Destroying Cultural Heritage

Explosive Weapons' Effects in Armed Conflict and Measures to Strengthen Protection

HUMAN RIGHTS WATCH

HARVARD LAW SCHOOL | INTERNATIONAL HUMAN RIGHTS CLINIC

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Summary

The bombing and shelling of populated cities, towns, and villages produces horrific humanitarian consequences. In recent armed conflicts—in Gaza, Myanmar, Sudan, Syria, Ukraine, Yemen, and elsewhere—this use of explosive weapons has killed and injured thousands of civilians and caused foreseeable long-term harm. In November 2022, 83 countries endorsed the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas (the Declaration). The Declaration sets standards for preventing and remediating the effects generated by the use of explosive weapons in populated areas.

There has been growing awareness and concern about the damage and destruction that armed conflict inflicts on cultural heritage. Such heritage ranges from ancient archaeological sites to modern exemplars of architecture, world-renowned monuments to regional museums, places of religious worship to centers for artistic performance. Cultural heritage passes from one generation to another and is of global and local significance. Harm to cultural heritage is, therefore, inseparable from harm to the civilian population.

This report examines the connections between the use of explosive weapons in populated areas and damage to and destruction of cultural heritage. It aims to increase awareness of the specific impacts of explosive weapons on cultural heritage and, by extension, civilians. It also offers recommendations for using the recently endorsed Declaration to better protect cultural heritage. While this report focuses on the Declaration as a tool to enhance safeguards within populated areas, cultural heritage should receive comparable protection from explosive weapons wherever it is found.

When used in populated areas, explosive weapons, such as aerial bombs, artillery and mortar projectiles, rockets, and missiles, kill and injure civilians and destroy civilian objects at the time of attack. These weapons also have long-term indirect, or "reverberating," effects. They disrupt civilian infrastructure, which interferes with basic services, infringing on human rights to standard of living, health, and education, among others. In addition, they inflict psychological harm, displace communities, and cause damage to the environment and the subject of this report: cultural heritage.

Chapter I of this report provides an overview of the 2022 Declaration and the concept of cultural heritage. The Declaration is dedicated to protecting civilians from the effects of the use of explosive weapons in populated areas. It explicitly enumerates among its list of effects the "damage and destruction of … cultural heritage sites" and associated "civilian suffering." While this report draws on the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, it adopts a more current definition of "cultural heritage," which takes into account, for example, heritage of local significance as well as universal value. The effects of explosive weapons on cultural heritage warrant attention because cultural heritage protection can help communities recover, preserve intergenerational connections, and save sites of existential meaning to civilians.

Chapter II examines how the use of explosive weapons in populated areas endangers cultural heritage. It presents Russia's ongoing war against Ukraine as a case study. The chapter surveys five examples of attacks on and harm to cultural heritage in Ukraine, including to local museums and archives, cultural sites in urban centers, and places of worship. The case study highlights the frequency, diversity, and gravity of the effects of explosive weapons on cultural heritage and why these effects matter to the civilian population.

The war in Ukraine is just one of several ongoing armed conflicts where cultural heritage has been at grave risk, including from the use of explosive weapons in populated areas. In March 2024, the United Nations Education, Scientific and Cultural Organization (UNESCO) reported that, since the hostilities between Israel and Palestinian armed groups following the Hamas-led attacks in Israel on October 7, 2023, the United Nations agency has verified 41 incidents of damage and destruction of cultural heritage in Gaza. The extensive use of explosive weapons with wide area effects in populated areas by Israeli forces is evidently the primary cause of this damage. For example, through analysis of satellite imagery, the research group Forensic Architecture found that airstrikes by Israeli forces destroyed the ancient port of Anthedon Harbour, which is on the Tentative List of UNESCO World Heritage Sites.[1] Because the hostilities began after the bulk of research for this report had been conducted, this report does not include in-depth analysis of this cultural heritage damage, although some incidents are discussed in Chapter III.

[1] "Living Archaeology in Gaza," Forensic Architecture, https://forensic-architecture.org/investigation/living-archaeology-in-gaza (accessed March 13, 2024); "State of Palestine: Properties Inscribed on the World Heritage List," UNESCO, https://whc.unesco.org/en/statesparties/ps (accessed March 13, 2024).

Drawing on examples from recent armed conflicts in different parts of the world, Chapter III applies the Declaration's framework of effects of the use of explosive weapons in populated areas to the cultural heritage context. The chapter describes the direct and indirect effects of explosive weapons on cultural heritage. It also shows how such damage and destruction aggravate civilian suffering by directly causing civilian casualties and indirectly inflicting psychosocial, economic, and other types of harm.

Chapter IV sets forth how states should interpret and implement the Declaration to enhance protections for cultural heritage. Specifically, it identifies five categories of actions that states should take in this area: preventive steps, data collection and sharing, remedial measures, an inclusive approach, and review and promotion of the Declaration. The chapter analyzes provisions of the Declaration that fall in each of these categories and offers recommendations for applying them in a way that maximizes cultural heritage protection.

Finally, Chapter V discusses how the Declaration can bolster current means for safeguarding cultural heritage from armed conflict. The Declaration commits endorsing states to strengthen compliance with and implementation of existing international humanitarian law, which encompasses treaties addressing cultural heritage. More important, it encourages them to go beyond existing law to protect civilians and civilian objects, including through the protection of cultural heritage. This chapter lays out four areas in which the Declaration, if interpreted and implemented as this report recommends, can strengthen and clarify current law to better prevent and remediate cultural heritage-related harm.

Recommendations

To address the harm to cultural heritage and associated harm to civilians, Human Rights Watch and the International Human Rights Clinic (IHRC) at Harvard Law School call on states to do more to safeguard cultural heritage from the use of explosive weapons.

In particular, states should:

1. Endorse, if they have not done so already, the 2022 Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas;
2. Interpret and implement the Declaration to enhance protections for cultural heritage; and
3. Raise awareness of and condemn the foreseeable harm to cultural heritage and, by extension, civilians arising from the use of explosive weapons in populated areas.

I. Explosive Weapons and Cultural Heritage

This chapter introduces the humanitarian consequences stemming from the use of explosive weapons in populated areas and the Declaration that seeks to recognize and respond to this foreseeable and devastating pattern of civilian harm. It also offers a definition of cultural heritage and highlights the importance of its protection, even in the context of other harm to civilians and civilian objects.

Explosive Weapons in Populated Areas and the Political Declaration

In 2022, 83 countries endorsed the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas.[2] As of February 2024, two more states—Jordan and North Macedonia—had joined them.[3] While non-binding, the Declaration if comprehensively implemented has the potential to become a valuable humanitarian tool that provides protection for civilians beyond existing international humanitarian law.

When used in populated areas, explosive weapons, such as aerial bombs, artillery and mortar projectiles, rockets, and missiles, kill and injure civilians and destroy civilian structures at the time of attack. According to one monitoring group, in 2023, as in most years it has reported on since 2011, about 90 percent of the people who are killed or injured when explosive weapons are used in towns and cities are civilians.[4] These weapons also have long-term indirect. or "reverberating," effects. They damage civilian infrastructure, which in turn interferes with basic services such as health care and education, infringing on human rights. They also inflict psychological harm, displace communities, and cause damage to the environment and to the subject of this report—cultural heritage. The harm they cause is

[2] Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas (hereinafter Declaration), concluded June 17, 2022, opened for endorsement November 18, 2022, https://www.gov.ie/en/publication/585c8-protecting-civilians-in-urban-warfare/#political-declaration-on-ewipa (accessed March 3, 2024).
[3] Explosive Weapons in Populated Areas, Dublin Conference 2022, "List of Endorsing States, as of 12 February 2024," https://www.gov.ie/pdf/?file=https://assets.gov.ie/283953/42boeboc-47a6-44f4-8758-36c1c4e9fa27.pdf#page=null (accessed February 26, 2024).
[4] "122% Rise in Global Civilian Fatalities from Explosive Weapons in 2023: A Year of Harm Reviewed," Action on Armed Violence, January 8, 2024, https://aoav.org.uk/2024/2023-a-year-of-explosive-violence-harm-reviewed/ (accessed February 26, 2024).

exacerbated when the weapons have wide area effects because they have a large blast or fragmentation radius, are inaccurate, or deliver multiple munitions at once.[5]

The International Network on Explosive Weapons (INEW) was co-founded in 2011 by Human Rights Watch and other nongovernmental organizations to raise awareness of and urge states to address these foreseeable and well-documented humanitarian consequences. In October 2019, representatives of 130 states gathered in Austria for the Vienna Conference on Protecting Civilians in Urban Warfare. Ireland subsequently convened several rounds of consultations to develop a shared understanding of the problem and to produce commitments to address it. The final text of the Declaration was agreed upon in Geneva in June 2022 and formally adopted in Dublin on November 18, 2022.[6]

The Declaration is the product of close collaboration among states; United Nations agencies, particularly the Office for the Coordination of Humanitarian Affairs (OCHA); international organizations, notably the International Committee of the Red Cross (ICRC); and civil society organizations coordinated by INEW.

The Declaration aims to advance the protection of civilians from the use of explosive weapons in populated areas.[7] Its preamble recognizes the practice's "devastating impact on civilians and civilian objects." The Declaration's operative paragraphs enumerate commitments to reduce that impact, including through national policies and practices, data collection, victim assistance, and humanitarian access.[8] The introduction, or "chapeau," to the operative section articulates the document's overarching purpose and notes that the Declaration commits states to "strengthening compliance with and improving the implementation of applicable international humanitarian law." It also makes clear that the Declaration, while

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[5] For more information on the effects of the use of explosive weapons in populated areas, see Human Rights Watch and IHRC, *Key Questions and Answers on a Political Declaration on the Use of Explosive Weapons in Populated Areas*, June 2, 2020, https://www.hrw.org/news/2020/06/02/key-questions-and-answers-political-declaration-use-explosive-weapons-populated; Human Rights Watch and IHRC, *Safeguarding Civilians: A Humanitarian Interpretation of the Political Declaration on the Use of Explosive Weapons in Populated Areas*, October 26, 2022, https://www.hrw.org/sites/default/files/media_2022/10/HRWIHRC_EWIPA%20interpretation_final_0.pdf.

[6] Stephen Goose, "Landmark Global Declaration on Explosive Weapons," commentary, Human Rights Watch Dispatch, November 21, 2022, https://www.hrw.org/news/2022/11/21/landmark-global-declaration-explosive-weapons.

[7] This purpose of the Declaration can be seen not only in it provisions but also in its title: the "Political Declaration on *Strengthening the Protection of Civilians from the Humanitarian Consequences* Arising from the Use of Explosive Weapons in Populated Areas" (emphasis added). For further discussion of how to interpret the Declaration, see Human Rights Watch and IHRC, *Safeguarding Civilians: A Humanitarian Interpretation of the Political Declaration on the Use of Explosive Weapons in Populated Areas*, p. 4.

[8] See, for example, Declaration, paras. 3.3, 1.8, 3.4, 4.2, 4.3, and 4.5.

non-binding, goes beyond existing international law by committing endorsing states to taking additional steps to advance humanitarian ends. Elaborating on the goals expressed in the Declaration's title, the chapeau specifically highlights "strengthening the protection of civilians" and "addressing the humanitarian consequences arising from armed conflict." These commitments thus refer to the prevention and remediation of harm from explosive weapons in populated areas.[9]

The links between explosive weapons and cultural heritage have not been explored in depth, but the connection is clear, and the evidence of harm is strong. The Declaration explicitly enumerates among its list of effects the "damage and destruction of … cultural heritage sites" and associated "civilian suffering."[10] That harm encompasses physical damage to cultural heritage sites as well as multiple reverberating effects on local communities and humanity as a whole. Consistent with the civilian protection goals of the Declaration and as discussed further in Chapter IV, it is therefore critical to interpret and implement the instrument in a way that improves protection for cultural heritage from the adverse effects of explosive weapons.

What is Cultural Heritage?

There are different legal definitions of "cultural heritage," and experts in art history, archaeology, and other related fields have elaborated on the concept. The Declaration does not define what it refers to as "cultural heritage sites," but states can look to these sources when interpreting and implementing the Declaration in a way that maximizes cultural heritage protection.

The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict provides a definition of the related term "cultural property," which is often used in the armed conflict context.[11] Article 1 outlines the following three categories of cultural property:

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[9] Declaration, part B, chapeau. For an analysis of this text, see Human Rights Watch and IHRC, *Safeguarding Civilians: A Humanitarian Interpretation of the Political Declaration on the Use of Explosive Weapons in Populated Areas*, p. 4.
[10] Declaration, para. 1.5.
[11] Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted May 14, 1954, 249 U.N.T.S. 215, entered into force August 7, 1956 (1954 Hague Convention), art. 1. Dmytro Koval of Truth Hounds said the 1954 Hague Convention definition was appropriate when documenting existing violations of international humanitarian law. Human Rights Watch and IHRC video interview with Dmytro Koval, legal director, Truth Hounds, November 7, 2023. Additionally, Mwatana for Human Rights used that definition in a report seeking to document violations of the 1954 Hague Convention. Mwatana for Human Rights, *The Degradation of History: Violations Committed by the Warring Parties against Yemen's*

> (a) movable or immovable property of great importance to the cultural heritage of every people…;
> (b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a)…;
> (c) centers containing a large amount of cultural property as defined in sub-paragraphs (a)and (b), to be known as "centers containing monuments."

The definition, which also gives examples of each category, encompasses a broad range of cultural property, including immovable structures (e.g., "monuments of architecture, art or history, whether religious or secular"); movable objects (e.g., paintings and other works of art, books, manuscripts, etc.); and buildings that house the latter (e.g., museums, archives, and libraries). The definition also establishes a threshold of significance for something to amount to cultural property by stipulating that it must be "of great importance to the cultural heritage of every people."

The Hague Convention's approach offers the benefits of breadth of coverage with specificity of examples, but it also has some limitations. It employs the term "cultural *property*," rather than "cultural *heritage*," while more recent international law favors the latter term.[12] Cultural property "emphasize[s] the idea of property as something you own and the right to do what you want with it."[13] Cultural heritage, by contrast, focuses on human achievements that belong to groups collectively and can be passed from one generation to another.[14]

Cultural heritage, unlike cultural property covered by the 1954 Hague Convention, can be tangible or intangible.[15] The 2003 Convention for the Safeguarding of the Intangible Cultural

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Cultural Property, November 2018, https://www.mwatana.org/posts-en/the-degradation-of-history-2 (accessed February 20, 2024), p. 14. The Yemen Data Project, which focuses more on collecting open-source data on civilian casualties than proving specific violations, by contrast, adopted the UNESCO definition of "cultural heritage." Human Rights Watch and IHRC video interview with Iona Craig, representative, Yemen Data Project, April 6, 2023.

[12] Human Rights Watch and IHRC video interview with Patty Gerstenblith, distinguished research professor of law and faculty director of Center for Art, Museum and Cultural Heritage Law, DePaul College of Law, November 10, 2023.

[13] Ibid. See also Human Rights Watch and IHRC video interview with Dmytro Koval, January 17, 2024.

[14] See, for example, the Oxford English Dictionary's definitions of "cultural" and "heritage." "Cultural," *Oxford English Dictionary Online,* revised 2008, https://www.oed.com/dictionary/cultural_adj?tab=factsheet#7739946 (accessed February 26, 2024) ("Of, belonging to, or relating to the culture of a particular society, people, or period."); "Heritage," *Oxford English Dictionary Online,* revised 1989, https://www.oed.com/search/dictionary/?scope=Entries&q=heritage (accessed February 26, 2024) ("That which has been or may be inherited").

[15] Human Rights Watch and IHRC video interview with Lamya Khalidi, archeologist, permanent researcher with the French National Center for Scientific Research at the University Cote d'Azur, Nice, and member of the French Center for Studies of the Arabian Peninsula (CEFREPA) and the American Institute for Yemeni Studies (AIYS), May 11, 2023; Human Rights Watch and IHRC video interview with Dmytro Koval, November 7, 2023.

Heritage defines intangible cultural heritage as "practices, representations, expressions, knowledge, skills—as well as the instruments, objects, artefacts and cultural spaces associated therewith—that communities, groups and, in some cases, individuals recognize as part of their cultural heritage."[16]

The 1954 Hague Convention also judges value in relation to the world at large, by limiting the scope of its definition in Article 1 to cultural property that is of "great importance" to "every people."[17] Current scholarship, by contrast, tends to emphasize the significance of cultural heritage based on its meaning to local communities.[18]

Experts interviewed by Human Rights Watch and IHRC reinforced and elaborated on the meaning of cultural heritage. Alice Sullivan, a Tufts University art history professor who specializes in Eastern European and Byzantine-Slavic culture, reiterated that cultural heritage should be understood to take a variety of forms.[19] When speaking about Ukraine, she gave the examples of monumental architecture, city plans, religious icons, and textiles.[20] She also mentioned other media, such books and documents.[21]

Age is not an essential criterion for cultural heritage. Archaeologists and art historians provided examples that ranged from ancient sites to Soviet-era buildings.[22] Capturing the temporal aspect of cultural heritage, Viktor Dvornikov, an architect and restorer from Kharkiv, Ukraine, noted that cultural heritage encompasses objects that not only reflect the

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[16] Convention for the Safeguarding of the Intangible Cultural Heritage, adopted October 17, 2003, entered into force April 20, 2006, art. 2(1).
[17] Convention for the Protection of Cultural Property in the Event of Armed Conflict, art. 1.
[18] See, for example, Marc-André Renold and Alessandro Chechi,"International Human Rights Law and Cultural Heritage," *Cultural Heritage and Mass Atrocities*, eds. James Cuno and Thomas G. Weiss (2022), https://www.getty.edu/publications/cultural-heritage-mass-atrocities/part-4/23-renold-chechi/ (accessed February 26, 2024); Janine Clark, "The Destruction of Cultural Heritage in Armed Conflict: The 'Human Element' and the Jurisprudence of the ICTY," *International Criminal Law Review*, vol. 18 (2018), https://doi.org/10.1163/15718123-01801005 (accessed February 26, 2024), p. 40; Sinéad Coakley and Pádraig McAuliffe, "Picking up the Pieces: Transitional Justice Responses to Destruction of Tangible Cultural Heritage,"*Netherlands Quarterly of Human Rights*, vol. 40, no. 3 (2022), https://doi.org/10.1177/09240519221113121 (accessed February 26, 2024), p. 313.
[19] Human Rights Watch and IHRC video interview with Alice Sullivan, assistant professor of the history of art and architecture, Tufts University, November 10, 2023.
[20] Ibid.
[21] Ibid.
[22] For example, Emily Channel-Justice of the Harvard Ukrainian Research Institute explained that, for example, Soviet-era architecture, even if more modern, deserved attention, saying, "Everything has value." Human Rights Watch and IHRC interview with Emily Channell-Justice, director, Temerty Contemporary Ukraine Program, Harvard Ukrainian Research Institute, Harvard University, Cambridge, MA, October 17, 2023.

history of a place but also "create an impact on the next generation."[23] Yemeni author Arwa Othman described cultural heritage as "[a]ll that is knowledge, all that humans create, and all that remains over time."[24]

Many of the experts emphasized that cultural heritage is closely linked to social identity. Olenka Pevny, an associate professor of Ukrainian Studies at the University of Cambridge, described cultural heritage as "any elements that are important to the identity-building process of individual groups and collective groups in a given country."[25] Her understanding reflects the growing concern for local perspectives of a site or object. Lamya Khalidi, an archaeologist and researcher with expertise in Yemen, told Human Rights Watch and IHRC: "Cultural heritage and populations are inextricably tied…. [O]ne cares about buildings because that's what keeps people united and anchored and gives them identity."[26]

Communities need not be monolithic but can represent a variety of religions and ethnicities that culture helps to bring together.[27] Othman said she associated cultural heritage with "open-minded[ness] toward others and the multiplicity found in cultures."[28]

While characterized primarily for its historic, artistic, scientific, religious, social, or other significance to a community or to humanity, cultural heritage can have more practical significance as well.[29] Cultural heritage educates those who visit monuments or museums, archaeological sites or archives, about history, culture, and art, and can build bridges by increasing awareness of shared traditions.[30] It can also generate economic benefits, including through tourism.[31] Finally, cultural heritage plays a role in daily activities.[32] People who live

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[23] Human Rights Watch and IHRC video interview with Viktor Dvornikov, Ukrainian architect and restorer, March 19, 2024.
[24] Human Rights Watch and IHRC video interview with Arwa Othman, Yemeni author, February 18, 2024.
[25] Human Rights Watch and IHRC video interview with Olenka Pevny, associate professor in Ukrainian studies and in Medieval and Early Modern Slavonic studies, University of Cambridge, December 15, 2023.
[26] Human Rights Watch and IHRC video interview with Lamya Khalidi, May 11, 2023.
[27] "You should take a broad view not only of the medium of cultural heritage but also of the cultures of the region." Human Rights Watch and IHRC video interview with Alice Sullivan, November 10, 2023.
[28] Human Rights Watch and IHRC video interview with Arwa Othman, February 18, 2024.
[29] Coakley and McAuliffe, "Picking up the Pieces: Transitional Justice Responses to Destruction of Tangible Cultural Heritage," *Netherlands Quarterly of Human Rights*, p. 314.
[30] Ibid.
[31] Human Rights Watch and IHRC video interview with Corine Wegener, director, Smithsonian Cultural Rescue Initiative, November 9, 2023.
[32] Coakley and McAuliffe, "Picking up the Pieces: Transitional Justice Responses to Destruction of Tangible Cultural Heritage," *Netherlands Quarterly of Human Rights*, pp. 312-313.

nearby may worship in landmark religious buildings, attend school in historic universities, or live in architecturally significant city centers.

The Declaration does not explicitly define the term cultural heritage, but it refers to "cultural heritage sites." Its inclusion of the word "sites" implies that it generally focuses on tangible cultural heritage. Nevertheless, "sites" should be understood broadly to include not only museums, archives, libraries, and the like, but the movable cultural heritage they contain. It is also worth noting that the legal definition of intangible cultural heritage does include "instruments, objects, artefacts and cultural spaces," all of which could be damaged by explosive weapons, and protecting that list of civilian objects can help protect other elements of intangible heritage. Because the Declaration uses the more current term cultural heritage rather that cultural property, it should be interpreted to protect heritage that is of local significance as well universal value. This report uses "cultural heritage" as a shorthand term to cover the concept discussed in our testimonial and desk research as well as the Declaration.

The Significance of Cultural Heritage

The significance of cultural heritage, globally and locally, makes its destruction in armed conflict a matter of serious concern. As noted above, the Declaration references damage and destruction of cultural heritage sites and the associated civilian suffering. While the use of explosive weapons in populated areas inflicts harm ranging from death and injury to psychological trauma to destruction of infrastructure, the devastating impacts on cultural heritage also warrant close attention. Protection of cultural heritage can help communities recover, preserve intergenerational connections, and save sites of existential meaning to civilians.

Because cultural heritage makes individuals part of a community, damaging it has psychosocial effects that can interfere with post-conflict recovery.[33] Action on Armed Violence (AOAV), a nongovernmental organization that monitors explosive weapons use around the world, found that "[e]xplosive violence does more than just harm in a physical

[33] Emma Cunliffe, Nibal Muhesen, and Marina Lostal, "The Destruction of Cultural Property in the Syrian Conflict: Legal Implications and Obligations," *International Journal of Cultural Property,* vol. 23 (2016), https://www.cambridge.org/core/services/aop-cambridge-core/content/view/5B81E9C84C7F9B24FA0C4F1E9FA50CAF/S0940739116000011a.pdf/the-destruction-of-cultural-property-in-the-syrian-conflict-legal-implications-and-obligations.pdf (accessed February 26, 2024).

way—it has the ability to transform landscapes and cause deep cultural trauma."[34] According to a Syrian architect, people in Homs felt like "strangers in their own city" after it was heavily shelled: "They feel disorientated and have lost their sense of belonging, where they have lost not only the faces they used to see, but also the buildings, shops, and streets they used and visited."[35] According to the director of the Smithsonian Cultural Rescue Initiative, Corine Wegener, cultural heritage should be protected because people need it for recovery, resilience, and economic reasons.[36] She recalled discussing the significance of loss of cultural heritage with a survivor of a major earthquake in Haiti, which she analogized to a conflict situation. While the man mourned the deaths of his fellow citizens, he told her: "The dead are dead, but without our heritage the rest of us can't keep going."[37] Ukrainian studies professor Olenka Pevny described cultural heritage as a "lifeline … something to live for."[38] Destroying cultural heritage deprives people of the healing function of heritage.

Cultural heritage is passed from one generation to another, and its loss breaks that chain. Responding to the 1993 destruction of Stari Most ("Old Bridge") in Mostar, Bosnia and Herzegovina, Croatian author Slavenka Drakulić wrote:

> We expect people to die. We count on our own lives to end. The destruction of a monument to civilization is something else. The bridge, in all its beauty and grace, was built to outlive us; it was an attempt to grasp eternity. Because it was the product of both individual creativity and collective experience, it transcended our individual destiny. A dead woman is one of us—but the bridge is all of us, forever.[39]

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[34] "The Reverberating Effects of Explosive Weapons Use in Syria," Action on Armed Violence, January 2019, https://aoav.org.uk/wp-content/uploads/2019/01/Reverberating-effects-of-explosive-weapons-in-Syria.V5.pdf (accessed February 26, 2024).
[35] Ibid., p. 31.
[36] Human Rights Watch and IHRC video interview with Corine Wegener, November 9, 2023.
[37] Ibid.
[38] Human Rights Watch and IHRC video interview with Olenka Pevny, December 15, 2023.
[39] Jadranka Petrovic, *The Old Bridge of Mostar and Increasing Respect for Cultural Property in Armed Conflict* (Leiden: Martinus Nijhoff Publishers, 2013), p. 87.

Stari Most, a 16th-century Ottoman-era bridge, in Mostar, Bosnia and Herzegovina, shown here in 1910. © 1910 József Plohn/Fortepan

In November 1993, Croat armed forces shelled and destroyed Stari Most over the Neretva River, in Mostar, Bosnia and Herzegovina. © 1993 AP Photo/Zoran Bozicevic

More recently, people in Ukraine and Yemen who documented cultural heritage destruction in their countries expressed similar sentiments. Volodymyr Yermolenko, president of PEN Ukraine, said, "Heritage is something that ensures a connection between the dead, the alive, and the not yet born." It goes "beyond individuals' lives" and, if preserved, allows them to connect to people of previous centuries.[40] Karina Nguyen grew up in Kharkiv, Ukraine, which has suffered significant damage to its cultural heritage since Russia's full-scale invasion in 2022. Noting that cultural heritage cannot always be restored or rebuilt, she said, "[F]or future generations, [cultural heritage] is really important."[41] Arwa Othman, a Yemeni author and former minister of culture, said that "people are destroyed when their collective memory is destroyed."[42]

Finally, the protection of cultural heritage is critical because its loss is like death to an affected community. Responding to the destruction of the ancient Assyrian city of Nimrud by the Islamic State (ISIS), for example, Sheikh Khalid al-Jabbouri said, "Nimrud was like a part of our family. This heritage was part of our lives, part of all of Iraq."[43] When asked why people should care about cultural heritage destruction in armed conflict, Ukrainian architect and restorer Viktor Dvornikov responded, "When [cultural heritage] is ruined, you … lose a connection with a place and it is very hard to restore it." He continued, "When it touches one place or one city, that is one case. But when it concerns a whole region, it causes a lot of problems."[44] Yermolenko of PEN Ukraine explained that cultural heritage is the "language of a community," which enables it to survive and to speak across place and time. While some cultures are well known around the world, hundreds of others, including Ukraine's, are not, so preservation of its heritage is essential to ensuring the community or country is not forgotten. "I truly believe this is very important," Yermolenko said. "It's a fight for existence."[45]

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[40] Human Rights Watch and IHRC video interview with Volodymyr Yermolenko, president, PEN Ukraine, March 25, 2024.
[41] Human Rights Watch and IHRC video interview with Karina Nguyen, AI researcher and former Kharkiv resident, February 1, 2024.
[42] Human Rights Watch and IHRC video interview with Arwa Othman, February 18, 2024.
[43] "Contemporary Art Installations: Finding New Ways to Connect Visitors to the Ancient Past," University of Chicago Institute for the Study of Ancient Cultures, https://isac.uchicago.edu/contemporary-art-installations (accessed March 3, 2024) (quotation from gallery label associated with Michael Rakowitz's "The Invisible Enemy Should Not Exist.").
[44] Human Rights Watch and IHRC video interview with Viktor Dvornikov, March 19, 2024.
[45] Human Rights Watch and IHRC video interview with Volodymyr Yermolenko, March 25, 2024.

States should recognize that the protection of cultural heritage and the protection of civilians during armed conflict, including from the use of explosive weapons in populated areas, are both essential and not mutually exclusive.

II. Cultural Heritage at Risk: The Case of Ukraine

The use of explosive weapons in populated areas in contemporary armed conflicts endangers cultural heritage around the world. The ongoing war in Ukraine provides a compelling case study of this problem. Russian and Ukrainian forces have used explosive weapons extensively; the effects of Russian forces' use on different types of cultural heritage in Ukraine is well documented; and culture is central to Ukrainian identity and to Russia's stated war aims. The damage and destruction discussed below exemplify the frequency, diversity, and gravity of the effects of explosive weapons on cultural heritage and why these effects matter to the civilian population.

This chapter seeks to illuminate the risks that cultural heritage faces from the use of explosive weapons in populated areas in Ukraine. It documents five examples of attacks on and impacts to cultural heritage, examining the details of the damage or destruction and the significance of the loss. The study of specific Ukrainian museums, urban cultural centers, and places of worship is indicative of a larger humanitarian problem in this armed conflict and others across different times and places. A similar story is unfolding in Gaza; the extent of damage to its cultural heritage should be fully documented and analyzed as soon as conditions on the ground allow.

Context

Since Russia initiated a full-scale invasion of Ukraine on February 24, 2022, its war against Ukraine has had a disastrous impact on civilian life and inflicted significant harm on civilians and civilian property and infrastructure. Much of this harm has been caused by indiscriminate and disproportionate bombing and shelling of civilian areas by Russian forces, which have had widespread humanitarian consequences.[46]

According to the UN, the vast majority of civilian casualties in the war have resulted from the use of explosive weapons in populated areas. As of February 22, 2024, the Office of the United Nations High Commissioner for Human Rights (OHCHR) had recorded 30,457 civilian

[46] See generally "Ukraine: Events of 2023," Human Rights Watch, *World Report 2024*, https://www.hrw.org/world-report/2024/country-chapters/ukraine.

casualties, including 10,582 deaths, since the beginning of the war.[47] OHCHR reports that out of that total, explosive weapons with wide area effects—such as "shelling from artillery, tanks and multiple launch rocket systems, cruise and ballistic missiles (air, sea and land-based), and air strikes, including loitering munitions and other unmanned aerial vehicles"—have caused at least 27,716 casualties, including 8,898 deaths.[48] The UN has also stated that "the vast majority of casualties from explosive weapons took place in territory controlled by the Government of Ukraine and was therefore in most cases likely a result of attacks launched by Russian armed forces."[49]

The war has also had a significant impact on Ukraine's cultural heritage. As of January 2024, Ukraine's Ministry of Culture and Information Policy had documented almost 3,000 cases of damage to cultural heritage.[50] PEN America and PEN Ukraine have written that Russia's war effort has led to the damage or destruction of "hundreds of cultural buildings and objects, including museums, theaters, monuments, statues, places of worship, cemeteries, historical buildings, libraries, archives, … schools and universities[,] … local cultural centers ("houses of culture"), concert venues and stadiums, and other locations where people access culture in their communities."[51] As of mid-March 2024, UNESCO reported verifying damage to 346 cultural properties based on its preliminary

[47] "Two-Year Update: Protection of Civilians: Impact of Hostilities on Civilians since 24 February 2022," UN Office of the High Commissioner for Human Rights (OHCHR), February 22, 2024, https://www.ohchr.org/sites/default/files/2024-02/two-year-update-protection-civilians-impact-hostilities-civilians-24.pdf (accessed February 25, 2024).
[48] Ibid. Both Russia and Ukraine have used cluster munitions, a type of explosive weapon, which is banned under the Convention on Cluster Munitions. Although neither state is party to that treaty, their use raises question under international humanitarian law. See, for example, Cluster Munition Coalition, *Cluster Munition Monitor 2023*, https://www.the-monitor.org/media/3383234/Cluster-Munition-Monitor-2023_Web.pdf (accessed March 3, 2024), pp. 13-15; "Ukraine: Civilian Deaths from Cluster Munitions," Human Rights Watch news release, July 6, 2023, https://www.hrw.org/news/2023/07/06/ukraine-civilian-deaths-cluster-munitions.
[49] "Two-Year Update: Protection of Civilians: Impact of Hostilities on Civilians since 24 February 2022," OHCHR.
[50] The ministry documented the damage or destruction of 902 "cultural heritage sites," including architectural landmarks, historical sites, and urban planning and monumental art sites, and the damage or destruction of 1,938 "objects of cultural infrastructure," including creative hubs, libraries, educational institutions, theaters, and museums. "Due to Russian Aggression in Ukraine, 902 Cultural Heritage Sites Have Been Affected," Ministry of Culture and Information Policy of Ukraine, February 8, 2024, https://mcip.gov.ua/en/news/due-to-russian-aggression-in-ukraine-902-cultural-heritage-sites-have-been-affected/ (accessed February 25, 2024); "1938 Cultural Infrastructure Objects Have Suffered Damage or Destruction due to Russian Aggression," Ministry of Culture and Information Policy of Ukraine, February 6, 2024, https://mcip.gov.ua/en/news/1938-cultural-infrastructure-objects-have-suffered-damage-or-destruction-due-to-russian-aggression/ (accessed February 25, 2024).
[51] PEN America and PEN Ukraine, *Ukrainian Culture Under Attack: Erasure of Ukrainian Culture in Russia's War Against Ukraine*, December 2022, https://pen.org/wp-content/uploads/2022/12/Ukraine-Culture-Under-Attack-12-20-22.pdf (accessed February 25, 2024), pp. 20-21.

assessments.[52] Given the widespread impact of the use of explosive weapons in populated areas, it is likely responsible for a significant portion of the cultural heritage damage in such areas.

The destruction of cultural heritage from the use of explosive weapons has added significance in this armed conflict because culture is central to Russia's justification for invading Ukraine, its denial of Ukraine's statehood and sovereignty, and its apparent intent to erase Ukrainian identity. In an address on February 21, 2022, Russian President Vladimir Putin laid the groundwork for a full-scale invasion. In making his arguments, he noted, "I would like to emphasise again that Ukraine is not just a neighbouring country for us. It is an inalienable part of our own history, culture and spiritual space."[53] Responding to such statements, the director of the Maidan Museum, Ihor Poshyvailo, described the war as a "heritage war," while Olesia Ostrovska-Liuta, the director of the National Art and Culture Museum Complex in Kyiv, explained that "culture is in the very core of the war."[54]

Cultural heritage destruction in Ukraine affects civilians at the time it happens and will have reverberating impacts as the country seeks to rebuild and affirm its identity. Because Russian authorities have called into question "Ukrainian identity and sovereignty," Liesl Gerntholtz, inaugural director of the PEN/Barbey Freedom to Write Center at PEN America said, the "attacks on culture are experienced by Ukrainians more painfully than attacks on other civilian infrastructure."[55] Attacks that destroy cultural heritage "underscore[] what is lost and is not coming back" and "undermine[] [Ukrainian] resiliency and identity."[56]

Local Museums and Archives

From the very beginning of the conflict, cultural heritage in Ukraine has been at risk. The use of explosive weapons in populated areas of Ukraine destroyed multiple small but

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[52] "Damaged Cultural Sites in Ukraine Verified by UNESCO," UNESCO, updated March 18, 2024, https://www.unesco.org/en/articles/damaged-cultural-sites-ukraine-verified-unesco?hub=66116 (accessed March 21, 2024).
[53] Address by the President of the Russian Federation, The Kremlin, Moscow, February 21, 2022, http://en.kremlin.ru/events/president/news/67828 (accessed February 25, 2024).
[54] Eric Morse, "While Speaking about Preserving Ukrainian Cultural Heritage, Air Raid Warnings Sounded," *American Association for State and Local History*, May 2, 2022, aaslh.org/preservingukrainianculture/ (accessed September 20, 2023).
[55] Human Rights Watch and IHRC video interview with Liesl Gerntholtz, inaugural director, PEN/Barbey Freedom to Write Center, January 26, 2024.
[56] Ibid.

significant local museums, such as the Ivankiv Local History Museum and the National Literary and Memorial Museum of Hryhorii Skovoroda. Both contained works from individuals at the heart of Ukrainian artistic and literary identity. Both were left in ruins due to a combination of the weapons' blast effects and ensuing fires.

Ivankiv Local History Museum

Fires resulting from the Russian shelling of Ivankiv, a town north of Kyiv, burned and destroyed the local history and art museum on the second and third day of Russia's full-scale invasion. The Ivankiv Local History Museum housed art and artifacts of local and national heritage.[57] In particular, it held the works of the well-known 20th-century Ukrainian folk artist Maria Prymachenko, who had been a resident of Ivankiv. The destruction of the museum and some of its collections demonstrates the vulnerability of movable cultural heritage to the use of explosive weapons in populated areas.

Before it was destroyed, the Ivankiv Local History Museum in the town of Ivankiv, north of Kyiv, Ukraine, housed art and artifacts of local and national heritage, including works by the renowned Ukrainian folk artist Maria Prymachenko. © 2022 Private

[57] PEN America and PEN Ukraine, *Ukrainian Culture Under Attack: Erasure of Ukrainian Culture in Russia's War Against Ukraine*, p. 23

Truth Hounds, a Ukrainian nongovernmental organization that has been documenting war crimes and other laws of war violations during the armed conflict, interviewed Natalia Leonidivna Kharitonova, the deputy director of the Center for Children's and Youth Creativity in Ivankiv and wife of Anatoliy Kharitonov, one of the museum's security guards. She said that shelling began in the town on February 25, 2022. Before the arrival of Russian troops, museum staff had already started securing Maria Prymachenko's works in a container on the museum's grounds.[58]

After the initial shelling ended, Kharitonova noticed that a munition had hit the roof of the museum. At that point, the museum remained largely intact, although the roof sustained some damage. More shelling occurred later, however, and a fire started, igniting quickly because of the strong wind.[59] Despite initial reports to the contrary, thanks to rescue efforts led by Anatoliy Kharitonov, all 14 works by Prymachenko were saved.[60] Natalia Kharitonova, who went to the museum after the attack, noted, however, that fire had burned exhibits detailing the district's history, "pre-revolutionary materials, various certificates, towels by Hanna Veres (a famous folk weaver), paintings by Savchenko, Ignatiuk, Skopych, and works of the 19th century."[61] The fire was so intense that stone axes from the Medieval period cracked.[62] Dmytro Koval, the legal director for Truth Hounds who has expertise in cultural heritage law, visited the site at a later date and reported finding that the museum still had no roof or inside walls. He told Human Rights Watch and IHRC, "It was completely destroyed" and only a "shell of the building is left."[63]

[58] Truth Hounds interview with Natalia Leonidivna Kharitonova, Ivankiv, Ukraine, August 26, 2022 (provided by Truth Hounds to Human Rights Watch and IHRC); PEN America and PEN Ukraine, *Ukrainian Culture Under Attack: Erasure of Ukrainian Culture in Russia's War Against Ukraine*, p. 23.
[59] Truth Hounds interview with Natalia Leonidivna Kharitonova, August 26, 2022; PEN America and PEN Ukraine, *Ukrainian Culture Under Attack: Erasure of Ukrainian Culture in Russia's War Against Ukraine*, p. 23.
[60] Laura King, "Plucked from War Flames, a Beloved Ukrainian Artist's Legacy Lives On," *Los Angles Times*, May 10, 2022, https://www.latimes.com/world-nation/story/2022-05-10/ukraine-cultural-heritage-maria-prymachenko-paintings-saved (accessed February 25, 2024).
[61] Truth Hounds interview with Natalia Leonidivna Kharitonova, August 26, 2022.
[62] Ibid.
[63] Human Rights Watch and IHRC video interview with Dmytro Koval, January 17, 2024.

The Ivankiv Local History Museum, shown here in October 2022, was destroyed by explosive weapons at the beginning of Russia's full-scale invasion of Ukraine in February 2022. While its Maria Prymachenko paintings were saved, many of its other collections were lost in the fire. © 2022 Ukrainian Ministry of Culture and Information Policy

The Ivankiv Local History Museum, founded in 1981 and located in a former manor house, was best known for its collection of Prymachenko paintings. Prymachenko (1909-1997) was born a peasant and survived the Holodomor, the famine that Soviet leader Joseph Stalin imposed upon Soviet Ukraine. Working in a naïve style, she became one of Ukraine's most beloved artists.[64]

Although not all Ukrainians are aware of the Ivankiv Museum, Koval said, the Prymachenko paintings "speak to Ukrainian identity." He explained: "Her style was really distinctive from other painters in the USSR or in Europe…. Her paintings are so important for

[64] Jonathan Jones, "Cannibalism and Genocide: The Horrific Visions of Ukraine's Best Loved Artist," *Guardian*, March 18, 2022, https://www.theguardian.com/artanddesign/2022/mar/18/ukraine-best-loved-artist-peasant-maria-prymachenko-terrifying-fooled-stalin-dictator (accessed February 25, 2024).

reconstructing Ukrainian identity."[65] Volodymyr Yermolenko of PEN Ukraine described Prymachenko as "a real legendary figure." He attributed her significance and popularity to her independence from academia and to her use of traditional and natural imagery.[66] UNESCO declared that 2009 was the "year of Maria Prymachenko," and she appeared on the country's stamps in the 1970s.[67] The artist has also been recognized internationally both in her lifetime and more recently.[68]

Prymachenko's importance to the people of Ivankiv is evident by their actions before and during the shelling. Efforts were taken to remove her paintings for safekeeping in advance of the arrival of the Russian army. In addition, local people risked their lives to save her paintings during the fire. Anatoliy Kharitonov, along with other men, removed bars over the windows, broke the glass, and climbed inside, passing out paintings to 10 other people. In this way, Prymachenko's paintings and other exhibits were saved.[69] Asked about the threat to the paintings and loss of the museum that housed them, Emily Channell-Justice, an anthropologist at the Harvard Ukrainian Research Institute, said, "Anyone would say this destruction is unacceptable. It's Ukrainian heritage."[70]

National Literary Memorial Museum of Hryhorii Skovoroda

Attacks on local museums continued as the war continued. On May 6, 2022, at 11:30 p.m., a Russian explosive weapon hit the roof of the National Literary and Memorial Museum of Hryhorii Skovoroda in Skovorodynivka in the Kharkivska region, sparking a fire.[71] The fire, which was not fully extinguished until 8 a.m. the following day, caused significant damage to the site. The museum was important because it was the last home of Hryhorii Skovoroda, a major Ukrainian philosopher, theologian, poet, and academic from the 18th century and because it served as the repository of collections dedicated to him. This attack

[65] Human Rights Watch and IHRC video interview with Dmytro Koval, January 17, 2024.
[66] Human Rights Watch and IHRC video interview with Volodymyr Yermolenko, March 25, 2024.
[67] Vivienne Chow, "Russian Forces Burned Down a Museum Home to Dozens of Works by Ukrainian Folk Artist Maria Prymachenko," *Artnet*, February 28, 2022, https://news.artnet.com/art-world/maria-prymachenko-ukraine-russia-2078634 (accessed February 25, 2024).
[68] Jones, "Cannibalism and Genocide: The Horrific Visions of Ukraine's Best Loved Artist," *Guardian*. See also Ukrainian Institute, "Ivankiv Local History Museum," undated, https://ui.org.ua/en/postcard/ivankiv-local-history-museum-2/ (accessed February 25, 2024).
[69] Truth Hounds interview with Natalia Leonidivna Kharitonova, August 26, 2022. See also King, "Plucked from War Flames, a Beloved Ukrainian Artist's Legacy Lives On," *Los Angeles Times.*
[70] Human Rights Watch and IHRC interview with Emily Channell-Justice, October 17, 2023.
[71] Maxim Edwards, "Clues to the Fate of Five Damaged Cultural Heritage Sites in Ukraine," *Bellingcat*, June 7, 2022, https://www.bellingcat.com/news/uk-and-europe/2022/06/07/clues-to-the-fate-of-five-damaged-cultural-heritage-sites-in-ukraine/ (accessed February 25, 2024).

exemplifies the impact that explosive weapons can have on historic homes and archives, which contain information crucial to preserving intellectual identity.

Hanna Petrivna Yarmish, in an interview with Truth Hounds, described the scope and scale of the attack.[72] She worked as a researcher at the museum on and off for 17 years. The night of the attack, she was awakened by the screams of her husband, who heard the explosion from their home, which is a 15-minute walk from the museum. As soon as curfew ended, around 6 a.m., she went to the museum and found the roof had entirely collapsed, with curtains hanging on trees, and glass and boards scattered. The museum was still burning, so she was not allowed in. Two cars belonging to the museum were also damaged. In addition, at least one of the security guards on the site was severely injured, suffering broken legs as a result of the attack.[73]

The National Literary and Memorial Museum of Hryhorii Skovoroda in the Kharkivska region of Ukraine honored the famous 18th-century philosopher with exhibitions and a memorial room. © 2011 Denis Vitchenko/Wikimedia Commons

[72] Truth Hounds interview with Hanna Petrivna Yarmish, researcher, Hryhorii Skovoroda National Literary Memorial Museum, Skovorodynivka, Ukraine, August 6, 2022 (provided by Truth Hounds to Human Rights Watch and IHRC).
[73] Ibid.

The explosive weapon attack and resulting fire severely damaged the exhibition spaces and a memorial room to Hryhorii Skovoroda (1722-1794) in the 18th-century main building. Although many of the collections had been previously removed because staff had recognized they were vulnerable to the conflict, the incident destroyed almost all of the furnishings and interior decor as well as the museum in which to house and display the saved exhibits in the future.[74] Architect and restorer Viktor Dvornikov who visited the site after the attack said that blast and fire also destroyed two other buildings on the grounds: a wooden storehouse and a nearby guest house where it is believed Skovoroda spent his last years.[75] A charred statue of Skovoroda, left intact, has become a symbol of defiance in the face of what many Ukrainians perceive as a war on Ukrainian cultural identity.[76]

After an explosive weapon fired by Russian forces hit the National Literary and Memorial Museum of Hryhorii Skovoroda on May 6, 2022, fires destroyed the main building and others on its grounds. © 2022 Head of the Kharkivska Regional Military Administration Oleh Synegubov via Twitter

Skovoroda was born into a Cossack family. His work explored questions around self-knowledge, identity, happiness, and the meaning of being.[77] Through fable and allegory, he examined the ideas of rights and equality. His simple way of life inspired many.[78] Volodymyr Lopatko, an assistant professor of civil engineering and architecture at Kharkiv National University of Civil Engineering and Architecture, said in an interview with PEN America and PEN Ukraine that Skovoroda "had a

[74] Edwards, "Clues to the Fate of Five Damaged Cultural Heritage Sites in Ukraine," *Bellingcat*.
[75] Human Rights Watch and IHRC video interview with Viktor Dvornikov, March 19, 2024.
[76] Edwards, "Clues to the Fate of Five Damaged Cultural Heritage Sites in Ukraine," *Bellingcat*; Human Rights Watch and IHRC video interview with Volodymyr Yermolenko, March 25, 2024.
[77] "Hryhorii Skovoroda Museum," Ukrainian Institute, undated, https://ui.org.ua/en/postcard/hryhorii-skovoroda-museum-en/ (accessed February 25, 2024).
[78] Nadiia Strishenets, "He Lived as He Taught, and Taught as He Lived: Ukrainian Philosopher and Poet Hryhorii Skovoroda," British Library European Studies blog, December 2, 2022, https://blogs.bl.uk/european/2022/12/he-lived-as-he-taught-and-taught-as-he-lived-ukrainian-philosopher-and-poet-hryhorii-skovoroda.html (accessed February 25, 2024).

mystical and religious belief in the equality of people … and his idea that all unequal people should be equal became the basis of his religious and mystical idea of humanity."[79]

The use of explosive weapons in this case destroyed what Dvornikov referred to as a "significant historic object."[80] The heritage site was a place that people could go to learn about and remember a person who was crucial to the development of religion and philosophy in Ukraine. Ukrainian studies professor Pevny told Human Rights Watch and IHRC that the destruction of the Skovoroda museum "strikes at the intellectual core of Ukrainian identity."[81] Pevny described him as "Ukraine's leading philosopher of the late 18th century" and as "a national figure, like George Washington or Abraham Lincoln" might be to Americans. PEN Ukraine's Volodymyr Yermolenko said that Skovoroda was "one of the pillars of Ukrainian culture" who stressed "the importance of balance, equilibrium, and education."[82] Skovoroda's philosophy and way of life left a lasting impact on Ukraine's culture. Several Ukrainian universities now bear his name, and his image appears on the 500 hryvnia note.[83]

Almost two years after the attack, money is still being raised for the museum's restoration. A recent fundraising campaign initiated in fall 2023 by the museum's team has sought to ward off further deterioration over the winter.[84] The desire to rebuild the museum speaks to its importance to the local population.

Urban Cultural Heritage

Ukraine's large cities experienced attacks on their cultural heritage in March 2022, the first full month of Russia's full-scale invasion. Use of explosive weapons in urban centers inflicted serious damage to buildings of architectural and cultural significance in, for example, Kharkiv and Mariupol. Strikes in Mariupol not only destroyed its famed drama

[79] PEN America and PEN Ukraine, *Ukrainian Culture Under Attack: Erasure of Ukrainian Culture in Russia's War Against Ukraine*, pp. 23-24.
[80] Human Rights Watch and IHRC video interview with Viktor Dvornikov, March 19, 2024.
[81] Human Rights Watch and IHRC video interview with Olenka Pevny, December 15, 2023.
[82] Human Rights Watch and IHRC video interview with Volodymyr Yermolenko, March 25, 2024.
[83] PEN America and PEN Ukraine, *Ukrainian Culture Under Attack: Erasure of Ukrainian Culture in Russia's War Against Ukraine*, p. 24.
[84] "'301 True Friend of Skovoroda': A Museum Destroyed by Russians in the Kharkiv Region Opens Fundraising," *Odessa Journal*, November 28, 2023, https://odessa-journal.com/301-true-friend-of-skovoroda-a-museum-destroyed-by-russians-in-the-kharkiv-region-opens-fundraising (accessed February 25, 2024).

theater but also killed at least 15 of the several hundred civilians seeking refuge inside.[85] As these examples illustrate, when explosive weapons are used in cities, they are more likely to damage or destroy a range of cultural heritage sites, deprive civilians of social space, and endanger civilians in the vicinity.

Kharkiv's Freedom Square and Environs

The city of Kharkiv has been repeatedly subjected to attacks with explosive weapons since the beginning of the war.[86] Many cultural heritage sites, including in Freedom Square and its environs, have been damaged by explosive weapons. Kharkiv is the second largest city in Ukraine, and its wartime experiences epitomize the risk of the use of explosive weapons to urban cultural heritage.

In Freedom Square itself, an office building called Derzhprom, or the State Industry Building, which is on the Tentative List of UNESCO World Heritage Sites,[87] suffered "some minor damage"[88] from early shelling, and on January 2, 2024, an explosive weapon shattered clear and stained glass on its northwestern façade.[89] Architect Viktor Dvornikov told a Ukrainian news source, *Suspilne Kharkiv*, after the most recent attack, "The scope of the [repair] work is very large-scale. Today's damage affects the condition of the building, because temperature fluctuations can lead to damage to the interior decoration, which is a serious problem. There are a large number of wooden structures inside Derzhprom, (and temperature fluctuations) will be very harmful."[90] A 1928 constructivist skyscraper, the Derzhprom spans the avant-garde and art-deco eras. In the Soviet era, it gained international recognition and inspired modernism around the world.[91]

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[85] Human Rights Watch, SITU Research, and Truth Hounds, *"Our City Was Gone": Russia's Devastation of Mariupol, Ukraine*, February 8, 2024, https://www.hrw.org/sites/default/files/media_2024/02/ukraine0224web_0.pdf, p. 140.
[86] Amnesty International, "Ukraine: 'Anyone Can Die at Any Time': Indiscriminate Attacks by Russian Forces in Kharkiv, Ukraine," June 13, 2022, https://www.amnesty.org/en/documents/eur50/5682/2022/en/ (accessed February 25, 2024).
[87] "Derzhprom (the State Industry Building)," UNESCO World Heritage Centre, undated, whc.unesco.org/en/tentativelists/6249/ (accessed February 25, 2024).
[88] Human Rights Watch and IHRC video interview with Dmytro Koval, January 17, 2024.
[89] Maria Solodovnik and Olena Klymenko, "Derzhprom Was Damaged as a Result of the Russian Attack on Kharkiv on January 2" ("Держпром зазнав пошкоджень внаслідок атаки РФ на Харків 2 січня"), *Suspilne Novyny,* January 2, 2024, https://suspilne.media/214144-zrujnovanij-harkiv-ak-vigladae-misto-pisla-rosijskih-bombarduvan/ (accessed February 25, 2024).
[90] Solodovnik and Klymenko, "Derzhprom Was Damaged as a Result of the Russian Attack on Kharkiv on January 2" ("Держпром зазнав пошкоджень внаслідок атаки РФ на Харків 2 січня"), *Suspilne Novyny*; The New Voice of Ukraine, "Historic Kharkiv Building, a National Landmark, Needs Major Repairs after Russian Attack," *Yahoo News*, January 3, 2024, https://news.yahoo.com/historic-kharkiv-building-national-landmark-140600938.html (accessed February 25, 2024).
[91] Human Rights Watch and IHRC video interview with Dmytro Koval, January 17, 2024; "Derzhprom (the State Industry Building)," UNESCO World Heritage Centre.

Derzhprom is part of a larger culturally significant neighborhood that Dvornikov described as a monument of constructivism and "one united piece of cultural heritage." The January 2 attack caused serious damage to a residential building located in that area and immediately behind Dzerzhprom. Dvornikov, who has observed the damage, reported finding significant cracks across four floors of the structure, which forced all the residents to evacuate.[92]

Explosive weapons also damaged several architectural and historic landmarks near Freedom Square in March 2022 and at later points in the conflict. Due to an explosive weapons attack on March 2, 2022, the Palace of Labor suffered the "heaviest damage" to one such object in that area, according to Dvornikov, who saw the building later that year. "I haven't seen any one place with such a high level of ruin…. Everywhere was totally damaged," he said. He found fallen slabs of roof, five stories of collapsing walls, crumbling interior plaster walls and ceilings. Some of the exterior walls survived because they were made of sturdier masonry, but the interior wooden structure could not survive the detonation of explosive weapons.[93] An apartment building constructed in the early 20th century, the Palace of Labor combined the art nouveau and neoclassical styles and has been described as an "architectur[al] and urban development monument of local significance."[94]

Five days after the attack on the Palace of Labor, Russian shelling broke windows and caused damage to the roof and walls of the Slovo Building, a well-known home for Soviet writers, poets, and artists in the 1920s.[95] "Слово," or "Slovo," means "word" in Ukrainian, and the building, designed in the constructivist style, has the footprint of a Cyrillic letter "C." Although the building was less severely damaged than the Palace of Labor, Olenka Pevny described it as having a "huge intellectual significance for Ukrainian culture" because of those who lived and created inside its walls.[96]

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[92] Human Rights Watch and IHRC video interview with Viktor Dvornikov, March 19, 2024.
[93] Ibid. See also Maria Solodovnik and Marina Vereshchaka, "Ruined Kharkiv: What the City looks Like after the Russian Bombing" ("Зруйнований Харків: як виглядає місто після російських бомбардувань"), *Suspilne Novyny,* March 6, 2022, https://suspilne.media/214144-zrujnovanij-harkiv-ak-vigladae-misto-pisla-rosijskih-bombarduvan/ (accessed February 25, 2024).
[94] "Palace of Labour," Ukrainian Institute, https://ui.org.ua/en/postcard/palace-of-labour/ (accessed February 25, 2024).
[95] Vira Aheeva, "The Two Assaults on the Slovo Writers' House in Kharkiv," *Chytomo*, April 21, 2022, https://chytomo.com/en/the-two-assaults-on-the-slovo-writers-house-in-kharkiv/ (accessed February 25, 2024); Constructivism Kharkiv, "The Slovo Building," https://constructivism-kharkiv.com/en/objects/77-05-45-house-word (accessed February 25, 2024).
[96] Human Rights Watch and IHRC video interview with Olenka Pevny, December 15, 2023.

Built in the early 20th century, the Palace of Labor near Freedom Square in Kharkiv, Ukraine, combines art nouveau and neoclassical styles. © 2011 Boris Mavlyutov/Wikimedia Commons

Explosive weapons used by Russian forces in March 2022 extensively damaged the roof, courtyard walls and windows, and interior rooms of the Palace of Labor in Kharkiv, Ukraine, as shown in this photograph taken in November 2022. © 2022 Viktor Dvornikov

Explosive weapons also damaged museums and libraries in Kharkiv. On March 2, 2022, for example, attacks with explosive weapons near the Kharkiv Art Museum broke its windows and damaged its facades, and in so doing, put at risk many of its 25,000 paintings.[97] As Marina Filatova, head of the foreign art department at the museum, said: "The workers who stayed in the city are trying to remove everything, hide it, save it as much as possible.… It is impossible to keep the right temperature and humidity in the room because of the broken windows."[98] The museum houses "one of the oldest and most valuable art collections in Ukraine."[99] On March 13, 2022, the Kharkiv Korolenko State Scientific Library, the second largest library in Ukraine, suffered damage to the windows and facades of the main building as well as to the grand piano on its premises that had been played by the composer Sergei Rachmaninoff.[100] This damage affected its climate control system endangering the preservation of book collections; an early estimate by Director Natalia Petrenko was that it would take nearly one million hryvnias (US$26,000) to restore the building.[101]

Educational institutions were similarly affected. In March 2022, Russian shelling hit the V.N. Karazin Kharkiv National University, damaging many of its buildings.[102] According to the university's website, the history of the university is "part and parcel of the intellectual, cultural, and spiritual history of Ukraine."[103]

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[97] Vitalii Hnidyi, "Ukrainian Museum Scrambles to Save Russian Art from Russians," *Reuters*, March 9, 2022, https://www.reuters.com/world/europe/ukraine-museum-scrambles-save-russian-art-russians-2022-03-09/ (accessed February 25, 2024); Conor Devlin, "Is Russia Intentionally Targeting Ukraine's Cultural Landmarks," *NBC News*, March 28, 2022, https://www.nbcnews.com/news/world/russia-intentionally-targeting-ukraines-cultural-landmarks-rcna21604 (accessed February 25, 2024).

[98] Marina Vereshchaka and Alyona Ryazantseva, "'We Save the Paintings of Russian Artists from Their People': Kharkiv Art Museum after Shelling" ("'Картини російських художників рятуємо від їхнього народу': Харківський худмузей після обстрілів"), *Suspilne Novyny,* March 8, 2022, https://suspilne.media/215257-kartini-rosijskih-hudoznikiv-ratuemo-vid-ihnogo-narodu-harkivskij-hudmuzej-pisla-obstriliv/ (accessed February 25, 2024).

[99] "Historical Background" ("Історична довідка"), Kharkiv Art Museum (Харківський Художній Музей), https://artmuseum.kh.ua/istorichna-dovidka.html (accessed February 25, 2024).

[100] PEN America and PEN Ukraine, *Ukrainian Culture Under Attack: Erasure of Ukrainian Culture in Russia's War Against Ukraine*, pp. 31-32.

[101] "What Kharkiv's Largest Library Looks Like after the Shelling—Video" ("Який вигляд має найбільша бібліотека Харкова після обстрілів—відео"), *Vgorode Kharkiv*, March 13, 2022, https://kh.vgorode.ua/ukr/news/sobytyia/a1200545-jakij-vihljad-maje-najbilsha-biblioteka-kharkova-pislja-obstriliv-video (accessed April 1, 2024).

[102] Allison McCann, Lazaro Gamio, Denise Lu, and Pablo Robles, "Russia Is Destroying Kharkiv," *New York Times*, March 17, 2022, https://www.nytimes.com/interactive/2022/03/17/world/europe/russia-destroying-kharkiv.html (accessed February 25, 2024); Nathan M. Greenfield, "Crimes against the World—Russia's Attacks on Universities," *University World News*, August 14, 2022, https://www.universityworldnews.com/post.php?story=20220812192726870#:~:text=Russian%20missiles%20damaged%20a%20number,university%27s%203%2C350%2C000%20books%20and%20manuscripts (accessed February 25, 2024).

[103] "History of the University," Karazin University, https://karazin.ua/en/universitet/istoriia-universitetu/ (accessed February 25, 2024).

Dmytro Koval of Truth Hounds, who had visited Kharkiv prior to the armed conflict and was there again after the attacks in mid-2023, described the destruction in and around Freedom Square as "devastating." "Before the war, it was a really magnificent part of the city," he said. "Now it's full of damaged buildings, and all the institutions that used to work in those buildings are closed…. It changes the landscape."[104] When asked if efforts had been made to rebuild, Koval explained that local people had covered windows with wood to try to prevent "further damage from rain, wind, and natural forces," but "they are too destroyed to be rebuilding or reconstructing."[105] There are additional concerns about the stability of the remaining structures and the closeness to the front lines.

In addition to damaging Freedom Square's architecture, the use of explosive weapons in populated areas has interfered with the square's capacity to serve as a social center. Before the war, Koval said, the square, located in the heart of Kharkiv, functioned as a "space that gather[ed] the city together." He continued: "Many people liked to walk around. There were cafés and museums. The city was beautiful.[106] Such gatherings are no longer possible in this area. Architect and Kharkiv resident Viktor Dvornikov echoed this sentiment. The attacks on the area around Derzhprom, which is located on Freedom Square, caused "not only damage to a landmark, but also to a place that was very lively and social important for residents," he said.[107] Cultural heritage loss due to explosive weapons must be understood, at least in part, in terms of how it affects "how people experience culture."[108]

The reactions of the people of Kharkiv reflect the significance of the city's cultural heritage to the local population. Karina Nguyen, a former Kharkiv resident, told Human Rights Watch and IHRC that she grew up having great pride in the architecture of the city and regularly attending the theater and ballet around Freedom Square. By the time the war started, she was living in the United States and working as a student researcher at the Human Rights Center at the University of California, Berkeley. Through open-source data, Nguyen has systematically documented damage to cultural sites in Ukraine, including

[104] Human Rights Watch and IHRC video interview with Dmytro Koval, January 17, 2024.
[105] Ibid.
[106] Ibid.
[107] Human Rights Watch and IHRC video interview with Viktor Dvornikov, March 19, 2024.
[108] Human Rights Watch and IHRC video interview with Liesl Gerntholtz, January 26, 2024.

Kharkiv, and published her analysis with *Bloomberg*.[109] Highlighting the esteem with which the community held Kharkiv's cultural heritage, she noted that some residents "put in a lot of effort to protect sites." "They were using sandbags, for example, around statues…. They are risking their lives to protect culture."[110] When asked how she felt about the loss of heritage in her hometown, Nguyen expressed sorrow at the damage in Kharkiv and concern that important sites "will not be rebuilt in the way they were originally."[111] According to Nguyen, the damage in and around Freedom Square risks overshadowing the cultural identity of Kharkiv and those who live there in the eyes of the global community: "I don't want my city to be remembered by our collective memory as the city of destruction. I want it to be remembered for its cultural artifacts and identity."[112]

Viktor Dvornikov, the Kharkiv-based architect and restorer, described his relationship with the cultural heritage damage in his city as complex. He explained that he has observed so much destruction in his city, "when you perceive ruins from a professional perspective, you can get used to destruction." From a personal perspective, however, he has experienced loss. "What is most painful is when the environs [of historic buildings] are ruined. You go inside and see old furniture or an old staircase and understand that those are most probably being lost because they may not be reconstructed," he said. "This all leads to us losing historical spirit and losing historical environment. It is almost impossible to reconstruct."[113]

Donetsk Academic Regional Drama Theater, Mariupol

In March 2022, a Russian airstrike virtually destroyed the Donetsk Academic Regional Drama Theater in Mariupol, a major cultural landmark of the port city.[114] Hundreds of people were sheltering in the theater at the time of the attack. Human Rights Watch documented the deaths of at least 15 people in the strike.[115] The Drama Theater's destruction illustrates the serious risks that the use of explosive weapons in populated

[109] Marie Patino and Rachael Dottle, with Karina Nguyen, "How Ukrainians Are Protecting Their Centuries-Old Culture from Putin's Invasion," *Bloomberg*, November 3, 2022, https://www.bloomberg.com/graphics/2022-ukraine-culture-russia-war-map-building-preservation/?embedded-checkout=true (accessed February 25, 2024).
[110] Human Rights Watch and IHRC video interview with Karina Nguyen, February 1, 2024.
[111] Ibid.
[112] Ibid.
[113] Human Rights Watch and IHRC video interview with Viktor Dvornikov, March 19, 2024.
[114] For a detailed account of the Russian attack on Mariupol, see Human Rights Watch, SITU Research, and Truth Hounds, *"Our City Was Gone": Russia's Devastation of Mariupol, Ukraine*, pp. 135-143.
[115] Ibid., p. 140.

areas may pose to the civilians who shelter in or near heritage sites. It also represents the loss of a significant piece of cultural heritage.

Russian military and Russia-affiliated forces attacked Ukrainian armed forces defending Mariupol from the very first day of the Russia's all-out invasion of Ukraine. As Human Rights Watch, SITU Research, and Truth Hounds detailed in a major report and multimedia feature, Russian forces laid siege to the city and, for eight weeks, hundreds of thousands of its inhabitants faced devastation and death. During this period and the months that followed, thousands of civilians in Mariupol died from airstrikes and the Russian siege of the city.[116] During their offensive, Russian forces attacked much of Mariupol with explosive weapons with wide area effects, including heavy artillery, large mortar projectiles, multi-barrel rocket launchers, missiles, and air-dropped munitions. Attacks struck hospitals, schools, other critical infrastructure, cultural centers, and thousands of high-rise residential buildings containing tens of thousands of apartments.[117]

A few days into Russia's siege of Mariupol, the Drama Theater's actors, designers, and administrators began taking refuge there.[118] Given the theater's large basement and thick walls, the city soon opened the entire building as a bomb shelter, and hundreds of Mariupol's residents began sheltering there. By some accounts, 600 people showed up on the first day, and more continued to arrive.[119] People who worked in the theater and knew it well welcomed and accommodated the new arrivals.[120] A piano on the lower stage "drew crowds daily" as people sought comfort, familiarity, and safety in the theater-turned-shelter.[121] A large hall above the entrance was made into a kindergarten.[122] Some residents, sheltering inside or in other nearby buildings, would regularly come to the theater's outdoor kitchen to cook and get water.[123]

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[116] Ibid., pp. 1-2.
[117] Ibid., p. 81.
[118] Lori Hinnant, Mystlav Chernov, and Visilia Stepaneko, "AP Evidence Points to 600 Dead in Mariupol Theater Airstrike," *AP News*, May 4, 2022, https://apnews.com/article/russia-ukraine-war-mariupol-theater-c321a196fbd56889984 1b506afcac7a1 (accessed February 26, 2024).
[119] Ibid.
[120] "A City Within a Building: The Mariupol Drama Theatre," *Forensic Architecture*, March 16, 2023, https://forensic-architecture.org/investigation/a-city-within-a-building-the-mariupol-drama-theatre (accessed February 26, 2024).
[121] Ibid.
[122] Ibid.
[123] Human Rights Watch, SITU Research, and Truth Hounds, *"Our City Was Gone": Russia's Devastation of Mariupol, Ukraine*, p. 140.

By around March 10, up to 1,500 people had sought refuge at the theater.[124] They painted the Russian word "deti" ("children") in large Cyrillic script on the ground in the plaza in front of the theater and in the park behind it to warn Russian forces that the compound held civilians, including children. The words were clearly visible in satellite imagery from March 14.[125]

A Russian airstrike all but destroyed the theater on the morning of March 16. A man who lived about 300 meters from the theater said he saw a plane approaching the city center. The plane descended and dropped two bombs. He heard a loud explosion and, not long after, a neighbor told him the theater had been hit. The attack was most likely carried out by Russian aircraft that dropped two 500-kilogram bombs onto the theater's roof, which penetrated the building and detonated in the main auditorium at about stage level, possibly with the aid of delayed-action fuzes. Human Rights Watch, Truth Hounds, and Amnesty International interviews documented that at least 15 people were killed during the attack. The *New York Times* reported claims that between 60 and 200 were killed.[126] Because many people were able to leave the theater in convoys between March 14 and early on March 16, it appears that the several hundred people still present at the time of the attack were able to move to parts of the theater that were considered more secure.[127] Human Rights Watch's research found that Russia's attack on the theater was unlawful, and those who ordered it and carried it out should be investigated for a war crime.[128]

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[124] Information on the attack is drawn from Human Rights Watch, SITU Research, and Truth Hounds, *"Our City Was Gone": Russia's Devastation of Mariupol, Ukraine*, pp. 135-142.
[125] Ibid., p. 136.
[126] James Verini, "Witness to the Massacre in Mariupol," *New York Times Magazine*, September 1, 2022, https://www.nytimes.com/2022/09/01/magazine/ukraine-mariupol-theater.html (accessed February 26, 2024).
[127] "Ukraine: Mariupol Theater Hit by Russian Attack Sheltered Hundreds," Human Rights Watch news release, March 16, 2022, https://www.hrw.org/news/2022/03/16/ukraine-mariupol-theater-hit-russian-attack-sheltered-hundreds.
[128] Human Rights Watch, SITU Research, and Truth Hounds, *"Our City Was Gone": Russia's Devastation of Mariupol, Ukraine*, p. 137. Amnesty International and the Organization for Security and Co-operation in Europe have also determined the strike on the theater likely constitutes a war crime. Amnesty International, *"Children": The Attack of the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine,* June 30, 2022, https://www.amnesty.org/en/documents/eur50/5713/2022/en/ (accessed February 26, 2024); Organization for Security and Co-operation in Europe, *Report on Violations of International Humanitarian Law, War Crimes, Crimes against Humanity Committed in Ukraine Since February 24, 2022*, April 12, 2022, osce.org/files/f/documents/f/a/515868.pdf (accessed February 26, 2024), pp. 47-48.

The Donetsk Academic Regional Drama Theater in Mariupol, Ukraine, shown here in May 2021, a year before Russia's full-scale invasion, is the city's cultural center and most famous building. © 2021 Oleksandr Malyon/Wikimedia Commons

Russian airstrikes in March 2022 killed at least 15 of the hundreds of civilians sheltering in the Donetsk Academic Regional Drama Theater in Mariupol. Those civilians had sought to warn Russian forces of their presence by painting дети (*deti* or "children") in front of the theater. The bombs, which gutted the theater, also destroyed a significant piece of cultural heritage. © 2022 Reuters

Before the attack, the Drama Theater had been Mariupol's most famous building.[129] People from all over Ukraine and beyond came to see plays at the theater, located in the heart of the city.[130] The Drama Theater, an ornate building with a distinctive red roof, was constructed in the late 1950s and served as the city's cultural center.[131] Its arched entrance was topped by a stone carving of men and women carrying instruments, wheat, and tools, a celebration of the region's culture.[132] The building was once called the Russian Dramatic Theater, but local authorities removed "Russian" from the name in 2015 in the wake of Russia's invasion of Crimea and parts of the Donetska and Luhanska regions. In July 2021, they ordered all performances to be conducted in Ukrainian.[133] It was the city's only professional theater.[134]

The destruction of the Drama Theater serves as one of many examples of the devastation in Mariupol. Shelling of the city damaged or destroyed a range of cultural heritage sites, including museums, monuments, historic homes, many churches, and local cultural centers often referred to as "houses of culture."[135] Mariupol today would be barely recognizable to many of its former residents.[136] Damaged multi-story buildings, together with countless personal items belonging to their inhabitants, have been demolished, while Russian occupying forces have begun the process of replacing them with new high-rise apartment buildings as part of Russia's plans to reconstruct the city.[137] Since the occupation began in April 2022, Russian forces have demolished or placed under construction most of what remained of the Drama Theater.[138] The architect and restorer Viktor Dvornikov said that the loss of Mariupol amounts to lost history for the local community: "People might come back, but they can't identify with this place. It's a very big

[129] Human Rights Watch, SITU Research, and Truth Hounds, *"Our City Was Gone": Russia's Devastation of Mariupol, Ukraine*, p. 135.
[130] Human Rights Watch, SITU Research, and Truth Hounds, *Beneath the Rubble: Documenting Devastation and Loss in Mariupol*, February 8, 2024, https://www.hrw.org/feature/russia-ukraine-war-mariupol (accessed February 26, 2024).
[131] Ibid.; "Donetsk Academic Regional Drama Theater in Mariupol," Ukrainian Institute, https://ui.org.ua/en/postcard/donetsk-academic-regional-drama-theater-in-mariupol/(accessed February 26, 2024).
[132] Human Rights Watch, SITU Research, and Truth Hounds, *Beneath the Rubble: Documenting Devastation and Loss in Mariupol*.
[133] Hinnant, Chernov, and Stepanenko, "AP Evidence Points to 600 Dead in Mariupol Theater Airstrike," *AP News*.
[134] "Donetsk Academic Regional Drama Theater in Mariupol," Ukrainian Institute.
[135] "Damaged Cultural Sites in Ukraine Verified by UNESCO," UNESCO, February 7, 2024, https://www.unesco.org/en/articles/damaged-cultural-sites-ukraine-verified-unesco (accessed March 3, 2024). See also Jack Hunter, "In Pictures: The Ukrainian Religious Sites Ruined by Fighting," *BBC*, March 30, 2022, https://www.bbc.com/news/world-europe-60933862 (accessed February 26, 2024).
[136] Human Rights Watch, SITU Research, and Truth Hounds, *"Our City Was Gone": Russia's Devastation of Mariupol, Ukraine*, p. 81.
[137] Ibid., p. 179.
[138] Ibid., pp. 142-143.

problem."[139] As a former resident of Mariupol who fled the city with her mother after their apartment was destroyed during Russia's siege told Human Rights Watch: "As we drove out of the city, we saw it was all burned and black. We cried. Our city was gone."[140]

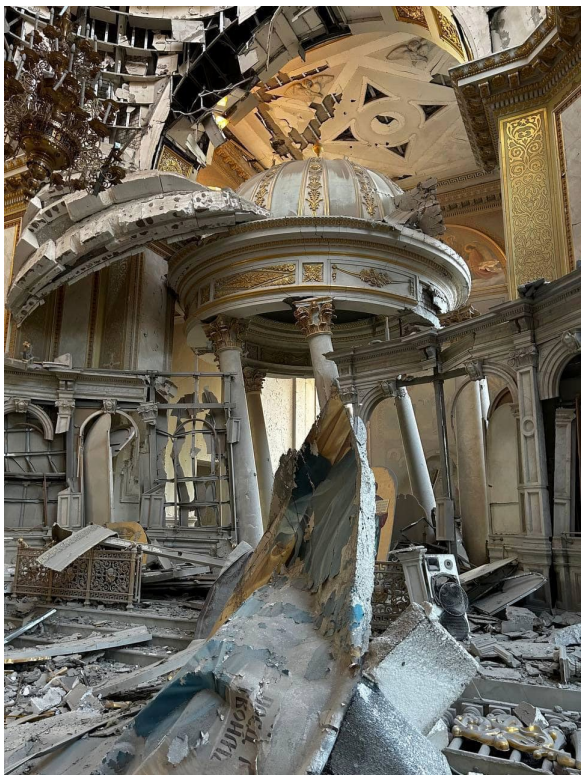
Places of Worship

Transfiguration Cathedral, Odesa

A Russian attack using an explosive weapon severely damaged Odesa's Transfiguration Cathedral (also known as the Spaso-Preobrazhensky Cathedral)[141] on July 23, 2023.[142] Although the current cathedral is a rebuilt version of the original 19th-century structure, it is a site of spiritual and historical significance to the Ukrainian people and Odesa residents. The attack and its aftermath highlight the consequences of using explosive weapons on a place of worship for the site and the community.

The Transfiguration Cathedral, built to replace a historic church demolished by the Soviet authorities in the 1930s, has played a central role in the life in the city of Odesa, Ukraine, and its style reflects a blend of cultures. © 2012 Serhii Odiyanenko/Wikimedia Commons

[139] Human Rights Watch interviews with Aryna and Olena, former Mariupol residents, Lviv, April 19, 2022.
[140] Human Rights Watch and IHRC video interview with Olenka Pevny, December 15, 2023.
[141] Ugo Poletti, "The Troubled History of the Cathedral of Odesa: Foundation, Demolition and Revival," *Kyiv Post*, July 23, 2023, https://www.kyivpost.com/post/19758 (accessed February 26, 2024).
[142] Shaun Walker, "'This Is Barbarism': Shock at Russian Strike on Odesa Cathedral," *Guardian*, July 23, 2023, https://www.theguardian.com/world/2023/jul/23/this-is-barbarism-shock-at-russian-strike-on-odesa-cathedral (accessed February 26, 2024).



In July 2023, an explosive weapon fired by Russian forces detonated in the altar area of the Transfiguration Cathedral in Odesa. The blast and resulting fire caused walls to crumble, wall paintings and icons to burn, and parts of the roof to collapse.
© 2023 Ministry of Internal Affairs of Ukraine

The explosive weapon struck the cathedral by entering through the roof and leaving a gaping hole in one corner of the building. According to the cathedral's chief priest, Myroslav Vdodovych, in an interview with the *Guardian*, the attack "was a direct hit, right in the altar area."[143] The blast also blew off other parts of the roof, exposing supporting beams and raining debris into the inside of the structure.[144] An ensuing fire inflicted further damage, endangering wall paintings, icons, and other interior decorations.[145] Members of a neighboring congregation assisted with clean-up efforts, donning hard hats and carrying out pieces of the cathedral and munition fragments.[146]

Compared to some of the centuries-old churches and monasteries in Ukraine, Odesa's Transfiguration Cathedral is relatively new, but its history has given it national importance. It originally dates to 1808 and was enlarged as the city grew.[147] The cathedral came to have a central role in the life of Odesa. For example, it provided shelter to residents during the British bombing of Odesa in the Crimean War in 1854 and housed significant icons over the years. Nonetheless, the cathedral was destroyed in 1936, as part of the Soviet elimination of religious practice in the country, and replaced with a statue of Stalin. After Ukraine gained independence in 1991 with the fall of the Soviet

[143] Ibid.
[144] Heather Chen, Josh Pennington, Maria Kostenko, and Radina Gigova, "Historic Ukrainian Cathedral Badly Damaged in Russian Strikes," *CNN*, July 24, 2023, https://www.cnn.com/2023/07/23/world/odesa-attacks-saturday-russia-ukraine-intl-hnk/index.html (accessed February 26, 2024).
[145] "Russian Missile Strike Damages Historic Cathedral in Odesa," July 23, 2023, video clip, YouTube, https://www.youtube.com/watch?time_continue=1&v=ji2IP-4VBNU&embeds_referring_euri=https%3A%2F%2Fwww.artandobject.com%2F&source_ve_path=Mjg2NjY&feature=emb_logo (accessed February 26, 2024); Human Rights Watch and IHRC video interview with Viktor Dvornikov, March 19, 2024.
[146] Walker, "'This Is Barbarism': Shock at Russian Strike on Odesa Cathedral," *Guardian*.
[147] Poletti, "The Troubled History of the Cathedral of Odesa: Foundation, Demolition and Revival," *Kyiv Post*.

Union, the community raised funds for a new cathedral, which was finally consecrated in 2010.[148]

The style of the Transfiguration Cathedral is emblematic of Ukraine's art historical traditions. When asked what characteristics make Ukrainian cultural heritage distinctive, Professor Alice Sullivan, who studies the intersections of Latin, Greek, and Slavic traditions, responded that Ukraine is located at a "crossroads." She added: "There is much more cultural diversity than in many parts of Eastern Europe."[149] The cathedral exemplifies that mix. Classical, Byzantine, Ancient Rus, and Baroque architectural traditions are evident in the cathedral's decorations, and one scholar writes that the iconostasis (wall of icons) "combine[s] the multi-temporal traditions of Christian art," including Western European and Byzantine influences.[150]

While some people have questioned if the latest iteration of the cathedral is too new to count as "cultural heritage," as discussed in Chapter I, that term does not have a temporal element. Many have argued for the cathedral's importance as a cultural landmark for the city and the nation. Sullivan told Human Rights Watch and IHRC that the fact it was rebuilt makes an even stronger case for its significance to the people of Odesa.[151] "Renovations indicate to me as a historian that it was an important building," she said. Olenka Pevny, the Cambridge professor of Ukrainian studies, said people associated the cathedral with the city and the skyline.[152] The director-general of UNESCO, Audrey Azoulay, described the attack as "mark[ing] an escalation of violence against the cultural heritage of Ukraine."[153] In condemning the attack, Ukrainian President Volodymyr Zelenskyy made a broader cultural appeal, arguing that the attack had targeted "humanity and the foundations of our entire European culture."[154]

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[148] Ibid.
[149] Human Rights Watch and IHRC video interview with Alice Sullivan, November 10, 2023.
[150] A.A. Tarasenko and H.V. Akridina, "Abstract," in "Transfiguration Cathedral in Odesa: The Themes and the Stylistics," *Art and Design,* no.2 (2020), https://jrnl.knutd.edu.ua/index.php/artdes/article/view/612 (accessed February 26, 2024).
[151] Human Rights Watch and IHRC video interview with Alice Sullivan, November 10, 2023.
[152] Human Rights Watch and IHRC video interview with Olenka Pevny, December 15, 2023.
[153] "Odesa: UNESCO Strongly Condemns Repeated Attacks against Cultural Heritage, including World Heritage," UNESCO press release, July 23, 2023, https://www.unesco.org/en/articles/odesa-unesco-strongly-condemns-repeated-attacks-against-cultural-heritage-including-world-heritage (accessed February 26, 2024).
[154] Christopher Parker, "Russian Strike Severely Damages Odesa's Transfiguration Cathedral," *Smithsonian Magazine*, July 28, 2023, https://www.smithsonianmag.com/smart-news/russian-air-strike-damages-transfiguration-cathedral-odesa-180982616/ (accessed February 26, 2024).

The community's reactions to Russia's use of explosive weapons provide further evidence of its effects on civilians. Emily Channell-Justice of the Harvard Ukrainian Research Institute described how local people helped the priests clean up debris at the Transfiguration Cathedral. "It was definitely the actions of ordinary people to protect and collectively respond," she said.[155] Pevny noted that local residents united to clear the rubble, a first step toward rebuilding: "People came from all over Odesa to try to salvage a building because they associate the city with this church." The desire to protect cultural heritage led to "people coming together despite their differences for their own city and their own identity in the city of Odesa."[156]

[155] Human Rights Watch and IHRC interview with Emily Channell-Justice, October 17, 2023.
[156] Human Rights Watch and IHRC video interview with Olenka Pevny, December 15, 2023.

III. Harm to Cultural Heritage and Civilians: Direct and Indirect Effects

The use of explosive weapons in populated areas creates a foreseeable pattern of harm. The humanitarian consequences of attacks on cultural heritage, including but not limited to the ones described above in Ukraine, fit into the framework laid out in the Declaration. Explosive weapons use has a "devastating impact" on civilian objects (in this case, cultural heritage) and on civilians themselves.[157] Those impacts can be divided into direct and indirect, or reverberating, effects.[158] The use of explosive weapons in populated areas can directly damage all or part of a cultural heritage site at the time of attack and leave a building and its contents at risk of further indirect damage in the future. It can directly kill or injure civilians living in, sheltering in, working at, or visiting a place of cultural heritage. The loss of cultural heritage due to explosive weapons reverberates globally and locally, causing psychosocial, economic, and other civilian harm.

This chapter breaks down these humanitarian consequences, providing examples of each from different armed conflicts in various parts of the world. It will foreground cases previously documented by Human Rights Watch and recent research on cultural heritage in Yemen done by Human Rights Watch and IHRC. It will also note other relevant examples. In presenting a framework of foreseeable harm, the chapter will detail how, in the words of the Declaration, "the damage and destruction of … cultural heritage sites further aggravates civilian suffering."[159]

Harm to Cultural Heritage

The use of explosive weapons in populated areas both directly and indirectly harms cultural heritage at the time of attack and in the aftermath.

[157] Declaration, para 1.2.
[158] Ibid., para 1.3.
[159] Ibid., para 1.5.

Direct Effects of Explosive Weapons on Cultural Heritage

The Great Omari Mosque, originally constructed in the 7th century and shown here in November 2022, is Gaza's oldest mosque. © 2022 Dan Palraz/Wikimedia Commons

Explosive weapons' blast, fragmentation, and secondary fires inflict direct effects on the full range of cultural heritage sites at the time of attack. The blast produced by detonations on or near cultural heritage can bend and break the structural elements of a building, even concrete and steel, leading to the collapse of part or all of an entire edifice.[160] In December 2023, the use of explosive weapons by Israeli forces "largely destroyed" the Great Omari Mosque, Gaza's oldest mosque, first constructed in the 7th century and rebuilt multiple times since. Images show the mosque's courtyard full of rubble surrounded by crumbling walls.[161] Explosive weapons use is particularly harmful to cultural heritage because sites are often old or made of more vulnerable materials, such as "unreinforced masonry," clay, stone, or wood.[162] For example, an analyst reported that because the buildings of Yemen's Old City of Sanaa, constructed before the 11th century, "are made from clay, the bombing has affected them very heavily."[163] Furthermore,

[160] Armament Research Services, *Explosive Weapons in Populated Areas: Technical Considerations Relevant to their Use and Effects*, May 2016, https://www.icrc.org/en/document/explosive-weapons-populated-areas-use-effects (accessed February 20, 2024), pp. 13-15; National Research Council, *Protecting Buildings from Bomb Damage: Transfer of Blast-Effect Mitigation Strategies from Military to Civilian Applications* (Washington D.C.: The National Academies Press, 1995), https://nap.nationalacademies.org/catalog/5021/protecting-buildings-from-bomb-damage-transfer-of-blast-effects-mitigation (accessed February 20, 2024), p. 30.

[161] Daniel Estrin, "Israeli Strike Leaves Gaza's Oldest Mosque in Ruins," *NPR*, December 9, 2023, https://www.npr.org/2023/12/09/1218384968/mosque-gaza-omari-israel-hamas-war (accessed March 13, 2024); Stephanie Mulder, "Gaza's Oldest Mosque, Destroyed in an Airstrike, Was Once a Temple to the Philistine and Roman Gods, a Byzantine and Catholic Church, and Had Engravings of Jewish Ritual Objects," *Conversation*, January 17, 2024, https://theconversation.com/gazas-oldest-mosque-destroyed-in-an-airstrike-was-once-a-temple-to-philistine-and-roman-gods-a-byzantine-and-catholic-church-and-had-engravings-of-jewish-ritual-objects-220203 (accessed March 13, 2024); "The Great Omari Mosque in Gaza's Old City Centre Has Been Hit in an Israel Air Strike," December 11, 2023, video clip, YouTube, December 2023, https://www.youtube.com/watch?v=sxTGr8giBtg (accessed March 13, 2024).

[162] See FEMA, *Reference Manual to Mitigate Potential Terrorist Attacks against Buildings,* 2nd edition, October 2011, https://www.dhs.gov/xlibrary/assets/st/st-bips-06.pdf (accessed February 20, 2024), p. 3-53.

[163] Ahmed Nagi, "Yemen's Old City of Sana'a: Stripped of Its Identity," *Malcom H. Kerr Carnegie Middle East Center*, September 14, 2020, https://carnegie-mec.org/2020/09/14/yemen-s-old-city-of-sana-stripped-of-its-identity-pub-82687 (accessed February 20, 2024).

Israeli forces heavily damaged the Great Omari Mosque in Gaza through their use of explosive weapons in December 2023, leaving the courtyard full of rubble surrounded by crumbling walls. © 2024 Municipality of Gaza

attempts to preemptively protect heritage can be very difficult, expensive, or unachievable. Even reinforcement frameworks may not withstand explosive weapons, actions to temporarily relocate portable cultural heritage are much more difficult during wartime, and efforts to protect cultural heritage can sometimes damage it.[164]

Fragments of an explosive weapon and the debris dispersed by its detonation also directly affect cultural heritage.[165] They can scar building facades and surface decorations and shatter stained glass windows.[166] If they penetrate the windows of a place of worship,

[164] See FEMA, *Reference Manual to Mitigate Potential Terrorist Attacks against Buildings,* 2nd edition, p. 3-53; National Research Council, *Protecting Buildings from Bomb Damage: Transfer of Blast-Effect Mitigation Strategies from Military to Civilian Applications*, p. 55.
[165] Armament Research Services, *Explosive Weapons in Populated Areas: Technical Considerations Relevant to their Use and Effects*, p. 15.
[166] Iona Craig, "The Agony of Saada," *Intercept*, November 16, 2015, https://theintercept.com/2015/11/16/u-s-and-saudi-bombs-target-yemens-ancient-heritage/ (accessed February 20, 2024); National Research Council, *Protecting Buildings from Bomb Damage: Transfer of Blast-Effect Mitigation Strategies from Military to Civilian Applications*, p. 30; Geneva International Centre for Humanitarian Demining (GICHD), *Explosive Weapon Effects: Final Report*, February 2017, https://www.gichd.org/publications-resources/publications/explosive-weapon-effects/ (accessed February 20, 2024), p. 51.

museum, or archives, they can damage interior walls or objects within, such as paintings, sculptures, tapestries, or books.[167] Human Rights Watch field researchers documented an October 8, 2020 attack during the conflict over Nagorno-Karabakh in which Azerbaijani forces attacked Ghazanchetsots Cathedral, an important 19th-century Armenian church in the town of Shusha (Shushi, in Armenian). The explosive weapons' blast left two gaping holes in the cathedral's roof and piles of debris on the floor. Fragmentation marks from the second weapon, likely with a time-delayed fuze, covered the interior walls.[168] Fragmentation from explosive weapons that detonate outside of a building has the potential to extend the weapons' effects beyond the immediate blast radius.

While explosive weapons are not incendiary weapons, they frequently start devastating fires. The presence of flammable materials, such as wood, paper, or fabric, can quickly spread flames.[169] Wood structures or wood roofs of masonry buildings are especially threatened. The contents of archives and libraries place them at heightened risk. The destruction of Ukraine's Ivankiv and Skovorda museums, discussed in Chapter II, provide ample evidence of the recent impact of explosive weapons-related fires, but those examples are not unique.

Indirect Effects of Explosive Weapons on Cultural Heritage

The physical threat to cultural heritage caused by the use of explosive weapons does not end at the time of attack. Structural damage caused by an initial attack can weaken walls or foundations and lead to complete collapse of a building at a later date. Ayman Al-Kinani of Mwatana for Human Rights, a Yemeni human rights organization, expressed concern that the centuries-old al Qahirah Castle in Taizz had been so damaged due to bombing in 2016 by the Saudi and United Arab Emirate (UAE)-led coalition that it could collapse in the future, not only destroying a cultural landmark but also endangering nearby homes. "Built on a big mountain on the side of Taizz city, if something happens, it could collapse on the

[167] Richard Ovenden, "Putin's War on Ukrainian Memory," *Atlantic*, April 23, 2023, https://www.theatlantic.com/ideas/archive/2023/04/russia-war-ukraine-occupation-libraries-archives/673813/ (accessed February 20, 2024) (describing how a Russian missile exploded in the Rare Book Library of the "Karazin University Library in Kharkiv, which held more than 3 million volumes, including many early printed books and manuscripts, as well as important Ukrainian archival collections.").
[168] "Azerbaijan: Attack on Church Possible War Crime," Human Rights Watch press release, December 16, 2020, https://www.hrw.org/news/2020/12/16/azerbaijan-attack-church-possible-war-crime.
[169] See GICHD, *Explosive Weapon Effects: Final Report*, pp. 42-43.

city itself," he said.[170] According to a Mwatana report, the castle "is considered one of the most important spaces for the people of Taiz, especially after the establishment of a park in it which was considered an exquisite artistic masterpiece."[171]

Al Qahirah Castle, a monumental architectural landmark, towered over the city of Taizz, Yemen, in this 2013 photograph. © 2013 Julien Harneis/Wikimedia Commons

Smoke rises over al Qahirah Castle in Taizz, Yemen, after airstrikes by the Saudi and UAE-led coalition, on May 21, 2015. © 2015 AP Photo/Abdulnasser Alseddik, File

[170] Human Rights Watch and IHRC video interview with Ayman Al-Kinani, director of the training and capacity building unit, Mwatana for Human Rights, April 10, 2023.
[171] Mwatana for Human Rights, *The Degradation of History: Violations Committed by the Warring Parties against Yemen's Cultural Property*, p. 62.

Holes in the roof or walls or loss of windows leave cultural heritage sites open to exposure to the elements. This factor will speed decay of a building, its collections, and interior decorations. Speaking of fire damage in particular, the Northeast Document Conservation Center writes: "Buildings provide the 'shell' that safeguards collections, operations, and occupants from weather, pollution, vandalism, and numerous other environmental factors. A fire can destroy walls, ceilings, floors, roof assemblies, and structural support, thereby exposing contents to the elements."[172]

While it is well-known that damage to civilian infrastructure from the use of explosive weapons in populated areas interrupts health care, education, and other services,[173] infrastructure damage also undermines cultural heritage protection. The loss of electricity or water, for example, can interfere with climate control or fire suppression systems essential to ensuring the preservation of fragile, often centuries-old cultural heritage, including structures as well as art, artifacts, and archives; it will also block continuation of pre-war conservation efforts.[174] Security systems, which are important for preventing looting, may be shut down.[175] Damage to internet infrastructure can lead to loss of digital databases of cultural heritage, such as collections of scanned manuscripts, that are not backed up.[176] Explosive weapons may thus destroy both the original and digital versions of manuscripts, artworks, buildings, or monuments, making it harder to recover any losses.

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[172] Northeast Document Conservation Center, "Preservation Leaflet Emergency Management 3.2 Introduction to Fire Detection and Automatic Sprinklers for Cultural Heritage," 2022, https://www.nedcc.org/assets/media/documents/Preservation%20Leaflets/3.2_IntrotoFire_2022_Print.pdf (accessed February 20, 2024), p. 2.

[173] INEW, "Protecting Civilians from the Use of Explosive Weapons in Populated Areas," *INEW briefing note*, September 2023, https://www.inew.org/wp-content/uploads/2023/09/INEW_Briefing-Paper-_Sept.pdf (accessed February 20, 2024).

[174] See FEMA, *Reference Manual to Mitigate Potential Terrorist Attacks against Buildings, 2nd Edition*, pp. 3-90. See also Human Rights Watch and IHRC video interview with Lamya Khalidi, May 11, 2023. Recommendations for slowing the deterioration of ancient manuscripts include "carefully controlling temperature, humidity, light exposure, air quality and storage conditions," and many of these measures depend on electricity. Paul Garside and Zoe Miller, "How to Preserve Ancient Manuscripts," *Chemistry World*, May 20, 2017, https://www.chemistryworld.com/news/how-the-british-library-preserves-ancient-manuscripts/3007191.article (accessed February 20, 2024). See also Rushdya Rabee Ali Hassan et al., "Documentation and Evaluation of an Ancient Paper Manuscript with Leather Binding Using Spectrometric Methods," *Journal of Chemistry*, vol. 2020 (2020), https://doi.org/10.1155/2020/6847910 (accessed February 20, 2024). Regarding the importance of fire suppression systems, see Northeast Document Conservation Center, "Preservation Leaflet Emergency Management 3.2 Introduction to Fire Detection and Automatic Sprinklers for Cultural Heritage."

[175] For more information on the importance of security systems to preventing theft, see Northeast Document Conservation Center, "Preservation Leaflet Emergency Management 3.11 Collections Security: Planning and Prevention for Cultural Heritage Institutions," 2020, https://www.nedcc.org/assets/media/documents/Preservation%20Leaflets/3_11_CollSecurity_2020.pdf (accessed February 20, 2024).

[176] Human Rights Watch and IHRC video interview with Iona Craig, April 6, 2023; Anna E. Kijas, "Displaced Cultural Heritage," video lecture, Dumbarton Oaks, September 29, 2022, https://www.doaks.org/events/byzantine-studies/public-lectures/displaced-cultural-heritage (accessed February 20, 2024).

Damage to nearby civilian infrastructure can also indirectly affect cultural heritage by unleashing damaging materials. In an article on cultural heritage protection in armed conflict, US Army Col. Andrew Scott DeJesse addressed the dangers posed by the use of explosive weapons in populated areas. He explained that during the US military's 2003 invasion of Iraq, even missiles that "struck targets cleanly" damaged nearby water pipes, "flood[ing] adjacent buildings containing cultural heritage."[177]

These indirect effects on cultural heritage are exacerbated because the use of explosive weapons in populated areas hinders efforts to take remedial actions during armed conflict. Ongoing attacks make reinforcing or rebuilding damaged structures difficult or futile. In many cases, such measures are physically dangerous. Workers could be crushed by a collapsing building or exposed to incoming fire. Furthermore, ongoing explosive weapons use or damage to roads from past use can interfere with the delivery of construction materials and impinge on efforts to relocate movable heritage to safer locations. Olha Kryzhanivska, a regional library director in Kherson, Ukraine, reflected on the challenges of protecting the library collection from the weather after a November 2023 explosive weapon attack, shortly after repairing stained glass windows damaged from an earlier attack. She said: "On one hand, …. it makes no sense to repair, because there is shelling every day. On the other, something must be done with the roof, otherwise everything will be drenched. Still, repair is a risk to the workers' lives, so it's a difficult situation."[178]

Harm to Civilians

The direct and indirect effects of the use of explosive weapons in populated areas extend beyond damage to cultural heritage. Civilians are killed or injured at the time of attack and local communities suffer a range of psychosocial and practical consequences in the aftermath.

[177] Ruth Margolies Beitler and Dexter W. Dugan, "Practicing the Art of War While Protecting Cultural Heritage: A Military Perspective," *Cultural Heritage and Mass Atrocities*, ed. James Cuno and Thomas G. Weiss (Los Angeles: Getty Publications, 2022), https://www.getty.edu/publications/cultural-heritage-mass-atrocities/part-5/29-beitler-dugan/ (accessed February 20, 2024).
[178] Ed Vulliamy, "'My Mum's Books Survived Putin's Missiles': Defiance after Blast Destroys Kherson Children's Library," *Guardian*, December 3, 2003, https://www.theguardian.com/world/2023/dec/03/my-mums-books-survived-putins-missiles-defiance-after-blast-destroys-kherson-childrens-library (accessed February 21, 2024).

Direct Effects of Explosive Weapons on Civilians

When explosive weapons damage or destroy cultural heritage in populated areas, they can directly harm civilians as well as civilian objects. Explosive weapons endanger employees, including security guards, curators, librarians, artists, and others, who remain at the sites to continue work or specifically to protect the heritage. The attacks may also threaten civilians visiting or residing in homes or areas that are considered cultural heritage sites. An airstrike in the Old City of Sanaa by Saudi and UAE-led forces on September 18, 2015, for example, killed 13 civilians and injured 12, according to Human Rights Watch documentation. The Old City has not only been designated a UNESCO World Heritage Site due to its 6,000 historic houses and 100 mosques, but also served as a home to families for generations.[179]

Attacks on cultural centers—such as theaters, schools, places of worship, libraries, and museums—endanger community members who gather there for such activities as educating their youth, accessing their culture, distributing basic necessities and aid, and worshipping.[180] For example, about 300 people gathered for religious lectures and night prayer at the Omar Ibn al-Khatab mosque, near al-Jinah, a Syrian village in the Aleppo governorate on March 16, 2017. US forces, claiming the gathering was an Al-Qaeda meeting, launched airstrikes against the site, killing at least 38 people and destroying the "service section" of the mosque, which contained rooms for religious classes and the imam's apartment.[181]

Other civilians suffer harm from the use of explosive weapons in populated areas because they are drawn to cultural heritage as a result of armed conflict. In some cases, people seek refuge in a site they believe to be safe due to its cultural status or to its structural elements; instead, they find themselves at risk. In October 2023, hundreds of Palestinians were sheltering in the 12th-century Greek Orthodox Church of St. Porphyrius, the oldest active

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[179] "Yemen: Coalition Bombs Homes in Capital," Human Rights Watch news release, December 12, 2015, https://www.hrw.org/news/2015/12/21/yemen-coalition-bombs-homes-capital. See also Belkis Wille and James Ross, "Why War Crimes Charges Now Extend to the Destruction of Ancient Monuments," Human Rights Watch news release, October 9, 2015, https://www.hrw.org/news/2015/10/09/why-war-crimes-charges-now-extend-destruction-ancient-monuments.

[180] See PEN America and PEN Ukraine, *Ukrainian Culture Under Attack: Erasure of Ukrainian Culture in Russia's War Against Ukraine*; Vulliamy, "'My Mum's Books Survived Putin's Missiles': Defiance after Blast Destroys Kherson Children's Library," *Guardian*.

[181] Human Rights Watch, *Attack on the Omar Ibn al-Khatab Mosque*, April 18, 2017, https://www.hrw.org/report/2017/04/18/attack-omar-ibn-al-khatab-mosque/us-authorities-failure-take-adequate-precautions.

church in Gaza, when Israeli forces launched an airstrike, which they said was targeting Hamas forces.[182] "We left our homes and came to stay at the church because we thought we would be protected here," Ramez al-Sury, who lost three children in the attack, told Amnesty International.[183] According to Airwars, a nongovernmental organization that investigates civilian harm in conflict zones, the attack killed between 23 to 27 people and damaged multiple buildings within the church compound.[184]

Civilians who go to cultural heritage sites during or immediately after attacks to rescue people or cultural objects, like the staff of the Ivankiv Museum, described in Chapter II, are equally vulnerable to harm. Those who document cultural heritage damage also fall victim to the use of explosive weapons. In October 2020, three journalists who went to cover the first strike on the Armenian Ghazanchetsots Cathedral were injured by the second strike. Yuri Kotenok told Human Rights Watch that he suffered fragments to his head, neck, abdomen, arms, and left foot and experienced lung damage and a concussion.[185] Iona Craig, a representative of Yemen Data Project, a nongovernmental organization collecting data on the conduct of the war in Yemen, highlighted "double-tap strikes," in which first responders and others arrive and then are injured by follow-up strikes, as a major problem during the war in Yemen.[186]

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[182] "Israel/OPT: 'Nowhere Safe in Gaza': Unlawful Israeli Strikes Illustrate Callous Disregard for Palestinian Lives," Amnesty International news release, https://www.amnesty.org/en/latest/news/2023/11/israel-opt-nowhere-safe-in-gaza-unlawful-israeli-strikes-illustrate-callous-disregard-for-palestinian-lives/ (accessed March 13, 2023); Mohammed Tawfeeq, Kareem Khadder, Abeer Salman, and Ibrahim Dahman, "Greek Orthodox Church in Gaza Hit in an Airstrike, Church Officials Say," *CNN*, October 20, 2023, https://edition.cnn.com/middleeast/live-news/israel-hamas-war-gaza-news-10-20-23/h_144c4c17944bdd881e21ef361491235c (accessed March 13, 2024) (quoting Israel Defense Forces statement).
[183] "Israel/OPT: 'Nowhere Safe in Gaza': Unlawful Israeli Strikes Illustrate Callous Disregard for Palestinian Lives," Amnesty International news release.
[184] Airwars, "Airwars Assessment: ISPT 0372," https://airwars.org/civilian-casualties/ispt0372-october-19-2023/ (accessed March 13, 2014).
[185] "Azerbaijan: Attack on Church Possible War Crime," Human Rights Watch news release, December 16, 2020, https://www.hrw.org/news/2020/12/16/azerbaijan-attack-church-possible-war-crime.
[186] Human Rights Watch and IHRC video interview with Iona Craig, April 6, 2023.

Ghazanchetsots Cathedral, built in the 19th century, is an important building for the Armenian Apostolic Church in the town of Shusha (Shushi, in Armenian), in Karabakh, Azerbaijan. © 2018 David Stanley

Explosive weapons used by Azerbaijani forces damaged the roof and interior of the Armenian Ghazanchetsots Cathedral in October 2020. Three journalists who came to investigate the damage after a first strike were injured by second one. © 2020 Celestino Arce/NurPhoto via AP

Indirect Effects of Explosive Weapons on Civilians

Explosive weapons' indirect effects of cultural heritage destruction on civilians are often tied to the loss of history. Reactions to the damage to Yemen's cultural heritage during its recent armed conflict illuminates the harm caused at the global and local levels. Yemen's heritage dates back tens of thousands of years.[187] UNESCO includes four of Yemen's cultural sites on its World Heritage List, which recognizes sites for having "outstanding universal value": the Old City of Sanaa, the old walled city of Shibam, the historic town of Zabid, and landmarks of the ancient kingdom of Saba, Marib.[188] These sites were among scores that suffered damage during the recent war.[189] In 2015, UNESCO's then-Director General Irina Bokova stated, "This heritage bears the soul of the Yemeni people, it is a symbol of a millennial history of knowledge and it belongs to all humankind."[190] Ayman Al-Kinani of Mwatana said, "These sites reflect the cultural diversity of [Yemen] and the common human path."[191] Both speakers called for an end to the attacks on this cultural heritage because they recognized its significance to both the people of Yemen and the international community.

The cultural heritage destruction caused by the use of explosive weapons in populated areas further inflicts psychosocial harm on civilians because it undermines local communities' identity.[192] Scholars have described heritage as "a reservoir of memory that allows for the survival of collective identity,"[193] and noted that its loss can "shatter the victim community's very sense of who they are and where they came from."[194] As archaeologist and researcher Lamya Khalidi explained to Human Rights Watch and IHRC,

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[187] "Destruction of Cultural Heritage in Yemen," Statement made by Kristin Hausler at United Nations Office at Geneva, September 18, 2020, https://www.biicl.org/documents/10106_cultural_heritage_in_yemen_-_kristin_hausler_-_hrc_gva_sep_2018.pdf (accessed February 21, 2024).

[188] Convention Concerning the Protection of the World Cultural and Natural Heritage, adopted November 16, 1972, entered into force December 17, 1975, art. 11(2). For list of sites, see UNESCO World Heritage Convention, "World Heritage List," https://whc.unesco.org/en/list/ (accessed February 21, 2024).

[189] Lamya Khalidi, "The Destruction of Yemen and Its Cultural Heritage," *International Journal of Middle East Studies*, vol. 49 (November 2017), pp. 735-738.

[190] "The Director General of UNESCO Condemns the Destruction of Historic Buildings in the Old City of Sana'a," UNESCO press release, June 12, 2015, https://whc.unesco.org/en/news/1295 (accessed February 21, 2024).

[191] Human Rights Watch and IHRC video interview with Ayman Al-Kinani, April 10, 2023.

[192] See Benjamin Isakhan and Lynn Meskell, "UNESCO's Project to 'Revive the Spirit of Mosul': Iraqi and Syrian Opinion on Heritage Reconstruction After the Islamic State," *International Journal of Heritage Studies*, vol. 25 (2019), https://doi.org/10.1080/13527258.2019.1578988 (accessed February 21, 2024), p. 1198; Declaration, para. 1.6.

[193] Veysel Apaydin, "The Interlinkage of Cultural Memory, Heritage and Discourses of Construction, Transformation and Destruction," *Critical Perspectives on Cultural Memory and Heritage: Construction, Transformation and Destruction*, ed. Veysel Apaydin, 13–30 (UCL Press, 2020), https://doi.org/10.2307/j.ctv13xpsfp (accessed February 21, 2024), p. 17.

[194] Coakley and McAuliffe, "Picking up the Pieces: Transitional Justice Responses to Destruction of Tangible Cultural Heritage," *Netherlands Quarterly of Human Rights* , p. 318.

the people of Yemen have lived for centuries, and often millennia, in some of their cultural sites, such as the old cities of Sanaa and Shibam. Damage from bombing and shelling, therefore, affects more than historically and architecturally significant buildings. Khalidi said, "If you destroy that [heritage], you destroy something very intrinsically important to the communities, to the populations, to their identity…. [W]hat's happened [is] quite horrific."[195] Eman Homaid, chairperson of INSAF for Rights and Development, echoed that point when she noted that the city's ancient buildings "have a very powerful meaning to the population."[196]

Heritage also may serve to bring unity to a diverse culture, a benefit that is threatened by the damage inflicted by explosive weapons. Exposure to different communities' cultures increases appreciation and tolerance for diversity. At the same time, particularly when it is important to multiple communities, cultural heritage is a crucial tool for community cohesion. Stari Most, an Ottoman-era bridge built in 1566, had for centuries linked the Muslims and Croats of Mostar, Bosnia and Herzegovina. According to a Commission of Experts, appointed by the UN secretary-general at the request of the Security Council, the bridge "embodied the links which united these peoples in spite of their religious differences and the circumstances of the present war."[197] When Croat tanks intentionally destroyed the bridge on November 9, 1993, they physically and socially severed these communities. According to author Jadranka Petrovic, "Mostar became partitioned along ethnic lines, right across the front line, into Muslim east and Croat west, turning people into 'us' and 'them' and 'ethnicizing' everything that used to be the 'shared' past and the 'shared' pride."[198] People interviewed for this report also referred to cultural heritage in Yemen as a means for uniting the multicultural country and expressed concerns about the effects of its loss.[199]

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[195] Human Rights Watch and IHRC video interview with Lamya Khalidi, May 11, 2023.
[196] Human Rights Watch and IHRC video interview Eman Homaid, chairperson, INSAF for Rights and Development, April 5, 2023.
[197] United Nations Security Council, "Letter Dated 24 May 1994 from the Secretary-General to the President of the Security Council," S/1994/674, May 24, 1994, https://www.icty.org/x/file/About/OTP/un_commission_of_experts_report1994_en.pdf (accessed February 21, 2024), para. 295.
[198] Petrovic, *The Old Bridge of Mostar and Increasing Respect for Cultural Property in Armed Conflict*, p. 63.
[199] Human Rights Watch and IHRC video interview with Ayman Al-Kinani, April 10, 2023; Human Rights Watch and IHRC video interview with Lamya Khalidi, May 11, 2023; Human Rights Watch and IHRC video interview with Eman Homaid, April 5, 2023. For another example of the ability to of cultural heritage to bring communities to together and the threat posed by its destruction (albeit at the hands of ISIS not explosive weapons), see Emma Loosley Leeming, "Cultural Memory as a Mechanism for Community Cohesion: Dayr Mar Elian Esh-Sharqi, Qaryatayn, Syria," *Critical Perspectives on Cultural Memory*

The cultural heritage-related reverberating effects of explosive weapons on civilians in some cases constitute practical rather than psychosocial harm. Bombing and shelling of cultural sites can have lasting economic consequences.[200] A range of caretakers depend on cultural heritage for their livelihoods, and people visiting sites generate tourist income for the community. Cultural tourism accounts for 40 percent of all international tourism, according to the UN World Tourism Organization.[201] In Taizz, Yemen, for example, al-Ashrafiya Mosque and Madrassa, which opened in 1382, as well as the more recent Salh Castle, which housed antiquities, Islamic artifacts, and traditional crafts, attracted large numbers of foreign tourists before the conflict. Local communities began specializing in a wide range of trades that provided incomes and improved their standard of living. Damage to the mosque due to artillery fire from the Houthis and forces loyal to former President Ali Abdullah Saleh in 2015 resulted in Taizz governorate losing considerable financial resources and in severe reduction of income for tourism staff, craftspeople, and local civil society.[202] The same occurred after Saudi and UAE-led coalition airstrikes, presumably targeting Houthi forces, destroyed the Salh Castle and its museum in October 2015. "The castle was an important tourist destination, and with its destruction, the governorate of Taiz lost the financial resources it used to provide," the governorate's deputy director-general of tourism told Mwatana.[203]

Beyond economic hardship, the destruction of cultural heritage due to the use of explosive weapons in populated areas can lead to displacement. In some cases, civilians flee in anticipation of conflict-related threats. In other cases, the use of explosive weapons on cultural heritage sites in populated areas leaves residents homeless. In the Old City of Sanaa, for example, cultural heritage heavily overlaps with residential areas. Damage to parts of the Old City, therefore, meant that some people were forcibly displaced.[204] "The buildings have disappeared, and the people have disappeared," said Yemeni author Arwa

and Heritage: Construction, Transformation and Destruction, ed. Veysel Apaydin (UCL Press, 2020), https://doi.org/10.2307/j.ctv13xpsfp.18 (accessed February 21, 2024), pp. 211–23.

[200] Human Rights Watch and IHRC video interview with Lamya Khalidi, May 11, 2023 (noting that prior to the war in Yemen, many people, particularly in Sanaa, lived off of tourism); Human Rights Watch and IHRC video interview with Iona Craig, April 6, 2023.

[201] "UNWTO Congress to Discuss the Links between Cultural Heritage and Creative Tourism," World Tourism Organization press release, PR 16096, November 23, 2016; World Tourism Organization, "Tourism and Culture Synergies," 2018, https://doi.org/10.18111/9789284418978 (accessed February 21, 2024), p. 74.

[202] Mwatana for Human Rights, *The Degradation of History: Violations Committed by the Warring Parties against Yemen's Cultural Property*, pp. 83-84.

[203] Ibid., p. 68.

[204] Ibid., pp. 52-54.

Othman, herself a former resident of Sanaa.[205] The destruction of the Salh Castle, mosques, and madrassas in Taizz also damaged homes near the sites, displacing civilians living nearby.[206]

People have lived in the distinctive mudbrick and gypsum buildings of the Old City of Sanaa, Yemen, a UNESCO World Heritage site, since at least the 11th century. © 2013 Rod Waddington/ Wikimedia Commons

The effects of explosive weapons on civilians just described have reverberating effects of their own. Preservation of cultural heritage requires experts or local residents with specialized knowledge but bombing and shelling kill, displace, or deny access to many qualified individuals. The mud brick and gypsum buildings of the Old City of Sanaa require caretakers who have unique conservation skills. Lamya Khalidi, who has expertise in Yemen's cultural heritage, said that those buildings "were built in a certain way, using very specific architectural standards, using local materials and local technologies, and that know-how is passed from generation to generation because there has to be upkeep."[207] Even temporarily losing such caretakers and deferring maintenance can cause long-lasting harm to heritage.

Finally, by displacing or killing artists, destroying cultural heritage sites, and shutting down cultural centers, the use of explosive weapons deprives communities of an important tool for recovery. One scholar describes culture as a "powerful means to help victims recover from the psychological impact" of disasters.[208] Liesl Gerntholtz, who co-

[205] Human Rights Watch and IHRC video interview with Arwa Othman, February 18, 2024.
[206] Mwatana for Human Rights, *The Degradation of History: Violations Committed by the Warring Parties against Yemen's Cultural Property*, pp. 82, 84.
[207] Human Rights Watch and IHRC video interview with Lamya Khalidi, May 11, 2023.
[208] Rhoit Jigyasu, "The Intangible Dimension of Urban Heritage," *Reconnecting the City: The Historic Urban Landscape Approach and the Future of Urban Heritage*, ed. Francesco Bandarin and Ron van Oerspg, https://doi.org/10.1002/9781118383940.ch5 (accessed February 21, 2024), pp. 142-143. See also Colin Sterling, "Covert Erasure and Agents of Change in the Heritage City," *Critical Perspectives on Cultural Memory and Heritage: Construction, Transformation and Destruction*, ed. Veysel Apaydin (UCL Press, 2020), https://doi.org/10.2307/j.ctv13xpsfp.10 (accessed February 21, 2024), p. 72 ("[O]ne of the key functions of heritage in the urban environment" is "providing a sense of continuity or stability in the face of rapid change.").

authored the PEN America and PEN Ukraine report on cultural heritage destruction in Russia's war against Ukraine, emphasized the importance of making it possible for artists to remain in the country or at least facilitating their safe return after a conflict. Doing so can not only preserve a country's culture, but also help it rebuild and strive for peace. "[Artists] contribute to social cohesion and play a preventive role after war," Gerntholtz said. "It is worth supporting [culture] during war. Elevating protecting culture is a way to promote resilience and a way to limit conflict in future."[209]

The bombing of the Old City of Sanaa by Saudi and UAE-led coalition forces in 2015 killed, injured, and displaced residents and damaged the fragile ancient building materials. The loss of cultural heritage also destroyed global and local history and a site meaningful to the community. © 2016 Mohammed Huwais/AFP via Getty Images

[209] Human Rights Watch and IHRC video interview with Liesl Gerntholtz, January 26, 2024.

IV. Implementing the Declaration to Safeguard Cultural Heritage

In addition to offering a framework through which to understand the effects of the use of explosive weapons in populated areas on cultural heritage, the Declaration provides a tool for better protecting it. Given that the effects of explosive weapons on cultural heritage are listed among the "devastating impact[s] on civilians and civilian objects," the Declaration's commitments should be used to address them. States should interpret and implement the Declaration's operative paragraphs to better safeguard cultural heritage as part of the Declaration's overarching goal to maximize protection of civilians.[210] In particular, states should take preventive steps, engage in data collection and sharing, adopt remedial measures, uphold the principle of inclusion, and review and promote the Declaration, tailoring each action to cultural heritage protection.

Preventive Measures

Policies and Practices (Paragraph 3.1)

States should ensure they address cultural heritage when adopting, strengthening, and operationalizing policies and practices under the Declaration. Paragraph 3.1 commits states to "implement, and where necessary, review, develop or improve national policy and practice with regard to the protection of civilians during armed conflict involving use of explosive weapons in populated areas."[211] This provision calls on states to establish a domestic framework for civilian protection, and thus should cover all the threats to civilians and civilian objects referenced in the Declaration's preamble.

Paragraph 3.1 takes a broad approach to national implementation measures. It covers both policies (including statutes and regulations, military doctrine, rules of engagement, military handbooks, etc.) and practices (steps taken to operationalize these written standards). If relevant policies and practices exist, a state should implement or, where necessary, strengthen them. If they do not exist, the state should develop new ones.

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[210] For an in-depth analysis of how the Declaration's provisions should be interpreted to best protect civilians, see generally Human Rights Watch and IHRC, *Safeguarding Civilians: A Humanitarian Interpretation of the Political Declaration on the Use of Explosive Weapons in Populated Areas*.

[211] Declaration, para. 3.1.

Regardless, the paragraph demands vigilance: a state should review and amend its policies and practices as needed to respond to emerging information or lessons learned. Because policies and practices are produced at the national level, the Declaration allows for flexibility across different states.

Action on this provision in the cultural heritage sphere can take different forms. States can incorporate cultural heritage into existing policies and practices dealing with civilian protection in armed conflict. Alternatively, they can adopt or adapt policies and practices related to cultural heritage protection to address the use of explosive weapons in populated areas in particular. Either way, states should ensure their policies and practices not only uphold existing international humanitarian law but also live up to the Declaration's goals of reducing the humanitarian consequences of the use of explosive weapons in populated areas.

States should adopt a range of specific policies and practices to achieve the end of increasing cultural heritage protection. They would benefit in this process from consultations with cultural heritage and military experts. States could, for example, institute policies related to how explosive weapon attacks are approved and require a higher degree of military or civilian authorization before such weapons are used near a cultural heritage site.[212] They could also appoint a monuments officer to accompany units in the field and advise on operations.[213] Taking a step in this direction, in 2019 the Smithsonian Cultural Rescue Initiative reached an agreement with the US Army to train reserve officers to identify cultural heritage sites to help "avoid collateral damage of [those] sites from military operations."[214] To avoid attracting the use of explosive weapons, states should not locate their troops or arsenals in cultural heritage areas, something Mwatana alleged that parties to the conflict in Yemen were doing.[215]

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[212] For a comparable recommendation with regard to the general use of explosive weapons in populated areas, see UN Office for the Coordination of Humanitarian Affairs (OCHA), *Compilation of Military Policy and Practice: Reducing the Humanitarian Impact of the Use of Explosive Weapons in Populated Areas*, August 2017, https://reliefweb.int/report/world/compilation-military-policy-and-practice-reducing-humanitarian-impact-use-explosive (accessed December 2, 2023), p. 7.
[213] Human Rights Watch and IHRC video interview with Corine Wegener, November 9, 2023.
[214] Jenae Barnes, "Modern-Day 'Monuments Men': Smithsonian, US Army Partner to Preserve Culture amid War," *ABC News*, November 9, 2019, https://abcnews.go.com/Politics/modern-day-monuments-men-smithsonian-us-army-partner/story?id=66614432 (accessed April 1, 2024).
[215] Mwatana for Human Rights, *The Degradation of History: Violations Committed by the Warring Parties against Yemen's Cultural Property*, p. 10; Human Rights Watch and IHRC video interview with Arwa Othman, February 18, 2024.

In some armed conflicts, there could be humanitarian benefits to the creation of a "no strike" list of cultural heritage sites, or targets that are too close to cultural heritage sites and should be avoided when using an explosive weapon with wide area effects. Some specialists interviewed, however, raised concerns that in wars where cultural heritage is intentionally targeted, such lists would be ignored or could even put sites at a greater risk.[216] Referring to the no-strike list that UNESCO provided to the Saudi and UAE-led coalition during the war in Yemen, archaeologist and researcher Lamya Khalidi said, "Almost every single site that was on there with the coordinates was hit. This is something that everybody used to do to protect sites, but suddenly we have this example of exactly the opposite happening…. Since then, I have not been comfortable about giving coordinates of any site to anyone."[217]

While Paragraph 3.1 of the Declaration is directed at states, other actors, either independently or under government orders, could also develop policies and practices to better protect cultural heritage. Dmytro Koval of Truth Hounds, who has a background in the protection of cultural heritage, recommended, for example, that museums create guides for how to evacuate movable cultural heritage. In Ukraine, museums "have recommendations on fire and disaster … and just a tiny portion deals with evacuation of cultural heritage. It makes no sense because the actions are very different for natural disasters and for war."[218] Volodymyr Yermolenko, president of PEN Ukraine, said museums need protocols for evacuating and safely storing collections when conflicts are imminent. He also urged museums and other facilities to catalog or digitalize their holdings in advance.[219]

Training (Paragraph 3.2)

Training is especially important in the cultural heritage sphere because the understanding of cultural heritage necessary for its protection is often lacking. Paragraph 3.2 of the Declaration commits states to "ensure comprehensive training of [their] armed forces on the application of International Humanitarian Law and on the policies and good practices

[216] Human Rights Watch and IHRC video interview with Eman Homaid, April 5, 2023.
[217] Human Rights Watch and IHRC video interview with Lamya Khalidi, May 11, 2023. Iona Craig of the Yemen Data Project also raised ethical issues around the concept of a no-strike list, noting, "There is the problem of putting or ranking historical sites as more important than residential areas or civilian locations." Human Rights Watch and IHRC video interview with Iona Craig, April 6, 2023.
[218] Human Rights Watch and IHRC video interview with Dmytro Koval, January 17, 2024.
[219] Human Rights Watch and IHRC video interview with Volodymyr Yermolenko, March 25, 2024.

to be applied during the conduct of hostilities."[220] States should understand training to encompass both the standards of protection and the subject—in this case cultural heritage—to be protected.

The Declaration's training provision applies to both existing international humanitarian law and armed conflict-related policies and policies, including those related to the use of explosive weapons in populated areas. The breadth of training is consistent with the Declaration's goals of not only improving compliance with existing international humanitarian law but also strengthening the protection of civilians from the use of explosive weapons in populated areas. If properly trained on these topics, armed forces will have notice about their obligations and commitments and be more prepared to implement them in the course of their duties. When an armed conflict arises, well-trained troops should be more likely to uphold the law and to take steps to prevent the harm explosive weapons cause to civilians and civilian objects.

Paragraph 3.2 calls for training to be "comprehensive," and therefore states should ensure it addresses all laws, policies, and practices relevant to the Declaration's commitments, including those related to cultural heritage. Training should cover existing international law that deals with protection of cultural heritage in armed conflict, such as the 1954 Hague Convention, its Second Protocol, and Additional Protocols I and II to the 1949 Geneva Conventions.[221] Training should also familiarize armed forces with the policies and practices regarding cultural heritage and explosive weapons that emerge under Paragraph 3.1 of the Declaration. A combination of classroom instruction and simulations will help militaries preempt threats to cultural heritage from explosive weapons in their planning and prepare troops to deal with scenarios in which they encounter cultural heritage in the field.

Armed forces should in addition learn about the cultural heritage of the region in which they are operating. Corine Wegener of the Smithsonian Cultural Rescue Initiative

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[220] Declaration, para. 3.2.

[221] Convention for the Protection of Cultural Property in the Event of Armed Conflict; Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, adopted March 26, 1999, 2253 U.N.T.S 172, entered into force March 9, 2004; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted June 8, 1977, 1125 U.N.T.S. 3, entered into force December 7, 1978, art. 53; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, entered into force December 7, 1978, art. 16.

recommended that troops receive training in not only law and policy but also relevant art history before they deploy. Such instruction should go beyond existing cultural awareness training that they are given about how to interact with the local population.[222] Better awareness of what constitutes cultural heritage and its vulnerability to the use of explosive weapons in populated areas can help prevent damage due to ill-informed targeting. Education about why cultural heritage matters can also create what the 1954 Hague Convention refers to as a "spirit of respect," which can in turn encourage troops to protect heritage of either universal or local significance.[223] In the process, training can help overcome what Patty Gerstenblith, an expert in cultural heritage law, described as the challenge of ensuring that cultural heritage is viewed as sufficiently more important than other civilian objects to warrant additional protection.[224] Experts in art history, archaeology, religion, and other fields, as well as local community members, could supplement military knowledge of these topics.

Refraining from or Restricting Use (Paragraph 3.3)

The Declaration's core provision on avoiding civilian harm is as applicable to the protection of cultural heritage as it is to the protection of civilians and civilian objects more generally. Paragraph 3.3 commits states to "[e]nsure that [their] armed forces adopt and implement a range of policies and practices to help avoid civilian harm, including by restricting or refraining as appropriate from the use of explosive weapons in populated areas, when their use may be expected to cause harm to civilians or civilian objects."[225] If implemented to maximize its humanitarian impact, this provision can help prevent damage to cultural heritage sites and the civilian suffering that ensues.

Given the overarching purpose of the Declaration, and the ordinary meaning of the terms "refrain from" and "restrict," states should interpret Paragraph 3.3 as a vital tool to enhance civilian protection.[226] Because "to refrain from" is stronger than "to restrict,"

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[222] Human Rights Watch and IHRC video interview with Corine Wegener, November 9, 2023.
[223] Convention for the Protection of Cultural Property in the Event of Armed Conflict, art. 7 ("The High Contracting Parties undertake to introduce in time of peace into their military regulations or instructions such provisions as may ensure observance of the present Convention, and to foster in the members of their armed forces *a spirit of respect for the culture and cultural property of all peoples*" (emphasis added)).
[224] Human Rights Watch and IHRC video interview with Patty Gerstenblith, November 10, 2023.
[225] Declaration, para. 3.3.
[226] For further discussion of this provision, see Human Rights Watch and IHRC, *Safeguarding Civilians: A Humanitarian Interpretation of the Political Declaration on the Use of Explosive Weapons in Populated Areas*, pp. 10-12. The purpose of the

states should refrain from, or avoid, using explosive weapons in populated areas when their use leads to heightened risks to civilians. In particular, they should avoid using explosive weapons when the weapons have wide area effects and thus inherently meet Paragraph 3.3's threshold of "expect[ing] to cause harm to civilians or civilian objects." States should further agree that it is appropriate to "restrict" the use in populated areas of explosive weapons without wide area effects when "their use may be expected to cause harm to civilians or civilian objects." The commitment would thus not prevent all use of explosive weapons in populated areas but would limit the practice if there was a foreseeable risk of harm to civilians or civilian objects, as is often the case.

As discussed in Chapter III, damage to cultural heritage causes harm to civilians and civilian objects of the sort that Paragraph 3.3 seeks to prevent. If the paragraph is interpreted as proposed above, it will significantly advance the protection of cultural heritage in cities, towns, and villages by committing states to refrain from using explosive weapons with wide area effects in populated areas. "One of the biggest problems is the blast radius of the explosives being used in residential areas," said Iona Craig, representative of the Yemen Data Project.[227] Furthermore, states should take into account expected cultural heritage-related harm when determining when to restrict the use of other explosive weapons in populated areas. Possible restrictions could include such policies and practices, mentioned earlier, as requiring senior-level authorization for specific attacks endangering cultural heritage or, in appropriate circumstances, imposing no-strike lists.

Foreseeability (Paragraph 3.4)

Military planning and operations should be informed by the full range of effects of cultural heritage destruction resulting from the use of explosive weapons in populated areas. Paragraph 3.4 of the Declaration commits states to ensure their armed forces, "including in their policies and practices, take into account the direct and indirect effects on civilians and civilian objects which can reasonably be foreseen in the planning of military

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Declaration is evident in its preamble. The Oxford English Dictionary defines "refrain" as "to abstain from doing something." The term is comparable to "avoid," which the dictionary defines as "to have nothing to do with, refrain from." "Restrict" is defined in the Oxford English Dictionary as "to confine to or within certain limits." Oxford English Dictionary Online, definition of "refrain" (verb) https://www.oed.com/dictionary/refrain_v (accessed October 23, 2023); Oxford English Dictionary Online, definition of "avoid" (verb), https://www.oed.com/dictionary/avoid_v (accessed October 2023, 2023); Oxford English Dictionary Online, definition of "restrict" (verb), https://www.oed.com/dictionary/restrict_v (accessed October 23, 2023).

[227] Human Rights Watch and IHRC video interview with Iona Craig, April 6, 2023.

operations and the execution of attacks in populated areas, and conduct damage assessments, to the degree feasible, and identify lessons learned."[228] The fact that cultural heritage-related harm is as predictable as other immediate and long-term harm from explosive weapons triggers the application of this provision.

Paragraph 3.4 constitutes a broad commitment with regard to the problem it defines and the response it calls for. First, it covers "the direct and indirect effects on civilians and civilian objects." The Declaration's preamble lays out that such effects extend far beyond deaths and injuries to encompass various reverberating effects on people and objects. Second, states should understand and implement the commitment to "take into account" as extending beyond a mere consideration of these impacts and entailing concrete steps to enhance civilian protection, the central goal of the Declaration.

In the cultural heritage context, states should take steps designed to enhance protection for the sites and civilians threatened by the use of explosive weapons in populated areas. This commitment bolsters the argument for states to *refrain*, under Paragraph 3.3, from the use of explosive weapons *with wide area effects* in populated areas. In addition, the duty to account for foreseeable effects can inform when and how states should *restrict* the use of other explosive weapons in populated areas with cultural heritage. When asked how to avoid the inevitable damage to cultural heritage caused by explosive weapons in such densely populated areas as the Old City of Sanaa, Lamya Khalidi, the archeologist specializing in Yemen, responded simply, "Don't hit them."[229]

Regardless of how a state interprets the commitment to restrict or refrain from explosive weapons use, states should account for indirect effects related to cultural heritage destruction when engaging in the proportionality test, which prohibits attacks that can be reasonably expected to cause "incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof" excessive in relation to the anticipated military advantage.[230]

[228] Declaration, para. 3.4.
[229] Human Rights Watch and IHRC video interview with Lamya Khalidi, May 11, 2023.
[230] Additional Protocol I, art. 51(5)(b).

Role of Information

Data Collection and Sharing (Paragraphs 1.8, 3.4, 4.1, 4.2, 4.3)

When fulfilling the Declaration's multiple commitments on data collection and sharing, states should include information on cultural heritage destruction and associated harm to civilians. Paragraph 4.2 declares that endorsing states should "[c]ollect, share, and make publicly available disaggregated data on the direct and indirect effects on civilians and civilian objects of military operations involving the use of explosive weapons in populated areas, where feasible and appropriate."[231] Paragraph 4.3 adds that states should also "[f]acilitate the work of the United Nations, the ICRC and relevant civil society organisations collecting data on the impact on civilians of military operations involving the use of explosive weapons in populated areas, as appropriate."[232] Paragraphs 3.4 and 4.1 call for damage assessments and humanitarian impact assessments respectively.[233] Data collection and sharing can advance protection for cultural heritage as it does for other areas of civilian protection.

The combination of collecting and sharing data serves the humanitarian ends of the Declaration. First, it provides a clearer understanding of the direct and indirect effects of the use of explosive weapons in populated areas and can in turn influence state policy and practice and lessons learned related to civilian protection. Second, building an accurate picture of civilian harm facilitates victim assistance and international cooperation and assistance by identifying the types of support needed and allowing states to direct their resources more efficiently and effectively. Third, documentation of the use of explosive weapons in populated areas is essential for assessing the lawfulness of specific military operations and providing accountability for victims, including by identifying possible violations of international humanitarian law.[234] Fourth, information about progress made in

[231] Declaration, para. 4.2.
[232] Ibid., para. 4.3.
[233] Ibid., paras. 3.4 ("Ensure that our armed forces … conduct damage assessments, to the degree feasible, and identify lessons learned") and 4.1 ("Strengthen international cooperation and assistance among armed forces, and other relevant stakeholders, including in the context of partnered military operations, with respect to exchanges of technical and tactical expertise, and humanitarian impact assessments, in order to develop good policies and practices to enhance the protection of civilians, particularly with regard to the use of explosive weapons in populated areas").
[234] See Simon Bagshaw, "Committing to Civilian Casualty Tracking in the Future Declaration on the Use of Explosive Weapons in Populated Areas," Article 36 policy briefing, April 2022, https://article36.org/wp-content/uploads/2022/04/Article-36-Casualty-Tracking-and-the-Political-Declaration-on-EWIPA.pdf (accessed March 3, 2024).

implementing the Declaration's commitments promotes monitoring and encourages compliance.

To achieve these goals, the gathering and dissemination of information should encompass data on both civilian harm and military operations. As specified in Paragraph 4.2, states should “collect, share, and make publicly available” data on the full range of humanitarian consequences of the use of explosive weapons in populated areas, including direct and indirect effects on civilians and civilian objects. Fulfilling the Declaration’s commitments further entails collecting operational data, such as the types and numbers of weapons used, the locations hit and intended targets, and circumstances of the weapons’ use. Such comprehensive information is essential not only to determining the humanitarian impacts of explosive weapons but also to assessing the effectiveness of civilian protection policies and practices and informing reforms where appropriate. To help ensure thorough data collection and avoid bias, Paragraph 4.3 calls on states to facilitate the research of other experts, including from the UN, the ICRC, and civil society organizations.

The data collection and sharing provisions are equally important tools for the protection of cultural heritage from the use of explosive weapons in populated areas. Documenting and publicizing the gravity and breadth of harm can generate international outrage and stigmatize a method of war that endangers cultural heritage, thus helping to prevent further destruction. In-depth records of a cultural heritage site or object before and after it is damaged can aid the preservation and restoration process. Understanding the cause as well as the nature of the harm can inform the development and evolution of policies and practices under the Declaration. Data gathering and sharing related to cultural heritage, as with regard to civilian harm more broadly, can also facilitate monitoring and promote accountability.

While the relevant operational data is the same, the nature of the harm may be somewhat distinctive in the cultural heritage context. Information on direct effects includes the physical damage or destruction of a specific monument, museum, mosque, or other cultural site, or civilian casualties associated with the attack on a site. Documenting the indirect effects requires researching the psychological, psychosocial, economic, and related consequences of the loss of cultural heritage to a civilian population. Having knowledge of both the physical state of the site before the attack as well as its local and universal significance would be crucial to the analysis. Both PEN Ukraine’s Volodymyr

Yermolenko and Tufts art history professor Alice Sullivan said digital technology, which can be used to scan interior and exterior details in three dimensions, can help recreate and reconstruct buildings.[235] Such digital documentation also allows for further study and "will at least be a record of what it looks like," Sullivan said.[236] Olenka Pevny, the Ukrainian studies professor from the University of Cambridge, echoed this sentiment: "I would like to see before a war that monuments are photographed sufficiently so that even if they are lost, people can study them. If someone can go on the ground now, [they should] photograph the monuments."[237]

Based on his experience in Ukraine and with cultural heritage law, Dmytro Koval of Truth Hounds outlined the key elements and challenges of a cultural heritage damage assessment. Like Sullivan, he stressed the importance of baseline information. "We don't have a well-developed and well-structured database of cultural heritage in Ukraine," he said. [238] While there are national and regional heritage lists, there is no such municipal list. The lack of standardized information across the country has impeded "identification and assessment of damage."[239] Effective assessment also requires coordination across government agencies, UNESCO, international and nongovernmental organizations, and other stakeholders. According to Koval, such coordination is also lacking in Ukraine: "If there is some intention to make another intervention and help with documentation, they should at least try to understand what others are already covering."[240] Other elements essential to cultural heritage assessments include funding and making up for the loss of experts during an ongoing armed conflict.

The Declaration's two potential limits to the collection and sharing of data, referenced in Paragraph 4.2, should not be interpreted as providing loopholes in the cultural heritage context. States can ensure data collection is "feasible" by facilitating the collection of data by individuals and groups outside the government, in line with the commitments under Paragraph 4.3. While military investigators may best be able to provide operational data, they will likely need to consult with outside experts, such as art historians, archaeologists,

[235] Human Rights Watch and IHRC video interview with Volodymyr Yermolenko, March 25, 2024; Human Rights Watch and IHRC video interview with Alice Sullivan, November 10, 2023.
[236] Human Rights Watch and IHRC video interview with Alice Sullivan, November 10, 2023.
[237] Human Rights Watch and IHRC video interview with Olenka Pevny, December 15, 2023.
[238] Human Rights Watch and IHRC video interview with Dmytro Koval, January 17, 2024.
[239] Ibid.
[240] Ibid. Koval noted that the specific information be gathered depends in part on the purpose of the data collection, e.g., restoration or prevention of further harm, compensation, or prosecution.

and historians, to gather information on the heritage. In addition, they should involve local community members who can speak with authority to how they have experienced the harm. Granting humanitarian access, as discussed below, is one means of ensuring feasibility on a time-sensitive basis.

Under Paragraph 4.2, states should also presume, in the interest of transparency, that data collection and sharing is "appropriate." Given the benefits, discussed above, of transparency, the limited situations in which data collection and sharing may not be appropriate should be strictly humanitarian, such as if states have a strong reason to suspect that the dissemination or publication of that information may risk further civilian harm. While in general information on cultural heritage should be collected and disseminated, states should take note of concerns about publicizing information that may make cultural heritage sites more vulnerable to being targeted.[241]

Remedial Measures

Humanitarian Access (Paragraph 4.4)

Cultural heritage organizations should be allowed access to affected sites to aid with documentation, preservation, and recovery efforts. Paragraph 4.4 commits states to "facilitate rapid, safe, and unhindered humanitarian access to those in need in situations of armed conflict in accordance with applicable international law, including International Humanitarian Law." Given the importance of cultural heritage to local populations and the urgency of action, safe passage should be granted to relevant cultural heritage specialists.

Paragraph 4.4 lays the groundwork for humanitarian access under the Declaration. According to the ICRC, customary international humanitarian law requires parties to a conflict to "allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need."[242] States should guarantee access on a time-sensitive basis and free of

[241] As noted above, in some cases there have been concerns that no-strike lists have backfired and put cultural heritage sites at greater risk. Human Rights Watch and IHRC video interview with Lamya Khalidi, May 11, 2023.
[242] For information on humanitarian access under the Declaration, see Simon Bagshaw, "Implementing the Political Declaration on the Use of Explosive Weapons in Populated Areas: Key Areas and Implementing Actions," Article 36 policy briefing, November 2022, https://article36.org/wp-content/uploads/2022/11/Article-36-Implementing-the-Political-Declaration-November-2022.pdf (accessed March 3, 2024), pp. 12-13. For further information on existing international humanitarian law in this area, see ICRC, "Rule 55: Access for Humanitarian Relief to Civilians in Need," *Customary IHL Database*, https://ihl-databases.icrc.org/en/customary-ihl/v1/rule55 (accessed February 25, 2024).

interference so that experienced aid workers can address humanitarian needs in an efficient and neutral manner.

Damaged cultural heritage is at risk of ongoing decay, loss of evidence, and looting, which makes timely access to sites, even during ongoing conflicts, critical. According to Dmytro Koval of Truth Hounds, relevant agencies have to respond quickly to prevent additional harm to damaged cultural heritage.[243] A site compromised by explosive weapons is vulnerable to collapse due to a weakened foundation, cracked walls, or exposure to the elements.[244] Municipalities' desire to clear rubble to repair roads and other structures as soon as possible after an attack can interfere with the imperative for cultural heritage experts to collect evidence. Therefore, "the reaction of investigators and prosecutors needs to be very quick to collect all the needed data and photo and 3-D drone footage, and then leave the space for the municipal agencies dealing with repairs."[245] Timeliness of access is also essential for the accuracy of data collection. According to Patty Gerstenblith, who has worked in multiple capacities to advance the protection of cultural heritage in armed conflict, "It's not enough to come back later and say cultural heritage was destroyed…. One of the most important things has to be data collection contemporary with destruction."[246]

States should therefore grant access to cultural heritage defenders and experts that is akin to that granted to aid organizations. For example, they could expedite or waive visas, remove barriers to importing or exporting equipment, and provide safe passage for cultural heritage personnel and equipment.[247] Cultural heritage specialists who arrive before attacks can support efforts to preemptively protect cultural heritage that is under threat before it is too late. Specialists who arrive shortly after an attack can complement local knowledge and provide expertise on such topics as how to document destruction and associated civilian harm, how to preserve what remains of damaged sites or objects, and how to reconstruct or restore. International organizations and nongovernmental organizations, along with states, can also provide funding, equipment, or other resources to support the work of local groups.

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[243] Human Rights Watch and IHRC video interview with Dmytro Koval, November 7, 2023.
[244] Human Rights Watch and IHRC video interview with Dmytro Koval, January 17, 2024.
[245] Ibid.; Human Rights Watch and IHRC video interview with Viktor Dvornikov, March 19, 2024.
[246] Human Rights Watch and IHRC video interview with Patty Gerstenblith, November 10, 2023.
[247] Bagshaw, "Implementing the Political Declaration on the Use of Explosive Weapons in Populated Areas: Key Areas and Implementing Actions," p. 13.

Victim Assistance (Paragraph 4.5)

Assistance to victims in the wake of armed conflict could include measures to address the civilian harm associated with the damage and destruction of cultural heritage. Paragraph 4.5 calls on states to:

> Provide, facilitate, or support assistance to victims—people injured, survivors, families of people killed or injured—as well as communities affected by armed conflict. Adopt a holistic, integrated, gender-sensitive, and non-discriminatory approach to such assistance, taking into account the rights of persons with disabilities, and supporting post-conflict recovery and durable solutions.[248]

A commitment to provide assistance in the cultural heritage context should complement not compete with traditional victim assistance.

Victim assistance seeks to ensure the humanitarian consequences of conflict are remediated as well as prevented. States should construe victim assistance broadly to allow victims to realize their human rights and participate fully in society. Assistance encompasses not only medical care but also psychological support and measures to promote social and economic inclusion. It should advance post-conflict recovery, including through the rebuilding of civilian infrastructure.

Although not traditionally thought of in relation to cultural heritage, the concept of victim assistance could be used to address cultural heritage-related harm. The recipients of victim assistance include communities affected by armed conflict. As discussed above, the destruction of cultural heritage from the use of explosive weapons in populated areas has significant impacts on local communities. The harm, which can be psychological, social, or economic, can interfere with a community's recovery. In addition, in a 2016 report examining cultural heritage damage, Karima Bennoune, the UN special rapporteur in the field of cultural rights, found that "the right of access to and enjoyment of cultural heritage forms part of international human rights law," and that "[c]ultural heritage is linked to

[248] Declaration, para. 4.5.

human dignity and identity."[249] Therefore, the right to culture should be among the rights that victim assistance should help guarantee civilians.

States can take several concrete steps to ensure victim assistance applies to cultural heritage. First, they can recognize the relevance of the Declaration's commitment to assist victims to the cultural heritage context. In other words, they can make clear that the "holistic" approach to assistance and recovery should incorporate steps to address cultural heritage destruction and its associated impacts on civilians.

Second, states can take steps to preserve or reconstruct cultural heritage as they recover from an armed conflict. In some cases, it may be appropriate to save what remains of a cultural heritage site or object, such as salvaging pieces of a bombed building that might be razed if it did not have cultural significance. Anthropologist and Ukraine expert Emily Channell-Justice said, "Maybe you would normally tear it down, but … [h]eritage should be part of how you look at reconstruction."[250] In other cases, it may be necessary to reconstruct a site, partially or entirely, as was the case with the Stari Most bridge in Mostar. Such steps are important because they preserve, to at least some degree, a piece of cultural heritage, allow for a return to cultural or religious activities, stimulate economic recovery by reviving tourism and use of cultural sites, and facilitate healing of the community.

Third, victim assistance programs could facilitate access of affected communities to cultural heritage sites. Such efforts would further social inclusion, a goal of victim assistance, and further promote recovery.

Finally, given that such assistance programs are resource intensive, states around the world should provide a range of financial, material, technical, and other assistance to support preservation and reconstruction of cultural heritage damaged by armed conflict. Private funding may also play a role. "We have to find money and get people to invest," Channell-Justice said.[251]

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[249] United National General Assembly, Report of the Special Rapporteur in the Field of Cultural Rights, A/HRC/31/59, February 3, 2016, https://digitallibrary.un.org/record/831612?ln=en (accessed February 20, 2024), para. 89.
[250] Human Rights Watch and IHRC interview with Emily Channell-Justice, October 17, 2023.
[251] Ibid.

Principle of Inclusion

The principle of inclusion reflected in the Declaration should inform efforts to address cultural heritage-related harm. Paragraph 4.6, for example, commits states to "facilitate the work of the United Nations, the ICRC, other relevant international organisations and civil society organisations aimed at protecting and assisting civilian populations and addressing the direct and indirect humanitarian impact arising from the use of explosive weapons in populated areas, as appropriate."[252] The input of cultural heritage experts and other relevant stakeholders, especially affected communities, is crucial for the effective implementation of all the provisions discussed in this report.

The principle of inclusion runs throughout the Declaration. Preambular Paragraph 1.9 sets the stage by "welcoming the on-going work" of international and nongovernmental organizations in dealing with the humanitarian impacts of the use of explosive weapons in populated areas.[253] Paragraph 4.6 refers to the principle in the context of states' commitment to facilitate these groups' efforts to address the impact of explosive weapons in populated areas. The principle is also reflected in Paragraph 4.3 on data collection and Paragraph 4.7 on follow-up meetings (discussed below). Each of these provisions recognizes the value of incorporating a range of perspectives and expertise into the work of protecting civilians from the effects of explosive weapons.

Inclusion is particularly relevant in the cultural heritage context because militaries rarely have the requisite expertise in this area. The Declaration calls for the involvement of the UN, the ICRC, and civil society organizations with regard to actions where an understanding of cultural heritage and its significance is especially valuable. For example, data collection would benefit from in-depth knowledge of the culture of an area of operation, and measures to assist civilians harmed by cultural heritage destruction or to respond to the damage to specific sites are more successful if grounded in an understanding of the affected people and places.

To implement the principle of inclusion, states and their armed forces should meaningfully involve a range of stakeholders. The Declaration explicitly names the UN, the ICRC, and civil society groups; the list could include UNESCO and the nongovernmental cultural

[252] Declaration, para. 4.6.
[253] Ibid., para. 1.9.

heritage organization group Blue Shield International and its national committees. States should also work closely with other cultural heritage experts from different fields (e.g. archaeologists, art historians, and historians) and different areas of practice (e.g., archivists or conservators). Equally if not more important, they should engage closely with affected communities. Reflecting on the need for community consultation in determining how to reconstruct damaged sites, Ukrainian studies professor Olenka Pevny said, "It can't be a simply be a rebuilding process if we want to heal the losses of identity."[254] All of these groups, particularly affected communities, can provide insights into the significance of cultural heritage, which in turn relates to the harm civilians have experienced. They can also offer valuable input into preventive and remedial efforts to protect cultural heritage.

Review and Promotion of Declaration

Regular Meetings (Paragraph 4.7)

The follow-up meetings that states have committed to provide an opportunity to continue discussions of how to protect cultural heritage and avoid the harm associated with its destruction from the use of explosive weapons in populated areas. Under Paragraph 4.7, states agree to meet on a regular basis to review in a collaborative spirit the implementation of this Declaration and identify any relevant additional measures that may need to be taken. These meetings could include the exchange and compilation of good policies and practices and an exchange of views on emerging concepts and terminology. The United Nations, the ICRC, other relevant international organizations and civil society organizations may participate in these meetings.[255] These discussions should include cultural heritage protection among other topics on their agenda.

The follow-up meetings states committed to in Paragraph 4.7 provide an opportunity for the Declaration to evolve. The paragraph makes clear that the Declaration's protections remain open to improvement. It specifically mentions that "additional relevant measures … may need to be taken." It suggests basing any revisions on an exchange of policies and practices and thinking about the topic. Following the principle of inclusion, states should follow a collaborative process that involves many stakeholders.

[254] Human Rights Watch and IHRC video interview with Olenka Pevny, December 15, 2023.
[255] Declaration 4.7.

Cultural heritage has to date rarely featured in conversations about the Declaration and the use of explosive weapons in populated areas; therefore, it is a topic ripe for more in-depth discussion at these follow-up meetings. States and other participants should use the meetings as a forum to stress the importance of addressing cultural heritage under the Declaration. They should highlight the direct and indirect effects of explosive weapons on cultural heritage and encourage documentation of such impacts. Multiple experts interviewed stressed the importance of international awareness and pressure as a tool for protecting cultural heritage from explosive weapons.[256] States should also report on and be open to improving their own policies and practices in response to the lessons gleaned from data collection and information exchange at the meetings. To inform work in this area, states should invite not only the groups enumerated in Paragraph 4.7 but also cultural heritage experts and members of affected communities.

Active Promotion of the Declaration (Paragraph 4.8)

Finally, promoting the Declaration's commitments will advance the cultural heritage protections it establishes. Paragraph 4.8 of the Declaration commits states to: "Actively promote this Declaration, distribute it to all relevant stakeholders, pursue its adoption and effective implementation by the greatest possible number of states, and seek adherence to its commitments by all parties to armed conflict, including non-State armed groups."[257] This provision has the potential to spread awareness of the Declaration's cultural heritage commitments among the commitments that deal with other humanitarian consequences of the use of explosive weapons in populated areas.

Under Paragraph 4.8, endorsing states should discuss and disseminate the Declaration not only among themselves but also with non-endorsing states and non-state armed groups who are parties to an armed conflict. As part of that commitment, states should work to persuade those actors to follow the Declaration's standards. They should also press other states to endorse the declaration so that they are politically, although not legally, bound by its provisions.

[256] Human Rights Watch and IHRC video interview with Ayman Al-Kinani, April 10, 2023; Human Rights Watch and IHRC video interview with Eman Homaid, April 5, 2023.
[257] Declaration, para. 4.8.

Actively promoting the Declaration is relevant to this report because cultural heritage is one of the humanitarian consequences endorsing states have committed to address. States should highlight that the Declaration explicitly includes cultural heritage destruction and resulting civilian suffering on its long list of foreseeable harm caused by the use of explosive weapons in populated areas. Examples of such harm could resonate with certain states or individuals, and provide an added motivation for joining the Declaration. States should also encourage actors to take into account cultural heritage when implementing the Declaration's standards as endorsers or on a voluntary basis. This chapter has provided guidelines for how to do so.

V. Enhancing Existing Cultural Heritage Protections

Although not specifically designed as a cultural heritage instrument, the Declaration has the potential to bolster the protections for cultural heritage laid out in the existing international legal framework. The Declaration calls for "strengthening compliance with and improving the implementation of appliable International Humanitarian Law," which would encompass several treaties that address cultural heritage in whole or in part.[258] The Declaration also calls on endorsing states to go beyond current law to protect civilians and civilian objects.[259] While non-binding, the Declaration, if interpreted and implemented as discussed in Chapter IV, can help prevent and remediate cultural heritage-related harm inflicted by the use of explosive weapons in populated areas. This chapter provides a brief introduction to relevant cultural heritage law and identifies four areas in which the Declaration can strengthen and clarify that law's protections.

Existing Cultural Heritage Law

Cultural heritage law was first codified in the Hague Regulations of 1907, which require that "all necessary steps must be taken to spare" cultural heritage in cases of bombardment by air, land, and sea during armed conflict.[260] The extensive destruction of cultural heritage in World War II, however, highlighted the inadequacy of that legal regime. It led to the adoption in 1954 of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, which has since been supplemented with two optional protocols.[261]

[258] Declaration, part B, chapeau.
[259] Ibid.
[260] Convention (IV) respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land, The Hague, adopted October 18, 1907, entered into force January 26, 1910, art. 27 ("In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes"); Convention (IX) concerning Bombardment by Naval Forces in Time of War, The Hague, adopted October 18, 1907, entered into force January 26, 1910, art. 5 ("In bombardments by naval forces all the necessary measures must be taken by the commander to spare as far as possible sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on the understanding that they are not used at the same time for military purposes").
[261] Francesco Francioni, "Cultural Heritage" (last updated November 2020), *Max Planck Encyclopedia of Public International Law*, Anne Peters and Rudiger Wolfrum, eds. (2008), section 5.

The 1954 Hague Convention is generally considered to be the "cornerstone" or the "centerpiece" of the international legal regime that protects cultural heritage in armed conflict.[262] Its core rules are widely considered to reflect customary international law.[263] The convention provides a minimum standard of protection through its "general protection" regime, which most importantly obligates states to respect and protect cultural property "by refraining from any use of the property and its immediate surroundings … for purposes which are likely to expose it to destruction or damage in the event of armed conflict" and from "any act of hostility, directed at such property," other than those uses or acts that are deemed imperative by military necessity.[264]

The convention also provides for a heightened standard of protection for cultural property that meets certain criteria, such as cultural property "of very great importance," through its "special protection" regime.[265] It obligates states parties to observe the immunity of this cultural property from acts of hostility or use of the property for military purposes,[266] but allows for waivers in "exceptional cases of unavoidable military necessity."[267]

The 1954 Hague Convention had 135 states parties as of March 2024, but it has also suffered from notable shortcomings.[268] In the 1990s, the limitations of the convention, including poor implementation of the special protection system and lack of robust enforcement tools, led to a movement to "strengthen[] the protection of cultural heritage against acts of war and of intentional destruction" through the adoption of a Second Protocol to the treaty in 1999.[269] The Second Protocol modifies the standard general protection regime from the 1954 Hague Convention to include more detailed peacetime

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[262] Roger O'Keefe, "Chapter 20: Protection of Cultural Property," *The Oxford Handbook of International Law in Armed Conflict* (2014), p. 494; Dieter Fleck, "Chapter 16: Protection of Cultural Property," *The Handbook of International Humanitarian Law*, 4th ed. (2021), p. 476. See also Convention for the Protection of Cultural Property in the Event of Armed Conflict, arts. 18(1), 19.

[263] ICRC, "Rule 38: Attacks Against Cultural Property," *Customary IHL Database*, https://ihl-databases.icrc.org/en/customary-ihl/v1/rule38 (accessed February 26, 2024).

[264] Convention for the Protection of Cultural Property in the Event of Armed Conflict, art. 4.

[265] Ibid., art. 8.

[266] Ibid., art. 9.

[267] Ibid., art. 11(2).

[268] ICRC, "Convention for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 14 May 1954: States Parties," https://ihl-databases.icrc.org/en/ihl-treaties/hague-conv-1954/state-parties?activeTab=undefined (accessed March 3, 2024); Francioni, "Cultural Heritage" (last updated November 2020), section 7.

[269] Francioni, "Cultural Heritage" (last updated November 2020), sections 7-8. The First Protocol regulates the protection of cultural property during occupation, including prohibitions on the exportation, retention, and sale of cultural property by the occupying power. Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, adopted May 14, 1954, 249 U.N.T.S. 215, entered into force August 7, 1956.

safeguard measures, and replaces the special protection regime with an "enhanced protection" regime.[270] The latter better protects cultural heritage by clarifying the criteria and processes for the granting of immunity and providing stronger reporting, monitoring, supervision, and enforcement mechanisms.[271] Its applicable scope is limited, however, as it only applies to cultural property "of the greatest importance for humanity," fewer states are parties to the Second Protocol, and its provisions do not reflect customary international law.[272]

Other than the Hague Convention regime, the 1977 Additional Protocols to the Geneva Conventions of 1949 are the multilateral treaties providing the most significant protection of cultural heritage in armed conflict. Article 53(a) of Additional Protocol I prohibits "acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples" in international armed conflicts, and Article 16 of Additional Protocol II extends the protections to non-international armed conflicts.[273] These provisions are commonly understood to refer to the same kind of "cultural property" that falls under the protection of the 1954 Hague Convention.[274] The Additional Protocols "affirm" the "essential obligations of respect for cultural property embodied more exhaustively in" the 1954 Hague Convention.[275] They reflect the customary international humanitarian law rule that states are prohibited from intentionally targeting cultural property absent a military necessity waiver.[276] Because Article 53 of Additional Protocol I and Article 16 of Additional Protocol II are "without prejudice" to and "did not

[270] Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, arts. 10-14. For further discussion, see Fleck, "Chapter 16: Protection of Cultural Property," p. 478; Francioni, "Cultural Heritage" (last updated November 2020), section 8. As of March 26, 2024, there were 135 states parties to the 1954 Hague Convention and 88 states parties to the Second Protocol.
[271] Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, arts. 10-12. See generally UNESCO, *Guidelines for the Implementation of the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict*, December 2023, https://en.unesco.org/sites/default/files/1999-secondprotocol_guidelines_2023_eng_1.pdf (accessed February 26, 2024).
[272] Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, art. 10(a); Francioni, "Cultural Heritage" (last updated November 2020), section 8.
[273] Additional Protocol I, art. 53(a); Additional Protocol II, art. 16.
[274] O'Keefe, "Chapter 20: Protection of Cultural Property," p. 496. For example, Article 53(a) of Additional Protocol I refers to protection for "the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples." Additional Protocol I, art. 53(a).
[275] Fleck, "Chapter 16: Protection of Cultural Property," p. 477. See also O'Keefe, "Chapter 20: Protection of Cultural Property," p. 496 ("The motivation behind the two provisions was to affirm in a single, concise article in each instrument the essential obligations of respect for cultural property embodied more exhaustively in the Convention.").
[276] ICRC, "Rule 38: Attacks Against Cultural Property," *Customary IHL Database*.

modify" the provisions of the 1954 Hague Convention, the rules of the 1954 Hague Convention are applicable in the event of conflicting obligations.[277]

Enhancing the Existing Legal Regime with the Declaration

While the exiting legal regime provides some protections for cultural heritage in armed conflict, it has limits. If implemented as discussed in Chapter IV, the Declaration provides a tool for clarifying and strengthening existing legal protections of cultural heritage particularly from the use of explosive weapons in populated areas.

1) Expansion of Substantive Scope

The reference to "cultural heritage" in Paragraph 1.5 of the Declaration should help broaden states' understanding of the range of sites that should receive protection. As discussed in Chapter I, in the context of armed conflict, international law often refers to cultural *property*, rather than cultural *heritage*. Article 1 of the 1954 Hague Convention uses the narrower concept of cultural property, and Additional Protocol I and II, despite some textual differences, do not purport to modify the property-based meaning of this term.[278]

Chapter I of this report explains, however, that more recent international law favors the term cultural heritage, and the Declaration's use of this term is consistent with and helps further this trend. A commitment to the Declaration may influence the range of cultural heritage that states should protect from the impact of explosive weapons in populated areas.

2) Use of Effects-Based Protections

The Declaration has the potential to advance the protection of cultural heritage because it focuses on addressing the consequences of an attack regardless of the intent behind it.

While the existing legal regime includes a variety of rules that can be used to protect cultural heritage, the prohibitions dedicated to the use of force against cultural property in particular apply specifically to intentional attacks on such sites. For example, the

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[277] ICRC, "Commentary on the Additional Protocols I and II of 8 June 1977," 1987, https://tile.loc.gov/storage-services/service/ll/llmlp/Commentary_GC_Protocols/Commentary_GC_Protocols.pdf (accessed February 26, 2024), paras. 2040, 2045, 2046, 4830, and 4832.
[278] Ibid., para. 2064; *Prosecutor v Kordić and Čerkez*, IT-95–14/2-A, Appeals Chamber, Judgment, December 17, 2004, para. 91 (citing ICRC Commentary, para. 2064, favorably).

Additional Protocols grant cultural heritage the same protection from indiscriminate attacks as other civilian objects, but they only establish an absolute prohibition on "any acts of hostility *directed against*" cultural heritage.[279] The 1954 Hague Convention similarly obligates states parties to "refrain[] from any act of hostility, *directed against* such [cultural] property."[280] While valuable, these prohibitions have limitations.

The purpose of the Declaration, by contrast, is to address the "devastating impact" of explosive weapons use. The Declaration does not specify that this impact has to be caused by intentional targeting. Instead, the commitment in Paragraph 3.3 to restrict or refrain from the use of explosive weapons in populated areas is triggered by the expectation of harm to civilians or civilian objects. As a result, it expands protection for cultural heritage beyond intentional targeting to the use of explosive weapons with wide area effects in populated areas or the use of other explosive weapons in populated areas if the harm is foreseeable.

3) Narrowing of Military Necessity Exception

The Declaration should also discourage states from waiving the immunity of cultural heritage based on military necessity. While the existing legal regime permits states to invoke military necessity, doing so would be inconsistent with endorsing states' political commitments under the Declaration to prevent civilian harm to the greatest extent possible.

The military necessity exception in the context of cultural property is grounded in the 1954 Hague Convention and remains available to all states as a matter of customary international law.[281] In Article 4(2), the convention permits states to waive their obligations to not intentionally target cultural property "only in cases where military necessity imperatively requires such a waiver." According to Patty Gerstenblith, professor of cultural heritage law at DePaul University, the scope of the waiver is "undefined" and "countries have used [military necessity] to excuse a lot of" direct and indirect damage to cultural heritage.[282] Subsequent treaties, including Additional Protocols I and II to the Geneva Conventions and the Second Protocol to the 1954 Hague Convention, arguably modify and

[279] Additional Protocol I, art. 53(a); Additional Protocol II, art. 16.
[280] Convention for the Protection of Cultural Property in the Event of Armed Conflict, art. 4(1).
[281] ICRC, "Rule 38(B): Attacks Against Cultural Property," *Customary IHL Database*, https://ihl-databases.icrc.org/en/customary-ihl/v1/rule38 (accessed February 26, 2024) ("Property of great importance to the cultural heritage of every people must not be the object of attack unless imperatively required by military necessity.").
[282] Human Rights Watch and IHRC video interview with Patty Gerstenblith, November 10, 2023.

narrow the scope of the military necessity waiver for some states.[283] However, the relevant provisions of Additional Protocols I and II are without prejudice to the 1954 Hague Convention, only a limited number of states are parties to the Second Protocol, and that protocol does not reflect customary international law. The military necessity waiver in the 1954 Hague Convention, therefore, remains operative for most states.[284]

The Declaration's emphasis on advancing protection of civilians during armed conflict suggests that it would be difficult for its endorsing states to uphold their commitment under the Declaration if they invoked a military necessity waiver to target cultural heritage with explosive weapons in populated areas. Although it calls for compliance with international humanitarian law as a general matter, the Declaration does not mention military necessity in its operative provisions, including in Paragraphs 3.3 or 3.4. Thus, the Declaration does not explicitly provide for any exceptions from its restrictions on the use of explosive weapons in populated areas. While the existing Hague regime seeks to balance the imperatives of cultural property protection and military necessity, the Declaration clearly adopts a standard more heavily weighted in favor of civilian—and, by extension, cultural heritage—protection. The Declaration should thus be understood to help close the loophole in cultural heritage law created by the military necessity exception.

4) Creation of Comprehensive Protections

Lastly, the Declaration contains a set of operative provisions that commit states to a range of preventive and remedial measures related to addressing the humanitarian consequences of explosive weapons in populated areas. If appropriately interpreted and implemented, they have the potential to provide a more comprehensive approach to the protection of cultural heritage from explosive weapons in populated areas than the existing international law on cultural heritage in armed conflict.

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[283] Additional Protocol I, for example, makes no reference to a military necessity waiver. As the ICRC Commentary notes, the obligation from Articles 52 and 53 is "stricter than that imposed by the 1954 Hague Convention," meaning that unless cultural property becomes a valid military objective, "no attack is permitted," even on the basis of military necessity. ICRC, "Commentary on the Additional Protocols I and II of 8 June 1977," 1987, para. 2072. The Second Protocol retains the military necessity waiver, but its text purports to clarify and narrow the scope of this exception in the context of acts of hostility directed at cultural property. Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, art. 6(a).

[284] See, for example, Fleck, "Chapter 16: Protection of Cultural Property," p. 486. As the ICRC Commentary explains: "When the Parties to the Protocol are also Parties to the Hague Convention of 1954, these derogations continue to apply, though it is understood that an attack may never be launched against an objective which is not a military objective in the sense of the Protocol. If one of them is a Party to the Protocol and not to the 1954 Hague Convention, no derogation is possible." ICRC, "Commentary on the Additional Protocols I and II of 8 June 1977," 1987, para. 2072, n. 28.

The existing treaties and core principles of customary international law that protect cultural property do not encompass as broad a range of measures related to mitigating the harm to individuals and communities that flows from damage to cultural heritage. Instead, their provisions focus on the conduct of hostilities. While the Second Protocol seeks to improve the monitoring, implementation, and enforcement of core customary principles, its additions are relatively limited and bind only a small set of states parties.

The Declaration can strengthen the existing legal regime by committing states to do more to understand and guard against risks to cultural heritage from explosive weapons in populated areas not only during but also before and after hostilities. The Declaration helps further the Hague regime's core obligation to "respect cultural property" by emphasizing comprehensive training for armed forces in Paragraph 3.2.[285] The Declaration also encourages the collection and sharing of data on the direct and indirect effects of explosive weapons in populated areas. Such a commitment to transparency should enhance the ability of states to comply with existing obligations that limit intentional and indiscriminate attacks that harm cultural heritage. Paragraphs 4.4 and 4.5 of the Declaration call for remedial measures during and after hostilities, including the facilitation of humanitarian access during armed conflict and the provision of victim assistance to affected individuals and communities. These operative provisions, as Chapter IV explains, are applicable to cultural heritage protection in the explosive weapons context and go beyond the largely preventive aims of the Hague regime. Ultimately, incorporating these political commitments into their efforts to protect cultural heritage should improve the effectiveness of states' existing legal obligations.

[285] Convention for the Protection of Cultural Property in the Event of Armed Conflict, art. 4(1).

Acknowledgments

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Appendix: Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas

Part A: Preamble

Section 1

1.1 As armed conflicts become more protracted, complex, and urbanised, the risks to civilians have increased. These risks are a source of major concern and they must be addressed. The causes of these risks involve a range of factors, including the use of explosive weapons in populated areas, and pose complex challenges for the protection of civilians.

1.2 The use of explosive weapons in populated areas can have a devastating impact on civilians and civilian objects. The risks increase depending on a range of factors, including the weapon's explosive power, its level of accuracy, and the number of munitions used.

1.3 Blast and fragmentation effects, and resulting debris, cause deaths and injuries, including lifelong disabilities. Beyond these direct effects, civilian populations, particularly children, are exposed to severe and long-lasting indirect effects—often referred to as reverberating effects. Many of these effects stem from damage to or destruction of critical civilian infrastructure.

1.4 When critical civilian infrastructure, such as energy, food, water and sanitation systems, are damaged or destroyed the provision of basic needs and essential services, such as healthcare and education are disrupted. These services are often interconnected and, as a result, damage to one component or service can negatively affect services elsewhere, causing harm to civilians that can extend far beyond a weapon's impact area.

1.5 The damage and destruction of housing, schools, hospitals, places of worship and cultural heritage sites further aggravates civilian suffering. The environment can also be impacted by the use of explosive weapons, through the contamination of air, soil, water, and other resources.

1.6 The use of explosive weapons in populated areas can also result in psychological and psychosocial harm to civilians. The direct and indirect effects often result in the displacement of people within and across borders, and have a severe impact on progress towards the Sustainable Development Goals. Unexploded ordnance impedes humanitarian access, the return of displaced persons and reconstruction efforts, and causes casualties long after hostilities have ended.

1.7 Many armed forces already implement policies and practices designed to avoid, and in any event minimise, civilian harm during hostilities. These can help armed forces to better understand the anticipated effects of explosive weapons on a military target and its surrounding areas, as well as the associated risk to civilians in populated areas. However, there is scope for practical improvements to achieve the full and universal implementation of, and compliance with, obligations under International Humanitarian Law, and the application and sharing of good policies and practices. Broadening and strengthening initiatives designed to share policies and practices on protecting civilians can support the promotion and better implementation of International Humanitarian Law.

1.8 We recognise the importance of efforts to record and track civilian casualties, and the use of all practicable measures to ensure appropriate data collection. This includes, where feasible, data disaggregated by sex and age. When possible, this data should be shared and made publicly available. Improved data on civilian harm would help to inform policies designed to avoid, and in any event minimise, civilian harm; aid efforts to investigate harm to civilians; support efforts to determine or establish accountability, and enhance lessons learned processes in armed forces.

1.9 We stress the imperative of addressing the short and long-term humanitarian consequences resulting from armed conflict involving the use of explosive weapons in populated areas. We welcome the on-going work of the United Nations, the International Committee of the Red Cross (ICRC), and civil society on the impacts and humanitarian consequences arising from the use of explosive weapons in populated areas.

1.10 We also welcome work to empower, amplify, and integrate the voices of all those affected, including women and girls, and we encourage further research into the gendered impacts of the use of explosive weapons.

Section 2

2.1 We reaffirm our obligations under applicable international law, including International Humanitarian Law and International Human Rights Law, and related commitments. These include our obligations to hold accountable those responsible for violations, and our commitment to end impunity.

2.2 Existing International Humanitarian Law provides the legal framework to regulate the conduct of armed conflict. It is applicable to the use of explosive weapons in all situations of armed conflict, and to all parties to an armed conflict, including both State and non-State armed groups. We stress the importance of full compliance with International Humanitarian Law as a means to protect civilians and civilian objects and to avoid, and in any event minimise, civilian harm when conducting military operations, in particular within populated areas.

2.3 We recall the obligations on all parties to armed conflict to comply with International Humanitarian Law under all circumstances, including when conducting military operations in populated areas. We recall in particular the obligation to distinguish between combatants and civilians as well as between civilian objects and military objectives at all times in the conduct of military operations, and to direct attacks only against military objectives. We recall further the prohibitions against indiscriminate and disproportionate attacks, and the obligation to take all feasible precautions in attack and against the effects of attacks. We also recall the obligations under International Humanitarian Law related to the general protection of civilians against dangers arising from military operations, and allowing and facilitating rapid and unimpeded passage of humanitarian relief for civilians in need.

2.4 We condemn tactics designed to exploit the proximity of civilians or civilian objects to military objectives in populated areas, as well as the use of improvised explosive devices directed against civilians or civilian objects, and other violations of International Humanitarian Law, including by non-State armed groups, which further exacerbate the risks to civilians and are of grave concern.

2.5 While there is no general prohibition against the use of explosive weapons, any use of explosive weapons must comply with International Humanitarian Law.

2.6 We strongly condemn any attacks directed against civilians, other protected persons and civilian objects, including civilian evacuation convoys, as well as indiscriminate shelling and the indiscriminate use of explosive weapons.

2.7 We welcome the work of the United Nations Security Council and the General Assembly to strengthen the protection of civilians during armed conflict and to strengthen compliance with International Humanitarian Law. In this regard, we recall UNSC and UNGA Resolutions dealing with the protection of civilians in armed conflicts.

Part B: Operative Section

Committed to strengthening the protection of civilians and civilian objects during and after armed conflict, addressing the humanitarian consequences arising from armed conflict involving the use of explosive weapons in populated areas, and strengthening compliance with and improving the implementation of applicable International Humanitarian Law, we will:

Section 3

3.1 Implement, and, where necessary, review, develop or improve national policy and practice with regard to the protection of civilians during armed conflict involving the use of explosive weapons in populated areas.

3.2 Ensure comprehensive training of our armed forces on the application of International Humanitarian Law and on the policies and good practices to be applied during the conduct of hostilities in populated areas to protect civilians and civilian objects.

3.3 Ensure that our armed forces adopt and implement a range of policies and practices to help avoid civilian harm, including by restricting or refraining as appropriate from the use of explosive weapons in populated areas, when their use may be expected to cause harm to civilians or civilian objects.

3.4 Ensure that our armed forces, including in their policies and practices, take into account the direct and indirect effects on civilians and civilian objects which can reasonably be foreseen in the planning of military operations and the execution of attacks in populated areas, and conduct damage assessments, to the degree feasible, and identify lessons learned.

3.5 Ensure the marking, clearance, and removal or destruction of explosive remnants of war as soon as feasible after the end of active hostilities in accordance with our obligations under applicable international law, and support the provision of risk education.

3.6 Facilitate the dissemination and understanding of International Humanitarian Law and promote its respect and implementation by all parties to armed conflict, including by non-State armed groups.

Section 4

4.1 Strengthen international cooperation and assistance among armed forces, and other relevant stakeholders, including in the context of partnered military operations, with respect to exchanges of technical and tactical expertise, and humanitarian impact assessments, in order to develop good policies and practices to enhance the protection of civilians, particularly with regard to the use of explosive weapons in populated areas.

4.2 Collect, share, and make publicly available disaggregated data on the direct and indirect effects on civilians and civilian objects of military operations involving the use of explosive weapons in populated areas, where feasible and appropriate.

4.3 Facilitate the work of the United Nations, the ICRC and relevant civil society organisations collecting data on the impact on civilians of military operations involving the use of explosive weapons in populated areas, as appropriate.

4.4 Facilitate rapid, safe, and unhindered humanitarian access to those in need in situations of armed conflict in accordance with applicable international law, including International Humanitarian Law.

4.5 Provide, facilitate, or support assistance to victims—people injured, survivors, families of people killed or injured—as well as communities affected by armed conflict. Adopt a holistic, integrated, gender-sensitive, and non-discriminatory approach to such assistance, taking into account the rights of persons with disabilities, and supporting post-conflict recovery and durable solutions.

4.6 Facilitate the work of the United Nations, the ICRC, other relevant international organisations and civil society organisations aimed at protecting and assisting civilian populations and addressing the direct and indirect humanitarian impact arising from the use of explosive weapons in populated areas, as appropriate.

4.7 Meet on a regular basis to review in a collaborative spirit the implementation of this Declaration and identify any relevant additional measures that may need to be taken. These meetings could include the exchange and compilation of good policies and practices and an exchange of views on emerging concepts and terminology. The United Nations, the ICRC, other relevant international organisations and civil society organisations may participate in these meetings. We

encourage further work, including structured intergovernmental and military-to-military exchanges, which may help to inform meetings on this Declaration.

4.8 Actively promote this Declaration, distribute it to all relevant stakeholders, pursue its adoption and effective implementation by the greatest possible number of States, and seek adherence to its commitments by all parties to armed conflict, including non-State armed groups.

Destroying Cultural Heritage

Explosive Weapons' Effects in Armed Conflict and Measures to Strengthen Protection

The bombing and shelling of cities and towns produces foreseeable and wide-ranging humanitarian consequences. This report focuses on the damage to and destruction of cultural heritage caused by the use of explosive weapons in populated areas. Explosive weapons have a devastating impact on historic buildings and houses of worship, museums and archives, public squares and performance centers. Loss of cultural heritage aggravates civilian suffering by killing or injuring civilians on site and inflicting long-term psychosocial, economic, and other types of harm.

Destroying Cultural Heritage draws on interviews with experts and affected civilians, primary and secondary sources, and legal analysis. It uses the case study of Russia's ongoing armed conflict against Ukraine to illustrate the vulnerability of cultural heritage to explosive weapons in populated areas. Drawing on examples from other armed conflicts, notably in Gaza and Yemen, the report differentiates and elaborates on the direct and indirect harm to places and people that this method of war causes.

The 2022 Political Declaration on Protecting Civilians from the Use of Explosive Weapons in Populated Areas provides a valuable tool for addressing this long-standing problem. Human Rights Watch and Harvard Law School's International Human Rights Clinic offer recommendations for how states can interpret and implement the Declaration to maximize cultural heritage protection.

By following these recommendations, states can bolster safeguards for cultural heritage laid out in existing international law. In practice, they can also better protect cultural heritage and, by extension, civilians.

A statue of 18th-century Ukrainian philosopher and poet Hryhorii Skovoroda stands amidst the ruins of a museum and memorial dedicated to him in Skovorodynivka in the Kharkivska region of Ukraine. The building was destroyed when a munition fired by Russian forces hit the roof on May 6, 2022, sparking a major fire.

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