

ARMENIA'S APPROPRIATION OF AZERBAIJANI CULTURAL AND HISTORIC HERITAGE





CENTER OF ANALYSIS OF INTERNATIONAL RELATIONS
BEYNƏLXALQ MÜNASİBƏTLƏRİN TƏHLİLİ MƏRKƏZİ

REPORT

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The following report is partly based on the resources provided by the
Ministry of Culture of the Republic of Azerbaijan

BAKU-2021



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Introduction

Before the First Karabakh War (1988-1994), the Karabakh region of Azerbaijan was home to 706 historic and cultural monuments: 11 monuments of global importance (6 of them architectural and 5 archaeological), 240 of state importance (119 architectural and 121 archaeological), and 455 of local importance (393 architectural, 22 archaeological, 23 parks and memorial monuments, and 17 decorative artworks).¹ However, 22 museums containing more than 100,000 artifacts, 927 libraries possessing 4.6 million books, 85 music schools, 4 theaters, 2 concert halls, 4 art galleries, and 808 recreational venues were destroyed as a result of the Armenian occupation of Nagorno-Karabakh and the adjacent regions, as well as the seven districts of Gazakh and the village of Karki in Nakhchivan, situated on the border with Armenia.² According to recent estimates, within the newly liberated territories returned to Azerbaijan as a result of the Second Karabakh War, over 400 monuments have been destroyed.³

Apart from the decades-long destruction and desecration of Azerbaijani heritage within the previously occupied territories, acts of appropriation of the Azerbaijani culture in these lands have also been part of a clearly targeted policy pursued by the Armenian occupying forces. The appropriation of Azerbaijani heritage can be seen not only in the previously occupied territories of Azerbaijan, but also in the territories of modern-day Armenia where, today, no Azerbaijanis reside (250, 000 Azerbaijanis were forcefully deported during the years 1988–1989).⁴

Among the definitions given to the term “appropriation” in the Cambridge Dictionary are:

- the act of taking something for your own use, usually without permission;
- the act of taking something such as an idea, custom, or style from a group or culture that you are not a member of and using it yourself; and
- the act of taking something that belongs to someone else.⁵

This report explores the different aspects of the policy of appropriation of Azerbaijani culture and heritage by Armenia. Looking first at the looting of artifacts of cultural heritage of the Karabakh region, the report will go on to review the policy of falsification of Azerbaijani monuments through the means of “Armenization” and “Persianisation” of the historical and religious monuments of Azerbaijan. The report will analyze various means of the past and ongoing policy of cultural and historic appropriation of Azerbaijani heritage, both within the previously occupied territories of Azerbaijan and the current territories of Armenia.

¹ The following statistics were provided by the Ministry of Culture of the Republic of Azerbaijan, 2021.

² K. Ismayilov, A. Balayev (2020), *Azərbaycanın tarixi-mədəniyyət abidələrinə qarşı erməni terroru*, 97.

³ AzeMedia (2021), “Desecration and looting of historic artefacts during Armenian occupation of Nagorno-Karabakh highlighted in new report”, available at: <https://aze.media/desecration-and-looting-of-historic-artefacts-during-armenian-occupation-of-nagorno-karabakh-highlighted-in-new-report/> (Accessed: 28 April 2021).

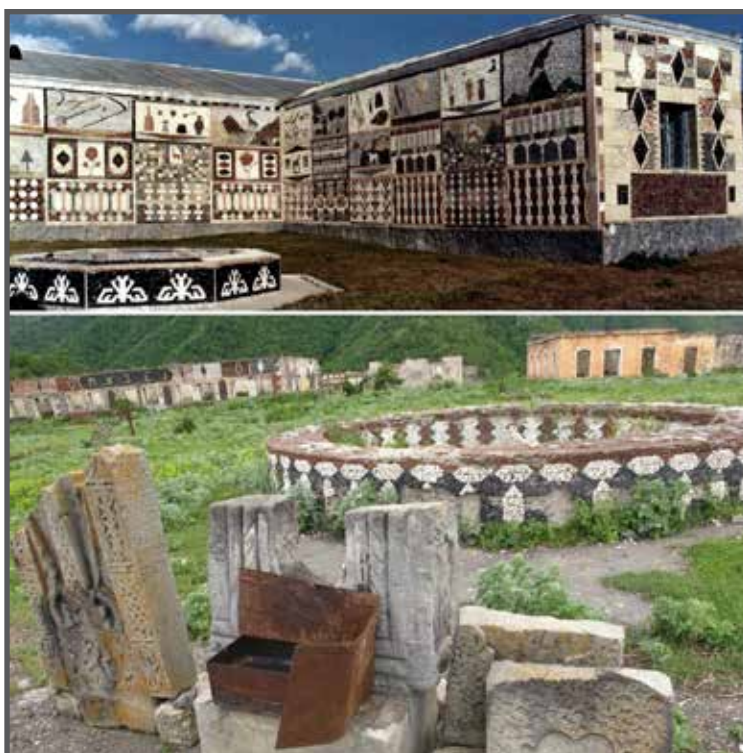
⁴ Consulate General of the Republic of Azerbaijan in Los Angeles (2021), “Ethnic Cleansing of Azerbaijani Lands by Armenia”, available at: <https://www.azconsulatela.org/Azerbaijan/Karabakh-Occupation-Ethnic-Cleansing/Ethnic-Cleansing-of-Azerbaijani-Lands-by-Armenia> (Accessed: 2 May 2021).

⁵ Cambridge Dictionary (2021), “Meaning of appropriation in English,” available at: <https://dictionary.cambridge.org/dictionary/english/appropriation> (Accessed: 2 May 2021).

Looting of the cultural and historical heritage of Karabakh

Looting of museums and cultural sites

Among the 22 destroyed museums in the occupied territories, the largest one was the History and Ethnography Museum in Kalbajar, which contained samples of rare tree and plant species (of which the region itself contains about 40 thousand species), stands with mineral and stone samples (rich deposits of which are located in Kalbajar), a unique collection of ancient coins, as well as a rich collection of ancient gravestones.⁶ The museum contained 13 thousand valuable and rare exhibits.⁷ The Museum of History and Ethnography in Lachin was razed to the ground and 5,000 historical exhibits were taken to Armenia; a silver handbag from the museum was later sold at a Sotheby's auction in London for \$80,000.⁸



Kalbajar History and Ethnography Museum before and after occupation⁹

The city of Aghdam was home to four museums. One of the most unique was the Aghdam Bread Museum, the first of its kind in the Soviet Union and the second in the entire world.¹⁰

6 — Национальная Библиотека Азербайджана (2019), "Каждый год 18 мая отмечается Международный день музеев" available at: <http://www.anl.az/down/megale/bakrabochiy/2019/may/653218.htm> (Accessed: 2 May 2021).

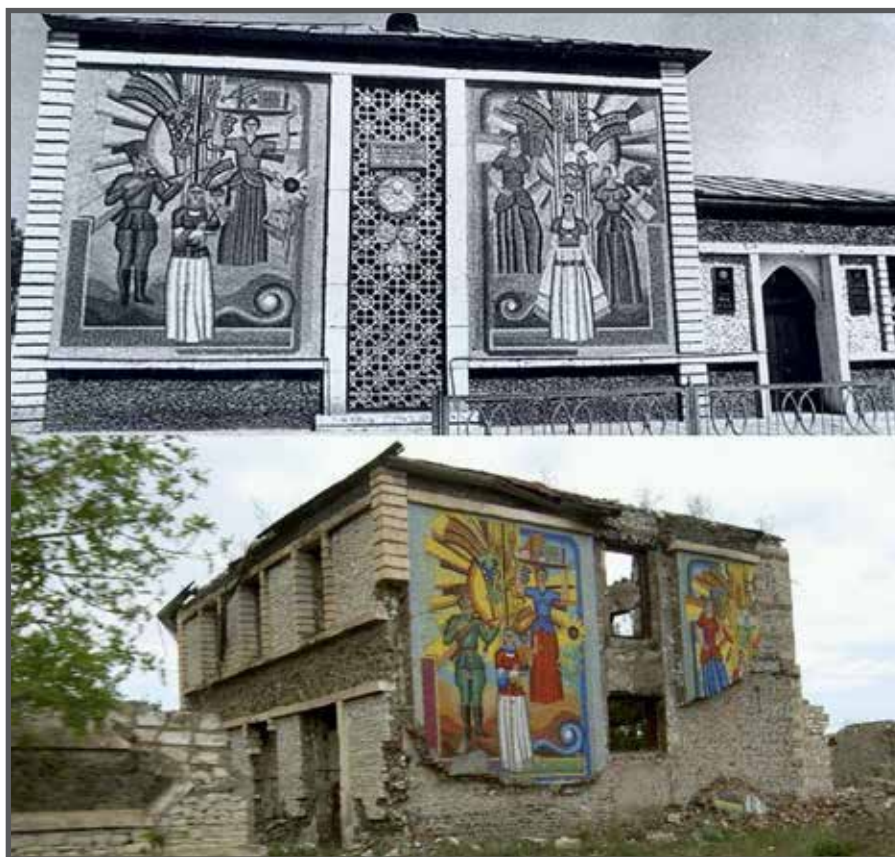
7 — Karabakh.Org (2020), "Damages to Azerbaijani culture as a result of Armenian occupation", available at: <https://karabakh.org/conflict/aggression/damages-to-azerbaijani-culture-as-a-result-of-armenian-occupation/> (Accessed: 28 April 2021).

8 — Ministry of Foreign Affairs of the Republic of Azerbaijan (n.d.), "Damage to cultural heritage" available at: <https://mfa.gov.az/en/content/114/damage-to-cultural-heritage> (Accessed: 2 May 2021).

9 — SIA (2019), "Dədə yurdlarımızda dağıdılan muzeylərimiz" available at: <https://sia.az/az/news/social/769046.html> (Accessed: 2 May 2021).

10 — Национальная Библиотека Азербайджана (2019), "Каждый год 18 мая отмечается Международный день музеев" available at:

In addition to tools such as hand mills, graters, dishes, etc., the museum also contained charred wheat grains dating back to the 7th millennium BC. Along with the entire city, the museum was destroyed and looted.



Agdam bread museum before and after occupation¹¹

Other museums that remained and were later looted in the occupied regions were the Gubadli History and Ethnography Museum (containing more than 3,000 exhibits) and Zangilan History and Ethnography Museum (containing up to 6,000 items).¹²

In Shusha city alone, 8 museums, 31 libraries, and 8 historic culture houses were destroyed and ruined.¹³ “When captured on 9 May 1992 by Armenian forces, the Azeri population fled, while the city was looted and burned. Estimates suggest that, by 2002, 80% of the city still lay in ruins,” notes writer Owen Vince in his article titled “Urbicide in Nagorno-Karabakh.”¹⁴ With cultural sites being destroyed and plundered, their exhibits were put on sale in different

<http://www.anl.az/down/meqale/bakrabochiy/2019/may/653218.htm> (Accessed: 2 May 2021).

¹¹ Wikimapia (n.d.), “Bread Museum”, available at: <http://wikimapia.org/16812920/Bread-museum> (Accessed: 28 April 2021).

¹² Azərbaycan Respublikası Mədəniyyət Nazirliyi (2017), “Dağlıq Qarabağ münaqişəsi zamanı məhv olmuş maddi və mənəvi mədəniyyət nümunələri, tarix və mədəniyyət abidələri haqqında təbliğat işləri” adlı layihə həyata keçirilir”, available at: <http://culture.gov.az/az/umumi-xeberler/dagliq-qarabag-munaqisesi-zamani-mehv-olmus-maddi-ve-menevi-medeniyyet-numuneleri-tarix-ve-medeniyyet-abideleri-haqqinda-tebligat-isleri-adli-layihe-heyata-kecirilir> (Accessed: 2 May 2021).

¹³ Karabakh.Org (2020), “Damages to Azerbaijani culture as a result of Armenian occupation”, available at: <https://karabakh.org/conflict/aggression/damages-to-azerbaijani-culture-as-a-result-of-armenian-occupation/> (Accessed: 28 April 2021).

¹⁴ Failed Architecture (2015), “Urbicide in Nagorno-Karabakh”, available at: <https://failedarchitecture.com/urbicide-in-nagorno-karabakh/> (Accessed: 28 April 2021).

countries. For example, bronze statues of Shusha's renowned woman poet Natavan, singer and songwriter Bulbul, and composer Uzeyir Hajibeyli were designated to be sold as bronze scrap metal in Georgia before the Azerbaijani government bought them for \$500,000;¹⁵ following the liberation of Shusha, the statues were brought back to their homeland.



Returned statues of Natavan, Bulbul and Uzeyir Hajibeyli to Shusha after liberation with damages and bullet holes inflicted upon the statues remaining¹⁶

The looting and appropriation of Azerbaijan's culture in the Karabakh region did not occur only during the almost 30-year-long occupation but was also evident during and after the Second Karabakh War. On February 15, 2021, it was announced that the Alexander Tamanyan National Museum-Institute of Architecture of Armenia would host an exhibition of carpets that were illegally removed from the Shusha Carpet Museum on November 1, 2020.¹⁷ The oldest stolen carpet is about 350 years old; 160 carpets were stolen, but only 71 were exhibited.¹⁸

¹⁵ Ministry of Foreign Affairs of the Republic of Azerbaijan (n.d.), "Damage to cultural heritage" available at: <https://mfa.gov.az/en/content/114/damage-to-cultural-heritage> (Accessed: 2 May 2021).

¹⁶ Ezra Ackner, (2021) "@azpresident visits the city of #Shusha and unveils the restored busts of #Azerbaijan poetess Natavan, composer Hajibayov, and singer Bulbul. The busts were riddled w/ bullets, sent to #Georgia to be sold for scrap metal in 1990s. They were bought out, restored and returned home", Twitter, available at: <https://twitter.com/AcknerEzra/status/1350099693955665920> (Accessed: 2 May 2021).

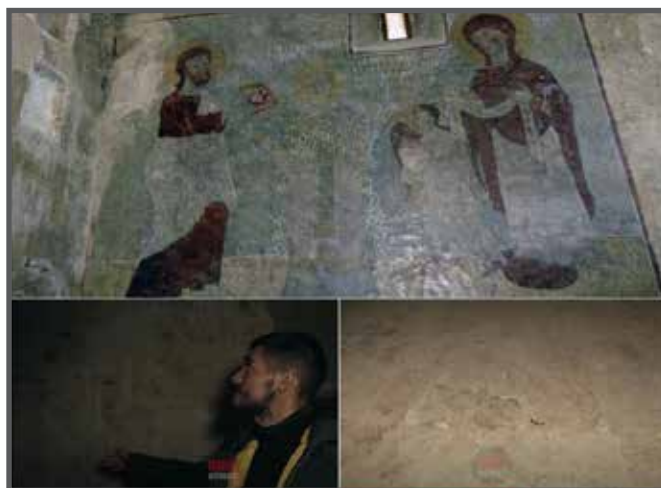
¹⁷ Armenpress (2021), "Экспонаты Музея ковров Шуши будут представлены в Ереване" available at: <https://armenpress.am/rus/news/1043451.html> (Accessed: 2 May 2021).

¹⁸ Civilnet (2021), "Shushi Carpets: A Treasure in Yerevan" available at: <https://www.youtube.com/watch?v=-TRK0hVe1iQ> 1:50 (Accessed: 2 May 2021).



From the exhibition of carpets stolen from Shusha and displayed in Yerevan¹⁹

When Azerbaijan extended, by 10 days (from November 15 to November 25) the deadline for the occupying forces to leave Kalbajar, the response by the Armenians was further looting and burning of trees, houses, and other infrastructure. The looting of the Khudavang (Dadivang) monastery was an unconcealed act, with the bells, icons, and even lamps being removed. Moreover, an 800-year-old fresco was removed from the walls of the monastery. In a video published on December 3, 2021, an Armenian priest is observed saying: “There used to be ancient frescos here, but until November 25 it was not clear what was going to happen to the Church, whether it will be left to us or to them. People, who specialize in the restoration of frescos, came here and removed the frescos.”²⁰



Top picture: “The Enthronement of St. Nicholas” fresco²¹

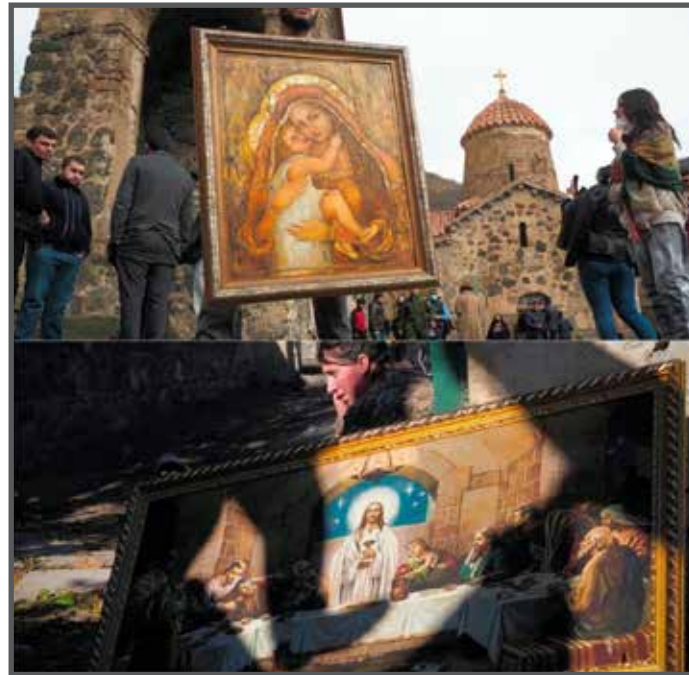
Bottom pictures: An Armenian priest standing next to where fresco used to be²²

¹⁹ Ibid.

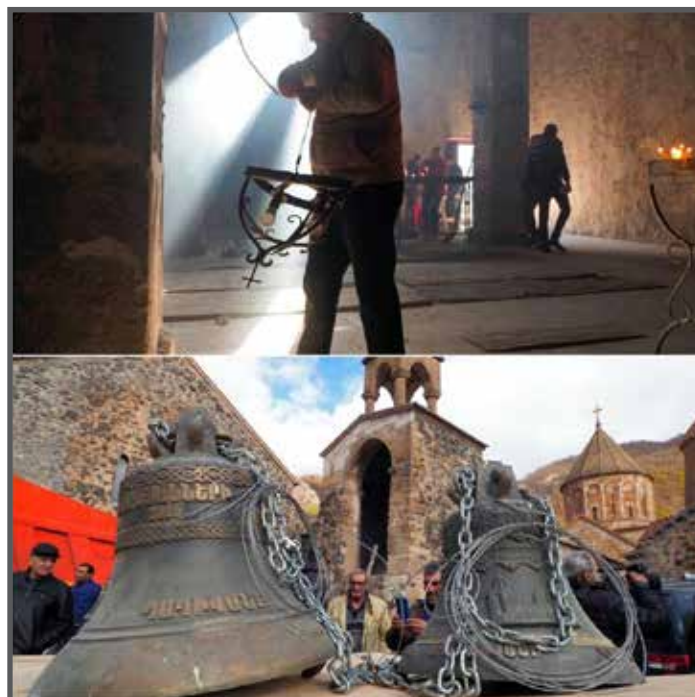
²⁰ WarGonzo (2020), “ЭКСКЛЮЗИВ: Непрístupный Дадиванк” available at: <https://www.youtube.com/watch?v=UaAyu5Cineg> 2:53 (Accessed: 2 May 2021).

²¹ Hellenic News of America (2020), “Memories of Armenia: St. Nicholas of Dadivank Monastery”, available at: <https://hellenicnews.com/memories-of-armenia-st-nicholas-of-dadivank-monastery/> (Accessed: 2 May 2021).

²² WarGonzo (2020), “ЭКСКЛЮЗИВ: Непрístupный Дадиванк” available at: <https://www.youtube.com/watch?v=UaAyu5Cineg> 2:54 (Accessed: 2 May 2021).



Icons being removed from the Khudavang (Dadivang) monastery (November 14, 2020)²³



Lamps and bells removed from the Khudavang (Dadivang) as Armenians prepare to leave Kalbajar (November 14, 2020)²⁴

²³ Christianity Today (2020), "As Armenians Burn Homes, Will Azerbaijan Protect Churches?", available at: <https://www.christianitytoday.com/news/2020/november/armenian-churches-nagorno-karabakh-azerbaijan-dadivank.html> (Accessed: 28 April 2021).

²⁴ Ibid.

Illegal excavations of archeological sites

In the previously occupied territories, the quantity of archeological sites exceeded 200, 7 of which are of universal importance.²⁵ As a result of archeological excavations carried out by Azerbaijani archeologists over decades, the Azykh, Taglar, and Zar cave dwellings belonging to the Paleolithic period in the territory of Karabakh; the Chalagantepe and Leylatapa monuments belonging to the Neolithic period; monuments in Khankendi, Uchoglan, Goytepe, and Garahajili from the Early Bronze Age; monuments in Uzerliktepe, Khojaly, Dovshanli, Akhmakhi, Sirkhavand, Sarichoban, and Garabulag from the Middle and Late Bronze Ages; as well as Covurgala and numerous other monuments of ancient and early medieval times, all had been discovered.²⁶

Throughout the years of occupation, Armenia was conducting illegal “archeological” excavations in regions including Khojavend, Agdam, Khojaly, Shusha, and Khankendi. Since 2002, illegal excavations were carried out in the Azykh Cave (known as a habitation site of prehistoric humans during the Paleolithic period) with the participation of foreign experts from Spain, the UK, and the Netherlands.²⁷ Moreover, the cave was also previously used to store ammunition and was utilized as a shooting range for soldiers.²⁸ Numerous valuable materials of scientific significance were discovered as a result of the illegal excavations and were later transferred to Armenian and Western countries’ museums.



Illegal excavations carried out in the Azykh Cave. Central picture in the bottom row also shows spray painted Armenian names, demonstrating vandalism committed towards an archeological site of universal importance.²⁹

²⁵ Karabakh.Org (2020), “Damages to Azerbaijani culture as a result of Armenian occupation”, available at: <https://karabakh.org/conflict/aggression/damages-to-azerbaijani-culture-as-a-result-of-armenian-occupation/> (Accessed: 28 April 2021).

²⁶ Sputnik (2020), “Bəşərin beşiyinə uzanan qara əllər: orada kəşfiyyat aparmaq ən böyük cinayətdir”, available at: <https://sputnik.az/culture/20201101/425353732/isqal-altinda-olan-erazilerde-tarixi-abideler.html> (Accessed: 28 April 2021).

²⁷ APA (2017), “Azerbaijan to appeal to UNESCO over illegal archaeological activity in occupied lands”, available at: <https://apa.az/en/nagorno-garabagh/xeber-azerbaijan-to-raise-issue-at-unesco-over-256668> (Accessed: 28 April 2021).

²⁸ Union Of Azerbaijan Architects (2020), “APPEAL of Members of the Union of Architects of Azerbaijan to the world heritage organizations”, available at: <http://www.uaa.az/index.php/en/news-mm-en/union-a-mm-en/857-appeal-of-members-of-the-union-of-architects-of-azerbaijan-to-the-world-heritage-organizations> (Accessed: 28 April 2021).

²⁹ Trend News Agency (2020), “Azerbaijan says legal assessment needed for illegal archaeological excavations in Azykh Cave (PHOTO)”, available at: <https://en.trend.az/azerbaijan/politics/3333266.html> (Accessed: 28 April 2021).

Illegal excavations were also being carried out near the Shahbulag fortress of Agdam by the Institute of Archeology and Ethnography of the Armenian Academy of Sciences led by Hamlet Petrosyan; these were ongoing for 14 years, until July 2020.³⁰ All the precious artefacts that were discovered during the illegal archaeological excavations were illegally transported to Armenia.



Illegal excavations in Agdam³¹

Located between the villages of Tugh and Taghlar of Khojavend, the Taghlar Cave Camp is the “only camp among the Paleolithic camps of the Caucasus and the Middle East, in which the found tools have a very rich history and allow one to study the specifics of the origin of subsequent tools.”³² Illegal excavations with researchers from foreign countries were again carried out in the cave camp, with thousands of specimens being plundered and taken out.³³

The Khudavang (Dadivang) monastery was also subjected to illegal excavations carried out by Armenia. First conducted in 2007, it was admitted by the Armenians themselves that, during the excavations, a “mausoleum has been found which is not typical to Armenian Christian traditions.”³⁴ Priceless relics were, nevertheless, removed from the site by the Armenian Abbot of the monastery. More excavations were carried out in 2017, in a 10-day

³⁰ Azernews (2020), “Azerbaijani archaeologists appeal to prosecutor general due to illegal Armenian excavations”, available at: <https://www.azernews.az/karabakh/172814.html> (Accessed: 2 May 2021).

³¹ Azvision (2017), “Armenians carry out illegal excavations in occupied-Agdam – PHOTOS”, available at: <https://en.azvision.az/news/70185/armenians-carry-out-illegal-excavations-in-occupied-aghdam-%E2%80%93-photos.html> (Accessed: 2 May 2021).

³² APA (2021), “Stolen bones, 200 letters in one night, a soldier who liberated his land”, available at: <https://apa.az/en/nagorno-garabagh/Stolen-bones-200-letters-in-one-night-a-soldier-who-liberated-his-land-colorredREPORTAGE-FROM-TUGHcolor-colorredVIDEOfcolor-339280> (Accessed: 2 May 2021).

³³ Ibid.

³⁴ Armenpress (2017), “Archeological excavations in Artsakh’s Dadivank monastery promise interesting discoveries”, available at: <https://armenpress.am/eng/news/903274/archeological-excavations-in-artsakh%E2%80%99s-dadivank-monastery-promise-interesting-discoveries.html> (Accessed: 2 May 2021).

expedition that was conducted “in the framework of the reconstruction works of small dome church of the monastery complex.”³⁵



Illegal excavations in Khudavang³⁶

The numerous “archaeological” excavations carried out by Armenia during its occupation of the Karabakh region fall under all the definitions of appropriation given in the introduction to this report. The main target of such excavations was, undoubtedly, part of the ongoing aim of removing and altering any signs of the Azerbaijani origins of these historically important sites.

Overall, all the acts committed by Armenia and covered in this section fall under the policy of appropriation of Azerbaijan’s cultural and historic heritage within Karabakh and are in full violation of the Hague Convention “On the Protection of Cultural Property in the Event of Armed Conflict” (1954), the European Convention “On Protection of the Archaeological Heritage” (1992), and the UNESCO Convention “On Protection of World Cultural and Natural Heritage” (1972).³⁷

³⁵ Armedia (2017), “Archaeological Excavations of Dadivank Kick Off”, available at: <https://armedia.am/eng/news/51345/archaeological-excavations-of-dadivank-kick-off.html> (Accessed: 2 May 2021).

³⁶ Ibid.

³⁷ Office of the United Nations High Commissioner for Human Rights (n.d.), “Information by Azerbaijan to the study on intentional destruction of cultural heritage” available at: <https://www.ohchr.org/Documents/Issues/CulturalRights/DestructionHeritage/States/Azerbaijan.pdf> (Accessed: 2 May 2021).

In particular, one should also note Article 9 of the Second Protocol of the Hague Convention, which states that the occupying party “shall prohibit and prevent in relation to the occupied territory” any illicit export, other removal, or transfer of ownership of cultural property, any archaeological excavation or any alteration to, or change of use of, cultural property which is intended to conceal or destroy cultural, historical, or scientific evidence.³⁸ Simultaneously, according to the UNESCO Convention “On the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property” (1970) and UNIDROIT Convention “On Stolen or Illegally Exported Cultural Objects” (1995), the actions perpetrated by the Armenian occupying forces are, under international criminal law, considered war crimes.³⁹

On various occasions, the authorities in Azerbaijan had appealed to UNESCO to take action for protecting Azerbaijan’s cultural heritage in the occupied lands. For example, in 2018, Azerbaijan’s Union of Architects addressed UNESCO, ICOMOS, ICCROM, and other international organizations dealing with the preservation of cultural heritage and asked for condemnation of the “inadmissible vandalism committed by Armenia against Azerbaijan’s architectural heritage.”⁴⁰

38 Ministry of Foreign Affairs of the Republic of Azerbaijan (n.d.), “Damage to cultural heritage”, available at: <https://mfa.gov.az/en/content/114/damage-to-cultural-heritage> (Accessed: 2 May 2021).

39 Union Of Azerbaijan Architects (2020), “APPEAL of Members of the Union of Architects of Azerbaijan to the world heritage organizations”, available at: <http://www.uaa.az/index.php/en/news-mm-en/union-a-mm-en/857-appeal-of-members-of-the-union-of-architects-of-azerbaijan-to-the-world-heritage-organizations> (Accessed: 28 April 2021).

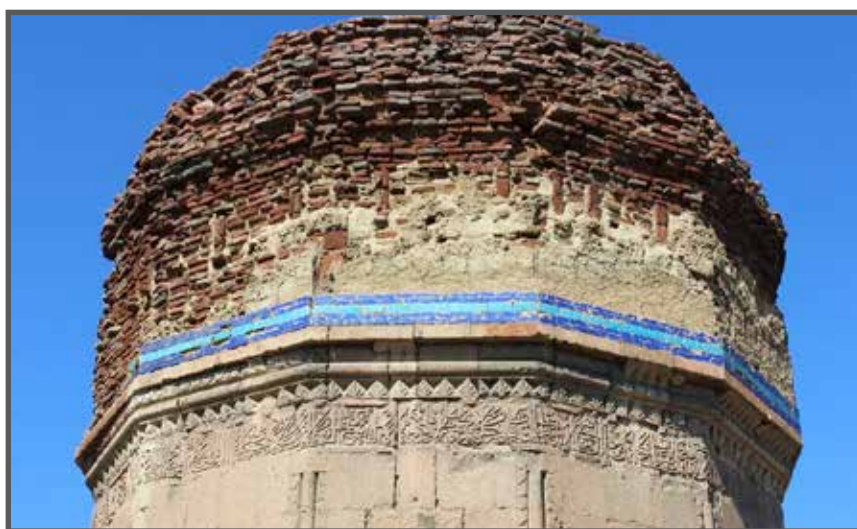
40 AzStudies Collective (2020), “Documenting destruction of Azerbaijani cultural heritage”, available at: <https://azstudies-editor.medium.com/documenting-destruction-of-azerbaijani-cultural-heritage-c08238e67c48> (Accessed: 2 May 2021).

Falsification of Azerbaijani monuments

"Armenization" of monuments

Destruction and falsification of Azerbaijani monuments in the previously occupied lands of Azerbaijan was part of Armenia's attempt to consolidate its occupation. According to the Chairman of the State Committee on Religious Associations of the Republic of Azerbaijan, Mubariz Gurbanli, the Karabakh region of Azerbaijan contained about 403 historical and religious monuments of Azerbaijani heritage (67 mosques, 144 churches, 192 sanctuaries, and more than 900 cemeteries).⁴¹ Since those monuments prove that the Karabakh region was a historical part of Azerbaijan, it is no wonder that Armenia was trying to eliminate them. The same fate, unfortunately, befell Azerbaijani monuments situated on the territory of modern Armenia. When it was impossible to demolish a monument, Armenian inscriptions were mounted on its walls, while other monuments of Azerbaijani heritage were destroyed. Thus, the medieval cemetery located in the village of Urud in Zangezur (now Orontes of Armenia) was completely demolished.

In addition, a mausoleum located in Jafarabad (since 1920, Argavang, part of the Republic of Armenia), built during the existence of the Turkic state of Karakoyunlu, was passed off as a non-Azerbaijani monument. Details such as the similarity of this monument to the mausoleums of Momine-Khatun and Yusif ibn Kabir located in Nakhchivan, the fact that it belongs to the Nakhchivan architectural school of Ajami ibn Abu-Bakr, as well as the Arabic-language inscription in large print under the cornice of the dome on a twenty-two-meter-long belt of frieze, were not taken into account.



Pir-Husein Mausoleum⁴²

⁴¹ AzerTag (2020), "Armenian vandalism against historical and religious monuments of Azerbaijan", available at: <https://azertag.az/en/xeber/Armenian-vandalism-against-historical-and-religious-monuments-of-Azerbaijan-1608221> (Accessed: 2 May 2021).

⁴² Advisor.Travel (n.d.), "Pir Hüseyin türbəsi (İrəvan)", available at: <https://az.advisor.travel/poi/Pir-Huseyin-turbasi-Irvan-23242> (Accessed: 2 May 2021).

The same fate befell the caravanserai located on the Selim pass in Zangezur, at an altitude of 2410 m above sea level and built during the reign of Ilkhanid Abu- Said, which also used to be part of the historical territory of Azerbaijan but was annexed by Armenia in 1920 and is now the Sisian region of the Republic of Armenia. The history of the memorial at this site was falsified as Armenian by a lecturer at the Lazarev Institute, Khr. Iv. Kuchuk-Ionnassov, and, later, by the Armenian academician Varazdat Harutyunyan. Part of the evidence that the monument belongs to Azerbaijani architecture is that the shape of the stone, the cutting technique, and paleographic features of the inscription are identical to the inscription above the entrance to the mausoleum of Yahya ibn Muhammad in Mammadbeyli village in the Zangilan region, which is also located on the Silk Road. The name of the architect and founder of the Karabakh architectural school of Azerbaijan, Majd al-Din Ali, is also mentioned there. Architectural details also give grounds for attributing the caravanserai and other structures located along the Aras River and on the Silk Road, connecting European countries with the Middle East and passing through Azerbaijan, to Majd al-Din Ali. Thus, we can confidently assert that the Armenian inscription was installed on the mausoleum wall only later, with the aim of "Armenizing" this monument.⁴³

Khachin-Darbatli Mausoleum, located in Khachin-Turbetli village in the Agdam region of Azerbaijan, was also falsified. The mausoleum was built in 1314 as the tomb of Katava Hoja, the son of Kutlu ibn Musa, by ustad Shahbenzer, and it is considered a prominent monument of the medieval architecture of Azerbaijan.⁴⁴ According to Armenian sources, the monument was built by the "architect Shahik"; they base this on "similarities between ornamental reliefs" of the mausoleum and the church of Yeghvard, not far from Yerevan, built by this architect.⁴⁵ In reality, the buildings are completely different.



Khachin-Darbatli Mausoleum⁴⁶

The 14th–15th century mausoleums in Jijimli village of Lachin region, Khojaly village of Khojaly district, Gyzyll Kangarli village of Agdam district, and Dagh Tumas village of Jabrail region, as

⁴³ ErevanGala500 (2000), "Фальсификации в книге С.Карпетяна «Памятники армянской культуры в зоне Нагорного Карабаха», available at: <https://erevangala500.com/page/253.html> (Accessed: 26 April 2021).

⁴⁴ DBpedia (n.d.), "Мавзолей в селе Хачин-Дорбатлы" available at: https://dbpedia.org/page/Khachin-Turbatli_Mausoleum (Accessed: 27 April 2021).

⁴⁵ Ministry of Culture of the Republic of Azerbaijan (2020), "Gargabazar Mosque", 9, available at: <http://mct.gov.az/en/common-news/13331> (Accessed: 5 May 2021).

⁴⁶ Mapio.net (n.d.), "Khachin-Turbatli Mausoleum", available at: <https://mapio.net/wiki/Q4273802-en/> (Accessed: 27 April 2021).

well as a mausoleum in Demirchilar village of Qubadli district from the 15th–16th centuries, were also groundlessly presented as Armenian.⁴⁷



The mausoleum near Jijimli village, Lachin region⁴⁸

The Mamayi mosque in the town of Shusha has also undergone “Armenization.”⁴⁹ Its commemorative Islamic plaque was erased and replaced with an Armenian cross. The photograph below shows the intentional alterations inflicted on the Mamayi spring.⁵⁰ This case is a clear attempt to appropriate an item of Muslim heritage as a Christian one.



Mamayi spring, Shusha city⁵¹

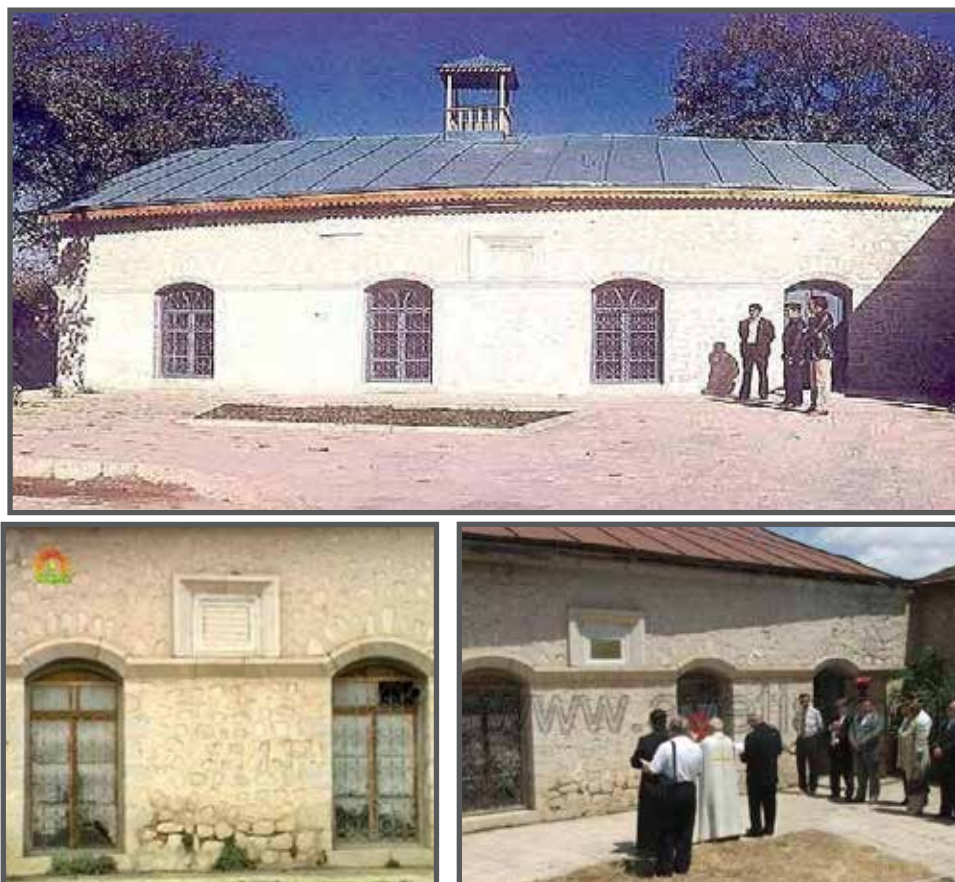
47 “The Islamic monuments of the Armenian architecture of Artsakh”, p.15-25. http://www.raa-am.com/raa/pdf_files/148.pdf

48 Karabakh.org (2020), “Lachin District”, available at: <https://karabakh.org/conflict/occupied-districts/lachin-district/> (Accessed: 27 April 2021).

49 Ministry of Culture of the Republic of Azerbaijan (2020), “Mamayi Mosque”, available at: <http://mct.gov.az/en/common-news/13355> (Accessed: 26 April 2021).

50 Nasimi Aghayev (2020), “Armenia: Cultural Genocide, Denial and Deception”, available at: <https://medium.com/@nasimiaghayev/armenia-cultural-genocide-denial-and-deception-7a1051929ffe> (Accessed: 26 April 2021).

51 *Ibid.*



Mamayi mosque ⁵²

These facts, once again, prove that Armenian nationalists have, in various historical periods, laid claim to non-Armenian heritage. Throughout the 20th century, Armenian nationalists gradually and purposefully seized Azerbaijani lands, exterminated or expelled the Azerbaijanis, and destroyed or stole their historical monuments. The destruction caused by Armenians on the territory of Karabakh is irreparable, and most of the destroyed monuments have been looted. It is important to raise awareness of this among the international community, as most Western articles and reports focus only on the alleged or potential destruction of Armenian heritage on the territory of Karabakh.

Misrepresenting heritage

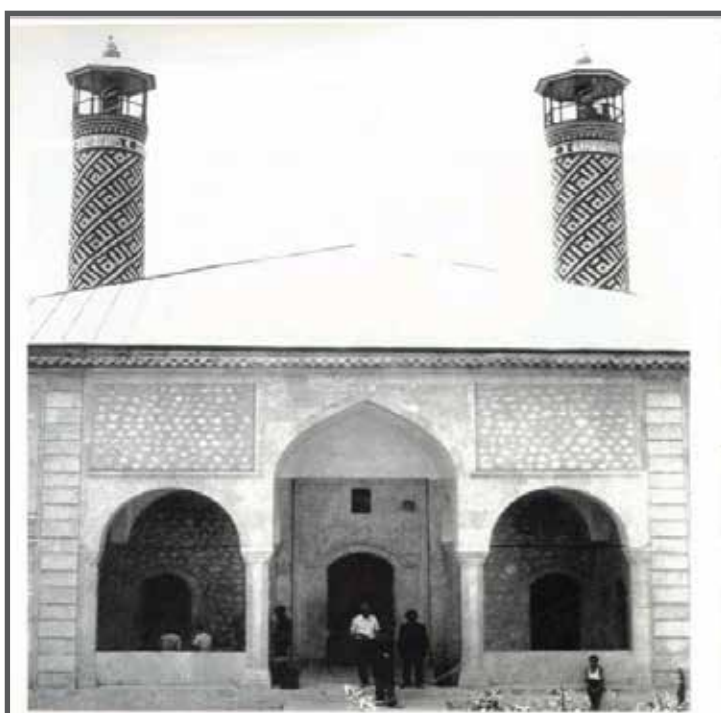
Throughout the history of the past conflict, the Armenian side intentionally presented the essence of the conflict as a result of the everlasting conflict between Muslims and Christians. This approach is clearly reflected in the Armenian government's treatment of Muslim heritage, both on the territory of Armenia and in the previously occupied territories of Azerbaijan. The National Academy of Science of Azerbaijan recently reported that 63 out of the 67 religious

⁵² Tural Ganjali (2019), "Unbelievable! Historic Mamayi mosque in #Shusha #NK of Azerbaijan was disgracefully converted into a church by occupantforces. Even commemorative plaque on the wall was changed to conceal the history of the mosque. VANDALISM must be stopped! Azerbaijani heritage of NK of Azerbaijan must be returned to its owners", Facebook, available at: <https://www.facebook.com/photo/?fbid=10155919035261640&set=pcb.10155919035291640> (Accessed: 2 May 2021).

sites in the Karabakh region were destroyed completely and 4 seriously damaged during the almost 30 years of occupation. The majority of these are situated in the Shusha (Şuşa), Zangilan (Zəngilan), and Fuzuli (Füzuli) regions.⁵³

Armenian policies towards Azerbaijan's Islamic monuments during the past 30 years of occupation can be classified in the following ways: complete destruction, desecration, or cultural erasure manifesting itself in appropriation to another culture (more specifically, through the policy of "Persianization"). The latter issue will be covered more specifically later in this section.

Although the largest mosques were not destroyed completely, it was not permissible to pray there; the small mosques and other cultural sites, in contrast, were simply liquidated, neglected, desecrated, or left abandoned. According to preliminary assessments, in Shusha alone, 11 mosques have been destroyed. One example is the Ashaghy Govharagha Mosque, depicted below. Only two minarets are left of the whole building. As the cultural cradle of Azerbaijan, the city of Shusha was, in the 19th century, home to 17 mosques. Immediately following the military operations, religious monuments in Shusha, including the 19th century Yukhary and Ashaghy Govharagha mosques with their madrasas, were destroyed, burned, and plundered. Only the walls of the Ashaghy Govharagha Mosque were left untouched.



Ashaghy Govharagha mosque before the occupation⁵⁴

⁵³ Azərbaycan Milli Elmlər Akademiyası (2020), "Könlüm keçir Qarabağdan...", available at: <http://www.science.gov.az/news/open/14939> (Accessed: 26 April 2021).

⁵⁴ AzStudies Collective (2020), "Documenting destruction of Azerbaijani cultural heritage", available at: <https://azstudies-editor.medium.com/documenting-destruction-of-azerbaijani-cultural-heritage-16cff8f3648b> (Accessed: 26 April 2021).



Ashaghy Govharagha mosque after the liberation of Shusha, January 14, 2021⁵⁵

Photographer Reza Degati has reported on both the First and Second Karabakh Wars and frequently sheds light on cases of cultural destruction in the newly liberated regions. The following pictures are from from the Mardinli village of Fuzuli.

⁵⁵ REZA Photography (2021), "#Shusha was the jewel of the culture of #Azerbaijan many artists lived and created there. A masterpiece of medieval stone architecture. After 28 years of occupation most was destroyed. Ashaqi Govhar Agha Mosque is one of the two that has escaped total destruction. #karabakh", Twitter, available at: <https://twitter.com/REZAphotography/status/1349652626242220033> (Accessed: 2 May 2021).



Mosque in Mardinli village, Fuzuli, 2021⁵⁶

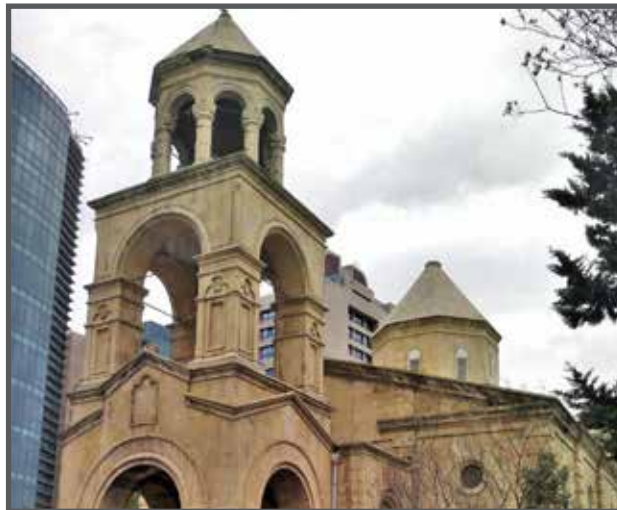
During Azerbaijan's counter-offensive operation from September 27 until November 10, 2020, the media was highly focused on the accusations of the Armenian side about Azerbaijan allegedly intentionally targeting Armenian churches.⁵⁷ Several countries expressed their concern about the preservation and protection of Christian cultural monuments in the liberated territories. UNESCO has also shared its opinion on the issue, fearing the destruction of Christian sites.

In the meantime, repeated calls from the Azerbaijani side to UNESCO during the years of the Armenian occupation have been ignored. Azerbaijan's contribution to religious restoration

⁵⁶ REZA Photography (2020), "This mosque was transformed into a cowshed. That's how Armenian forces act toward muslim places of worship. After the announcement of Shusha's liberation, the holy Myrrhbearers Russian Orthodox Cathedral of Baku rung its bells to celebrate. That's secular Azerbaijan. #Karabakh", Twitter, available at: <https://twitter.com/REZAphotography/status/1325745516588752896> (Accessed: 2 May 2021).

⁵⁷ BBC (2020), "Nagorno-Karabakh: Armenia accuses Azerbaijan of targeting cathedral," available at: <https://www.bbc.com/news/world-europe-54465172> (Accessed: 4 May 2021).

projects beyond its borders also tends to be overlooked by the Western media such as catacombs in the Vatican, Romanesque churches in France, and the stained glass of Strasbourg Cathedral.⁵⁸ In addition, the restoration and protection of the Armenian Church in the center of the capital of Azerbaijan should not be left unremarked. Roman Catholic cathedral in Baku has been constructed on land donated by the government and old synagogues have also been restored and reopened, and new Jewish schools have been built.⁵⁹



Armenian Church in the center of Baku⁶⁰

Returning to the focal point of the current report, the cultural and religious heritage of Azerbaijan was treated by the Armenian government in a markedly different way. In addition to destruction, Azerbaijani monuments were deliberately appropriated to other nations in an attempt to negate the historical presence of Azerbaijanis on these lands. This trend, followed by Armenian governments across almost 30 years of occupation, is outlined further below.

The Yukhary Govharagha Mosque was deliberately misrepresented as of Persian legacy, allegedly having undergone some reconstruction. This “project” was realized by the illegal puppet regime that was established on the occupied territories of Azerbaijan with the involvement of the Revival of Oriental Historical Heritage Foundation and Initiatives for Development of Armenia (IDeA) Foundation. The International Council on Monuments and Sites (ICOMOS) offices in Armenia and Iran were also involved in the project. Moreover, in order to present the mosque as part of “the history and culture of Iran,” a specialist architectural firm from the Islamic Republic of Iran, Part Saman Jahan, was also engaged in the monument’s restoration.⁶¹ Some sources relate that the local population was opposed to this project, claiming that the government

⁵⁸ Mehriban Aliyeva (2015), “Biografiya”, available at: <https://mehriban-aliyeva.az/site/biography> (Accessed: 4 May 2021).

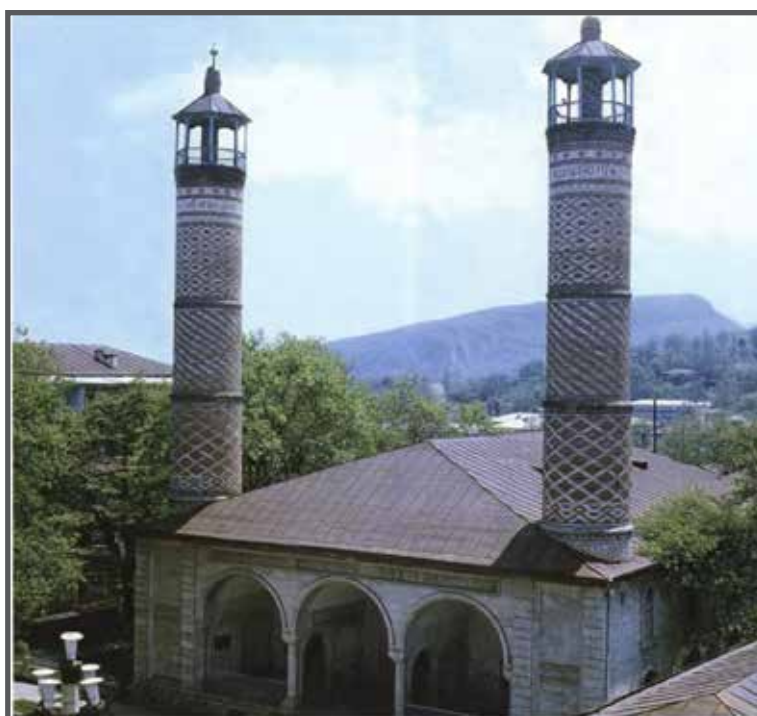
⁵⁹ The Washington Times (2020), “Azerbaijan has restored Christian buildings everywhere”, available at: <https://www.washingtontimes.com/news/2020/dec/7/azerbaijan-has-restored-christian-buildings-everyw/> (Accessed: 4 May 2021).

⁶⁰ Nasimi Aghayev (2020), “Armenia-Azerbaijan conflict has nothing to do with religion”, available at : <https://medium.com/@nasimiaghayev/armenia-azerbaijan-conflict-has-nothing-to-do-with-religion-ce2621ae868a> (Accessed: 7 May 2021).

⁶¹ Public Radio of Armenia (2017), “IDeA supports restoration of Upper Mosque in Shushi”, available at: <https://en.armradio.am/2017/06/28/idea-supports-restoration-of-upper-mosque-in-shushi/> (Accessed: 4 May 2021).

should not waste money on mosques where no one will pray as Muslims no longer populate these lands. Only after being informed that the reconstruction would be externally funded was their discontent silenced.⁶² The government of Armenia and the illegal regime established on the territories of Azerbaijan tried to present this act as a demonstration of the “respect” shown to Muslim cultural heritage. The attempts of falsification were also described in research titled “Learning from architecture and conflict” by Brigitte Piquard and Mark Swenarton. The authors highlight that during the occupation Azerbaijani-Muslim heritage in historical town of Shusha had undergone a “renovation” in Iranian style. Moreover, according to authors, the attempts to conduct restoration of vernacular houses, whether Armenian or Azerbaijani, in pure “Armenian style” were considered to be a clear manifestation of efforts to give an Armenian identity to the town.⁶³

The Yukhary Govharagha Mosque was built by Karbalayi Safikhan Sultanhuseyn oglu Garabaghi by command of Govharagha, daughter of the Khan of Karabakh, Ibrahim Khalil Khan, in 1883–1884.⁶⁴ This fact is available in the official records of that time; it was built through donations of Govharagha.⁶⁵



Yukhary Govhargha mosque.⁶⁶

⁶² Jam News (2019), “Why are Karabakh Armenians restoring a mosque?”, available at: <https://jam-news.net/why-are-karabakh-armenians-restoring-a-mosque/> (Accessed: 5 May 2021).

⁶³ Brigitte Piquard, Mark Swenarton (2011), “Learning from architecture and conflict”, *The Journal of Architecture* 16:1, 1-13, DOI: 10.1080/13602365.2011.557897

⁶⁴ Ministry of Culture of the Republic of Azerbaijan (2020), “Yukhari Govhar Agha’ mosque”, available at: <http://mct.gov.az/en/common-news/13256> (Accessed: 5 May 2021).

⁶⁵ K. Imranly, (2007), *War Against Azerbaijan: Targeting Cultural Heritage*. (Baku: Ministry of Foreign Affairs, Heydar Aliyev Foundation), 25.

⁶⁶ AzStudies Collective (2020), “Documenting destruction of Azerbaijani cultural heritage”, available at: <https://azstudies-editor.medium.com/documenting-destruction-of-azerbaijani-cultural-heritage-16cff8f3648b> (Accessed: 26 April 2021).

The Juma Mosque in Agdam was desecrated and used as a pigsty. Moreover, offensive writings on the wall of the mosque “adorn” this place where Muslims once prayed. The Armenian government did little about removing it. In fact, there is a widely distributed photograph of the former President of Armenia, Robert Kocharyan, standing in front of the Juma Mosque in Agdam; those writings can clearly be observed. The mosque is the only building left in Agdam, as the whole city was razed to the ground. It is believed that the purpose of leaving this mosque untouched was for the use of its minarets as observation posts for the Armenian military.⁶⁷ This mosque was also intended to be presented as “Persian.” Czech photographer Stepan Lohr, during his visit to the ruins of Agdam, shared a photograph of a sign outside the Juma Mosque, in English and Armenian, that describes it as a “Persian” mosque built in 1868–70.⁶⁸



Former president of Armenia Robert Kocharyan in front of the Juma mosque in Agdam.⁶⁹



Inside the Juma mosque in Agdam⁷⁰

67 AzStudies Collective (2020), “Documenting destruction of Azerbaijani cultural heritage”, available at: <https://azstudies-editor.medium.com/documenting-destruction-of-azerbaijani-cultural-heritage-c08238e67c48> (Accessed: 2 May 2021).

68 Radio Free Europe (2020), “No-Man’s-Land: Inside Azerbaijan’s Ghost City Of Agdam Before Its Recapture”, available at: <https://www.rferl.org/a/inside-agdam-the-ghost-city-of-the-caucasus-after-1990s-conflict/30966555.html> (Accessed: 2 May 2021).

69 Gazanfar Mammadov (2020), “Ex-president of #Armenia R.Kocharyan in front of the #Azerbaijani Juma Mosque in Agdam after invasion & ethnic cleansing of this city in 1993. See the desecrated walls of the mosque with insults to Islam. This mosque was turned into a pig & cow barn during occupation. @UNESCO”, Twitter, available at: <https://twitter.com/Gazanfar/status/1343574461983940610> (Accessed: 7 May 2021).

70 ANews (2020), “Armenians convert ‘Aghdam Jamia Mosque’ into pigsty in occupied Karabakh”, available at: <https://www.aneews.com/tr/gallery/world/armenians-convert-aghdam-jamia-mosque-into-pigsty-in-occupied-karabakh/4> (Accessed: 4 May 2021).



A sign outside the Juma mosque in English and Armenian languages presenting it as “Persian”⁷¹



Garghabazar mosque in Fuzuli built in 1681. Was destroyed after the occupation of Fuzuli in 1993.⁷²

A clear attempt at the deliberate appropriation of monuments of Azerbaijani heritage can be observed in a short booklet released by the Ministry of Culture of the Republic of Armenia in 2010.⁷³ The document allegedly intends to demonstrate “the Islamic monuments of the Armenian architecture” that are located on the territories that Azerbaijan has now recently liberated. The main argument of this 36-page report is the claim that all of the Islamic monuments located on these territories were built by Armenian architects while they were under the rule of various empires reigning during different periods of time. Although the paper states that there exist “a small number of mosques belonging to Azerbaijanis,” one could dispute whether 67 is a “small number.” The idea of monuments in this region belonging to “Armenian architecture” is based on groundless assumptions that the structure

⁷¹ Radio Free Europe (2020), “No-Man’s-Land: Inside Azerbaijan’s Ghost City Of Agdam Before Its Recapture”, available at: <https://www.rferl.org/a/inside-agdam-the-ghost-city-of-the-caucasus-after-1990s-conflict/30966555.html> (Accessed: 2 May 2021).

⁷² AzStudies Collective (2020), “Documenting destruction of Azerbaijani cultural heritage”, available at: <https://azstudies-editor.medium.com/documenting-destruction-of-azerbaijani-cultural-heritage-16cff8f3648b> (Accessed: 26 April 2021).

⁷³ Ministry of Culture of the Republic of Armenia (2010), “The Islamic monuments of the Armenian architecture of Artsakh”, 15-25, available at: http://www.raa-am.com/raa/pdf_files/148.pdf.

of these buildings represents “an imitation of the composition of the houses of the region.” Similarly structured dwellings can be found in any village across Azerbaijan. This argument is not substantial enough to support such claims. The Garghabazar mosque in Fuzuli, which is presented in the document as an example of Armenian architecture, was constructed by Haji Qiyaseddin, as per the inscriptions on its door that indicate the Muslim origin of the architect.⁷⁴ Regardless of this fact, even if the building had been built by an Armenian architect, such a monument, especially a religious one, does not become Armenian if it is used exclusively by another religious group.

If we take into account the fact that the focus of this document, prepared by the Ministry of Culture of Armenia, was on attracting tourists to the occupied regions at that time, what this booklet deliberately omitted was the destruction and desecration that all such religious monuments, although claimed to belong to “the principles and logic of Armenian architecture and building art,” have undergone. Moreover, one further point should be clarified: Why were those monuments, if considered as belonging to “Armenian architecture,” left in such a miserable condition for so many years?

Finally, it is a well-known historical fact that the current territory of Armenia was once the territory of the Erivan Khanate ruled by Azerbaijani khans. Numerous cultural monuments of that time were located on the territory of modern-day Armenia. Unfortunately, many of them have been demolished. In the 20th century, there were several mosques in today’s city of Yerevan: the Ancient Shahar (City) Mosque, Blue (Goy) Mosque, Haji Novruzalibek Mosque, Haji Imamverdi Mosque, Mirzasafibek Mosque, Haji Jafarbek Mosque, and Haji Ilyas Mosque. Only the Blue (Goy) Mosque, which is today presented as Iranian and has been donated to the representatives of Iran, has not yet been destroyed.⁷⁵ In 1915, there were 38 Shiite mosques in the Zangezur district, and 382 Shiite and 9 Sunni Muslim mosques throughout Erivan province. The scarcity of Sunni mosques indicates that the province’s population was predominantly Shiite.

Approximately 250,000 Azerbaijanis lived in Armenia until the eruption of the conflict and the expulsion of the Azerbaijanis from Armenia during 1987–89. Many Muslim sites have been desecrated and destroyed and the rest have been intentionally misrepresented as belonging to Persian heritage. The Sardar Mosque (1785), built in honor of Shah Abbas, or the Rajab Pasha Mosque (1725), built in honor of Turkish commander Rajab Pasha, both destroyed during the first years of Soviet Armenia (1924), are only few that must be mentioned. The destruction of Azerbaijani Muslim heritage continued after the independence of Armenia. Azerbaijani researcher Nazim Mustafa, in his book *Irevan City*, refers to the destruction of madrasas, mosques, and sanctuaries.⁷⁶ Among the destroyed sites described is a Muslim sanctuary that those who were forced to flee Yerevan still remember; in its place, currently, is a French

⁷⁴ Ministry of Culture of the Republic of Azerbaijan (2020), “Gargabazar Mosque”, available at: <http://mct.gov.az/en/common-news/13331> (Accessed: 5 May 2021).

⁷⁵ ErevanGala500 (2000), “Фальсификации в книге С.Карапетяна «Памятники армянской культуры в зоне Нагорного Карабаха»”, available at: <https://erevangala500.com/page/253.html> (Accessed: 26 April 2021).

⁷⁶ N. Mustafa (2020), *Irevan City* (Baku: Center of Analysis of International Relations), p. 237-238.

school. British journalist Thomas de Waal also describes his visit to Demirboulag Mosque which, unlike the Blue Mosque that was presented as part of Persian heritage, was simply demolished. Here, he refers to the narrative of an old Armenian woman who considered the building to be “useless” after the conflict between Azerbaijanis and Armenians erupted and admitted that Armenians destroyed it with a bulldozer in three days. Moreover, de Waal argues in *Black Garden* that “when the Armenians refer to the ‘Persian mosque’ in Yerevan, that name obscures the fact that most of the worshippers there, when it was built in the 1760s, would have been, in effect, Azerbaijanis.”⁷⁷ Anthropologist and ethnographer Tsypylma Darieva considers that “the Blue mosque served as a Friday mosque for Yerevan’s Muslim (mostly Azeri-speaking) population, until the middle of the 1920s when it was closed under pressure from the anti-religion campaign.”⁷⁸ The Blue Mosque in Yerevan was reconstructed as a relic of Persian cultural heritage. Moreover, according to the agreement signed between the governments of Iran and Armenia in 1995, the Iranian government financed the reconstruction expenses of the Blue Mosque. During its “reconstruction,” the architectural style of the building was changed.⁷⁹

Although the Blue Mosque is presented as “Persian”, another monument, the Amir Saad tomb, erected in honor of the son of one of the *amirs* (rulers) of Turkic Garagoyunlu state, Amir Saad, is claimed to be of “Mongol” origin.



Amir Saad Tomb⁸⁰

⁷⁷ T. de Waal (2003), *Black Garden* (New York and London: New York University Press) p. 80.

⁷⁸ Tsypylma Darieva (2016), “Prayer house or cultural centre? Restoring a mosque in post-socialist Armenia, *Central Asian Survey*”, available at: <https://www.tandfonline.com/doi/full/10.1080/02634937.2016.1140374> (Accessed: 24 April 2021).

⁷⁹ Azertag (2020), “Hikmet Hajiyev: The Armenian government, which calls itself democratic, should first of all dismantle the monuments to fascist executioners”, available at: <https://azertag.az/en/xeber/Hikmet-Hajiyev-The-Armenian-government-which-calls-itself-democratic-should-first-of-all-dismantle-the-monuments-to-fascist-executioners-1482951> (Accessed: 5 May 2021).

⁸⁰ UNESCO (2015), “Destruction and desecration of Azerbaijani historical and cultural heritage resulting from the continuing aggression of the Republic of Armenia against the Republic of Azerbaijan”, available at: http://www.unesco.az/files/image/files/Destruction_of_Azerbaijani_cultural_heritage.pdf (Accessed: 7 May 2021).

Conclusion

Throughout the almost-30-year-long invasion and occupation of Azerbaijani territories, the appropriation of cultural and historic sites has been part of an ongoing and purposeful policy of destroying Azerbaijan's legacy in the previously occupied lands. Irreparable damage has been inflicted upon the cultural legacy of Azerbaijan by Armenian nationalists.

Examples such as the deliberate alterations of the Shusha mosques and the cultural appropriation of ancient mosques, as well as the "archeological" excavations conducted in areas of Karabakh, can be seen as proof of the Armenian policy of destroying any trace of Azerbaijani origin in the territories. Moreover, the appropriation and destruction of Azerbaijan's heritage in the territories of Armenia has become part of the ethno-nationalist policy of creating a mono-ethnic Armenian state. What also must be mentioned is that, in cases like Agdam, Fuzuli, and Jabrayil, an even more radical approach than appropriation, the full destruction of urban space (urbicide), was pursued by the occupying forces. The cities were looted and fully destroyed, making the immediate return of IDPs impossible. Agdam city, one of the most prosperous cities of Azerbaijan during the Soviet era, has been completely destroyed, thereby gaining the unfortunate title of "the Hiroshima of the South Caucasus."

For almost 30 years, Armenia was in continuous gross violation of the norms of international law, inflicting damage and destruction on the cultural, historic, and religious architectural heritage within the territories of Azerbaijan that it was occupying. Stealing artefacts from cultural sites and historical monuments, conducting "restorations" to "Armenize" and misrepresent monuments, and conducting illegal archaeological excavations within these lands have all played a part in the deliberate policy of inflicting irreparable damage on the heritage of Azerbaijan in both the previously occupied territories of the Karabakh region and in Armenia.

Appendix

The protection of cultural heritage in the event of armed conflicts

Hans-Joachim Heintze⁸¹

International humanitarian law (IHL) was not dedicated to the protection of the cultural heritage of peoples for a long time. It was not until the 20th century that the protection of cultural property in armed conflicts became an issue. According to Frigo, there is a “battle of concepts” concerning the relationship between the protection of cultural property and cultural heritage, but he argues that it is evident that the concept of cultural heritage is broader in scope. The relevant legal regime of cultural property, however, is clearly governed by the rules laid down in international treaties.⁸² The drafters of the 1907 Hague Convention IV were able to build on the thoughts of The Enlightenment. Already in the 18th century, Emer de Vattel (1714–1767) argued that “all harm done to the enemy unnecessary, every act of hostility not directed towards securing victory and the end of the war, is mere licence, which the natural law condemns”⁸³ and that “the willful destruction of public monuments, places of worship, tombs, statues, paintings etc. was absolutely condemned, even by voluntary law of nations, as never being conducive to the rightful object of war.”⁸⁴ These considerations of de Vattel sound very modern and later found their way into the codification of IHL, which is dominated by considerations of the military necessity to defeat the enemy in an armed conflict, on the one hand, and the respect for elementary considerations of humanity, on the other.⁸⁵ Against this background, classical international law already viewed bombardments as being a means to the occupation of, rather than the devastation of, a fortified town under by siege.⁸⁶

This is in line with the idea of humanizing the means and methods of warfare which—since the 18th century—has rejected the deliberate destruction of cultural objects or their disposal because that was understood as a violation of *morality*. Thus, the burning of Heidelberg Castle in Germany by the French King Louis XIV as well as Napoleon’s warfare were disapproved of. In particular, experiences with Napoleonic troops marked a turning point in attitudes towards the *legal* protection of cultural goods. Napoleon’s military conquests were accompanied by the plundering of artworks from defeated enemies, an action which was already known to be a violation of common property law at that time. Nevertheless, the codification of the protection of cultural property took a long time and was initially very cautious.

Codification of the protection of cultural property in the event of armed conflicts

Among armed forces, the destruction and plunder of cultural property were often seen as a necessary consequence of war. Therefore, it was considered a step forward that the law of war

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82 On the relationship between the concepts of heritage and property see M. Frigo, *Cultural property v. cultural heritage: A ‘battle of concepts’ in international law?* in: *International Review of the Red Cross* 86 (2004), No. 854, p. 369.

83 E. de Vattel, *Le Droits des Gens, ou, Principes de la Loi Naturelle*, book 3, chap. 9, para 172.

84 *Ibid.*, para. 173.

85 Y. Dinstein, *Military Necessity*, in: *Max Planck Encyclopedia of Public International Law* (online version), available at <https://www.opil.org/home/MPIL> (last accessed on 19/01/2021).

86 R. O’Keefe, *The Protection of Cultural Property in Armed Conflict*, Cambridge 2006, p. 11.

turned towards the problem during the Hague Peace Conference. The Hague Convention IV of 1907 protects classic works of art from avoidable damage. Thus, the provision supplements the general regulation of Art. 23 (g) that prohibits belligerents "to destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessity of the war." In the case of occupation, the occupying State shall be regarded only as administrator and usufructuary of public buildings and real estate belonging to the hostile state and situated in the occupied territory. "It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct" (Art. 55).

In light of the importance of cultural property for the identity of a nation, states began to slowly recognize the need for a separate convention on the protection of cultural heritage. This led to efforts in the League of Nations to draw up such a treaty. These efforts were interrupted by the eruption of WWII but continued in 1948 at the initiative of the Netherlands as part of UNESCO. In 1954, UNESCO convened a conference of 54 states that adopted the Convention for the Protection of Cultural Property in the Event of Armed Conflicts (CultPropConv), which entered into force in 1956.⁸⁷ Unlike the Hague Convention, the CultPropConv differentiates more strongly between cultural objects by distinguishing between general and special protection. It stipulates that cultural property under special protection must be marked as such and contains regulations on the protection of cultural property in occupied territories. The codification of the protection of cultural property continued in 1977 with the Additional Protocols to the Geneva Conventions (AP).⁸⁸ Arts. 53 and 85 (4) AP I and Art. 16 AP II regulate the protection of cultural property in armed conflicts.

Content of the codification

According to Art. 1 CultPropConv, the term "cultural property" means:

- (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, archeological 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 archeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
- (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 an armed conflict, the movable cultural property defined in sub-paragraph (a);
- (c) centres containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as 'centres containing monuments'.

This very broad definition presupposes that the goods mentioned are of great importance for

⁸⁷ Convention for the Protection of Cultural Property in the Event of Armed Conflicts, 14 May 1954, 249 UNTS 240.

⁸⁸ Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (AP I), 8 June 1977, 1125 UNTS 3 and Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (AP II), 8 June 1977, 1125 UNTS 609.

the cultural and spiritual heritage of all peoples. This means that they are not only of national interest. Art. 53 AP I supports this approach. However, the International Committee of the Red Cross' (ICRC) Study on Customary International Law underlines a distinction between Art. 53 AP I, which mentions cultural property which forms a part of the heritage of "peoples" (i.e., humankind), and the CultPropConv. The latter document covers property which forms part of the cultural heritage of every people.⁸⁹ This raises the question of whether the importance must be recognized by everyone. Ultimately, the answer is incidental, because it is up to each party in whose territory the relevant property is situated to determine its status. Furthermore, attention must be paid to the fact that the CultPropConv does not specify the form that such "safeguarding" of cultural property should take; it simply imposes an obligation on the Contracting Parties to take "such measures as they consider appropriate" in time of peace (Art. 3).⁹⁰

According to applicable law, the parties undertake to respect cultural property situated within their own territory as well as on the territories of other parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes that are likely to expose it to destruction or damage in the event of armed conflict. They undertake to refrain from any act of hostility directed against such property. The parties must do everything feasible to verify that objectives to be attacked are not cultural property.

This rule may be waived only in cases where the military necessity imperatively requires such a waiver. This means that there is no feasible alternative to the attack. An attack, in the understanding of IHL, means an act of violence against the adversary, whether in offense or defense. However, the parties shall take all feasible precautions in the choice of means and methods of attack to avoid or minimize incidental damage to cultural property. They shall refrain from attacks which may be expected to cause incidental damage that would be excessive in relation to the concrete and direct military advantage anticipated. This rule is of utmost importance, because incidental damage to cultural property "inflicted in the course of attacks against otherwise lawful targets has historically posed the single greatest threat to cultural property in armed conflict."⁹¹ This is especially true against the background of modern forms of bombardment. A well-known example of the application of the rule of proportionality is the decision of the U.S. Air Force in the Gulf War in 1991, when Iraq located military aircraft next to an ancient mosque. The U.S. forces decided not to attack the Iraqi aircraft on the basis of respect for the cultural property.⁹² This case study shows that cultural property may constitute a military objective, although these situations will be rare because, in general, attacking cultural property cannot make an effective contribution to military action.

89 R. O'Keefe, Protection of Cultural Property, in: D. Fleck (ed.), *The Handbook of International Humanitarian Law*, 2nd ed., Oxford 2009, p. 441.

90 See ICRC, *Commentary of 1987 to Additional Protocol (I) to the Geneva Conventions, 1977*, available at <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>, Commentary to Art. 53.

91 R. O'Keefe, *supra* note 7, p. 448.

92 Department of Defense, 31 ILM 612 (1992), p. 626.

The parties further undertake to prohibit, prevent, and, if necessary, put a stop to any form of theft, pillage, or misappropriation of, and any acts of vandalism directed against, cultural property. They shall refrain from requisitioning movable cultural property situated on the territory of another party. Moreover, they shall refrain from any act directed by way of reprisals against cultural property.

The CultPropConv of 1954 has undergone an impressive evolution and “has led to an unprecedented expansion of the scope of protection so as to cover [...] intangible cultural heritage, and the very concept of diversity of cultural expressions.”⁹³ The system of treaties adopted under the auspices of UNESCO safeguards, inter alia, the immaterial component of cultural heritage transmitted from one generation to another as part of the cultural identity of peoples or other groups. This is significant because, in inter-ethnic conflicts, cultural objects are targeted as symbols of the adversary’s identity. The process of codification took this into account by establishing a system of Enhanced Protection, which is implemented by an Intergovernmental Committee of 12 members that nominates any cultural object as being of the greatest importance for humanity. In addition, in accordance with Art. 85 (4) AP I, a detailed regime of individual criminal responsibility that applies in cases of attacks against cultural property under enhanced protection was established. For such an attack to qualify as a grave breach of IHL,⁹⁴ it must have been committed willfully, and the objects must not have been used in support of the military effort.

State practice—in the case of Afghanistan—shows that cultural heritage has suffered damage and loss during the wars and unrest. UNESCO and non-governmental organizations have described it as a cultural disaster. Therefore, UNESCO was officially requested by the government of Afghanistan to coordinate international efforts aimed at safeguarding cultural heritage.⁹⁵

Protection during belligerent occupation

If a state, in part as a whole, in an international armed conflict falls under the control of and is placed under the governing authority of the military force of another state, then the law of occupation applies.⁹⁶ The main rule of the law of occupation is that the occupying power does not acquire any sovereign title to the occupied territory:

International law imposes duties on an occupying power in a reflection of the occupant’s status as no more than the territory’s custodian, in the temporary displacement of the governing authority of the sovereign, an international law vests rights in an occupying power chiefly to enable it to perform this custodianship role.⁹⁷

93 F. Francioni, Cultural Heritage, in: Max Planck Encyclopedia of International Law (online version), p.1.

94 Art. 8 (2) (a) Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 3.

95 C. Manhart, UNESCO’s mandate and recent activities for the rehabilitation of Afghanistan’s cultural heritage, in: *International Review of the Red Cross* 86 (2004), No. 854, p. 401.

96 E. Benvenisti, Occupation, Belligerent, in: Max Planck Encyclopedia of International Law (online version), p. 1.

97 UNESCO (ed.), *Protection of Cultural Property Military Manual*, Paris 2016, p. 49.

From a legal perspective, it is irrelevant whether the occupying power considers itself an occupier or calls itself something else, e.g., a liberator. The occupying power bears the corresponding obligations under AP I, regardless of whether it accepts them or not. The occupier must take all measures to ensure public order and maintain civil life. The legal order in force in the occupied territory must be respected unless absolutely impossible. This also has consequences concerning the protection of cultural property, as the occupier must respect the law for the protection of cultural property applicable in the territory prior to the event of occupation unless absolutely prevented from doing so. Moreover, local staff employed to look after the cultural goods must also be able to continue their work. The protection of cultural property against misuse and vandalism should be regarded as part of the maintenance of public order. The occupying power should also respect local plans to protect cultural assets and leave them in their original places: This “may involve as little as not interfering with the competent administrative authorities, police and courts in their enforcement of the applicable cultural property laws.”⁹⁸ This may even mean that the occupier is obliged to seize cultural property of doubtful provenance and punish those trading in it if the local courts fail to perform their duties. For this purpose, legislation may be enacted for the protection and preservation of the cultural property of the occupied territory and the prohibition of all forms of theft, pillage, misappropriation, or vandalism.

According to Art. 8 CultPropConv, cultural property may be placed under special protection intended to shelter movable cultural property as well as centers containing monuments and other immovable cultural property of very great importance.⁹⁹ The precondition to the protection is to identify the nature and location of the cultural property and to communicate the findings to the responsible authorities. Therefore, the occupying forces should have access to the civilian national authorities responsible for the preservation and management of the cultural heritage in the occupied territory. If there are open questions, the occupier should seek the advice of UNESCO.

Any destruction of cultural property in the occupied territory is prohibited and constitutes a war crime unless it is required by military necessity. In order to enforce this regulation, cooperation between the occupying power and the competent authorities is necessary. Moreover, the occupier must assist the local authorities in implementing the legislative and administrative regulations for the protection of cultural property in general. Cooperation is needed for the transition from foreign military to local civilian custodianship to prevent misappropriation and vandalism.

Atrocities against Azerbaijani cultural heritage in the occupied territories

War is often an amalgamation of various objectives. One of the core aims of the occupation of Azerbaijani territory by Armenia was the suppression of the identity of the occupied population and territory. Thus, this warfare affected not only people but also the collective

⁹⁸ *Ibid.*, p. 51.

⁹⁹ ICRC, *supra* note 9, Commentary to Art. 52.

narrative of their environments, history, culture, and identity.¹⁰⁰ Against this background, Armenia has violated its obligations according to IHL and the CultPropConvention during the hostilities in the 1990s and after the establishment of the regime of occupation. Already in 1992, parts of the town of Shusha and its mosque had been damaged.¹⁰¹ Armenian forces laid waste the Azerbaijani town of Agdam, and Muslim sites under Armenian control were neglected or desecrated.¹⁰² Many unique cultural and religious sites in the occupied territories have been damaged or plundered, and “systematic actions have been taken to erase any signs of the city’s Azerbaijani cultural and historical roots and characteristics.”¹⁰³ Social and cultural facilities such as libraries, museums, theaters, and concert halls have been destroyed. Cultural and religious monuments and works of art have been removed by the Armenian armed forces and were put on sale in auctions throughout the world.¹⁰⁴ Azerbaijan stated in 2008 that the ongoing policy of deliberate destruction of cultural property continues to be an irreparable blow to both national culture and world civilization.¹⁰⁵

Again and again, Azerbaijan brought the atrocities against its cultural heritage in the occupied territories to the attention of the UN.¹⁰⁶ The Organization of Islamic Cooperation (OIC), too, expressed its grave concern at unlawful actions aimed at changing the cultural character of the occupied territories, “including by destruction and misappropriation of cultural heritage and sacred sites,”¹⁰⁷ and stressed the need to ensure the protection of the cultural heritage in the occupied territories.

The British lawyer Malcolm Shaw has considered the Armenian violations of the applicable rules of IHL war crimes.¹⁰⁸ He points out that Article 8(2)(b)(ix) of the Rome Statute identifies as a war crime intentionally directing attacks against buildings dedicated to religion, education, art, science, or charitable purposes, or historic monuments, provided they are not military objectives. Moreover, the occupying power must prevent the illicit export of cultural property from the occupied territory and must return illicitly exported property to the competent authorities of the occupied territory. Shaw concludes by stating that Armenia is responsible for a variety of war crimes, including the destruction of cultural heritage.

The ceasefire agreement signed by Russia, Azerbaijan, and Armenia on November 9, 2020, allows for steps to be taken to restore the cultural rights of the population. No doubt this will

100 S. Bleibtreu, Preserving cultural heritage: Shifting paradigms in the face of war, occupation, and identity, in: *Journal of Cultural Heritage* 44 (2020).

101 Human Rights Watch (ed.), *Bloodshed in the Caucasus: Escalation of the Armed Conflict in Nagorno Karabakh*, Helsinki 1992, p. 32.

102 H. Eakin, When an Enemy’s Cultural Heritage Becomes One’s Own, in: *New York Times*, Nov. 30, 2020.

103 Letter dated 15 May 2019 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary General, UN-Doc. A/73/878, p. 1.

104 UN-Doc. A/58/594, p. 6.

105 The armed aggression of the Republic of Armenia against the Republic of Azerbaijan: root causes and consequences, in: UN-Doc. A/64/475, para. 101.

106 Illegal economic and other activities in the occupied territories of Azerbaijan, in: UN-Doc. A/70/1016, p. 11

107 OIC Resolution 10/43 (19 October 2016).

108 M. Shaw, Report on war crimes in the occupied territories of the Republic of Azerbaijan and the Republic of Armenia’s responsibility, in: UN-Doc. A/74/676, para. 216 ff.

require a great deal of effort. Some experts believe that cultural reconciliation is possible.¹⁰⁹ However, it is still necessary to clarify how to deal with Armenia's war crimes.

Final remark

The prohibition of the willful destruction of cultural property or its removal from occupied territories was already in place in the customary law of the 18th century. Owing to the codification that has taken place since then, willful destruction also contradicts treaty law and, in many cases, even constitutes a grave breach of IHL. Weaknesses remain with regard to enforcement. This is where the international organizations, together with civil society, must focus their attention.

109 H. Eakin, (Fn.21).



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