

NEGOTIATING STONES: IMMOVABLE CULTURAL HERITAGE
PRESERVATION IN THE EVENT OF ARMED CONFLICT

by

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THESIS ABSTRACT

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This thesis proposes that cultural heritage preservation in the event of armed conflict is negotiated through four main frameworks: (1) a political framework of independent governments and UNESCO; (2) a legal framework of international conventions and agreements; (3) a civil framework including local communities and non-governmental organizations; and (4) an armed forces framework spanning military and militant groups. These four frameworks operate in conjunction with one another, at times in complementary or in contradictory ways. Given the intimate connection of immovable cultural sites to the dynamics of cultural identity, it is assumed in this thesis that the intentional destruction of cultural heritage property is akin to the destruction of a group's cultural identity and to a greater extent a crucial component of ethnic cleansing in connection with social identity theory.

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CHAPTER I

INTRODUCTION

Ozymandias

I met a traveller from an antique land,
Who said—“Two vast and trunkless legs of stone
Stand in the desert. . . . Near them, on the sand,
Half sunk a shattered visage lies, whose frown,
And wrinkled lip, and sneer of cold command,
Tell that its sculptor well those passions read
Which yet survive, stamped on these lifeless things,
The hand that mocked them, and the heart that fed;
And on the pedestal, these words appear:
My name is Ozymandias, King of Kings;
Look on my Works, ye Mighty, and despair!
Nothing beside remains. Round the decay
Of that colossal Wreck, boundless and bare
The lone and level sands stretch far away.”

Shelley, P. B. (1818, p. 24)

The Bamiyan Valley nestled in the Hazarajat region of Afghanistan is a historically rich cultural area, consisting of at least eight different cultural sites including the Kakrak Valley Caves, the fortress of Shahr-i Ghulghulah, the remains of the settlement at Qallai Kaphari, and the Great Buddhas of Bamiyan (World Heritage List, 2003). Carved between the 3rd and 6th centuries C.E. into the valley's stone cliffs were once two colossal Buddhas housed in deep niches, one of which was the tallest known standing Buddha in the World at 55 meters in height (World Heritage List, 2003; Hughes, 2001, p. 52). Bamiyan was a bustling culturally eclectic center along the Silk Route, a route that linked China to India and proved as a means for vast amounts of trade and subsequently cultural transmission (World Heritage List, 2003). The Buddha sculptures were derived from influences of the Gandhara school of Buddhist art, as were the frescos that lined the honeycomb caves surrounding the niches (World Heritage List, 2003).

Although Buddhism has not been practiced in the Bamiyan Valley for centuries and the inhabitants of the valley are currently Muslim, specifically Shia, the local communities cherished and valued the statues. The Hazara people, an ethnic minority in Afghanistan, established cultural links to the colossal Buddhas in their valley, usurping them into their own folkloric tradition and building from the physiological ties between themselves and the statues. According to Haraza intangible heritage, or folktales, the taller statue is *Salsal* who was the son of Pahlavan and the shorter statue is *Shahmama*, the daughter of the Mir of Bamiyan (Husseini, 2012, p. 23). The story unfolds with Salsal desiring Shahmama's hand in marriage, but to be granted permission by the Mir he had to stop the floods and kill the two headed dragon that plagued the Mir's land (Husseini, 2012, p. 23-24). Once Salal completed his quests he was to be married to Shahmama, with a marriage ceremony requiring them both to emerge from the niches carved in the cliffs, but upon their wedding day the curtains on the niches were retracted and the two were found dead, turned to stone (Husseini, 2012, p. 24). The local Harzaras called the story the "Niches of Love" and often recounted the tale for traveling tourists, as well as drawing poetic inspiration from Salsal and Shahmama's love (Husseini, 2012, p. 24). In honor of the great lovers, the Hazara people light candles in the niches at night (Husseini, 2012, p. 24). In fact, counter to archaeological and art historical evidence, the Hazara believe their ancient ancestors built the Buddhas in their image, meaning the Hazara incorporate the statues into their cultural and historical identity (Husseini, 2012, p. 26). The Buddhas, as an integral physical aspect of the Hazara identity, enlists the statues into the Haraza psychological repertoire¹ and ethnicizes the Buddhas as Hazaran.

¹ Psychological repertoire is further explained in Chapter II.

In 2001, the colossal Buddhas were intentionally destroyed by the Taliban to symbolically and physically establish a homogenous ethno-religious political state, and erase any non-Islamic heritage. Today, all that remains are the colossal empty niches that serve as a reminder. In response to the Taliban's claim that the Buddhas violated Islamic law warranting their destruction, the Grand Mufti of Egypt Nasr Farid Wassel stated, "It is the duty of the Islamic countries to maintain pre-Islamic monuments as 'cultural heritage for mankind.' Egypt is dotted with thousands of monuments, including statues of ancient Egyptian gods and goddesses going back 5,000 years. Not a single monument or statue has been [intentionally] destroyed since Islam came to Egypt" (Vijh, 2001, p. 24). Egypt, a predominantly Islamic state, has found a secular value in the preservation of ancient monuments and sites, even if they represent non-Islamic religious beliefs and history. The motivation for preservation therefore extends beyond the ethnic, religious, or communal identity, and spans into the broader notion of preservation for humanity.

Throughout the globe built monuments of past civilizations remain to this day as testaments to humanity's historical existence, to our greatest achievements and our greatest pains. The Bamiyan Buddhas, the Great Pyramids of Giza, the Statue of Liberty, Teotihuacan, and the Eiffel Tower are all examples of tangible and immovable cultural heritage; they are sites and structures of historical and cultural significance. The human act of creating a structure to serve as the representation of an idea, whether in the form of a religious institution, a conservatory of knowledge, or an anthropomorphic carving, often contributes to the identity formation of a community and the perpetuation of that identity through the physical construction of that idea. Even when specific connections to ethnic, national, or other identities wane, over greater expanses of time, monuments often

transform into a kind of transnational public good, a tangible reminder of the importance of constructing and reinforcing identities, cultures, and civilization itself through the creation of symbolic structures. The Bamiyan Buddhas exemplify how monuments as immovable cultural heritage have been incorporated into and perceived as part of the identity of a particular group of people, and thus becoming subject to both preservationist and destructive motives related to that group, while also exemplifying a broader claim, not based on the identity of any particular ethnic group, that the preservation of historical monuments serves as heritage for all people.

Cultural heritage is comprised of the intangible as well as the tangible, the moveable and the immovable considered in both physical and psychological aspects. Intangible cultural heritage is inextricably linked to the tangible heritage of cultures and is an integral element to the designation of great import for some and, sometimes, for all. The intangible cultural aspects of the tangible, such as oral traditions, values, or religious beliefs imbue the concrete with meaning, influencing the evolutions of heritage interpretations. As a people's intangible heritage evolves and changes, the understanding of any affiliated tangible heritage will shift accordingly. For example, the contested Great Mosque-Cathedral of Córdoba in Spain was originally constructed as a Roman temple to Janus, but was converted into a church by the Visigoths, then later an Islamic mosque in 786 C.E., and finally a Roman Catholic cathedral around 1236 C.E. (World Heritage List, 1984). As Córdoba was conquered over the centuries, the religious monument was converted and reinterpreted to align with the regional shifts in religion, although not without conflicts over interpretation. It is in the dynamic connections between the

intangible and the tangible, that built structures are linked with cultural identities and thus deemed a target for preservation or destruction during armed conflict.

Tangible cultural heritage pertains to the physical representations of a culture such as monuments, artifacts, paintings, and traditional clothing. Tangible and immovable cultural heritage property denotes places and sites of historical or cultural significance that are not moveable, or at least not easily moved, such as archaeological sites, historical buildings, and places of worship. The intangible refers to traditions, rituals, narratives, and other cultural concepts that are socially transmitted, deemed important to a particular community or nation, and often govern the interpretations of cultural monuments and their relations to the dynamics of identity formation. Hence, the intangible identity of a people can have tangible foundations in the physical manifestations of culture. The term cultural heritage property (CHP), not to be confused with cultural heritage protection, will be used to reference the legal terminology of cultural property and to acknowledge that cultural property is linked to a heritage and encompasses more, particularly in its intangible relations to identity formation, than notions of an object or a place that can be owned, purchased, or sold. Focusing on the immovable specifically, addresses the significant gap between scholarship on the moveable and immovable. Armed conflict within this thesis refers to conflicts involving weapons at either the international or intrastate level and the term preservation is interchangeable with protection, implying an intention to prevent damage or destruction.

A physical structure that fosters shared emotions amongst a community, and potentially a broader audience, can elicit efforts to either save or destroy it. The preservation of cultural heritage in times of both armed conflict and peace can help

preserve a group's identity, particularly if conflicts are of an intrastate nature. In the event of armed conflict, cultural heritage preservation is negotiated directly and indirectly as part of the ongoing conflict process. This thesis will analyze the current state of preservation strategies with respect to tangible immovable cultural heritage monuments during periods of armed conflict. Detailed analysis of the use of immovable cultural heritage for post conflict reconciliation and reconstruction is beyond the scope of this work, yet the importance of cultural heritage post conflict is recognized and mentioned to a limited extent. Utilizing immovable cultural heritage cases from Afghanistan, Iraq, the Former Yugoslavia, and Syria, this thesis proposes that cultural heritage preservation in the event of armed conflict is negotiated through four main frameworks: (1) a political framework of independent governments and UNESCO; (2) a legal framework of international conventions and agreements; (3) a civil framework including local communities and non-governmental organizations; and (4) an armed forces framework spanning military and militant groups. These four frameworks operate in conjunction with one another, at times in complementary or in contradictory ways. Given the intimate connection of immovable cultural sites to the dynamics of cultural identity, it is assumed in this paper that the intentional destruction of cultural heritage property is akin to the destruction of a group's cultural identity, and to a greater extent a crucial component of ethnic cleansing in connection with social identity theory. Applying Kaiser's (2000) notion of cultural heritage property becoming "ethnicized", my research finds that against international law and policy, those engaged in armed conflict often target immovable cultural heritage sites for destruction in order to disrupt traditional forms of cultural identity formation and with the intent that military conquest will lead to the formation of

identities more allied with the conquering forces. In this sense, the destruction of immoveable cultural monuments has much in common with forms of conflict motivated by ethnic cleansing. This paper outlines the motivations for cultural heritage property destruction and preservation, and suggests approaches and programs for implementation to improve the current state of preservation efforts in the event of armed conflict.

In thesis, succeeding the introduction, Chapter II discusses social identity theory as it relates to intergroup conflict and cultural heritage perceptions, and includes a more detailed analysis of the four frameworks for cultural heritage property protection and destruction during armed conflict previously mentioned. Chapter III analyzes the political framework using the destruction of the Bamiyan Buddhas in Afghanistan and Stari Most in Bosnia-Herzegovina as reference examples, specifically relating cultural heritage property destruction with acts ethnic cleansing and CHP ethnicization. Chapter IV outlines the relevant international conventions and agreements for cultural heritage property protection, which constitute the legal framework, such as the 1954 Hague Convention and its 1999 Second Protocol. Chapter V encompasses the civil framework and civil society efforts to preserve immoveable cultural heritage sites by non-governmental organizations and non-profits at the international and domestic levels, specifically referencing the conflict in Syria. Chapter VI focuses on the armed forces framework within the context of Iraq's National Museum looting case of 2003 during the United States of America and United Kingdom's invasion, and reviews military cultural awareness training programs. Finally, the last section before the conclusion, Chapter VII, outlines numerous suggestions to strengthen protections for immoveable cultural heritage property in the event of armed conflict. Suggestions for improvement are made within the

frameworks and between the frameworks, emphasizing collaboration and cooperation in order to design and implement more effective ways for preserving immovable cultural heritage property in the event of armed conflict.

CHAPTER II

SOCIAL IDENTITY THEORY AND CULTURAL HERITAGE

The destruction of cultural heritage property, whether intentional or unintentional, by armed forces and civilian populations damages the identity of the community that houses the CHP, as well as the larger society as a whole. Social identity theory is the social psychological process that prompts group affiliation and identity formation, intergroup conflict, and subsequently fosters links between groups and any relevant cultural heritage property. Social identity posits that individuals derive their own identity by affiliating with groups, and that membership has an attached value to the individual (Stein, 1996, p. 94). Individuals seek group membership out of a psychological human need for self-identity, while groups foster the necessary intragroup cohesion through a shared culture consisting of the tangible and intangible. “Membership in a group leads to the systematic comparison, differentiation, and derogation of other groups” (Stein, 1996, p. 94). Differentiation between groups, and the need to differentiate, can escalate into intergroup conflict as comparisons progress into self-esteem boosting value judgments. The final social psychological stages of intergroup conflict are demonization and dehumanization, setting the stage for acts of genocide, gross human rights violations, and ethnic cleansing. From these dynamics, one can begin to see the complexities regarding the establishment, preservation, and destruction of immovable cultural heritage property. When persons and cultures construct and maintain identities through the building of such sites, these sites can then become part of a dynamic used to distinguish between cultural

insiders and outsiders, a distinction which can lead both to constructive and destructive ends depending upon circumstances.

Within social identity theory, while some view particular sites as empowering, others can view the same sites as disempowering. The willful destruction of immovable cultural heritage property is an act of ethnic cleansing, but if existing monuments can be rearticulated as belonging to and benefiting all people, then their preservation could serve as a superordinate goal. Immense cultural heritage property destruction has been equated to the notion of cultural genocide, meaning that while the people still remain, the places and the environment that contribute to their cultural identity is lost. The destruction of cultural property has also been identified as a tactic of psychological warfare (Van der Auwera, 2013, p.1). The eradication of the places and structures that give people a sense of identity and security has a demoralizing effect, increasing a group's vulnerability. The term "cultural terrorism" has been employed to capture the severity of intentional CHP destruction (Romey, 2001). Cultural heritage property destruction, as psychological warfare and cultural terrorism, is a key component of ethnic cleansing as it erases the physical evidence that a group ever existed. As CHP is destroyed during armed conflict, the physical landscape of the environment where a group lives is subsequently changed; this environmental change can force adaptive cultural shifts, resulting in the gradual erasure of historical memory and identity. The destructive forces of armed conflict inherently influence a group's identity, whether intended or not, due to the changes in tangible heritage.

Social identity informs the orienting of individuals into groups within societies. By the subsequent comparison of groups and a need for differentiating between "we" and

“they”, the creation of negative stereotypes and conflicts occur (Stein, 1996, p. 95). Intergroup conflict can be influenced by a number of variables including the need for positive self-image, self-esteem, ingroup favoritism that leads to outgroup discrimination, and zero-sum competition. A built environment can foster positive group self-image and self-esteem through monuments that commemorate past achievements, and help establish a generational cultural lineage in the region. Yet, constructing a built environment in one group’s favor, for legitimizing their territorial claim, architecturally delegitimizes the other group, potentially stirring conflict. Competition between groups commencing over scarce resources, such as land, becomes zero-sum and the allocation of the resources may mean perceptively or physically the difference between life and death, survival and extinction. Intergroup identity conflicts can result from perceiving the other as an abdication of one’s own identity, particularly when both identities are rooted in the same territory, as is the case in the Former Yugoslavia (Stein, 1996, p. 96). Enmification, the process of making enemies, progresses once conflict begins, whether over identity, security, other basic psychological human needs, or scarce resources. The shift from conflict to violent conflict and the further advancement to genocide entails more than the issues that initially instigated the conflict; the shift involves psychological processes and components. The fundamental psychological variables that contribute to the escalation of violence and the ability to kill are externalization, projection, and regressed collective morality. Externalization and projection are integral to the demonization of others. The facets of oneself that are distasteful and difficult to recognize become one’s internal demons. “And so we take our shadow-self and project it elsewhere, where it is more palatable: onto someone else—onto the barbarians, onto an enemy” (Barash, 1991, p. 96).

Negatively associated traits are externalized and projected onto others where they can be demonized without self-reflection or awareness. This process creates the polarized notions of “good” versus “evil” and contributes to building the “right versus wrong” argument as a rationale for immoral actions. Externalization and projection can also be applied to inanimate objects one associates with the enemy, such as a historical site or a religious building. A physical object or place can symbolically represent the enemy, as the tangible manifestation of perceived evil.

The psychological phenomenon that occurs within groups permitting gross acts of violence, to the living and the inanimate, is called regressed collective morality. Collective or shared morality undergoes regression out of fear of punishment by the enemy and as a method for minimizing group anxiety (Volkan. 1997, p. 112). The regression of collective morality allows for the killing of the other, the enemy, without remorse because the individual’s morality is influenced and shared by the group; and the group does not perceive the killing as immoral. By eradicating the other, the group and its identity are safe, no longer in danger. The presence of the other group’s CHP can represent a threat to one’s own group, and regardless of the beauty or history of the CHP, it must be destroyed. Complete CHP destruction instead of usurpation signifies an act of cleansing, to remove the cultural heritage property from existence. Whereas usurpation would imply dominance and conquering, a reminder of the power the conquering force is capable of. Dehumanization follows demonization, as the other group transitions from the evil enemy to being delegitimized as human. Volkan (1997) uses the example in Rwanda of the Hutu referring to the Tutsi as evil and then progressing to calling them cockroaches. If one is to eradicate a cockroach infestation one must kill the cockroaches,

eliminate their nest or home, and make it impossible for them to access what it is they desire to ensure they do not return. In relation to humans, this translates into the direct destruction of homes, the destruction of religious sites and CHP, and genocide. The dehumanization of the other in conjunction with a collective regressed morality allows for groups to commit gross human rights violations and genocide.

The delegitimization of the outgroup is further reinforced by the ingroup's psychological repertoire. Identity conflicts, like the Israeli-Palestinian conflict and the Former Yugoslavia, are viewed as intractable and include a psychological repertoire. The repertoire is developed to cope with the ongoing conflict by each group and is reflected by the elements of collective memories, ethos of conflict, and collective emotional orientation (Bar-Tal, 2004). Collective memories translate as a group's historical narrative or perspective, and conflict ethos is the current dominant narrative that expounds beliefs, goals, values, and justifications. Bar-Tal (2004) explicates how both collective memories and conflict ethos delegitimize the opponent and often frame the ingroup as victims of the outgroup. Collective emotions, narratives, and memories are exceptionally powerful tools for ingroup information dissemination, cohesion, and mobilization. Cultural heritage property that serves to embody painful collective memories or moments of shared achievement become part of a group's repertoire. Including CHP into a repertoire is part of the ethnicization process of that CHP. Cultural heritage property becomes ethnicized during the conflict process, meaning integrated as part of a group's psychological repertoire, or at least the outgroup's perception of a group's repertoire. A psychological repertoire can be rigid and resistant to change, inhibiting conflict de-escalation and at times serving as a catalyst (Bar-Tal, 2004). When

the repertoire for the ingroup delegitimizes, demonizes, or even dehumanizes the outgroup, serious complications arise for advancing peace processes. Conflict reduction and resolution requires a shift in entire group narrative, collective memories, and emotions. During a conflict, the destruction of a group's CHP can become part of their repertoire, becoming the physical representation of other losses. The destruction of CHP that represents a group's identity may be perceived as an attack on that group's identity, a physical and symbolic gesture of ethnic conflict. The complete destruction of CHP instead of usurpation signifies an act of cleansing, the removal of cultural heritage property from existence. By contrast, usurpation, otherwise known as appropriation, would imply dominance and conquest, a reminder of the power the conquering force is capable of.

The psychological processes that progress to dehumanization stem from social identity theory and the escalation that occurs after conflict initiation. Once the process of dehumanization is reached, the methodology for de-escalation begins with mediums of conflict reduction and resolution. Conflict resolution modes can be utilized, such as the contact hypothesis, superordinate goals, and reconciliation. Bar-Tal (2004) suggests reconciliation as a mode for changing a group's psychological repertoire, which is necessary but singularly insufficient. The other pertinent method for intergroup conflict reduction is non-violent intergroup contact. The contact hypothesis was developed as a means to reduce intergroup conflict, hostility, and prejudice by interaction and cooperation. The conditions associated with the success of the contact hypothesis require frequency and quality of contact, low anxiety levels, cooperative activities, the establishment of equality, and the building of interpersonal relations (Brewer & Miller,

1996). The desegregating of the groups exposes the members of the ingroup to those of the outgroup in a facilitative manner to allow for cross-cutting identities to unveil, such as shared identities of motherhood or fatherhood. Outgroup members become personalized, generalized stereotypes are disconfirmed, and misinformation detangled. One of the key elements of the contact strategy is the implementation of superordinate goals. Superordinate goals necessitate the cooperation and participation of both groups for achievement. Brewer and Miller (1996, p. 112) use the example of two groups of boys needing to come together in order to physically pull a truck to get it started. Neither group of boys could have pulled the truck successfully without the aid of the other group, making this goal of pulling the truck a superordinate goal. Superordinate goals create interdependent relationships between the groups and individuals within the groups. Conflicts in which demonization or dehumanization occur, and in which those perceptions are integrated into the conflict ethos, may prove that intergroup contact, subject to qualifying conditions, potentially provides the most viable method for initiating a conflict resolution process. Personalized and cooperative experiences can raise awareness for attribution error, projection, and externalization. Disconfirmed stereotypes dissolve the ingroup's perception of the outgroup, assisting in the dissolution of a unified enemy. These experiences also provide opportunities for secular CHP to be de-ethnicized and reinterpreted as a shared heritage. Personalized experiences create safe spaces for members to reconnect with their individual morality and disassociate from the regressed collective moral. With a reduction in hostility, prejudice, and violence, reconciliation efforts can enable for group identity recognition and the intergroup acknowledgement of those who were dehumanized during the conflict.

Social identity theory establishes group formations, creates cultural heritage affiliations, and determines whether CHP will be destroyed or preserved during armed conflict. Once conflict has begun between groups the rise to violence, demonization, dehumanization, and CHP destruction can be psychologically attributed to externalization, projection, collective morality regression, and a psychological repertoire. The need for self-reflection, awareness, and recognition of internal demons to minimize externalization and projection can aid in the reduction of conflict and stimulate acknowledgment during reconciliatory efforts. The ingroup would ideally no longer perceive the outgroup as inhuman and recognize the outgroup as legitimate, initiating respect for other's CHP. Conflict resolution strategies, such as the contact hypothesis, superordinate goals, and reconciliation aid in conflict reduction, de-enimification, rehumanization between groups and can lead to the cessation of cultural heritage property destruction. As groups view one another as legitimate, these groups may also view one another's CHP as legitimate. Intergroup contact and cooperation with the integration of superordinate goals locates the cracks in the foundation of the psychological repertoire, allowing for individuals and groups to shift towards reconciliation, reconstruction, and peacebuilding, with respect to conflicts over the preservation or destruction of immovable cultural heritage property.

CHAPTER III

THE POLITICAL FRAMEWORK

[I]f art gives an aura of prestige to a city or a dynasty, rival cities or dynasties which set out to conquer and humble them, will seek also to destroy their 'myth' by depriving them of this of this aura...

Roper, H. T. in Detling (1993, p. 43)

Cultural heritage property protection, and its destruction, operates within a multitude of political spheres propagated by agendas comprised of motivational factors, including nationalism, religion, cultural politics, and foreign policy. Preservation efforts enacted by governmental agencies at the international level adhere to a policy of diplomacy and indicate that a state's domestic sovereignty over CHP is highly valued. Yet, relevant to "new wars" (Kaldor, 2012) is an ethno-religious political agenda that often results in human rights violations and ethnic cleansing, compelling international governments to intervene at varying degrees. Through a political lens, cultural property can be viewed as a legitimization tool by acting as evidence for the existence of a group in the present and the past within a region, subsequently necessitating eradication if a political agenda includes establishing a homogenous identity through an engineered sense of place and environment. The destruction of the two ancient Buddhas of Bamiyan in Afghanistan by the Taliban serves as a case example of the political approaches to CHP preservation utilized by international governments and UNESCO. The destruction of the colossal Buddhas and the mass CHP destruction that occurred in the Former Yugoslavia, demonstrate how cultural heritage destruction can be perceived as an ethno-religious political tool for ethnic cleansing. Concurrently, the conflict in Syria and the CHP

destruction has raised ethno-religious contention concerns from the international community.

In the mid-1990's a militant faction called the Taliban had seized control of most of Afghanistan from the National Islamic United Front for the Salvation of Afghanistan (United Front), and had control of approximately 95% of the country by 2001 (Hughes, 2001, p. 52; Romey, 2001, p. 16; Milligan, 2008, p. 100). The seizure of the state by the Taliban did not extend at the time beyond the borders of the country, making the conflict solely intrastate and not interstate or international. On February 26, 2001 the Taliban issued an edict announcing that all pre-Islamic statues in the country were to be destroyed, and cleric Mullah Omar publically stated, "the real God is only Allah, and all other false gods should be removed" (Romey, 2001, p.16). Omar's public statement was in specific reference to two colossal statues of the Buddha in the Bamiyan Valley of Afghanistan, as well as in general reference to any cultural heritage property housed in one the country's many museums. The threat to the ancient Buddhas elicited international outrage, and the subsequent use of political tactics by the international community in 2001 to prevent the Taliban from destroying the giant stone carved Buddhas of Bamiyan ultimately yielded a fundamentalist rhetoric response from the regime. Referencing the words of Sultan Mahmud of Ghazna, a historical Islamic figure, Mullah Omar proclaimed to Muslims internationally, "Do you prefer to be a breaker of idols or a seller of idols?" (Romey, 2001, para. 7; Flood, 2002, p. 651). The question posed by Mullah Omar stems from the religious-myth response by Mahmud Ghaznavi to the Somnath Brahmans' ransom plea for the safe return of their Shiva Linga icon after the legendary sacking of the Shiva temple at Somnath, Gujrat in 1025 C.E. (Flood, 2002, p. 652; Elias, 2007, p.

23-25). Omar intentionally quoted the ancient parable advocating CHP destruction to equate himself to the proclaimed Muslim hero in the story and to justify contemporary acts of iconoclasm. Quoting such a parable would effectively solicit the public support of select traditionalist religious groups, organizations, and individuals, while highlighting those vehemently opposed. In March of 2001, the giant stone carved Buddhas in the Bamiyan Valley of Afghanistan were completely demolished by the Taliban regime after several attempts with varying weapons and explosives. The intentional and publicized destruction of the Bamiyan Buddhas directly after a reversal of the Buddhist antiquities protection policy in Afghanistan correlates less with a theological motivation and instead suggests an immediate reaction to the international community imposing sanctions on Afghanistan.

The sanctions against the Taliban regime were for the failure to extradite Osama bin Laden who was responsible for bombing several United States embassies in Africa (Flood, 2002, p. 651; Vjih, 2001, p. 24). These sanctions included the closure of all Afghan offices outside of Afghanistan and an international travel ban on all members of the Taliban leadership at a time when Afghanistan was experiencing severe drought and near famine conditions (Romey, 2001, p.16). Enacting sanctions effectively partitioned Afghanistan from the political realm, decreasing negotiation capabilities, especially during a time when the Afghan people were lacking basic human needs such as food and water. Pakistan, one of the Taliban's closest allies, attempted to convince the Taliban to preserve the Bamiyan Buddhas, but was unsuccessful (Hughes, 2001, p. 52). According to Abdul Salam Zaef, the Taliban's ambassador to Pakistan, a Japanese official delegation with a Buddhist group from Sri Lanka proposed the removal of the statues

piece by piece to be relocated abroad, or to completely cover the statues with material that would hide them from view and still preserve them underneath; all suggestions were rejected by the Taliban (Japan offered, 2010). If the Taliban was truly experiencing religious objections to the Buddha statues and a concern over them being worshiped within their state, removing them or covering them completely would nullify those concerns; the rejection of those proposed solutions indicates another motive for their destruction. Numerous propositions to purchase the Buddhas were also issued, and the Taliban accused the international community of caring “more for preserving old stones than the lives of Afghans who were dying of hunger” (Bernard, 2001). If the Taliban had accepted a purchase offer for the statues, the money could have been allocated towards feeding the Afghan populations and delivering needed water. The Japanese government threatened to cease all aid programs in Afghanistan if the Taliban destroyed the Buddhas (Romey, 2001, p. 16). The Japanese ultimatum suggests that some countries, at least Japan, were indeed responding to the humanitarian needs of the Afghan people, while also offering more monetary funds in exchange for the Buddhas. Government-to-government negotiations proved unsuccessful, although the Taliban was only recognized as the government of Afghanistan by Pakistan, Saudi Arabia, and the United Arab Emirates (Vijh, 2004, p. 24; Abtahi, 2004, p. 7). It can be deduced then that threatening to destroy the colossal Buddhas was an act to attract international attention and to provide leverage for the Taliban who sought internationally recognized political legitimacy and a removal of all sanctions against them (Husseini, 2012, p. 21).

The United Nations (UN) faction charged with managing cultural heritage is the United Nations Educational, Scientific and Cultural Organization (UNESCO). Under

Article 23 of the 1954 Hague Convention, UNESCO is authorized to take UN diplomatic measures to protect cultural heritage property and has been previously executed by the use of three different methods: a letter sent to the UNESCO delegation of the country concerned, a representative of the UNESCO Director-General making an official appearance, and a phone call by the Director-General him or herself to the disputants (Van der Auwera, 2013, p. 11). Historically, it has been rare for signatories to request UNESCO technical assistance under Article 23 of the 1954 Hague Convention, aside from Cambodia in 1970 (Detling, 1993, p. 64). UNESCO intervention on behalf of cultural property has often consisted of notices by the Director-General to any 1954 Hague Convention contracting parties. For example, the Director-General sent a telegram to both India and Pakistan during hostilities in December of 1971, reminding each party of the terms of the 1954 Convention agreement regarding cultural heritage. Also, the Director-General conveyed the same cultural heritage reminders to Cyprus and Turkey in July of 1974 (Detling, 1993, p. 64). During the armed conflicts in the Former Yugoslavia a UNESCO mission to was sent in 1991 to observe, survey, and report cultural property destruction and damage in Dubrovnik, currently part of Croatia on the Adriatic coast. After the initial reports of destruction Director-General Mayor telegraphed the Yugoslav Secretary of Defense to demand the cessation of attacks in the Dubrovnik area and to “plead for the government’s respect of cultural property and the Hague flags” baring the blue shield emblem (Detling, 1993, p. 72). In the Former Yugoslavia sites marked with the blue shield emblem were being intentionally attacked, the emblem signifying sites of great import. Then, in July of 1992 UNESCO again appealed for negotiations to protect Dubrovnik and prepared to send another delegation (Detling, 1993, p. 72). Dubrovnik,

deemed “the Pearl of the Adriatic”, was inscribed on the World Heritage List in 1979 and is a late-medieval walled city with Baroque and Renaissance monuments (World Heritage List, 1979). The Old City, or Town, of Dubrovnik was extensively shelled and damaged during the fighting between the Yugoslav People’s Army (JNA) and Croatian armed forces, a case that was later reviewed in the International Criminal Tribunal for the former Yugoslavia and resulted in indictments and charges for the commanding officers of the JNA (Case Information Sheet: “Dubrovnik”).

In the Bamiyan Buddhas case of Afghanistan, UNESCO sent a special envoy, including Pierre Lafrance, to negotiate with Taliban mullahs in Kandahar and according to Lafrance, “there was not the slightest hint of bargaining in their position. Their standard is definitely extreme compared to other countries” (Hughes, 2001, p. 52). The UNESCO delegation failed to reach an agreement with the Taliban, alluding to the fact that the terms a UNESCO official is permitted to commit to may not have been sufficient for the Taliban, which sought political legitimacy and sanction removal. UNESCO as one of the many branches of the UN does not possess the authority to remove sanctions unrelated to its area of designation, nor to grant government legitimacy. Negotiating with the Taliban could have been interpreted as acknowledging the Taliban’s authority over Afghanistan to a limited extent, although this was still not enough. On March 14, 2001 the Taliban government officially announced the destruction of the Bamiyan Buddhas and all the statues in the Kabul museums, as well as other museums in the area (Bernard, 2001). The destruction was publically announced to ensure the international community was aware of its failure to preserve the CHP, as well as to publically announce the eradication of all non-Islamic cultural history.

The complete destruction of the Buddhas has been evaluated to signify political motivations beyond religious Islamic iconoclasm and even beyond a reaction to international sanctions. Medieval Muslim methods for dispatching icons included re-contextualization, decapitation, removal of facial features, or by drawing a line across the throat of an image (Husseini, 2012, p. 17). These acts denoted the death of the form as well as a loss of identity and power to ensure the cessation of any further veneration (Husseini, 2012, p. 17-18). The Buddhas in Bamiyan had previously undergone near complete facial removal and complete hand removal, rendering the Buddhas religiously lifeless and effectively mutilated. Thus, it is argued that the systematic destruction of pre-Islamic cultural heritage Afghanistan was part of an agenda to erase all non-Islamic historical evidence in order to construct a pure Islamic state modeled after Saudi Arabia, consisting of a Saudi Arabian Wahabbi derived Islamic school of thought and the installation of a completely Sunni-Pashtun ethnic identity (Husseini, 2012, p. 20). The inhabitants of Bamiyan are the Hazara, an ethnic Shia minority, and existed as a hindrance to the Taliban's ethno-religious idealism. The Hazara speak Persian, as opposed to Pashto, and possess distinct Asiatic facial features similar to those of the Buddha statues (Abtahi, 2004, p. 4; Ahmadi, 2012, p. 52). The destruction of the colossal Buddhas can be interpreted as a strategic move against the Hazara people, who fiercely resisted the Taliban regime and actively criticized Wahabbi ideology (Vijh, 2001, p. 24; Ahmadi, 2012, p. 52; Husseini, 2012, p. 20). During the seizure of Afghanistan by the Taliban the Haraza people were massacred and in 1997 the Taliban commander fighting in the Bamiyan Valley declared that as soon the valley was conquered he would destroy the Buddhas (Ahmadi, 2012, p. 52; Romey, 2001, p. 16). This declaration resulted in the

Taliban leader Mullah Omar issuing a command in 1999 that prohibited the destruction of the Buddhas and Afghanistan's cultural heritage (Romey, 2001, p. 16; Abtahi, 2004, p. 10). Of course, this issued command for cultural heritage protection was later revoked in 2001. The Taliban believed that Shia Hazaras were not Muslims, but infidel who had to convert to Sunnism, and for some Taliban authorities the policy was to "exterminate them" (Abtahi, 2004, p. 53). The destruction of the Buddhas can be perceived as an act of psychological warfare directly against the Shia Hazara people (Husseini, 2012).

The Bamiyan Buddhas site was added to the World Heritage Tentative List years before its inscription in 2003, making it a large tourist attraction with its seven other surrounding historical and archaeological sites. This international renown created a tourism economy in the area and provided a source of jobs for the local Hazara population. As previously mentioned in Chapter I, the Hazara people would often share their oral traditions, meaning tales, about the Buddha statues with tourists. The destruction of the Buddhas would hinder any further tourist development in the region, preventing them from establishing a consistent source of income, as well as eliminating the current tourist industry until any reconstruction and refugee returns (Vijh, 2001, p. 24; Ahmadi, 2012, p. 52). The Taliban's act of destruction can be perceived as an attempt to eradicate any non-Islamic international tourism, the Hazara's livelihood, Hazaran history, and the Hazaran identity.

The ethnicization of cultural heritage property leading to its subsequent destruction also occurred in the Former Yugoslavia, specifically Bosnia-Herzegovina. Bosnian-Croat military forces destroyed the Old Bridge of Mostar, called Stari Most, with an army tank in Bosnia-Herzegovina on November 9, 1993 (Horvat, 2004, para. 1-2;

Kaiser, 2000, para. 10; Ordev, 2008, p. 26). Mostar Bridge was a twenty-nine meter long stone marble arch bridge, constructed in 1566 and designed by Mimar Sinan, a renowned Ottoman architect (Horvat, 2004, para. 1-2; Kaiser, 2000, para. 10-11). It connected the banks of the Neretva River and was inscribed on the World Heritage List in 2005 (Ordev, 2008, p. 26; Kaiser, 2000, para. 11; World Heritage List, 2005). At the start of the war, locals in Mostar attempted to protect the bridge with rubber tires, scaffolding, and roofing tin (Kaiser, 2000, para. 11; Meharg, 2001, p. 93). The intentional destruction of the bridge was to divide the two shores of Mostar that it connected, creating a Muslim-Bosniak side and a Bosnian-Croat side (Meharg, 2001, p. 93). Stari Most was ethnicized as Muslim cultural heritage because it was historically built and commissioned by Ottomans. Also, in Kosovo architecture as Serbian cultural heritage served as the foundation for Serbian claims to the territory over the Albanian communities (Herscher & Riedlmayer, 2000, p. 109). Subsequently, during the 1998-1999 conflict Albanian heritage experienced devastating destruction to establish a completely Serbian area (Herscher & Riedlmayer, 2000, p. 109). The Serbian government even attempted to use Albanian retribution attacks against Serbian cultural heritage in Kosovo as the basis for an unsuccessful petition to the United Nations to return troops and police to protect cultural monuments, sites, and churches (Herscher & Riedlmayer, 2000, p. 112). Cultural heritage property from all sides of the conflict suffered, depending on which group was the majority and which was the minority in the region.

In Syria, the destruction of religious sites has promulgated concerns of ethno-religious sectarianism in Syria (Syria: Attack, 2013). The UN Secretary-General Ban Ki-moon, UNESCO Director-General Irina Bokova, and UN League of Arab States Joint

Special Representative for Syria Lakhdar Brahimi made a joint appeal that called “on all parties to halt immediately all destruction of Syrian heritage” following the “UN Security Council Resolution 2139, adopted on 22 January 2014” (Statement by UN Secretary, 2014, para. 6). The appeal also included the condemnation of using cultural heritage sites for military purposes and a call for all parties to uphold international humanitarian law, as well as the 1954 Hague Convention (Statement by UN Secretary, 2014, para. 7-8).

UNESCO petitioned the UN Security Council to outlaw the sale of Syrian antiquities because trafficking has reached “unprecedented levels” (Fordham, 2014, para. 10). "The World Heritage Committee has decided to place the six World Heritage sites of the Syrian Arab Republic on the List of World Heritage in Danger so as to draw attention to the risks they are facing because of the situation in the country," according to UNESCO (Sinha, 2013). The Etilaf, or the National Coalition for Syrian Revolutionary and Opposition Forces, Minister for Culture worked with the Heritage for Peace non-governmental organization to include a Resolution during the January 2014 Geneva Peace Talks, that requested “all warring parties to protect Syrian cultural heritage during the present conflict” (Perini & Cunliffe, 2014, p. 11). Etilaf also expressed interest in cultural heritage protection training for the Free Syrian Army (Perini & Cunliffe, 2014, p. 11). Yet, even with UNESCO and UN requests the destruction of cultural heritage in Syria is still occurring.

The political framework for cultural heritage property preservation is complex and to an extent, currently ineffective for enacting any immediate remedies. UNESCO and the UN are adept at issuing statements and requests for parties to halt CHP destruction, but these requests are often denied and the statements unacknowledged. The

use of UNESCO's abilities to send an envoy for CHP documentation can lead to evidence for prosecution post conflict, but the envoy does not offer emergency response strategies, nor does it involve itself in the politics of the conflict. The Buddhas of Bamiyan and Stari Most exemplify cases where CHP was ethnicized and therefore targeted as part of an ethno-religious political agenda. As parties move to take possession of territories in a hostile manner, the political agendas will often include ethnic and/ or religious aspects resulting in cultural heritage property destruction, especially during intrastate conflicts. The political motivations for eradicating CHP correlate with the establishment of a homogenous society and subsequently acts of ethnic cleansing.

CHAPTER IV

THE LEGAL FRAMEWORK: RELEVANT INTERNATIONAL CULTURAL PROPERTY CONVENTIONS AND AGREEMENTS

[Cultural property protection] must become everyone's responsibility, or else it is no one's, and our heritage is destroyed.

Cunliffe (2013, p. 347)

The importance of cultural heritage protection for all of humanity is recognized through international conventions and agreements, evolving as cultural climates shift to value a broader range of heritage perspectives. The legal framework for CHP protection is constructed by the political framework and establishes formal boundaries, conditions, and consequences with respect to CHP. The destruction and usurpation of cultural property has been an age-old practice of governments and religious entities, as mosques were previously converted into cathedrals and Egyptian obelisks were transported to Rome, Italy and New York's Central Park (Egleston, 1886; Foderaro, 2014). Yet, since the devastation of World War II the international community has found the spoils of war and collateral damage approaches to be increasingly classified as violations; they are in violation of a growing global conscience and of emerging developments towards notions of human rights and ethnic cleansing prevention. International conventions have been held to institute protections and prompt the preservation of cultural heritage in the event of armed conflict. From these conventions committees and organizations have been established to aid in upholding the affirmed provisions, regulations, and values inscribed. International conventions, tribunals, and multilateral agreements will be examined for relevance corresponding to immovable cultural heritage, excluding underwater finds and

maritime archaeology, with a predominant focus on the international Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954.

The 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict was adopted at The Hague in the Netherlands along with the First Protocol of 1954, and a subsequent Second Protocol in 1999. It serves as the first major convention solely convened on behalf of cultural heritage. Nations including the United States of America, the United Kingdom, Iraq, Iran, Egypt, Italy, France, and approximately one-hundred and eight others are signatories of the 1954 Hague Convention, excluding the First and Second Protocols of which not all 1954 parties are signatories of, such as the United States of America and the United Kingdom (Kila, 2013, p. 319). The United States of America, while an original signatory in 1954, did not officially ratify the Convention until March 13, 2009 (Kila, 2013, p. 319). The 1954 Hague Convention demonstrates an international recognition for the need to protect cultural heritage for the benefit of all mankind, yet also recognizes a state's authority over its own heritage. The Convention asserts provisions, regulations, and a separate First Protocol requiring signatories in order to oblige states to respect and protect their own and others' cultural heritage in times of peace and conflict. The First Protocol pertains more specifically to moveable cultural property and was drafted separately to increase the number of main market nations convention signatures, since market nations are those that purchase and house vast amounts of cultural objects of potentially dubious origin (Gerstenblith, 2009, p. 689). Yet, the 1954 Convention Provisions Chapter 1, Article 1 defines cultural property as:

- (a) moveable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether

religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; [...]

(b) buildings whose main and effective purpose is to preserve or exhibit the moveable cultural property [...] such as museums, large libraries and depositories of archives [...] (Hague Convention, 1954).

The Hague Convention (1954) classifies cultural property as tangible and both moveable and immoveable, spanning cultural and religious institutions, sites, buildings, and monuments. Distinguishing between moveable and immovable as matter of transportability is insufficient because what is termed immoveable can still be carefully sectioned into pieces and reconstructed elsewhere.² Large-scale monuments that are classified as immoveable have been historically physically moved, yet the term immovable will be used for legal reference. The broad scope of the 1954 Convention definition provides for the inclusion of any property a signatory party deems artistic or historical, potentially lavishing international protections to an unreasonable extent if unregulated. Hence, Regulations Chapter II, Articles 13 and 15 denote a cultural heritage registration procedure and requirement for the special protection designation with UNESCO (Hague Convention, 1954). Article 14 of Regulations Chapter II permits contracting parties to object to the registration of another state's property, defaulting the conflict to either a claim withdrawal by the objecting party or arbitration between the two states (Hague Convention, 1954). Instituting a registration process decreases the possibility of special protection abuses in the event of armed conflict, but the objections procedure could hinder nations from accessing protections efficiently if used as a political

² Nubian Temples of Ramses II at Abu Simbel were dismantled, relocated, and reconstructed due to the construction of the Aswan High Dam that would have flooded the monuments by the waters of Lake Nasser. See UNESCO site <http://whc.unesco.org/en/list/88>

tactic. The Hague Convention (1954) in its definitions of cultural property also provides a general protection during armed conflict for heritage not registered, but without the added recognition by the international community of its value. The 1954 Hague Convention, the 1970 UNESCO Convention, and the 1972 World Heritage Convention all allocate cultural heritage identification power and responsibility to the signatory state party (Detling, 1993, p. 48-9). Delegating this provision to individual states acknowledges each nation's authority over the property within its boundaries, yet also allows for a prejudicial omission of significant cultural heritage property. The power to select which sites should be listed, funded, and protected prompts issues of biased selections favoring one ethnic or religious group. Yet, if UNESCO were to establish lists without state submission it would violate a state's sovereignty and authority over its property. Once cultural property is registered and any objections settled, visual designation may occur and is mandated for special protection classification. The Hague Convention (1954) Chapter V Articles 16 and 17 describe the "distinctive emblem" of the convention and how it may be used. The blue shield emblem identifies cultural property that is under protection granted by the contracting parties of the convention and stems from the Hague Conventions of 1899 and 1907 on the Laws and Customs of War on Land. The 1899 and 1907 Conventions are the only international conventions regarding the protection of cultural heritage during armed conflict that have been completely ratified by both the United States of America and the United Kingdom (Gerstenblith, 2009, p. 681). The provisions of the 1907 Hague Convention includes Article 27, Paragraph 1 "requiring states to identify cultural sites 'by some particular or visible sign'" and Article 55 which "states that monuments and cultural sites cannot be harmed if known" (Poulos, 2000, p. 15). The blue and white

shield serves as an internationally recognized emblem situated on a historical building or cultural heritage site, providing sanctioned protection as provided for in the conventions. The emblem could function in two ways, either as a deterrent for armed forces or as a target. Nations that are not signatories to the Hague Convention (1954) cannot be in violation of the convention and subject to the subsequent sanction provision denoted in Chapter VII, Article 28. Yet, if the emblem were to serve its intended purpose to mandate protection and succeed, buildings and structures under the shield could function as a refugee zone to house civilians not engaged in the conflict. The convention essentially developed two degrees of protection that include the special level warranting an emblem, and a general level that encompasses all cultural heritage previously defined in Chapter I, Article 1 (Meyer, 1993, p. 355). Exceptions to special protections and the permitted use of military or armed force in the vicinity of, or in direct contact with, cultural heritage is provided for in Chapter I, Articles 9 and 11, in cases of “unavoidable military necessity”, or if the opposing party is utilizing the cultural heritage for a military function (Hague Convention, 1954). Therefore, if proper necessity is demonstrated special protections become null, immunity void, and a contracting party is permitted to destroy cultural heritage partially or completely.

The Second Protocol (1999) to the 1954 Convention contains provisions for the prosecution of persons regarding convention violations, either under the domestic law of the territory where the offence occurred or, if needed, by international law (Chapter 4, Article 17). Under Article 28 of the Convention, prosecution and punishment for persons found breaching the convention is the responsibility of the contracting party and completely at their discretion (Gottlieb, 2005, p. 861). International prosecutions are not

provided for in the original 1954 Hague Convention or in the First Protocol; the only countermeasures stipulated are collective and unilateral sanctions. Second Protocol Chapter 4, Article 15 details the list of serious violations subject to prosecution:

- (a) making cultural property under enhanced protection the object of attack;
- (b) using cultural property under enhanced protection or its immediate surroundings in support of military action;
- (c) extensive destruction or appropriation of cultural property protected under the Convention and this Protocol;
- (d) making cultural property protected under the Convention and this Protocol the object of attack;
- (e) theft, pillage or misappropriation of, or acts of vandalism directed against cultural property protected under the Convention.

Subsections (a) through (e) provide grounds for prosecution under the degrees of protection, which include the 1954 general and special, and the 1999 “enhanced” protection classifications. Yet, many countries are not signatories of the Second Protocol, including the United States of America and the United Kingdom. The Second Protocol (1999) was intended to apply the 1954 Convention to conflicts not of an international nature (Gerstenblith, 2009, p. 689). Ratifying the Second Protocol would force a signatory nation to become subject to and held responsible for abiding by the increased regulations that include intrastate conflicts and a stricter military necessity protocol. Chapter VI, Article 19, of the Hague Convention (1954) states that conflicts not of an international character are not subject to provisions and regulations of the entire convention; signatory parties are only bound by provisions regarding the respect of cultural property and should “endeavor” to bring into force all or part of the convention (para. 1-2). The language of Article 19 implies that nations with intrastate conflict should

attempt to adhere to the provisions of the 1954 Convention, or rather respect them, but it does not force the matter. To rectify the lack of force in the 1954 Convention, Article 22 (1) was incorporated in the Second Protocol (1999), which states that “[t]his Protocol shall apply in the event of an armed conflict not of an international character, occurring within the territory of one of the Parties”. The language of the Second Protocol’s Article 22 is clear in that conflicts occurring within a nation will be subject to compliance with cultural property protections and procedures. The Second Protocol also places a burden on nations to ensure that militant groups within their borders are not destroying cultural property of any origin or nature. The extra burden placed on nations may be a contributing factor to the overall lack of signatory parties to the Second Protocol.

The 1954 Hague Convention contains a unique provision as a cultural heritage document, one titled the Conciliation Procedure. Chapter VII, Article 22(2) of the Hague Convention (1954) details an opportunity for disputants to negotiate:

[E]ach of the Protecting Powers may, either at the invitation of one Party, of the Director-General of the United Nations Educational, Scientific and Cultural Organization, or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for the protection of cultural property, if considered appropriate on suitably chosen neutral territory. The Parties to the conflict shall be bound to give effect to the proposals for meeting made to them.

As a party to the convention, the disputants can invite the other to meet and discuss cultural heritage terms, or to a broader extent a cease fire and an end to the conflict. The Director-General of UNESCO is also permitted to extend invitations to the disputants, but this would require a willingness to negotiate from both parties. A neutral and mutually agreed upon forum for the conciliation to take place as part of the article increases the likelihood for invitation acceptance as well as the binding statement for

parties to “give effect” to the proposals for meeting. The article does not include any other enforcement conditions or consequences for non-compliance. The conciliation procedure is even reiterated in the 1999 Second Protocol in Chapter 8, Article 35, nearly verbatim to the 1954 Convention article. Since the Second Protocol extends its enforcement to conflicts occurring intrastate, non-international armed conflicts, the Conciliation Procedure could be exercised to bring governments and militant groups together for negotiations under the guise of UNESCO. Article 23(1) of 1954 Convention permits states to request UNESCO technical assistance in protecting cultural property and Article 23(2) allows UNESCO the initiative to send proposals to states in conflict concerning protecting CHP. The extent by which UNESCO will assist state a party is bounded by available resources and program limits.

In 1972 the Convention Concerning the Protection of the World Cultural and Natural Heritage was enacted to address cultural heritage outside the scope of armed conflict. The 1972 Convention established the World Heritage Program and an Intergovernmental Committee for the Protection of the Cultural and Natural Heritage of Outstanding Universal Value, called the World Heritage Committee (Section III, Article 8(1)). The World Heritage Committee manages the World Cultural Heritage List as well as the World Heritage Fund, both with complete discretion (Keough, 2011, p. 596-7). Under UNESCO, ascription to the World Cultural Heritage List does not constitute an automatic registration to the 1954 Hague special protections list (Meyer, 1993, p. 365-366). The 1999 enhanced and 1954 special protections lists differs from the 1972 World Heritage List in function, although the two lists were initially intended as a means for providing protections; the World Heritage List includes cultural heritage in need of

restoration or conservation outside of immediate armed conflict contexts. The World Heritage Fund is comprised of payments required for a nation to be a member of the Committee, due every two years, and “[c]ontributions, gifts or bequests which may be made by: (i) other States; [UNESCO], other organizations of the United Nations system, particularly the United Nations Development Programme or other intergovernmental organizations; (iii) public or private bodies or individuals” (Convention Concerning the Protection, 1972, Article 15(3)). The Fund may be allocated however the committee sees fit, but it is primarily issued upon a state’s request for assistance. Article 22 details the forms of assistance granted by the World Heritage Fund, which include supplies, loans, subsidies, provisions of experts, training, and studies concerning any artistic, scientific, or technical issues (World Cultural and Natural Heritage Convention, 1972). While not referencing armed conflict situations precisely, they are not explicitly excluded either. Access to the World Heritage Fund, if permitted by the Committee, could be utilized to fund cultural heritage negotiations during armed conflict and ideally foster conflict de-escalation. At the least, the Fund could provide a means for protecting a state’s cultural properties, whether through specialist and expert training on fortification in the event of bombardments, or by providing supplies to safely secure the cultural heritage.

Other international conventions regarding cultural heritage include the Additional Protocol 1 to the 1949 Geneva Convention (1977) Articles 53 and 85(4)(d), which reinforce cultural heritage protections against military actions, acts of hostility, and reprisals (Stone, 2013, p. 166; Francioni, & Lenzerini, 2003, p. 636). Yet, as with any additional protocols, in order for protocol provisions to be compulsory or violations liable for prosecution, parties must become signatories and ratify the convention within their

own states. Regional agreements that necessitate the safeguarding of cultural heritage include the European Cultural Convention (1954), the European Convention on the Protection of the Archaeological Heritage (1969), the European Convention on Offences Relating to Cultural Property (1985), and the Convention for the Protection of the Archaeological Heritage Revised (1992) (Wangkeo, 2003, p.199). These agreements are not in direct reference to instances of armed conflict, but are more comprehensive in their overall cultural heritage protection standards. Also, the nature of a regional agreement is that it operates only regionally, within a particular area, and does not imply international application or agreement (Wangkeo, 2003, p. 199). The European Conventions are not merely intended to safeguard the cultural heritage of Europe, but to also promote the continued development of European culture.

The Council of Europe linked cultural heritage and human rights through the Framework Convention on the Value of Cultural Heritage for Society, also known as the 2005 Faro Convention. The Faro Convention redefines social reference groups for heritage construction as heritage communities that are unbound by geographic region, racial or ethnic constructs, social classes, religions, or social groups (Dolff-Bonekämper, 2010, p. 18). The establishment of these heritage communities is an attempt to unify peoples previously disassociated by conventional notions of cultural heritage, permitting new groups to form predicated on a mutual valuing of cultural heritage and a desire to continue its transmission to future generations. Section I, Article 1(d) of the convention concerns the “the role of cultural heritage in the construction of a peaceful and democratic society, and in the processes of sustainable development and the promotion of cultural diversity” (Council of Europe Framework, 2005). The European Council

recognizes the ability of cultural heritage to unite groups while serving as a long-term economic resource. Article 5(b) and (f) require signatories to enhance the value of cultural heritage through research and conservation, and exhibition, as well as recognize the value of all cultural heritage within their borders regardless of origin (Council of Europe Framework Convention on the Value of Cultural Heritage for Society, 2005). Research and exhibition fosters shared understandings of meaning and history for items and works of cultural heritage, imbuing them with a social value that prompts a community attachment and concern for a property's well-being. Lastly, compelling equal treatment of cultural heritage, regardless of origin, safeguards works that are perceived as religiously offensive, politically motivated, or even historically shameful.

The 1998 Rome Statute of the ICC designates the destruction of religious and cultural sites, excluding military objectives, as war crimes under Article 8 (2)(b)(ix) and 8(2)(iv) (Kila, 2013, p. 335; International Criminal Court, 1998; Gottlieb, 2005, p. 866). Explicitly defining the destruction of cultural heritage sites as a war crime signifies a key shift in international perceptions to understand cultural heritage property protection as an element of humanitarian law. During the deterioration of the Former Yugoslavia and the ethno-religious conflicts that ensued, an International Criminal Court was established in 1993 referred to as the International Criminal Tribunal for the Former Yugoslavia (ICTY). In the 2000 trial of Croatian Defense Council (HVO) Colonel Tihomir Blaškić for the destruction of mosques in Ahmici, the Tribunal found attacks on mosques to equate to an attack on the Muslim population, and that destruction and plunder of religious property amounted to persecution (Gottlieb, 2005, p. 874; Meron, 2005, p. 45; Case Information Sheet: "Lašva Valley"). Viewing the destruction of CHP as an offense

to those that associate with it reinforces the ethnicization of that CHP, yet affords the CHP protections parallel to those of living people. Yet, the ICTY ruling against Blaškić was limited to religious cultural heritage and not secular sites that were ethnicized and subsequently destroyed. Pavle Strugar, a commander of the Second Operational Group formed by the Yugoslav People's Army (JNA), was found guilty during an ICTY trial of "destruction or willful damage done to institutions dedicated to religion, charity, education, the arts and sciences, historic monuments and works of art and science"(Case Information Sheet: "Dubrovnik", p. 7). In 2005 Strugar was found in violation of the Laws or Customs of War, Article 3, due to the 6 December 1991 attacks on Dubrovnik and the Old Town, a World Heritage site that was not justified by military necessity (Case Information Sheet: "Dubrovnik", p. 5, 7). Similar to the 1999 Second Protocol and mirroring the 2005 judgement of Strugar, is Article 3(d) of the Updated Statute of the International Criminal Tribunal for the Former Yugoslavia (2009), which states that the Tribunal has the power to prosecute persons for the "seizure of, destruction or willful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science". The Updated ICTY Statute is one of the rare instances that cultural heritage destruction amounts to a criminal charge, as a war crime, in the international courts regardless of whether it is secular or religious property. The statute's application is limited to the Former Yugoslavia but can serve as a precedent for the criminalization of cultural heritage destruction.

On October 17, 2003, the Declaration Concerning the Intentional Destruction of Cultural Heritage was adopted, albeit non-binding (Van der Auwera, 2013, p. 11). Yet, it reiterates and emphasizes values and policies established by the 1954 Hague Convention.

Article V includes occupation within the framework of armed conflict, both international and non-international, relaying that cultural heritage must be protected during hostilities regardless of list inscription or not (UNESCO Declaration, 2003). Articles VI and VII encompass responsibility, stressing that states are responsible not only to protect CHP, but also to punish violators that intentionally destroy cultural heritage (UNESCO Declaration, 2003). While the 2003 Declaration does not constitute an international treaty eliciting ratification, it does create a norm within cultural heritage policy that may eventually influence later conventions and inform a global conscience on the importance of cultural heritage.

International conventions and ICC case laws provide a framework by which nations can model their own domestic laws regarding cultural heritage protections and procedures. Conventions serve as collective agreements, imbued with limited means of enforcement or violation accountability at the international level. The benefits to cultural heritage provided in the 1954 Hague Convention and its two protocols would require all nations to reach agreement regarding the protection and destruction of cultural heritage in the event of armed conflict and to ratify each subsequent part. Subsequent and additional conventions and agreements reiterate protections for cultural property, concerning infrastructure development, archaeology, and the illicit trade of cultural property, but none are as comprehensive as the 1954 Hague Convention specifically regarding armed conflict. The 1954 Hague Convention provides grounds for negotiation procedures to be further developed and implemented, as well as leverage for prompting negotiations through the threat of criminal prosecutions, all with respect to cultural heritage. The

continued establishment of international criminal courts that prosecute those who intentionally destroy cultural heritage will ideally aid in deterring future violators.

CHAPTER V

THE CIVIL FRAMEWORK: INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS AND DOMESTIC NON-PROFITS

Destroying culture hurts societies for the long term. It deprives them of collective memory banks as well as precious social and economic assets.

UNESCO Director-General Irina
Bokova in Cultural heritage must
(2014, para. 6)

Cultural heritage property preservation in the civil framework consists of efforts expended by international and domestic non-governmental organizations (NGOs), cultural and educational institutions, and local communities. These actors are paramount in supplementing the political and legal measures enacted to protect CHP. This sector contains stakeholders that are often the only unarmed groups on the ground during armed conflict and actively employ collaborative efforts between the frameworks as well as raising awareness through avid documentation and social media use. One of the more prominent cases for civil engagement in an effort to protect and preserve cultural heritage has been during the Syrian conflict from 2011 to present. Several non-government organizations have been working towards the protection of cultural heritage, including the International Centre for the Study and the Preservation and Restoration of Cultural Property (ICCROM), International Council of Museums (ICOM), International Council on Museums and Sites (ICOMOS), and the World Monuments Fund (Perini & Cunliffe, 2014, p. 13-14, 20). Since the conflict in Syria began in March of 2011, at least fourteen independent organizations have formed to protect and preserve Syria's cultural heritage

(Perini & Cunliffe, 2014, p. 23). The multitude of organizations approach CHP preservation during armed conflict with overlapping methods as well as with the incorporation of slight variations to similar projects, depending on an organization's resources and reach. Relating to the ongoing conflict in Syria is the destruction of CHP in Mosul, Iraq, by militants beginning in June 2014. The case of Mosul exemplifies the efforts extended by local community members to protect the CHP that represents the identity of their city. The array of tactics and programs utilized by groups, community members, and organizations are directly intended to preserve CHP in conflict zones, either with an immediate or gradual affect.

Social media has been a unique tool for updates on the state and degree of damage to tangible and immovable cultural heritage in Syria. The overall use of social media outlets and online tools for broadcasting updates on CHP during conflict have expanded the abilities of heritage professionals and organizations to monitor and interact with local groups on the ground as well as collaborate. Aleppo Archaeology, a Syrian team, created a Facebook page to specifically document the status of the World Heritage site of Aleppo; other groups that developed Facebook pages include Documenting the Injured Archaeological Sites of Homs and Rescue the Old City of Aleppo (Perini & Cunliffe, 2014, p. 5, 11, 16). These groups on Facebook post photos and videos of the sites, permitting others to post their photos as well. Individuals and organizations can access these webpages to assess the state of cultural heritage sites from a safe distance in order to develop proactive courses of action and post-conflict restoration plans. Also unique to social media is the ability to highlight images, particularly powerful images, and arrange the layout of pages to enhance the visual affect and establish a visual narrative. The

power of an image can provoke an emotional response and foster a connection to the cultural heritage depicted within, and a sense of loss from the sight of its rubble. The posted images on social media sites often contain before and after scenes adjacent to one another, visually communicating the damage and loss through juxtaposition. Powerful images can elicit viewers to react and ideally desire to aid, if only to use the site to further raise awareness. The Alliance for the Restoration of Cultural Heritage (ARCH) International established a group in collaboration with the Smithsonian and the Blue Shield called “The Working Group to Protect Syrian Heritage in Crisis”, integrating experts from a broad range of fields including preservation, media, diplomacy, and archaeology (Perini & Cunliffe, 2014, p. 5). The working group also posted a six and a half minute video on its dedicated page on the ARCH website, designed to raise awareness and promote cultural heritage protection in Syria through international and domestic efforts (Perini & Cunliffe, 2014, p. 5; The Alliance for the Restoration of Cultural Heritage). Aside from having an online presence through social media sites and webpages, many organizations hold online discussions and forums to generate creative solutions and inspire participation in safeguarding efforts (Perini & Cunliffe, 2014, p. 21-23). The World Monuments Fund (WMF) launched a fundraising campaign called “Heritage in the Crosshairs” to support reconstruction efforts as requested by the Syrian authorities for all the damaged World Heritage Listed sites (Perini & Cunliffe, 2014, p. 20).

Documenting, archiving, and cataloging cultural heritage objects and information has become a secondary form of preservation that increases restoration accuracy and decreases reconstruction time. One of the most integral aspects of cultural heritage

preservation is documentation through data collection, essentially information gathering regarding the CHP. Kristi Kovanen, the Secretary General of ICOMOS stated that she has been in touch with a litany of archaeologists internationally with experience excavating in Syria and that with the accumulation of academic intelligence they now have a “reservoir of information” covering Syrian cultural heritage and its destruction that is “invaluable” (Rubin, 2014, para. 7-8; International Council on Monuments and Sites). Information on CHP pre-destruction or damage is paramount to researchers and scholars, as well as preservationists and the professionals intent on restoring the CHP. With the continuous development of software, documentation programs are now accessible through the Internet globally, which increases the amount of information one can input and access remotely. The Museum of Islamic Art in conjunction with the Deutsches Archäologisches Institut (DAI) initiated a project titled “Syrian Heritage Archive Project” to digitally archive Syrian artifact inventories (Perini & Cunliffe, 2014, p. 8). Electronic inventories are a form of CHP preservation, although not physically preserving the artifacts; e-inventories safeguard the knowledge of the items in the event that the artifacts or institutions where they are stored are destroyed. Similar to the DAI, the Penn Cultural Heritage Center (CHC) launched a “Safeguarding the Heritage of Syria Initiative” (SHOSI) project, which is an electronic database of CHP damage and destruction (Perini & Cunliffe, 2014, p. 16). SHOSI follows the notion of the Facebook pages in that it archives the destruction, yet it is less accessible to the general public. Electronic based formats of CHP preservation, documentation, and awareness building are integral for contemporary CHP preservation methods and will continue to evolve.

Several international entities, including ICCROM, Heritage for Peace, and Architectural-Archaeological Tangible Heritage in the Arab Region (ATHAR), have conducted educational and pragmatic trainings for preserving CHP during conflict for individuals currently in Syria (Perini & Cunliffe, 2014, p. 11-13, 23). ICOMOS in collaboration with ICCROM, the Directorate-General of Antiquities and Museums of Syria (DGAM), and UNESCO planned and held an e-learning program for CHP professionals and interested parties in Syria from January 7-8, 2013 at the Damascus National Museum (Protection of Syria's, 2013). The courses provided "essential information about disaster risk management and emergency response, evacuation of collections, assessment of damage, network building, and capacity building for the recovery phase" (Protection of Syria's, 2013). The instructors conducted their presentation from abroad, while the DGAM members, Syrian heritage professionals, university professors, and university students participated in Damascus. The E-Learning Course Booklet from ICOMOS outlines a detailed schedule of courses that include principles for rapid documentation during times of conflict and how to be resourceful with the tools they already have, such as mobile telephones (Protection of Syria's, 2013). Online interactive distance trainings provide CHP professionals in conflict zones with the access to international professionals with refined knowledge sets for conflict situations without requiring professionals abroad to engage in any security risks. Heritage for Peace (HfP), a non-profit organization, also conducted trainings from April 28, 2013 to May 1, 2013, titled "Basic Tools to Protect Cultural Heritage in Syria Now" for the Syrian government's cultural branch DGAM, and for local workers unaffiliated with the government (Perini & Cunliffe, 2014, p. 12). The HfP mission statement specifically

identifies HfP as an organization dedicated to safeguarding Syrian cultural heritage during armed conflict because “cultural heritage, and the protection thereof, can be used as a common ground for dialogue and therefore as a tool to enhance peace” (Heritage for Peace). Cultural heritage preservation and protection trainings are therefore indirectly a contributor towards peacebuilding, as CHP can serve to establish crosscutting identities and CHP preservation can develop into a superordinate goal.

Aside from CHP emergency preservation training, general education programs designed to foster cultural heritage diversity appreciation have been successful in Syria, prompting local communities to protect archaeological sites, museums, and related institutions (Rubin, 2014), but issues arise when influxes of foreign fighters, specifically Al Qaeda related groups, arrive placing cultural heritage once again in peril. Community engagement for the protection of cultural heritage property was exemplified in July of 2014 in Mosul, Iraq. Islam extremists, specifically the Islamic State in Iraq and the Levant (ISIS or ISIL), attempted to destroy The Crooked Minaret or al-Manara al-Hadba, which was built as part of the Great al-Nour Mosque in 1172 (Salama, 2014). When militants from ISIS arrived with explosives to destroy the minaret, Mosulis rushed to the site, sat on the ground, and linked arms “to form a human chain to protect it.” To the ISIS members, the civil protectors stated quite simply: “If you blow up the minaret, you’ll have to kill us too” (Salama, 2014). The non-violent protest warded off the fighters and this communal act has been viewed as momentary success, yet many historical and venerated shrines and mosques have already been demolished in Mosul, such as the Mosque of Sheeth or Seth and the Mosque of the Prophet Jirjis (Salama, 2014).

The United States Committee of the Blue Shield, and other concerned parties, sent a letter dated September 10, 2013, to President Obama requesting an executive order be issued “requiring federal agencies to enter into agreement with any allies and any rebel forces to safeguard” the cultural heritage sites of Syria (Mashberg, 2013, para. 1). If such agreements were made, they could result in import bans on Syrian cultural property into the United States or simply executive orders not to destroy CHP. Also in 2013, the UK National Committee of the Blue Shield worked with HfP to develop and release a “no-strike list” of archaeological cultural heritage sites in Aleppo (Perini & Cunliffe, 2014, p. 12). Yet, if the no-strike list is not requested or accepted by an armed forces branch it will only serve as high priority CHP at risk list. Jrg Esefeld, the Aleppo Aga Khan Trust’s urban planner consult during the restoration of the Citadel project, prior to the start of the conflict, in collaboration with the World Monuments Fund, wrote that, “I think the world should know, day by day, again and again, that there is unique cultural heritage exposed to be demolished” (Cohen, 2012, para. 17). Esefeld, who has made restoring Syrian CHP part of his life’s work, is now witnessing its destruction and is demanding CHP destruction awareness become a priority. The notion is that if the global community is bombarded with news of CHP destruction, then people will increasingly begin to care and ideally take action.

In the case of the Bamiyan Buddhas in Afghanistan, the Metropolitan Museum of Art (the Met) in New York offered in 2001 to purchase and transport parts of the Buddha statues, but the Taliban refused (Hughes, 2001, p. 52). Taliban members, led by Mullah Qadradullah Jamal the Taliban minister of culture, also destroyed the Kabul Museum targeting all non-Islamic art and artifacts (Squitieri, 2002, p. 10d). Yet, earlier in 1995 the

Society for the Preservation of Afghanistan's Cultural Heritage (SPACH), in conjunction with UNESCO intervened and relocated artifacts from the Kabul Museum to the Guimet Museum in Paris prior to the Taliban's edict (Bernard, 2001, para. 10; Teijgeler, 2006, p. 16). The curator, Yehya Mohibzada, other curators, guards, and museum staff were able to successfully smuggle a select few rare piece out of the country and send them into hiding (Squitieri, 2002, p. 10d). The museum staff also reversed Buddhist works and scrawled Islamic verses on the underside to convince the Taliban to refrain from destroying them (Squitieri, 2002, p. 10d). At the National Gallery in Afghanistan a gallery employee and artist named Yousef Asefie painted over 122 works with watercolors that depicted humans and animals, turning the figures into plants and inanimate objects (Squitieri, 2002, p. 10d). The actions taken by museum staff and international organizations to protect and preserve the CHP were predominantly peri-conflict developed plans and not the product of pre-conflict planning. Armed conflicts can result in direct and initial damages to CHP, or indirect and secondary damages due to infrastructure deterioration or proximity to fighting and explosions. Secondary damages are in reference to, but not limited to fires, flooding, smoke, exposure to harmful temperatures, combustible by-products, and occasionally emergency salvage efforts (Teijgeler, 2006, p. 3). The National Library and Archives of Iraq did not execute an emergency contingency plan to safeguard the archives during the 2003 American arrival into Baghdad, resulting in massive looting and eventually the burning of the National Library (Teijgeler, 2006, p. 12). The CHP losses endured by the looting and burning of the National Library exemplifies the critical need for cultural institutions to prepare for disasters before they ensue.

When conflict erupts in an area, foreign archaeologists will often leave excavation sites and the country to ensure their own safety and that of their students. Local community members who rely on security and guard positions to protect archaeological sites and museums are often rendered jobless, essentially unpaid. Unfortunately, once guards vacate their positions, impoverished individuals may resort to the looting and theft of cultural items (Waxman, 2008; Rubin, 2014, para. 11). Cultural heritage protection in times of conflict is linked to socio-economics, with wars often being fought on the “territories of marginalized societies, whose economic capacity to influence their environments [is] handicapped” (Samizay, 1998, p. 68). The resources available to a community determine how and if they are able to safeguard the CHP within their regional bounds. Therefore the establishment of organizations to aid these local communities to provide resources and knowledge is important, not just for immediate crisis contexts, but also in preparation for postwar reconstruction and healing. The civil framework and the entities included within are diverse in power, resources, reach, and abilities. International groups such as ICOM and ICOMOS have a larger presence in the cultural heritage world, and therefore their efforts and opinions are more likely to be noticed over smaller groups. Internationally renowned organizations, which include ICOMOS, will be more inclined to collaborate with multiple organizations and governmental entities such as UNESCO, ultimately broadening the scope of possibilities. Collaborations have occurred between organizations, but not nearly at a level that would be optimal for cultural heritage preservation in armed conflict, especially with smaller organizations unaligned with the larger ones. With the Syria conflict, the rise of social media for documentation and raising awareness has created an invaluable forum for coordination, evidences gathering,

and communication. In Iraq, community efforts to physically protect CHP have been non-violent and effective as of yet, but the threat of bodily harm may be a concern.

Cooperation between communities, organizations, groups, and potentially government agencies would consolidate funding and provide effective and efficient planning in the event of and during armed conflicts currently and in the future.

CHAPTER VI

AN ARMED FORCES FRAMEWORK

Museums have become our cathedrals, and the big exhibitions our pilgrimages. It is in the Louvre, the British Museum and the Metropolitan Museum that we satisfy the human need for transcendence.

Bernard (2001)

During World War II destruction and looting of cultural heritage occurred on a continental scale by Nazi Germany, therefore measures were taken by the Allies to avoid the destruction of cultural heritage in situations not requiring military necessity (Milligan, 2008, p. 97; O'Keefe, 2006, p. 70-3). The Allies actions subsequently established an international unofficial cultural heritage property precedent within military practice. The preservation and protection of CHP by armed forces has been established in the 1954 Hague Convention, barring military necessity, and yet militant groups and militaries with sanctioned government oversight have been found participating in CHP destruction, either intentional or unintentional. In many cases, armed forces and military occupation strongly correlate with cultural property looting and damage. The theft of individual objects and artifacts harms the larger context from which it was removed, such as archaeological sites and museums. The act of removing moveable cultural property from the ground degrades and at times completely destroys the surrounding site, rendering it impossible for analysis and interpretation. The armed invasion by United States of America and United Kingdom's joint-forces into Iraq yielded cases of cultural heritage destruction and looting, as has the conflict in Syria between opposition and government forces. Military agencies have developed cultural awareness programs in response to past CHP destruction, yet the intended use of cultural knowledge by military forces extends

beyond preservation and presents heritage practitioners and researchers with ethical dilemmas.

After the Persian Gulf War of 1991, direct damage to unearthened sites was manageable, but the postwar looting of museums and unexcavated sites was severe (Wilford, 2002, para. 24). The Gulf War aftermath for cultural heritage led to increased concerns and desires for preparation for the Iraq invasion. Archaeologists with intimate knowledge of Iraq's CHP and representatives of non-profit heritage groups met with officials from the United States Department of State (State Department) and the United States Department of Defense (DOD) to stress the importance of the cultural heritage in Iraq and the need for compliance with the 1954 Hague Convention, which the United States of America signed, but had yet to ratify at the time (Wilford, 2003). The Pentagon even requested that archaeologists provide military planners with the locations of archaeological sites (Wilford, 2003, para. 13). The Pentagon and the White House were given a list of nearly two hundred "sensitive sites" on January 24, 2003 (Stone, 2005, p.933). The State Department, after meeting with several heritage specialists and Iraqi expatriates, created a panel specifically for antiquities to participate with the sixteen working groups studying the future of Iraq (Wilford, 2003, para. 17). It is procedure for the DOD, the Pentagon, and the White House to establish a "no-strike list" of cultural sites prior to engagement, of which the sites on the list cannot be "bombed or intentionally attacked without permission from the Pentagon or President" (Thurlow, 2005, p. 170). According to Thurlow (2005), the Pentagon and the White House included the Iraqi National Museum in Baghdad among other sites on the no-strike list (p. 175). Stone (2005) reports that the United Kingdom's Ministry of Defense (MOD) exercised

these same precautions, enlisting aid to establish an exhaustive list of cultural heritage sites, from museums to archaeological sites. Yet regardless of preparation, on April 11, 2003 in the presence of American troops in Baghdad the National Museum was extensively looted (Stone, 2005, p. 937). The Pentagon had instructed United States forces not to inflict damage upon it, but had not directly instructed the commanders to provide protection for the museum (Thurlow, 2005, p. 177). While the museum and the National Library in Baghdad were on a no-strike list, they were not explicitly designated for guarding. The artifacts and works looted from the National Museum comprised a list of the finest archaeological finds of Near Eastern Archaeology, such as the Golden Harp of Ur and the Warka Vase (Bogdanos, 2005, p. 478-479; Thurlow, 2005, p. 176; Gerstenblith, 2006, p. 289). After the looting of the museum, the United States military initiated an investigation and joint-recovery effort with Interpol and local museum staff (Bogdanos, 2005; Bogdanos, 2004). Aside from cultural institutions, it is believed that 400,000 to 600,000 objects have been illegally excavated while Coalition forces occupied Iraq in a mere period of two years, leading the World Monuments Fund to place the entire country on its 2006 list of 100 Most Endangered Sites (Gerstenblith, 2006, p. 293-294). Recovery efforts on behalf of illegally excavated artifacts are increasingly more difficult due to their undocumented nature, and if returned the contextual and historical significance is unrecoverable.

After the United States of America invaded Afghanistan and Iraq, the DOD implemented cultural heritage awareness into training exercises, including simulation battles on archaeological sites and the distribution of “cultural awareness playing cards” depicting artifacts, ruins, and antiquates designed by the Archaeological Institute of

America (AIA) (Mashberg, 2013, para. 7; Stone, 2013, p. 170; Kila, 2013, p. 329-330). The United Kingdom and Dutch forces also utilized playing cards, produced by the Defense Infrastructure Organization (DIO) (Stone, 2013, p. 170). The effectiveness of such efforts has yet to be evaluated, but the act of instituting cultural property protection (CPP) training illustrates an increase in military awareness of its overall import. Stone (2013) and Kila (2013) identify CPP as a military “force-multiplier”. Force-multipliers are positive actions that make it easier to achieve military success (Stone, 2013, p. 170). Increasing force-multipliers will lead to military and civil cooperation as well as expedite post conflict reconstruction and stabilization. Military entities with a “lack of CPP planning can exacerbate social disorder; eradicate national, ethnic, and religious identities; elicit international condemnation; and prolong conflict” (Kila, 2013, p. 335). Military and local community engagement can only benefit from the exercise of CPP, but without it relations between occupying forces and local members can deteriorate rapidly. For example, the use of a religious site as a strategic military base can be perceived as disrespectful, soliciting negative emotions from inhabitants towards the occupying force. As foreigners, militarized or not, acknowledgment of a community’s cultural customs and efforts to understand serve as pro-social behaviors which can lead to cooperation. To alleviate civil-armed forces issues, the United States of America implements Civil Military Co-operation (CIMIC) units to engage with local populations during missions and can, although rarely, include cultural affairs units (Kila, 2013, p.336).

The United States Marine Corps has established a center specifically for the cultural learning and advancement of Marine effectiveness abroad. The Center for Advanced Operational Culture Learning (CAOCL) offers marines courses in language

and culture specific to deployment regions, while also conducting “peer-reviewed research to support broad Marine Corps missions” (United States Marine Corps). The agency categorizes geo-cultural regions into seventeen different blocks for training purposes; one block is relevant to a marine’s deployment zone. The CAOCL introduction video presents cultural knowledge as a tool for proactive engagement with host cultures, but also states that “we must be able to impose our will on the enemy”, implying cultural knowledge enhances ones ability to do so (United States Marine Corps). CAOCL is tasked with aiding soldiers in separating “the enemy from the local people” and forging bonds with local communities “so that we can more easily annihilate the enemy,” according to General James N. Mattis Commander, USJFCOM (United States Marine Corps). While the CAOCL site presents cultural learning as a force-multiplier for peace-building and positive community interaction, the introductory video featuring military leaders highlights how cultural knowledge can be utilized to enhance war tactics.

Similar to the large scale looting that occurred in Iraq, Syria has experienced monumental issues with looting during armed conflict. The illegal excavation situation in Syria has evolved, encompassing more than local individuals in dire need of food and basic necessities. By the end of 2011, armed foreign groups had arrived with machinery to systematically destroy the archaeological sites and efficiently loot antiquities (Rubin, 2014). Black market antiquities smugglers have begun to trade in weapons, effectively supplying the rebels with arms in exchange for looted artifacts (Baker & Anjar, 2012). Illegal and destructive excavations are financially supporting the conflict, providing a means for purchasing weapons. According to Abul Khaled, a black market middleman, “[t]he rebels need weapons, and antiquities are an easy way to buy them” (Baker &

Anjar, 2012, para. 2). Human Rights Watch in Syria reports that opposition forces have deliberately attacked and looted religious sites, Shia and Christian, in Northern Syria after the government's armed forces left the region (Syria: Attacks, 2013, para. 1). The Islamic State in Iraq and the Levant (ISIL or ISIS) reportedly pillaged approximately thirty-six million dollars worth of antiquities from al-Nabuk alone, with objects dating up to eight thousand years old (Chulov, 2014, para. 5). These illicit antiquities are in high demand, or they would not be of any value on the black market. The purchase of illicit antiquities by art collectors is indirectly funding war.

A continued concern in Syria is CHP access and use, for individuals and groups intending to protect it and its occupation by armed forces. Kila (2013) highlights the issue of strategic cultural heritage site reuse, such as citadels, castles, and towers (p. 328, 331). Specifically in Syria, the 12th century Crusader fortress Krak des Chevaliers was appropriated by opposition forces and subsequently shelled (Kila, 2013, p. 331). Citadels and castles were historically built with strategic positioning and defensible architecture, proving beneficial locales for armed conflict. Towers, with their height and architectural fortification are optimal sniper and lookout locations, rendering them advisable targets. In Samarra United States military personnel were using the Malwiya minaret, dating 852 B.C.E, as strategic vantage point to fight the insurgents (Teiggeler, 2006, p. 7). When the insurgents returned fire the minaret suffered damage due to shelling (Teiggeler, 2006, p. 7). The use of CHP for vantage points, regardless of its proximity to a military target, places that CHP at risk for destruction or damage and invariably labels it as a target for the opposing forces. In the city of Aleppo, access to areas near cultural property for specialists is a problem due to the dangerous crossfire (Dagher, 2014). Museum staff,

local archaeologists, and professionals that live and work in the conflict zones some of which may be their life's work, cannot implement safeguarding and preservation measures without physical access to the objects and sites. In Iraq during the Coalition occupation of 2003, armed forces had constructed military bases and installations on ancient sites, including Ur and Babylon (Gerstenblith, 2009). While a military installation may deter looters, it also renders the site liable for attack from opposition groups and simultaneously destabilizes the site beneath the upper layers of soil. Military occupation at the ancient site of Babylon by American forces in April of 2003 resulted in the cutting of trenches, construction of a helicopter landing pad, leakage of fuel, and the filling of sandbags with dirt from the archaeological site (Gerstenblith, 2006, p. 296). The list of damage far surpasses construction and fuel contamination to include the collapse of the Temple of Nabu walls and the roof of the Temple of Ninmah dating to the sixth century B.C.E. (Gerstenblith, 2006, p. 296). The damage done to the sites exceeds physical and structural issues; when dirt is moved or added to archaeological layers the site becomes chronologically contaminated and difficult to analyze.

The armed forces framework presents the most complicated context within which to apply CHP protection, as it is the only framework through which cultural heritage destruction can be legally executed. It is also the most pragmatic of frameworks to achieve CHP preservation during conflict, yet most likely framework for destruction to occur. Legally sanctioned or otherwise, armed forces serve as the leading cause of cultural heritage property damage and destruction. CHP as a casualty of war is an unavoidable byproduct at times, but is also a factor worthy of planned avoidance integration as a force-multiplier, or for other reasons. The continued efforts by military

personnel to increase their cultural heritage property understanding and the inclusion of CPP into armed forces planning will benefit not only the host country, but the individuals gaining the cultural knowledge as well. The use of CHP for military strategic vantage points should not occur for reasons including the maintenance of productive relationships with local communities and to avoid opposing forces from viewing the CHP as a target. Training military personnel for cultural awareness can positively influence community engagement by armed forces, yet it is also used as a tool to more effectively attack opposing forces. This dichotomy raises ethical issues with respect to cultural heritage property professionals and researchers.

CHAPTER VII

ALIGNING THE FRAMES: ADJUSTMENTS AND SUGGESTIONS

Cultural heritage can become a point of mutual interest for former adversaries, enabling them to rebuild ties, to engage in dialogue and to work together in shaping a common future.

Manhart (2004, p. 402)

The combat, or peri-conflict stage serves as one of the most difficult phases of conflict for preservation and protection of cultural heritage property. Aside from sandbagging and bricking immovable CHP, immediate efforts are limited to resources, preparedness, and skilled knowledge. Contributors to CPP limitations include a lack of organized cooperation between the stakeholders within the four main frameworks, and a general absence of funding directly for CHP preservation in armed conflict (Kila, 2013). Cross-framework collaboration is paramount, both in times of peace and in times of armed conflict. Currently, strategies designed and implemented prior to conflict as preventative measures and emergency plans are the most viable solutions, but the inclusion of methods designated for the peri-conflict phase require further research and development. Post-conflict uses for cultural heritage include infrastructure rehabilitation to build communal ties and self-esteem as well as a means for reconciliation. Adjustments and suggestions to the current methodologies relating to pre and peri-conflict stages can be categorized under each of the four main frameworks: political, legal, civil, and armed forces.

Political Suggestions

When a country places its cultural heritage on the 1972 World Heritage List that “should underline the fact that the State has renounced its exclusive hold on the site and agreed to share responsibility for it with the international community” (Revision of the Convention, 1992). Listed sites under the 1972 Convention should receive protections and aid during armed conflict, and the act of registering a nation’s CHP should be viewed as permitting the international community to take part in its preservation. The creation of heritage lists, with rigorous criteria for inclusion, should indicate an obligation for UNESCO to actively engage in protecting the designated CHP during armed conflict, at least to a greater degree than sending 1954 Convention reminders to disputants. Milligan (2008) even proposed the notion of an international legal trusteeship to be enacted on tangible cultural heritage, placing protection and preservation responsibilities on multiple nations instead of one single state (p.105). A trusteeship would relieve the burden of preservation and funding from single states, but it would also remove a state’s complete sovereignty over its own cultural heritage. The trusteeship proposal could work with corporations, international or domestic, potentially increasing funding and limiting the extent of international involvement if a domestic company is selected. Corporations would be able to provide the necessary funding during armed conflict as well as design plans in preparation of an emergency, such as evacuation strategies and fortification methods. Of course, permitting corporations to have oversight of CHP is a concept with many concerns as well, including public access and unbiased research and interpretation.

In 2002 UNESCO aided Afghanistan in rehabilitating its cultural heritage by assisting in the “re-establishment of links between the population concerned and their

cultural history, helping them to develop a sense of common ownership of monuments that represent the cultural heritage of different segments of society” (Manhart, 2004, p.402). This UNESCO approach included training and capacity-building activities centered around the preservation of cultural heritage (Manhart, 2004, p.402). Building on programs with UNESCO organizing collaborations between civil society and professionals places the responsibility and skills back into the hands of local communities and enables states to better preserve their own CHP. Designing the educational programs to create an appreciation for all cultural heritage, not just the CHP one feels affiliated with, broadens individual’s perspectives and understandings of each other. The e-learning courses held in cooperation with UNESCO, ICOMOS, and DGAM designed for heritage professionals in Syria regarding emergency procedures for CHP should become standard on a yearly or biyearly basis. Regular seminars on CHP in armed conflict procedures allow the developing nations to create and share methodologies specific to their region or context. Due to the nature of e-learning courses being conducted over long distances, increasing the scale and scope of the courses to include multiple nations would foster greater creativity and networking. Ultimately, increasing knowledge and understanding of CHP as well as heritage professionals’ skills in conflict situations would benefit CHP in the long-term, as communities would desire to actively engage in the preservation process and may refrain from committing destructive acts in the event of armed conflict.

Legal Perspectives and Suggestions

The 1954 Hague Convention and its two Protocols in conjunction with the 1970 and 1972 Convention establish a legal regime that if signed, ratified, and adhered to

would protect CHP, deter destruction, and pass judgment on those that violate the conventions. For the provisions outlined in the conventions and protocols to function properly, all states must sign and ratify. The United States of America more recently ratified the 1954 Hague Convention, yet has refrained from signing the First and Second Protocols as have many other nations. Parties should also register important cultural heritage within their borders for enhanced protection under the 1999 Second Protocol. In 2008 only the Vatican was on the list (Milligan, 2008, p.105). Currently, in 2014, ten sites are listed for enhanced protection, including the Walled City of Baku with the Shirvanshah's Palace and Maiden Tower and the Gobustan Archaeological site in Azerbaijan, along with eight other sites from Belgium, Cyprus, Italy, and Lithuania (List of Cultural Property). Of course, without signing the Second Protocol states are not eligible to register their CHP for enhanced protections. Fechner (1998) suggests implementing an "intensities regime" for protecting cultural heritage predicated on its value at the "local, national, and international levels" (p. 380). This would effectively establish a prioritizing system in the event of armed conflict, ideally preserving the most highly valued cultural heritage (Milligan, 2008, p.103). Fechner's intensities regime could reduce the overall value of a high priority local item due to a low national and international value. All levels, local, national, and international are important, but the cultural institution charged with the CHP's care, such as museums or cultural organizations, should conduct the value. The current levels of protection include the 1954 Hague convention's general and special protection, and the 1999 Second Protocol's enhanced protections. The status quo implies a prioritization relegated to lists, but this notion is not explicitly stated. Prioritizing heritage with an additionally complex

bracketing system, different than Fechner's intensities regime, would distribute CHP designation beyond the confines of politics, and potentially incorporate local communities in the selection process for local domestic CHP designation. This process would require states to agree to and institute a collaborative approach for CHP designation and submission to UNESCO. As is, the legal regime is comprehensive in text, yet application and ratification are in need of further work.

Civil Engagement Suggestions and Adjustments

Education within the civil framework is vital to any CHP preservation efforts. Communities must understand and be aware of their cultural heritage in order to actively take part in its preservation. Loosley (2005) pointed to the fact that the Syrian education system lacks extensive study of the past, and rarely exceeds periods before the advent of Islam (p. 590). This educational asymmetry is due to employment prestige perceptions and desirable occupational fields. The fastest route to gaining employment with a multinational company or within a Western nation, such as Canada or the United States, is by becoming a skilled laborer. Fields including engineering, computer science, and chemistry are therefore pursued instead of archaeology, art history, and anthropology at any educational level in order to secure an economically viable future for oneself or one's family (Loosley, 2005). This process perpetuates the indifference and lack of understanding towards cultural heritage, as well as the financial unviability of cultural heritage related professions. To alleviate misconceptions of the uselessness of cultural heritage professions, stakeholders in the civil framework need to continue to expand cultural heritage education programs. The AIA, educational institutions, and the cultural

sectors of local governments should require archaeological digs to incorporate an educational program for the locals and foster community participation to increase cultural heritage appreciation and understanding. Archaeology requires the use of math, language, mapping, sketching, osteology, geology, zoology, and computer science to name a few subjects in the field. Collaborative efforts between institutions that teach languages such as English, local schools, and archaeologists could apply hands on learning in a variety of subjects through the use of archaeology and excavation. Students could effectively learn different languages in an archaeological context, not just by working with students and professors that speak the language designated for study, but by reading materials that relate to the natural and cultural history of the land they inhabit. Educational strategies designed to promote collective identity formation across cultures, ethnicities, and religions through archaeology, museums, and training decreases chances intergroup hostilities to arise by disproving stereotypes and personalizing individuals from other groups. Educational programs should also include the topic of CHP in armed conflict, a best strategies and practices course. Incorporating CPP, the effects and processes of looting, and ethics into undergraduate degree programs for studies in the fields of art history, archaeology, and related subjects in the United States of America and other nations would create a generation of aware and, ideally, engaged professionals in the event of armed conflicts.

Cunliffe (2013) and Kila (2013) have expressed the need for a cultural heritage protection in armed conflict center. Cunliffe (2013) finds the immense lack of coordination between groups as detrimental to the efforts of all the organizations due to competition for funding, similar projects, and missed opportunities (p. 347). In

contradiction to Kila (2013), Cunliffe (2013) supports a central CPP institution, but to act as a neutral organization, cooperating with NATO and the UN, but not working under them to ensure autonomy and independence. Stone (2013) concurs with Kila and Cunliffe, highlighting the need for a university-based center for further CPP research and development (p, 175). The array of international and domestic organizations with similar and corresponding goals, preserving CHP, do not have a central source for coordination and funding, aside from the few organizations working with UNESCO. An academic institution with a department specifically for CHP and armed conflict would serve as a point of contact for all organizations, increasing networking and shared funding opportunities. The institution would also contribute to the development of theoretical frameworks, expanding the current boundaries of the topic and its applications.

Since the conflict in Syria, social media has been integrated into the repertoire of available CPP tools. The continued use of social media to document the state of cultural heritage property and sites, as well as contribute potential evidence for criminal trials, has enabled researchers to study CHP destruction during conflict without the risk of bodily harm or in countries where sanctions were enacted and researchers are not longer permitted access, incorporating the expertise of those who do not desire to or cannot enter conflict zones. Videos and images can be used as evidence to prosecute violators, those that have destroyed cultural heritage, in a criminal trial for committing war crimes under the Second Protocol and the ICC. Locals working with international and non-profit organizations, as well as cultural heritage professionals, can coordinate ground efforts to document CHP destruction as evidence and share information using social media tools. Social media presents the ability to raise awareness of CHP destruction, relating the

issues in real time to people globally. The globalization and digitization of communication can also increase planning procedures and efforts. Preparation for the likely or even unlikely event of armed conflict in a region is an essential aspect of CHP preservation during armed conflicts. Establishing a “Disaster Management Cycle” will address the phases of any disaster, including armed conflict, with measures such as “preparedness, response, recovery, rebuilding, prevention, and mitigation” (Teijgeler, 2006, p. 3). Internet communication and access to e-resources enhances the abilities of smaller institutions to develop a Disaster Management Cycle, which is a necessary measure in zones prone to armed conflicts and civil unrest.

Armed Forces Suggestions

Van der Auwera (2013) holds that UNESCO and UN Peacekeepers should coordinate to protect CHP (p. 14). The use of UN peacekeepers to preserve, protect, and guard cultural heritage property sites would incorporate trained military agents into CPP efforts that would only benefit post conflict relations, stem looting, and aid in post conflict reconstruction. Strategic military intervention on behalf of cultural heritage property would be implemented to deflect or deter destruction until peace negotiations commence and perhaps until they conclude. Military intervention specifically on behalf of cultural heritage property protection could be interpreted as a means for a larger military intervention for long-term occupation. Yet, armed forces units protecting and not looting or damaging CHP might gain the trust, respect, and appreciation from locals.

Not all government-sanctioned armed forces are perpetrators of CHP destruction and looting, knowingly or unknowingly, but efforts should be exerted to regulate the

possibility of such behavior. Checking military personal to ensure priceless antiquated souvenirs are not being taken from occupied territories should be standard procedure (Stone, 2005, p. 940). If members of the armed forces are caught looting the cultural heritage of a community, civil relations would suffer and conflicts could arise. Deploying CIMIC cultural affairs units as part of civic-armed forces engagement efforts should be standard operating military procedure, and expanded upon. Personnel devoted to acquainting themselves with local communities' customs and traditions would foster cross-cultural understanding, potentially alleviating attribution error and prompt cooperation. These units can also explain and educate ground troops to improve cultural awareness, aiding military personnel in displaying respect for the host culture.

The armed forces framework presents the highest opportunities for both CHP destruction and preservation, depending on the military objectives and plans. Yet avoiding cultural heritage sites is not enough to protect CHP; looting and damages due to secondary effects still occur. Fostering cultural heritage appreciation through cultural awareness training should be implemented with the intent to prevent soldiers from committing offenses, such as religious desecration or damage to cultural heritage sites. The higher the cultural awareness the higher the levels of community engagement military personnel will achieve, prompting locals to personally share their cultural heritage with occupying or passing forces. Lastly, the greater the amount of built environment maintained during armed conflict, the easier post-conflict reconstruction would be.

CHAPTER VIII

CONCLUSION

Built heritage whether as monuments, ruins, museums, or libraries, forge links between people and their histories. One does not have to directly self-identify with the past civilization that constructed the cultural heritage in order to appreciate its significance, morbid or beautiful. Cultural heritage property protection and preservation during armed conflict is an inherently multidisciplinary field, requiring expertise and joint efforts from a variety of distinctly different entities, such as armed forces and archaeological institutions. CHP preservation operates within the four main frameworks: political, legal, civil, and armed forces. The most effective way to ensure that cultural heritage property is protected during armed conflict is to prevent the armed conflict all together. Yet, armed conflicts are occurring and preparations for damage mitigation is currently necessary, particularly as intrastate conflicts progress into ethno-religious conflicts, as was discussed with regards to the Former Yugoslavia, Afghanistan, Iraq, and Syria. As intrastate conflicts escalate into ethno-religious fractioning, CHP can undergo an ethnicization process and subsequently fall victim to disputing groups.

Continued research on the topic of cultural heritage property preservation and protection in the event of armed conflict is paramount to developing both pragmatic measures and theoretical perspectives. Aligning the frameworks that CHP operates within would ultimately increase the likelihood that CHP does not undergo destructive processes related to arms use. Cooperation and coordination between government agencies and international and domestic organizations would supplement the current international legal framework, establishing cohesion between CHP interested parties and fostering an

understanding of the legal regime for CHP. Each CHP conflict requires a bespoke preservation process due to an institution or community's available resources and expertise, the context of the conflict, and the priority of the CHP. Ethno-religious conflicts lead to the ethnicization of CHP and subsequently the conversion of CHP into targets by opposing forces. Solutions and methods for preservation range from simple to extensive, and gradual to immediate. Creating emergency contingency plans and requesting international aid from UNESCO by non-government organizations are two of the most standard and common measures for protecting CHP and have proven successful in the past.

The preservation of cultural heritage is the preservation of identity, nationally and universally. To refrain from destroying cultural heritage property is to protect the common history of all of mankind. Yet, it also protects the identity of groups within a nation, or a nation in its entirety. Place and environment influence and shape one's understanding of himself or herself and others; built heritage is part of that environment. Unfortunately, individuals are often unaware of the significance of cultural heritage property for their own and others' well being; they are unaware of the influence CHP exudes on them and their communities until it is destroyed and a sense of loss is felt. While cultural heritage property can be rebuilt, it is never quite the same as the original. Restoration often incorporates a new interpretation of the cultural heritage, preserving the idea of the former and manifesting the ideals of the new. It is therefore paramount to develop more effective ways to preserve and protect all cultural heritage property in the event of armed conflict.

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