



## ***Call for Papers***

### **THE INTENTIONAL DESTRUCTION OF THE CULTURAL HERITAGE OF MANKIND (IDCHM):**

#### **WHAT ARE THE REMEDIES UNDER INTERNATIONAL LAW?**

**Faculty of Law**

***La Sapienza* University of Rome**

**2-3 December 2021**

#### **The Topic**

For millennia, the intentional destruction of the cultural heritage of nations, peoples and minorities has been the most common practice carried out by armed groups, regardless of their legitimacy or affiliation, in order to weaken the enemy's resistance and assimilate the vanquished.

Especially after the Second World War, however, a new sensitivity developed in the international community of States towards such destructive conducts during or after conflicts; what had previously been permitted or even encouraged was subsequently forbidden and sanctioned. Such a *revirement* in the attitude of States reflected a growing awareness – at all levels of social or political aggregation - of the value of the world's cultural heritage to the entire humankind. Through the destruction of the world's cultural heritage, the whole humanity feels deprived of a part of itself, regardless of the geographical localization of the damaged artefact or the identification of that cultural asset with a particular civilization.

The worldwide video dissemination of the destruction of world heritage monuments by terrorists in the last twenty years, such as the Buddhas of Bamiyan and the ancient Syrian city of Palmyra, has shocked the entire humanity. The fight against IDCHM has also become a matter of paramount interest and concern in academia; an impressive number of studies and publications have discussed the adequacy of international law in counteracting such hateful conduct.

International law scholars have focused their research primarily on identifying and analysing the normative content of protection, particularly the prohibition to destroy non-military targets such as monuments and artefacts in times of war.

Interestingly, the prohibition of IDCHM has sometimes been qualified as a rule of customary law, the infringement of which entails international responsibility on the part of both the acting State and the individuals who materially ordered or carried out the destructive act, committed in peacetime or during an armed conflict.

Following the conviction of Al-Mahdi by the International Criminal Court (ICC) in 2017 for IDCHM, the qualification of IDCHM as an international crime with criminal liability of the individual perpetrator finally came into the focus of international legal essays.

This conference examines the IDCHM from an entirely new perspective, that reveals itself only after the IDCHM has already occurred. The focus is on the remedies and tools available under international law in order to provide redress to afford reparation from the moral and/or material injuries caused by IDCHM. The focus is thus on the consequences of international responsibility - the secondary norms arising from the illicit commission of IDCHM - rather than on the content and scope of the international norms that protect humanity from IDCHM – that is to say, the substantive primary norms that prohibit IDCHM.

Moreover, this conference covers a very broad and comprehensive range of international law domains. The first panel is dedicated to the remedies/sanctions against IDCHM available within the UN family, in particular UNESCO and the UN itself. The second panel delves into the field of international human rights protection, with the aim of examining redress for IDCHM in the Jurisprudence of the Human Rights Courts. The third panel looks at international investment law, with a particular focus on the pathways for reparation for IDCHM committed by investors and on the accountability of multinational companies/corporations. Finally, the fourth panel addresses the domain of international criminal law, identifying the grounds for punishing individuals who have committed IDCHM.

## **The Conference Draft Programme**

Opening Address

*Alberta Fabbriotti*

### Panel 1. The (Re)actions against IDCHM in the UN System

1. The UNESCO and Its Shortcomings
  - a. State Responsibility for IDCHM between UNESCO rules and ASR (Patrizia Vigni, University of Siena)
  - b. The Referral to Municipal Law under the 1954 Hague Convention
  - c. The 2003 Declaration concerning the Intentional Destruction of Cultural Heritage: A Step Back?
  - d. The Italian/UNESCO Task Force and Other Initiatives
2. The Relevance of IDCHM as A Threat against International Peace and Security

- a. The Security Council Resolutions (Kristin Hausler, British Institute for International and Comparative Law)
- b. The Peacekeeping Operations: From MINUSMA to UNIFIL (Laura Pineschi, University of Parma)
- c. The UN Counter-Terrorism Committees and the Sanctions against Individuals

Panel 2. The Reparation for IDCHM in the Jurisprudence of the Human Rights Courts

1. The Preliminary Question of the Nature of the Rights infringed by IDCHM: Individual, Collective or Group Rights
2. The “Victim” of IDCHM and the Entitlement to Submit a Claim
3. The Forms of Reparation and their Effective Implementation

Panel 3. The Remedies under the Law of Investments

1. The IDCHM and the Assessment of the Human Rights/Environmental Sustainability of the Foreign Investment (Ludovica Chiussi, University *Alma Mater Studiorum*, Bologna)
2. The Problem of the Accountability of Multinational Corporations for IDCHM
3. The Avenues for Obtaining Redress for IDCHM under the International Investment Law (Valentina Vadi, Florence Bar)
4. The Jurisprudence of ICSID and Other Investor-State Dispute Settlement Mechanisms
5. A Case Study: the *Juukan Gorge Caves* (Edward J. Guntrip, University of Sussex)

Panel 4. The Punishment of the Destroyers under the Criminal Law

1. IDCHM as a War Crime
2. IDCHM as a Crime Against Humanity (Kerstin von der Decken, Christian-Albrechts-Universität zu Kiel)
3. The Benchmark Case Study of *Al-Mahdi* before the International Criminal Court (ICC)
4. The ICC OTP's Draft Policy on Cultural Heritage (Andrzej Jakubowski, University of Opole/University of Amsterdam, and Karolina Wierczynska, Polish Academy of Sciences)
5. The Duty to Criminalize IDCHM (Chiara Venturini, University of Rome *Tor Vergata*, Sophia Schiavon, University *La Sapienza*)

Closing Remarks

*Alberta Fabbri*

**Submission of Proposals**

We welcome proposals that address the scientific areas and legal issues listed in the above Conference Draft Programme. Scholars, practitioners, adjudicators and officials are invited to submit such proposals by sending an email to [idchm.sapienza@uniroma1.it](mailto:idchm.sapienza@uniroma1.it).

Proposals should include abstracts of no more than 500 words and the speaker’s contact details and CV (including affiliation, relevant experience, and publications). When submitting the proposal, please indicate the panel and topic of choice, also considering that certain topics have already been

assigned by invitation. This is the case if the title of the topic is followed by the name and affiliation of the programmed speaker.

The selection process will apply criteria of geographical representation, gender balance and diversity of participants.

**The deadline for submission of proposals is August 15, 2021**, and successful applicants will be notified by September 30, 2021.

The conference format will be hybrid, face-to-face and online. Limited funds are available to support travel expenses only in particular cases (e.g., students, PhD candidates, nationals of developing countries).

### **Papers and Publication**

The organizers are considering publishing the papers presented at the conference either as a special issue in a leading journal or as an edited volume for a leading academic publisher. In the selection of proposals, preference will be given to those applicants who are interested in publication. Willingness to submit a paper should be indicated in the response to this Call for Papers. Speakers whose paper proposals are selected should be prepared to submit a draft paper (between 5,000 and 10,000 words, including footnotes) by November 15<sup>th</sup>, 2021. All proposals and final papers must be written in English.

### **Scientific Coordinator / Head of the Research Project**

*Alberta Fabbrocotti*

[https://www.dsge.uniroma1.it/professore\\_associato/fabbrocotti](https://www.dsge.uniroma1.it/professore_associato/fabbrocotti)

### **Organizing Committee**

*Fabiana Jannoni Sebastianini*

*Sophia Schiavon*

*Chiara Venturini*

For inquiries concerning the conference please contact the organizers at the following email address: [idchm.sapienza@uniroma1.it](mailto:idchm.sapienza@uniroma1.it).