

REVIEW PAPER

Legal Consequences of Economic and Financial Damage Caused to Cultural Heritage: The Case of Armed Aggression against Ukraine

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ABSTRACT

The article attempts complex comprehension of the acute issue concerning reimbursement of economic and financial damage caused by the full-scale armed aggression of Russian Federation against Ukraine. Based on historical retrospect, the authors analyze the legal consequences of damage to cultural heritage, research efforts of international organizations, and approval of appropriate documents, highlight available precedents and solutions, and outline possible vectors of actions for Ukraine.

HIGHLIGHTS

- The article is devoted to the analysis of provisions and precedents in the field of legal consequences of damage caused to cultural heritage during war conflicts and makes an attempt to refract the experience accumulated by the world community to the case of Russia' war aggression towards Ukraine and destruction of its cultural property and cultural heritage. The practical significance of the study lies in outlining of possible concerns and vectors of action for Ukraine.

Keywords: Damage to cultural heritage, Armed aggression, HR management, Cultural property, Reparations

Historical and cultural heritage is one of the most vulnerable areas during war. During hostilities, valuable buildings of the past, archaeological sites, and works of art are destroyed. Some of them can be restored in the same form, but one will never get back their authenticity the main value of the heritage.

In the first quarter of the 21st century, military conflicts flared up with particular force in those regions of the world where numerous cultural

and architectural monuments were concentrated. Considering the fact that modern weapons are extremely destructive, any war brings great, and sometimes irreparable, damage to the global heritage of humanity.

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In Ukraine, during two years of full-scale war, hundreds of historical and cultural monuments were destroyed or significantly damaged. Moreover, numerous thefts and removal of valuables outside the country are known. In addition to destroying cultural heritage through shelling, Russian troops are looting museums and archaeological reserves and removing artifacts from Ukraine. Fig. 1 presents the most damaged categories of cultural heritage objects as of February 2023, according to the data of Kyiv School of Economics.

TYPE	\$ MILLIONS
Historical buildings	792,4
Buildings/Palaces of Culture	357,6
Religious objects	111,1
Libraries	87,2
National and regional theaters	74,4
Museums	57,6
Art schools	48
Cinemas	15,3
Memorials, mass graves	3,2
Monuments	0,2
TOTAL	1547

Fig. 1: The most damaged categories of cultural heritage objects during war in Ukraine, as of February 2023 (*The cultural heritage of Ukraine during the war, 2024*)

Distribution of the number of damaged cultural and religious sites by regions of Ukraine, as of February 2023, is shown in Fig. 2.

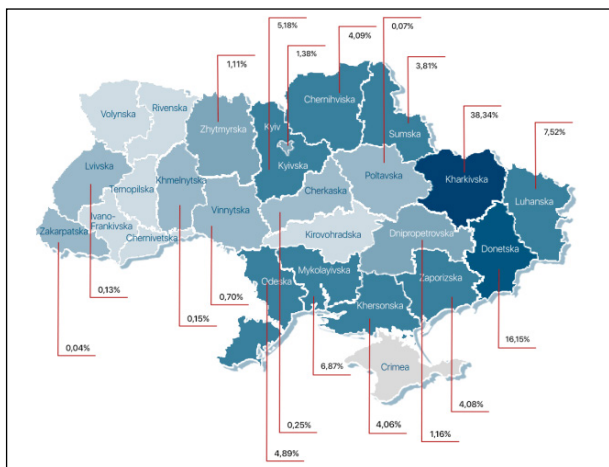


Fig. 2: Distribution of the number of damaged cultural and religious sites by regions of Ukraine, as of February 2023 (*The cultural heritage of Ukraine during the war, 2024*)

As of February 16 2024, UNESCO has confirmed that 342 heritage sites have been damaged or

destroyed since the outbreak of full-scale war. Among them are 127 religious sites, 150 buildings of historical and artistic interest, 31 museums, 19 monuments, 14 libraries, 1 archive. In total, 4,779 cultural and tourist sites were damaged during the war, Ukrainian authorities report (*Cultural Heritage of Ukraine during the War, 2024*).

Due to Russia's full-scale invasion, more than 900 Ukrainian cultural heritage sites have been damaged or destroyed over the past two years. Estimates of the damage caused by the war to Ukrainian culture reach 19 billion US dollars (*Estimates of the damage caused by the war to Ukrainian culture reach 19 billion US dollars, 2024*).

Meanwhile, it is believed that the illicit trade in stolen art and antiques is the third most profitable crime behind money laundering and terrorist operations (Silwal, 2021). Nevertheless, study is scarce on this subject, particularly from an economic standpoint. Part of this is due to the fact that the issue has only lately received widespread notice. Over the last two years, the Islamic State has destroyed and looted cultural heritage sites in Iraq and Syria, causing an international outcry and casting light on the deeply rooted illegal art market. Another reason for this is that looting and destruction of cultural heritage items are frequently viewed as political or ideological actions.

During the international high-level conference U4J United for Heritage in Kyiv, which took place in February of this year, it was announced that a special state register would be created in Ukraine. All cultural heritage objects destroyed or damaged as a result of Russian aggression will be brought there. The register will be one of the tools for determining the amount of compensation from the Russian Federation.

In this context, it is extremely important to study the legal consequences of economic and financial damage caused to cultural heritage during armed aggression, based on the case of Ukraine, and analyze the experience accumulated in the process of studying damage to cultural heritage during military operations in Syria, Iraq, and Libya.

MATERIALS AND METHODS

The methodological basis of the research is made up of general scientific and special methods. The study

used a general scientific methodological approach, which allowed to scientifically define the scope of the study, clarify the basic concepts and categories, highlight the conceptual aspects of the research topic, and outline the prospects for the development of the institution of international legal protection of cultural property.

The general scientific methods used in this study are dialectical, system-structural, logical methods, analysis, synthesis, deduction, and induction. Among the special legal methods, we used such methods as historical-legal, comparative-legal, and formal-legal.

LITERATURE REVIEW

According to UNESCO's definition, cultural heritage is monuments, a group of buildings that have outstanding universal value from a historical, artistic, or scientific point of view; these are the works of man or the combined works of nature and man.

The UNESCO classification distinguishes many types of cultural heritage. Tangible cultural heritage consists of monuments, architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, and inscriptions. This cultural heritage is divided into (Meskell, 2018):

1. Immovable heritage monuments, architectural works, archaeological sites, museums, and historical centers. This type of heritage, in turn, consists of:
 - Archaeological heritage, which includes all archaeological human activity;
 - Architectural heritage, consisting of individual or related buildings that, because of their architecture, their uniformity or their place in the landscape, are considered the most important cultural heritage resources, reflecting the activities of people, society, and culture.
2. Movable heritage paintings, drawings, carved or engraved images, manuscripts and stamps, documentary heritage.

Intangible cultural heritage refers to the practices, representations, expressions, knowledge, skills, as well as instruments, objects, artifacts, cultural spaces,

and corresponding communities, groups, and, in some cases, people that are recognized as part of the cultural heritage.

Folklore of a people's heritage is the body of tradition-based creations of a cultural community, expressed by a group or individuals, reflecting the community's cultural and social identity, standards, and values, transmitted orally, through imitation or other means. Its forms include, among other things, language, literature, music, dance, games, mythology, rituals, customs, crafts, architecture, and other arts.

The protection of cultural property during armed conflict is based on the principle that damage to the cultural property of any people is, in the words of the 1954 Hague Convention, "damage to the cultural heritage of all mankind".

Cultural property is protected during war on the basis of two provisions. Since cultural property is generally civilian, it is subject to the general provisions of humanitarian law protecting civilian property.

On the other hand, the special protection of the cultural heritage of all peoples, enshrined in the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and the 1977 Additional Protocols to the 1949 Geneva Conventions, has become part of customary international law.

Parties to an armed conflict do not have the right to direct military action against cultural property, and they are obliged, if possible, not to cause accidental damage to such property. It is prohibited to use cultural property for military purposes.

Over its more than half a century of history, the Hague Convention has developed into a clear legal system. It was strengthened by the 1977 Additional Protocols to the 1949 Geneva Conventions, the 1998 Rome Statute of the International Criminal Court, and the 1999 Second Protocol to the Hague Convention itself.

The Statute of the International Criminal Court, adopted in 1998 and entered into force in 2002, already defined the deliberate targeting of buildings of worship, as well as those intended for education, the arts, science, and charity, as war crimes, regardless of the nature of the armed conflict (international or internal), and extended

its jurisdiction to the perpetrators of such crimes (Article 8) (Olevska-Kairisa & Kairiss, 2023).

However, the greatest role in improving and developing the mechanism for the protection of cultural property during armed conflicts was played by the II Protocol to the Hague Convention of 1954, adopted in 1999 and entered into force in 2003. The Protocol, having accumulated new provisions of the above conventions, specified them in relation to the situation of armed conflict and supplemented The Hague Convention, having eliminated its shortcomings, in particular, concretized the concept of extreme military necessity.

Let us turn to the question of the effectiveness of the above mechanism for the protection of world cultural heritage. Thus, the mechanism for the protection of the world's cultural and natural heritage provided for by the 1972 Convention is effective and practically applicable. As for the mechanism for the protection of world cultural heritage in the event of armed conflicts, provided for by the 1954 Hague Convention and the 1999 Protocol, as practice shows, it does not create reliable guarantees of protection.

The disadvantage of the mechanism for the protection of cultural property is the conventional unsettled issue of state responsibility for serious violations of the Convention and the Protocol (Arivazhagan *et al.* 2023; Avedyan *et al.* 2023). In particular, the Protocol contains only abstract wording that the provisions of the Protocol on individual criminal responsibility do not affect the responsibility of the state under international law, including the state's obligation to provide compensation (Article 38). Detailed regulation of the institution of state responsibility, by analogy with individual criminal liability, would help increase the efficiency of the international mechanism for the protection of cultural property, but at the moment, the situation is very complex, as is clearly seen in the Ukrainian case.

The protection of cultural heritage in accordance with cultural systems and UNESCO legislation means the necessary work to create appropriate conditions for the survival of a historical landmark, archaeological site, or historic area. However, over the past two decades, international organizations have rightly faced accusations of failure to fulfill

obligations and take the necessary measures to protect heritage and have focused only on issuing laws.

RESULTS

For a long time, the role of international organizations (UNESCO, ICOMOS, ICOM, ICCROM, etc.) in the protection of cultural heritage in armed zones was limited. In 1945, UNESCO in Hague published the first protocol on the protection of cultural priority in the event of armed conflict and the second one in 1999 (Walasek, 2018). Since 1970, the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property has been the main instrument for the international protection of cultural heritage. The UN Security Council adopted Resolution No. 2347 in 1999, condemning the illegal destruction of cultural heritage.

In 2017, a meeting was held at the UN headquarters, where the relationship between the destruction of cultural heritage and terrorism and mass violence was announced (Dattilo *et al.*, 2023). UNESCO has made efforts to protect cultural property in the immediate aftermath of many international armed conflicts.

The interim result of legislative activity at the international level for the protection of cultural heritage in the context of the civil war in Syria was a resolution of the UN Security Council, adopted in close cooperation with UNESCO. Resolution 2347 (2017) on the protection of cultural heritage was adopted by the Security Council at its 7907th meeting on March 24 2017 (von Schorlemer, 2018). The resolution notes the special role of non-state actors, especially terrorist groups, in generating damage to cultural heritage through predatory excavations, targeted encroachments, and illicit trade, including via the Internet.

The resolution recommends and calls on participating states to cooperate in efforts in the field of customs regulation, strengthen supervision over the trade in antiquities on their territory, and create special units within supervisory departments that, in close cooperation with museums, will develop and implement the necessary measures to combat illegal trade (Gaievskaya *et al.* 2023).

The importance of coordinating cultural institutions

and organizations capable of carrying out mine clearance, including cultural heritage sites, is separately noted.

The resolution also notes that in some cases, attacks on cultural heritage sites constitute a form of war crime, as evidenced by the decision of the International Criminal Court, which convicted for the deliberate destruction of cultural heritage sites (Timbouktu).

In general, the resolution summarized previously voiced calls and wishes to the participating countries, bringing them together in a single document (Davidaviciute, R. 2020; Byrkovych *et al.* 2023). The resolution focuses on positive rather than normative measures to protect heritage (Viejo-Rose 2013). This shift reflected changes in international relations caused by the emergence of non-state actors who deny the norms of international humanitarian law and who must be counteracted directly through economic, cultural, and military levers of influence.

In particular, UNESCO's activities lay in the area of consolidating efforts around Syria by educating the security and customs authorities of countries bordering Syria regarding international law, namely the protection and illicit trade of cultural property. UNESCO's main objective during the initial period of the conflict was to keep the artifacts inside Syria by drawing the attention of the competent authorities to the importance of the problem.

Fig. 3 below shows the distribution of the types of cultural heritage damage in Syria, summarized based on the data available in 2022.

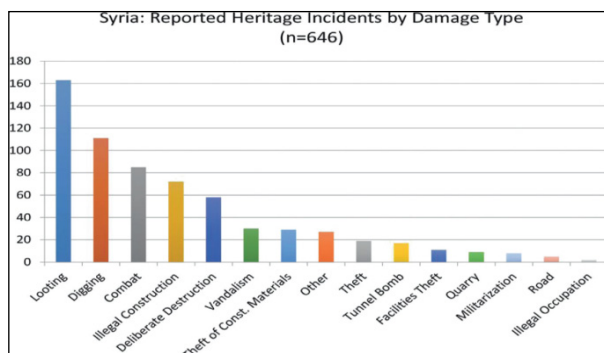


Fig. 3: Reported heritage incidents by damage type in Syria (Taha, 2022)

It is known that during the bombing of Libya, significant damage was caused to the cultural heritage of this state. According to UNESCO, such

ancient cities as Bam in Iran and Zabid in Yemen, as well as the Bamiyan Valley in Afghanistan, are under threat of destruction (Gaman *et al.* 2022; Bazaluk *et al.* 2023). The Afghan conflict, which began in 1979 and after the withdrawal of Soviet troops, moved into the stage of civil war, as well as Operation Enduring Freedom under the auspices of the United States, influenced the preservation of cultural monuments in Afghanistan. UNESCO in 2001 failed to prevent the destruction of Buddha statues in Afghanistan (Moustafa, 2016). The International Council of Museums has compiled a list of cultural and artistic objects in Afghanistan. This list includes destroyed or illegally exported cultural property from the pre-Islamic and Islamic periods (Gerstenblith, 2024). In 2002, UNESCO created the International Coordination Center for the Preservation of the Cultural Heritage of Afghanistan. UN specialists managed to analyze the destruction of the Bamiyan monuments, but restoring the statue turned out to be too costly a project for which Afghanistan did not have the funds.

It is important to note that in recent years there has been a trend in which states and international organizations are making efforts to return historical values, in particular to Afghanistan. In 2012, with the assistance of the British Museum and the British Ministry of Defense, a total of 843 items that had been stolen during the civil war in the 1990s and were seized by British customs were returned to the National Museum of Afghanistan. This event was preceded by the signing of a 2011 memorandum of understanding between the two museums. The Kabul Museum also actively cooperates with the international organization Red Cross, which helped return 1,490 artifacts to Afghanistan. Naturally, the situation in Afghanistan remains difficult, and the future of cultural sites is unknown (Moustafa, 2016).

Since the start of the military operation of the United States and its allies in Iraq, UNESCO leadership has expressed the urgent need for concerted international action to preserve and restore Iraqi historical monuments (Gerstenblith, P. 2016; Gavkalova *et al.* 2022). However, due to intense military operations, it was necessary to limit to only counting the damage and destruction caused to cultural sites, which is particularly typical for the eastern regions of Ukraine now.

Also, during the Lebanese-Israeli war, UNESCO sent an international team of experts to assess the damage caused to cultural monuments in the area. The city of Byblos suffered extensive damage as a result of an oil spill in the Mediterranean Sea. The city of Baalbek, which is included in the World Heritage List, was damaged by bombing.

During the August 2013 riots in Egypt, hundreds of artifacts were stolen from the National Museum of Malawi in El Minya. On September 19, 2013, a UNESCO commission arrived in Egypt at the request of the Egyptian Ministry of Antiquities and Culture. UNESCO representative architect P.-A. Lablod reported that the National Museum of El Minya lost more than 600 valuable exhibits.

As the war in Syria has been fought continuously for over 10 years, the country's heritage has been a big casualty of this conflict (Deyneha *et al.* 2016). The civil confrontation in the Syrian Arab Republic began in March 2011 with mass protests in major cities, which were accompanied by clashes between protesters and police forces, resulting in casualties. By the end of the summer of 2011, one could talk about an uprising, as a result of which the confrontation between the forces of the opposition and the government became an open armed conflict, as a result of which the danger to people and cultural heritage increased (Gupta, M. *et al.* 2021; Gupta, S.K. *et al.* 2024). The first organization to express concerns about the possible consequences of armed confrontation was the International Blue Shield Committee.

Blue Shield is an organization created in 1996, previously existing as a committee for the observance of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 at the United Nations, bringing together specialists from various organizations associated with the preservation of cultural heritage and museums (Kalyayev *et al.* 2019; Isaieva *et al.* 2020). The organization is a volunteer international association of representatives of the academic community in the field of history, archeology, art, and the protection of cultural and archaeological heritage. The Blue Shield Network consists of organizations involved in museums, archives, libraries, monuments, and sites (Cunliffe *et al.* 2016).

At the beginning of the conflict in the Syrian Arab Republic, the International Blue Shield Committee

issued a statement on May 17, 2011, in which it pointed out the possibility of the destructive potential of armed confrontation. In a second statement on April 7, 2012, the international committee of the Blue Shield reiterated its concern about the ongoing conflict and the threat posed to cultural heritage and civilians.

The American Blue Shield Committee issued a statement on the "Destruction of Syria's Cultural Heritage" on August 24, 2012. The statement focused on instances of militarization of World Heritage sites, comparing the Syrian crisis to the war in Yugoslavia in the 1990s. Separately, there was a provision to combat the illicit trade in antiques and cultural heritage from Syria (Cunliffe *et al.* 2016).

The warnings issued by the International Blue Shield Committee reflected the concerns of the Western professional community about the potential threat to civilians and cultural heritage. The next step was the creation in the West of information platforms to attract public attention to the problem of the destruction of cultural heritage in the context of armed confrontation on the territory of the Syrian Arab Republic.

Subsequently, an Internet portal was created on which information about damage was grouped by territorial basis. The Association's Facebook community was created in 2012, and the first entry in the community about the bombing of Sheikh Amnes is dated October 30, 2012. The first video on the issue of protecting cultural heritage, marked with the Association's watermark, dates back to August 20, 2012 (Cunliffe *et al.* 2016). It is dedicated to the occupation of the museum in the city of Maara by Free Syrian Army rebels. Since that time, videos began to appear on the channel, dedicated exclusively to the problems of destruction of cultural heritage and drawing attention to this phenomenon.

The Director-General of UNESCO, in an address to the parties to the armed conflict in the Syrian Arab Republic on July 30, 2012, called on the parties to the armed conflict not to use objects of historical or cultural value for military purposes. The Director General expressed particular concern regarding the old city of Aleppo, which, due to its strategic importance, could become the site of heavy fighting (Meskell, 2018).

The World Heritage Committee decided to include all six Syrian World Heritage Sites on the List of World Heritage in Danger at the 37th session of the World Heritage Committee held in Phnom Penh, Cambodia, from 16-27 June 2013 (Moustafa, 2016).

The next step to attract the attention of the public and trade, customs, and police structures was the Red Sheet, issued with the support of UNESCO and ICOM. The press release about the issuing of the Red Sheet was made in Paris, at the Louvre on September 23, 2013. The official presentation of the Red Sheet was held on September 25, 2013 at the Metropolitan Museum of Art in New York. The Red List of Stolen Cultural Property in Syria contains a number of items stolen from Syrian museums and also provides an overview of the cultural heritage crisis that has unfolded in the context of the civil war (Khomiuk *et al.* 2020; Karpa *et al.* 2021). The declared purpose of the Red Sheet is to provide the authorities with a tool in the search for stolen cultural heritage objects. Red sheets only include items that have been reported stolen and have a description that can be used to identify them. Each Red Sheet, depending on the specifics covered in it, provides descriptions of the general cultural and criminal context and recommendations for combating illicit trafficking in cultural property. In particular, a need to provide museum valuables with an individual identifier (ID object) is emphasized. In turn, Interpol refers to the Red Sheets as one of the sources of replenishing information about stolen objects.

Despite significant work on documenting the damage caused to cultural heritage in each of the above-mentioned conflicts, tangible legal precedents for liability and compensation for this damage have never been established.

Attracting public attention and providing Interpol and national law enforcement agencies with information is a necessary condition for combating illicit trafficking in cultural heritage, but these measures are preventive in nature (Klymenko *et al.* 2016; Kostiukevych *et al.* 2020). Regular monitoring of the situation makes it possible to create an extensive information base, which is extremely important for a targeted response to ongoing destruction and post-conflict resolution.

In Ukrainian case, it should be understood that it will be quite difficult to obtain direct reparations

from Russia after the end of the war. As European experts rightly note “for reparations to be paid, there must be a desire and readiness on the part of the aggressor country to do so” (Hazarhun& Bilgin, 2023).

Reparations are payments extended over time from the defeated state to the victorious state. They can be established in different ways (Moffett, 2017):

- ♦ Voluntarily by the aggressor country;
- ♦ Unilaterally victorious countries, as was done in relation to Germany at the Potsdam Conference in 1945;
- ♦ Based on decisions of UN structures, for example, the International Court of Justice or the UN Security Council.

The issue of reparations can be fixed in a peace treaty between the parties to the conflict (Mishchuk *et al.* 2020; Kulikov *et al.* 2022). In addition to money, property, foreign assets, intellectual property, work and services can be seized as payments, for example, for the restoration of cities destroyed by missile attacks, etc.

But in the case of Russia, there are nuances. In 2020, amendments were specifically made to the Russian Constitution, according to which decisions of interstate bodies that contradict the Constitution of the Russian Federation are not subject to execution. Therefore, Russia easily refused to comply with the decision of the International Court of Justice to stop aggression and violence in Ukraine (Kubiniy *et al.* 2021; Kryshchanovych *et al.* 2022).

Unlike the situation in World War II, Ukraine does not have allies who openly fight against Russia, could send in troops, win on the battlefield, and force it to pay reparations.

It should be noted that Germany paid a number of compensations, for example, to camp prisoners, at its own desire. Sometimes, such aspirations were of a very pragmatic nature: for example, the payment of reparations to Israel under the 1952 treaty. Such steps significantly improved Germany’s image and position in the international arena, as well as relations with Western countries and the United States. Germany is not a nuclear country, and it has a special attitude to its own history (Levytska *et al.* 2022; Kussainov *et al.* 2023). Therefore, it has been paying compensation to victims of German colonial

rule in modern Namibia back before the First World War. Germany paid its last reparations for World War II in 2010.

Perhaps, in the Ukrainian case, this will be the first precedent when a state with nuclear weapons will be forced to pay reparations. However, the mechanism for implementing these reparations has yet to be developed. Therefore, the efforts of the Ukrainian authorities and the expert community should be aimed not only at documenting damage and political declarations but also at designing a realistic, effective mechanism of responsibility, including the possibility of using a stakeholder approach and economic and financial instruments.

DISCUSSION

Attacks on structures intended for religion, education, art, science, or charity, or historical monuments without military necessity are war crimes according to the Rome Charter. Ukraine has signed the Rome Statute but has not yet ratified it. Ukraine is already cooperating with the International Criminal Court to investigate crimes in accordance with the mechanism provided for in Article 12 of the Rome Statute, accepting the jurisdiction of the International Court throughout the territory of Ukraine.

Assessing damage during military operations is difficult: often, government officials and State Emergency Service workers do not have adequate access to damaged facilities for a long time due to the density of shelling and the danger of mining. Information coming from occupied settlements that are (were) under siege is often incomplete (Zilinska *et al.* 2022; Yermachenko *et al.* 2023). However, even the available data allows concluding the nature and scale of destruction.

Russia violates all norms of international humanitarian law regarding the protection of cultural heritage. Everything suitable for removal is 'exported', the rest is destroyed. Already today, there are questions about compensation for lost and damaged cultural values, as well as about the return of what was illegally moved (Troschinsky *et al.* 2020; Vorobei *et al.* 2021). Here it is necessary to apply the general prescriptions of international law regarding the state's responsibility for an internationally illegal act, which is undeniably Russia's aggression against Ukraine, as well as special ones: the 1970

Convention on Measures Aimed at Prohibiting and Preventing the Illegal Import, Export and Transfer of Ownership of Cultural Property; Convention on the Protection of the World Cultural and Natural Heritage of 1972; The 1995 UNIDROIT Convention on Stolen or Illegally Removed Cultural Property.

The main means of compensation for damage caused to cultural heritage and cultural values as a result of violations of international norms during armed conflict is restitution (Maksymenko *et al.* 2020; Novak *et al.* 2022). Restitution is, first of all, the return of cultural values or the transfer of objects of similar value and value instead. Restitution obligations are not only relevant norms of peace treaties. These are also the provisions of the UNESCO Conventions, reproduced in the resolutions of the UN General Assembly, and the customary norm of international law.

The task of restitution is not just to return individual cultural values and compensate for the damage but also to restore the heritage as an integral cultural asset of the nation and the state (Litvinova *et al.* 2020; Panasiuk, I. *et al.* 2020). The second form of restitution is related to the replacement of cultural values with similar objects lost as a result of hostilities.

The offending state also bears responsibility and corresponding obligations for restitution for the actions of other persons, primarily its own military personnel who steal or destroy cultural values, for the actions of proxy groups (Oliinyk *et al.* 2021; Panasiuk O. *et al.* 2021). A separate point is the criminal liability of individuals, the Russian political leadership, the Russian military, the occupation administration, and leaders of the cultural sphere of Russia for committing or complicity in war crimes, including against the cultural heritage of Ukraine.

But restitution and international responsibility occur after the cessation of hostilities and the conclusion of peace treaties, as one of the types of international responsibility. Ukrainian experts emphasize that even now, during the active phase of the international armed conflict, it is necessary to take the necessary steps and create appropriate institutions that will increase Ukraine's ability to return cultural values and compensate for losses from the heritage destroyed by Russia in the future (Omarov *et al.* 2022; Ortina *et al.* 2023). However, at

the moment, the active participation of international organizations in the creation of any structures and documents to bring the aggressor state to international responsibility is unlikely.

At the same time, documenting the damage caused to the cultural heritage of Ukraine, in particular, the economic and financial damage, is an urgent task. Modern technical capabilities make it possible to record war crimes against cultural heritage in real-time. It is necessary to focus efforts on digitization (Lola *et al.* 2022; Shavarskyi *et al.* 2023). This is important both for documenting and disseminating information about crimes at the international level. The information component is also important in the context of the prevention of illegal international circulation of cultural values. It is necessary to constantly monitor auctions and commercial turnover of cultural values on online and offline sites, informing the organizers about the presence of stolen Ukrainian objects (Shamne *et al.* 2019). Collection and processing of the evidence base during the investigation of damage to cultural heritage objects is a mandatory part of the investigation at any stage.

Furthermore, an established norm of customary international law states that the destruction, plunder, looting, or appropriation of works of art and other pieces of public or private cultural property during armed situations is forbidden. The illegal character of the above practices can be asserted at least since the codification of that rule in the Hague Convention respecting the Laws and Customs of War on Land, adopted and revised respectively by the First and Second Peace Conferences of 1899 and 1907 and the 1907 Hague Convention concerning Bombardment by Naval Forces in Time of War (Gerstenblith, 2016).

Several scholars have stressed the distinction between the idea of “cultural property” and the larger concept of “cultural heritage” in legal theory, highlighting the difficulties of giving a single and universally agreed description of the interests and values protected.

It is clear that the idea of cultural heritage is larger in scope than that of cultural property since it conveys a “form of inheritance to be kept in safekeeping and handed down to future generations” (Gerstenblith, 2016). In contrast, the concept of cultural property

is “inadequate and inappropriate for the range of matters covered by the concept of cultural heritage”, which includes, among other things, non-material cultural elements (such as dance, folklore, and so on) that have recently been deemed entitled to legal protection at the international level. This is clear from the text of Article 2 of the Convention mentioned above for the Safeguarding of the Intangible Cultural Heritage of October 17, 2002, which defines “intangible cultural heritage” as the practices, expressions, knowledge, skills, as well as the instruments, objects, artifacts, and cultural spaces associated with them, that communities, groups, and, in some cases, individuals recognize as part of their cultural heritage.

Given the usually inescapable linguistic disparities between legitimate international documents and the resulting diverse legal ramifications, special emphasis should be placed on the necessity to offer a detailed statement of the interests protected by the applicable rule whenever the chance arises. Here one should emphasize the absence of universally shared definition of either “cultural heritage” (“patrimonioculturale”, “patrimoineculturel”) or of “cultural property” (“beniculturali”, “biensculturels”), since each multilateral agreement defines these categories uniquely in order to identify the exact extent of application of the applicable regulations. This aspect should clearly be considered when creating any legal rules for enforcing accountability measures for harm to cultural resources. The idea of “cultural property” should be utilized to analyze the legal ramifications of economic and financial harm to cultural assets, making it easier to establish repair mechanisms.

It should be noted that the attack on cultural property as a war crime was included in the Statute of the Special Tribunal for Iraq. No less significant is the decision of the International Criminal Court of September 27, 2016, rendered in the case “Prosecutor v. Ahmad Al Faqi Al-Mahdi”, according to which Al-Mahdi was convicted of attacking cultural property as a committed war crime.

However, practice confirms that the current international legal regime for the protection of cultural property both in case of war and in post-war peacetime, based primarily on those mentioned above international legal acts of a universal and regional nature, as well as customary international

legal norms, cannot cover all the issues and circumstances arising from new threats to cultural property, especially with regard to economic and financial damage (Vadi, 2023).

Despite the high stakes, reparations for cultural property damage were often ignored in international law and practice since damaging or plundering cultural property was frequently viewed as legal reprisals¹ or spoils of war (Silwal, 2023). There is some developing research that reveals the substantial harm caused by the loss of cultural heritage (Novic 2016), and heritage studies investigate the importance of cultural heritage to communities and the difficulty of recreating it in the aftermath of war (Viejo Rose, 2013). However, nothing has been written about the legal framework for reparations for the damage to cultural assets.

Heritage sites typically sustain economies of varying sizes. Local souvenir merchants and tour guides, as well as providers of ancillary services like as housing, food, and transportation, might become significantly reliant on visitors and pilgrims for revenue. Cultural heritage tourism is a crucial part of many economies, accounting for nearly 20% of GDP in Croatia (Orsini and Ostojić, 2018). Its destruction can have the same impact as removing a key industrial sector. These are the immediate economic consequences of cultural devastation; indirectly, it causes a loss of investment in an area and a depletion of local capacity since anybody with the means flees the fight, frequently remaining abroad long after it has finished. The combination of financial neglect, population/skills loss, and the associated degradation caused by abandoned areas has far-reaching economic implications.

CONCLUSION

Thus, reparations, which are the subject of Ukrainian expert community discussions about Russia's responsibility for damage to cultural heritage in Ukraine, cannot undo all of the harm that has been done, but they can serve to publicly acknowledge and alleviate some of the ongoing suffering of victims and affected communities. As such, reparations are demonstrations of moral principles in post-conflict or authoritarian regimes. Nonetheless, contemporary practice and human rights law strongly suggest that compensation or restitution is insufficient; reparations must be

appropriate to the harm caused, which necessitates victim participation in the design, process, and implementation of such measures to ensure that they accurately align with their needs.

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