

Ivan Ryška

Student of doctoral programme at Law Faculty of Palacky University in Olomouc,
Czech Republic

**SHIFT FROM CULTURAL PROPERTY TO CULTURAL
HERITAGE AND ITS POSSIBLE CONSEQUENCES
FOR INTERNATIONAL CRIMINAL LAW**

Abstract: The article examines the content of terms ‘cultural property’ and ‘cultural heritage’. It illustrates the continual development in the protection of cultural property that evolved into the concept of cultural heritage. The first part of the article describes differences between the two notions and explains why the term ‘cultural heritage’ is more suitable for the current approach to protection of cultural expressions. The second part of the article deals with possible consequences that the conceptual shift from cultural property to cultural heritage can bring to protection under International Criminal Law. It argues that despite the wording of relevant legal documents, it does not explicitly work with the term ‘cultural heritage’. The author notes that jurisprudence of international criminal tribunals has already been recognizing this concept and reflecting upon the extent of the term in some of their decisions.

Keywords: International Criminal Law, cultural property, cultural heritage, human rights, persecution

1. Introduction

The recent shift from the usage of the term 'cultural property' to 'cultural heritage' might seem like a purely terminological matter, it is, however, deeper than that. This is not just replacing one term by a synonymous one, but involves changes in the whole concept of approach to cultural objects. This shift well illustrates the development of understanding of our cultural expressions in the last few decades. Although the scope of those two notions varies dramatically, they are still often used as synonyms. In the first section of this paper we shall examine the content of both terms in international treaties and compare differences. The most important issue is to determine how precisely the term 'cultural heritage' extends the scope of protection of historically important objects and which kind of elements are included. The question is how much is the matter related to human rights protection and if we can, in fact, understand protection of cultural heritage as human rights protection. In the second section of the paper, we shall focus on the consequences of this terminological shift for International Criminal Law (ICL). We will examine the decisions of both the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Court (ICC) in order to determine whether the courts reflect the factual change brought by the shift in usage of the terms. Although the attitude of the courts and wording of their statutes are based on International Humanitarian Law (IHL) treaties and customary law that do not view protection of human rights related to cultural heritage as a primary objective, we realize that in the decisions of the courts, many cultural elements with links to human rights protection are taken into consideration.

2. Cultural Property

The term 'cultural property' is older and traditionally used in number of treaties dealing with the law of armed conflict. We can track it back to the end of the 19th century to the International Peace Conference of 1899 and to the second conference of 1907. These two conferences pioneered the protection of cultural property during an event of armed conflict and their main outcome was the document known as the Hague

Regulations.¹ The whole approach was based on general protection of the civilian population, and the guarding of cultural property was an integral part of it.² Article 27 of 1907 Regulation states that: 'In sieges and bombardments, all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science or charitable purposes, historic monuments, hospitals...'³ Something similar applies to a situation in occupied territories, where the Article 56 states:

The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property. All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.⁴

However the above-mentioned articles do not provide a clear definition of 'cultural property'. Protected property is listed by its nature or its purpose,⁵ but there is no general definition of 'cultural property' of itself. This shortcoming was overcome by the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954 Hague Convention). This Convention provides a detailed definition of the notion 'cultural property' in Article 1:

(a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;

¹ Toman, *Protection of Cultural Property*, 10.

² Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, Article 56.

³ Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, Article 27.

⁴ Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, Article 56.

⁵ Toman, *Protection of Cultural Property*, 13.

- (b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);
- (c) centers containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as 'centers containing monuments'.⁶

Although the 1954 Hague Convention clearly defines the term 'cultural property', it also mentions the term 'cultural heritage'. In its preamble it states that '... damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world'.⁷ At this point, it might seem that these two notions are distinct, since the Convention does not refer to the protected objects as 'heritage', but simply as 'property', but in fact this line expresses the whole idea behind the term 'cultural heritage', as we will demonstrate.

On the other hand, there is a rapid development of human rights protection policy and the connection between this issue and the cultural property protection is becoming more and more obvious.⁸ This required a new approach that was soon introduced by UNESCO. The resulting UNESCO 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage (1972 UNESCO Convention) already uses different wording, it speaks about 'cultural heritage' and 'natural heritage', however, it does not mention 'cultural property'.⁹ So why is there such shift?

The answer is surprisingly simple: the notion of 'cultural property' is unable to reflect the recent developments in the field of human rights protection and new approaches related to the protection of certain objects and values.

Numerous objections appeared against the notion of 'cultural property'. The fundamental one is based on the fact that the term 'property' emphasizes private ownership and the rights related to it.¹⁰ The basic policy

⁶ 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, Article 1.

⁷ 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, preamble.

⁸ Francioni, 'Culture, Heritage and Human Rights: An Introduction', 1-15.

⁹ Convention Concerning the Protection of the World Cultural and Natural Heritage.

¹⁰ Chechi, *The Settlement of international cultural heritage disputes*, 14-15.

behind this concept is protection of the rights of the possessor.¹¹ Such possessor has all the rights over any property that belongs to him according to the concept created by Roman Law. There is not only the right to possess, but also to use and, more importantly, to exclude others from using such item. It also includes the right to even destroy this property since the possessor is recognized as an unlimited disposer of the property and can execute his exclusive rights in any way he wishes. This is in sharp contrast with the whole idea of protection of cultural property/heritage since its main goals are the protection for future generation and preservation of relevant kinds of objects.

Another objection is oriented towards the nature of protected objects. The notion 'property' includes only tangible items and excludes intangible heritage¹², an approach considered insufficient and obsolete.

Last but not least, the term 'property' also allows a certain level of 'commodification' of cultural objects.¹³ Under such policy, the objects are recognized as mere goods that can be subject of trade without any respect to their intrinsic unique values.

3. Cultural Heritage

The term 'cultural heritage' has more complex nature which also makes it much more difficult to define. In a broader sense, we can say that by replacing the term 'cultural property' by the term 'cultural heritage', international law started to recognize new sets of values related to such items. At the same time, it is necessary to keep in mind that 'cultural heritage' is not limited to tangible items, but might include both tangible and intangible objects, which is something that the term 'property' does not allow.

If we want to define 'cultural heritage', we need to start by defining the terms 'culture' and 'heritage'. None of these is an obvious notion with well-defined scope that leads to an expectable result: there are many definitions that vary significantly.

¹¹ Prot, O'Keefe, 'Cultural Heritage', 309.

¹² Chechi, *The Settlement of international cultural heritage disputes*, 14-15.

¹³ Chechi, *ibid.*

The notion 'culture' is definitely not a legal term. It is an all-embracing notion that refers to every aspect of contemporary society¹⁴ and might have various manifestations, while the term 'heritage' refers to something received from predecessors that will be passed on to future generations.¹⁵ The whole concept is constantly evolving and the span of manifestations included in the notion of 'cultural heritage' is growing. Manifestations of 'cultural heritage' might be almost anything that was made by human or was given value by humans.¹⁶ It covers the totality of cultural objects, traditions, knowledge and skills that a given nation or community has inherited by the way of learning processes from previous generations and which provides its sense of identity to be transmitted to the subsequent generations.¹⁷

The 1972 UNESCO Convention defines both 'cultural heritage' and 'natural heritage'. Cultural heritage is subdivided into three categories: monuments, groups of buildings and sites,¹⁸ and each category precisely defined. However, the main criterion for protection under this convention is the 'outstanding universal value' of the site.¹⁹ This kind of approach understands the necessity of protection of certain sites from a universal point of view: outstanding universal value of the site makes it a global heritage and that is why it has to be protected. It does not reflect individual rights related to these sites and its one-time general meaning is nowadays considered quite narrow.

The UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (Intangible Heritage Convention) goes further. In its second article, it defines intangible cultural heritage as 'the practices, representations, expressions, knowledge, skills, as well as the instruments, objects, artefacts and cultural spaces'.²⁰ More importantly, it also mentions a link between intangible cultural heritage and human rights.²¹ It recognizes

¹⁴ Blake, *Commentary on the UNESCO*, 22.

¹⁵ Forrest, *International Law and the Protection*, 3.

¹⁶ Prott, O'Keefe, 'Cultural Heritage', 307.

¹⁷ Francioni, 'Culture, Heritage and Human Rights: An Introduction', 1-15.

¹⁸ Convention Concerning the Protection of the World Cultural and Natural Heritage, Article 1.

¹⁹ Convention Concerning the Protection of the World Cultural and Natural Heritage, *ibid.*

²⁰ Convention for the Safeguarding of the Intangible Cultural Heritage 2003, Article 2.

²¹ Convention for the Safeguarding of the Intangible Cultural Heritage 2003, preamble.

intangible cultural heritage as an element that provides communities and groups with a sense of identity and continuity and is transmitted from generation to generation.²² This already reflects a common understanding of the term 'cultural heritage' as something wider, where the link between the object of protection and the human element is important. Intangible heritage is not protected only because of its universal value, but also as an element that is crucial to maintaining communities and securing the protection of their human rights and sustainable development.²³

The same approach is applied in the United Nations Declaration on the Rights of Indigenous Peoples. In this case, the link between the indigenous communities and their cultural heritage is even more important. The Convention mentions their traditions and customs, as well as archaeological and historical sites, artefacts, designs, ceremonies, technologies, performing arts and literature.²⁴ There are a number of rights attached to these different forms of cultural heritage, but their goal is the same: protection of indigenous communities, their culture and further existence. Cultural heritage is already recognized as something crucial in an effort to preserve such communities and so the link to human rights protection is even more obvious.

The link between cultural heritage and human rights was further examined by the independent expert in the field of cultural rights, Ms Farida Shaheed, in several of her reports created for the Human Rights Council of United Nations. These reports react to the systematic destruction of cultural heritage in the Middle East by the so-called Islamic State and explain the importance of cultural heritage for local communities and the stability of the region.

Ms. Shaheed also offers a more recent definition of the term 'cultural heritage' which reflects current development in this field, although it is not exhaustive:

... tangible heritage (e.g. sites, structures and remains of archaeological, historical, religious, cultural or aesthetic value), intangible heritage (e.g. traditions, customs and practices, aesthetic and spiritual beliefs; vernacular or other languages; artistic expressions, folklore) and natural heritage (e.g. protected natural reserves; other protected

²² Convention for the Safeguarding of the Intangible Cultural Heritage 2003, Article 2.

²³ Convention for the Safeguarding of the Intangible Cultural Heritage 2003, Article 2.

²⁴ United Nation Declaration on the Rights of Indigenous Peoples, Article 11.

biologically diverse areas; historic parks and gardens and cultural landscapes).²⁵

First of all, this definition includes intangible heritage and shows that it is of the same importance as the tangible. Natural heritage is also mentioned, which represents a big shift. The natural heritage has been previously treated separately, but it is now covered under the umbrella of the 'cultural heritage' notion. This example perfectly illustrates the progressive development of the term 'cultural heritage'. Currently, the most important point is the unification of cultural and natural heritage, and tangible and intangible. Everything is interrelated and interdependent, nothing can exist in isolation and a holistic approach is therefore necessary to fully understand the nature of the term 'cultural heritage'. This can be partly seen as a result of connection to the human rights protection, which is a highly complex issue in its own right and requires a profound understanding of various influences.

Cultural heritage is currently recognized as something crucial for the protection of the rights of both individuals and communities. Currently, the definition of cultural heritage is not limited to objects of outstanding universal value, but rather to everything that is important in maintaining the rights of communities, as mentioned earlier.²⁶ Finally, the term 'cultural heritage' is something very dynamic and evolving and cannot be strictly conserved in today's form, because it follows a natural development of society.²⁷

The concept of the term 'cultural heritage' is very distant from the notion 'cultural property', which is far more rigid. In its latest development, the term 'cultural property' is considered obsolete and the term 'cultural heritage' is used by historians, archaeologists and other specialists.²⁸ However, the situation differs when we speak about legal context. The question is: Can we replace one of these terms by the other in issues related to the interpretation of documents dealing with International Criminal Law (ICL)?

²⁵ Report of the independent expert in the field of cultural rights, Farida Shaheed. UN Docs. A/HRC/17/38, para. 4.

²⁶ Report of the independent expert in the field of cultural rights, Farida Shaheed. UN Docs. A/HRC/17/38, para. 7.

²⁷ Report of the independent expert in the field of cultural rights, Farida Shaheed. UN Docs. A/HRC/17/38, para. 6.

²⁸ Prott, O'Keefe, 'Cultural Heritage', 319.

4. International Criminal Law Approach

Replacing the term ‘cultural property’ by the term ‘cultural heritage’ as explained earlier would clearly mean an extension of subject-matter jurisdiction of ICL. However, the question is if current ICL allows this. ICL is based on provisions of International Humanitarian Law (IHL)²⁹ that are very rigid regarding inclusion of cultural elements. Texts of IHL treaties do not deal with intangible elements³⁰ and are not even designed to deal with such issues. Although we have witnessed rapid development of the human rights protection since WWII, the legal reactions to this phenomenon are more reluctant. Both the Rome Statute of ICC (Rome Statute) and Statute of the International Criminal Tribunal for the Former Yugoslavia (ICTY) (the ICTY Statute) adopted their approach towards cultural property from the Hague Regulations³¹ that were designed over a century ago. It is not, therefore, surprising that the wording of such documents do not reflect the more recent legal development. Indeed, the drafters of Rome Statute did not even consider changing wording of Article 56 of the 1907 Hague Regulations for the purposes of determination of protected objects.³²

ICL still maintains the notion of ‘cultural property’. Moreover, it also uses the wording of the definition created for the purposes of this term. The Rome Statute does not even mention ‘cultural property’, it only speaks of ‘buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected’.³³ Similarly the ICTY Statute speaks about ‘institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science’.³⁴ This clearly echoes the wording of the Hague Regulations and their purpose – the protection of civilians and persons who cannot take part in combat anymore. However, such approach leaves out the current development in the protection of cultural heritage and its purposes.

²⁹ Stahn, *A Critical Introduction*, 15.

³⁰ See wording of Rome Statute of International Criminal Court.

³¹ Compare Rome Statute of International Criminal Court Article 8(2)(e)(iv) and Hague Regulation 1907 Article 56.

³² Dörmann, ‘Preparatory Commission’, 461-487.

³³ Rome Statute of International Criminal Court, Article 8(2)(e)(iv).

³⁴ Statute of the International Criminal Tribunal for the former Yugoslavia, Article 3(d).

Once again we can recall the Hague Convention of 1954 that provides a more detailed definition of ‘cultural property’. However, even this treaty does not offer any space for consideration of the matters related to intangible elements and human rights. It might seem useful for the purposes of ICL with its clear and strict definition, but a basic problem remains: How to include the current approach to cultural heritage protection?

One more question of rather practical nature remains: Can such elements of the notion ‘cultural heritage’ be transferred into the practices of ICL? No one doubts that linking intangible heritage and human rights to the general concept of heritage could be very useful for the protection of cultural heritage under International Law, but does this also apply to ICL? The general rule regarding the interpretation of treaties states that ‘A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.’³⁵ However, what is the ordinary meaning of the relevant terms used in the Statute of ICTY and the Rome Statute? With respect to fact that they are founded on IHL, it should be the term ‘cultural property’, but, on the other hand, there is the previously described development of the term that leads to ‘cultural heritage’.

ICL represents a more strict system of rules, the interpretation of which has clear limits expressed in the principle of *nullum crimen sine lege*. This is also one of the reasons why it still uses the notion of cultural property. Therefore, not surprisingly, any expansion of the protection to intangible elements seems to be problematic. This is not only a consequence of wording of the statutes, but also a result of practical difficulties. Giving protection only to tangible cultural property has certain practical advantages. In case of an attack that causes damage or destruction, the result is very obvious and easy to record.³⁶ This record can later serve as evidence during a trial before a criminal court. Contrarily, how can we record damage to intangible heritage? Of course we can observe the consequences of such attack,³⁷ but since the protected elements are intangible, damage can be hardly estimated.

This kind of damage has a rather long-term impact on the community whose heritage has been targeted and can appear with much delay. Obviously, collecting evidence in such case is not an easy task. That is why

³⁵ Vienna Convention on the Law of Treaties, Article 31(1).

³⁶ See *Al Mahdi* case before International Criminal Court.

³⁷ Turku, *The Destruction*, 67-98.

the traditional approach that protects certain tangible elements is more practical and still in use. Recording the damage of standing structures is far easier than recording something related to local traditions, customs and beliefs. It might seem that as a result, intangible heritage is not protected at all, yet the opposite is true. The important element here is the link between tangible and intangible heritage and between intangible heritage and the people related to it. Intangible heritage is always connected with either some tangible expressions like architecture or the people who live it.³⁸ In both cases, ICL provides sufficient tools for protection of such values. Persons and tangible property are subjects traditionally protected under ICL and the current shift to cultural heritage and a human rights-based approach is just an extension of already existing protection.

There is another problem concerning the change of the notion of cultural property to that of cultural heritage in ICL. We can ask if such extension of the notion 'cultural property' meets the elementary requirement of ICL – the gravity clause. The Rome Statute states that a case could be recognized as inadmissible if it does not have 'sufficient gravity to justify further action by the Court'.³⁹ Does violation of any intangible elements constitute a crime of the same gravity as violation of the tangible?

This question was partly answered by the ICC in the famous *Al Mahdi* case where the Court stated that crimes against property are less grave than crimes against persons.⁴⁰ On the other hand, the gravity of such crimes is still sufficient to appear before the Court. 'Intangible elements' or related wording are not terms found in ICC records, so we can hardly determine the exact position of intangible heritage in the relation between the protection of persons and property. As mentioned above, intangible elements are always related to persons who are living them and have direct impact on the existence and stability of a community.⁴¹ That is why we can subsume protection of intangible elements under the protection of persons in *largo sensu*. Thus, we can conclude that the protection of intangible elements is an integral part of the protection of persons and tangible objects.

³⁸ UNESCO, 'What is Intangible?', 2.

³⁹ Rome Statute of International Criminal Court, Article 17.

⁴⁰ Summary of the Judgment and Sentence in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, para. 36.

⁴¹ Report of the independent expert in the field of cultural rights, Farida Shaheed. UN Docs. A/HRC/17/38, paras. 4-7.

The point is that intangible elements cannot be protected as such, but as a part of broader context. This follows directly from the definition of cultural heritage provided by Ms. Shaheed – which emphasizes the unity of tangible and intangible heritage and cultural and natural heritage. One cannot be treated separately from the other. There is no point in asking if a violation of intangible elements is grave enough to be tried before the ICC. Since the ICC protects persons and certain kinds of property, it naturally also protects intangible elements related to those persons and property.

To answer the posed questions more precisely, we have to keep in mind the basic shift in approach towards cultural heritage. There are three elements: cultural property (which we can replace by the term ‘cultural heritage’ for this purpose), human rights protection and International Criminal Law (ICL). The key is to understand how those three elements are related in today’s world. Cultural property has always been protected through ICL directly – that is the approach of the Hague Regulations. It contains a list of property that is protected under the treaty, while the rest is excluded.⁴² With the development of human rights protection, the whole system has, however, changed. With the passage of time, elements of human rights began to appear somewhere in the middle between listed cultural property and ICL and gained greater prominence. As a result, cultural property is currently protected through human rights protection. So what does that mean precisely?

Human rights protection represents an intermediate step between cultural property and ICL. With the shift from cultural property to cultural heritage, the international community has begun to recognize the sense of cultural heritage as something of importance for human rights protection.⁴³ It is not just about cultural rights, but also about identity, continuity and development.⁴⁴ All these matters are clearly related to cultural heritage and this fact is expressed in number of conventions. Inspired by the famous article from John Merryman – ‘Two ways of thinking about cultural property’,⁴⁵ where he speaks about national

⁴² Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, Articles 27, 56.

⁴³ Report of the independent expert in the field of cultural rights, Farida Shaheed. UN Docs. A/HRC/17/38, paras. 9-17.

⁴⁴ Report of the independent expert in the field of cultural rights, Farida Shaheed. UN Docs. A/HRC/17/38, *ibid*.

⁴⁵ Merryman, ‘Two Ways’, 831-853.

and international ways of thinking, we can add two more perspectives – individual and communitarian.

Cultural property (heritage) is an important element of protection of both individual and collective rights that might be different from purely national interests.⁴⁶ With such approach, even the protection given through International Criminal Law receives a new dimension. It is not only about the property, but mostly about the rights related to this property. The aim of property protection is in fact to protect human rights. As argued before, this way of thinking might be quite hard to effectuate under the current ICL instruments. Still, if we take a closer look we realize that the courts have started to reflect this change in their decisions despite the seemingly uncertain legal ground.

With the shift from cultural property to cultural heritage, the extent of protection has changed hand in hand with the general approach of ICL. The original understanding of protection of cultural property was focused on situations when property is damaged during military operations within international conflict, such as bombardment, shelling and other kind of attacks.⁴⁷ This understanding of protection does not reflect the relation between the protected property and persons. The main reasons for the obligation of protection as written in these treaties are economic (protection of property of civilians), aesthetic (preserving beautiful objects), and those based on the notion of common heritage of mankind (protection of inherited objects having value for world culture).⁴⁸ This, however, completely omits events when cultural property is attacked under different circumstances. Attacks of this nature are becoming increasingly common and their purpose is mostly related to the elements discussed earlier.⁴⁹

Destruction of culturally connected infrastructure is often neither a collateral damage of military operations nor a part of military objective, but a deliberate target of itself, with no link to the armed conflict. The reason behind such behaviour is closely related to the intangible elements of cultural heritage. The main purpose is destruction of identity, common

⁴⁶ Report of the independent expert in the field of cultural rights, Farida Shaheed. UN Docs. A/HRC/17/38, para. 12.

⁴⁷ Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, Articles 27, 56.

⁴⁸ Forrest, *International Law and the Protection*, 3-7.

⁴⁹ Lostal, *International Cultural Heritage*, 7-8.

memory and different views of the world.⁵⁰ Attackers recognize the link between tangible and intangible heritage and see tangible objects as an expression and precondition of intangible elements. They also understand the importance of intangible heritage for the life of communities that are related to it.⁵¹ Destruction of tangible objects leads to destruction of intangible elements of culture and this could cause serious problems to a community. Such communities become more vulnerable and unstable as the loss of their values mount. Moreover, continuity is disrupted, and the relevant firm points are lost.⁵² The original wording of relevant documents in the field of ICL do not reflect this kind of relationship. However, this could be overcome by court interpretation – as has already happened several times. Cases of destruction of cultural property are not exclusively a matter of war crimes anymore. With regard to intangible elements they can be tried as crimes against humanity as well.

The most relevant examples are the *Al Mahdi* case that was tried before the ICC and also some cases tried before the ICTY. In these cases, the courts implicitly reflected the intangible elements and concept of cultural heritage in their decisions, despite these terms not being mentioned in the court statutes.

4.1. Destruction of cultural heritage before the ICTY

The conflict in the former Yugoslavia was accompanied by a large-scale destruction of the cultural heritage of the region. This destruction was a result of both military operations and systematic campaigns focused on the creation of ethnically homogeneous territories.⁵³ The term ‘ethnic cleansing’ was often used in connection with this practice, but this notion is not a legal term and its delimitation is unclear.⁵⁴ However, its nature can help us understand the background of attacks against the cultural heritage of the region. The purpose of most attacks directed against the civilian population was removing a certain ethnic or national group from

⁵⁰ Bevan, *The destruction*, 17-38.

⁵¹ Bevan, *ibid.*

⁵² Report of the independent expert in the field of cultural rights, Farida Shaheed. UN Docs. A/HRC/17/38, paras. 9-17.

⁵³ Walasek, *Bosnia and the Destruction*, 23.

⁵⁴ Schabas, ‘Ethnic Cleansing’, 43.

the targeted area. The point was not only to remove current inhabitants, but also to create the impression that they have actually never lived in this place.⁵⁵ In other words, the main goal was to rewrite history. For such purpose, it was necessary to do more than just remove people, it was also required to erase all evidence of their presence in the locality. The most compelling evidence of presence of people that is passed to future generation is their cultural heritage. That is why infrastructure and items that represented the heritage of certain groups had to disappear. The second objective of this action was also crucial – to prevent people from returning.⁵⁶ If the roots related to the local cultural heritage are destroyed, re-establishing community is much harder since it has lost its continuity and common memory. All these elements were reflected in the approach of the ICTY.

The majority of cases of destruction of cultural heritage during the conflict in former Yugoslavia were prosecuted under Article 3(d) of the ICTY Statute – Violation of the laws or customs of war. It states: The International Tribunal shall have the power to prosecute persons violating the laws or customs of war. Such violations shall include, but not be limited to:

...

(d) seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science;⁵⁷

The second possible approach was prosecution of destruction of cultural property as a crime against humanity under Article 5(h) – persecution on political, racial and religious grounds.⁵⁸ Such attitude was used in several cases and serves as a better precedent for the questions related to the relation of cultural property to human rights.

Among the most important are the cases concerning the events in Lašva Valley in Bosnia. In order to ethnically cleanse the area, the mosques of the local Muslim population were systematically destroyed. This practice was examined in the cases *Blaškić* and *Kordić & Čerkez*. Interestingly, in both cases, the defendants were accused of war crimes under article 3(d)

⁵⁵ Bevan, *The destruction*, 39-82.

⁵⁶ Bevan, *ibid*.

⁵⁷ Statute of the International Criminal Tribunal for the former Yugoslavia, Article 3(d).

⁵⁸ Statute of the International Criminal Tribunal for the former Yugoslavia, art 5(h).

and persecuted as crime against humanity under article 5(h) of the ICTY Statute. The Tribunal especially regarded the fact that protected objects were deliberately destroyed outside of military operations and that the purpose of this act was the persecution of the local population on the grounds of its religion.⁵⁹

Tihomir Blaškić was a Croatian general convicted for offences that included violations of law and customs of war under Article 3(d) of the ICTY Statute.⁶⁰ The Trial Chamber stated that ‘damage or destruction must have been committed intentionally to institutions which may clearly be identified as dedicated to religion or education and which were not being used for military purposes at the time of the acts’.⁶¹ Additionally, it requires that ‘the institutions must not have been in the immediate vicinity of military objectives’.⁶² In this part of the charge, the Trial Chamber did not consider the human element of targeted property. However, Blaškić was also charged with persecution as crime against humanity for his participation in the destruction or wilful damage of institutions dedicated to religion and education.⁶³ According to the Trial Chamber, the destruction of such institutions can provide support for charge that the accused intended to persecute on statutorily enumerated grounds, such as those of race, religion or politics:

(...) persecution may take forms other than injury to the human person, in particular, those acts rendered serious not by their apparent cruelty, but by the discrimination they seek to instill within humankind. [Persecution] may thus take the form of confiscation or destruction of private dwellings or businesses, symbolic buildings or means of subsistence belonging to the Muslim population of Bosnia-Herzegovina.⁶⁴

The Tribunal recognized the importance of those ‘symbolic buildings’ for the local population and stated that when destruction is committed

⁵⁹ Toman, *Cultural property in war*, 746.

⁶⁰ *The Prosecutor v. Tihomir Blaškić*, no. IT-95-14-T, judgment of 3 March 2000.

⁶¹ *The Prosecutor v. Tihomir Blaškić*, no. IT-95-14-T, judgment of 3 March 2000, para. 185.

⁶² *Ibid.*

⁶³ *Prosecutor v. Tihomir Blaškić*, no. IT-95-14-PT, Second Amended Indictment, 25 April 1997.

⁶⁴ *Prosecutor v. Tihomir Blaškić*, no. IT-95-14-PT, Second Amended Indictment, 25 April 1997, para. 277.

with discriminatory intent, it might constitute a crime against humanity. By this explanation the Tribunal also says that such objects are protected equally to persons and thus removes distinction between injury to person and damage to property.⁶⁵ The Appeal Chamber in *Blaškić* case focused on the type of protected property, accordingly, not every destruction of property constitutes a crime against humanity even when committed with discriminatory intent.⁶⁶ The Appeal Chamber stated that the property has to be an 'indispensable and vital asset to the owner'⁶⁷ and only in such cases could its destruction constitute a crime against humanity.

Dario Kordić and Mario Čerkez were, respectively, the political and military leaders of the Croatian Defence Council organization responsible for military operations in Bosnia and Herzegovina in 1993.⁶⁸ In the Trial Judgment they were both convicted for, among other crimes, the war crime of destroying or wilfully damaging institutions dedicated to religion or education under Article 3(d) of the ICTY Statute. The Trial Chamber found that Kordić and Čerkez deliberately targeted Muslim mosques and other religious and cultural institutions of the local Muslim population during the military campaign. The case is based on same grounds as the *Blaškić* case, however, the Trial Chamber delivered a deeper analysis of the situation.

The Trial Chamber examined scope of Article 3(d) of the ICTY Statute. It concluded that the offence overlaps to a certain extent with the offence of unlawful attacks on civilian objects. The difference is that the object of the offence under Article 3(d) is more specific – the cultural heritage of a certain population. The Trial Chamber assumed that the offence against cultural heritage is *lex specialis*.⁶⁹

More interestingly, the Trial Chamber followed the same pattern as in the *Blaškić* case with regard to charges under Article 5(h) of the ICTY Statute. With regard to the destruction of religious buildings, the Trial Chamber stated that 'when perpetrated with the requisite discriminatory intent, this amounts to an attack on the very religious identity of a

⁶⁵ Toman, *Cultural property in war*, 747.

⁶⁶ *Prosecutor v. Tihomir Blaškić*, no. IT-95-14-A, judgement of 29 July 2004, para. 146, citing *Kupreškić* Trial judgment, para. 631.

⁶⁷ *Prosecutor v. Tihomir Blaškić*, no. IT-95-14-A, judgement of 29 July 2004, para. 138.

⁶⁸ *Prosecutor v. Dario Kordić and Mario Čerkez*, no. IT-95-14/2-T, judgment of 26 February 2001.

⁶⁹ *Prosecutor v. Dario Kordić and Mario Čerkez*, no. IT-95-14/2-T, judgment of 26 February 2001, para. 361.

people. As such, it manifests a nearly pure expression of the notion of ‘crimes against humanity’, for all of humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects.’⁷⁰ Additionally, in the Appeal Judgment in the case, the Chamber required ‘a denial of or infringement upon a fundamental right laid down in international customary or treaty law’⁷¹ in order to recognize the destruction of civilian property as a crime against humanity of persecution.

Another significant case that follows the pattern established by the ICTY in the *Kordić & Čerkez* case is the *Stakić* case. Milomir Stakić was convicted for having a leading role in the destruction or wilful damage of seven mosques and two Catholic churches in the city of Prijedor and the close surroundings.⁷² The accused was charged with persecution as crime against humanity only. The Trial Chamber concluded that the destruction of religious buildings can amount to persecution as crime against humanity.⁷³ The Trial Chamber also repeated earlier opinion that considered the destruction of religious buildings from the *Kordić and Čerkez* case that ‘[the] act, when perpetrated with the requisite discriminatory intent, amounts to an attack on the very religious identity of a people.’⁷⁴

The ICTY examined the pattern in a more detailed way in the *Brđanin* case. Radoslav Brđanin was a senior Bosnian Serb political leader at the regional level – the president of the Crisis Staff/War Presidency in the Bosnian Serb Autonomous Region of Krajina. In the beginning of the campaign, Bosnian Serb forces took control over local political, military and police institutions. Later, towns and villages populated predominantly by non-Serbs were attacked by the Bosnian Serb military via indiscriminate shelling, deliberate burning and the killing of the inhabitants. Finally, the majority of surviving non-Serbs were expelled from their homes or sent to detention camps. In the camps, they faced inhumane treatment and later were deported from Bosnian-Serb controlled territory. Those who avoided expulsion faced a number of discriminatory measures from the local authorities. The Trial Chamber concluded that ‘the evidence shows a

⁷⁰ *Prosecutor v. Dario Kordić and Mario Čerkez*, no. IT-95-14/2-T, judgment of 26 February 2001, para. 207.

⁷¹ *Prosecutor v. Dario Kordić and Mario Čerkez*, no. IT-95-14/2-A, judgment of 17 December 2004, para. 103.

⁷² *Prosecutor v. Milomir Stakić*, no. IT-97-24-T, judgment of 31 July 2003.

⁷³ *Prosecutor v. Milomir Stakić*, no. IT-97-24-T, judgment of 31 July 2003, para. 766.

⁷⁴ *Prosecutor v. Milomir Stakić*, no. IT-97-24-T, judgment of 31 July 2003, para. 767 citing *Kordić* Trial judgment, para. 207.

consistent, coherent and criminal strategy of cleansing the Bosnian Krajina of other ethnic groups implemented by the SDS and Bosnian Serb forces.⁷⁵ and that the 'persecutorial campaign against Bosnian Muslims and Bosnian Croats included killings, torture, physical violence, rape and sexual assaults, constant humiliation and degradation, destruction of properties, religious and cultural buildings, deportation and forcible transfer, and the denial of fundamental rights'.⁷⁶ Regarding attacks against religious buildings, the Trial Chamber concluded that 'the deliberate campaign of devastation of Bosnian Muslim and Bosnian Croat religious and cultural institutions was just another element of the larger attack.'⁷⁷ This attitude shows how the ICTY fully integrated attacks against cultural heritage into prosecution of crimes against humanity.

The practice of the ICTY shows that prosecution of attacks against cultural heritage as crime against humanity of persecution allows addressing such attacks in a more comprehensive way, as well as truly reflecting their context.⁷⁸ The primary target of this activity is the civilian population.⁷⁹ Attacks against the cultural heritage are, hence, viewed as part of a wider widespread and systematic attack against the residing civilian population. Compared to war crimes, crimes against humanity are more focused on the protection of individual legal interests such as liberty and human dignity.⁸⁰ The important difference is that there is no war nexus requirement – crimes against humanity can be committed both during peacetime and armed conflict. As noticed by Luban, crimes against humanity are inflicted on victims based on their membership in population.⁸¹ Thus, the nature of the crimes is discriminatory and persons are targeted irrespective to their individual characteristics. Frulli, in turn, assumes that due to their

⁷⁵ *Prosecutor v. Radoslav Brđanin*, no. IT-99-36-T, judgement of 1 September 2004, para. 118.

⁷⁶ *Prosecutor v. Radoslav Brđanin*, no. IT-99-36-T, judgement of 1 September 2004, para. 1050.

⁷⁷ *Prosecutor v. Radoslav Brđanin*, no. IT-99-36-T, judgement of 1 September 2004, para. 118.

⁷⁸ Brammertz et al., 'Attacks against Cultural', 1160.

⁷⁹ *Prosecutor v. Dragoljub Kunarac et al.*, no. IT-96-23, judgment of 12 June 2002, para. 90.

⁸⁰ Stahn, *A Critical Introduction*, 52.

⁸¹ Luban, 'A Theory of Crimes', 109.

discriminatory nature and serious consequences for civilian population, crimes against humanity are more serious than war crimes.⁸²

4.2. *Al Mahdi* case before the ICC

More recently, the same question has been opened in the *Al Mahdi* case that came before the ICC. The case is noteworthy from several reasons. It is the first time that there was case where the accused was charged solely with attack against cultural property. It also marks the beginning of deeper cooperation between UNESCO and ICC, since both institutions recognize the destruction of cultural heritage as a significant issue that requires reaction.⁸³ The given opinion was partly based on Resolution 2347 (2017) of UN Security Council that condemns the unlawful destruction of cultural heritage.⁸⁴

When Islamist groups in Mali took control over the ancient city of Timbuktu in the summer of 2012, a series of attacks against the local mausoleums of saints and mosques was committed.⁸⁵ The majority of places were listed in the UNESCO List of World cultural and natural heritage and had been considered important parts of the common heritage of mankind. In the case tried before the ICC, the defendant Ahmad Al Mahdi was convicted of war crimes under the Article 8 (2)(e)(iv) of the Rome Statute: 'Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments...'⁸⁶

Although the accused was charged with a war crime, the approach of the Court and Prosecutor was more similar to the attitudes of the ICTY in cases where crime against humanity of persecution was charged. In the decision in *Al Mahdi* case, the Trial Chamber focused on the human element of the targeted property. As pointed out by Casaly,⁸⁷ the Court mixed cultural universalism and relativism in its approach. On the one hand, it stressed the value of the sites as world heritage and for the Malian people, but, on the other hand, it examined the psychological impact of

⁸² Frulli, 'Are Crimes against Humanity?', 349.

⁸³ UNESCO. 'International Criminal Court and UNESCO.'

⁸⁴ UN Security Council Resolution 2347 (2017). UN Docs. S/RES/2347 (2017).

⁸⁵ See Summary of the Judgment and Sentence in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*.

⁸⁶ Rome Statute of International Criminal Court, Article 8(2)(e)(iv).

⁸⁷ Casaly, 'Al Mahdi before the ICC.', 1200.

the attack on the local community.⁸⁸ Expert witnesses before the Chamber described Timbuktu as ‘an emblematic city with a mythical dimension and that it played a crucial role in the expansion of Islam in the region. Timbuktu is at the heart of Mali’s cultural heritage, in particular, thanks to its manuscripts and to the mausoleums of the saints’.⁸⁹ For local people, the mausoleums were of ‘great importance’ and they had a close relationship to them. The Prosecutor described the mausoleums as features that shaped the identity of the city and the local people.⁹⁰ Additionally, the court mentioned the collective dimension of regular maintenance works in which all the community participated. The Chamber pointed out that the mausoleums are not only religious buildings, but also have ‘symbolic and emotional value’ for the inhabitants of the city.⁹¹ One of the witnesses stated that the purpose of the destruction of the sites was to break the soul of the people of Timbuktu.⁹² The Prosecutor claimed that what had happened was not just attack against the structures, it was a ‘profound attack on the identity, the memory and, therefore, the future of entire populations’.⁹³

Even more interestingly, the Trial Chamber stated that the crime was based on discriminatory religious motives. The purpose of the destruction was to stop the religious practices of the local inhabitants that was related to the structures, and which ran contrary to those of the attacking group.⁹⁴ The Prosecutor stressed that the sites were part of the daily religious lives of the locals and were also often visited by pilgrims.⁹⁵ The Chamber assumed that this is another evidence of the gravity of the crime.

However, as Green Martínez⁹⁶ mentioned, there is sufficient ground to believe (and possibly investigate) that many crimes against humanity were committed in Northern Mali during the period when the region was under

⁸⁸ *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, no. ICC-01/12-01/15, judgment of 27 September 2016, para. 80.

⁸⁹ *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, no. ICC-01/12-01/15, judgment of 27 September 2016, para. 78.

⁹⁰ International Criminal Court. ‘Statement of the Prosecutor.’

⁹¹ *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, no. ICC-01/12-01/15, judgment of 27 September 2016, para. 79.

⁹² *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, no. ICC-01/12-01/15, judgment of 27 September 2016, para. 80.

⁹³ International Criminal Court. ‘Statement of the Prosecutor.’

⁹⁴ *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, no. ICC-01/12-01/15, judgment of 27 September 2016, para. 81.

⁹⁵ International Criminal Court. ‘Statement of the Prosecutor.’

⁹⁶ Green Martínez, ‘Destruction of Cultural Heritage?’, 1078-1082.

the control of the Ansar Dine group. There are reports from witnesses who attested to the commission of murder, rape, sexual violence, persecution, imprisonment and torture as consequence of the strict application of Sharia Law.⁹⁷ The attack against the cultural heritage of Timbuktu can be viewed as part of this wider attack against the local population. Finally, as pointed out by Schabas, there are certain controversies about the term 'attack'. He notes that the word 'attack' is also used in Article 7 of the Rome Statute, however, it has a different meaning there.⁹⁸ In the definition of crimes against humanity, it means actions directed against the civilian population and specifies that 'the acts need not constitute a military attack.'⁹⁹ To conclude there are two types of attack under the Rome Statute: a military attack and an attack against the civilian population that does not have to be of military nature.

The destruction of the shrines in Timbuktu illustrates an important new phenomenon – the deliberate targeting of cultural heritage outside military operations. As pointed out by Marina Lostal,¹⁰⁰ such attacks are often committed by armed non-state actors and based on ideological reasons. Following the chaos of the 'Arab Spring' and subsequent conflicts, a number of similar cases have appeared in Syria, Iraq and Libya. These attacks are part of a wider series of attacks against the local civilian populations and thus require a different approach in global law. It is open question for the future as to how the ICL will address these kinds of situations.

5. Conclusion

There is no doubt that in the global mind-set, the term 'cultural heritage' has fully replaced 'cultural property' in the field of human rights protection. The usage of the term 'cultural heritage' links protecting tangible objects with human rights and with intangible elements. The protection of cultural heritage is more complex than that of cultural property and reflects holistic understanding of culture as a synthesis of concrete and ethereal elements.

⁹⁷ Raghavan, 'In Northern Mali.'

⁹⁸ Schabas, 'Al Mahdi Has Been', 80.

⁹⁹ International Criminal Court, Elements of Crimes, Introduction to Article 7 of the Statute, para. 3.

¹⁰⁰ Lostal, 'Armed Non-State Actors', 407–427.

This attitude removes the difference between tangible and intangible elements and makes them equally important.

Reflection of this development in ICL is more complicated. ICL represents a strict set of rules, and current terminology does not consider the human rights-related elements of cultural heritage. However, in some cases before the ICTY, the Tribunal has reflected upon the impact of cultural heritage destruction on the local population. Under the crime against humanity of persecution, the ICTY took into consideration the value of cultural heritage for the local community. The ICTY also linked it to other human rights violations and explained that in some cases, attacks against cultural heritage can be part of wider attacks against the local civilian population. Thus, the ICTY viewed cultural heritage protection as an intrinsic part of the protection of the local civilian population.

More recently, in the *Al Mahdi* case before the ICC, inclusion of the human element of cultural heritage has been confirmed. The Court stressed the value of the targeted objects for the local community and even qualified it as evidence of the gravity of the crime. Although Al Mahdi was charged with a war crime, the approach of the Court resembles the earlier decisions of the ICTY regarding crimes against humanity of persecution. It seems likely that the crime of persecution better reflects the real nature of the conduct and allows inclusion of human rights protection-related elements.

We can conclude that the shift to term 'cultural heritage' is already included in some decisions of the ICTY and ICC. Although the wording of the statutes does not reflect it, the way the courts interpreted law and approached cases of cultural heritage destruction proves that they understand the matter as protection of human rights.

Bibliography

1. Bevan, Robert. *The destruction of memory. Architecture at war*. London: Reaktion Books, 2007.
2. Blake, Janet. *Commentary on the UNESCO 2003 Convention on the Safeguarding of the Intangible Cultural Heritage*. Leicester: Institute of Art and Law, 2006.
3. Brammertz, Serge et al. 'Attacks against Cultural Heritage as a Weapon of War.' *Journal of International Criminal Justice* 14, no. 1 (2016): 1143-1174.
4. Casaly, Paige. 'Al Mahdi before the ICC. Cultural Property and World Heritage in International Criminal Law.' *Journal of International Criminal Justice* 14 (2016): 1199-1220.

5. Chechi, Alessandro. *The Settlement of international cultural heritage disputes*. Oxford: Oxford University Press, 2014.
6. Craig, Forrest. *International Law and the Protection of the Cultural Heritage*. New York: Routledge, 2010.
7. Dörmann, Knut. 'Preparatory Commission for the International Criminal Court: The Elements of War Crimes.' *International Review of the Red Cross* 83, no. 842 (2001): 461-487.
8. Francioni, Francesco. 'Culture, Heritage and Human Rights: An Introduction.' In *Cultural human rights*, edited by Francesco Francioni and Martin Scheinin, 1-15. Leiden: Martinus Nijhoff, 2008.
9. Frulli, Micaela. 'Are Crimes against Humanity More Serious than War Crimes?' *European Journal of International Law* 12, no. 2 (2001): 329-350.
10. Green Martínez, Sebastián, 'Destruction of Cultural Heritage in Northern Mali. A Crime Against Humanity?' *Journal of International Criminal Justice* 13 (2015): 1073-1097.
11. Lostal, Marina. 'Armed Non-State Actors and Cultural Heritage in Armed Conflict.' *International Journal of Cultural Property* 24 (2017): 407-427.
12. Lostal, Marina. *International Cultural Heritage Law in Armed Conflict*. Cambridge: Cambridge University Press, 2018.
13. Luban, David. 'A Theory of Crimes Against Humanity.' *The Yale Journal of International Law* 29, no. 1 (2004): 85-162.
14. Merryman, John. 'Two Ways of Thinking About Cultural Property.' *The American Journal of International Law* 80, no. 4 (1986): 831-853.
15. Prott, Lyndel, O'Keefe, Patrick. 'Cultural Heritage or Cultural Property?' *International Journal of Cultural Property* 1, no. 2 (1992): 307-320.
16. Raghavan, Sudarsan. 'In Northern Mali, Islamists' Attacks against Civilians Grow More Brutal.' *Washington Post*, 11 December 2012, accessed 17 July 2021, http://www.washingtonpost.com/world/in-northern-mali-islamists-attacks-against-civilians-grow-more-brutal/2012/12/11/5b74a734-3e46-11e2-8a5c-473797be602c_story_2.html.
17. Schabas, William. 'Al Mahdi Has Been Convicted of a Crime He Did Not Commit.' *Case Western Reserve Journal of International Law* 49 (2017): 75-102.
18. Schabas, William. 'Ethnic Cleansing and Genocide: Similarities and Distinctions.' In *Minority Governance in beyond Europe*, edited by Tove H. Malloy and Joseph Marko, 39-60. Brill, 2014.
19. Report of the independent expert in the field of cultural rights, Farida Shaheed. UN Docs. A/HRC/17/38.
20. Stahn, Carsten. *A Critical Introduction to International Criminal Law*. Cambridge: Cambridge University Press, 2019.
21. Toman, Jiri. *Cultural property in war: improvement in protection*. Paris: UNESCO Publishing, 2009.
22. Toman, Jiri. *Protection of Cultural Property in the Event of Armed Conflict*. New York: Routledge, 2016.

23. Turku, Helga. *The Destruction of Cultural Property as a Weapon of War*. Washington: Palgrave Macmillan, 2018.
24. UNESCO. 'International Criminal Court and UNESCO Strengthen Cooperation on the Protection of Cultural Heritage.' <https://en.unesco.org/news/international-criminal-court-and-unesco-strengthen-cooperation-protection-cultural-heritage>.
25. Walasek, Helen. *Bosnia and the Destruction of Cultural Heritage*. New York: Routledge, 2015.