

Prosecuting Crimes against Cultural Heritage in Syria and Northern Iraq

Abstract:

Few events have caused more shock and condemnation in recent years than the images of the destruction of cultural heritage in Syria. International law expressed since the early times a great concern for preservation of cultural heritage in conflict scenarios, including effective tool to prosecute the most responsible. The necessity to provide protection for cultural heritage sites during armed conflicts and accountability for the perpetrators of crimes against cultural heritage lead to the development of a strong legal framework.

The focal point of this work is to highlight how the attacks against cultural heritage occurred in Syria should not always be seen as isolated incidents but as aggressions that bear a relevance and a severe impact on the whole attacked population. Such consideration is paramount once the episodes are examined under the lenses of international criminal law, that criminalises the conducts as war crimes and crimes against humanity, while additionally giving them a relevance in the reconstruction of genocidal *mens rea*.

Undoubtedly, some attacks, perpetrated by all sides of the conflict, had a political or military aim at their roots: prevention of the location's use, obstacles to other targets or to the creation of a path or convenient location. Examples are the damages to the Crac des Chevaliers castle, the shelling of the Old Souk of Aleppo and the city of Raqqa that are all characterised for their strategic position and their relevance in military operations. Furthermore, jihadist groups certainly operated a religious, cultural and iconoclastic-oriented destruction accompanied with a strong financial opportunistic component in the spread looting and selling of easily transferrable objects. However, limiting the episodes of destruction to iconoclasm and extremists' campaigns against "false idols" means ignoring the complexity behind attacks to tangible cultural heritage, both of universal and local value. Indeed, destruction was also part of cultural cleansing campaigns sought by extremist armed groups seeking to eradicate what is conceived as not concurrent with their vision and way of life. After a brief reconstruction of the framework concerning the protection of cultural heritage committed in Syria under ICL, three topical episodes occurred during the course of the conflict will be analysed to draw the attention on the double nature of intentions behind attacks against cultural property in Syria and Iraq, to highlight the coexistence of different international crimes and to give a comprehensive understanding of the actors involved and of the different reasons behind the attacks. The chosen episodes are: (a) Crac des Chevaliers; (b) the Old city of Palmyra; (c) the destruction of Yazidi cultural heritage and cultural cleansing occurred in Syria and Northern Iraq.

The unprecedented extension of cultural eradication in Syria and Iraq requires immediate actions from the international community to avoid impunity for the committed crimes and, to conclude the analysis, a brief examination of the possible way forward will be provided.