

The Evolution of the International Criminal Court's Jurisprudence on the Criminalization of the Destruction of Cultural Property: A Comparative Study of the Al Mahdi and Ntaganda Judgments

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Abstract

From the perspective of international criminal law, the destruction of cultural property during armed conflicts does not merely constitute an assault on objects and structures; rather, it represents an attack on the identity, collective memory, and cultural existence of communities. Through its dynamic interpretation of the Rome Statute in the Al Mahdi and Ntaganda cases, the International Criminal Court has played a significant role in expanding the scope of criminal protection afforded to cultural property. This study seeks to elucidate the evolution of the Court's jurisprudence by examining how these judgments have transformed the criteria and scope governing the criminalization of the destruction of cultural property. The research employs a descriptive-analytical method based on the examination of judicial decisions, international instruments, and doctrinal sources. The findings indicate that the Al Mahdi judgment constituted a turning point in this field by recognizing the destruction of cultural property as an autonomous war crime. Furthermore, the Ntaganda judgment complemented the Court's approach by broadening the concept of an "attack" and considering the social and identity-forming functions of cultural property. Nevertheless, substantial interpretive ambiguities remain concerning the inclusion of intangible cultural heritage and the precise scope of its protection under international criminal law.

Keywords: International Criminal Court, Al Mahdi, Ntaganda, cultural property, criminalization, intangible cultural heritage.

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1. Introduction

Cultural heritage, beyond its physical and material dimensions, embodies the collective memory and historical identity of human societies and contributes to the continuity of their spiritual existence. In contemporary armed conflicts, the systematic and deliberate destruction of cultural property is no longer regarded merely as collateral damage or material harm to buildings; rather, it is employed as an instrument of warfare intended to erase collective identity and destroy the social bonds of targeted

communities. This reality has created an urgent need to redefine and enhance the level of protection afforded to such property within the international legal system.

Although the protection of cultural property is rooted in the customary and treaty-based rules of international humanitarian law, the entry of the International Criminal Court into this field marked the emergence of a new paradigm involving a transition from the traditional and civil responsibility of states toward individual criminal responsibility. In this context, the principal issue addressed by the present study concerns the nature and dimensions of the evolution of the Court's jurisprudence in determining the scope and criteria of this criminalization, with particular emphasis on the landmark *Al Mahdi* and *Ntaganda* judgments. This inquiry raises several fundamental questions. The principal research question is as follows: How has the jurisprudence of the International Criminal Court in the *Al Mahdi* and *Ntaganda* judgments transformed the scope and criteria governing the criminalization of the destruction of cultural property under international criminal law?

Three subsidiary questions arise under this central inquiry. First, what differing interpretations of the concept of an "attack" did the Court present in the *Al Mahdi* and *Ntaganda* cases, and how did this difference affect the establishment of criminal responsibility? Second, how did the evolution of the Court's jurisprudence concerning the identification of "cultural property" shift from an emphasis on material values toward the identity-forming and social functions of such property for communities? Third, what challenges do the ambiguities remaining in the Court's jurisprudence regarding "intangible cultural heritage" pose for future proceedings?

In response to these questions, the principal hypothesis of the study is that the jurisprudence of the International Criminal Court in the *Al Mahdi* and *Ntaganda* cases, through a transition from "formal protection" to "identity-based and functional protection," has expanded the scope of the criminalization of the destruction of cultural property and provided a more precise explanation of the material and mental elements of this crime under the Rome Statute. With respect to the subsidiary hypotheses, it may first be argued that, whereas the *Al Mahdi* case focused on the symbolic and religious character of cultural property, the *Ntaganda* case, through a broader interpretation of the concept of an "attack," further developed the criteria for establishing the crime by emphasizing the social and existential functions of such property for communities. Second, the evolution of the Court's jurisprudence reflects a paradigmatic shift from the "protection of buildings" to the "protection of intangible heritage and collective memory," thereby redirecting the criteria for identifying cultural property toward cultural and identity-based values rather than exclusively historical or material values. Third, the remaining ambiguities in the Court's jurisprudence regarding "intangible heritage" and the "scope of the concept of an attack" have created a legal gap that may be addressed through the continued development of case law and the evolutionary interpretation of the concepts contained in the Rome Statute in future cases, particularly those involving crimes against humanity or genocide.

Accordingly, the principal objective of the present study is to explain and analyze the evolution of the jurisprudence of the International Criminal Court concerning the criminalization of the destruction of cultural property through a comparative examination of the *Al Mahdi* and *Ntaganda* judgments, with the aim of identifying the paradigms governing international criminal protection. In pursuit of this principal objective, three subsidiary objectives are followed: comparatively analyzing the Court's doctrine and judicial interpretation of the concept of an "attack" against cultural property in the two cases in order to identify interpretive gaps; identifying the Court's emerging criteria for recognizing and determining the boundaries of "cultural property," with emphasis on the shift from material values toward the identity-forming and social functions of such property for communities; and, finally, examining the remaining gaps and ambiguities in the Court's jurisprudence concerning the protection of "intangible cultural heritage" in order to clarify the legal challenges facing future proceedings.

The need for this study is intensified by the increasing prominence of crimes against cultural property in armed conflicts and the undeniable role of such property in preserving the historical, social, and spiritual identity of communities. Because the *Al Mahdi* and *Ntaganda* judgments constitute the first cases in which the Court directly interpreted the elements of the crime of destroying cultural property and created a turning point in the development of international criminal law, analysis of these important judgments is essential for resolving existing ambiguities. Such analysis is significant not only from a theoretical perspective but also as a scientific, practical, and normative necessity for enhancing the effectiveness of future proceedings and strengthening international mechanisms for the protection of cultural heritage.

2. Conceptual and Normative Foundations for the Protection of Cultural Property under International Law

2.1. *The Evolution of the Concept of Cultural Property in Light of International Instruments*

Historically, the concept of cultural property under international law has developed from a narrow, object-oriented definition toward a broader, value-based understanding. At the first stage, the Hague Regulations of 1899 and subsequently the Hague Regulations of 1907, by focusing on the prohibition of unnecessary destruction and the protection of religious, scientific, and artistic buildings, conceptualized cultural property within the logic of property protection and the limitations governing armed conflict, without establishing a clear distinction between military advantage and cultural value (Schindler & Toman, 1988). Within this framework, cultural heritage was primarily understood as a matter governed by the rules regulating conduct in warfare, rather than as an independent subject of criminal protection or a common entitlement of humankind.

With the adoption of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, the concept of cultural property shifted toward a normative and functional definition, and identity-based and symbolic elements were incorporated alongside material criteria. The Convention defined cultural property as property of great importance to the cultural heritage of every people and, through the classification of relevant categories, established special protection for buildings, collections, and centers containing cultural objects (Schindler & Toman, 1988). Consequently, from a normative perspective, cultural property was no longer reduced solely to the ownership or sovereign domain of the state. Rather, its public value as a community's spiritual asset was recognized, thereby providing a basis for strengthening states' obligations to prevent damage to, respect, and protect such property during armed conflict.

At the next stage, Additional Protocol I of 1977, by affirming the principle of distinction and prohibiting attacks against property and places constituting the cultural or spiritual heritage of peoples, integrated this protection into modern international humanitarian law and elevated it from the level of moral recommendation to that of a binding legal rule (Schindler & Toman, 1988). The connection between the protection of cultural heritage and the fundamental principles governing armed conflict, particularly military necessity and proportionality, led to the understanding that cultural property should be evaluated in practice not merely on the basis of the physical nature of the object, but also according to its value and function for the community and the extent of its relationship to military objectives. Within the same framework, customary international law has further contributed to the convergence of concepts and obligations by establishing rules requiring respect for cultural property and prohibiting its deliberate destruction or damage (Henckaerts & Doswald-Beck, 2021).

With the adoption of the Rome Statute and the criminalization, as war crimes, of intentionally directing attacks against buildings dedicated to religion, education, art, science, and historic monuments, the concept of cultural property entered the sphere of individual criminal responsibility and moved beyond exclusively state-centered mechanisms (Schabas, 2016). This transition produced an important conceptual consequence: cultural property is no longer merely the object of protective obligations imposed on states, but may also become the direct subject of criminalization against an individual perpetrator, provided that the relevant mental and material elements are established, including intent, knowledge of the protected character of the property, and the absence of military justification within the limits of the applicable rules. The evolution of the concept of cultural property in international instruments therefore demonstrates a gradual progression from a descriptive and category-based definition toward a normative, value-based conception capable of application within the framework of individual criminal responsibility.

The central feature of this evolution is the transfer of the criterion of identification from the mere classification of a particular type of building or object toward an assessment of its cultural value and function in relation to the principles of international humanitarian law and the rules of international criminal law. Nevertheless, in order to avoid ambiguity and conflict with the principle of legality in international criminal law, the operational criteria for identifying cultural property in criminal prosecutions must be formulated more precisely. These criteria may include demonstrable cultural significance, the degree of connection with the collective identity of the local community, registration and marking status, and a detailed analysis of military necessity and proportionality. Otherwise, there is a risk that the concept will be expanded without clear limits, overlap with ordinary property or ownership disputes, and undermine the consistent application of Article 8 of the Rome Statute.

2.2. *Rules of International Humanitarian Law and the Foundations for Criminalizing the Destruction of Cultural Property under the Rome Statute*

The establishment of rules protecting cultural property under international humanitarian law has provided the principal foundation for the criminalization of such conduct under international criminal law. Within this framework, the rules governing armed conflicts require the parties involved to distinguish between military objectives and civilian objects, including cultural heritage. These obligations have been articulated in the classical law of armed conflict in a manner that recognizes the deliberate destruction of such places, even in the absence of military significance, as a serious violation of the rules governing the conduct of hostilities (Dinstein, 2016).

By criminalizing the destruction of such places, the Rome Statute completed the transition from state obligations to individual responsibility. Articles 8(2)(b)(ix) and 8(2)(e)(iv) of the Rome Statute expressly classify intentionally directing attacks against buildings dedicated to religion, education, art, science, or charitable purposes and against historic monuments as war crimes, irrespective of the nature of the armed conflict. These provisions extend the objective of protection beyond the physical preservation of such places to the safeguarding of their continued existence and social functions (Werle & Jessberger, 2020).

For the constituent elements of this crime to be established, both the material and mental elements must be demonstrated simultaneously. According to the relevant interpretive instruments, the perpetrator must have been aware of the cultural character of the place attacked and must have directly intended to target it. The precision with which the elements of the crime have been formulated prevents an unlimited expansion of criminal responsibility in circumstances in which cultural buildings are destroyed as a result of incidental attacks or legitimate military justifications, unless deliberate targeting is established (Schabas, 2016).

This approach signifies the recognition of a form of objective obligation at the level of the international community. Cultural heritage, as a global public good, has moved beyond the exclusive sphere of national sovereignty and has been placed under international criminal protection (Forrest, 2010). The development of this jurisprudence demonstrates the flexibility of the Rome Statute in responding to emerging challenges. By connecting cultural heritage to war crimes, the Statute enables judicial interpreters to consider the symbolic and identity-forming dimensions of such property when analyzing complex crimes. This approach has laid the foundation for dynamic interpretations subsequently employed in the Court's judgments to transform the protection of cultural property from a rigid rule into an instrument for preserving group identity and deterring cultural destruction associated with genocidal practices (Schabas, 2016).

3. **A Comparative Analysis of the Al Mahdi and Ntaganda Judgments in the Jurisprudence of the International Criminal Court**

3.1. *Judicial Interpretation of the Concept of an "Attack" against Cultural Property in the Al Mahdi and Ntaganda Cases*

The Al Mahdi and Ntaganda cases constitute turning points in the International Criminal Court's judicial understanding of the concept of an "attack" against cultural property. Moving beyond a formal interpretation, these judgments adopted a functional approach under which an attack is not understood solely as physical destruction, but also as an assault on the cultural identity and collective memory of the local community.

In the Al Mahdi case, the Court addressed for the first time the deliberate destruction of religious and historic buildings in Timbuktu. In this case, the concept of an attack was interpreted with emphasis on the "destruction" of or "damage" to places of historical and religious significance. The Court stated that targeting these places, given their position within the identity of the local community, crossed the threshold of war crimes. The judicial focus in Al Mahdi concerned how acts that did not necessarily result in human casualties could nonetheless acquire a criminal character as crimes against the cultural heritage of humankind (Mathias, 2021). The judgment regarded an attack against cultural property as causing "serious harm" to the cultural heritage of the community and therefore as giving rise to individual criminal responsibility.

In the Ntaganda case, the Court further expanded the conceptual scope of an "attack." Unlike Al Mahdi, which focused on the direct and deliberate destruction of cultural places, Ntaganda concerned a situation in which destruction of and interference

with cultural property occurred within the context of armed conflict, territorial occupation, and effective control over an area. In Ntaganda, the Court emphasized that an attack against cultural property should not be reduced exclusively to complete destruction. Rather, any intentional conduct that disrupts the social and cultural function of a building or prevents the community from accessing it may fall within the category of prohibited acts (Mathias, 2021). This interpretation connected the concept of an “attack” with the principle of distinction and military necessity under international humanitarian law and demonstrated that attacks against cultural property may form part of a broader military campaign.

The fundamental difference between the judicial interpretations adopted in these two cases lies in the depth and breadth of the concept of an “attack.” Whereas Al Mahdi emphasized the symbolic character of direct destruction and the deliberate targeting of cultural property as an instrument of social control, Ntaganda situated the attack within the broader context of armed conflict and extended it to any intentional interference that eliminates the cultural and social role of the protected property. The Court thus moved from a narrow understanding of an attack toward an interpretation under which cultural heritage, as a civilian asset embodying identity, is protected against any form of military misuse, even where direct destruction is not the immediate objective (Cassese et al., 2013).

The result of this development is the recognition of an “attack” as a complex element of war crimes against cultural property, in which the perpetrator’s intention to destroy the identity embodied by the property is as important to establishing the crime as the physical damage inflicted on the structure. This approach creates a basis for criminalizing conduct that was previously overlooked because of legal ambiguities.

3.2. *Examining the Criteria for Identifying Cultural Property: The Transition from Material Values to Identity-Forming and Social Functions*

Within the emerging jurisprudence of the International Criminal Court, the criteria used to identify and define cultural property have undergone a fundamental transformation. Under the traditional model, cultural property was identified on the basis of its physical characteristics, historical antiquity, or intrinsic artistic value, and these material attributes determined the level of legal protection afforded to it (O’Keefe, 2006). Recent jurisprudence, however, demonstrates that this exclusively object-oriented perspective is insufficient for understanding the dimensions of crimes against culture in contemporary armed conflicts. The focus has now shifted from the physical nature of the cultural object toward its social and identity-forming function for the local community. This transition means that a place or object deserves criminal protection not merely because it independently possesses aesthetic value, but because it represents the collective memory and identity of a human group (Francioni, 2003).

In the Al Mahdi and Ntaganda cases, the Court confronted the reality that the destruction of cultural property had been used as an instrument for destroying the identity of victims. This functional perspective has substantially blurred the boundaries between tangible cultural property and intangible heritage. International criminal law scholarship emphasizes that the protection of such property should take account of the organic relationship between the cultural object and the community to which it belongs (Cryer et al., 2019).

Accordingly, the criterion for recognizing a place as cultural property now depends on whether that place serves as a setting for the formation and continuation of a community’s customs, traditions, and cultural existence. Although this development has made judicial interpretation more responsive to the realities of cultural harm, it has also preserved challenges concerning proof of the perpetrator’s awareness of this identity-forming function at the time of the attack. Establishing the perpetrator’s understanding of the collective identity of others is more difficult than proving that the perpetrator recognized the physical character of a particular building.

4. Interpretive Challenges and Prospects for the Development of Jurisprudence

4.1. *Remaining Ambiguities in the Concept of “Intangible Cultural Heritage”*

Despite the important steps taken by the jurisprudence of the International Criminal Court in the Al Mahdi and Ntaganda cases to develop the criminal protection of cultural property, the concept of “intangible cultural heritage” remains surrounded by ambiguity. Traditional instruments of international humanitarian law, and even specialized conventions concerning cultural

heritage, have focused primarily on tangible cultural property: property capable of physical identification, marking, registration, and material protection. Consequently, a substantial part of cultural heritage, including rituals, traditions, oral narratives, skills, social practices, and identity-forming symbols, remains outside the express scope of international criminal protection (Unesco, 2018).

The first conceptual ambiguity arises from the absence of international agreement on a precise and operational definition of intangible heritage. Intangible heritage performs different functions in different cultural contexts and, in many cases, depends on places, objects, or physical spaces without itself possessing a tangible form. This interdependence raises the question of whether interference with a place used for the performance of a cultural ritual, in the absence of physical destruction of the building, may constitute an attack against intangible heritage.

The second ambiguity concerns the challenge of proving the perpetrator's mental element in attacks against intangible heritage. Whereas in cases involving tangible property it may be relatively possible to establish the perpetrator's awareness of the cultural character of a building, the difficulty is significantly greater in relation to intangible heritage. The perpetrator must be aware that their conduct effectively disrupts the symbolic, ritual, or identity-forming functions of a community. Establishing this degree of awareness requires a precise understanding of the relevant cultural context and adds to the evidentiary difficulties encountered in judicial proceedings.

The third ambiguity relates to normative gaps in the Rome Statute. The provisions concerning war crimes against cultural property generally focus on buildings, places, and objects of cultural value. Although the Court's expansive interpretation in *Al Mahdi* and *Ntaganda* demonstrates judicial attention to identity-forming functions, it remains unclear to what extent this interpretation may be extended to cover intangible heritage without conflicting with the principle of legality and the prohibition against expansive interpretation to the detriment of the accused.

Looking to the future, it may be expected that, in response to the increasing destruction of cultural heritage in contemporary armed conflicts, the Court will move toward a more precise formulation of the criteria governing intangible heritage. Moreover, reliance on international cultural instruments and UNESCO practice may facilitate convergence between humanitarian rules and cultural-protection standards, thereby enabling intangible heritage, as a particularly vulnerable field, to be incorporated more coherently into the discourse of international criminal law.

4.2. The Scope and Limits of Criminal Protection of Cultural Property in the Court's Future Jurisprudence

Defining the scope and limits of the criminal protection afforded to cultural property is one of the most sensitive issues confronting the International Criminal Court in future cases. On the one hand, the tendency toward dynamic and identity-based interpretation in previous judgments indicates that the Court is inclined to extend its protective framework to non-material forms of cultural harm. On the other hand, the need to comply with the fundamental principles of international criminal law, particularly the principle of legality of crimes and punishments, prevents the unlimited expansion of these concepts (Ambos, 2014).

In its future jurisprudence, the Court must draw a precise distinction between ordinary violations of property rights or isolated destruction of ordinary property and systematic war crimes against cultural heritage. One of the principal criteria for determining the scope of protection in future cases will be the threshold of gravity and the organized character of the attacks. For the destruction of a cultural object to acquire the status of an international crime, the harm inflicted must be sufficiently serious to place the identity-based continuity and collective memory of the targeted community at substantial risk (Stahn, 2019).

Furthermore, the Court must establish a balance between genuine military necessity on the battlefield and deliberate attacks against cultural heritage. This requires a more precise explanation of concepts such as the "military use" of cultural property and the conditions under which such places lose their immunity pursuant to supplementary instruments. The future direction of the Court's jurisprudence also appears likely to connect crimes against cultural property with broader categories such as ethnic cleansing and the destruction of group identity. In contemporary armed conflicts, the destruction of spiritual and physical heritage is not merely a collateral consequence but a strategic instrument for eliminating evidence of a group's historical presence within a particular geographical territory. Accordingly, the precise distinction between war crimes against cultural

property and the material elements of genocide, particularly the imposition of conditions of life calculated to bring about the destruction of a group, is among the matters that the Court's future jurisprudence will inevitably be required to clarify (Cryer et al., 2014).

4.3. *The Relationship between the Criminal Protection of Cultural Property and Future Developments in International Criminal Law*

The criminal protection of cultural property cannot be regarded merely as a subsidiary branch of the law of armed conflict or as one limited category of war crimes. Rather, this form of protection is gradually becoming one of the principal fields in which international criminal law is developing in the present century. The significance of this development derives from the fact that the destruction of cultural property no longer signifies only the elimination of a historic building or an architectural work. In many cases, it constitutes an instrument for dismantling collective identity, severing a community's historical connection with its past, and imposing a form of symbolic destruction upon human groups. From this perspective, the criminal protection of cultural property is consistent with the broader movement of international criminal law from the "protection of objects" toward the "protection of human beings and collective identities."

In the future, this field is expected to become increasingly connected with concepts such as crimes against humanity, cultural genocide, and emerging forms of collective persecution. Although the Rome Statute continues to provide a relatively limited framework for the direct prosecution of the destruction of cultural property, the Court's jurisprudence has demonstrated that the interpretation of concepts such as an "attack," "extensive destruction," and conduct that is "not justified by military necessity" may create a basis for broader protection. Consequently, the criminal protection of cultural heritage is likely to move beyond a merely instrumental form of protection and become one of the criteria for identifying attacks against the cultural and social existence of communities.

Future developments in international criminal law will also inevitably confront new challenges in this field. Urban warfare, asymmetric conflicts, the use of advanced technologies in targeting operations, and the increasing vulnerability of intangible heritage all require the Court and other criminal institutions to reconsider traditional concepts governing the protection of cultural property. In this context, distinguishing between accidental destruction, collateral damage, and deliberate attacks against cultural symbols will become increasingly important. Moreover, the registration, documentation, and verification of the cultural value of property will become central components in proving the crime.

At the normative level, the future development of international criminal law is also likely to involve greater integration among criminal justice, restorative justice, and cultural reparations. Within this framework, the protection of cultural property will not be limited to punishing the perpetrator, but will also include reconstruction, the restoration of cultural dignity, the participation of local communities in the reparative process, and guarantees concerning the continuity of historical memory. The future position of this form of protection within international criminal law will therefore be strategic rather than peripheral. On the one hand, it will contribute to the preservation of cultural diversity and the common heritage of humankind; on the other hand, it will provide a new criterion for assessing the human and identity-based dimensions of international crimes.

5. Conclusion

An examination of the evolution of the protection of cultural property under international criminal law demonstrates that this field has gradually moved from a traditional, materially oriented approach, which focused primarily on protecting objects, buildings, and historic monuments as physical property, toward an identity-based, spiritual, and sociological approach. This transformation is particularly evident in the judgments of the International Criminal Court in the Al Mahdi and Ntaganda cases. Through its dynamic interpretation of Articles 8(2)(b)(ix) and 8(2)(e)(iv) of the Rome Statute, the Court established a framework within which the destruction of cultural property is not regarded merely as harm to material assets, but is recognized as a direct attack against the historical identity, collective memory, and social cohesion of communities. The Al Mahdi judgment constituted a fundamental turning point in this respect because, for the first time, it placed the deliberate destruction of religious, historic, and symbolic sites at the center of an autonomous war-crime prosecution, thereby emphasizing the non-material and cultural values embodied by such property.

Building upon this approach, the Ntaganda judgment also took an important step toward developing the criteria for criminalization and interpreted the concept of an “attack” more broadly. In that case, the Court demonstrated that interference with cultural property is not limited to direct physical destruction on the battlefield, but may also include other forms of harmful conduct, including occupation, unlawful appropriation, gradual destruction, or deprivation of the property’s social and cultural functions. The criterion for identifying cultural property consequently shifted from its exclusively material value toward its social position, identity-forming role, and cultural function for the local community. This development indicates that international criminal law is moving beyond the formal protection of cultural objects toward the effective protection of the cultural existence of human communities.

In response to the principal research question, it may be concluded that the Court’s jurisprudence in the two cases brought about a transition from “formal protection” to “identity-based and functional protection” of cultural property and thereby expanded the scope of criminalization and criminal responsibility. Within this framework, the destruction of cultural property constitutes not merely the destruction of a material structure, but an attack against the cultural, spiritual, and social foundations of a nation. Nevertheless, one of the most important gaps remaining in this jurisprudence is the absence of a precise and express explanation of the status of intangible cultural heritage. Rituals, traditions, Indigenous knowledge, and non-material elements of culture, although in practice inseparable from the cultural identity of communities, have not yet been fully incorporated within the scope of the Court’s criminal protection. Future conceptual and interpretive development in this field therefore remains necessary.

The criminal protection of cultural property is gradually becoming connected with broader concepts concerning the protection of human groups. The Court’s emphasis on the identity-forming and social dimensions of cultural buildings raises the fundamental question of whether the widespread and deliberate destruction of cultural heritage may constitute an important indicator in assessing the intent to commit genocide, cultural cleansing, or widespread attacks against civilian populations. Although the Rome Statute does not expressly establish such a connection, the Court’s evolutionary interpretation, particularly in the Al Mahdi judgment, has opened a perspective under which cultural heritage is regarded as a vital structure for the continuity of collective identity and the spiritual survival of human groups. This approach may provide a foundation for new analyses concerning the role of cultural-heritage destruction within the structure of international crimes.

The conceptual development reflected in these judgments confronts the Court with the challenge of maintaining a balance between “interpretive dynamism” and the “principle of legality of crimes and punishments.” The Court must establish a precise equilibrium between the emerging characteristics of contemporary armed conflicts, in which cultural heritage is frequently targeted deliberately and systematically, and the requirement of fidelity to the text and purpose of the Rome Statute. Otherwise, there is a risk that the scope of international crimes will be expanded excessively and overlap with violations that are merely civil or proprietary in nature, which would be inconsistent with the fundamental principles of international criminal law. The continuation of dynamic interpretation will therefore be legitimate and effective only where it is accompanied by clear, foreseeable, and coherent criteria.

The evolution of the Court’s jurisprudence, particularly through the integration of deterrence, restorative justice, and local-community participation, presents a new vision of international criminal justice. The experience of the Al Mahdi case demonstrated that the Court does not confine its response to punishing the perpetrator, but also considers the restoration of the cultural and psychological fabric of affected communities. Reparations for the symbolic and non-material harm suffered by the local community of Timbuktu provide a clear example of this approach, which extends beyond physical reconstruction and seeks to restore cultural dignity and collective memory. This development demonstrates that international criminal justice may move beyond punitive accountability and become an instrument for protecting the common heritage of humankind and rebuilding social cohesion in conflict-affected communities. The protection of cultural property is therefore not merely a legal obligation of states, but a collective responsibility toward the history, identity, and future of humankind.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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