24, 2023. <https://www.interpol.int/en/Who-we-are/What-is-INTERPOL>.

most wanted stolen objects of art.”⁷¹ INTERPOL fights to protect cultural heritage through a number of methods, both preventative and reactive. The following are some of the preventative art and antiquities crime measures INTERPOL utilizes:

1. Database of “Stolen Works of Art”: INTERPOL maintains a database of stolen works of art, which is accessible to law enforcement agencies worldwide. This database contains information on stolen cultural property, including images and descriptions, making it easier for law enforcement to identify and recover stolen items.
 - a. ID Art – INTERPOL’s first app: In 2021, INTERPOL launched their first-ever public app, geared at identifying stolen cultural property, reducing illicit trafficking, and increasing the engagement of the public to recover stolen objects.⁷² Since its inception, ID-Art has been downloaded over 24,000 times in 170 countries. The app provides users the ability to view artworks, objects, and antiquities in the “Stolen Works of Art” database. As a result of the app, specialized police forces have been able to recover 15 cultural objects including: “two statues recovered in Italy, two paintings in the Netherlands, a 13th century crucifix in Romania, three gold coins from the Roman Empire in Spain, as well as two Renaissance panels painted in 1540 in Spain.”⁷³

⁷¹ “CREATING A NATIONAL CULTURAL HERITAGE UNIT.” INTERPOL, January 2019.6. file:///Users/mollyluce/Downloads/WOA_CreatingNationalCulturalHeritageUnit_brochure_2019-01_EN-LR.pdf.

⁷² “ID-Art Mobile App.” INTERPOL. <https://www.interpol.int/Crimes/Cultural-heritage-crime/ID-Art-mobile-app>.

⁷³ “ID-Art, INTERPOL’s First App, Turns One Year Old.” INTERPOL. <https://www.interpol.int/News-and-Events/News/2022/ID-Art-INTERPOL-s-first-App-turns-one-year-old>.

2. Capacity building: INTERPOL provides training and support to law enforcement agencies, museum professionals, and other stakeholders to improve their ability to prevent and investigate cultural property theft and trafficking. INTERPOL assists law enforcement agencies on understanding the unique nature of art and culture crimes and its vast scope. To better equip museums and other cultural institutions, INTERPOL will consult to maximize their security systems and improve their acquisition policies.
3. Public awareness campaigns: while not a major focus of the agency, INTERPOL works to raise awareness of the importance of protecting cultural heritage. Through social media initiatives and other public engagement campaigns, INTERPOL encourages the public to report any suspicious activity related to the theft or trafficking of cultural property, often in conjunction with organizations listed below.
4. Partnerships with other organizations: INTERPOL collaborates with hundreds of other organizations, such as UNESCO and the International Council of Museums (ICOM), to develop and implement initiatives to protect cultural heritage, raise public awareness and engagement, and to recover stolen objects.

Beyond the preventative tactics utilized by INTERPOL, there are also a couple of reactive countermeasures in place. The most important among these is the Red Notice system. This system allows INTERPOL to issue a global alert to member countries about stolen cultural property or artwork, usually involving a request to locate and provisionally arrest someone.⁷⁴ This helps to prevent the illicit trafficking of stolen items and increases

⁷⁴ “About Red Notices.” INTERPOL, n.d. <https://www.interpol.int/en/How-we-work/Notices/About-Red-Notices>.

the chances of their recovery. As of 2020, INTERPOL recovered “19,000 archaeological artifacts and other artworks” and “101 suspects have been arrested, and 300 investigations opened” during a united crackdown against cultural crimes spanning 103 countries.⁷⁵

The work INTERPOL has done to prevent and punish cultural heritage crimes has been extensive, however due to the vastness of the organization, it experiences a few pitfalls. According to Dr. Temitope Francis Abiodun and Dr. Tunde Abioro in their article “Roles And Challenges Of International Criminal Police Organization (Interpol) In Investigation Of Crimes And Maintenance Of Global Security,” INTERPOL struggles with a few challenges which include: bias, politically-motivated arrests/harassment of oppositions; involvement in multi-billion deals with culprits; corruption; unfair trials amongst others.⁷⁶ These obstacles are not universal throughout the agency, but they do have the potential to impact art crime countermeasures. Regardless of the agency’s internal issues (which, to a certain extent, all multinational organizations struggle with), INTERPOL is the leading international law enforcement agency in investigating and prosecuting cultural crimes.

⁷⁵ “101 Arrested and 19,000 Stolen Artefacts Recovered in International Crackdown on Art Trafficking.” INTERPOL, May 6, 2020. <https://www.interpol.int/en/News-and-Events/News/2020/101-arrested-and-19-000-stolen-artefacts-recovered-in-international-crackdown-on-art-trafficking>.

⁷⁶ Abiodun, Temitope Francis, and Abioro Tunde. “Roles And Challenges Of International Criminal Police Organization (Interpol) In Investigation Of Crimes And Maintenance Of Global Security,” July 2020. 7. https://www.researchgate.net/publication/342625552_Roles_And_Challenges_Of_International_Criminal_Police_Organization_Interpol_In_Investigation_Of_Crimes_And_Maintenance_Of_Global_Security.

UNESCO

The United Nations Educational, Scientific and Cultural Organization (UNESCO) is a specialized agency of the United Nations that focuses on educational initiatives, cultural preservation, and equality issues. UNESCO is responsible for the protection of culture (particularly places classified as World Heritage Sites) regardless of conflict status. As stated in Chapter 1, the Hague Convention of 1954 and 1970 establish that the looting, trafficking, and destruction of cultural patrimony is illegal, and UNESCO is the UN specialized agency responsible for that oversight. As declared in the preamble of the 1954 Hague Convention, which serves as a motto for the organization, “damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world”⁷⁷

To counter crimes against cultural heritage sites and objects, UNESCO utilizes five, soft power strategies:

1. Raising awareness: UNESCO works to raise awareness about the importance of cultural heritage and the need to protect it. This comes in the form of conferences, social media campaigns, educational initiatives, and other promotions. They engage with the public, governments, and civil society organizations to promote understanding and respect for cultural heritage and urge for its protection and preservation.

⁷⁷ “CONVENTION FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT WITH REGULATIONS FOR THE EXECUTION OF THE CONVENTION.” The Hague, May 14, 1954. https://en.unesco.org/sites/default/files/1954_Convention_EN_2020.pdf.

2. Developing international conventions: As previously stated, UNESCO has developed several international conventions, including the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which aims to prevent the trafficking of cultural artifacts. Despite the rise of cultural racketeering in the past twenty years, UNESCO has not attempted to draft another convention more applicable to countering the recent atrocities.
3. Monitoring and reporting: UNESCO monitors cultural heritage sites and reports on any damage or destruction by working closely with national authorities, law enforcement agencies, and other non-governmental international organizations to prevent and respond to any threats. Often this involves the usage of satellite data, particularly with cases of cultural racketeering in West Asia, and comparing the sites' statuses over time.
4. Capacity building: Similar to INTERPOL's capacity building, UNESCO provides technical assistance and training to member states to build their capacity to protect cultural heritage. This includes providing guidance on risk assessments, emergency preparedness, and conservation techniques. Oftentimes, UNESCO will establish field offices in nations that have specific missions and thematic goals regarding education, culture, science, or equality, to better assist them.⁷⁸
5. Advocacy and mobilization: Alongside raising awareness, advocacy and mobilization is what UNESCO thrives at. UNESCO advocates for the protection

⁷⁸ "Field Offices." UNESCO. <https://en.unesco.org/fieldoffice>.

of cultural heritage at the international level, mobilizes support for protection efforts, and works to secure funding for conservation and restoration.

The purview of UNESCO is incredibly wide, and while it is one of the leading international actors countering the looting and destruction of cultural heritage, it is quite ineffective. There are a number of reasons for this, however they all boil down to the issue of national sovereignty. UNESCO can only assist in cultural protection and preservation measures as long as a nation prioritizes it. Even if a nation's government consents to UNESCO's assistance, conflicting interests within municipalities may impact the level of interaction UNESCO staff has with local law enforcement and authorities. In those cases, any programs or initiatives UNESCO wanted to implement would be paused, or worse, abandoned. UN agencies, or any international organization, cannot supersede an individual nation's sovereignty. In the case of cultural protection and preservation, this can have dire consequences.

Not only are the effectiveness of UNESCO's cultural protection policies up to individual states, but even UNESCO has limited resources. Despite having a budget (in 2022-2023) of \$244,933,236, only 16% was allocated to cultural programming.⁷⁹ There are hundreds of cultural initiatives spearheaded by UNESCO, and not all of them involve the protection of cultural heritage sites or responding to art crime. Beyond the stretched budget, UNESCO staff members are also dispersed, both locationally and workwise, among a wide range of places and programs. The UNESCO 2022 Staff report indicates that only 16% of all UNESCO staff members (in field offices and in its headquarters)

⁷⁹ "1 C/5 Approved Programme and Budget 2022-2025: First Biennium 2022-2023," 19.

focus on cultural issues (and similarly to the budget allocations, not all cultural programs are protective).⁸⁰

Despite these limitations, UNESCO serves a crucial role in combating cultural and art-related crimes. The institutional legitimacy provided by UNESCO in conjunction with its connections and (while often not adequately allocated to culture) resources, is important in raising awareness and collaborating with other organizations to better serve humanity's heritage.

FBI Art Crime Team

The FBI's Art Crime Team is a specialized unit within the FBI's Criminal Division that is responsible for investigating and recovering stolen artwork and cultural property. The team was founded in 2004 in response to the growing problem of art theft and the illicit trafficking of cultural property in the Middle East and Mediterranean regions.⁸¹ The two major cases that motivated the Art Crime Team's establishment were the Isabella Stewart Gardner Museum Heist and the looting of the Iraq Museum during the US Invasion in 2003.

The Art Crime Team is made up of FBI special agents who have received specialized training in art and cultural property investigations, as well as experts in art history, archaeology, and other culturally related fields. They work closely with local and international law enforcement agencies (most especially INTERPOL and the

⁸⁰ "Key Data on UNESCO Staff," 8.

⁸¹ Sabba, Jr. Charles Vincent. "Thanks to the Gardner Museum Heist, the FBI Art Crime Unit Was Created." *VNY La Voce Di New York* (blog), April 4, 2023.

<https://lavocedinewyork.com/en/arts/2023/04/04/thanks-to-the-gardner-museum-heist-the-fbi-art-crime-unit-was-created/>.

Carabinieri), as well as art dealers, collectors, and other members of the art community, to identify and recover stolen artwork and cultural property. Since its inception, the FBI Art Crime team has “recovered over 15,000 pieces with an estimated value of over \$800 million.”⁸²

The team's investigations involve a range of activities, including conducting interviews, analyzing forensic evidence, and tracking down stolen items through the black market. Similar to the work of INTERPOL and UNESCO, the FBI Art Crime Team also works to educate and engage the public about the importance of cultural heritage and the need to protect it from theft and illicit trafficking. In addition to investigating art theft and trafficking, the Art Crime Team plays a crucial role in preventing these crimes by providing training and resources to law enforcement agencies and the public. One of the Art Crime Team’s most influential contributions has been creating acquisition guidelines for private collectors or even museums. Some of those criteria include:

Get a complete provenance or chain of custody on each piece to find out where the art came from originally....Research the dealer carefully. Find out if they sell only online or if they have a gallery...For pieces you already own, you can go back to the gallery and ask for provenance on your print.⁸³

Furthermore, the FBI Art Crimes Unit works with museums, galleries, and other institutions to develop security plans and best practices for protecting cultural property. These specific responsibilities are in conjunction with the investigation and prosecution done by the FBI more generally.

⁸² Thanks to the Gardner Museum Heist, the FBI Art Crime Unit Was Created.”

⁸³ Charney, *Art and Crime*, 112.

Despite the FBI Art Crime Unit being a national team based in the United States, it works on cases from across the globe. Some of the world's most prolific art and antiquities collectors and museums are based in the United States, which often grants the FBI jurisdiction. As stated by Special Agent Allen Grove of the FBI Art Crime Unit in an interview with the *New York Times*:

It [art crime] is also something that the F.B.I. can uniquely cover. We're a national organization, but also we have global contacts throughout the government. And it does become complicated, especially with the antiquities trade, which has its tentacles in all types of countries and various dubious entities.⁸⁴

More often, the FBI Art Crime Team is asked to consult on cases, such as looting of the Iraq Museum or the thefts of the Bührle Collection in Switzerland.⁸⁵ Despite being less than 20 years old, the FBI Art Crime Team has recovered invaluable pieces of cultural patrimony and artworks, making it one of the most effective art recovery agencies in the world.

Carabinieri Art Squad

The Comando Carabinieri Tutela Patrimonio Culturale (TPC), widely recognized as the Carabinieri Art Squad, is the branch of the Italian Carabinieri responsible for countering art and antiquities crime. Created in 1969, a year prior to the 1970 Convention, it was one of the first programs of its kind.

⁸⁴ Stevens, Matt. "The F.B.I. Has an Art Crime Team. And These Days, It's Busy." *The New York Times*, March 13, 2023, sec. Arts. <https://www.nytimes.com/2023/03/13/arts/fbi-art-crime-team.html>.

⁸⁵ Federal Bureau of Investigation. "FBI Art Theft Program." Video. <https://www.fbi.gov/video-repository/newss-fbi-art-theft-program/view>.

The Carabinieri Art Squad was established in the shadow of Mussolini's fascist cultural patrimony policies as well as Italy's struggle with World War II restitution.⁸⁶ Emerging from World War II, Italy was amidst the strenuous process of restituting their cultural patrimony which had been expelled from Italy by the *Kunstschut* unit of the Nazi armed forces.⁸⁷ Rodolfo Siviero, who was made the "minister plenipotentiary" of Italy in 1946, worked diligently, if not aggressively, to have Italy's cultural works returned. By 1969, the strong valuation placed on culture was heavily embodied in Italy's national psyche.

The Carabinieri Art Squad is responsible for a multitude of issues that fall under the category of cultural crime; therefore, the team is extensive. The Carabinieri Art Squad has a central headquarters divided into three operational purviews (archaeology, antique, modern art and counterfeiting) along with 15 field offices and units called Nuclei.⁸⁸ To combat crimes against cultural heritage, the Carabinieri conducts

special investigations aimed at identifying perpetrators of crimes against cultural heritage – theft, receiving stolen property, unauthorized archaeological research, counterfeiting and forging – and at recovering unlawfully removed goods; Monitoring land and marine archaeological sites, as well as areas of scenic interest and UNESCO World Heritage sites, using aircraft, horse-mounted units, patrol boats and scuba divers; Monitoring commercial activities and fairs/markets where the sale and purchase of cultural property occur; Checks on security measures in museums, libraries and archives; Checks on the catalogues of auction

⁸⁶ Benito Mussolini implemented several cultural policies, firmly rooted in an anti-liberalism sentiment and in Italy's ancient past. Some of these regulations involved strict laws on the exportation and identification of Italy's cultural patrimony (artworks, artifacts, and other cultural objects). It is debated whether these policies and manipulation of culture were fascist or nationalist: for more read Philip V. Cannistraro's *Journal of Contemporary History* article "Mussolini's Cultural Revolution: Fascist or Nationalist?" (1972).

⁸⁷ The German word for the protection of art culture, which during the Second World War under Nazi orders, resulted in the shipping of Italian artworks to Germany. As stated in the book *Saving Italy* by Robert M. Edsel, "almost two years [after war's end] would pass before the paintings and sculpture belonging to the Naples museums were turned over to Italy's designated representative, Rodolfo Siviero." Edsel, *Saving Italy*, 324.

⁸⁸ "CREATING A NATIONAL CULTURAL HERITAGE UNIT," 10.

houses and e-commerce sites; Management of the database of unlawfully removed cultural assets; Providing expert advice to MiBACT and, consequently, to the central and peripheral offices of the Ministry; Participating in national and international crisis and coordination units for the safety and recovery of artworks and cultural property in areas affected by natural disasters.⁸⁹

The Carabinieri is perhaps the only specialized art crime force in the world that engages in the most comprehensive art crime responses. The list above only scratches the surface of the work the Carabinieri does, especially considering the profound impact of those mechanisms. Noah Charney, an American art historian and expert on art crime, stated in the chapter “Art Crime in Context” from *Art and Crime: Exploring the Dark Side of the Art World* that: “Only Italy, with its Carabinieri Division for the Protection of Cultural Heritage, seems to take art crime as seriously as it should. They have over 300 full-time agents, and by far the best recovery rate of any country on art cases.”⁹⁰ As of June 2022, the Carabinieri had “recovered so far more than 3 million cultural goods and...also seized more than 1.3 million fake works of art.”⁹¹

Similar to that of INTERPOL, the Carabinieri also has a database. While INTERPOL only has descriptions and images of the artworks and objects stolen or missing, the Carabinieri also documents *events* of cultural crimes in addition to recording the stolen or missing art and antiquities. In 2019, the database held records of “176,976 events, some 6.2 million objects and more than 615,220 images.”⁹² In addition, the Carabinieri Art Squad also consults and works on cases abroad with other local law enforcement agencies and governments. The Carabinieri Art Squad’s long tenure has

⁸⁹ “CREATING A NATIONAL CULTURAL HERITAGE UNIT,” 11.

⁹⁰ Charney, *Art and Crime*, XXV.

⁹¹ VOA. “New Museum Opens in Rome for Recovered Art,” June 25, 2022.

<https://www.voanews.com/a/new-museum-opens-in-rome-for-recovered-art-/6629907.html>.

⁹² “CREATING A NATIONAL CULTURAL HERITAGE UNIT,” 12.

allowed it to refine its practices and techniques to best recover Italy's cultural patrimony and share that information with specialized forces and organizations across the globe.

Art Loss Register

The Art Loss Register (ALR), founded in 1990, is the world's largest database of stolen art, antiquities, and collectibles.⁹³ Initially established as a non-profit for auction houses to verify their works, it quickly morphed into a for profit business under the leadership of Julian Radcliffe. The ALR was derived from the organization, The International Foundation for Art Research (IFAR), and was established to serve three main purposes: (1) to verify an artwork's provenance through diligent research with the Provenance Research team in conjunction with the database; (2) to report the theft or loss of artworks and document them; and (3) assist in the recoveries of artworks. These functions rely heavily on the extensive database of stolen or lost cultural objects, which lists more than 700,000.⁹⁴ The Register serves not only victims of the looting or missing pieces, but law enforcement agencies and governments, such as those of Italy, Bolivia, Afghanistan, Egypt, Lebanon, Algeria and India (among others). While the Art Loss Register is a database for any type of missing artwork or artifact, it specializes in Nazi restitution cases. These are predominantly looted artworks or subjects of duress sales from the period of 1933-45, as explained in Chapter 2.

While the ALR provides a necessary service, to ensure potential sales are legitimate and to report missing objects, "due diligence" or art crime research cannot start and end with the database. As stated by David W. J. Gill in the chapter "Homecomings:

⁹³ Art Loss Register. "About Us." <https://www.artloss.com/about-us/>.

⁹⁴ Art Loss Register. "About Us."

Learning from the Return of Antiquities to Italy” from *Art and Crime: Exploring the Dark Side of the Art World*:

A database is only as good as the data within it. If an object has been stolen from a recorded museum or private collection, then there is a strong likelihood that there will be images and descriptions [that] can be made available to the ALR. However, a recently surfaced antiquity, perhaps last seen as it was being placed in an Etruscan grave around 500 BCE, will not appear in the ALR database...Although a database is a useful tool, it is also a partial one.⁹⁵

Not only is it only a half measure, the ALR can be exploited by criminals. Through the Art Loss Register, provenance verification certificates are issued to pieces that aren't in their database, indicating that they are free from loss or theft claims. Unfortunately, this can be used to forge provenances of stolen artworks and antiquities, as criminals provide the ALR with false information to obtain the certification of legitimacy. Tragically, there have been many cases of this.

One such case involves now-disgraced art dealer Subhash Kapoor, who in 2022 was sentenced to 10 years in prison for the burglary and illegal export of idols belonging to the Varadharaja Perumal temple.⁹⁶ Kapoor obtained ALR certificates for some of these stolen antiquities, which were then sold out of his Manhattan art gallery, Art of the Past. In response to Kapoor's deception James Ratcliffe, the Art Loss Register's Director of Recoveries and general counsel, stated:

Certificates were indeed issued to Mr Kapoor's gallery. None of the items for which a search had been submitted were on our database... Indeed, in some cases

⁹⁵ Gill, David W. J. "Homecomings: Learning from the Return of Antiquities to Italy." In *Art and Crime: Exploring the Dark Side of the Art World*, 20–21.

⁹⁶ Solomon, Tessa. "Antiquities Dealer Subhash Kapoor Sentenced to 10 Years in Prison by Indian Court." *ARTnews.Com* (blog), November 2, 2022. <https://www.artnews.com/art-news/news/subhash-kapoor-sentenced-prison-india-1234645200/>.

the provenance provided to us by Mr Kapoor was false...Our certificates make clear that not all thefts are reported to us, and that a search with the Art Loss Register cannot excuse the undertaking of further due diligence if such an exercise is appropriate.⁹⁷

Another infamous case that involved the failings of the ALR was of a Nazi looted El Greco painting. The Art Loss Register “cleared the claim” on at least two occasions despite the fact that the painting was looted from the collection of Julius Priester, a Viennese industrialist who was forced to flee the Third Reich in 1938.⁹⁸ It took years for the ALR to recognize its mistake, and even afterwards, the El Greco painting remains unregistered in the database.

Despite the Art Loss Register’s pitfalls, it is an important service for fighting art crime, particularly in the identification and verification of artworks. The provenance due diligence should not start and end with the ALR, as there are many weaknesses in the organization that allow it to be exploited or allow mistakes to occur.

Art Crime During War Time?

One of the main characteristics of war is that it exacerbates any pre-existing issues prevalent within the territory (and often beyond). This is most often seen with social, economic, and resource issues, however it applies to art and cultural crimes as well. An example of this is the extensive looting in Iraq. For years in the late 1980s and 90s, Iraq experienced an increase in illicit looting of archaeological sites and regional museums.⁹⁹ According to Lawrence Rothfield, cultural policy expert and University of

⁹⁷ The Art Newspaper - International art news and events. “Stolen Art? Why No One Can Say for Sure,” June 1, 2015. <https://www.theartnewspaper.com/2015/06/02/stolen-art-why-no-one-can-say-for-sure>.

⁹⁸ Ibid.

⁹⁹ Rothfield, *The Rape of Mesopotamia*, 16.

Chicago Associate Professor Emeritus, “some four thousand items were lost to looters” over the course of a decade.¹⁰⁰ An economic downturn and poor harvests, in conjunction with the international demand for Mesopotamian antiquities, caused more and more individuals to loot local cultural heritage sites. When US forces invaded in 2003, the Iraq Museum was looted and severely damaged.¹⁰¹ As stated by Homeland Security Investigations (HSI) Special Agent Ivan J. Arvelo, “These items [the antiquities, artworks, and objects from the Iraq Museum] were looted by thieves taking advantage of the confusion of war to turn a profit with total disregard to their cultural value.”¹⁰² Not only were these thieves unscrupulous, the looting they were conducting had become a normalized funding source years prior. The chaos, confusion, and violence of the invasion simply heightened the (1) opportunity and (2) need for looting the museum. All this to say, war increases the likelihood and severity of the looting and destruction of cultural heritage sites.

The organizations described in this chapter, INTERPOL, UNESCO, the FBI Art Crime Team, the Carabinieri Art Squad, and the Art Loss Register are some of the most experienced, well-funded, and connected organizations working on art crime. Despite this, art crime remains one of the most pressing criminal issues. INTERPOL ranks art crime as the fourth-highest grossing criminal trade, behind drugs, arms, and human trafficking.¹⁰³ If these institutionalized organizations are struggling to combat art and

¹⁰⁰ Rothfield, *The Rape of Mesopotamia*, 18.

¹⁰¹ For more on the looting of the Iraq Museum, read *Thieves of Baghdad* by Michael Bogdanos.

¹⁰² The Art Newspaper - International art news and events. “US Officials Return Antiquities Looted from Iraq Museum in 2003,” December 16, 2022. <https://www.theartnewspaper.com/2022/12/16/antiquities-looted-iraq-museum-returned-seals>.

¹⁰³ FBI: Law Enforcement Bulletin. “Protecting Cultural Heritage from Art Theft: International Challenge, Local Opportunity.” <https://leb.fbi.gov/articles/featured-articles/protecting-cultural-heritage-from-art-theft-international-challenge-local-opportunity>.

culture crime under normal conditions, it is extremely unlikely that they would function well during conflict. This being said, all of the aforementioned organizations nominally operate during wartime as well, however none have deployed staff or members into war zones. The virtual work that these organizations can accomplish are invaluable—whether that be educating the public, raising awareness, establishing databases for missing or stolen works, or coordinating efforts—however when it comes to physical protection of sites and objects, they fail.

There is one organization that does specialize in protecting culture during conflict or natural disasters, which is the International Committee of the Blue Shield (ICBS). The ICBS is an international non-governmental organization that is “committed to the protection of the world’s cultural property, and is concerned with the protection of cultural and natural heritage, tangible and intangible, in the event of armed conflict, natural- or human-made disaster.”¹⁰⁴ The ICBS has national groups that conduct a variety of missions, training sessions, and activities to better preserve and protect cultural heritage. ICBS’s responsibilities include:

protect cultural and natural heritage – tangible and intangible – from the effects of conflict and environmental disaster; Promote the ratification of, respect for, and implementation of, the 1954 Hague Convention and its two Protocols; raise awareness of the importance of protecting heritage in emergency situations; promote and provide relevant training (to heritage professionals, the armed forces, other emergency responders, and those involved in preventing the illicit trafficking of looted objects); promote community engagement with and participation in protecting cultural property (CP); encourage cooperation with, and between, other relevant entities involved in emergency situations.¹⁰⁵

¹⁰⁴ “About the Blue Shield: Factsheet.” Blue Shield International, November 19, 2020. https://theblueshield.org/wp-content/uploads/2021/12/Blue-Shield_International-Fact-Sheet-May-2021.pdf.

¹⁰⁵ “About the Blue Shield: Factsheet.” Blue Shield International, November 19, 2020. https://theblueshield.org/wp-content/uploads/2021/12/Blue-Shield_International-Fact-Sheet-May-2021.pdf.

When circumstances allow, ICBS workers carry out missions into countries during conflict or natural disasters, to conduct damage assessments, and aid local authorities.¹⁰⁶ Some of their recent missions have been in Ukraine, Lebanon, and Mali. ICBS works with UNESCO on much of its public outreach and cooperation efforts. Even though ICBS is one of the only organizations working to preserve culture during a crisis, it has resource and staffing limitations. Those confines don't allow for the same level of impact that INTERPOL, for instance, has.

Ultimately, the organizations countering art crime under normal conditions provide necessary resources, expertise, and outreach. Unfortunately, they are unable to contribute physical support, on the ground, to protect culture like ICBS can. ICBS, however, needs the resources and authority that INTERPOL, UNESCO, and even the Art Loss Register has among the international community to function better. Coordination among these organizations is key to see improvement on this issue.

¹⁰⁶ Blue Shield International. "Blue Shield International Missions." <https://theblueshield.org/what-we-do/blue-shield-missions/>.

Chapter 4: Recent Events with No Intervention or Preventative Measures

Even though there are many international agencies, nations, and private organizations interested in preserving and protecting cultural heritage, there are many cases in which they all failed. The bombings of the Bamiyan Caves in Afghanistan are one such example—where in March 2001 the Taliban destroyed the pre-Islamic Buddha statues. They were once the tallest Buddhas in the world, dating back to the early sixth and seventh centuries, now forever lost due to their insecurity.¹⁰⁷ This chapter will examine and analyze three recent cases in which heritage sites and cultural patrimony were destroyed during conflict with no intervention. The three case studies are: (1) the destroyed World Heritage sites in Timbuktu; (2) the bombings of Palmyra by ISIS; and (3) the ongoing war in Ukraine, specifically the damage and looting conducted in major cities such as Kyiv or Lviv. Each of these cases illustrate the failings of individual nation-states, but beyond that, the failings of the international community to protect crucial sites of human history.

Timbuktu

A few miles off of the banks of the Niger River, in present day Mali, lies the ancient city of Timbuktu. Established as a permanent settlement in the 12th century, Timbuktu grew to be a critical commercial and religious center for both the region and the world. It was often referred to as an Islamic oasis, and according to *National Geographic*, Timbuktu became a

¹⁰⁷ *BBC News*. “In Pictures: 3D Return for Bamiyan Buddha Destroyed by Taliban.” March 9, 2021, sec. Asia. <https://www.bbc.com/news/world-asia-56337042>.

center of Islamic scholarship under several African empires, home to a 25,000-student university and other madrasahs that served as wellsprings for the spread of Islam throughout Africa from the 13th to 16th centuries. Sacred Muslim texts, in bound editions, were carried great distances to Timbuktu for the use of eminent scholars from Cairo, Baghdad, Persia, and elsewhere who were in residence at the city.¹⁰⁸

Along with the prestigious Koranic Sankore University, which attracted intellectuals, scholars, scientists and explorers, the ancient mosques and mausoleums became sites of pilgrimage.¹⁰⁹ In 1988, Timbuktu was declared a World Heritage Site due to its architectural, artistic, religious, and cultural marvels. There were three criteria that Timbuktu met to qualify for World Heritage status: (1) the holy sites were integral to the early stages of Islamization in Africa; (2) the mosques are excellent representations of the cultural and scholarly Golden Age during the Songhai Empire (c. 1460 - c. 1591); and (3) the structures (mosques and mausoleums) are still original and highlight the traditional building techniques.¹¹⁰

In 2012, the extremist Islamic group, Ansar Dine, took control of northern Mali lands and began their campaign of terror. At the time, the Mali government was struggling to maintain control of the military as Tuareg rebels (a separate rebel force from Ansar Dine) conducted a coup d'état, and as a result, territories quickly fell to Ansar Dine's advances. A mere few weeks later, Ansar Dine captured Timbuktu and began to destroy the numerous cultural and religious structures and relics. The leader of Ansar

¹⁰⁸ NATIONAL GEOGRAPHIC STAFF. "Discover the Striking Earthen City of Timbuktu." National Geographic Magazine, July 25, 2018. <https://www.nationalgeographic.com/travel/world-heritage/article/timbuktu>.

¹⁰⁹ Cultural Heritage and Mass Atrocities. "Cultural Heritage at Risk in Mali: The Destruction of Timbuktu's Mausoleums of Saints," September 20, 2022. <https://www.getty.edu/part-2/14-assomo/>.

¹¹⁰ Cartwright, Mark. "Songhai Empire." World History Encyclopedia. https://www.worldhistory.org/Songhai_Empire/.

Dine, Abou Dardar, stated “Not a single mausoleum will remain in Timbuktu...Allah doesn't like it. We are in the process of smashing all the hidden mausoleums in the area.”¹¹¹ Similar to the motivations of Al-Qaeda and ISIS, Ansar Dine was attempting to purge Mali of anything deemed “haram” which included the significant World Heritage Site. Even though the Timbuktu sites were based in the Islamic tradition, they did not fall within the Sharia extremism ideology and history that Ansar Dine followed. According to UNESCO's World Heritage Centre:

several buildings in Timbuktu, including 14 of the 16 mausoleums which form part of the World Heritage site, were destroyed within the context of armed conflict and civil unrest. Attacks also targeted the Al Farouk monument, which was completely destroyed. An estimated 4,203 manuscripts from the Institute of Higher Islamic Studies and Research Ahmed Baba (IHERI-ABT) were burnt or stolen by armed groups. fourteen of the sixteen mausoleums of the saints inscribed on the UNESCO World Heritage List were completely destroyed, three mosques were severely damaged, and 4,203 manuscripts were burned by the extremist groups who then occupied the city.¹¹²

¹¹¹ *BBC News*. “Timbuktu Mausoleums ‘Destroyed.’” December 23, 2012, sec. Africa. <https://www.bbc.com/news/world-africa-20833010>.

¹¹² Centre, UNESCO World Heritage. “Reconstruction of the Destroyed Mausoleums of Timbuktu (Mali).” UNESCO World Heritage Centre. Accessed April 24, 2023. <https://whc.unesco.org/en/canopy/timbuktu/>.



“The rubble left from an ancient mausoleum destroyed by Islamist militants is seen in Timbuktu, Mali, in July, 2013.”¹¹³ Credit: Joe Penney/Reuters.



Post destruction (April 4, 2014), masons are beginning the tedious effort to reconstruct the mausoleums.¹¹⁴ Credit: AP Photo/Baba Ahmed.

¹¹³ France-Presse, Agence. “Muslim Extremist Pleads Guilty to 2012 Destruction of Timbuktu Treasures.” The World, August 22, 2016. <https://theworld.org/stories/2016-08-22/trial-underway-2012-destruction-timbuktu-treasures>.

¹¹⁴ Yahoo News. “Timbuktu’s Storied Mausoleums to Rise from Ruins,” April 24, 2014. <http://news.yahoo.com/timbuktus-storied-mausoleums-rise-ruins-172223456.html>.

These sites were left vulnerable and unprotected, even in the face of severe conflict and war. While the Mali government was unable to protect these World Heritage sites as it was struggling to regain control, the United Nations and its specialized agency UNESCO, did nothing. There was no intervention attempt, despite UNESCO having a field office located in Bamako, a one hour plane ride away. As Assomo further explains:

The occupiers attempted to terrorize the population and spread an ideology of violent extremism and radicalization. The communities had considered the mausoleums and mosques as central to their identity, linking them to Timbuktu's world-renowned history, to their ancestors, and to each other. They described mausoleums and ancient manuscripts as the "lungs" of their social life—without them, it would be difficult to recover from the trauma caused by the occupation.¹¹⁵

Consequently, the United Nations issued a statement condemning the destruction, as it was not simply an act of terror but of cultural erasure. The United Nations Educational, Scientific and Cultural Organization asserted that "the decision strongly condemned the acts of destruction of mausoleums in the World Heritage property of Timbuktu and called for an end to these 'repugnant acts.'"¹¹⁶ Not only were the atrocities condemned, but resulted in Mali

finalizing its accession to the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, which, amongst others, penalizes the intentional destruction of cultural heritage. Malian authorities had also requested the inscription of Timbuktu and the Tomb of Askia on the Committee's List of World Heritage in Danger – which it did in late June [2012]. Mali will also draft a report on priority measures for its World Heritage sites, in line with international heritage conventions, and it will request

¹¹⁵ "Cultural Heritage at Risk in Mali."

¹¹⁶ "World Heritage Committee Condemns Destruction of Mali Sites." UN News, July 3, 2012. <https://news.un.org/en/story/2012/07/414722>.

technical and financial assistance from UNESCO and the international community.¹¹⁷

Beyond the political and legislative measures to counteract cultural heritage destruction and looting, the Timbuktu community has to recover. Masons, contractors, and archeologists teamed up to rebuild these significant mausoleums and to preserve what remained from the wreckage. As of 2014, “UNESCO had raised only \$3 million of the \$11 million it needs for several restoration projects in Mali, including rebuilding the mausoleums” according to Lazare Eloundou, the head of UNESCO's office in Mali.¹¹⁸ Now, over a decade later, reconstruction is finally nearing the end. Restorers have been cognizant to adopt a holistic approach to rebuilding, focusing on both the tangible and intangible elements of Timbuktu’s cultural heritage.¹¹⁹

While Timbuktu has a relatively happy ending, to the extent that the damage that was done was not entirely irreversible. The past ten years have shown how local community members in tandem with scholars can rebuild cultural sites, however, it does entirely alleviate the pain and destruction caused by rebel groups on Timbuktu. Much of the original structures had been destroyed, which had survived hundreds of years of environmental impacts, human development, and conflict. That authenticity cannot be reproduced.

Palmyra

Perhaps the most infamous case of cultural destruction in the past ten years is that of Palmyra. Palmyra is an ancient city in the present-day Homs Governorate territory of

¹¹⁷ “World Heritage Committee Condemns Destruction of Mali Sites.”

¹¹⁸ “Timbuktu’s Storied Mausoleums to Rise from Ruins.”

¹¹⁹ “Reconstruction of the Destroyed Mausoleums of Timbuktu (Mali).”

Syria that dates back to the Stone Age.¹²⁰ It is a site of immense classical heritage, spanning thousands of years of human history. The earliest archeological remains date the site to the neolithic period (9,000 BCE to around 3,000 BCE). Palmyra, then referred to as Tadmor, was initially a small settlement established in the 3rd millennium BCE, an oasis in the Syrian Desert.¹²¹ Over the course of hundreds of years, it became a prominent trading post under the Arameans, the Arabs, and eventually the Romans and Byzantines. It was established as a UNESCO World Heritage Site in 1980 and is one of only six UNESCO World Heritage sites in Syria.¹²² Palmyra was granted that status due to its incomparable historic, cultural, and religious significance:

Palmyra contains the monumental ruins of a great city that was one of the most important cultural centres of the ancient world. From the 1st to the 2nd century, the art and architecture of Palmyra, standing at the crossroads of several civilizations, married Graeco-Roman techniques with local traditions and Persian influences.¹²³

Palmyra experienced the convergence of Christian, Islamic and Jewish traditions, and served as a home to elaborate tombs, temples, theaters, and, most notably, a grand colonnade.¹²⁴ The archeological zone surrounding Palmyra also includes the Fakhr-al-Din al-Ma'ani Castle, a surviving 13th century fortification. This ancient city was rare, as so many of the original structures from centuries past survived both environmental

¹²⁰ History.com. "Palmyra," August 23, 2018. <https://www.history.com/topics/ancient-middle-east/palmyra>.

¹²¹ "Return to Palmyra, Essay." Getty Research Institute. https://www.getty.edu/research/exhibitions_events/exhibitions/palmyra/essay.html.

¹²² UNESCO World Heritage. "World Heritage List." UNESCO World Heritage Centre. Accessed April 24, 2023. <https://whc.unesco.org/en/list/>.

¹²³ UNESCO World Heritage Centre. "Site of Palmyra." Accessed April 24, 2023. <https://whc.unesco.org/en/list/23/>.

¹²⁴ "Palmyra: The Modern Destruction of an Ancient City ." Smarthistory. <https://smarthistory.org/palmyra-arches/>.

degradation and human development, but also in the fact that it encompassed a wide variety of heritages and remained symbolic to the present. According to Dr. Salam al Kuntar and Dr. Steven Zucker, Palmyra “has a particular place in the Syrian historic consciousness.”¹²⁵ This sentiment is reflected in the number of visitors Palmyra received – it was Syria’s most-visited attraction – that at one point had 150,000 visitors a year.¹²⁶

In August 2015, Islamic State of Iraq and Syria (ISIS) militants bombed and destroyed Palmyra. Not only was it part of a strategic offensive in the Syrian Civil War against the Assad Government, but an intentional erasure of human history. As previously stated, ISIS was motivated by purging sites, activities, and people deemed “haram.” Palmyra was one of those places, as it was both a place of significance for the West (as it is categorized as a UNESCO World Heritage Site) and because it did not fall within the extremist ideology ISIS followed. Irina Bokova, the head of UNESCO, stated in response to Palmyra’s destruction:

Islamic State extremists in Syria and Iraq are engaged in the "most brutal, systematic" destruction of ancient sites since World War II - a stark warning that came hours after militants demolished the St. Elian Monastery, which housed a fifth-century tomb and served as a major pilgrimage site. The monastery was in the town of Qaryatain in central Syria.¹²⁷

To make matters worse, Bashar al-Assad, the President of Syria, let this destruction take place. As stated by Ibrahim Al-Marashi, an associate professor of history at California State University, San Marcos, in an article published by *Aljazeera*, “Bashar al-Assad had

¹²⁵ “Palmyra: The Modern Destruction of an Ancient City.”

¹²⁶ Katz, Brigit. “Ancient City of Palmyra, Gravely Damaged by ISIS, May Reopen Next Year.” *Smithsonian Magazine*. Accessed April 24, 2023. <https://www.smithsonianmag.com/smart-news/ancient-city-palmyra-gravely-damaged-isis-may-reopen-next-year-1-180970160/>.

¹²⁷ “Ancient Temple at Palmyra Destroyed in ISIS Attack,” August 23, 2015. <https://www.cbsnews.com/news/ancient-temple-at-palmyra-destroyed-in-isis-attack/>.

said for years to both Syrians and the international community that only his regime could prevent the spectre of ISIL taking over Syria.”¹²⁸ In a demonstration of power to the international community, predominately the United States and Russia, Assad lessened his grip on Palmyra, virtually permitting allowed ISIS/ISIL to attack without much resistance.

The following photographs show the before and after the ISIS/ISIL bombings of the Palmyra site. The results of the destruction are irreparable and represent an immense loss for Syria and the world.



The Temple of Bel, the once center of religious life in Palmyra. 2004 via Getty Images.¹²⁹

¹²⁸ Al-Marashi, Ibrahim. “For the First Time, Syrian State Takes on ISIL.” Aljazeera. <https://www.aljazeera.com/opinions/2016/3/29/palmyra-is-a-major-turning-point-in-syrias-civil-war>.

¹²⁹ Beesley, Kevin. “PHOTOS: Ancient City Of Palmyra After ISIS Was Driven Out.” *NPR*, March 28, 2016, sec. The Two-Way. <https://www.npr.org/sections/thetwo-way/2016/03/28/472143732/isis-pulls-out-of-palmyra-leaves-destruction-in-its-wake>.



The remains of the temple, after Syrian government troops recaptured the city. 2017 via Getty Images.¹³⁰



The Arch of Triumph, prior to August 2015.¹³¹

¹³⁰ “PHOTOS: Ancient City Of Palmyra After ISIS Was Driven Out.”

¹³¹ *Reuters*. “Palmyra: Before and after ISIS.” <https://www.reuters.com/news/picture/palmyra-before-and-after-isis-idUSRTSCQPG>.



The Arch, after the missile strikes, 2016.¹³²

ISIS attempted to make the ancient city a stronghold of its power, however, the Assad government was able to expel it within months. This was not the end of ISIS and Palmyra, as the jihadist group fought to occupy Palmyra on-and-off until March 2017, sometimes succeeding.¹³³ Despite Palmyra being a significant UNESCO World Heritage site, no other state governments or international institutions intervened. As a result, over a thousand years of human history has been destroyed and lost.

Palmyra was not the only site to experience destruction at the hands of ISIS. In a 2016 report on the Protection of Iraqi and Syrian Antiquities, the United States Accountability Office briefly summarized the scope of the archeological and cultural damage:

By around July 2014, ISIS had destroyed hundreds of religious sites throughout the territory it controlled, including Christian statues of the Virgin Mary and the

¹³² *Reuters*. “Palmyra: Before and after ISIS.”

¹³³ Katz, “Ancient City of Palmyra, Gravely Damaged by ISIS, May Reopen Next Year.”

tomb of the Prophet Jonah in Mosul. Furthermore, according to a United Nations Educational, Scientific and Cultural Organization (UNESCO) official, ISIS bombed two temples in Palmyra, Syria, and brutally murdered a Syrian archaeologist in August 2015, after reportedly questioning him about the location of valuable artifacts in the city.¹³⁴

The brutal and deliberate attacks on culture aimed to not only invoke terror, but to erase the history and identities of people. ISIS, like many organizations before it, understood the deep impact of targeting culture.

Ukraine

The War in Ukraine, which has been raging since February 24, 2022, has caused an incalculable amount of damage and destruction, and continues to do so. Beyond the \$100 billion in infrastructure damage, \$51 billion in environmental damage, and an ever-growing number of war crimes (including the use of rape as a weapon of war, abduction of children, and so on), the Russian military is also targeting cultural, historic, and religious sites and institutions.¹³⁵ The Ukrainian identity, separate from that of Russia, has been speculated as a motivation for Putin's war. Ukraine has a rich and strong history, which includes

the Slavic-Christian state centered in Kyiv a thousand years ago, the 19th-century flowering of Ukrainian culture and nationalism, the post-World War I Ukrainian republic, the Ukrainian independence movement of the early 1990s and its

¹³⁴ "CULTURAL PROPERTY Protection of Iraqi and Syrian Antiquities." United States Government Accountability Office, 5. <https://www.gao.gov/assets/gao-16-673.pdf>.

¹³⁵ Yale Environment 360. "One Year In, Russia's War on Ukraine Has Inflicted \$51 Billion in Environmental Damage." <https://e360.yale.edu/digest/russia-ukraine-war-environmental-cost-one-year>. "Ukraine War: \$100 Billion in Infrastructure Damage, and Counting | DEPARTMENT OF OPERATIONAL SUPPORT." Accessed April 24, 2023. <https://operationalsupport.un.org/en/ukraine-war-100-billion-infrastructure-damage-and-counting#:~:text=Ukraine%20war%3A%20%24100%20billion%20in,counting%20%7C%20DEPARTME NT%20OF%20OPERATIONAL%20SUPPORT>.

reaffirming Orange Revolution in 2004 and the Euromaidan Revolution in 2013-2014.¹³⁶

As of early March 2023, an estimated 1,595 sites have been either damaged or destroyed by Russian forces.¹³⁷ According to UNESCO, at least 248 verified cultural sites have been damaged since the initial invasion, which includes 107 religious buildings, 21 museums, 89 buildings of historical and/or artistic interest, 19 monuments, and 12 libraries.¹³⁸ Due to the ongoing nature of the conflict, the extent of the cultural damage unknown, although it is clear that it's extensive.

Unlike the cases of Timbuktu or Palmyra, Ukraine is attempting to protect their art and culture. As stated by Lilya Onyshchenko, "If we lose our culture we lose our identity...Lviv has always been multicultural. Poles, Germans, Jews, Armenians and Hungarians built it. It's Unesco listed."¹³⁹ The classification of being a listed UNESCO World Heritage site does not promise *physical* protection, as Onyshchenko's statement might imply. As of March 8, 2022 (over a week into the war), UNESCO reinforced "protective" measures in Ukraine which involved:

contact with Ukrainian authorities to mark cultural sites and monuments with the distinctive "Blue Shield" emblem of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict to avoid deliberate or accidental damages. UNESCO, with its partner UNITAR, also analyses

¹³⁶ Kurin, Dr Richard. "How Ukrainians Are Defending Their Cultural Heritage From Russian Destruction." Smithsonian Magazine. Accessed April 24, 2023. <https://www.smithsonianmag.com/smithsonian-institution/ukrainians-defend-their-cultural-heritage-russian-destruction-180981661/>.

¹³⁷ "Potential Damage to Ukrainian Cultural Heritage Sites." Conflict Observatory, March 6, 2023. <https://hub.conflictobservatory.org/portal/apps/sites/#/home/pages/heritage-1>.

¹³⁸ "In the Face of War, a Year of Action in Ukraine." UNESCO. <https://www.unesco.org/en/ukraine-war>.

¹³⁹ Recker, Jane. "Inside the Efforts to Preserve Ukraine's Cultural Heritage." Smithsonian Magazine. Accessed April 24, 2023. <https://www.smithsonianmag.com/smart-news/inside-the-efforts-to-preserve-ukraines-cultural-heritage-180979840/>.

satellite imagery for priority sites, which are endangered or already impacted, in order to assess damage.¹⁴⁰

Unfortunately, these responses do very little to deter Russian forces from attacking the cultural sites or even protect and mitigate the sites from damage. Marking sites and monuments with the “Blue Shield” emblem assumes that the Russian forces would respect international law and conventions by avoiding them as targets. Putin has made it clear that international law means very little to him, since his entire war is in violation of just war theory and international laws. Not only that, but there are thousands of documented and undocumented cases of war crimes perpetrated by the Russian forces, which further exemplifies that international law is disregarded.¹⁴¹

Since UNESCO operates in a limited capacity to protect Ukraine’s cultural heritage, Ukrainians are taking it upon themselves to do so. Many Ukrainian museums have been moving their collections to other locations, such as basements, storage facilities, or simply outside of Russian target zones. Museums, cultural sites, and religious centers have been surrounding the facades of significant buildings and monuments with sandbags to protect them from missile strikes and debris. Ukraine’s Heritage Emergency Response Initiative (HERI) was founded in response to Russia’s invasion in February 2022 and Russian forces’ encroachment on Ukraine’s heritage and national identity by the Ukrainian Maiden Museum personnel. Their main priorities have been the

¹⁴⁰ “UNESCO Actions for Ukraine.” UNESCO. <https://www.unesco.org/en/ukraine-war/actions-timeline>.

¹⁴¹ Human Rights Watch. “Ukraine: Apparent War Crimes in Russia-Controlled Areas,” April 3, 2022. <https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>.

preparation for rapid response to emergencies under conditions of armed conflict, protection of museum collections from losses, conducting rescue operations, gathering and systematization of information on crimes against cultural heritage, coordination of actions between state/municipal authorities, museums, cultural institutions, the non-governmental sector and international organizations, aimed at salvaging and restoration of cultural heritage, as well as all offering humanitarian assistance to the extent possible.¹⁴²

HERI has been working with Ukrainian museums, historical societies, and other cultural institutions to help secure and safeguard buildings and collections, transport objects, and make connections to other organizations interested in preserving Ukraine's culture. HERI has been coordinating with UNESCO, ICOM-Disaster Resilient Museums Committee, and the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM). In cooperation, these organizations have been providing funds and resources (such as satellite imagery to identify damaged sites or monuments).

The following photographs demonstrate some of the cultural protection measures taken by the Ukrainian government.

¹⁴² "The Heritage Emergency Response Initiative (HERI) Created in Ukraine." NATIONAL MEMORIAL TO THE HEAVENLY HUNDRED HEROES AND REVOLUTION OF DIGNITY MUSEUM. <https://maidanmuseum.net/en/node/2121>.



Statue of Neptune, outside the Latin Cathedral in Lviv on March 5, 2022. Credit: Daniel Leal/AFP via Getty Images.¹⁴³



Sandbags placed around the statue of the Duc de Richelieu in Odessa, Ukraine on March 14, 2022. Credit: Scott Peterson/Getty Images.¹⁴⁴

¹⁴³ MARCHAND, Thibaut. “Under Fire, Ukraine’s Lviv Scrambles to Protect Its Historic Statues.” Accessed April 24, 2023. <https://www.timesofisrael.com/under-fire-ukraines-lviv-scrambles-to-protect-its-historic-statues/>.

¹⁴⁴ Pramuk, Jacob, Amanda Macias, and Chloe Taylor. “Pentagon Says There Was 24-Hour Period with No Shelling Observed in Ukraine; U.S. Accuses Russia of War Crimes.” CNBC. Accessed April 24, 2023. <https://www.cnbc.com/2022/03/17/russia-ukraine-live-updates.html>.

Targeted attacks on cultural heritage sites seek to systematically remove the history, culture, religion, and humanity from specific peoples, if not humanity as a whole. A failure to protect these sites, as seen in the Palmyra, Timbuktu, and the ongoing Ukrainian cases, it has catastrophic consequences and is often associated with extreme violence (such as genocide or terrorism).

Chapter 5: Moving Forward

The inaction of nations and the international community at large regarding cultural destruction has had profound and devastating impacts. The cultural, religious, and historic sites, monuments, and objects that have been lost not only impact the communities and populations it belonged to, but to humanity as a whole. As stated by the Director of the Institute Heritage Studies, Dr. Marie-Theres Albert: it is “the material and immaterial heritage which shapes the collective identity of the cultures and the nations of the world. At the same time, this collective heritage of mankind creates the basis for the formation of respective individual identities” regardless of nationality.¹⁴⁵ This is highlighted by the wreckage of Timbuktu, Palmyra, and the ongoing devastation in Ukraine. Experts from the Human Rights Council, Alexandra Xanthaki, Farida Shaheed, and Nazila Ghanea expressed their concern for the impact of cultural destruction on human rights in a press release stating that:

We are deeply concerned that this destruction is preventing and will further hinder the exercise of the human right to enjoy and have access to cultural heritage, including places of worship, by the people of Ukraine, thereby restricting their freedom of religion or belief, as well as their right to participate in the cultural life of their choice and to express their cultural identity.¹⁴⁶

The organized responses to counter the looting and destruction of cultural heritage sites and objects thus far have been incomplete and limited. The existing art crime

¹⁴⁵ Albert, Marie-Theres. “Culture, Heritage and Identity.” Institute Heritage Studies, March 2020.4. <https://heritagestudies.eu/en/wp-content/uploads/sites/9/2020/07/Culture-Heritage-and-Identity-txt.pdf>.

¹⁴⁶ OHCHR. “Targeted Destruction of Ukraine’s Culture Must Stop: UN Experts.” United Nations Human Rights. Accessed April 24, 2023. <https://www.ohchr.org/en/press-releases/2023/02/targeted-destruction-ukraines-culture-must-stop-un-experts>.

organizations struggle to function in territories plagued by war, and the organizations that are dedicated to assisting law enforcement and agencies protect culture in war zones don't have the resources to have widespread impact or influence. Despite these challenges, there are many initiatives and individuals committed to improving the countermeasures to cultural crimes on both a national and international level, as well as increasing the cooperation between private, non-governmental organizations and multinational institutions.

Nations have the strongest ability to protect the culture within their borders, as they have both the authority and (depending on the strength of the state) resources to do so. Despite this, most nations (even prominent producer states) do not have specialized law enforcement to focus on cultural or art crimes. If a state has the political support and ability, they should create governmental infrastructure to protect their cultural patrimony. If this is not possible, there are still measures nations can implement to better mitigate art crimes and cultural racketeering. Colonel Giovanni Pastore, Chief of the Twelve Divisions of the Carabinieri Cultural Heritage Protection Department, recommended four main preventive measures that nations should take in order to better protect their cultural heritage:

- (1) Improve the security and inventory check standards for museums, churches, art galleries, and archaeological sites.
- (2) Promote frequent sharing amongst the representatives of these institutions, both nationally and internationally, working together and pooling resources to realize common initiatives against thefts.
- (3) Agreements on security should eventually reach an international standard among similar institutions. They will let the potential thieves perceive a real and broad effort to safeguard cultural goods. Criminals will feel the strength of international

unity working against them. (4) Enforce the owners of cultural goods (private and institutional) to document and classify their collections.¹⁴⁷

These responses would better deter criminals from looting or destroying heritage sites and cultural patrimony, more aptly punish those that do, and improve communication between the various actors within the art and antiquities space to mitigate errors and better preserve the objects. Beyond these policy recommendations, nations should invest in cultural training for their military personnel or establish culture units within their militaries. Some of the current militaries that have cultural protection units are those of the United States, the United Kingdom, France, and Spain. The successes of the iconic Monuments Men and Women during World War II establish that not only are culture units in militaries possible, but necessary in war. For countries that are unable to support such units, international organizations should step up.

While having strong national responses is critical, to properly counteract crimes against culture, there needs to be an international focus. Oftentimes, art crime involves trafficking across multiple countries which requires support among a variety of international actors. A promising initiative that combines both the scope of larger international organizations but with the practice and expertise of national agencies is the Unite4Heritage Campaign. Launched in November 2015 at the UNESCO Headquarters in Paris, the campaign aimed to bring together prominent champions of cultural protection and engage with the general populace via social media platforms. Millions of people, mostly young people, were interacting with the Unite4Heritage content: “The #Unite4Heritage photo & story contest received more than 10,000 entries across

¹⁴⁷ Pastore, Colonel Giovanni. “Defending Art.” In *Art and Crime*, 118

Instagram and Facebook with a huge amount of positive feedback and encouragement, including photos from groups of young people in Syria supporting the campaign.”¹⁴⁸ Not only is a social media campaign to increase engagement and awareness of the issue, but to materialize in a tangible program. According to INTERPOL, the Unite4Heritage Campaign has established a

specialized task force ready to deploy at short notice and with the capacity to operate in hostile environments. It includes 30 Carabinieri and 30 ministry officials, comprising a team leader, a database team, an intervention team and a support and training team. There are three basic scenarios in which the task force could be deployed: natural disasters, peace-keeping missions and pre/post conflict situations.¹⁴⁹

In 2016, this task force was deployed following the earthquakes in central Italy. The team recovered, cataloged, and stored 9,000 artworks and objects during that operation.¹⁵⁰ In addition to the Unite4Heritage work, another international team working to protect culture and raise awareness of the issue is the previously mentioned International Committee of the Blue Shield. Collaborating with UNESCO, the International Council of Museums (ICOM), and other cultural institutions, the ICBS is a prime example of how international organizations can work together to make positive, substantive contributions to a widespread phenomenon.

Beyond the national and international responses, the final strategy to move forward with better cultural protection practices is to encourage and utilize more public-private partnerships (PPPs). Public-private partnerships are an essential part of combating

¹⁴⁸ UNESCO. “Unite4Heritage Campaign,” October 8, 2015. <https://en.unesco.org/events/unite4heritage-campaign>.

¹⁴⁹ “CREATING A NATIONAL CULTURAL HERITAGE UNIT,” 12.

¹⁵⁰ Ibid.

crimes against culture, as they combine the resources and scope of multinational institutions with efficiency and expertise of private organizations. PPPs aren't bogged down by bureaucratic processes but operate with the legitimacy of international agencies. Examples of PPPs for cultural protection include the Global Heritage Fund (GHF), Partners for Sacred Places, CyArk, and the Getty Conservation Institute. The GHF is a non-profit organization that works in partnership with local communities, governments, and private entities to protect endangered cultural heritage sites. Their work has included partnerships with corporations like American Express and Goldman Sachs.¹⁵¹ Partners for Sacred Places is a non-profit organization that works in partnership with religious institutions, communities, and other stakeholders (such as American Express, The Getty Foundation, and the National Trust for Historic Preservation) to protect and preserve historic sacred and religious sites and spaces.¹⁵² CyArk is a non-profit that uses new technology to digitally preserve cultural heritage sites around the world by creating digital 3D models of sites. Some of their partners include companies like Iron Mountain and national agencies like the Department of State.¹⁵³ The Getty Conservation Institute works in partnership with governments, non-profit organizations, and private entities to develop and implement conservation strategies for cultural heritage sites around the world. These PPPs have trained thousands of people in cultural preservation and protection practices, raised awareness and funds for operations, and have coordinated efforts with people across the globe. While these above listed PPPs work to preserve

¹⁵¹ Global Heritage Fund. "Partners," July 28, 2018. <https://globalheritagefund.org/people/partners/>.

¹⁵² Nowlin, Craig. "Our Partners." Partners for Sacred Places. <https://sacredplaces.org/about-us/serving/>.

¹⁵³ CyArk. "CyArk — About Us." <https://www.cyark.org/whoweare/>.

cultural heritage sites, none of them focus specifically on protection efforts during war.

This is a major issue and one that needs to be rectified moving forward.

Conclusion

Even though the international governing structures, primarily the United Nations, have implemented conventions (particularly those of 1907, 1954, and 1970) that make looting and destroying cultural patrimony illegal, it still occurs on a regular basis. Crimes against culture only increase during periods of instability and times of war. Dorit Straus, an Art and Insurance Advisor for Art and Insurance Advisory Services Inc., highlights this in her chapter “Implication of Art Theft in the Fine Art Insurance Industry” of *Art and Crime* by saying:

Unstable political climates and times of warfare exacerbate the risk of theft, as witnessed in the pillaging of the Baghdad Museum in 2003. The looting that took place following the fall of Baghdad is proof enough that appropriate steps to minimize risk were not taken. Following the U.S. invasion, officials estimated that 170,000 objects had been stolen; after the dust settled, the actual number was reduced to approximately 4,000 objects—an unacceptable number and a major cultural loss.¹⁵⁴

Not only are crimes against culture committed during wartime by individuals exploiting and profiting from the chaos, but states will actively target cultural patrimony during war. Nations recognize the importance of cultural patrimony to a population’s identity, and as currently exemplified by the Russian forces in Ukraine, and will seek out those cultural, historic, and religious sites and monuments out to loot and destroy. Michael Buckland, an emeritus professor at the UC Berkeley School, makes the connection between cultural heritage and identity in “Cultural Heritage (Patrimony): An Introduction,” “Cultural heritage affects individuals’ self-identity, self-esteem, and relationships with others...Invoking cultural heritage and the associated sense of identity is used to

¹⁵⁴ Straus, Dorit. “Implication of Art Theft in the Fine Art Insurance Industry.” In *Art and Crime*, 89.

influence individuals and social groups.”¹⁵⁵ Russian attacks on Ukrainian museums, archives, churches, and monuments is an attack on the Ukrainian identity. At best this is an example of cultural erasure, at worst, cultural genocide. While the Ukrainians are doing their best to protect their culture, with the assistance of UNESCO and some NGOs such as the ICOM, not all nations prioritize or even concern themselves with protecting their cultural heritage. In his book *Who Owns Antiquity?*, James Cuno asserts that:

Much is at stake. Much of the world is at war. We live in an age of resurgent nationalism. And where the violence is not nationalist, it is sectarian. Identity matters proliferate, and identities matter more and more....Antiquities are the cultural property of all humankind—of *people*, not *peoples*—evidence of the world’s ancient past.¹⁵⁶

While Cuno argues for the dismantling of nationalistic cultural property laws by claiming that ancient history belongs to the world opposed to a particular nation, the same premise is better served as a call to action for the protection and preservation of culture, most especially during conflict. If ancient history and culture is just as much humanity’s as it is a specific population’s, then there should be more international support for protecting cultural heritage sites, monuments, artworks, and objects especially during conflict.

The existing multinational initiatives and public-private partnerships, like Unite4Heritage or the Ukraine Cultural Heritage Response Initiative, focusing on cultural preservation and protection have been a good start, but there is still a long way to go. The legal frameworks and norms that dictate how nations, international organizations, and independent agencies operate in regard to cultural looting and destruction are constantly

¹⁵⁵ Buckland, Michael. “Cultural Heritage (Patrimony).” University of Zadar, 2015. <https://people.ischool.berkeley.edu/~buckland/culturalheritage.pdf>.

¹⁵⁶ Cuno. *Who Owns Antiquity*, 143,146.

evolving. Hopefully the work done by the variety of actors, like the Commission for Looted Art in Europe or INTERPOL, is indication that positive progress will be made.¹⁵⁷ Raising awareness of the issue and educating the public on the devastations of no interventions is the first step. Now, increased cooperation and resource sharing among states and private organizations is needed to strengthen the present programs.

¹⁵⁷ Founded by Anne Webber and David Lewis in 1999, the Commission for Looted Art in Europe (CLAE) is another non-profit organization focused on researching looted art and cultural objects as well as formulating restitution policy for cultural institutions like museums and galleries.

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