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Studies

CULTURAL HERITAGE

THE RUSSIAN INVASION IN UKRAINE AND CULTURAL HERITAGE PROTECTION

Abstract: My work aims at encouraging the interdisciplinary or “bridge-building” approach of different academic disciplines. Experts in Security Studies, Political Science, History, Archaeology, naming just a few, need to cooperate, to corroborate and to collaborate in order to preserve, defend and recover, ancient artifacts and cultural heritage, from the warzones in Ukraine. Who thought about the fact that in 2022, we will see an attempt of Blitzkrieg, a failed one, from the Russian side? The actual International Order is under threat. And, this threat is represented by the will of the Russian Federation, on one side, trying to be a more influencing actor on the International Arena, and by the will of the Popular Republic of China, on the other side, that wants to be the new International Hegemon, World’s new most important state actor, taking the place of the US. As I have written in previous articles, who is investing in education is investing in future, the one that does not know the past, is forced to repeat it. We all know that it is easier to destroy than it is to repair and to build. Ancient artifacts are a honey trap for state soldiers, private contractors, mercenaries and fanatics. The global heritage that escapes from destruction, process that takes place because of the lack of education of the combatant troops and in the name of the modern warfare, is facilitating the “swallowing” up of a state, in the global name of the so-called state-supremacy, the common language of Imperialist forces.

Keywords: *Artefacts destruction, War in Ukraine, Cultural War, Cultural Genocide, Cultural Blitzkrieg.*

THE RUSSIAN INVASION IN UKRAINE: THE QUESTION WAS WHEN, NOT IF!

In the following rows, I will make a short conceptualization of the actual situation, across the globe, in order to better understand the fact that, the whole Global Heritage is under threat. Who thought that we will see, in the year 2022, a war with The Great War and Second World War strategies and tactics, in Europe? Well, at least me. I always considered, since the beginning of the Cold Conflict, that turned in a Lava Hot conflict, that, if it must, Russia will invade Ukraine. Why? Because I have also seen that Britain supplied Ukraine with short-range anti-tank missiles for self-defense, long before the war started, and that was one interesting move. Ben Wallace, the UK’s Secretary of State for Defense, told MPs that a small team of British soldiers would also be sent to Ukraine, another interesting move, made by the Brits` long before the war started. Wallace said there were legitimate and real concerns that Russian troops could be used for an invasion. And he was right. On the other hand, the Russians denied any invasion plans and accused the West of aggression. Dozens of British troops have been in Ukraine since the

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year 2015 to help train Ukrainian armed forces, and Britain has pledged to help rebuild the Ukrainian navy after Russia's invasion of Crimea in 2014. But Wallace also stressed that the UK would provide additional security assistance. In addition, Canadian special forces operators have been deployed to Ukraine amid rising tensions between NATO and Russia, at least that's what Global News has presented. The deployment of a small contingent from the Canadian Special Operations Regiment was coming as diplomatic talks aimed at preventing an armed conflict in Ukraine have broken down. The unit has also been tasked with helping develop evacuation plans for Canadian diplomatic personnel in the event of a full-scale invasion. But these things are not as interesting as an event that took place a week before the start of intense diplomatic meetings on the Russian troop buildup on the Ukrainian border. What exactly happened? Well, American and Ukrainian officials watched from a safe distance as Russia began "emptying" its embassy in Kiev, the Ukrainian capital. On the date of 5 January, 18 people, mostly children and spouses of Russian diplomats, boarded buses and set off on a 15-hour journey to Moscow, according to a senior Ukrainian security official. Another 30 or so people left over the next few days from Kiev and a consulate in Lviv, the largest and most important city in western Ukraine. Diplomats at two other Russian consulates have been told to prepare to leave Ukraine, a security official stressed to *The New York Times*, speaking on condition of anonymity to discuss national security issues. Meanwhile, in the eastern neighbor's backyard, convoys of trains loaded with tanks, rockets and troops continued to roll westward, apparently headed for the Ukrainian border. And Aleksandr G. Lukashenko announced that Russian forces and equipment have begun arriving in his country for a joint military exercise to be held in two places: on the western edge of Belarus near NATO members Poland and Lithuania, and along the Ukrainian border, a region that could prove another invasion route. Ukraine is thus vulnerable to attack from the north, east and south. Recent events (of that time) reminded me of a discussion I had with three former university colleagues (at undergraduate level), one Ukrainian and two Poles. The Ukrainian colleague is a war veteran, being older than me. He also took part in the Battle of Ilovaisk. For those who don't know, this battle began on August 7, 2014, when Ukrainian Armed Forces and pro-Ukrainian paramilitaries began a series of attempts to capture the town of Ilovaisk from pro-Russian insurgents affiliated with the self-proclaimed Donetsk People's Republic and (unproven and denied) Russian Armed Forces detachments. Although Ukrainian forces managed to enter the city on the day of 18 August, they were surrounded between 24 and 26 August by overwhelming enemy military forces who crossed the border, joining the battle. After days of encirclement, government forces reportedly reached an agreement with the insurgents to allow them to withdraw from the city. This agreement was not honored, and many soldiers died while trying to flee. Fortunately, my colleague escaped, but what he saw there marked him. The Chief of General Staff and Commander-in-Chief of the Armed Forces of Ukraine from 2014-2019, a military man who goes by the name Viktor Muzhenko, said on August 26, 2016 that the outcome of the battle was the

involvement of Russian troops, along with the incompetence of Ukrainian commanders in planning the withdrawal. It was the biggest loss of life in Ukraine's war against separatists, until today's events. Hundreds (some say thousands) of servicemen died. My colleague says that Ukraine will never be ready for a war on its own against Russia, and colleagues in Poland say that Poland is ready, except that the Poles do not want a war against the Russian Federation or Belarus. I inclined to believe that Russia (if it really wants to) will attack Ukraine by the end of the month January. The mud is pretty well frozen, the soil is hard enough to support tanks and other armor. Spring brings two capable generals, General Mud and General Rain, we saw that during WWII. General Cold may be on the side of the Russians, as he was in WWII. We know that the coldest month of the year in Kiev is January. Of course, maybe the Russians will wait until mid-February, but I don't think so.¹ Sometime after I published this article, The Invasion began. The Russian offensive began on the morning of 24 February, when Putin announced a "special military operation" to "demilitarize and de-nazify" Ukraine. Minutes later, missiles and airstrikes hit across Ukraine, including the capital Kyiv, shortly followed by a large ground invasion from multiple directions.

TRANSNISTRIA, MOLDOVA AND ROMANIA PREPARE TO ENTER THE ARENA?

The ISW (Institute for the Study of War) claimed that Russian and pro-Russian troops have continued to mobilise in Transnistria. ISW also gives as an example that the Ukrainian Military Intelligence Directorate (GUR) has reported that Transnistria is preparing to supplement the personnel of its military units and increase its readiness. In addition, Ukraine's Operational Command "South" reported on 27 and 28 April that Russia is systematically carrying out provocations in Transnistria and creating the false threat of an attack from Ukraine. On 28 April, Transnistrian President Vadim Krasnoselski ordered the Transnistrian Interior Ministry to be prepared for any scenario, but also dismissed as false reports by the Moldovan government that the Transnistrian authorities are preventing men of fighting age from leaving the region. Interestingly, on Friday 29 April, the Romanian authorities issued a press release informing that the websites gov.ro, mapn.ro, politiadefrontiera.ro, cfrcalatori.ro, as well as that of a financial institution had been cyber-attacked. Could this also be a little Russian or pro-Russian training? Even more interestingly, it confirms once again that Romania is also economically fragile, as more than a quarter (28.6%) of employees in active firms in Romania worked in foreign-controlled multinationals in 2020, most of which are controlled from Germany, France and the US. What will happen to those people in the event of a military conflict in which Romania is drawn in and involved, if foreigners close everything down and leave? As for the Transnistrians, they have several options. If they feel their precarious existence threatened, they can attack Moldova and Ukraine simultaneously, relying on their trusted partner, the Russian Federation. This will leave Ukraine fighting on yet another front, and the decision-makers in the Republic of Moldova

¹ MOLDOVAN 2022 a. Russia

with a new dilemma. Either unite with Romania, following a referendum, or risk political extinction. The Republic of Moldova has lost control of this area, which is now becoming a much more visible state actor on the international arena following the intervention of the Russian army (14th Army) in the Transnistria conflict. A conflict that seems to have been forgotten is that of 3 March 2006, when Ukraine imposed a new customs regime for the Transnistrian region. According to the new regulation, Transnistrian companies must be registered in Chisinau if they want to export their products across the border. Transnistria and Russia have described the move as an economic blockade of Transnistria. Moldova and Ukraine have rejected the accusations of a blockade, saying that businesses in the Transnistrian region will be able to continue their activities unhindered once they are registered in Chisinau, benefiting from tax breaks, unlike businesses in other parts of Moldova.

Conclusions? Transnistria can directly attack Moldova and reach Chisinau, with the support of Russian and pro-Russian forces. Thus, Transnistrian troops can advance towards Romania, even without attacking us, through the West. They can attack Odessa from the east, but also advance south of Caragash and Slobozia. The Republic of Moldova would not stand a chance against the Russians without our help and that of other stronger states.²

NORTH KOREA PUTS THE REST OF ASIA ON EDGE

Also, The Pacific is on high alert after North Korean leader Kim Jong-un “took his new weapons system for a walk”. North Korean state media reported that the government had conducted a test of its tactical guided weapons, weapons specially designed to enhance the capabilities of North Korea’s nuclear arsenal. The test came days after North Korea held a march in Pyongyang to celebrate Kim Il-sung’s 110th birthday. It is the 13th weapons test so far this year. There are serious concerns that Kim Jong-un does not have enough new weapons to show off for the next march, scheduled for 25 April, which is supposed to mark the establishment of the North Korean army. Representatives from the region and beyond fear that the Korean could instead opt for a nuclear test to demonstrate the strength of his regime. “The missile test was of great importance for drastically improving the firepower of the long-range artillery units in the front line, increasing the efficiency in operating tactical nuclear bombs and diversifying their firepower missions,” the Korean Central News Agency pointed out. Based on reports in the state media, it is assumed that the weapons tested over the weekend are capable of carrying a nuclear warhead, although there is no confirmation from the secretive regime. South Korea, which monitors the actions of its communist neighbor, reported two missile launches from Hamhung on Saturday night. The missiles were monitored travelling at Mach 4 over a distance of 110 kilometers. South Korean officials also said North Korean officials had ordered the reconstruction of collapsed tunnels around the nuclear test facility. Kim Jong-un justifies the wealth his regime is spending on

nuclear weapons while his people literally starve to death as a response to US aggression, despite the fact that no one has official plans to invade North Korea. That’s all the Americans would need, another unnecessary bloodshed and another defeat. Instead, it is clear to us that the communist nation is using fear of external threats to keep its impoverished population under control, under a brutal regime that has been in place since Kim Jong-un’s grandfather and ‘eternal leader’ Kim Il-sung established his totalitarian dictatorship. As rebel news points out, the late Christopher Hitchens referred to North Korea’s unusual system of government as a Necrocracy - a nation operating under a dead leader. Military escalations within North Korea are a concern for the Pacific region as North Korea acts in concert with partner regimes Beijing and Moscow. Kim Jong-un’s government supports Putin’s invasion of Ukraine and has suggested it would support an attack on Taiwan if Beijing launched one. Last week, North Korea described Putin’s attack on Ukraine as reasonable and fair. South Korea and Japan have urgently strengthened ties, fearing that the trilateral arrangement between Russia, China and North Korea poses an urgent risk to regional security and beyond. Both China and Russia have blocked the UN from imposing additional sanctions on North Korea for its missile tests. Ironically, the invasion of Ukraine, after the state surrendered its nuclear weapons, has made North Korea’s dictator determined that the state maintain and expand its nuclear capabilities. Any talk or dreams of disarming the dictatorial regime are considered dead. North Korea last tested its nuclear weapons in 2017, causing a magnitude 6.3 earthquake.³

DESTRUCTION OF UKRAINIAN CULTURAL HERITAGE

Now, that I have briefly presented the actual International Disorder, that is waiting for a new International Order, I will present the process of the destruction of Ukrainian Cultural Heritage. The Russian Forces want to cancel the whole culture of the Ukrainian people, they want to use the so called “cancel culture” concept on a bigger scale. Let’s analyze the following rows: “...Almost four weeks into the Russian invasion, important Ukrainian heritage sites have suffered destruction or damage, including the State Academic Opera and Ballet Theatre and the Philharmonic in Kharkiv, as well as the museum of local history in Ivankiv, where the losses have included works by the celebrated Ukrainian folk artist, Maria Prymachenko. Plenty more is at risk, including Ukraine’s seven World Heritage Sites designated pursuant to the World Heritage Convention (1972) and countless artefacts and works of art, some of which have already been evacuated from churches, museums and galleries all over Ukraine. Coupled with the chilling reports of the mounting numbers of civilian casualties in Ukraine and attacks against protected objects such as the Mariupol hospital, news of destroyed and damaged cultural heritage could lead one to question the capacity of international humanitarian law (IHL) to meaningfully influence the conduct of hostilities. However, IHL has been designed precisely to apply during armed conflict, and it is clear that attacks against the civilian population and civilian objects violate its most basic rules

² MOLDOVAN 2022 b. Transnistria

³ MOLDOVAN 2022 c. Coreea de Nord

and principles, and may be punishable as war crimes, as explained in an earlier commentary. It is just as clear where cultural property (a special category of civilian property) is concerned, in spite of the existence of the somewhat infamous waiver of its protection on the grounds of imperative military necessity. Military necessity is sometimes considered as one of the most elusive concepts of IHL. Operating both as an exception to primary rules and as a basic principle of IHL, it has been notoriously difficult to interpret, not least because of the divergent meanings attached to it by different epistemic communities. The scarce definitions of military necessity insist that it operates within, not outside the realm of law (e.g. Article 14 of the 1863 Lieber Code, i.e. the instructions regulating the conduct of the Union forces during the American Civil War, refers to 'the necessity of those measures which are indispensable for securing the ends of the war, and which are lawful according to the modern law and usages of war'). Nevertheless, military necessity has long kept its sinister aura, undoubtedly fueled by political statements which offered it as justification for serious breaches of international law, such as the German invasion of Belgium in 1914. Fast forward to the end of WWII, with the Cold War in full swing, this mistrusted concept was introduced into the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. During the diplomatic conference at The Hague, it became the bone of contention between States aligned with the 'idealist' outlook which saw no place for military necessity in the future convention (such as Greece, Hungary and the Soviet Union), and the 'military realists' (including the US, the UK and Turkey) which advocated the retention of the reference to military necessity, arguing that the convention had to be militarily applicable. After much disputation, a compromise was achieved: the convention would allow for an ostensibly more restricted, 'imperative' military necessity (Article 4.2) to operate as a justification for acts of hostility against the cultural property protected by the convention (Article 1), and for using such cultural property in a manner likely to expose it to destruction or damage. As a result, while the States parties generally committed to respect cultural property during armed conflict, the convention would not be breached if an attack against protected cultural property or its use for military purposes were required by reasons of 'imperative military necessity'. However, amid the heated debates on whether or not the waiver ought to be retained in the convention, the delegates neglected the question of its definition - it was clear that the argument of imperative military necessity could be used to save human lives, but what about other situations? Could cultural property be sacrificed to ensure the success of a military mission? And who would be authorized to invoke it? These questions remained without an answer. Thus, despite the compromise reached at The Hague, the waiver as to imperative military necessity has immediately been hailed as one of the principal weaknesses of the international legal framework protecting cultural property during armed conflicts. It was criticized especially for its inherent subjectivity and opacity, which seemingly could justify abuse. Almost 70 years after its adoption, the context in which the Hague Convention applies has not remained unchanged. With the memory of indiscriminate bombing during WWII still fresh, the delegates to The Hague could not have anticipated that intentional destruction during wartime would become a far more serious threat to cultural

objects in the decades to come. As a result, it has become very important to clarify the rule of respect (and the meaning of the linked waiver as to military necessity) laid down in the convention. On the other hand, international law too has changed a great deal since the mid-1950s. Developments in various areas of international law, not least the development of treaty and customary international law and the jurisprudence of international and internationalized courts and tribunals, affect the current understanding of what constitutes military necessity in the cultural field; as a result, it can no longer be considered a blind spot of IHL. Among these developments is the adoption of the 1999 Second Protocol to the Hague Convention, in light of which a waiver in respect of 'imperative military necessity' to direct an act of hostility against cultural property may only be invoked if such cultural property has been made into a military objective by its function, and, at the same time, there is no feasible alternative to obtain a similar military advantage to that offered by that act of hostility (Article 6). The same Article limits the applicability of the waiver insofar as using cultural property for purposes likely to expose it to destruction or damage is concerned. The Second Protocol also specifies the rank of the officer authorized to invoke imperative military necessity and emphasizes the requirement of a previous warning before the attack, as well as including detailed provisions relating to precautions to be taken by both sides to the conflict. Although Russia has not ratified the Second Protocol, its strict definition of imperative military necessity might nevertheless be used by a future, potential court when deciding on the responsibility for war crimes, either as customary international law or simply as a clarification which informs the Hague Convention's Article 4.2. In this regard, it should be observed that the circumstances of the destruction of the Ivankiv local history museum do not suggest that it had been turned into a military objective and that an attack on it could have been expected to yield a military advantage. If these reports are confirmed, the attack must be condemned as a breach of treaty and customary international law. Additionally, the Lieber Code highlights another important limit to military necessity, linked to one of the original drivers of IHL, which was to limit the impacts of an armed conflict to enable a return to a lasting peace in its aftermath (Article 16). As asserted by the UN Security Council, unlawful destruction of cultural heritage 'can fuel and exacerbate conflict and hamper post-conflict national reconciliation' (Res 2347(2017), rec. 5). Conversely, even amid the worst of human suffering, cultural heritage carries the message of hope for a peaceful and harmonious tomorrow, and has the potential to be an important and versatile conduit for transitional justice. Maria Prymachenko's 1982 painting 'A Dove Has Spread Her Wings and Asks for Peace' has become a symbol of the struggle for peace, recreated by artists and antiwar protesters worldwide. The paintings of Ukrainian and Russian masters which used to hang side by side in Ukrainian museums, now, wrapped back to back in bubble foil by museum professionals, await better days in bomb shelters. Tech and digital heritage experts from all over the world have volunteered to record and archive Ukrainian digital heritage to save it from distortion or disappearance in the event of host sites going offline, e.g. if the relevant servers are destroyed. It is clear that the stakes are much higher than the prevention of damage to objects and digitized collections. Protection of Ukraine's cultural heritage might have a bearing on how quickly

the eventual peace can be achieved, and how sustainable it will be...".⁴ We can clearly see that the Russian forces want to erase the Ukrainian culture from the map, in order to better rule the Ukrainian people. A nation without identity is a weak nation.

I will also offer for example the following rows: "... Cultural heritage is once again in the crosshairs of an invading army. The Ukrainians, while concentrating on defending their homeland and their people, have nonetheless dedicated considerable efforts to the protection of cultural property, both movable and immovable. And, much like previous warfare in the former Yugoslavia, religious and cultural ties are a significant aspect of the information and kinetic warfare in the region. This post will address various issues related to the protection of cultural property, including the treaty law that applies, the practical issues that arise from those binding international law obligations, and the potential for war crimes prosecutions after the fact as a sanction or a deterrent for such conduct. The post will examine the obligations of both parties to the war in Ukraine and answer basic questions, such as, what efforts have the defenders made to protect cultural property? Is the obligation to protect cultural property separate from or paramount to the clear obligation to refrain from attacking civilians and other civilian objects? And what can be done to hold parties who violate these rules of warfare accountable? The cultural and religious ties between Ukraine and Russia are at the heart of Vladimir Putin's rhetoric and justification for attacking Ukraine. In his recent speech on Ukraine he emphasized the unity of Ukraine and Russia, "Since time immemorial, the people living in the southwest of what has historically been Russian land have called themselves Russians and Orthodox Christians." The founding of the Russian Orthodox Church by Prince Vladimir as the church of the Kievan Rus, a Slavic empire created along the Dnieper River in the 10th Century, has very much been the focus of Putin's religious and cultural justification for war. Putin has cited the recognition of a separate Ukrainian Orthodox Church by the Ecumenical Patriarch in Constantinople as a reason to realign Ukrainians, both politically and religiously. And his speeches have emphasized that the Ukrainians have allegedly sought to assimilate and destroy the Russian culture and religion within Ukraine into a manufactured Ukrainian culture. The recent renewal of conflict in Nagorno-Karabach should have emphasized the importance of preserving religious sites to Putin. In that conflict, Putin supported Christians who claimed to be the object of attack and whose cultural sites were allegedly destroyed. In Ukraine, some religious representatives have already claimed that churches have been the object of attack. The religious ties, especially between Orthodox Christians, should give all the more reason for both sides to protect iconic sites like the Monastery of the Caves and Saint-Sophia Cathedral, UNESCO World Heritage Sites near Kyiv (shown below). But it is unclear whether any form of protection for this and other sites will prevail against the indiscriminate shelling of civilian objects and civilians in general. In the first week of the war, the Ukrainians claimed that the Russians attacked a television tower in Kharkiv and caused collateral damage to a religious site commemorating the Holocaust (shown below). Meanwhile, Ukrainians have made great strides in protecting both movable and immovable cultural

property. Nevertheless, UNESCO and world leaders in cultural heritage protection have expressed significant concerns about the potential for damage to cultural property in Ukraine. They insist that the parties must live up to their international obligations to protect the heritage of all mankind embodied in cultural objects throughout the battlespace. But what are the treaties applicable under the Law of War, or the Law of Armed Conflict? Both Russia and Ukraine are parties to the 1954 Hague Cultural Property Convention, and Ukraine is a party to the Second Protocol. The Cultural Property Convention and its Second Protocol are the most specific treaties on the protection of cultural property. Both States are also parties to the more general Law of Armed Conflict treaties that contain protections for cultural property: the 1907 Hague Rules (HR) and the 1977 Additional Protocol I to the Geneva Conventions (AP I). Finally, while neither party is a member of the International Criminal Court, both States are parties to the European Convention on Human Rights (ECHR), which has enforced LOAC provisions in previous Russian conflicts (see Marko Milanovic's excellent post in this series regarding ECHR application). Under the 1907 Hague Rules, cultural property, along with other civilian objects, must be protected, provided they have not been converted to military objectives by the opposition: Article 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. It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand. And Article 23(g) makes clear that destruction (or seizure) of civilian property can only be accomplished when "imperatively demanded by the necessities of war." The Hague Rules (in Article 28) also prohibited the age-old practice of looting territory that has been seized in war. These obligations of the attacker and defender have only been strengthened by subsequent treaties. After the horrendous destruction of cultural heritage in the Second World War (see Rape of Europa, by Lynn Nichols), the international community sought to strengthen the protection of movable and immovable cultural property in the 1954 Hague Cultural Property Convention. The Convention expanded the definition of cultural property to include "movable and immovable property of great importance to the cultural heritage of every people," to include: "monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books ...; as well as scientific collections" and the buildings that house them, along with centers containing monuments and collections (Article 1). Ukraine has all these types of cultural property, beginning with the UNESCO World Heritage Sites mentioned above, ranging to religious and secular sites, libraries, and collections of art, and including monuments to the Holocaust and the "Holodomor," the great famine caused by Stalin that killed millions of Ukrainians. In fact, early in the war, UNESCO raised the alarm about threats to these sites and warned of the need to mark them with the Blue Shield emblem that was adopted by the 1954 Hague Cultural Property Convention (Article 6) to protect cultural heritage. The 1954 Hague Convention requires State parties to safeguard and respect cultural property (Articles 2-4). These provisions include

⁴ DRAZEWSKA 2022.

obligations to refrain from attacks on cultural property and from damaging or directing “any act of hostility,” looting, or reprisal against such property. Defenders are required to not only mark, but also to refrain from military use of cultural sites and ensure that military objectives are located away from these sites. Despite these legal obligations, Russian forces have already been accused of attacking a 16th Century cave complex and monastery in the Donetsk region and damaging the mosque of Sultan Suleiman the Magnificent in Mariupol. Russian forces also allegedly looted the Vasylivka Historical and Architectural Museum, also known as the Popov Manor house, according to the museum director. Few of these Russian operations, on their face, seem justifiable for reasons of “imperative military necessity,” the standard for targeting or turning a cultural site into a valid military objective in the 1907 Hague Rules and the 1954 Hague Convention. AP I adds targeting rules to assist the commander in interpreting the obligations with regard to respect of cultural property. Although Articles 52 (General Protection of Civilian Objects) and 53 (Protection of Cultural Objects and Places of Worship) add little substantively to the definitions and requirements of the Hague Rules and the 1954 Cultural Property Convention, they reinforce the rules outlined above. But the definition of military objectives, in Article 52, generally informs “military necessity”: (2) Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose, or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage. (3) In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used. These provisions from AP I are relevant to the attacker and the defender. Defenders should presume that they have put cultural property at risk if they convert that property to a military objective, principally by use. Additionally, the “precautionary measures” contained in Articles 57 and 58 provide guidance to prevent attacks on cultural property. Concomitantly, the attacker can analyze a cultural object to determine whether it is significantly contributing to military action and whether its destruction offers a definite military advantage; under AP I, cultural property, like other civilian objects, is presumed to not qualify for direct attack. The 1907 Hague Rules, the 1954 Hague Convention, the Geneva Convention (IV) for Protection of Civilians (GCIV), and AP I all provide guidance for occupying powers that reinforce the requirements to safeguard and respect cultural property. The Hague Rules require the occupying power to restore public order and safety (Article 43), respect public buildings (Article 55), and protect public institutions devoted to religion, charity, arts, and historic monuments (Article 56). The occupation rules of the 1954 Hague Convention require the occupier to support “competent authorities,” preserve cultural property, in close cooperation with those authorities, and to ensure the military respects cultural property (Article 5). It is too soon in the conflict to analyze how and where the Russians have complied with these provisions. Suffice it to say, the occupying power generally is required to restore the status quo ante after the occupation has ended; under occupation law, once it exercises effective control over occupied territory, Russia has substantial obligations to

mitigate damage and work with “competent authorities” to further preserve and protect the cultural heritage of this region. Have Russian forces committed war crimes in Ukraine with regard to the destruction of cultural property? The jury is certainly out on this issue, as the “circumstances ruling at the time” are yet to be determined. Any prosecutor will have to prove that the perpetrator intentionally targeted protected cultural property or (in the alternative) that the destruction of that property was extensive and wanton, requiring gross negligence in targeting. Ukraine’s 2014 ad hoc acceptance of ICC jurisdiction on its territory and the ICC Prosecutor’s initiation of an investigation brings into play the provisions of Rome Statute Articles 2(a)(iv) (Grave Breaches from the Geneva Conventions, including wanton destruction) and 2(b)(ix) (intentionally directing attacks against cultural property). Both the International Criminal Tribunal for the former Yugoslavia (in the Dubrovnik Case) and the ICC (in the Mali Case) have established jurisprudence in this area. Furthermore, these crimes have, as their origin, an obligation to prevent and punish crimes outlined in the Geneva Conventions and API, both of which have been adopted by the parties to this conflict. As such, Russia and Ukraine will be required to establish sanctions for this misconduct, and the crimes will be the object of universal jurisdiction where States have adopted that approach. The grave breach provisions of the GC IV, Article 147, include “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.” AP I, in Article 85, classifies as a grave breach willful destruction of civilian objects, when death or serious bodily injury results. And the 1954 Hague Convention requires State parties to “take all necessary steps to prosecute and impose penal sanctions” on individuals responsible for breaches of the Convention. Where there is a national will to punish war crimes, those crimes will be pursued; interested States, like Germany or Spain, may choose to apply their national law, via universal jurisdiction, to punish those who believe they are free from national or international jurisdiction. What is the role of civil society in ensuring that cultural property is protected? The Second Protocol to the 1954 Hague Cultural Property Convention, along with adopting the Blue Shield to protect cultural property, adopts the “Red Cross” model for the protection of cultural property during armed conflict. Article 11 of the Second Protocol recognizes the special expertise of the International Committee of the Blue Shield (ICBS) in providing advice to UNESCO and the implementing committee of the Second Protocol. ICBS consists constituent civil society organizations that represent museum, monument, archival, archaeological, and library communities throughout the world. The United States has established a U.S. Committee of the Blue Shield (USCBS)[1] to be a national representative to the ICBS and interface between the military and civil society organizations and individuals to enhance the protection of cultural property in armed conflict. The USCBS has assisted the U.S. military and NATO, for example, in establishing the “experts” required by the 1954 Hague Convention, training them, and identifying sites of protected cultural property all over the world (enabling the establishment of “No-Strike Lists” within the targeting system, while still protecting those sites from the prying eyes of looters). These organizations are an important means of ensuring that the expertise resident in civil society communicates with governmental officials to ensure the protection of cultural

heritage. Cultural property, like all civilian property, is protected from direct attack. But the States party to the 1954 Hague Cultural Property Convention have adopted safeguards that require States to go above and beyond in the obligation to respect and protect the cultural heritage of a nation during armed conflict. There is certainly much to protect in Ukraine. Hopefully, awareness of the existence of cultural heritage and attention to the international obligations of the parties will prevent the needless destruction of the tangible heritage of this great nation...⁵ The cultural heritage of a nation is its soul. If the Russian Federation will destroy Ukraine's cultural heritage, it will be easier for the first one to turn the latter one in a puppet state or in a colony, if not into integrated part of the Russian Federation. Also, according to Lazare Eloundou Assomo, director of UNESCO's World Heritage Centre, the damage to historic sites is having terrible consequences on the country's cultural identity.⁶

The Ukrainian government has done what it can to protect the country's heritage. Art collections have been stored in safe places. Buildings and items that cannot be moved have been covered with whatever resources are available, including sandbags, tarpaulins, foam and fire-retardant materials. Despite these efforts, after several weeks of military incursions, Ukraine has suffered losses and damage to its cultural sites. A preliminary list of totally or partially damaged sites drawn up by the UN cultural agency UNESCO at the beginning of April featured 29 religious sites, 16 historical buildings, four museums and four monuments. In Ivankiv, near Kyiv, 25 paintings by the artist Maria Primachenko went up in flames when the local history and art museum was hit in a bombing raid.⁷ Another expert shares my point of view: "...Russia's invasion of Ukraine aims to deny the sovereign country its right to a distinct identity. Russia's invasion of Ukraine aims to deny the sovereign country its right to a distinct identity. Indiscriminate shelling is seriously damaging Ukraine's cultural heritage. International law sets rules to limit civilian deaths and destruction of cultural heritage, both are war crimes that the international community will need to address. When Russia invaded sovereign Ukraine on 24 February 2022, it claimed spiritual and cultural justification. However, Russia had already invaded eastern parts of the country in 2014, resulting in the illegal annexation of Crimea. Since then, Ukraine has been striving to protect its United Nations Educational, Scientific and Cultural Organization (UNESCO) world cultural heritage site in occupied Crimea, the ancient city of Tauric Chersonese and its 5th century BC Chora. Ukraine's cultural heritage already suffered huge losses during World War II, when the Nazis carried out looting and destruction. Cultural heritage in illegally annexed Crimea. The peninsula is rich in cultural heritage and has been subject to politically motivated interventions and russification of its history. There has been unlawful transfer of artefacts to Russia and illegal archaeological excavations, the findings of which have been exported to Russia or sold on the black market. The unique cultural heritage of Crimean Tatars has been destroyed and biased conservation works have obscured its origins. Threat to UNESCO world cultural heritage sites and cultural institutions in Ukraine. For

⁵ JACKSON 2022.

⁶ BOKONGA 2022.

⁷ PAUCHARD 2022.

weeks, Russian troops targeted Kyiv, home to UNESCO cultural heritage site Pechersk Lavra and Saint Sophia Cathedral. Besides sites in Kyiv and Crimea, the UNESCO list includes Lviv's old town and three other sites (see map). Seventeen further sites are candidates for inclusion, featuring on UNESCO's tentative list. Among them, the historic centre of Chernihiv, Kharkiv's skyscraper, Derzhprom, the archaeological 'Stone Tomb' site, have all been affected by heavy fighting. As the frontline moves, other sites, such as the historic centre of Odesa and the Mykolayiv astronomical observatory, face serious danger of destruction. However, the destruction of cultural sites across the country provoked by the Russian war has so far spared the western regions. The international press reports UNESCO's preliminary list of cultural losses by the end of March 2022 included 29 religious sites, 16 historic buildings, 4 museums and 4 monuments. The Holocaust Memorial Centre in Drobitsky near Kharkiv, where the Nazis killed thousands of Jews, is among them. The Ivankiv Historical-Cultural Museum, north of Kyiv, was destroyed on 28 February 2022. The fate of its collection of 25 paintings by Ukrainian folk artist Maria Prymachenko, praised by Picasso and Chagall, is unknown. International concerns and conventions. Crimes against human life and crimes against culture 'are simply two different stages in the same violent process of ethnic cleansing and genocide'. The 1954 Hague Convention set rules for the protection of cultural property from destruction and looting during armed conflicts. Russia and Ukraine are both parties to the Convention. The text established a blue shield as an easily identifiable sign of immunity attributed to cultural property. The notion of intentional destruction of cultural property as a war crime is further developed in the 2017 UN Security Council Resolution 2347. This text was a reaction to cultural destruction carried out by Islamic State. Armed groups intentionally destroyed the mausoleums at Timbuktu, a UNESCO cultural heritage site, and burned their manuscripts in 2012, during the occupation of northern Mali. Since then, the peacekeeping forces' mandate also includes the protection of cultural heritage. In 2016, the International Criminal Court (ICC) convicted the perpetrator, who recognised his responsibility, and sentenced him to nine years of imprisonment and €2.7 million in reparations. The EU contributed to the reconstruction of the mausoleums. UNESCO's Director-General has stated that Ukraine's cultural heritage must be safeguarded, 'as a testimony of the past but also as a catalyst for peace and cohesion for the future, which the international community has a duty to protect and preserve'. Its Committee for the Protection of Cultural Property in the Event of Armed Conflict held an extraordinary meeting on 18 March 2022 to discuss the situation. The Committee granted preliminary financial assistance of US\$50 000 for emergency measures, such as in situ protection and the evacuation of cultural property. The committee also envisaged the potential inclusion of some of Ukraine's cultural heritage property on the International List of Cultural Property under Enhanced Protection, established by the 1999 Second Protocol. Efforts to duly display a blue shield emblem, identify needs for material and skills support to shield buildings and statues from shelling, protect artefacts from damage and move them to museum cellars or safe havens have intensified. International bodies and specialists in cultural heritage preservation hold regular online meetings to discuss technicalities. As a result, on 9 March 2022, an appeal from the newly established Centre to

Rescue Ukraine's Cultural Heritage in Lviv enumerated material and financial needs. Many countries and cultural institutions have answered the call for assistance. Nemo, the Network of European Museum Organisations, provides information about available support from across Europe for Ukrainian museums and their professionals. The Committee for Aid to Museums of Ukraine was established by 26 Polish museums, to help secure their collections and provide support. The Nordic Museum in Stockholm has started a fund to provide finance for the National Museum of Ukrainian History in Kyiv. France, the Netherlands and Italy sent tonnes of much needed materials. The digitisation of collections is a way to preserve cultural works for the future. The Europeana platform issued a statement of support for Ukraine and displays digitised collections of Ukrainian cultural heritage. Saving Ukrainian Cultural Heritage Online (SUCHO), a group of more than 1 300 librarians, archivists, researchers and programmers, are working together to identify and archive at-risk sites, digital content, and data in Ukrainian cultural heritage institutions. Under the French Presidency of the Council of the European Union, culture ministers, deeply concerned about preservation of cultural heritage, unanimously adopted a declaration on the situation in Ukraine on 7 March 2022. In June 2021, the Council recognised the role of cultural heritage for peace and called for its protection during armed conflicts and its integration into the EU toolbox for conflicts and crises. The European Parliament's Culture and Education Committee hosted a debate on 15 March 2022 on how Russia's biased interpretation of history denies Ukrainian identity".⁸ Some good news are represented by the fact that, The Ukrainian Cultural Foundation is launching an interactive 'Map of Cultural Losses' to demonstrate the scale of the damage. Visualization of such war crimes also refutes the various claims of the Russian authorities that their army only makes surgical strikes on military infrastructure.⁹ The war is affecting every layer, every part of the society, no matter what. Only the refugees and the dead have seen the end of the war: "...Four days after Russia's invasion of Ukraine in February 2022, a museum burned in Ivankiv, a town to the northwest of Kyiv, which held paintings by the internationally acclaimed Ukrainian folk artist Maria Primachenko. For cultural workers in Ukraine and those watching from elsewhere in the world, it was a confirmation of fears that this war would see the destruction of Ukraine's heritage, much like that in Georgia and Syria where Russia has been a party to the conflict. Even before this new offensive in Ukraine, evidence mounted that Russia was using cultural heritage as a form of propaganda to reinforce Russia's irredentist territorial claims. Now, escalating cultural heritage losses might not just be a sign of unfortunate collateral damage, but part of a deliberate Russian strategy to undermine Ukrainian cultural identity and its claims to nationhood. By April 1, 2022, the Ukrainian Culture Foundation had identified more than 150 partially damaged or destroyed cultural sites. International researchers have been watching and have reached similar conclusions. The Virginia Museum of Natural History's Cultural Heritage Monitoring Laboratory has been tracking over 26,000 cultural sites across Ukraine. As of April 6, the team had identified 191 potential impacts to archaeological sites, art centers, monuments, memorials, museums, and places of worship

⁸ SCHNASS.

⁹ THE UKRAINIAN CULTURAL FOUNDATION.

using satellite sensor analysis. UNESCO, working with UNITAR, has conducted a preliminary assessment, and, as of April 14, found damage to 47 religious buildings, 28 historical buildings, 12 monuments, nine museums, three theaters, and three libraries. International humanitarian law protects cultural heritage sites during armed conflict. The 1954 Hague Convention requires state parties to refrain from targeting cultural sites and collections repositories except in limited cases of imperative military necessity. The OSCE's major fact-finding report earlier this month concluded it is "highly unlikely that those very exceptional circumstances were fulfilled" across all the cases of destruction of cultural sites by Russian forces. Russia's track record of targeting hospitals as well as significant cultural sites in Syria suggests that Russia has little regard for international norms. In March 2022, U.S. President Joseph Biden announced the establishment of a conflict observatory on Ukraine, which will gather documentation intended to hold Russia accountable for its actions. Several European states have also initiated war crimes investigations, and the International Criminal Court is also on the case. If cultural heritage destruction is included in these efforts, it will send a powerful message that cultural targeting will not be tolerated by law-abiding states and the international community. Yet, if past is prologue, accountability alone will not act as a restraining factor to Russian attacks upon Ukrainian civilians, civilian infrastructure, and cultural institutions. With this sober reality, Ukrainian cultural workers have taken steps to protect important cultural sites and museum collections. They have received an outpouring of support from the international cultural community. As the war enters into its third month, and Russia prepares for an expanded campaign in eastern Ukraine, there are five considerations international policymakers and donors need to consider for protecting the country's culture. First, donors should pay attention to emerging local networks, which can support heritage professionals, integrate local volunteers, and act quickly as the frontlines shift and new needs arise. Recent lessons learned from conflicts in Syria, Iraq, and Afghanistan are instructive. Even in the most dire circumstances, dedicated heritage professionals and volunteers have successfully stabilized cultural sites or salvaged damaged collections. Most of these efforts were completed with relatively modest amounts of funding. The key to their success was accessibility to quick financial support. Inexpensive, high-impact projects are the best prospect for safeguarding Ukrainian heritage from additional damage. Already, the Prince Claus Fund's Cultural Emergency Response Programme and the International Alliance for the Protection of Heritage in Conflict Areas have taken steps to respond within their capacity. But more donor organizations are needed, especially those that have the capacity to reach local networks. Inside the country, the Heritage Emergency Response Initiative, HERI, has had significant reach across Ukrainian cultural institutions. Coordinated by Ihor Poshyvailo, the director of the Maidan Museum, HERI brings together cultural workers, members of the Ukrainian Ministry of Culture and Information Policy and committed volunteers to provide emergency assistance and training to cultural institutions. Local community-driven networks, such as HERI, will have the most ability to act in the weeks and months ahead. Second, whether this war ends quickly or drags on into a stalemate, there will be a financial need for long-term assistance for Ukraine's cultural institutions and the

experts who sustain them. Support in the cultural sector will be considerable for the duration of this conflict as well as during the reconstruction period. International “friends” organizations will be necessary to support specific cultural institutions in Ukraine. An excellent start would be for the cultural institutions in Ukraine’s American “sister cities” come together, draw upon their collective expertise, pool their limited funds, and offer direct support to partner cultural institutions and workers. Such an initiative would see Chicago reach out to Kyiv, Cincinnati to Kharkiv, and Birmingham to Vinnytsia, for example. Twenty-three American cities have these partnerships. Many universities also have cooperative partnerships with Ukraine, which can be activated to support educational programs as well as cultural institutions. Moreover, the U.S. Department of State’s Bureau of Educational and Cultural Affairs may be able to enhance its existing exchange programs and to amplify the reach of preexisting city-to-city, institution-to-institution, and scholar-to-scholar collaborations. Third, policymakers and cultural institutions supporting Ukrainian colleagues need to prepare now for a long-term conflict. Much of the vital work completed thus far in Ukraine has focused on emergency actions that protect cultural sites in place or stabilize cultural collections. If this conflict continues and there is widespread economic disruption in Ukraine, there will be additional need to focus on financial support for temporary replacement of cultural collections. Some of this work will involve, when possible, the salvage and documentation of damaged sites and collections. But temporary replacement support helps to disincentivize risk-taking and reduces the possibility that cultural workers would feel obliged to undertake activities that would place their lives at significant risk. Such an intervention necessitates having a strong partnership between organizing partners and implementing non-governmental organizations in Ukraine and nearby countries. What is more, the situation in Ukraine should prompt us to look at other areas of Russian military activity and malign influence, especially where cultural heritage has been implicated. A renewed look at support for cultural workers in Georgia, Moldova, Estonia, Latvia, Lithuania, and Syria is urgently needed. Fourth, international law enforcement agencies, museums, and art market participants must increase their vigilance for looted cultural property coming from Ukraine and Ukraine’s citizens. Widespread reports of property looting by Russian military forces raises the possibility that valuable artwork may have been similarly expropriated. Following the Russian invasion and annexation of Crimea, experts had raised concerns about the unlawful transfer of cultural property from Russian-occupied Ukraine to Russian territory. In 2014, UNESCO expressed alarm at reports of the “massive transfer of priceless cultural objects from Crimean museums to the Russian capital.” Similar fears came a year later, when the archaeological finds at the ancient Greek city of Chersonesus, just outside of Sevastopol, were placed under direct federal oversight from Moscow. If there has been systematic pillage of cultural property in Ukraine, it may take years for the extent to be clear, and even longer to return the works to their owners. Challenges remain to this day over identifying and restituting artwork to Jewish families, who were victims of Nazi Germany in the Holocaust. Many museums in Eastern Europe are still seeking the return of missing artworks stolen by organized Nazi looting and Russian theft from the same era. Assembling collections registers and

“watch lists” for recently stolen artwork can help facilitate the work of return in the future. Finally, policymakers and human rights advocates need to consider the steps required to protect the cultural workers safeguarding Ukraine’s heritage. Wartime reversals may exacerbate the current humanitarian crisis, and cultural workers may be targeted precisely for their efforts. In 2018, separatist forces captured Olena Pekh, a museum researcher, accused her of espionage, and subjected her to prolonged torture. Karima Bennoune, the former UN Special Rapporteur for Cultural Rights, described the experts, activists, and ordinary people who defend the human right to enjoy the arts and to share in scientific advancement as “cultural rights defenders.” Many will stay behind, long after it is unsafe, to secure collections and to maintain the cultural memory of their communities. Because Russian propaganda and rhetoric is focused on delegitimizing Ukrainian cultural identity, it is likely that Ukrainian cultural workers will respond by even more intensely protecting their country’s heritage. When a government denies the cultural legitimacy of a specific community, a powerful act of political resistance is to protect that identity. If the situation deteriorates even further, we owe it to our Ukrainian colleagues to support their efforts at safe relocation and political asylum. These five considerations look toward what comes next for Ukrainian cultural heritage. Already, because of the work of HERI and others, cultural institutions have mobilized rapidly in response to the Russian invasion. More needs to be done, however, as the conflict continues and the global cultural community looks forward to the day when reconstruction can come...¹⁰ In this article, I preferred to cite more because of the fact that these contemporary events worth actual data, and actual testimonials.

CONCLUSIONS

During the pages of my work, we have seen that there is a huge need for an interdisciplinary or “bridge-building” approach of different academic disciplines. We have also seen that the actual International Disorder is waiting for a new International Order, an order that will change our life, from all points of view. It depends on us if we want to change the liberal “lenses” which with we see the world. The Russian Federation invaded Ukraine and both sides are using tactics and strategies from the Great War and World War Two periods. The Russian side knows that a country without identity and culture is a weak one. The Russian Federation also knows that in order to “motivate” its actions, it needs to “cancel culture” the whole Ukraine. Places and objectives such as the: Saint-Sophia Cathedral, Residence of Bukovinian and Dalmatian metropolitans, Lviv Historic city ensemble, Ancient city of Tauric Chersonese, Zakarpattia Oblast, and many other, could become history, not just to be full of history, by getting totally destroyed by the Russian forces. The Russian Federation declared a Total War against Ukraine, and when I write Total War I refer to: it’s people, it’s culture, it’s history and so on. The actual Stalinist methods, of taking the Ukrainian population by force and relocating it in various parts of The Russian Federation, could be (if not it is already) used in dealing with the Ukrainian cultural heritage.

¹⁰ DANIELS 2022.

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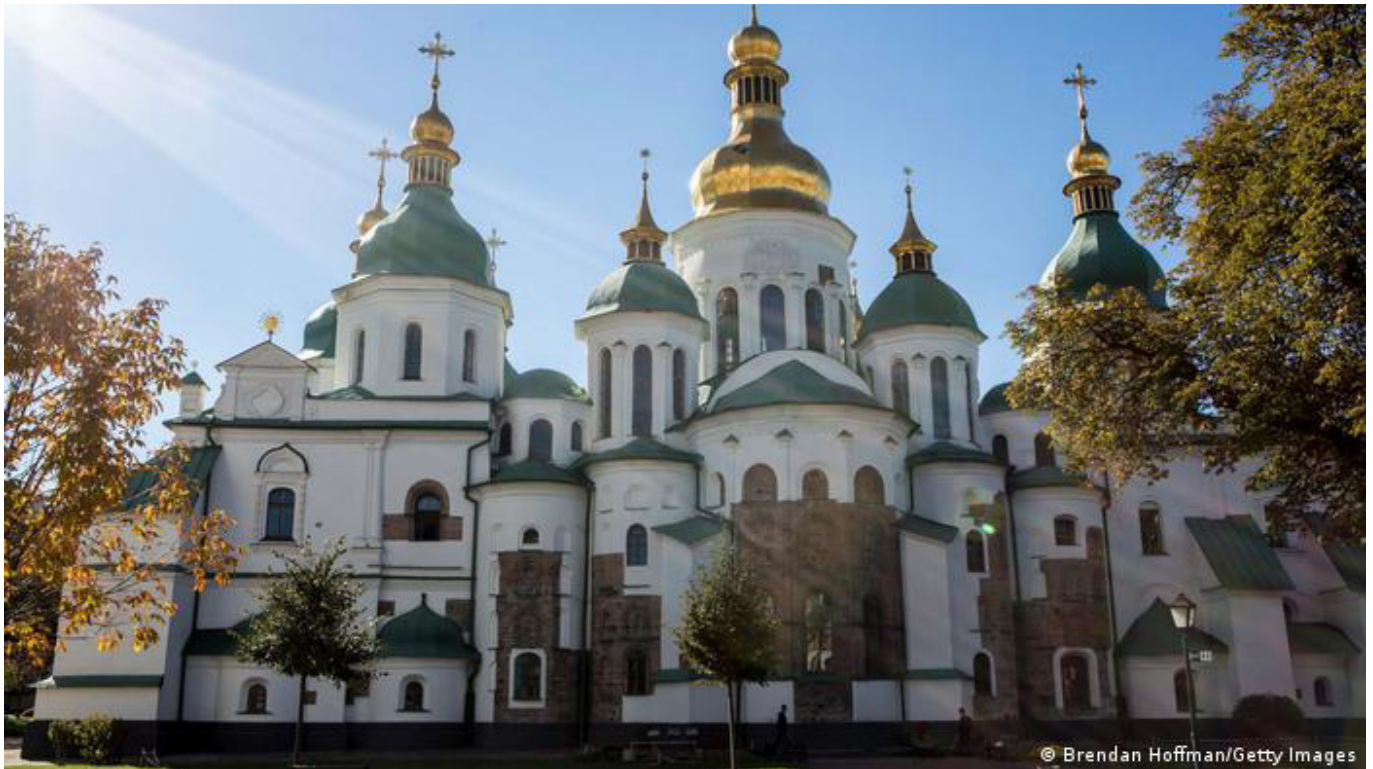


Fig.1. Kyiv: Saint-Sophia Cathedral and related monastic buildings, Kyiv-Pechersk Lavra. This 11th-century Eastern Orthodox church was built to rival the Hagia Sophia, in present-day Istanbul. Its mosaics and frescoes are prized for their impressive condition. The church greatly influenced subsequent temples, and together with the nearby monastic complex known as Kyiv-Pechersk Lavra, or Kyiv Monastery of the Caves, it helped the area become a center of Orthodox faith and thought. <https://www.dw.com/en/ukraine-rushes-to-save-cultural-heritage-from-destruction/a-61158291>



Fig.2. Lviv: Historic city ensemble. Founded in the late Middle Ages, the western city of Lviv was an important center of administration, religion and commerce for centuries. The modern city still bears its medieval hallmarks, including places of worship for various religious communities. It also boasts many Baroque buildings. Its architecture shows how Eastern European influences mixed with ones from Italy and Germany. <https://www.dw.com/en/ukraine-rushes-to-save-cultural-heritage-from-destruction/a-61158291>



Fig.3. Chernivtsi: Residence of Bukovinian and Dalmatian metropolitans. With its dramatic mixing of styles, including Byzantine, Gothic and Baroque influences, this former residence of the Eastern Orthodox metropolitan bishop expresses the diverse religious and cultural identity of the Austro-Hungarian empire. Built by Czech architect Josef Hlavka from 1864-1882, the giant complex also includes a chapel, seminary and a monastery. <https://www.dw.com/en/ukraine-rushes-to-save-cultural-heritage-from-destruction/a-61158291>



Fig.4. Sevastopol: Ancient city of Tauric Chersonese and its chora. The ruins of Tauric Chersonese, a 5th-century BC city founded by the Dorian Greeks, are located outside of Sevastopol, in southwest Crimea, which was illegally annexed by Russia in 2014. The site includes public building complexes, residential neighborhoods and early Christian monuments, well-preserved vineyard parcels and related systems, as well as remnants of Stone and Bronze age structures. <https://www.dw.com/en/ukraine-rushes-to-save-cultural-heritage-from-destruction/a-61158291>



Fig. 5. Zakarpattia Oblast: Wooden tserkvas of the Carpathian Region. This UNESCO World Heritage Site is actually a series of 16 “tserkvas,” or churches, that are spread out over Poland and Ukraine in the mountainous Carpathian region. The wooden log structures were built between the 16th and 19th centuries by both Orthodox and Greek Catholic communities. They exemplify the timber-building tradition of Slavic countries, and their interiors are also quite renowned. <https://www.dw.com/en/ukraine-rushes-to-save-cultural-heritage-from-destruction/a-61158291>