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CUSTOMS, GENERAL PRINCIPLES, AND THE INTENTIONAL DESTRUCTION OF CULTURAL PROPERTY

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At a time when terrorists destroy temples and monuments declared the patrimony of humanity and angry crowds tear down statues memorializing controversial symbols of the past, we may well ask what does international law have to say with regard to this phenomenon? To answer this question one must remember that in the past half century, international law on the protection of cultural heritage has undergone a spectacular development at the level of standard setting. UNESCO has promoted the adoption of treaty regimes for the prevention of cultural destruction in time of war, of illicit traffic in cultural property, for the protection of world cultural heritage and underwater cultural heritage, for the safeguarding of intangible cultural heritage, and for the protection and promotion of cultural diversity.[1] But the obligations undertaken by states in this field are still predominantly treaty based, i.e., they are founded on consent expressed by states in their acts of ratification or accession to relevant treaties. As such, they are binding only for the states parties to these treaties and place no obligations on third parties. If we look at the most relevant international instrument for the prevention of cultural property destruction, the 1954 Hague Convention on the Protection of Cultural Heritage in the Event of Armed Conflict, it is in force for 133 states, a fairly high number of contracting parties, considering also that they include major military powers, and, after the United Kingdom's accession in 2017, all five permanent members of the UN Security Council (the so-called P5).

Yet, a significant number of states are still not bound by this convention. Besides, the much more stringent Second Protocol to the 1954 Hague Convention, adopted in 1999[2] to fill certain gaps and improve the convention's effectiveness, is in force for

only 83 parties and, of the P5, it has only been ratified by France and the United Kingdom. Therefore, a good number of states remain outside the most advanced international regime for the prohibition and suppression of cultural property destruction in time of war. As for the prohibition of intentional destruction of cultural property in peacetime, no treaty exists. The only instrument is the "soft law" 2003 Declaration Concerning the Intentional Destruction of Cultural Heritage, which was adopted by the General Conference—the biannual meeting of member states—of the UN Educational, Scientific and Cultural Organization (UNESCO) in the wake of the 2001 destruction of the Buddhas of Bamiyan in Afghanistan by the Taliban.[3] This situation makes it necessary to inquire whether, besides treaty obligations in force for state parties, international law contains general norms and principles prohibiting the destruction of cultural heritage which are binding on all states independently of their consent to be bound.

The relevance and timeliness of this question become more apparent when we think that even for the states bound by the 1954 Hague Convention and its protocols, and by other relevant treaties on the subject, the obligations undertaken have no retroactive effect. Thus, situations and disputes concerning destruction of cultural property that arose before the entry into force of those international instruments remain beyond the reach of such instruments.

In addition, the recognition of the character of customary norm or general principle of the obligation to avoid and prevent destruction of cultural heritage can place such norm and general principle on a position of hierarchical superiority over treaty law within the domestic legal system of some states, thus enhancing the effectiveness of their enforcement at the level of domestic law.[4]

Identifying Customary Cultural Heritage Law and the Contribution of the International Court of Justice

How do we determine the existence of customary norms or general principles that would establish a general prohibition of the intentional destruction of cultural heritage? Do we take into account the practice of all states, including those that have already accepted a treaty obligation to prevent and avoid such destruction? Or do we limit our investigation only to the practice of those that are not bound by treaty obligations, on the assumption that only their behavior is relevant to the finding of a practice and of a sense of legal obligation that does not depend on the consent expressed in a treaty?

A formalistic approach to the first question would suggest following the latter option since only the behavior of nonparties can disclose a sense of legal obligation that does not depend on treaties. However, this approach would be inappropriate in the context of cultural heritage and wrong from a methodological point of view. Multilateral treaties in this field have a very high number of state parties, which has

the effect of shrinking the scope of the potentially relevant practice of nonparties.[5] The proof of a widespread practice by non–treaty parties would become extremely difficult and perhaps misleading.[6]

Additionally, it would be illogical and counterproductive to limit the investigation over the existence of general norms or principles of international law to the sole group of states that are not bound by treaties relevant to the destruction or dispersion of cultural heritage. Such a restrictive approach would deprive us of the benefit of considering the possibility that state parties may also comply with the obligation to prevent and avoid destruction of cultural heritage by virtue of an *opinio iuris*, that is, evidence that the practice derives from a felt sense of legal obligation beyond the terms of any applicable treaty. Besides, such a narrow approach would prevent the consideration of the unavoidable interaction between treaty parties and nonparties, and of the possibility that norms of customary international law or general principles prohibiting destruction of cultural heritage may have emerged by way of abstraction from existing treaties.

With these general observations in mind, the following discussion examines, first, the existence of norms of customary international law, and then the relevance of general principles of law in the field of cultural heritage protection against acts of deliberate destruction. Customary norms of international law are created by the combination of *diuturnitas*—a widespread and consistent practice—and *opinio iuris*. This dual structure of custom has been confirmed in the jurisprudence of the International Court of Justice (ICJ)[7] and in the ongoing work of the International Law Commission on the Identification of Customary International Law.[8] Requiring both elements obviously makes it more difficult to determine the existence of a binding rule of customary international law. This becomes clear especially in the field of cultural heritage, where manifestations of state practice and expressions of legal obligation are far from abundant.

The ICJ, whose case law represents the most authoritative source of evidence for the existence of customary norms, has had few opportunities to address questions of cultural heritage from the point of view of "general international law" (which refers to the combination of customary international law and general principles). In the case of *Temple of Preah Vihear (Cambodia v. Thailand)*, decided first in 1962 and again in 2013 on a request for interpretation, the court ruled that Thailand had an obligation to respect Cambodia's sovereignty over the area of the temple, to return to Cambodia parts of the cultural heritage removed from the monument during the period of its military occupation of the site; to ensure cooperation at bilateral and multilateral levels to safeguard the important cultural and religious value of the temple; and not to "take any deliberate measures which might damage directly or indirectly [such] heritage."[9] These statements imply a general sense of duty to respect cultural heritage of great importance, but fall short of a specific recognition of a customary norm

prohibiting the intentional destruction of cultural heritage. Another case brought before the ICJ, *Liechtenstein v. Germany* (2005), for the restitution of cultural property expropriated by a third country after World War II, never went beyond the phase of preliminary objections, with the court declaring its lack of jurisdiction.[10]

In the *Genocide* case (2007), the ICJ was confronted with the question whether the documented destruction by Serbia of religious, historical, and cultural monuments and sites within Bosnia and Herzegovina during the Bosnian War (1992–95) could be considered part of the criminal enterprise of genocide. The court concluded that the intentional destruction of cultural property "does not fall within the category of acts of genocide set out in Article II of the [1948 Genocide] Convention." However, in the same paragraph, the ICJ also recognized that "the elimination of all traces of the cultural or religious presence of a group" may be "contrary to other legal norms." The judgment does not clarify what kind of legal norms the court had in mind, whether treaty norms or customary rules, for example. And this is quite understandable since the court's jurisdiction in the case was grounded in the Genocide Convention and could not, therefore, extend to the application of "other legal norms," however significant those on cultural destruction could have been as a matter of applicable law.

Nevertheless, this precedent provides an explicit recognition that systematic destruction of historical, cultural, and religious heritage can be contrary to international "legal norms," which certainly may include rules of customary international law.[11] In the subsequent *Genocide* case (Croatia v. Serbia), decided in 2013, the ICJ confirmed the legal opinion in the 2007 case that destruction of cultural heritage in the context of armed conflict falls outside the definition of genocide under the convention. At the same time, the judgment contains the following important statement: "The Court recalls, however, that it may take account of attacks on cultural and religious property in order to establish an intent to destroy the group physically."[12] The reference to intent echoes the jurisprudence of the International Criminal Tribunal for the former Yugoslavia (ICTY), which had already recognized the intentional destruction of cultural heritage as the indicator of the special intent, *dolus specialis*, as an element of the crime of genocide.[13] By implication, if intentional destruction of cultural property can be evidence of *dolus specialis* in relation to genocide, the destruction itself must constitute a prohibited act under international law.

In its recent jurisprudence, the ICJ has also had occasion to address the obligation of states to respect and protect forms of cultural heritage related to ways of life, social structures, and socioeconomic processes, which today fall within the broad category of "intangible cultural heritage." Two examples are the case concerning *Navigational and Related Rights* between Costa Rica and Nicaragua (2009), and the *Frontier Dispute* between Burkina Faso and Niger (2013). In the first, the court, in assessing the

sovereign rights of the parties over the San Juan river, recognized that the exercise of these rights should not entail the destruction of the cultural rights of the local indigenous communities to have access to the river resources, and affirmed the obligation of the riparian state to respect those communities' traditional practices of resource utilization along the river as a form of subsistence economy.[14] In the second case, the ICJ was confronted with a classic case of frontier delimitation. While the judgment was ultimately based on the application of the traditional principle of *uti possidetis*[15]—respect for the territorial demarcation drawn at the time of independence—a strong call for the integration of this territorial principle with a more modern approach based on respect for the local traditions and the cultural practices of the population was made in the separate opinion of Judge Antônio Augusto Cançado Trindade and in the declaration of Judge Mohamed Bennouna.[16]

The jurisprudence of the International Court of Justice shows a clear tendency to take into account the value of cultural heritage for the purpose of interpreting other norms or principles of international law applicable to the case. However, we cannot say that such jurisprudence offers conclusive evidence of the existence of a customary norm prohibiting the destruction of cultural heritage even in the limited context of armed conflict. We need to look at other manifestations of the practice to establish the existence of customary norms.

The Customary Law Prohibition of Intentional Destruction of Cultural Heritage in the Context of Armed Conflict

Arbitration as a means of settling cultural heritage disputes is quite rare, but it is here that we find one of the most important manifestations of the explicit recognition of a customary norm prohibiting the destruction of cultural heritage: in the 2004 ruling of the Eritrea–Ethiopia Claims Commission on the "Stela of Matara." The stela, an ancient obelisk of great historical and cultural importance for both Eritrea and Ethiopia, was felled by explosives during the military occupation of the surrounding area by Ethiopian forces. Based on evidence provided by Eritrea, including proof of the presence of an Ethiopian military contingent in the vicinity of the monument the night it was toppled, the commission reached the following conclusion: "The felling of the stela was a violation of customary international humanitarian law. While the 1954 Hague Convention on the Protection of Cultural Property was not applicable, as neither Eritrea nor Ethiopia was a Party to it, deliberate destruction of historic monuments was prohibited by Article 56 of the Hague Regulations, which prohibition is part of customary law. Moreover, as civilian property in occupied territory, the stela's destruction was prohibited by Article 53 of the Geneva Convention IV and by Article 52 of Protocol I."[17]

This is a typical example of determination of the existence of a rule of customary international law by a process of abstraction from well-settled treaty rules, in this

case pertaining to the law of armed conflict and humanitarian law. This is a perfectly valid method of customary law reconstruction. It is regrettable, however, that the commission in this case did not go beyond mere treaty practice in its search for a customary legal basis of the obligation to avoid destruction of cultural property. By 2004, the year of the commission's decision, other important manifestations of state practice had emerged to support such a general obligation. Suffice it to mention the unanimous reaction of condemnation by the international community of the deliberate destruction of the great Buddhas of Bamiyan in 2001.[18] This reaction left little doubt about the conviction that such egregious, discriminatory destruction, in defiance of appeals by UNESCO, the broader UN, and the international community as a whole, was not only morally and politically condemnable, but also wrongful under international legal standards.

The best proof of this conviction was the organization under the auspices of UNESCO of a diplomatic effort aimed at drafting a normative instrument prohibiting the intentional destruction of cultural heritage in time of war and in time of peace. This instrument took the form of the UNESCO Declaration Concerning the Intentional Destruction of Cultural Heritage, which was adopted by the organization's General Conference on 17 October 2003.[19] Article 2 defines international destruction as: "an act intended to destroy in whole or in part cultural heritage thus compromising its integrity, in a manner that constitutes a violation of international law or an unjustifiable offence to the principles of humanity and dictates of public conscience." Article 6 further provides that "a State that intentionally destroys or intentionally fails to take appropriate measures to prohibit, prevent, stop, and punish any intentional destruction of cultural heritage of great importance for humanity … bears the responsibility for such destruction, to the extent provided for by international law."

The declaration was adopted by acclamation. No participating state attached reservations or restrictive understandings to its text. The General Conference comprised at the time of its adoption nearly all recognized states, including the United States and the United Kingdom, which had rejoined UNESCO after their previous withdrawal. Even if the declaration remains formally a soft law instrument, it is difficult to dismiss its value as evidence of a widespread *opinio iuris* about the existence of an international obligation to avoid and prevent intentional destruction of cultural heritage of great importance for humanity in a context of conflict or terrorism.

Other important elements of international practice support the existence of such a customary norm. They can be found in the case law of international criminal tribunals and in the practice of United Nations organs. In the *Tadić* case, the ICTY stated that: "The emergence of international rules governing civil strife has occurred at two different levels: at the level of customary law and at that of treaty law. … The interplay between the two sets of rules is such that some treaty rules have gradually

become *part of customary international law*. This … also applies to Article 19 of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict."[20] Article 19 concerns the obligations of the parties to a non-international armed conflict to abide as a minimum by "the provisions of the … Convention which relate to respect for cultural property." Thus, the *Tadić* judgment would confirm the customary law character of the prohibition to destroy cultural heritage in armed conflict, including non-international conflict.

As far as the practice of UN organs is concerned, a 1999 "bulletin" from the Secretary-General concerning the obligations of UN forces to respect the rules of international humanitarian law delineated the following obligation: "In its area of operation, the United Nations forces shall not use such cultural property, monuments of art, architecture or history, archaeological sites, works of art, places of worship and museums and libraries which constitute the cultural or spiritual heritage of peoples or their immediate surroundings for purposes which might expose them to destruction or damage."[21] The General Assembly adopted a resolution in 2015, *Saving the Cultural Heritage of Iraq*, which unambiguously condemned the intentional destruction of cultural heritage by the Islamic State of Iraq and the Levant (ISIL, also known as ISIS or Da'esh) and affirmed that "the destruction of cultural heritage, which is representative of the diversity of human culture, erases the collective memories of a nation, destabilizes communities and threatens their cultural identity, and emphasiz[ed] the importance of cultural diversity and pluralism as well as freedom of religion and belief for achieving peace, stability, reconciliation and social cohesion."[22] The UN Human Rights Council has also addressed the enormity of the atrocities committed by ISIL and related nonstate armed groups in Iraq, and included in a 2014 resolution a specific paragraph concerning the intentional destruction of cultural heritage.[23]

But the most conclusive evidence about the existence of a general prohibition of intentional destruction of cultural property in the context of armed conflict and terrorism comes from the practice of the Security Council. Over the past twenty years this practice has shown a growing concern with the international security implications of the intentional destruction of cultural heritage. It started with resolution 1485 of 22 May 2003 (paragraph 7) concerning the rampant destruction and dispersion of Iraqi cultural heritage in the chaos that followed the US-led invasion. It continued with a series of resolutions linking the willful destruction of cultural heritage to terrorism and threats to the peace, including resolution 2170 of 15 August 2014 (preamble), and it culminated with resolution 2347 of 24 March 2017, which is entirely dedicated to the prescription of measures to be taken in order to prevent the destruction of cultural heritage as well as the dispersion and illegal commerce of looted cultural property.

In resolution 2347 (paragraph 1), the Security Council: "*Deplores and condemns* the unlawful destruction of cultural heritage, inter alia the destruction of religious sites and artefacts, as well as looting and smuggling of cultural property from archaeological sites, museums, libraries, archives and other sites, in the context of armed conflicts. … *Affirms* that directing unlawful attacks against sites and buildings dedicated to religion, education, art, science or charitable purposes, or historic monuments may constitute, under certain circumstances and pursuant to international law, a war crime and that perpetrators of such attacks must be brought to justice."

The practice examined above includes treaties of almost universal application, arbitral awards, decisions of international tribunals, soft law (including the 2003 UNESCO declaration), the verbal practice of UN organs, and Security Council binding decisions under Chapter VII of the UN Charter, which permit military enforcement. All these elements concur in forming a solid legal basis for the identification of a customary law establishing an obligation to abstain from and prevent the intentional destruction of cultural heritage in the context of armed conflict and terrorism. This obligation has two corollaries: the responsibility of the state for breach of such primary obligation, as ruled in *Stela of Matara*, and the international criminal responsibility of the individual perpetrator of the crime of cultural destruction. This second aspect, already well developed in the case law of the ICTY, is now confirmed by recent decisions of the International Criminal Court (ICC) in the *Al Mahdi* case, in which the court found that the extensive destruction of cultural heritage in Mali during the 2012 internal armed conflict constituted in itself a war crime.[24]

Destruction and Dispersion by Looting and Illicit Transfer from Territories under Military Occupation

Besides the customary rule prohibiting intentional destruction in the context of armed conflict, does customary international law prohibit indirect forms of destruction by looting, dispersion, and illicit transfer of cultural property from occupied territories? This question has been addressed by treaty for over a century, starting with the regulations attached to the 1907 Hague Convention on Land Warfare (Articles 46 and 47) and the restitution practice of peace treaties after World War I,[25] up to the First Protocol to the 1954 Hague Convention and the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Article 11). To these one needs to add the important Declaration of St James's Palace on Punishment for War Crimes, also known as the London Declaration, issued by the Allied Powers in 1943 with the intent of notifying their determination to nullify and reverse, under a general presumption of duress, all acts of transfer of property, including cultural property, which occurred in the territories occupied by Nazi Germany and its allies.

However, it needs to be determined whether this practice constitutes evidence of a general rule grounded in customary law. In the past a skeptical view has been expressed by a number of legal scholars,[26] but this interpretation has become untenable in light of the great acceleration that international practice has undergone in this field in the past twenty years. First, a more robust international reaction to the scourge of illicit excavation and looting of cultural objects in occupied territories has developed, hand in hand with the increasing sense of indignation and condemnation of such acts as a perverse component of foreign occupation, and sometimes of ethnic conflict and ethnic cleansing. This is shown by the response to the well documented atrocities of the Yugoslav wars of the 1990s and to the abominable criminal enterprise of ISIL and related nonstate armed groups in the occupied territories of Iraq and Syria.

Second, the number of states that have ratified or acceded to the First Protocol to the 1954 Hague Convention has increased significantly since 2000 to include many important source and market countries of cultural heritage, such as China, the United Kingdom, Canada, Japan, Italy, the Netherlands, and Germany, thus supporting the presumption of a sense of obligation of a general character.

Third, the practice of domestic courts now tends to enforce the international prohibition of appropriation of cultural objects in occupied territories and the obligation to return them, even in the absence of specific treaty obligations. An important example of this practice is provided by the decision to return to the Church of Cyprus the wall paintings of the Byzantine Fresco Chapel in Houston, Texas. These rare Medieval frescoes had been looted in the town of Lysl in Northern Cyprus in the aftermath of the Turkish invasion of the island in 1974 and later purchased and imported into the United States by the Menil Foundation. By a voluntary agreement concluded in March 2012 between the foundation and the Church of Cyprus, the frescoes were returned to the original owner after meticulous restoration and public exhibition in Houston for several years. Other important precedents, supporting the *opinio iuris* that cultural property looted in foreign countries must be returned to the original owner, are the decision of US courts in *Elicofon*[27] and *Church of Cyprus and the Republic of Cyprus v. Goldberg*.[28] The latter concerned the determination of title over ancient mosaics stolen from a religious monument in Northern Cyprus in circumstances similar to those of the Byzantine chapel. In both cases the illegally transferred cultural objects were returned to the country of origin in the absence of any specific treaty obligation, since the United States was not a party to the First Protocol to the 1954 Hague Convention.

The evidence provided by treaty and judicial practice is corroborated by the already mentioned practice of Security Council resolutions[29] requiring UN member state cooperation to stop and counter illicit trafficking in cultural property originating from conflict areas. This duty of cooperation is cast in general terms, which

presupposes a general obligation to return looted objects. In the already cited resolution 2347 (paragraph 8), the Security Council: "*Requests* Member States to take appropriate steps to prevent and counter the illicit trade and trafficking in cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance originating from a context of armed conflict."

This discussion has so far identified evidence of the existence of two customary law obligations: to prevent and avoid destruction of cultural property, and to prevent and suppress illicit transfer of cultural property from territories under military occupation. These customary norms apply in the event of armed conflict, including non-international armed conflict and related acts of terrorism, and military occupation of a foreign territory. But are these obligations also applicable in peacetime?

The 2003 UNESCO declaration covers the protection of cultural heritage in connection with peacetime activities.[30] But this soft law instrument cannot provide by itself a legal basis for the finding of a customary rule prohibiting in general terms the destruction of cultural heritage in peacetime. The legislative history of the declaration demonstrates that the great majority of UNESCO member states opposed mandatory language in this respect,[31] for fear it could limit their sovereign right to pursue forms of economic and social development even at the cost of cultural heritage destruction. This may be regrettable, because much of the destruction of cultural heritage occurs in peacetime,[32] and development projects and private and public works often lead to the deliberate destruction of precious cultural heritage. Prominent examples include the destruction of the five-hundred-year-old great wall of Beijing under Mao Zedong, and the extensive destruction of the Medieval centers of numerous European cities in the name of modern urban renewal.

Furthermore, the looting and dispersion of cultural heritage in peacetime are among the most insidious and pervasive forms of cultural heritage destruction. It is unknown whether the *Nativity with St. Francis and St. Lawrence* by Caravaggio, an irreplaceable masterpiece stolen from an oratory in Palermo in 1979, most likely by organized crime, has been destroyed or simply kept in a bank vault or secret deposit. Its disappearance is equivalent to destruction. The Nativity was one of only about seventy paintings created by one of the greatest artists of all times.

But the fact that there is no evidence of a specific rule of customary international law prohibiting the destruction of cultural heritage in peacetime does not mean that no such obligations arise, independently of or with the consent of states. Obligations in this field may arise, directly or indirectly, from the category of general principles, a source of international law that operates independently of customary rules. It is to the examination of this category of sources of international law that we turn in the remainder of the chapter.

The Role of "General Principles"

The 1945 Statute of the International Court of Justice places "general principles of law" among the sources of nonconsensual obligations of international law (Article 38.1.c). General principles may, therefore, be the applicable law in disputes concerning the destruction of cultural heritage. However, their nature and scope remains a contested subject in the theory of international law. Legal positivism has always looked with suspicion upon general principles as a source of true international legal obligations and has relegated them to a purely subsidiary function of filling gaps in the law by the interpretative activity of the judge.[33] By contrast, some champions of legal realism have placed the category of general principles at the top of the hierarchy of international norms, as a direct expression of the collective will and legal conscience of the world community.[34] A more moderate orientation admits the operation of general principles in international law but only as far as they are derived from general concepts of justice and reasonableness universally recognized in domestic legal systems.[35] Other contemporary tendencies link general principles to a certain revival of natural law and to the growing relevance of "values" such as respect for human rights, for the global environment, for peace, and for the cultural heritage of humankind.[36] On similar values rests the position of the contemporary proponents of an "international constitutionalism."[37]

These theoretical orientations are not mutually exclusive. Each contains an aspect of the truth in the sense that general principles may assume a different nature and different functions as sources of international law, as interpretative criteria, and as tools for bending the law to just and equitable decisions in concrete cases, as well as autonomous sources of international obligations. Relevant here is that general principles of law can be the direct expressions of values autonomously recognized by the international community. At the same time, they can also be the result of a transposition onto the international legal order of general concepts of justice, logic, and reasonableness historically developed in domestic private and public law.

Keeping in mind this multifaceted nature of general principles, we can try to identify a typology according to their different substantive content, origins, and functions performed in relation to the protection of cultural heritage against acts of deliberate destruction. Certain general principles developed in different fields of international law may be applicable to the field of cultural heritage and have the effect of creating an obligation to avoid and prevent its destruction. Some of these principles may even belong to the category of *jus cogens* (international legal norms that are peremptory and prevail over all other legal rules). This is the case with the following five principles.

First is the prohibition of the threat or use of force. Enshrined in the UN Charter (Article 2.4), it was also recognized by the ICJ in the *Nicaragua* case[38] as a general principle of international law binding outside and beyond the formal operation of the

UN Charter as a treaty. This principle becomes relevant to the intentional destruction of cultural heritage when the use of force includes, as has happened in numerous recent conflicts, deliberate attacks on historical and cultural sites. Its relevance becomes all the more evident at a time when the Security Council has started to consider assaults on cultural heritage as elements of a threat to peace and international security under Article 39 of the UN Charter. Even if it is unlikely that such acts of cultural destruction can be considered entirely separate from other conduct amounting in itself to a breach of the peace or a threat to the peace—such as armed aggression, international terrorism, and massive violations of human rights and humanitarian law—intentional destruction of cultural heritage is increasingly acquiring distinct relevance in the role of the Security Council in countering terrorism and forms of violence and intolerance directed against cultural heritage.

This is evident in the already examined resolution 2347 of 2017 and even more so in resolution 2100 of 2013 authorizing the deployment of the UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).[39] Adopted under Chapter VII of the UN Charter, resolution 2100 provides the first example of a post-conflict peace mission to which the Security Council has conferred a specific function to protect cultural heritage from deliberate attack.[40] The general principle prohibiting the threat of force can therefore become a pertinent legal parameter to determine the illegality of attacks on cultural property in peacetime, in the sense that such attacks may constitute an aspect of a threat to the peace and, in post-conflict situations, an element of peacekeeping missions by the UN or regional organizations.

Second, self-determination has been recognized as a general principle of international law by the ICJ, in its advisory opinions on *South West Africa*,[41] *Western Sahara*,[42] *The Wall in Occupied Palestinian Territories*,[43] and, most recently, in the 2019 opinion on *Chagos Archipelago*.[44] This principle can be relevant to the destruction of cultural heritage to the extent that participation of people in cultural life, in the enjoyment and enactment of their cultural heritage, can be a constitutive element of their right to self-determination. This right is impaired by the destruction of cultural heritage.[45]

Third, individual criminal responsibility is a well-established principle of international law, applying to grave breaches of human rights and of international humanitarian law. The principle is now applicable to the field of international cultural heritage law so as to cover grave offenses against cultural heritage, and especially the intentional destruction of objects or sites of great importance for humanity, under the rubric of war crimes and crimes against humanity. Besides the case law of the ICTY examined above, we must recall the judgment of the ICC that, for the first time, has applied this principle to the crime of wanton destruction of cultural heritage in the 2016 *Al Mahdi* case.

Fourth is elementary considerations of humanity, which has evolved within the corpus of international humanitarian law and from the Martens Clause contained in the preamble of the 1907 Convention (IV) on the Laws and Customs of War. It was reaffirmed as a principle of general application by the ICJ in 1949 in the *Corfu Channel* case (United Kingdom v. Albania), and it was incorporated in the 2003 UNESCO declaration. Its role in relation to cultural heritage becomes especially relevant in all those cases in which its destruction is part of a criminal enterprise of persecution of a cultural minority and of a pattern of gross and systematic violations of human rights.[46]

The fifth principle is that of cultural heritage as part of the heritage of humanity. It entails the conceptualization of cultural heritage as part of the collective interest of humanity to the protection of the infinite variety of its cultural expressions and their transmission to future generations. The first articulation of this principle can be traced to an 1803 Canadian military case, *The Marquis de Somerueles*,[47] and, later, it can be found in the preamble of the 1954 Hague Convention, whose second paragraph reads: "Being convinced that damage to cultural property belonging to any peoples whatsoever means damage to the cultural heritage of mankind, since each people makes its contribution to the culture of the world."

This innovative idea of cultural property as part of the cultural heritage of humanity did not develop in a vacuum. It is rooted in the more general political philosophy and constitutional objectives underlying the UN efforts at rebuilding the bases of human civilization in 1945, after the war and the catastrophe of the genocide. We can recall that the preamble of the UNESCO Constitution warned that: "A peace based exclusively upon the political and economic arrangements of governments would not be a peace which would secure the unanimous, lasting and sincere support of the peoples of the world, and that peace must therefore be founded, if it is not to fail, on the intellectual and moral solidarity of mankind."

Principles of Progressive Realization

Cultural heritage law, like other areas of international law, such as environmental protection, has seen the emergence of general principles that we can define as norms "of progressive realization" because they set goals and standards of gradual achievement without prescribing a mandatory course of action for states. One such principle is that of sustainable development proclaimed in the 1992 Rio Declaration on Environment and Development and recently incorporated in the Sustainable Development Goals adopted by the UN General Assembly in 2015. It has a multidimensional character, applying to the environment, to the social and economic sphere, and with increasingly compelling evidence it concerns also the compatibility of development with the cultural fabric of a society and with the respect for cultural heritage, both tangible and intangible, that contributes to the social cohesion and

sense of identity of every community. This cultural dimension of sustainable development becomes all the more important today, when much of the destruction of cultural heritage happens in the name of economic development and modernization, without much consideration for the adverse long term effects of the loss of memory and sense of historical roots of the affected communities.

The other principle of progressive realization that can have a direct relevance for the protection of cultural heritage against acts of intentional destruction is that underlying the responsibility to protect (R2P), which was elaborated and proclaimed by the United Nations with the aim of preventing, stopping, and remedying mass atrocities and egregious violations of human rights and humanitarian law.[48] Today, R2P has become extremely important for the protection of cultural heritage because violent attacks on cultural heritage tend to be the forerunner or inseparable complement of assaults on people and of grave breaches of human rights and humanitarian law. This is amply demonstrated by the rich jurisprudence of the ICTY and by the recognition that such attacks can constitute evidence of the specific intent to commit a crime of genocide.

But R2P is increasingly relevant also for the purpose of a progressive interpretation of the concepts of "threat to the peace" and "breach of the peace." Article 39 of the UN Charter confers upon the Security Council the power to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" as a condition for adopting mandatory measures under Chapter VII. If the purpose of R2P is to involve the Security Council in the prevention and suppression of mass atrocities, then deliberate attacks on cultural heritage can be a relevant indicator of serious violations of human rights and humanitarian law capable of endangering international peace and security. As the practice of the United Nations over the past fifty years has produced a progressive expansion of the concepts of threat to and breach of the peace, by including domestic (non-international) situations revealing systematic patterns of gross violations of human rights,[49] so assaults on cultural heritage by nonstate armed groups and so-called rogue states today are becoming an element in the determination of a threat to international peace and security under Article 39, thus triggering the application of R2P.[50]

Conclusions

The foregoing analysis identified customary norms and general principles of international law that create general obligations to prevent and avoid the deliberate destruction of cultural heritage. These obligations are binding on all states and go beyond the limited scope of applicable treaties. The examination of the practice of states, intergovernmental bodies, judicial organs, and domestic courts has made possible the identification of two customary norms of general application: one that prohibits the intentional destruction of cultural property in the context of armed

conflict and terrorism, and one prohibiting looting and the illicit transfer of cultural property from territories under military occupation. The latter norm has a direct relevance for intentional destruction because looting and illicit transfer inevitably result in dispersion and destruction of cultural heritage.

At the same time, no corresponding customary norms can be found today in relation to the destruction of cultural heritage in peacetime and in isolation from situations of armed conflict or terrorism, with which mass atrocities are normally associated. This is regrettable because much destruction of cultural heritage of great importance occurs in peacetime and in the pursuit of an ill-conceived idea of economic development. This gap in the law can be filled by recourse to a wide range of general principles that can be applied to the prevention and suppression of willful destruction of cultural heritage in the context of both conflict and peacetime. These principles and the two customary norms may provide interpretative criteria and true sources of law in the adjudication of disputes between states which are not bound by existing treaty norms or in relation to situations that fall outside the temporal scope of application of relevant treaties. More important, the evolutive and dynamic nature of customary norms and general principles developed in this field may help overcome the sectorialization and fragmentation of treaty law by helping the harmonization and systemic integration of cultural heritage law with other strands of international law, such as humanitarian law, human rights law, and environmental law, as well as trade and economic law. Custom and general principles can thus be the wellspring of a progressive development of international cultural heritage law. At the same time they can enhance its coherence with other fields of international law at a time when cultural conflicts, rising nationalism, and intolerance appear to pose the main threats to the value of the universality of cultural heritage and of international law.

BIOGRAPHY

Francesco Francioni is Professor Emeritus of International Law, the European University Institute, and Professor of International Cultural Heritage Law, LUISS University, Rome. A member of the Institut de Droit International and of the American Law Institute, he held the chair of international law at the University of Siena from 1980 to 2003 and was visiting professor in the law faculties of Cornell University, the University of Texas, the University of Oxford, Columbia University, and Panthéon-Assas University (Paris 2). He is the author and editor of a large number of books and articles on cultural heritage and international law, including *The Oxford Commentary to the 1972 World Heritage Convention* (2008), with Federico Lenzerini, and *The Oxford Handbook of International Cultural Heritage Law* (2020), with Ana Filipa Vrdoljak. He participated in the negotiation and drafting of the 1995 UNIDROIT Convention, the 1999 Second Protocol to the 1954 Hague Convention, the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, and the 2003 UNESCO Declaration Concerning the Intentional Destruction of Cultural Heritage. In 1997–98 he was President of the UNESCO World Heritage Committee.

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NOTES

1. See Convention for the Protection of Cultural Property in the Event of Armed Conflict, 14 May 1954 (1954 Hague Convention), https://ihl-databases.icrc.org/ihl/INTRO/400; Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 14 November 1970, https://en.unesco.org/fighttrafficking/1970; Convention Concerning the Protection of the World Cultural and Natural Heritage, 16 November 1972, https://whc.unesco.org/en/conventiontext/; Convention on the Protection of Underwater Cultural Heritage, 2 November 2001, https://en.unesco.org/underwater-heritage/2001; Convention on the Safeguarding of Intangible Cultural Heritage, 17 October 2003, https://ich.unesco.org/en/convention; and Convention on the Protection and Promotion of the Diversity of Cultural Expressions, 20 October 2005, https://en.unesco.org/creativity/convention.

2. 26 March 1999, https://ihl-databases.icrc.org/ihl/INTRO/590.

3. See Francesco Francioni and Federico Lenzerini, "The Destruction of the Buddhas of Bamiyan and International Law," *European Journal of International Law* 14, no. 4 (2003): 619–51.

4. This is the case in the constitutional system of Italy (the republican constitution adopted in 1947, Art. 10, para. 1), Germany (the *Grundgesetz*, or Basic Law, adopted in 1949, Art. 25), and many other states that give constitutional status to customary international law.

5. In the case of the World Heritage Convention, which now numbers 193 state parties that have accepted cooperation to prevent and avoid the destruction and deterioration of cultural (and natural) heritage of outstanding universal value located in their territory, there would be no

available practice. The Convention on the Means of Prohibiting and Preventing the Illicit import, Export and Transfer of Ownership of Cultural Property counts 140 parties, and the Convention on the Safeguarding of Intangible Cultural Heritage is now in force for 179 states. The only multilateral conventions that still suffer from a low number of ratifications are the Convention on the Protection of Underwater Cultural Heritage, with only sixty-five, and the 1995 UNIDROIT Convention on Stolen and Illegally Exported Cultural Objects, in force for forty-eight states.

6. This problem was pointed out for the first time by Richard Baxter, who observed in 1970 that: "The proof of a consistent pattern of conduct by nonparties becomes more difficult as the number of parties to the instrument increases. The number of participants in the process of creating customary law may become so small that the evidence of that practice may be minimal or altogether lacking." See Richard R. Baxter, *Treaties and Custom* (Recueil des Cours no. 129) (Leiden, Netherlands: Martinus Nijhoff, 1970), 25, 64.

7. See, in particular, ICJ, *North Sea Continental Shelf Cases (Federal Republic of Germany v. Denmark, Federal Republic of Germany v. Netherlands)*, Judgment, 20 February 1969, https://www.icj-cij.org/public/files/case-related/52/052-19690220-JUD-01-00-EN.pdf; and the more recent case, *Jurisdictional Immunities of the State* (*Germany v. Italy: Greece Intervening*), Judgment, 3 February 2012, https://www.icj-cij.org/public/files/case-related/143/143-20120203-JUD-01-00-EN.pdf.

8. See International Law Commission, Draft Conclusions on Identification of Customary International Law, *Yearbook of the International Law Commission 2018*, Vol. 2, Part 2, Conclusion 2. For a general overview, see Sean Murphy, "The Identification of Customary International Law and Other Topics: The Sixty-Seventh Session of the International Law Commission," *American Journal of International Law* 109, no. 4 (2015): 822; and "Anniversary Commemoration and Work of the International Law Commission's Seventieth Session," *American Journal of International Law* 113, no. 1 (2019): 94.

9. ICJ, Request for Interpretation of the Judgment of 15 June 1962 in the Case Concerning the *Temple of Preah Vihear (Cambodia v. Thailand)*, Judgment, 11 November 2013, para. 106, https://www.icj-cij.org/en/case/151.

10. ICJ, *Certain Property (Liechtenstein v. Germany)*, Preliminary Objections, Judgment, 10 February 2005, https://www.icj-cij.org/public/files/case-related/123/123-20050210-JUD-01-00-EN.pdf.

11. ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia)*, Judgment, 26 February 2007, para. 344, https://www.icj-cij.org/public/files/case-related/91/091-20070226-JUD-01-00-EN.pdf.

12. ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, 3 February 2015, para. 390, https://www.icj-cij.org/public/files/case-related/118/118-20150203-JUD-01-00-EN.pdf.

13. ICTY, *Krstić*, case no. IT-98-33-T, Trial Judgment, 2 August 2001, para. 580, https://www.icty.org/x/cases/krstic/tjug/en/krs-tj010802e.pdf. See also the dissenting opinion of Judge Shahabuddeen in the appeal: ICTY, *Krstić*, case no. IT-98-33-A, Appeal Judgment, 19 April 2004, Section 8, https://www.icty.org/x/cases/krstic/acjug/en/krs-aj040419e.pdf.

14. ICJ, *Dispute Regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, Judgment, 13 July 2009, paras. 134–144, https://www.icj-cij.org/public/files/case-related/133/133-20090713-JUD-01-00-EN.pdf.

15. ICJ, *Frontier Dispute (Burkina Faso v. Niger)*, Judgment, 16 April 2013, https://www.icj-cij.org/public/files/case-related/149/149-20130416-JUD-01-00-EN.pdf.

16. The separate opinion of Judge Cançado Trindade expressly recognizes that: "Cultural and spiritual heritage appears more closely related to a human context rather than to the traditional State-centric context; it appears to transcend the purely inter-State dimension, that the Court is used to." See ICJ, *Frontier Dispute*, Judgment, 16 April 2013, Separate Dissenting Opinion of Judge Cançado Trindade, para. 91, https://www.icj-cij.org/public/files/case-related/149/149-20130416-JUD-01-02-EN.pdf. The declaration by judge Bennouna contains the following statement: "the frontier, as predicated on the Westphalian model, is far removed from the cultural heritage of this region of the world," and then he added "it is for the Parties to rediscover this heritage by deepening, as encouraged by the Court, their cooperation." See *Frontier Dispute*, Judgment, 16 April 2013, Declaration of Judge Bennouna, 56, https://www.icj-cij.org/public/files/case-related/149/149-20130416-JUD-01-01-EN.pdf.

17. Eritrea–Ethiopia Claims Commission, "Partial Award: Central Front—Eritrea Claims 2, 4, 6, 7, 8 & 22," 28 April 2004, para. 113, https://legal.un.org/riaa/cases/vol_XXVI/115-153.pdf.

18. See Francioni and Lenzerini, "Destruction of the Buddhas"; and "The Obligation to Protect and Avoid Destruction of Cultural Heritage: From Bamiyan to Iraq," *Art and Cultural Heritage: Law, Policy and Practice*, ed. Barbara Hoffman (Cambridge: Cambridge University Press, 2006), 28.

19. For the text of the document see UNESCO, http://portal.unesco.org/en/ev.php-URL_ID=17718&URL_DO=DO_TOPIC&URL_SECTION=201.html.

20. ICTY, *Tadić*, case no. IT-94-1-T, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 98 (emphasis added), https://www.icty.org/x/cases/tadic/acdec/en/51002.htm.

21. UN Secretary-General, "Secretary-General's Bulletin: Observance by United Nations Forces of International Humanitarian Law," UN doc. ST/SGB/1999/13, 6 August 1999, para. 6.6.

22. UN General Assembly, "Saving the Cultural Heritage of Iraq," UN doc. A/RES/69/281, 9 June 2015, 2.

23. "Deeply concerned also by … the rampant destruction of monuments, shrines, churches, mosques, and other places of worship, archaeological sites, and cultural heritage sites." See Human Rights Council, "The Human Rights Situation in Iraq in the Light of Abuses Committed by the So-Called Islamic State in Iraq and the Levant and Associated Groups," UN doc. A/HRC/RES/S-22/1, 3 September 2014, preamble.

24. ICC, *Ahmad Al Faqi Al Mahdi*, case no. ICC-01/12-01/15, Judgment and Sentence, 27 September 2016, https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/12-01/15-171. In 2017, the ICC charged al-Mahdi with the obligation to pay a reparation of €2.7 million for the damage caused to the cultural heritage of Mali: see ICC, *Al Mahdi*, Reparations Order, 17 August 2017, https://www.icc-cpi.int/CourtRecords/CR2017_05117.PDF.

25. For extensive examination of this practice, see Andrzej Jakubowski, *State Succession in Cultural Property* (Oxford: Oxford University Press, 2015), 53.

26. See, for instance, Antonio F. Panzera, *La tutela internazionale dei beni culturali in tempo di guerra* (Turin: G. Giappichelli, 1993), 16, 46; and Guido Carducci, "L'obligation de restitution des biens culturels et des objets d'art en cas de conflit armé," *Revue Générale de Droit International Public* 2 (2000): 290–357.

27. US District Court for the Eastern District of New York, *Kunstsammlungen Zu Weimar v. Elicofon* (536 F. Supp. 829, EDNY 1982), 15 June 1981, concerning works by Albrecht Duerer that had been stolen in Germany in 1945.

28. US Federal Court of Appeal, 7th Circuit, *Autocephalous Greek-Orthodox Church of Cyprus v. Goldberg & Feldman Fine Arts, Inc.* (917 F. 2d 278, 7th Cir. 1990), 24 October 1990.

29. See US Federal Court of Appeal, 7th Circuit, Sect. 3.

30. Section 4 of the declaration applies to peacetime activities and establishes a duty of protection of cultural heritage in accordance with standards laid down in UNESCO recommendations and treaties, including the 1972 World Heritage Convention.

31. The present author was a member of the group of experts charged with the task of drafting the declaration. For a thorough analysis of the process of "softening" the duty to avoid and prevent destruction of cultural heritage from the stage of experts drafting to the stage of diplomatic negotiations, see Federico Lenzerini, "The UNESCO Declaration Concerning the Intentional Destruction of Cultural Heritage: One Step Forward and Two Steps Back," *Italian Yearbook of International Law* 13, no. 1 (2003): 131–45.

32. For a thorough analysis of the cases of destruction of cultural heritage in peacetime, with a distinction between legitimate aims of economic development and manifestations of fundamentalist intolerance, see Kanchana Wangkeo, "Monumental Challenges: The Lawfulness of Destroying Cultural Heritage during Peacetime," *Yale Journal of International Law* 28 (2003): 185–274.

33. The most compelling elaboration of this theory can be found in Dionisio Anzilotti, *Corso di diritto internazionale* (Rome: Athenaeum, 1928), 107. For a comprehensive, historical reconstruction of the emergence and development of the category of general principles, see I. Imogen Saunders, *General Principles as a Source of International Law* (Oxford: Oxford University Press, 2021).

34. See Rolando Quadri, "Cours général de droit international public," Recueil des Cours no. 3, 1964; and *Diritto internazionale pubblico* (Napoli: Liguori, 1968), 119.

35. Hersh Lauterpacht, *Private Law Sources and Analogies in International Law: With Special Reference to International Arbitration* (Cambridge: Cambridge University Press, 1927), 215; and Michel Virally, "The Sources of International Law," in *Manual of Public International Law*, ed. M. Sorensen (London: St. Martin's, 1968), 116–74.

36. See Allen Buchanan, *Justice, Legitimacy, and Self-determination: Moral Foundations of International Law* (Oxford: Oxford University Press, 2007); and Lon Fuller, *The Morality of Law* (New Haven: Yale University Press, 1969).

37. Jan Klabbers, Anne Peters, and Geir Ulfstein, *The Constitutionalization of International Law* (Oxford: Oxford University Press, 2011).

38. ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Judgment, 26 November 1984, https://www.icj-cij.org/public/files/case-related/70/070-19841126-JUD-01-00-EN.pdf.

39. UN doc. S/RES/2100, 25 April 2013. The MINUSMA mandate was extended in Security Council resolution 2423, UN doc. S/RES/212423, 28 June 2018.

40. The effectiveness of the MINUSMA resolution with regard to the protection of cultural heritage remains untested, especially since it is unclear how the specialized personnel competent for the conservation and protection of cultural heritage can be integrated into the security forces and how their safety can be guaranteed in the absence of full demilitarization of the relevant areas and of sufficient institutional control. For an in-depth analysis of these problems, see Laura Pineschi, "Tutela internazionale del patrimonio culturale e missioni di pace delle Nazioni Unite: un binomio possibile? Il caso MINUSMA," *Rivista di diritto internazionale* 101 (2018): 5–57.

41. ICJ, *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, https://www.icj-cij.org/public/files/case-related/53/053-19710621-ADV-01-00-EN.pdf.

42. ICJ, *Western Sahara*, Advisory Opinion, 16 October 1975, para. 88, https://www.icj-cij.org/public/files/case-related/61/061-19751016-ADV-01-00-EN.pdf.

43. ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 9 July 2004, para. 88, https://www.icj-cij.org/public/files/case-related/131/131-20040709-ADV-01-00-EN.pdf.

44. ICJ, *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, 25 February 2019 (revised 4 March 2019), https://www.icj-cij.org/public/files/case-related/169/169-20190225-ADV-01-00-EN.pdf*.*

45. See Federico Lenzerini "Intentional Destruction of Cultural heritage," in *The Oxford Handbook of International Cultural Heritage Law*, ed. Francesco Francioni and Ana Filipa Vrdoljak (Oxford: Oxford University Press, 2020), 75–100. The UN Declaration on the Rights of Indigenous Peoples, UN doc. A/Res/61/295, 13 September, 2007, recognizes the culture and cultural rights of indigenous peoples as the foundation of their right of self-determination.

46. See the 2003 UNESCO Declaration Concerning the Intentional Destruction of Cultural Heritage (preamble), and the Human Rights Council resolution on the linkage between wanton destruction of cultural heritage and human rights atrocities. See Human Rights Council, "Human Rights Situation in Iraq." See also, Karima Bennoune, *Report of the Special Rapporteur in the Field of Cultural Rights*, General Assembly, UN doc. A/HRC/31/59, 3 February 2016.

47. Court of the Vice Admiralty, Nova Scotia, Canada, 1803. Cited in John Henry Merryman and Albert E. Elsen, *Law, Ethics and the Visual Arts*, 4th ed. (New York: Kluwer Law International, 2002), 10.

48. This principle was formally adopted in UN, *2005 World Summit Outcome*, UN doc. A/RES/60/1, 24 October 2005, paras. 138–39. For a discussion of the effectiveness and limits of this

principle, see two articles in a special issue of *The International Spectator*, Italian Journal of International Affairs, on R2P: Jennifer Welsh, "The Responsibility to Protect at Ten: Glass Half Empty or Half Full?" *International Spectator* 51, no.2 (2016): 1–9; and Federico Lenzerini, "Terrorism, Conflicts and the Responsibility to Protect Cultural Heritage," *International Spectator* 51, no.2 (2016): 70–85.

49. For an analysis of this practice, see Benedetto Conforti and Carlo Focarelli, *The Law and Practice of the United Nations* (Leiden, Netherlands: Martinus Nijhoff, 2016), 219.

50. This point was recognized in the document adopted by a high-level meeting organized at the United Nations, at the initiative of the Italian mission, on 21 September 2017, on the theme of "Our Responsibility to Protect Cultural Heritage from Terrorism and Mass Atrocities." See http://www.unesco.org/new/en/social-and-human-sciences/themes/sv/news/our_responsibility_to_protect_cultural_heritage_from_terrori/. This document follows the UNESCO recommendation on the "Responsibility to Protect Cultural Heritage," adopted by an expert meeting of 26–27 November 2015.
