

Cultural Property, War crimes and Islamic State



Destruction, plunder and trafficking of cultural property and heritage by Islamic State in Syria and Iraq – a war crimes perspective

Tim van Lit, B.Sc.

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Cover photo: dark clouds above Palmyra, one of the world heritage sites in Syria that was partly destroyed by Islamic State. © AFP.

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T.J. van Lit, B.Sc.
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Dutch National Police, Central Investigation Unit, War Crimes Unit.

Visiting address

Middellandse Zee 11, 3436 CG Woerden, The Netherlands

Postal address

P.O. Box 11, 3970 AA Driebergen, The Netherlands

Telephone

(+31) 088 6625 743

E-mail

warcrimesunit@klpd.politie.nl

Website

www.warcrimes.nl

Twitter

@warcrimes_nl

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Executive summary

Since the conflict in Syria and Iraq started, many cultural heritage sites have been damaged or (partly) destroyed¹. Allegations that archaeological sites and museums have been plundered and that terrorists finance their war with revenues from selling plundered items, are frequently published². One of the organizations responsible for these acts is the so-called Islamic State (IS). Law enforcement agencies such as the War Crimes unit within the Dutch National Police are tasked with investigating war crimes and pay special attention to IS. To gain more knowledge about the destruction and plunder of cultural property and the subsequent illegal trade in cultural items by IS, this report is drafted³.

Destruction of cultural property is not a new phenomenon. During many conflicts, museums, religious places and private art collections have suffered from acts of war and plunder. In the second World War, during the Khmer Rouge dictatorship in Cambodia and the war in the former Yugoslavia, cultural property and heritage sites has suffered from the war. Criminals and government officials enriched themselves by illegally confiscating valuables, trading them, and historic monuments were destroyed⁴. Such actions have resulted in convictions at the post-World War Military Tribunals (Nuremberg and Tokyo) and the International Criminal Court for the former Yugoslavia. Currently, the International Criminal Court is in the final stages of adjudicating a Jihadist responsible for destroying mausoleums in Mali⁵.

Footage of similar actions carried out by IS show the destruction of well-known cultural heritage sites in Syria and Iraq, such as in Palmyra, Nimrud and Mosul. International and Dutch national legislation define destruction of cultural property and heritage sites as war crimes. Illegal trade in plundered items also falls within the extended jurisdiction of the Dutch War Crimes Unit, as it is a feature related to war crimes. Besides these (international) criminal law provisions, illegal trade in cultural property from Syria and Iraq is also prohibited by European Union regulations and a resolution of the United Nations Security Council⁶. It is up to law enforcement and other agencies to investigate these cultural property crimes.

The international community is outraged about the cultural property war crimes IS commits. The destruction of cultural heritage sites and museums is condemned and authorities start investigating these crimes. No debate is needed to prove that these criminal acts have been committed. IS has a motive, the opportunity, the means and expressed the intention to commit these crimes⁷. IS even published photo reports of destruction acts and proudly uses these materials for propaganda purposes, and to upset the West⁸. It seems to be a matter of time before the first offender can get caught and brought to justice.

The illegal trade in cultural property, however, is a different subject. It is not a war crime, but an economic crime, a violation of (international) sanctions, and just ‘regularly criminal’. New legislative proposals are put forward and political priority is given to the topic⁹. But

¹ Chapter 12

² Chapter 7 and 8

³ Chapter 1

⁴ Chapter 3

⁵ Chapter 4

⁶ Chapter 5

⁷ Chapter 12

⁸ Chapter 11

⁹ Chapter 9

contradictory reports create an unreliable bases for law enforcement agencies and governments to base their actions upon. It is assumed that all Syrian and Iraqi museums are plundered by IS and that the items are all sold. The illegal trade is estimated to be a huge source of income for terrorist organizations such as IS. And IS is considered to be properly organized and managed to engage in international illegal trading in cultural property – a very specialized and rather small market¹⁰.

These claims are largely not supported by available government reports. (International and National) Customs Authorities have not reported growing influxes of illegal cultural property over their borders. Law enforcement agencies have not reported growing arrests of criminal art dealers or seizures of illegal cultural property from Syria and Iraq. Policy papers and studies do not present evidence that the illegal (online) art market flourishes and is overwhelmed with Syrian or Iraqi artefacts¹¹. Most museums have been evacuated and collections were hidden in secret storages, to prevent destruction and plunder. Media reports are barely based on primary sources but rather copy each other's headlines, leading to over exaggeration and unfounded estimates of IS revenues. Despite the lack of evidence for a large-scale illegal trade network benefitting IS, governments stress the importance of fighting this assumed vital source of income for IS.

Evidence for large-scale operations is not found. Pieces of evidence that prove the existence of illegal trade are found. But this evidence does not add up to the revenue estimates mentioned in the media or policy papers. It is known that a financial structure was set up by IS¹². Permits to illegally excavate sites have been found, and items of low value (and often fakes) are smuggled over the Turkish border. But these items have not flooded the Dutch market, or neighbouring art markets¹³.

Many NGO's, government agencies and experts are concerned with the developments¹⁴. Meetings are organized, data is collected and the importance of combatting these crimes is stressed on the highest political levels. The legal trade – passionate collectors and museums – are often looked at with suspicion, and restriction measures are put in place to make sure that no cultural property from Syria or Iraq is traded illegally. This focus on the illegal trade has a reversed effect: items that have good value (no proof is found that IS has such items) are likely to be stored away and only surface when attention and vigilance weakens. Furthermore, it is more likely that agencies become overloaded with reports of illegal cultural property, to later discover that such items are practically worthless; or found and sold by impoverished farmers or refugees (to gain some quick cash to survive or pay for the journey to Europe); or fake.

Based on this study it can be concluded that the topic is 'hyped'. It is a strategic political topic that is presented bigger than it is in reality. Law enforcement agencies should be aware of this. But the topic cannot be ignored in full. Destruction of cultural heritage and property is a war crime – that much is clear. IS systematically commits these crimes – there is proof for this. Law enforcement agencies can and should investigate this. But the illegal trade in cultural property is not new – IS only deploys techniques and financing structures that have been around for decades. It is also not a multi-billion dollar trade – the highest amount that

¹⁰ Chapter 7

¹¹ Chapter 13

¹² Chapter 11

¹³ Chapter 13

¹⁴ Chapter 10

can be attributed to IS is ‘only’ \$260.000. This illegal trade is not a war crime – although it can facilitate such crimes¹⁵.

It is recommended that knowledge about art crime is better contained within law enforcement. It is also useful to engage in a facts-based debate with all relevant partners before new legislation is put in place – although political motives may influence real solutions. Every dollar earned by IS is one dollar too much. But using a sledgehammer to crack a nut is not most effective and efficient way to go forward¹⁶.

¹⁵ Chapter 14

¹⁶ Chapter 15

Part I: Context

Chapter 1: Introduction

Cultural heritage and property is important to civilizations. These are features of an identity, history and future. It is for this reason that destruction and misappropriation of such items and sites is considered a serious crime, leading to legislation to prevent and criminalize acts of destruction and misappropriation.

Therefore, the plaque in front of the Afghan National Museum in Kabul reads “A nation stays alive if its culture stays alive”. The museum was looted several times leaving it almost empty after the civil war in 1992 and the subsequent Taliban rule¹⁷. In the years after the US Invasion of Afghanistan in late 2001, museum items trickled back to the museum. The damage done to the Afghan National Museum has never been prosecuted – offenders have not faced justice yet. The destruction of Afghanistan’s Bamiyan Buddha’s in March 2001¹⁸ and the looting of the Iraq National Museum in 2003¹⁹ have also not resulted in international criminal prosecutions.

A decade later a new conflict started to attract international attention and involvement. The Syrian and Iraqi governments have lost control over parts of their territory²⁰, in favour of the terrorist organization the so-called ‘Islamic State’ (IS, formerly known as Islamic State in Iraq, Islamic State in Iraq and the Levant)²¹, a revived remainder of Al Qaida branches and other radical Islamic armed groups. Besides the killing of thousands of peoples, IS is involved in destructing ancient sites such as Nimrud and Palmyra, just like its predecessors in Afghanistan and Iraq. Allegedly, the organization is also systematically trading archaeological treasures and cultural property from the conquered territories to gain money to support their war and state-like structure.

This report details the IS activities seen from an International Crimes viewpoint and is largely based on the Dutch legal context. International crimes are defined in the 1998 Rome Statute on the International Criminal Court (1998 Rome Statute). The International Criminal Court (ICC) in The Hague, the Netherlands, is responsible for the international prosecution and adjudication of perpetrators of these crimes. In the Netherlands, a domestic law lays down similar provisions: the ‘Wet Internationale Misdrijven’ (WIM). Within the Dutch National Police, the ‘Team Internationale Misdrijven’ (TIM), the War Crimes Unit, is tasked with investigating perpetrators of these crimes.

Although the viewpoint is an international crimes perspective, the substance of this report can be relevant for all audiences involved or interested in the investigation of cultural

¹⁷ The Oriental Institute, University of Chicago. Retrieved from <https://oi.uchicago.edu/research/projects/oriental-institute%E2%80%9393national-museum-afghanistan-partnership-project> on 14 September 2016.

¹⁸ Cultural Landscape and Archaeological Remains of the Bamiyan Valley, UNESCO. Retrieved from <http://whc.unesco.org/en/list/208> on 14 September 2016.

¹⁹ Poole, R. M. (2008). Looting in Iraq, *Smithsonian Magazine*, February 2008. Retrieved from <http://www.smithsonianmag.com/making-a-difference/looting-iraq-16813540/?no-ist> on 14 September 2016.

²⁰ Visit <http://isis.liveuamap.com/> for an updated open source based map of territorial developments in the conflict against, amongst others, IS. Last visited on 14 September 2016. ‘Liveuamap’ is an open source driven media platform that maps territorial developments in all conflict areas in the world. It was founded in 2014 by journalists who wanted to show the world what was going on during the Ukrainian revolution. In September 2014 a map was developed for IS territory. It is continuously updated and presents real-time developments about the conflict in Syria and Iraq.

²¹ Visit <https://www.wilsoncenter.org/article/timeline-rise-and-spread-the-islamic-state> for a regularly updated open source based timeline of IS rise and spread. Last visited on 16 September 2016. The ‘Woodrow Wilson Center for Scholars’ is a US based policy forum that researches global issues and organizes open dialogues about these issues. It is the official memorial to the 28th President of the United States of America. The Wilson Center has developed a timeline of the rise and spread of the Islamic State and regularly updates this timeline.

property crimes committed by IS. This report offers new insights in IS and illegal trade in cultural property – and the lack of evidence to support many claims.

In 2004, the High Contracting Parties (HCPs) to the 1954 Hague Convention for the Protection of Cultural Property in Armed Conflicts (1954 Hague Convention) gathered in Cairo, Egypt to discuss and celebrate the 50th anniversary of this Convention that aims to better protect cultural property in times of war. This meeting resulting in the Cairo Declaration²². This Declaration underlined the importance of the Convention and called upon States that hadn't ratified the Convention and its two Protocols yet to do so. It furthermore expressed the concern that international organized criminal groups are involved in the illegal trade of cultural property to earn money, especially in unstable regions where war or conflict is imminent or already going on. Despite this Declaration and although Syria and Iraq did already ratify the Convention and the First Protocol, the Second Protocol remains poorly ratified. For investigating violations of the Convention and bringing the perpetrators to justice, the Second Protocol is of vital importance.

Nowadays, Syrian and Iraqi cultural heritage is being destroyed and IS allegedly makes money with the trade in such items. Besides these war crimes and the link with financing of terrorism, archaeological excavation sites are destroyed and (potential) knowledge is lost. The affected region is often called the 'cradle of civilization' since many cultures and religions have their origins in that region. With the losses now suffered, cultural diversity is diminished, with the risk that cultural diversity in the present or in the future will be less preserved. And as the quoted Afghan National Museum plaque suggests, culture is of utmost importance for a civilization. Some sites or man-made items (such as statues or art) are extremely valuable and are being protected. Despite international recognition, protection efforts and legal measures, destruction still cannot be prevented.

If such destruction or misappropriation occurs, law enforcement authorities are competent to investigate these crimes. The Syrian and Iraqi governments are still engaged in armed conflict and perpetrators are likely to flee before judicial proceedings can start. The ICC can come of good use in such a situation, if Syria and Iraq would have ratified the 1998 Rome Statute. Currently, Syrian or Iraqi perpetrators cannot be prosecuted by the ICC because of lacking jurisdiction. Therefore, national authorities are crucial in investigating destruction and misappropriation of cultural property crimes. The Dutch legislator has foreseen this and the TIM can investigate war crimes committed by foreign nationals.

The current conflict brought these crimes under (inter)national attention, again. New legislation is upcoming. What is it based on, is it needed and who is involved? In the light of these developments and questions, the *Team Internationale Misdrijven* of the *Central Investigation Unit* of the *Dutch National Police* has commissioned this report to shed more light on the topic and inform law enforcement of what is going on, how it is described in media and government reports, who commits those acts and how, and what trends can be identified.

The aim of this research is to provide an extensive overview of what is really happening regarding the systematic destruction of cultural heritage sites and the illegal trade in cultural property. Furthermore, attention is paid to the historic and legal context these acts should be placed in. The target audience comprises of law enforcement officials, public prosecutors, and national, European and international policy makers and the interested (international) community.

²² Cairo Declaration on the Protection of Cultural Property, Cairo 16 February 2004, *International Committee of the Red Cross*, 16 February 2004.

Chapter 2: Research demarcation and method

2.1. Conflict demarcation.

This research focusses on the events in Syria and Iraq during the conflict with IS. This conflict started around 2010 when the remnants of Al Qaida in Iraq (AQI) regrouped and started to call themselves Islamic State in Iraq²³. Before this conflict started, and in other parts of the world, cultural property crimes have been committed²⁴. In the context of growing police investigations into the (war) crimes being committed in Syria and Iraq, this report is commissioned to shed more light on the topic of cultural property crimes.

2.2. Legal demarcation

The core legal source for this research is the Dutch equivalent of the 1998 Rome Statute, the ‘Wet Internationale Misdrijven’ (WIM). This law contains all provisions regarding war crimes, of which the collective noun is ‘International Crimes’. Although the focus is on the WIM, other legal sources are not overlooked. For non-Dutch audiences a transposition table is included in Addendum 2. This Addendum provides the European and International equivalents of the Dutch laws and provisions that are used for this research.

2.3. Sources

This report is solely based on open source (web) material. Confidential documents, classified information or police intelligence are left out. This report includes open sources that were available between June and September 2016.

2.4. Terminology

As will become clear in the report, there is no consensus on what terminology should be used for certain phenomena. Media reports, governmental documents and legal sources have different definitions of acts, items or phenomena. This report does not choose one definition over another, but resorts to collective nouns to address issues in cases where different definitions are used.

- ‘Cultural property’: is the collective noun for artefacts, old items, archaeological treasures, museum pieces or antiques.
- ‘Cultural property crimes’: is the collective noun for crimes such as destruction of cultural heritage, plundering or seizure of (cultural) property, looting excavating sites.
- Cultural Heritage: a category of cultural or archaeological sites that UNESCO deems unique and very valuable to mankind.
- ‘Illicit’ or ‘illegal’: it is common to refer to an object as ‘illicit’ if it is exported, imported or traded without proper legal documentation or authorisation. In the context of criminal investigations the term ‘illegal’ is used more often. In this research ‘illegal’ is used instead of ‘illicit’.²⁵

2.5. Method

Considering the described demarcations, this research mostly consists of desk research. This desk research comprised of studying official (government) reports, policy papers, parliamentary documents, legal documents, media reports, satellite imagery, (social)

²³ The Woodrow Wilson Center for Scholars, *supra* note 21.

²⁴ See Chapter 3 for a short historic overview.

²⁵ A previous study into the illegal online trade used the same terminology. See: Van Ham, T., Leukfeldt, E. R., Bremmers, B., Stöl, W. Ph. & Van Wijk, A. Ph. (2011). *De Kunst van het Internet. Een onderzoek naar de online illegale handel in cultuurobjecten*. Den Haag: Boom Lemma Uitgevers. Retrieved from <https://www.rijksoverheid.nl/documenten/rapporten/2011/11/24/rapport-de-kunst-van-het-internet> on 8 September 2016.

media searches and online auctions. The used languages are mostly English and Dutch, but some German and Arabic was also used. To complement this and gain additional understandings of the topic, the author met with several experts in the field, including art dealers, archaeologists, museum staff, law enforcement officials, customs officials, academics, civil servants of the relevant Dutch ministries, military staff and private researchers. Furthermore, court hearings and lectures were attended.

2.6. Research Questions

The following research questions will be answered, based on the findings presented in this report.

1. How does the destruction of cultural property relate to international crimes?
2. How does the illegal trade in cultural property relate to international crimes?
3. What knowledge is available about this destruction and trade?

Chapter 3: Historical developments

3.1. Introduction

For a good understanding of societal developments, a notion of the historic context they occur in, is crucial. This paragraph elaborates on the historic context of cultural property crimes. These crimes are not new, although the overwhelming way IS captures their actions and destructions of historic monuments and cultural heritage sites might seem as if a new act of war (or: crime) has been invented. The opposite is true. Despite efforts to criminalize and prevent these actions, mostly in the 20th and 21st century, cultural property still isn't safe from acts of aggression.

3.2. Pre-WWII

Bringing home items of value, cultural property of other (conquered) civilizations has always been a feature of war and travel. The Roman emperors, for example, were keen collectors of ancient Greek statues. And during the 19th century cultural treasures were brought home after the 'Grand Tour' young adults undertook to explore the world and learn about life and (other's) culture. It was during the same time the science of archaeology developed and Western museums started to grow²⁶. Their collections aren't always fairly bought and sometimes originate from historic war zones and conquered foreign civilizations²⁷. After the industrial revolution, tensions rose and war was destined to happen. In 1899, therefore, the first The Hague Peace Conference was hosted by the Netherlands²⁸. In the agreed convention on laws and customs of war, provisions were included to prohibit unnecessary destruction of historic monuments, buildings dedicated to arts, sciences, education or religion²⁹. The second Peace Conference followed in 1907, introducing a compensation payment if regulations were violated³⁰ and more elaborate provisions. Shortly after, in 1908, the First World War broke out and due to this, the planned for third Hague Peace Conference didn't take place. The First World War knew, despite the Peace

²⁶ Geerling, V. (2016). *Collecting Ancient Art*. Lecture at the Brussels Ancient Art Fair 2016. Retrieved from <http://iadaa.org/2016/07/21/lecture/> on 10 September 2016.

²⁷ Franzen, C. (2013). Ill-gotten gains: how many museums have stolen objects in their collections? Retrieved from <http://www.theverge.com/2013/5/13/4326306/museum-artifacts-looted-repatriation> on 14 September 2016.

²⁸ Final Act Of the International Peace Conference, The Hague 29 July 1899. Retrieved from <https://ihl-databases.icrc.org/ihl/INTRO/145> on 14 September 2016.

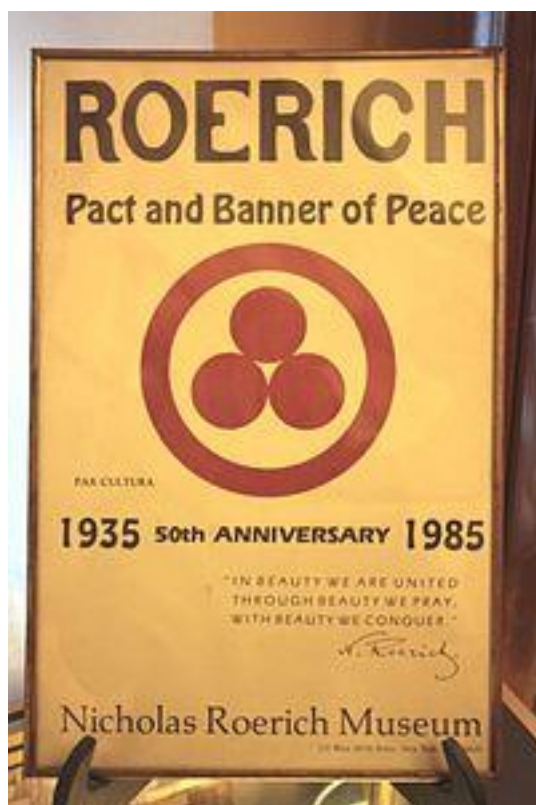
²⁹ Arts. 23g, 28 and 56, Convention (II) with Respect to the Laws and Customs of War on Land, The Hague 29 July 1899, *Stb.* 1900, 163

³⁰ Art. 3, Convention (IV) respecting the Laws and Customs of War on Land, The Hague 18 October 1907, *Stb.* 1910, 73.

Conferences which were signed by most conflicting parties, cultural property crimes such as destruction and plunder of cultural property and historic valuable sites and items.

In 1935, the Americas agreed to the Roerich Pact³¹. Initiated by the Roerich Museum, this treaty introduced a signal flag to mark immovable monuments and valued sites³². Marked with this flag, conflicting parties could see where not to engage in hostile activities so monuments would remain their neutral status³³.

Figure 1. The Roerich Pact emblem for immovable cultural property.



3.3. WWII and its aftermath

The Second World War (WWII) broke out in 1939 when Germany invaded Poland. The Nazi's fascination for art was comparable to their focus on territorial expansion. Despite being a signatory to international agreements such as the Peace Conferences³⁴, the Nazi's engaged in misappropriating and destroying cultural property of whole communities – mostly Jewish communities. Multiple Western countries had difficulty finding and returning the stolen art to their rightful owners³⁵. Reports about recovered Nazi art and stolen property surface with a certain regularity in the media.

³¹ Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments (Roerich Pact). Washington 15 April 1935.

³² Art. 3 *supra* note 31.

³³ Art. 1 *supra* note 31.

³⁴ Germany ratified the 1899 Hague Peace Convention on 4 September 1900 and the 1907 Hague Peace Convention on 27 November 1909.

³⁵ In the Netherlands, for example, the Ekkart Committee was commissioned to investigate the provenance of art works in governmental collections. The Minister of Education, Cultural and Science ordered the project 'Herkomst Gezocht' in 1998 with the aim of returning art that was stolen during the Second World War. Visit <http://www.herkomstgezocht.nl/nl/> for more information. Last visited on 14 September 2016.

Quickly after the end of WWII, the Fourth Geneva Conventions were drafted, and included prohibitions to destroy or appropriate the opponent's property³⁶. Although this doesn't explicitly say 'cultural property', considering the Nuremberg and Tokyo Tribunal's verdicts³⁷, it does indirectly refer to it.

The Geneva Conventions are more aimed at the people involved in wars, military personnel and civilians. The Hague Peace Conventions are more concerned with means of warfare and weaponry.

Adding to the growing body of international humanitarian law, the Netherlands hosted another conference in The Hague in 1954. This conference was specifically concerned with the protection of cultural property. The resulting 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict³⁸ (1954 Hague Convention) referred to war crimes against cultural property and was instigated by the developing techniques of warfare posing greater risks to cultural property³⁹. With using a broad definition of 'cultural property'⁴⁰, all valuable items and sites could be better protected⁴¹. HCP's agreed to not use cultural property (sites) for military purposes and to not attack or destroy these items and sites in the event of armed conflict⁴². The 1954 Hague Convention further introduced a distinct emblem to identify cultural property⁴³, for similar reasons as the introduction of the Roerich Pact Emblem. These emblems, however, are not similar.

Figure 2. The 1954 Hague Convention emblem for immovable cultural property. High Contracting Parties agreed to place such emblems on their immovable cultural property to be recognized in times of war.



The 1954 Hague Convention obliged HCP's to draft national legislation to prosecute violators of Convention provisions. The Netherlands currently does so via the International Crimes law, the WIM⁴⁴.

³⁶ Art. 50, Geneva Convention IV for the Amelioration of the wounded and sick in the field, Geneva 12 August 1949, *Trb.* 1951, 72-75.

Art. 53, Geneva Convention IV relative to the Protection of civilian persons in time of war, Geneva 12 August 1949, *Trb.* 1951, 72-75.

³⁷ See Chapter 4 for an overview of jurisprudence.

³⁸ Convention for the Protection of Cultural Property in the Event of Armed Conflict, The Hague 14 May 1954, *Trb.* 1955, 47.

³⁹ Preamble, Convention for the Protection of Cultural Property in the Event of Armed Conflict, The Hague 14 May 1954, *Trb.* 1955, 47.

⁴⁰ 1954 Hague Convention, *supra* note 38, art. 1.

⁴¹ 1954 Hague Convention, *supra* note 38, art. 3.

⁴² 1954 Hague Convention, *supra* note 38, art. 4.1.

⁴³ 1954 Hague Convention, *supra* note 38, art. 16.

⁴⁴ Wet Internationale Misdrijven, *Stb.* 2012, 313.

Lastly, the 1954 Hague Convention introduces a UNESCO list, an ‘International Register of Cultural Property under Special Protection’⁴⁵ for items under special protection. The First Protocol to the 1954 Hague Convention, drafted during the same conference, prohibits illegal exportation of cultural property from a HCP’s territory⁴⁶. It obliges other HCP’s to return illegally exported cultural property, if found on their territory⁴⁷. The 1954 Hague Convention and its First Protocol were soon incorporated in the Geneva Conventions via the 1977 Additional Protocol II to the 1949 Geneva Convention IV on the Protection of Civilians in International Armed Conflict⁴⁸. In 1999 the Second Protocol to the 1954 Hague Convention followed⁴⁹. This Protocol ‘updated’ the Convention’s provisions, bringing them in line with developments in the broader field of Public International Law⁵⁰. The signifying feature of the Second Protocol is the explicit focus on law enforcement and details HCP’s duties to prevent and prosecute offenders. The Second Protocol also introduced a second list for ‘Enhanced protection’⁵¹. Iraq and Syria haven’t ratified the Second Protocol yet, unfortunately. These Conventions are currently transposed into Dutch national law via the WIM.

3.4. *Conflicts in the second half of the 20th century*

This paragraph contains examples of conflict countries that have been affected by cultural property crimes. Some aspects of these conflicts have been investigated by the TIM. A more extensive overview of conflicts wherein cultural property crimes occurred is provided by Stanley-Price (2005)⁵².

3.4.1. *Cambodia*

During the 1960’s and ‘70’s, Cambodia suffered under the rule of Pol Pot. During the reign of his Communist Party of Kampuchea, war crimes were committed and thousands died. The Extraordinary Chambers in the Courts of Cambodia (ECCC) were established to adjudicate the former political and military leaders responsible for the “crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979”⁵³. Cambodia is a signatory to the 1949 Geneva Convention, the 1954 Hague Convention and its First and Second Protocol and the 1970 UNESCO Convention. The ECCC is, therefore, competent to adjudicate violations of these conventions. The ECCC did, however, (not) mention these (war) crimes in their verdicts yet,

⁴⁵ 1954 Hague Convention, *supra* note 38, art. 8.6. This list is not the same as the 1972 UNESCO World Heritage List, but a separate one.

⁴⁶ Art.1, Protocol to the Convention for the Protection of Cultural Property in the Event of Armed conflict 1954, The Hague 14 May 1954, *Trb.* 1955, 47.

⁴⁷ Protocol to the 1954 Hague Convention, *supra* note 46, art 2 j° art. 3.

⁴⁸ Art. 16, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, *Trb.* 1978, 42.

⁴⁹ Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, The Hague 26 March 1999, *Trb.* 1999, 107.

⁵⁰ Second Protocol to the 1954 Hague Convention, *supra* note 49, Preamble.

⁵¹ Second Protocol to the 1954 Hague Convention, *supra* note 49, Art. 10.

⁵² Stanley-Price, N. (Ed.)(2005). *Cultural Heritage in Post-war Recovery*. Rome: ICCROM. Retrieved from http://www.iccrom.org/ifredn/pdf/ICCROM_IC506_CulturalHeritagePostwar_en.pdf on 12 September 2016.

⁵³ Art. 1, Law on the establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea, 27-10-2004. Retrieved from https://www.eccc.gov.kh/sites/default/files/legal-documents/KR_Law_as_amended_27_Oct_2004_Eng.pdf on 14 September 2016. Art. 6 of this law further details this and mentions unnecessary destruction of property as set forth in the 1949 Geneva Convention. Art. 7 of this law explicitly criminalizes violations of the 1954 Hague Convention.

despite the competence⁵⁴. This doesn't mean these crimes weren't committed. In 2014, Davis published an article⁵⁵ clearly explaining the criminal structures behind the Khmer Rouge regime. These structures facilitated cultural property crimes such as destruction of historic monuments and religious sites, and the illegal export and trade in cultural properties from these sites. The well-known temples in Cambodia were systematically plundered and items were exported and allegedly sold to Chinese and European art collectors⁵⁶.

3.4.2. Sri Lanka.

The Liberation Tigers of Tamil Eelam (LTTE) have been involved in cultural property crimes. The most significant event was the bombing of the Sri Dalada Maligawa Temple in Kandy in 1998 – a UNESCO World Heritage Site that contains the relics of a Buddhist saint. Although the attack was primarily aimed at the gathered celebrating civilians, the heritage site was severely damaged. The offenders were sentenced to death and long prison sentences by national courts.⁵⁷

3.4.3. Yugoslavia

The war in the former Yugoslavia resulted in the destruction of cultural heritage sites such as in Dubrovnik. These events led to the first ever cases specifically aimed at prosecuting war criminals responsible for these destructive acts. A more elaborate description of the resulting jurisprudence can be found in Chapter 4.

3.4.4. War in Iraq and Afghanistan

Current Iraq has been home to multiple ancient civilizations. Iraq's soil is rich in cultural property and its museums were filled with such items. After the First World War Iraq started to better protect these items. These protection measures were very strict under the rule of Saddam Hussein as he wanted to let as less as possible leave the country⁵⁸. But during the First Gulf War these protection measures appeared to be not effective since native Iraqi's started plundering museums.⁵⁹ Museums lost thousands of items. Many items have not been recovered, yet. After the war, the Taliban became known for its trade in stolen cultural property. And in 2001 the Taliban ordered the destruction of the Bamiyan Buddha's – a UNESCO World Heritage Site⁶⁰.

⁵⁴ Via <https://www.eccc.gov.kh/en/search/document/court>, the website of the ECCC, systematic searches have been conducted for verdicts mentioning the 1954 Hague Convention, or cultural property related terms. Last visited on 10 September 2016.

⁵⁵ Davis, T. & Mackenzie, S. (2014). Crime and Conflict: Temple Looting in Cambodia. In J. Kila and M. Balcells (eds.), *Cultural Property Crimes: an overview and analysis on contemporary perspectives and trends* (pp. 292 – 306). Leiden: Brill.

⁵⁶ The raiders of Banteay Chmar, 14 May 1999, *The Phnom Penh Post*. Retrieved from <http://www.phnompenhpost.com/national/raiders-banteay-chmar> on 10 September 2016.

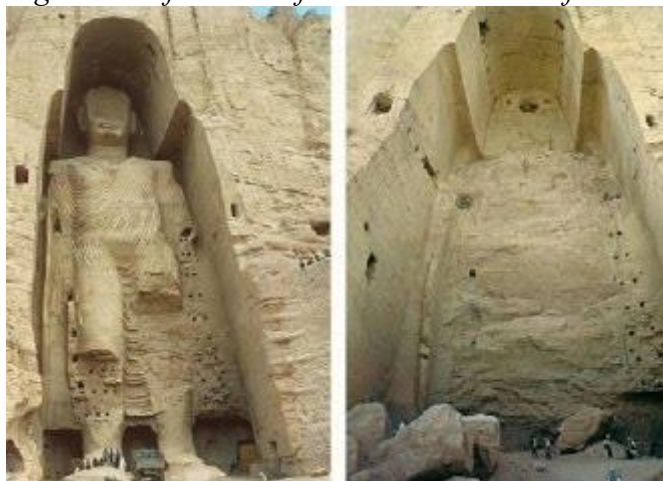
⁵⁷ Two men sentenced to death for Sri Lanka temple bombing, 29 March 2012, *Radio Australia*. Retrieved from <http://www.radioaustralia.net.au/international/2003-10-15/two-men-sentenced-to-death-for-sri-lanka-temple-bombing/683920> on 10 September 2016.

⁵⁸ Miller, A. E. (2005). Looting of Iraqi Art: Occupiers and Collectors Turn away Leisurely from the Disaster, *Case Western Reserve Journal of International Law*, 37(1), pp. 49 – 84.

⁵⁹ Singer, P. (2010). *The new American approach to cultural heritage protection: granting foreign aid for Iraqi cultural heritage*. Retrieved from https://www.academia.edu/3599596/Cultural_Antiquities_Looting_in_Iraq_after_the_Gulf_War?auto=download on 12 September 2016.

⁶⁰ UNESCO, *supra* note 18.

Figure 3. Before and after the destruction of the Bamiyan Buddha's.



The United Nations Security Council (UN SC) adopted resolutions banning trade or economic relations with Iraq and specifically mentioned trade in cultural property⁶¹. These restrictions forced impoverished farmers to earn a living with illegally excavating and selling cultural property on the black market.⁶²

When the US government declared the 'War on Terror' following the 9/11 terrorist attacks, Afghanistan and Iraq were invaded.⁶³ During the invasion the local administrative structures were taken over by armed coalition forces. A result of these changes is deteriorating protection of cultural property, movable (museum stock) and immovable items. During the Iraq/Afghanistan war, the Iraq National Museum in Mosul was plundered and left empty in April 2003. US Armed forces are criticized because they didn't properly protect cultural property and heritage sites, and because of their destructions during the yearlong occupation of the ancient city centre of Babylon.⁶⁴ The USA ratified the 1954 Hague Convention that would prohibit such actions in 2009 – years after the criticized actions.

Amongst the looted items of the National Museum were 1000 pieces of gold jewellery and the Treasure of Nimrud – one of the greatest archaeological findings in history. A few days after the looting, US Army Colonel Bogdanos was assigned to investigate the criminal acts and managed to retrieve almost 2000 items – the USA also undertook legal efforts to 'repair' the situation which they did not prevent from happening.⁶⁵

A remarkable observation is that the 9/11 hijackers allegedly planned to finance their terrorist attack that led to the US invasion by selling looted antiques⁶⁶.

⁶¹ Resolution 661 of the UN Security Council (6 August 1990), *UN Doc S/RES/661*.

Resolution 986 of the UN Security Council (14 April 1995), *UN Doc S/RES/986*.

Resolution 1483 of the UN Security Council (22 May 2003), *UN Doc S/RES/1483*.

⁶² Singer, *supra* note 59.

⁶³ Operation Iraqi Freedom. A chronology of the six-week invasion of Iraq, *Frontline*. Retrieved from <http://www.pbs.org/wgbh/pages/frontline/shows/invasion/cron/> on 13 September 2016.

⁶⁴ International Coordination Committee for the Safeguarding of the Cultural Heritage of Iraq (2009). *UNESCO Final Report on Damage Assessment in Babylon*. Retrieved from <http://www.unesco.org/fileadmin/MULTIMEDIA/FIELD/Iraq/pdf/Report%20on%20Damages%20in%20Babylon.pdf> on 13 September 2016.

⁶⁵ Singer, *supra* note 59, p. 19

⁶⁶ Kunst als Terrorfinanzierung?, *Der Spiegel*, 18 July 2005. Retrieved from <http://www.spiegel.de/spiegel/print/d-41106138.html> on 14 September 2016.

3.5. UNESCO and protection

In the '70's, UNESCO drafted two relevant conventions. Firstly, the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970 UNESCO Convention)⁶⁷. This Convention prohibits illegal trade in cultural property. This trade was already observed during the previous World Wars, as a result of the plunder and seizure activities. This Convention adopted an even broader definition⁶⁸ of 'cultural property' than the 1954 Hague Convention, to include all stolen cultural property and cover all illegal cross-border trade. The 1970 UNESCO Convention's definition of 'cultural property' is a widely used definition (due to the high amount of HCP's to the Convention⁶⁹). Correct documentation is needed if you would want to export cultural property⁷⁰ and importing, owning or trading is a violation of the Convention if these documents are missing⁷¹.

In 1972, UNESCO drafted the World Heritage Convention (WHC)⁷². This Convention introduces the well-known World Heritage List⁷³ and further details the protection efforts for cultural property HCP's should undertake⁷⁴.

Around 1995, UNESCO initiated a third Convention on the topic. In addition to the established conventions with a public law perspective, the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995 UNIDROIT Convention) would formulate new private law principles to combat illegal trade in cultural property⁷⁵. The 1995 UNIDROIT Convention limits traders' rights and obliges buyers to prove their good faith before a court if needed, instead of a prosecutor having to prove criminal intent. This reversed burden of proof⁷⁶ and the much debated vagueness in the Convention resulted in only a few ratifications⁷⁷. Despite the initial Dutch signature under the Convention, ratification didn't follow, despite Parliamentary questions in 2003.⁷⁸

The UNIDROIT Convention doesn't have big influence, although some of its provisions seem to be incorporated in the new Dutch Heritage Law⁷⁹.

In 1998 the Rome Statute on the International Criminal Court was drafted and entered into force in 2002. This Statute established the first permanent international criminal court competent to prosecute war criminals.

3.6. Conclusion

Historic events and developments have led to the creation of vast bodies of international humanitarian law (IHL), such as the Geneva and UNESCO Conventions. These

⁶⁷ Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970, Paris 14 November 1970, *Stb.* 2009, 255.

⁶⁸ 1970 UNESCO Convention, *supra* note 67, art. 1.

⁶⁹ This Convention has 131 state parties on 14 September 2016. For a full list, see <http://www.unesco.org/eri/la/convention.asp?KO=13039&language=E&order=alpha>.

⁷⁰ 1970 UNESCO Convention, *supra* note 67, art. 6b.

⁷¹ 1970 UNESCO Convention, *supra* note 67, art. 7.

⁷² Convention Concerning the Protection of the World Cultural and Natural Heritage, Paris 21 November 1972, *Trb.* 1973, 155.

⁷³ World Heritage Convention, *supra* note 72, art. 11.2.

⁷⁴ World Heritage Convention, *supra* note 72, art. 5.

⁷⁵ Convention on Stolen or Illegally Exported Cultural Objects, Rome 24 June 1995, *Trb.* 1996, 227.

⁷⁶ Remarkably, this reversed burden of proof is already in force in other domains of criminal law. It is, for example, already used for money laundering cases. See: Rozemeijer, J. P. (2015). *Witwasonderzoeken zonder aantoonbaar gronddelict. Het rechterlijk toetsingskader en efficiënt opsporen in zes stappen. Justitiële Verkenningen*, 41(1), pp. 24 – 36.

⁷⁷ For a list with the current ratifying countries, see <http://www.unidroit.org/status-cp>. Last visited on 14 September 2016.

⁷⁸ *Kamerstukken II*, 2002/03, 61985, 1530 (Kamervragen lid Dittrich, D66).

⁷⁹ *Kamerstukken II*, 2014/15, 34109, 3 (Memorie van Toelichting).

Conventions have to be ratified and published before they can be enforced in, for example, the Netherlands⁸⁰. Despite international efforts to prevent cultural property being damaged or illegally traded, recent armed conflicts posed risks to cultural property and property and sites has been destroyed and misappropriated.

Chapter 4: Jurisprudence

4.1. Introduction

Cultural property crimes are not a new phenomenon, as described before. These crimes have been committed in earlier conflicts, and offenders have been adjudicated, albeit not frequently. This chapter contains the international cases in which an offender is indicted and sentenced for destroying cultural heritage. Most conflicts these violations occurred in were international armed conflicts. The newest case however, the Al Mahdi case, isn't.

4.2. Jurisprudence

4.2.1. Nuremberg and Tokyo tribunals

The atrocities of WWII were investigated and adjudicated by the International Military Tribunal of Nuremberg (Nuremberg Tribunal)⁸¹. Top Nazi officials were held responsible for war crimes committed by themselves and their subordinates⁸². Many verdicts contained passages with explicit references to structural plunder and seizure of cultural goods, destruction of religious sites and historic monuments or city centres⁸³. These criminal acts constituted war crimes and resulted in long prison sentences or the death penalty.

Shortly after, the International Military Tribunal for the Far East (Tokyo Tribunal) started similar proceedings against war criminals in the Far East⁸⁴. Contrary to the Nuremberg Tribunal, the systematic destruction, plunder and seizure of cultural property wasn't mentioned separately, but was understood to be included in "violations of the laws and customs of war"⁸⁵; a more concise description than the Charter of the Nuremberg Tribunal provides⁸⁶. The verdicts didn't mention these criminal acts separately either, but assumed that all war criminals were at some level guilty of these criminal acts⁸⁷.

4.2.2. ICTY: Jokić and Strugar

During the war in the former Yugoslavia, the old city of Dubrovnik was shelled and partly destroyed by the armed forces of the Yugoslav National Army (YNA). Following these events and the establishment of the International Criminal Court for the former Yugoslavia (ICTY), the commanding officers of these attacks were tried in two landmark cases.

⁸⁰ Grondwet, *Trb.* 2015, 277, art. 93.

⁸¹ Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, and Charter of the International Military Tribunal, London 8 August 1945.

⁸² International Military Tribunal of Nuremberg, *Nuremberg Trial Proceedings, Vol. 1*, Indictment., Retrieved from <http://avalon.law.yale.edu/imt/count.asp> on 14 September 2016.

⁸³ The judgments can be found via http://avalon.law.yale.edu/subject_menus/judcont.asp. Last visited on 14 September 2016. The judgments of Wilhelm Frick, Hermann Göring, Martin Bormann, Alfred Rosenberg, Baldur von Schirach, Arthur Seyss-Inquart and Wilhelm Keitel mentioned seizure, plunder and/or destruction of cultural property.

⁸⁴ Charter of the International Military Tribunal for the Far East, Tokyo 19 January 1946.

⁸⁵ International Military Tribunal for the Far East, Indictment, Retrieved from https://www.trumanlibrary.org/whistlestop/study_collections/nuremberg/documents/index.php?documentid=18-2&pagenumber=1 on 14 September 2016.

⁸⁶ Nuremberg Charter, *supra* note 81, art. 6.b.

⁸⁷ Judgment, Section 12, *International Military Tribunal for the Far East*. Retrieved from <http://werle.rewi.hu-berlin.de/tokyo.anklageschrift.pdf> on 14 September 2016.

The first case was the Strugar case in 2005⁸⁸. Lieutenant-general Strugar was a commander in the YNA and was held responsible for the unlawful artillery shelling on the old town. As one of the highest ranking officers present there, Strugar had to control his forces but failed to do so. He was found guilty as a superior officer, and even after appeal⁸⁹ and a separate and dissenting opinion of three judges⁹⁰, sentenced to 7,5 years in prison.

In 2001, admiral Jokić surrendered voluntarily to the ICTY but initially pleaded not guilty. After he came to an agreement with the Office of the Prosecutor (OtP) in 2003, he pleaded guilty to all counts⁹¹. He was, amongst others, charged with violations of the laws and customs of war during his commanding period of the YNA Naval Forces. Jokić failed to order a cease fire when his ships started bombarding the old town of Dubrovnik, despite the listing of the old town on the UNESCO World Heritage List. Jokić failed to sanction his subordinates after the shelling. He was sentenced to seven years imprisonment⁹².

After the war, UNESCO restored the old town as much as possible into its old form.

4.2.3. ICC: Al-Mahdi case

In 2012 Mali developed into a conflict country. Islamic extremists from 'Ansar Eddine' started to engage in hostilities against local and national authorities. Instigated by a radical interpretation of Islamic teachings, armed units started to destroy ancient tombs and mausoleums of (Islamic!) scholars, because the local community valued the contributions of these scholars too much in their daily, religious lives. This was seen as idolatry. Despite an initial rejection of the proposal to destroy these recognized UNESCO World Heritage sites, Ahmad Al Faqi Al Mahdi commanded a group to destroy the sites as ordered by his superiors.

Al Mahdi was transferred to the International Criminal Court (ICC) in The Hague and first appeared before the court on 30 September 2015. His trial started on 22 August 2016 with a guilty plea on all charges⁹³, after he reached a sentencing agreement with the OtP. The hearings and witness testimonies were conducted in one week and the sentencing hearing was scheduled for 27 September 2016. The judges weren't bound by the agreement Al Mahdi signed with the OtP. Al Mahdi is sentenced to nine years imprisonment and has agreed not to appeal the judgment.

The Al Mahdi case is a first of its kind in several aspects. Al Mahdi is the first jihadist to stand trial before an international court for his actions in a non-international armed conflict. He is also the first to plead guilty before the ICC, and the first known Jihadist to call upon his fellow Muslims in Syria and Iraq to stop destroying cultural property and heritage sites⁹⁴. It is highly unlikely that other jihadists will stand trial at the ICC, since many conflict countries haven't ratified the 1998 Rome Statute – the ICC doesn't have jurisdiction to try nationals of non-ratifying countries⁹⁵, such as Syria or Iraq.

4.3. Conclusion

Cultural property war crimes such as destruction of cultural heritage sites do not always go unpunished. History shows that the principle of superior responsibility is a useful feature of prosecuting war criminals. Illegal trade in cultural property is not a war crime, but

⁸⁸ ICTY, Trial Chamber II, *Prosecutor v. Pavle Strugar*.

⁸⁹ ICTY 17 July 2008, IT-01-42-A, Appeals Judgement (*Prosecutor v. Pavle Strugar*)

⁹⁰ ICTY, *supra* note 89, pp. 148 – 163.

⁹¹ Miodrag Jokic Pleads Guilty to Six Counts of Violations of the Laws or Customs of War, *ICTY Press Release*. Retrieved from <http://www.icty.org/en/sid/8208> on 11 September 2016.

⁹² ICTY, 30 August 2005, IT-01-42/1-A, Appeals Judgement (*Prosecutor v. Miodrag Jokic*)

⁹³ Al Mahdi case: accused makes an admission of guilt at trial opening, 22 August 2016, *International Criminal Court Youtube channel*. Retrieved from <https://www.youtube.com/watch?v=Regsy114ovI&feature=youtu.be> on 20 September 2016.

⁹⁴ ICC, *supra* note 93.

⁹⁵ Art. 4.2. Rome Statute of the International Criminal Court, Rome 17 July 1998. *Trb.* 2002, 135.

WWII jurisprudence made clear that misappropriation of goods is punishable, although no explicit references to illegal trade were made. The developments in the Al Mahdi case are unique. It will provide case-law for future prosecutions, if Jihadists will ever be brought before a court for the destruction raids they have committed.

Chapter 5: Legal analysis

5.1. Introduction

During the conflict in Syria and Iraq, cultural property and cultural heritage is one of the many victims of violence. Footage showed the destruction of heritage sites such as the ancient city of Palmyra⁹⁶ and raids in the Mosul National Museum⁹⁷, frequently accompanied by clips from execution videos and propaganda material⁹⁸. Besides these IS made videos, journalist reports⁹⁹ and official documents¹⁰⁰ suggest a growing trade in looted cultural property.

5.2. Historic developments

Destroying another's cultural property or buildings is a violation of the laws and customs of warfare. This was already established during the 1899 Hague Peace Conventions and reaffirmed in the following Peace Conventions, Geneva Conventions and international treaties¹⁰¹. Despite legal efforts to prevent cultural property crimes, during all following wars cultural property wasn't safe from acts of war. The Nuremberg and Tokyo Tribunals paid special attention to these crimes paving the way for the ICTY to follow in its footsteps and adjudicate perpetrators of these crimes. Currently, the International Criminal Court (ICC) has finalized its first ever case against a perpetrator of cultural property crimes.

The large body of legal documents criminalizing and (trying to) prevent these crimes, is transposed in several Dutch laws. This paragraph elaborates on the Dutch laws relevant for the investigation of these (war) crimes and provides a framework wherein acts are considered criminal – and thus could be investigated by the TIM.

5.3. 'Wet Internationale Misdrijven'

The International Crimes Law, 'Wet Internationale Misdrijven' (WIM), is the Dutch implementation law for the 1998 Rome Statute and contains all legal provisions about genocide, crimes against humanity, war crimes and other violations of international treaty and customary law of armed conflict¹⁰². A transposition table is included to compare the different provisions on national and international level (Addendum 2).

⁹⁶ See, for example <https://www.youtube.com/watch?v=N01VDBFLLWQ>. Last visited on 20 September 2016.

⁹⁷ See <https://www.youtube.com/watch?v=AJ9wvHq3eQ8>. Last visited on 20 September 2016. The 'Al Hayat' emblem in the top right corner makes clear that this is IS footage. Al Hayat is a media department of IS.

⁹⁸ Islamic State (2015). From the battle of al-Ahzaab to the war of coalitions, *Dabiq* 11, pp. 32 – 33.

⁹⁹ Besides many media reports and clips, see <http://jihadology.net/2015/10/05/the-archivist-unseen-islamic-state-financial-accounts-for-deir-az-zor-province/> for detailed IS documents. This website is maintained by A. Y. Zelin, a scholar at Kings College London. See Chapter 11 for more IS documents.

¹⁰⁰ Letter dated 31 March 2016 from the Permanent Representative of the Russian Federation to the United Nations, addressed to the President of the Security Council (31 March 2016), *UN Doc S/2016/298*.

Or the documents discovered during the Abu Sayyaf raid in May 2015 via <http://www.state.gov/e/eb/rls/rm/2015/247739.htm#OrgChart>. Last visited on 20 September 2016. These documents are described in more detail in Chapter 9.

¹⁰¹ See Chapter 3

¹⁰² *Kamerstukken II*, 2001/02, 28337, 3 (Memorie van Toelichting bij de Wet Internationale Misdrijven), Inleiding

Within the Dutch National Police, the TIM is tasked with investigations into these crimes, under authority of the Netherlands National Public Prosecutor's Office (LP). The domestic Hague District Court is competent to adjudicate these suspects.

Besides the regular jurisdiction to investigate crimes on Dutch territory, committed by Dutch offenders or resulting in Dutch victims, the WIM extends law enforcement's jurisdiction in article 2. For crimes mentioned in the WIM, Dutch law enforcement also has jurisdiction to investigate crimes committed by a perpetrator of any nationality, committed anywhere in the world, if the perpetrator comes to or resides in The Netherlands, or naturalizes to become a Dutch citizen, "universal jurisdiction". Considering the conflict in Syria and Iraq, this means a large group of possible suspects and perpetrators – monitoring them all is undoable, making police efforts more of a reactive nature than preventative.

The WIM has separate provisions for international armed conflicts (IAC) and non-international armed conflicts (NIAC), similar to the 1998 Rome Statute¹⁰³. In the first, explicit references are made to international treaties such as the 1949 Geneva Conventions and the 1954 Hague Convention and its protocols. These references are lacking for NIAC. Although this legal differentiation is criticized by legal practitioners¹⁰⁴ and scholars¹⁰⁵, it is positive law. The conflict in Syria and Iraq is a NIAC. Therefore, article 5 WIM doesn't apply. Article 6 and 7 WIM do apply.

As a residual rule, article 7 WIM criminalizes all violations of international law of armed conflict not covered by article 6 WIM (or article 5 WIM for IAC).

Concluding, it is a war crime to intentionally direct attacks at historic monuments, buildings dedicated to religion, science, art, healthcare or other charitable purposes¹⁰⁶. It is also a war crime to plunder a city or town¹⁰⁷ and destroy or seize property of local civilians or authorities¹⁰⁸. These acts can be investigated by the TIM if the offender is Dutch, a victim is Dutch or the offender resides in the Netherlands.

Acquiring, owning or transferring ownership (trade) of items obtained via a criminal act are crimes themselves¹⁰⁹. Article 1 sub 4 WIM provides the extended investigation and prosecutorial power for these crimes if these items are obtained via a war crime such as plunder or seizure. Investigating the acquiring or (transferral of) ownership of an item (cultural property) is a task for the TIM if these items are plundered or seized in, for example, Syria or Iraq. Meaning: the illegal trade in cultural property from Syria and Iraq falls under the jurisdiction of the TIM and the LP.

5.4. European Council Regulations

Article 215 of the Treaty on the Functioning of the European Union (TFEU) provides the competence for the European Union (EU) to restrict economic or financial relations with third countries in the context of the Common Foreign and Security Policy. The EU has done

¹⁰³ The WIM deliberately doesn't mention terrorism as a war crime itself. This doesn't mean, however, that terrorist acts cannot be seen as war crimes. Meaning, even if committed without a terrorist motive, attacking and destroying cultural property, plunder and seizure may be considered a war crime. This research focusses on the crimes committed by IS as war crimes.

¹⁰⁴ Bevers, J. A. C. (2015). Commentaar op artikel 5 Wet Internationale Misdrijven. In: D. J. M. W. Paridaens-van der Stoel & P. A. M. Verrest (Eds.), *Tekst & Commentaar Internationaal Strafrecht*. Deventer: Wolters Kluwer.

¹⁰⁵ Cerone, J. (2007). Jurisdiction and Power: The Intersection of Human Rights Law & The Law of Non-International Armed Conflict in an Extraterritorial Context, *Israel Law Review*, 40(2), pp. 396 – 452.

Ruys, T. (2014). The Syrian Civil War and the Achilles' Heel of the Law of Non-International Armed Conflict, *Stanford Journal of International Law*, 50(2), pp. 247 – 280.

¹⁰⁶ WIM, *supra* note 44, art. 6.3.d.

¹⁰⁷ WIM, *supra* note 44, art. 6.3.e.

¹⁰⁸ WIM, *supra* note 44, art. 6.3.h.

¹⁰⁹ Titel XXX and Titel XXXA, Wetboek van Strafrecht. *Stb.* 2016, 240.

so for Iraq and Syria, in respective Council Regulations No. 1210/2003 and No. 36/2012¹¹⁰. These Regulations prohibit any trade with those countries if this trade is financially beneficial to the conflicting parties, or if this trade is in violation of international law. The latter mostly being UN SC Resolutions, of which the most recent 2199/2015 resolution is most relevant.¹¹¹

The restrictive measures against Syria and Iraq are transposed into national law via the ‘Sanctieregeling Irak 2004 II’¹¹² and ‘Sanctieregeling Syrië 2012’¹¹³. The Dutch Sanction Law, ‘Sanctiewet 1977’ (SW)¹¹⁴, lays down the rules for implementation of international and domestic sanctions in the Netherlands. The before mentioned European trade restrictions are international sanctions and therefore, via their specific ‘sanctieregeling’¹¹⁵, regulated by the SW. The Dutch Economic Crimes Law, ‘Wet Economische Delicten’ (WED)¹¹⁶, defines a violation of the SW as an economic crime if committed intentionally¹¹⁷. Such violations are punishable with a prison sentence up to six years.

This means that trading in cultural property exported from Syria or Iraq after respectively 15 March 2011 and 6 August 1990 is prohibited in the Netherlands. Based on European trade restrictions and the SW and WED, this is an economic crime.

Although economic crimes or international sanctions are not the primary topic of investigation for the TIM, they are competent to take notice of all crimes.¹¹⁸ These sanctions do however offer a second legal ground for investigating cultural property crimes next to the before mentioned WIM provisions.

5.5. The new Dutch Heritage Law

On 1 July 2016 the new Heritage Law, ‘Erfgoedwet’ (EW), entered into force in The Netherlands, combining the most relevant international and national laws and the relevant conventions aimed at preventing illicit cultural property trade into one legal document. “With this new law”, the explanatory memorandum says, “all international legal obligations are fulfilled” (p. 8) and “the merging [of these conventions into one national law, the Heritage Law] makes clear that the execution of both conventions forms an integral part of Dutch heritage policy” (p. 35)¹¹⁹. Overall, the drafting and recent entry into force of the new EW is mainly a streamlining operation and an effort to improve coordination¹²⁰. Enforcement of this law is mostly an administrative or civil law affair. However, violations of the incorporated international treaties and trade provisions are related to criminal law enforcement and constitute economic crimes, triggering the involvement of the Dutch National Police, as described above.

¹¹⁰ Council Regulation (EC) No. 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96 (*OJEU* 2003, L169/6).

Council Regulation (EU) No. 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011 (*OJEU* 2012, L16/1).

¹¹¹ Concerning restrictive measures against Iraq with relevant passages for trade (in cultural property), the UN SC issued resolutions 661/1990, 986/1995, 1483/2003. Regarding Syria, no resolutions on this topic have passed. In February 2015, the UN SC adopted resolution 2199/2015 about the funding of terrorist organisations such as IS via illegal trade in cultural property

¹¹² Sanctieregeling Irak 2004 II. *Stcrt.* 2014, 23468.

¹¹³ Sanctieregeling Syrië 2012. *Stcrt.* 2015, 7807.

¹¹⁴ Sanctiewet 1977. *Stb.* 2014, 571.

¹¹⁵ Sanctieregelingen Irak en Syrië, *supra* note 112 and 113.

¹¹⁶ Wet Economische Delicten. *Stb.* 2016, 180

¹¹⁷ Sanctiewet, *supra* note 114, art. 2.1 j° art. 3. And Wet Economische Delicten, *supra* note 116, art 1.1. j° art. 2.1, j° art. 6 sub 1 part 1.

¹¹⁸ Art 141 sub b Wetboek van Strafvordering. *Stb.* 2016, 297 j° art. 6 Politiewet. *Stb.* 2016, 148.

¹¹⁹ *Kamerstukken II*, 2014/15, 34109, 3 (Memorie van Toelichting bij de Erfgoedwet).

¹²⁰ Dusseldorp, G. L. & Nijland, J. (2015). Bundeling en aanpassing van regels op het terrein van (onroerend) cultureel erfgoed in de Erfgoedwet en de Omgevingswet. *Tijdschrift voor Bouwrecht*, 95(6), pp. 550 – 559.

According to article 6.3 EW¹²¹ importing cultural property is prohibited if the 1970 UNESCO Convention On The Means Of Prohibiting And Preventing The Illicit Import, Export And Transfer Of Ownership Of Cultural Property (1970 UNESCO Convention) is violated. Meaning: if a High Contracting Party to the said Convention banned export of cultural property items or otherwise limited this trade, persons or businesses in the Netherlands aren't allowed to import these goods. Iraq accepted this convention in 1973 and implemented its provisions in Law No. 55 on Antiquities and Heritage of 18 November 2002¹²² and article 113 of the 2005 Constitution.¹²³ Syria accepted the convention in 1975 and implemented its provisions in several degrees in 1969, 2006 and 2011¹²⁴. Considering that the governments of Syria and Iraq nowadays do not have full control over their territories due to the conflict with (amongst others) IS; and considering Syria's and Iraq's national legislation to ban illegal excavations and export of cultural property; cultural property excavated and exported from the Syrian or Iraqi territory is likely to be done so illegally. Therefore, importing these items means a probable violation of the 1970 UNESCO Convention, resulting in the said prohibition for Dutch citizens and companies. The Dutch legislator chose to implement the 1970 UNESCO Convention via private law. Therefore, the public law route via the Sanctiewet 1977 and WED defining a violation of this convention as an economic crime, does not hold. Private law sanctions mostly consist of confiscating the illegal items with the aim of returning them to the rightful owner.

Enforcement of the Heritage Law is a combined effort between three government bodies. The Heritage Inspection ('Erfgoedinspectie') the primary actor and is tasked with overseeing the protection of Dutch cultural property, and licensing import and export of cultural property from and to other countries. Dutch Customs control the border and try to prevent illegal import and export. The Dutch National Police investigates economic, art crimes and organized crime – these are, however, other departments than the TIM. The cooperation between these different law enforcement organizations is aimed at knowledge sharing and identifying risks¹²⁵. Next to this formal triangle of cooperation, all three government bodies hire or consult art and cultural property experts if needed.

The Heritage Law doesn't name the TIM as primary law enforcement department. At first, the TIM seems very unaffiliated with the topics the Heritage Law is concerned with. But as described above, cultural property crimes are within the scope of TIM's investigations, if those cultural properties originate from war zones, even though they originally constitute economic crimes instead of war crimes.

Herewith, the EW offers a third legal basis for TIM's law enforcement officials to investigate cultural property crimes.

5.5. Regular Criminal Law

¹²¹ Art. 6.3. Erfgoedwet. *Stb.* 2015, 511.

¹²² Law No.55 of 2002 For The Antiquities & Heritage of Iraq. Translated by UNESCO and retrieved from <https://www.cemml.colostate.edu/cultural/09476/pdf/iraq-antiquities-law-2002.pdf> on 20 September 2016.

¹²³ Constitution of Iraq of 15 October 2005. Translated by a private lawyer and accessed via <http://zaidalali.com/resources/constitution-of-iraq/> on 20 September 2016. The original Arabic text can be accessed via <http://zaidalali.bookswarm.co.uk/wp-content/uploads/2014/03/Iraqs-constitution-FINAL-official-gazette-copy.pdf>.

¹²⁴ UNESCO provides an overview of all Syrian cultural heritage laws. Similar laws of other UN MS's can also be accessed via the UNESCO database of national laws. Visit http://portal.unesco.org/culture/en/ev.php-URL_ID=33814&URL_DO=DO_TOPIC&URL_SECTION=201.html to search for national laws. Last visited on 20 September 2016.

¹²⁵ An overview of involved Dutch agencies can be found via <https://www.erfgoedinspectie.nl/toezichtvelden/cultuurgoeieren/inhoud/in--en-uitvoer-van-cultuurgoeieren>. Last visited on 20 September 2016.

The Dutch Criminal Code¹²⁶ criminalizes an attempt to commit a crime¹²⁷, preparation of a crime¹²⁸, attempting to have others commit a crime¹²⁹, and being an accessory to a crime¹³⁰. Article 140 of the Dutch Criminal Code further criminalizes membership of an organization that aims to commit crimes¹³¹. Since IS can be seen as an organization that aims to act in a way that constitutes crimes according to Dutch law (such as cultural property crimes), membership of this organization makes one criminally liable. It is very well plausible that a member of IS has knowledge of cultural property crimes committed by IS, or participated in it.

The above mentioned regular criminal law provisions also apply to cultural property crimes such as destruction and plunder. This means that if you are an IS member and you help prepare for a destruction raid in Palmyra, Syria or in Mosul, Iraq, or you guard a car while others plunder a village or museum, you are criminally liable. And because these acts constitute war crimes, the TIM is empowered to investigate these crimes even if you are not a Dutch national, but only reside in the Netherlands after you've committed your crimes.

Dutch Criminal Law prohibits acquiring and trading items that are criminally obtained. It is a criminal act to earn money with trading these items. Article 1.4. WIM gives law enforcement the extended jurisdiction to investigate these crimes, if the items being acquired or traded originate from a war crime, such as plunder.

5.6. Summary and conclusion

The legal context that defines the crimes the TIM should investigate, does not solely consist of the WIM. The TIM operates in a complex and highly political context where several other (criminal and non-criminal) laws have a role.

Attacking historic monuments, buildings or cultural property is a war crime. Destroying these objects is a war crime. Plundering or seizing cultural property is a war crime. Being involved in these crimes, or otherwise a passive participant, makes you also criminally liable.

Acquiring, owning, or trading plundered or seized items is a crime and can be investigated with the extended war crimes jurisdiction, because the items are obtained via a war crime. Besides that, trading in cultural property from Syria or Iraq is also a violation of international sanctions and therefore an economic crime. And the new EW makes importing, owning or trading properties from a war zone (a violation of international treaties and thus) an economic crime.

It might seem innocent when you think of well-decorated and science-based museum, cosy antique shops in a historic city centre or harmless clay figures for sale at local tourist bazars in the Middle East – the opposite is true. The relation between cultural property crimes and war atrocities is known to media, governments and law enforcement, and should be known to regular civilians going on holiday or making a living with trading.

¹²⁶ Wetboek van Strafrecht. *Stb.* 2016, 240.

¹²⁷ WvSR, *supra* note 126, art. 45

¹²⁸ WvSR, *supra* note 126, art. 46

¹²⁹ WvSR, *supra* note 126, art. 46a

¹³⁰ WvSR, *supra* note 126, art. 47 and art. 48

¹³¹ WvSR, *supra* note 126, art. 140

Chapter 6: Academic and police notions of ‘evidence’

6.1. A brief caution

Before Part I: Context ends and Part II: substantive analysis starts, a brief caution is necessary. There are different ways of reasoning. These different ways can be observed when reading the following chapters, and studying the underlying documents. To distinguish both, these different approaches can be named ‘academic reasoning’ and ‘police reasoning’. These differences are mostly manifested when the illegal trade in cultural property is discussed. Almost everyone agrees that destruction of cultural heritage sites is a war crime – there is not much debate about that. The scale and methods of illegal trade in cultural property related to the financing of terrorist organizations such as IS, do trigger a lot of discussion.

Cultural property crimes are mostly violations of IHL. These international laws are based on treaties and are studied in universities worldwide. Many universities have special chairs (professors) in international humanitarian law, or have other academics writing about the topic. The way these academics write about violations of IHL is very theoretical. Clear examples of this reasoning can be found in the paragraphs about NGO’s. These theorists base their conclusions and assumptions on case-studies. Examples of illegal trade that is related to war crimes (such as in Cambodia or Iraq) is described on a case-by-case bases. For academics, this can mean that illegal trade is indeed supporting terrorism. By using statistics, a margin of error is accepted, but conclusions can still be deemed valid. For law enforcement, this conclusion is not valid. Police officials can only conclude something if they can prove all steps in the process – assumptions cannot be made, nor can generalisations.

This form of academic reasoning can lead to estimates of illegal trade revenues. These estimates can be theoretically accurate, but unproven in practice. Police officials focus on practice and not in theory and with police reasoning, such estimates cannot be made.

In short: academic reasoning is largely theoretical and tries to be as close to the truth as possible by generalizing results. Police and law enforcement reasoning is based on practical evidence and step-by-step analysis of real-life situations and the conclusions in one case do not automatically hold for the following case.

Part II: Substantive analysis

Due to IS's online activity and their media outlets, the world obtained first hand material depicting the destruction of ancient sites such as in Palmyra and Nimrud. These videos were quickly added to news reports, resulting in mass outcries to stop these vandals. This topic is covered by almost every media agency, but very few agencies have conducted their own independent investigations.

This part is divided in multiple chapters, and contains a non-exhaustive enumeration of media reports, YouTube documentaries, official (government) documents, and open source material originating from IS itself.

Chapter 7: Media

7.1. Introduction

Most media reports cover the topic when amounts of money, financial gain, is attributed to IS. As will be described in Chapter 13.6 the estimated revenues vary from a few thousand US Dollars to several billions. Private investigations such as done by trade organizations barely make it into news reports – maybe because the conclusions of such investigations do not support the claim that IS earns millions with the illegal trade in cultural property.

7.2. Media reports

CBS News interviewed assistant attorney general Matthew Bogdanos about the black market for historical treasures¹³². He is a retired US army officer and he was responsible for the investigations into the plundering of the Iraq National Museum in Mosul during the US invasion of Iraq¹³³. He identified the difficulty for regular law enforcement to investigate cultural property crimes due to a lack of knowledge and understanding. He stresses the need for increased efforts by US Prosecutors to prosecute illegal traders. The black market generates income for IS and provides them with tens of millions of US Dollars according to Bogdanos.

Russia Today (RT) got in touch with Kurdish fighters in Northern Syria, near the Turkish border, and managed to obtain IS issued trade and excavation permits¹³⁴. These excavations are based on old maps and the UNESCO World Heritage list. Archaeological sites are easily identifiable with open internet sources and Google Maps. The same documentary crew reported on the crude oil trade between IS and Turkey¹³⁵. Art is smuggled via the same trade routes as weapons, namely via the town of Ash Shaddadi in Syria. RT reported that looted Syrian antiquities are now (the clip is posted online on 31 March 2016) flooding art auctions in, amongst others, London. The existence of smuggle operations is confirmed by a detained IS member who was willing to testify to the RT crew.

Another RT clip hosted University College London archaeologist Mark Altaweel, explaining the illegal trade – “if you can’t stop it in the conflict zone, you are too late”.

¹³² Antiquities expert on black market for historical treasures, 9 September 2015. *CBS News Youtube Channel*. Retrieved from https://www.youtube.com/watch?v=4v_rWV1M7ko on 20 September 2016.

¹³³ See also Chapter 3

¹³⁴ ISIS 'Silk Road': Leaked document exposes antique loot trade via Turkey, 31 March 2016. *RT Youtube Channel*. Retrieved from https://www.youtube.com/watch?v=xnRW_feEI0I on 20 September 2016.

¹³⁵ ISIS, oil & Turkey: RT films trove of jihadist docs detailing illegal trade with Ankara, 24 March 2016. *RT Youtube Channel*. Retrieved from <https://www.youtube.com/watch?v=Tosgw2HZehQ> on 20 September 2016.

The Guardian published some influential articles about the structure of IS and their cash flow. In June 2014 an article was published that mentioned an antique trade revenue of 36 million¹³⁶. This Guardian article started to be quoted by many other press agencies¹³⁷. Another Guardian article described the destruction of Mosul's central museum¹³⁸.

In April 2015, a journalist from UK's The Independent was offered an ancient artefact from Syria, in Gaziantep (Turkey)¹³⁹. The dealer's other collections would be safely stashed in Turkey and Syria, some items were already sold to collectors in Germany and Sweden. The offered items were estimated to be worth hundreds of thousands of dollars, according to experts the pictures were shown to. Other sources mention profits of \$1 million per sale¹⁴⁰, or between \$150 and \$200 million per year¹⁴¹. Contrary to these sources, the New Yorker published an online article in December 2015¹⁴² explaining the over exaggeration of the worth of Syrian artefacts. "Palmyra reliefs are generally unpopular. They often go unsold at auction", an interviewed art dealer said in this article. These findings are confirmed to the author of this police report by the International Association of Dealers in Ancient Art (IADAA) and other collectors and art appraisal experts, "most things we are asked to have a look at, are worthless and unsellable".

The illegal trade in cultural property is a popular topic for news agencies. This trade is not new – it has existed for a long time and IS did not have to invent it themselves. Allegedly, IS uses the same illegal trade routes, networks and modus operandi as other criminal and terrorist groups have used, and still use today. Chapter 13 goes more in-depth in features of the illegal trade. Turkey has unwillingly become a crime scene for this illegal trade. Below a

¹³⁶ Chulov, M. (15 June 2014). How an arrest in Iraq revealed Isis's \$2bn jihadist network, *The Guardian*. Retrieved from <https://www.theguardian.com/world/2014/jun/15/iraq-isis-arrest-jihadists-wealth-power> on 20 September 2016.

¹³⁷ See, for an indication of the snowball effect:

Watson, A. (2 April 2015). Islamic State and the 'blood antique' trade, *BBC Culture*. Retrieved from <http://www.bbc.com/culture/story/20150402-is-and-the-blood-antique-trade> on 20 September 2016.

Pringle, H. (27 June 2014). ISIS Cashing in on Looted Antiquities to Fuel Iraq Insurgency, *National Geographic*. Retrieved from <http://news.nationalgeographic.com/news/2014/06/140626-isis-insurgents-syria-iraq-looting-antiquities-archaeology/> on 20 September 2016.

Zalkind, V. (2 June 2015). How ISIS Turned Looting Into Big Business, *Vocativ*. Retrieved from <http://www.vocativ.com/world/isis-2/how-isis-turned-looting-into-big-business/> on 20 September 2016.

Esman, A. (28 July 2015). How ISIS Makes Money From the Art Market, *the Algemeiner*. Retrieved from <http://www.algemeiner.com/2015/07/28/how-isis-makes-money-from-the-art-market/> on 20 September 2016.

Gregory, K. (3 June 2015). ISIL Making Millions From Looted Antiquities, *the Huffington Post*. Retrieved from <http://www.huffingtonpost.co.uk/katy-gregory/isil-making-millions-from-looted-antiquities/> on 20 September 2016.

¹³⁸ Shaheen, K. (26 February 2015). Isis fighters destroy ancient artefacts at Mosul museum, *The Guardian*. Retrieved from <https://www.theguardian.com/world/2015/feb/26/isis-fighters-destroy-ancient-artefacts-mosul-museum-iraq> on 20 September 2016.

¹³⁹ Hunter, I. (26 April 2015). Syria conflict: The illicit art trade that is a major source of income for today's terror groups is nothing new, *the Independent*. Retrieved from <http://www.independent.co.uk/news/world/middle-east/syria-conflict-the-illicit-art-trade-that-is-a-major-source-of-income-for-todays-terror-groups-is-10204285.html> on 20 September 2016.

¹⁴⁰ Hall, J. (17 February 2015). The ISIS smugglers making up to \$1million per item selling ancient antiquities looted from the rubble of Syria, *Daily Mail*. Retrieved from <http://www.dailymail.co.uk/news/article-2957240/The-ISIS-smugglers-making-1million-item-selling-ancient-antiquities-looted-rubble-Syria.html> on 20 September 2016.

¹⁴¹ Charbonneau, L. (7 April 2016). ISIS is making \$200 million from stolen ancient artefacts, *Business Insider UK*. Retrieved from <http://uk.businessinsider.com/r-islamic-state-nets-up-to-200-million-a-year-from-antiquities-russia-2016-4?r=US&IR=T> on 20 September 2016.

¹⁴² Taub, B. (4 December 2015). The real value of the ISIS antiquities trade, *the New Yorker*. Retrieved from <http://www.newyorker.com/news/news-desk/the-real-value-of-the-isis-antiquities-trade> on 20 September 2016.

short overview of Turkish border towns that are mentioned as major trade hubs for the illegal trade in cultural property.

- Gaziantep¹⁴³: a large Turkish border town with markets and many logistical companies.
- Reyhanlı¹⁴⁴: a town on the main road between Aleppo and Iskenderun. This city was founded as Alexandria and is one of the biggest Turkish commercial centres near Syria.
- Kilis¹⁴⁵: the biggest town in the region and a major agricultural city with good educational resources and infrastructure.
- Sanliurfa¹⁴⁶: a city with the biggest airport in the region: Sanliurfa GAP Airport. An estimated 500.000 Syrian refugees live in camps near Sanliurfa.
- Tel Abiad/Akçakele¹⁴⁷: this town is border town, located in Turkey as well as in Syria. The main road leads to Sanliurfa. In 2015, parts of this town were temporarily occupied by IS members.

A shared feature of these cities and towns is their strategic location with good infrastructure and facilities.

7.3. Conclusion

The destruction of ancient sites is mostly only reported if these sites are listed on the UNESCO World Heritage List, since these sites are widely recognized as valuable. The coverage of these destructions is more unambiguously, since these destructions are frequently captured on film by IS militants themselves.

The destruction of cultural heritage sites is documented by organizations such as the American Association for the Advancement of Science (AAAS) and the American Schools of Oriental Research (ASOR)¹⁴⁸. By comparing satellite photographs, cultural heritage sites are monitored and destructions can be observed. A more detailed account of the status of the cultural heritage sites in Syria and Iraq is provided in Chapter 12.

Chapter 8: Youtube

8.1. Introduction

Besides TV broadcasting, airing documentaries via internet is a new way of reaching an audience. Youtube is one of the platforms documentaries are posted on. A few documentaries can be found on Youtube about destructing and illegal trade in cultural property. Apparently, the pool of experts is limited since the documentaries often rely on testimonies of the same experts.

¹⁴³ Watson, *supra* note 137

Giglio, M. & al-Awad, M. (30 July 2015). Inside the underground trade to sell off Syria's history, *BuzzFeednews*. Retrieved from https://www.buzzfeed.com/mikegiglio/the-trade-in-stolen-syrian-artifacts?utm_term=.vfVGNwpLR#.dhAkL4O2x on 20 September 2016.

¹⁴⁴ Islamic State selling artefacts on the black market, 11 November 2015, *Channel 4 News Youtube Channel*. Retrieved from <https://www.youtube.com/watch?v=8EEov2BZXig> on 20 September 2016.

¹⁴⁵ Das geplünderte Erbe. Terrorfinanzierung durch deutsche Auktionshäuser, 20 June 2015. *NDR*. Retrieved from <https://www.youtube.com/watch?v=8CQi57JJiug> on 20 September 2016.

¹⁴⁶ Giglio, *supra* note 143.

¹⁴⁷ CNN goes inside liberated ISIS stronghold, 22 June 2015, *CNN Youtube Channel*. Retrieved from <https://www.youtube.com/watch?v=9wanKbLWtd8> on 20 September 2016.

¹⁴⁸ See Chapter 10.

8.2. Youtube analysis

A 2011 German ZDF Documentary titled ‘Blutige Schätze. Der Antikenhandel und der Terror’¹⁴⁹ covers the topic and pays attention to the relation between the illegal black market and the legal market. A representative from IADAA is interviewed about the involvement of the legal trade business, and about provenance documents¹⁵⁰ that should accompany antique objects. The vice president of the German Bundes Kriminal Amt (BKA) states that the trade routes used by illegal art dealers are similar to the ones used for weapons or human smuggling. An organized transnational criminal group is involved in the illegal trade. Former illegal art dealer Dutchman Michiel van Rijn is also interviewed and shares his experiences. Terrorist organizations are benefitting from the illegal trade, he says. The documentary then shifts location and goes from Germany to Iraq, where there is no equipment to guard cultural property according to police officials. These officials are also being bribed to let illegal excavations take place, and they claim to know of terrorist groups using this business as a source of funding.

Das Erste, a German broadcaster, made the 2014 documentary ‘Das Geplünderte Erbe – Terrorfinanzierung durch deutsche Auktionshäuser’¹⁵¹. In this documentary the same Michiel van Rijn is interviewed. He elaborates on the free trade zones in Dubai that are being used to launder illegal artefacts, before they are shipped off to art cities such as Munich, London and New York. Near the Syrian-Turkish border, interviews are conducted with archaeologists and fled Syrians about the IS administered trade in cultural property, and the destructions of heritage sites with bulldozers. A figure is attached to this trade: IS makes between \$6 and \$8 million with it, according to a BKA representative. In the same documentary a trade route via Lebanon is exposed, Many forgeries (originally for tourists) also enter the market there.

Online popular media agency ‘TheLipTV’ quoted an interview with a former IS-member identifying himself as ‘Abu Mustafa’¹⁵². This man told a journalist about the destruction of Palmyra and illegal excavations and trade in cultural property. IS used bulldozers to excavate sites. “They destroy those large statues for the cameras, they’re too big to move anyway. What they are really interested in, are these”, referring to movable objects that are sold to European buyers. The interviewed man used to have IS travel documents for his work as a smuggler.

¹⁴⁹ Media clip 4, weblink last visited 31 August 2016

¹⁵⁰ Provenance documents are, so to say, passports for cultural objects. These documents can be receipts, a museum catalogue, an auction document or any other official document. These documents should contain information about the origins of the object, where it was found, bought, sold and traded. With these documents, law enforcement can check if items aren’t stolen or reported missing. The difficulty, however, is that rules about provenance have become stricter over time. Items that have provenance (for example a receipt of sale by a museum in the 1930’s) but have not been sold for a long time and enter the market now, do not meet the current standards of provenance. This way, although the item can very well be obtained legally, the item cannot be sold without the risk of being accused of illegal trading in cultural property.

For more information about the difficulties with provenance, see: Bennett, M. (2013). *Praxiteles: the Cleveland Apollo*. Cleveland, Ohio: Cleveland Museum of Art, pp. 35 – 37. For an abstract, see <http://iadaa.org/some-scholars-opinions/#unprovenanced>, last visited 31 August 2016.

¹⁵¹ Das geplünderte Erbe, *supra* note 145.

¹⁵² ISIS Artefacts smuggler reveals Palmyra destruction motive, 7 April 2016, *TheLipTV Youtube Channel*. Retrieved from https://www.youtube.com/watch?v=xxzzkoQ-x_o on 20 September 2016.

8.3. Conclusion

Besides the described documentaries, many short clips appear on Youtube¹⁵³. These clips refer to media reports, interviews with experts and show dramatic overviews of the destructed sites. A central tendency in these clips is the outrage that IS (and others) commit these crimes, and the fear (but mostly stated as fact) that IS makes huge amounts of money with the illegal trade business.

Chapter 9: Official documents

9.1. Introduction

Most government documents focus on the illegal trade in cultural property from Syria and Iraq. The destruction of such items and heritage sites takes place in the conflict area and is therefore – besides more general notions and calls to action to better protect these items and sites – not frequently mentioned in policy documents or investigations.

Based on the international attention for the illegal trade in cultural property, it is expected that if law enforcement agencies or other government bodies discover such items, publicity is given to these discoveries. Such discoveries can be publicized in annual reports, media reports or in other ways

9.2. UN

9.2.1. UNESCO

UNESCO is the primary UN body tasked with the preservation of cultural heritage and with educating countries about it. UNESCO has expressed its concerns about the destruction of cultural heritage and the involvement of IS in the illegal trade in cultural property multiple times¹⁵⁴. During the Europe Lecture on 13 June 2016 in the Kloosterkerk in The Hague¹⁵⁵ the Director-General of UNESCO, Ms. Irina Bokova, stressed the importance of preserving cultural heritage¹⁵⁶. She labelled the systematic destruction by IS as ‘cultural cleansing’, indirectly referring to ‘ethnic cleansing’. In the speech the attention was drawn to the fact that IS seems to simply follow the UNESCO World Heritage list in the planning and execution of their destruction and plunder raids. All six Cultural Heritage sites in Syria have been damaged, more than eight sites in Libya are damaged and sites in Iraq have also been attacked, such as Mosul.

Besides UNESCO’s legislative efforts¹⁵⁷, UNESCO is involved in policy making and lobbying for the protection of cultural heritage.

¹⁵³ Youtube search queries such as ‘Syria looted antiquities trade’, or ‘IS antiquities trade’, or ‘illegal art trade terrorism’ is sufficient and will result in numerous hits.

¹⁵⁴ Refer to some examples: unite4heritage, statements, meetings/expert groups

¹⁵⁵ The Kloosterkerk itself has been victimized by a form of religious cleansing in the 16th century. During the 16th century many Catholic churches were destroyed and occupied by Protestant Christians. The Protestants did not share the Catholic practice of portraying Biblical figures and placing statues in their religious centres. As one of the last countries in Europe, in 1566 this erupted in the Iconoclastic Fury (in Dutch: Beeldenstorm) in the Netherlands. Similar systematic destructions are committed by IS nowadays. The Kloosterkerk in The Hague was severely destroyed during this Fury and many of the monks fled the church. Because the church was heavily damaged, the governing parties wanted to tear down the remainders. Due to public protests, it didn’t come to this and, after it has turned into a large stable and cannon factory, it became a church again.

¹⁵⁶ Bokova, I. (13 June 2016). Address by Irina Bokova, Director-General of UNESCO on the occasion of the 14th Europe Lecture on “Protecting cultural heritage in times of conflict”. Retrieved from <http://www.europanostra.org/UPLOADS/FILS/20160613-Europe-Speech-UNESCO-BokovaLecture.pdf> on 20 September 2016.

¹⁵⁷ See Chapter 4 for an historic overview including Treaties and Conventions. Many of them are inspired by UNESCO statements or are drafted by UNESCO itself.

The biggest example of this is the World Heritage List (WHL). UN MS's can submit sites or natural phenomena to this list. Not all submissions are directly listed on the WHL. Based on the fulfilment of some requirements, sites are put on the tentative list or WHL. Due to the conflicts in the Near East, UNESCO has drafted a List of World Heritage in Danger. This Danger list comprises of sites in conflict zones. With this Danger list extra awareness for the protection of these sites is raised.

In 2006 and 2007 UNESCO participated in the drafting of a document to combat illegal trade in cultural objects via internet, based on a 2007 Interpol questionnaire and expert meetings¹⁵⁸. Supported by Interpol and the UNODC this document offers non-binding suggestions to MS's about how to strengthen law enforcement agencies. For example: law enforcement agencies can cooperate with online auction and sales websites to monitor illegal trade. A more elaborate account of this document is published on the website of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)¹⁵⁹.

In November 2015 at the 38th General Conference of UNESCO a strategy was adopted to reinforce UNESCO's actions for the protection of cultural heritage in the event of armed conflict.¹⁶⁰ This new strategy is two-fold. Firstly, UNESCO aims to strengthen MS's actions to prevent damage being done. Secondly, UNESCO aims to enhance the incorporation of protection efforts in humanitarian missions. An example of this is the 'Cultural Heritage Passport' that was handed out to the staff of the UN Mission in Mali (MINUSMA)¹⁶¹.

UNESCO also started to collect satellite images of cultural heritage sites under threat, following the example of AAAS and ASOR. This UNESCO effort is "a critical step to start planning for recovery"¹⁶².

UNESCO also advised the European Commission on the drafting of a new convention relating to crimes affecting cultural property¹⁶³. More details about this convention can be found below.

In May 2016 several meetings were organized where experts gathered to discuss new protection measures under the umbrella of UNESCO¹⁶⁴.

And in the Netherlands, for example, the Dutch UNESCO committee launches a debate series about cultural heritage in war zones in September 2016, titled 'World Heritage: treasure or target'¹⁶⁵.

¹⁵⁸ UNESCO, Basic Actions concerning Cultural Objects being offered for Sale over the Internet. Retrieved from <http://portal.unesco.org/culture/fr/files/21559/11836509429MesuresTraficIlliciteEn.pdf/MesuresTraficIlliciteEn.pdf> on 20 September 2016.

¹⁵⁹ More information is accessible via <https://cites.org/eng/news/world/19/5.php>. Last visited on 20 September 2016.

¹⁶⁰ UNESCO General Conference Strategy for Reinforcement Of UNESCO's Action For The Protection Of Culture And The Promotion Of Cultural Pluralism In The Event Of Armed Conflict, Paris 2 November 2015.

¹⁶¹ The passport can be accessed via <http://whc.unesco.org/en/news/981/>. Last visited on 20 September 2016.

¹⁶² The Assistant Director-General of UNESCO was interviewed about this. See <http://en.unesco.org/news/satellite-imagery-helping-monitor-cultural-heritage-sites-under-threat>. Last visited on 20 September 2016. The full report is available at http://en.unesco.org/system/files/full-chs-report_28062016_final.pdf.

¹⁶³ All documents underlying this new convention can be found via the website of the European Committee on Crime Problems, http://www.coe.int/t/DGHL/STANDARDSETTING/CDPC/PC_IBC_en.asp. Last visited on 20 September 2016.

¹⁶⁴ An overview is published on <http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/>. Last visited on 20 September 2016.

¹⁶⁵ The invitation is published on <https://www.unesco.nl/event/eerste-unesco-debat-over-moedwillige-vernietiging-van-cultuur>. Last visited on 20 September 2016.

UNESCO ties the illegal trade in cultural property by terrorist organizations such as IS to organized crime¹⁶⁶. To combat these forms of organized crime, a round table series is organized together with INTERPOL and the United Nations Office on Drugs and Crime (UNODC). The last meeting took place in May 2016. This series will be closed with a high-level discussion at the UN General Assembly in September 2016.

9.2.2. UNODC¹⁶⁷

The mandate of the United Nations Office on Drugs and Crime (UNODC) also covers the illegal trade in cultural property. The UNODC has expertise to combat transnational organized crime and shared this in 2009 with UN MS's¹⁶⁸. The international recognition that cultural property trade is tightly connected to transnational organized crime is often overlooked¹⁶⁹. To provide assistance to (international) law enforcement and legislators, and in light of the developments in Syria and Iraq, UNODC drafted a practical assistance tool¹⁷⁰.

9.2.3. INTERPOL

The INTERPOL database of stolen works of art¹⁷¹ is a collection of stolen art works. The UN SC Resolution 2199/2015 recognized the global role of INTERPOL to address the illicit trade. It is important to note that the INTERPOL database is not complete and that items that have been illegally excavated and sold are not included, for example¹⁷².

INTERPOL has knowledge of war crimes investigations based on previous cooperation's with international criminal tribunals. The international police network INTERPOL provides can be useful, in combination with their knowledge about stolen art.

9.3. World Customs Organization

Media reports and the prioritizing by UNESCO suggests that the illegal trade in cultural property from Iraq and Syria is flourishing. The World Customs Organization (WCO) recognizes that this trade is undesired and wants to stop this "oldest form of cross-border crimes"¹⁷³.

In 2014 a Joint Customs Operation was conducted within forty countries, amongst which the Netherlands. Interpol, UNESCO and the ICOM also participated in this operation called 'Odysseus'. Although some items were seized, no illegal cultural property was discovered in the Netherlands.¹⁷⁴

¹⁶⁶ This report, however, focusses specifically on IS's actions from a war crimes perspective. The connection with organized crime is recognized by the author, but excluded from this report to a large extent, as described in the Introduction.

¹⁶⁷ This report has an explicit International Crimes perspective. Reports with an organized crimes perspective can be more elaborate about UNODC and INTERPOL.

¹⁶⁸ Protection against trafficking in cultural property, Report of the meeting of the expert group on protection against trafficking in cultural property, Vienna 24 November 2009, *UN Doc* UNODC/CCPCJ/EG.1/2009/CRP.1.

¹⁶⁹ Trafficking in cultural property: organized crime and the theft of our past, 30 October 2012. *UNODC*, retrieved from <https://www.unodc.org/unodc/en/frontpage/2012/October/trafficking-in-cultural-property--organized-crime-and-the-theft-of-our-past.html> on 15 September 2016.

¹⁷⁰ UNODC (2016). Practical Assistance Tool to assist in the implementation of the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences. Retrieved from https://www.unodc.org/documents/organized-crime/trafficking_in_cultural/16-01842_ebook.pdf on 15 September 2016.

¹⁷¹ Accessible via <http://www.interpol.int/Crime-areas/Works-of-art/Database>. An account to log in has to be requested and granted first. Last visited on 15 September 2016.

¹⁷² A more detailed caution for users of the INTERPOL database is issued on the website. See *supra* note 171.

¹⁷³ WCO steps up efforts to deter the illicit trafficking of cultural objects, *WCO Press statement of July 2016*. Retrieved via <http://www.wcoomd.org/en/media/newsroom/2016/july/wco-steps-up-efforts-to-deter-the-illicit-trafficking-of-cultural-objects.aspx> on 20 September 2016.

¹⁷⁴ Erfgoedinspectie (2015). *Jaarverslag 2013-2014*. Den Haag: Ministerie van Onderwijs, Cultuur en Wetenschappen.

In July 2016 the WCO discussed the topic during a meeting with the Directors General of all 180 Customs administrations. The resulting resolution resembles UNESCO's stance on the topic and expresses the concerns that terrorist groups use the illegal trade in cultural property as a source of income¹⁷⁵. But no (new) evidence that this is the case was presented.

The WCO works closely together with, amongst others, INTERPOL¹⁷⁶, FATF¹⁷⁷, EUROPOL¹⁷⁸, ICOM¹⁷⁹, UNESCO¹⁸⁰, and the UNODC¹⁸¹, and has drafted Memorandums of Understanding (MoU) to give shape to these cooperation's¹⁸². Although combatting cultural property crimes is a Strategic Goal (number 5¹⁸³) since 2012 and MoU's have been signed with organizations that similarly stress the importance of combatting cultural property crimes, the WCO annual reports barely mention these crimes¹⁸⁴. There are no reports about seizures, influxes of illegally exported cultural items or arrest related to this. This does not mean that illegal trade is not ongoing – it does mean that well-trained customs officials embedded in an international network do not discover 'truckloads' of illegal cultural property that could fund IS.

9.4. European Union

The European Union (EU) is as concerned as the UN when it comes to the risks posed to cultural heritage. As a very active legislative body, the EU has developed numerous legal acts to combat illegal import, export, trade or ownership of cultural property. EU member states implement these European legal acts into their national systems. The Dutch 'Sanctieregelingen'¹⁸⁵, for example, are a fruit of this.

The European Union has condemned the destruction of cultural heritage by IS in April 2015.¹⁸⁶

9.4.1. CULTNET

Law enforcement is also involved in combatting cultural property crimes on a European level. Based on title V of the TFEU that covers police cooperation between MS, the European Council adopted a new draft resolution in October 2012. This resolution created an informal network of law enforcement authorities and experts. This network, CULTNET, is assigned to contribute to "better, faster and more efficient use of the official information

¹⁷⁵ WCO, *supra* note 173.

¹⁷⁶ Memorandum of Understanding on co-operation between the international criminal police organisation INTERPOL and the World Customs Organisation, Lyon 9 November 1998.

¹⁷⁷ No Memorandum of Understanding with the FATF was available on the WCO website on 5 September 2016. The website states that the cooperation with the FATF consists of sharing best practices in countering money laundering issues. There is no mention of cultural property crimes.

¹⁷⁸ Memorandum of Understanding on co-operation between the World Customs Organisation (WCO) and the European Police Office (EUROPOL), Brussels 23 September 2002.

¹⁷⁹ Memorandum of Understanding on co-operation between the World Customs Organisation (WCO) and the International Council of Museums (ICOM) on combatting the illicit traffic in cultural property, n.d.

¹⁸⁰ Memorandum of Understanding on co-operation between the World Customs Organisation (WCO) and the United Nations Educational, Scientific and Cultural Organisation (UNESCO) on combatting illicit traffic in cultural property,

¹⁸¹ No Memorandum of Understanding with UNODC was available on the WCO website on 5 September 2016.

¹⁸² The WCO cooperates with more agencies than the above mentioned. For a more elaborate list of partners and Memorandums of Understanding, see <http://www.wcoomd.org/en/about-us/partners.aspx>. Last visited on 20 September 2016.

¹⁸³ Page 49, World Customs Organisation (June 2013). Annual report 2012-2013.

¹⁸⁴ The consulted Annual reports are the reports about 2012-2013, 2013-2014, 2014-2015 and 2015-2016.

¹⁸⁵ See Chapter 5.

¹⁸⁶ Resolution 2469 of the European Parliament of 30 April 2015 on the destruction of cultural sites perpetrated by ISIS/Da'esh.

exchange and cooperation channels, such as Europol, Eurojust, Interpol, UNESCO, WCO, etc., [...]”¹⁸⁷. It is an addition to Europol and functions as an expert hub.

9.4.2. Europol

Europol is competent to deal with cultural property crimes affecting two or more MS¹⁸⁸. Europol is also competent to deal with money laundering and organized crime and terrorism. In 2015 Europol arrested 35 persons and recovered 2289 cultural artefacts based on these competences. The recovered artefacts were part of the European cultural heritage. This large-scale Europol operation was also supported by Interpol and UNESCO and took place in fourteen European countries, amongst which Germany and the UK.¹⁸⁹ The media release did not mention conflict zones or affiliations with terrorist organizations. It is unclear whether the items are from Syria or Iraq.

Despite this success and the political priority given to cultural property crimes¹⁹⁰, Europol did not pay specific attention to combatting these crimes in its Europol Strategy 2016-2020 but mentioned regular ‘property crimes’ in the context of combatting serious and organized crime, next to all other priority fields¹⁹¹.

Europol will be competent to investigate war crimes, genocide and crimes against humanity as from May 2017¹⁹². According to Dutch national law, the WIM, and the 1998 Rome Statute, destruction of cultural property, and seizure or plunder are war crimes.

According to the WIM trade in seized or plundered items also falls under the extended jurisdiction and can be investigated by the TIM.

It is unclear yet how this will work out in cooperation with Europol from May 2017 onwards, considering differences in national laws and a lack of European substantive law on the topic.

9.4.3. Eurojust

Eurojust recognizes the importance of combatting cultural property crimes. In May 2016 it was suggested to further discuss the destruction of cultural property in the context of investigating war crimes and the extended Europol competence.¹⁹³

In October 2016 a new meeting will take place at the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes (‘Genocide Network’) where cultural property crimes will be discussed.

¹⁸⁷ Draft Council Resolution on the creation of an informal network of law enforcement authorities and expertise competent in the field of cultural goods (EU CULTNET), Brussels 4 October 2012. Retrieved from <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2014232%202012%20INIT> on 20 September 2016.

¹⁸⁸ Council Decision (EU) 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol), *OJEU*. 121/37, Annex.

¹⁸⁹ European police arrest 35 and recover thousands of stolen cultural artefacts, *EUROPOL Press statement of 28 January 2015*. Retrieved from <https://www.europol.europa.eu/content/europol-police-arrest-35-and-recover-thousands-stolen-cultural-artefacts> on 20 September 2016.

¹⁹⁰ According to UNESCO “protection cultural property and the fight against its illicit trafficking” is a shared to priority for the EU and UNESCO. See: <http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/partnerships/european-union/>. Last visited on 12 September 2016.

¹⁹¹ Europol (2016). Europol Strategy 2016-2012. The Hague: Europol. Retrieved from <https://www.europol.europa.eu/content/page/europol%E2%80%99s-priorities-145> on 12 September 2016.

¹⁹² Position (EU) No 8/2016 of the Council at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (*OJEU* 2016, C 169/59)

¹⁹³ Conclusions of the 20th meeting of the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes, The Hague 25 May 2016. Retrieved from <http://www.eurojust.europa.eu/doclibrary/genocide-network/Pages/genocide-network.aspx> on 20 September 2016.

The scheduling of this topic at this moment in time is most relevant considering the drafting of a new European Convention to combat illicit trafficking of cultural property¹⁹⁴.

This report was finalized before the outcomes of the Eurojust meeting were published.

9.4.4. *New legislation*

In February 2016 the European Commission published a Factsheet ‘Action plan to strengthen the fight against terrorist financing’ in the context of the European Agenda on Security.¹⁹⁵ A key action in disrupting terrorist financing is tackling financing sources such as the illegal trade in cultural goods. This Action Plan announced proposed legislation to strengthen customs authorities in their efforts to tackle illegal trade in goods by terrorist organizations. This proposed legislation consists of the before mentioned new European convention.

An overview of European actions on the topic is published in a Parliamentary Briefing from May 2016¹⁹⁶.

9.5. *The Netherlands*

9.5.1. *The Team Internationale Misdrijven*

The TIM is the primary investigation unit tasked with investigating war crimes based on the WIM. The Minister of Security and Justice sends an annual report to Parliament. Theoretically, such reports should also cover the destruction of cultural heritage, if relevant for Dutch law enforcement. These reports show, however, that the TIM has no experience with cultural property related war crimes, yet. This crime is not mentioned in the annual reports between 2010 and 2015, nor is anything else related to cultural property¹⁹⁷.

9.5.2. *The Heritage Inspection and Customs*

The agency tasked with preventing and investigating illegal trade in cultural property is the ‘Erfgoedinspectie’ (Heritage Inspection) – a specialized department within the Ministry of Education, Culture and Science. Recently, the new Heritage Law entered into force and provides the Heritage Inspection with a more centralized means to execute their task.¹⁹⁸

At the Dutch borders, the Customs Authority is tasked with controlling all goods entering or leaving the Netherlands. Because of European regulations, the Customs Authority can only control shipments going in or out the EU – in other words: only when the Dutch border functions as a European border, for example at airports or international harbours. All Dutch customs officials are trained in recognizing cultural property and get regular update trainings.

Customs and Heritage Inspection closely cooperate to ensure effective operations and knowledge sharing¹⁹⁹. The Customs authority reports to the Heritage Inspection if they’ve discovered illegally imported items at the border. The Heritage Inspection publishes an annual report and includes incidents reported by the Customs Authority, in addition to their own

¹⁹⁴ European Committee on Crime Problems, *supra* note 163.

¹⁹⁵ European Parliament, *supra* note 186.

¹⁹⁶ Protection of cultural heritage in armed conflicts, *European Parliament Briefing March 2016*. Retrieved from [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/579081/EPRS_BRI\(2016\)579081_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/579081/EPRS_BRI(2016)579081_EN.pdf) on 20 September 2016.

¹⁹⁷ *Kamerstukken II*, 2010/11, 32500, 116 (Rapportagebrief Internationale Misdrijven)
Kamerstukken II, 2011/12, 33000, 103 (Rapportagebrief Internationale Misdrijven)
Kamerstukken II, 2013/14, 33750, 27 (Rapportagebrief Internationale Misdrijven)
Kamerstukken II, 2014/15, 34000, 97 (Rapportagebrief Internationale Misdrijven)
Kamerstukken II, 2015/16, 34300, 89 (Rapportagebrief Internationale Misdrijven)

¹⁹⁸ The new Heritage Law is described in Chapter 5.

¹⁹⁹ Kaderovereenkomst inzake de samenwerking tussen het ministerie van Onderwijs, Cultuur en Wetenschap (OCW) en het ministerie van Financiën bij het toezicht op de uit- en invoer van cultuurgooederen. Retrieved from http://www.belastingdienst.nl/bibliotheek/handboeken/html/boeken/HD/5_kaderovereenkomst_inzake_de_samenwerking_tussen_het_ministerie_van.html on 21 September 2016.

findings. According to the 2015 report, only 25 incidents of possible illegal import have been registered during the last twenty years – the report doesn't say if these items originate from conflict zones such as Syria or Iraq. One case of illegal internet trade in cultural property from Iraq is still under investigation²⁰⁰. No illegally imported cultural property was reported for 2013 and 2014²⁰¹. The annual report for 2012 gives an account of one confiscated item that was possibly illegally imported²⁰².

In 2011 no incidents were reported. The annual report did, however, explain the difficulty in cooperating with law enforcement agencies, due to the reorganization of the Dutch Police and a low priority for art and antique crimes²⁰³.

9.5.3. Dutch studies

Although almost no incidents of illegal import of cultural property from Syria or Iraq were reported in the last years, the topic has been studied. The Heritage Inspection was (in)directly involved in two²⁰⁴ successive research projects.

During the 2004 Dutch presidency of the EU, a conference about 'illegal trade, fighting illicit traffic in cultural goods within the European Union' was held in Rotterdam. This conference led to the before mentioned UN suggestions²⁰⁵ to MS to combat illegal trade via internet. At the same time of the publication of these suggestions, a preventive screening of the art and antique sector was conducted in 2007²⁰⁶ in the context of the Dutch Ministry of Justice's Programme to Prevent Organized Crime²⁰⁷. The study aimed to expose the weaknesses of the sector in relation to organized crime. The study hypothesized that the Netherlands' legal²⁰⁸, financial and organizational infrastructure and strategic geographic location could facilitate illegal trading or transiting cultural property. No evidence was found that could support this assumption. Contrary, the study concluded that the specialized nature of the art sector hinders criminals to access the market easily and earn money with the illegal trade. The international market is more easily accessible for criminals than the internal Dutch market, which is relatively small.

The Ministry of Education, Cultural and Science concluded that there is not enough knowledge about the illegal internet trade in cultural property, too few hard numbers. Therefore, it ordered a new study in 2011.²⁰⁹ This study consisted of three parts: interviews with involved experts, law enforcement officials and other individuals, a literature study and a

²⁰⁰ Erfgoedinspectie (2016). *Jaarverslag 2015*. Den Haag: Ministerie van Onderwijs, Cultuur en Wetenschappen.

²⁰¹ Erfgoedinspectie, *supra* note 174.

²⁰² Erfgoedinspectie (2013). *Jaarverslag 2012*. Den Haag: Ministerie van Onderwijs, Cultuur en Wetenschappen.

²⁰³ Erfgoedinspectie (2012). *Jaarverslag 2011*. Den Haag: Ministerie van Onderwijs, Cultuur en Wetenschappen.

²⁰⁴ A third study was conducted by the Heritage Inspection in 2012. This study concentrated on the illegal trade in cultural property and archaeological objects with a Dutch origin. Although this study is relevant for law enforcement officials tasked with art and antique crimes, it is not so relevant in the context of war crimes and this report. The study can be found via <https://www.erfgoedinspectie.nl/publicaties/rapport/2012/11/07/grenzen-overschreden> (last accessed 8 September 2016).

²⁰⁵ See Chapter 9.1.

²⁰⁶ Bieleman, B., Van der Stoep, R. & Naayer, H. (2007). *Schone Kunsten. Preventieve doorlichting kunst- en antiekhandel*. Groningen: Intraval. Retrieved from http://www.intraval.nl/pdf/DKN_b65.pdf on 8 September 2016.

²⁰⁷ Ministerie van Veiligheid en Justitie (05 June 2008). Programma van Aanpak Georganiseerde Misdad. Retrieved from <https://www.rijksoverheid.nl/documenten/richtlijnen/2008/06/05/programma-versterking-aanpak-georganiseerde-misdad> on 21 September 2016.

²⁰⁸ When the study was conducted in 2006 and 2007, the Netherlands hadn't ratified the 1970 UNESCO Convention yet. The Netherlands ratified the Convention in 2009. The 1995 Unidroit Convention still isn't ratified.

²⁰⁹ Van Ham, T., Leukfeldt, E. R., Bremmers, B., Stol, W. Ph. & Van Wijk, A. Ph. (2011). *De Kunst van het Internet. Een onderzoek naar de online illegale handel in cultuurgooederen*. Den Haag: Boom Lemma Uitgevers. Retrieved from <https://www.rijksoverheid.nl/documenten/rapporten/2011/11/24/rapport-de-kunst-van-het-internet> on 8 September 2016.

study of two large online sales websites. This study did not focus specifically on Syria or Iraq. According to the studied literature there is a large illegal trade network for cultural property from the Near East. The interviewed individuals confirmed that the trade is probably ongoing, but that they had no proof for that claim. The investigation of online sales websites confirmed this: barely any possible illegal items were offered for sale. The study concludes that if the illegal online trade is happening, it would be about small amounts of money. It is unlikely that very valuable items will be traded on the (open) internet.

The 2011 study was focussed on the open web (the ‘clear’ web) and did not pay attention to the deep or dark web. Concerned about the possible illegal trade in cultural property from Syria and Iraq, a new study was ordered in 2015/16 by the EU expert group on art crime, CULTNET²¹⁰, and conducted by TNO in The Hague²¹¹. This study focussed on the deep and dark web. With a custom build search engine websites and messages were ‘scraped’ (meaning: automatically collected) and analysed. Based on the available data, the study found no significant proof that large-scale illegal online trade exists that could amount to revenues of millions of dollars. The things they did find, however, were anecdotal and self-standing, and indicated the existence of a trade route from the Near East to Europe, via Turkey, amongst others. The study also found that items that were offered online were either fakes or of very low worth according to the consulted valorisation experts. These items were mostly offered for sale on the clear web and not on the deep or dark web.

These findings support the conclusions of Van Ham et al. (2011)²¹².

Building upon these results, the author conducted some online desk research with colleagues at the TIM. Social media, fora, IS related websites and sales websites on the clear web were manually searched in English and Arabic. Besides suspicious looking Facebook pages and fora, no evidence was found that supported massive online trade in cultural property from Syria and Iraq. This is in line with findings from Van Ham et al. in 2011.

9.5.4. Returns

Although governmental annual reports and private investigations do not support claims of an existing massive illegal trade, cultural property has entered the Netherlands in the last decenniums. These goods have been returned to the authorities of the countries of origin. The known cases are the following:

- In July 2009 the Dutch Minister of Interior handed over 69 illegally imported pieces to the Iraqi ambassador in The Hague after the pieces have been exhibited shortly in the National Museum of Antiquities²¹³.
- Another piece was returned to Iraq in 2010²¹⁴. This clay tablet originated from Ur, an ancient Iraq city listed on the Tentative List of the UNESCO World Heritage List²¹⁵.

9.6. Germany

Recently, the German Bundestag adopted a new law that restricts the trade in cultural property with the aim of combatting illegal trade, and to implement the 1970 UNESCO

²¹⁰ EU CULTNET, *supra* note 187

²¹¹ Oggero, S., Middelbach, E. & Petiet, P. (2016). *Online culture trade & the dark web*. Presentation at CULTNET 2016.

²¹² Van Ham et al, *supra* note 209

²¹³ Minister Plasterk geeft cultuurogged terug aan Irak, *Press Statement of 9 July 2009, Ministry of Education, Culture and Science*. Retrieved from <https://www.rijksoverheid.nl/actueel/nieuws/2009/07/09/minister-plasterk-geeft-cultuurogged-terug-aan-irak> on 21 September 2016.

²¹⁴ Plasterk geeft oeroud kleitablet terug aan Irak, *de Volkskrant 14 Januari 2010*. Retrieved from <http://www.volkskrant.nl/recensies/plasterk-geeft-oeroud-kleitablet-terug-aan-irak~a975650/> on 21 September 2016.

²¹⁵ For the full list and the status of these sites, see Chapter 12.

Convention.²¹⁶ The report that led to this new law specifically mentioned the risks posed to cultural property in armed conflicts, amongst which the situation in Syria²¹⁷. This new law will enter into force after publication in the German Federal Law Gazette (date unknown). The new law is heavily criticized by the traders²¹⁸, but welcomed by museums²¹⁹.

9.6.1. Customs Administration

The German Customs Administration publishes a *Jahresstatistik*, an annual report with statistics about seizures, revenues and cross-border traffic. The reports of 2012²²⁰, 2013²²¹, 2014²²² and 2015²²³ do not mention illegal trade in cultural property or seizures of cultural goods that are illegally exported and imported into Germany. Germany is mentioned as a country of destination for illegally exported cultural property²²⁴ but the Customs Administration hasn't published supporting figures in their annual reports, yet. When asked by the newspaper *Wirtschafts Woche* on 17 December 2015 the German Ministry of Finance (the responsible ministry for the Customs Administration) declared to have no knowledge of import of illegal cultural property from IS held territories²²⁵.

9.6.2. Law enforcement

German law enforcement, however, arrested a Syrian man in April 2016 for allegedly committing war crimes in Syria in 2012 and for looting and selling works of art in Aleppo. The man was a leading member of the Free Syrian Army (FSA) 'Ghuraba al Sham' militia ('Foreigners in Syria' militia) – not an IS member.²²⁶

²¹⁶ *Kulturgutschutzgesetz*, Draft version, Berlin 24 June 2016. Retrieved from https://www.bundesregierung.de/Content/DE/_Anlagen/BKM/2016/2016-06-30-kgsg-regieurngsentwurf-konsolid-fassung.pdf?__blob=publicationFile&v=3 on 21 September 2016. The decision to adopt this law was made on 8 July 2016 by the Bundesrat. Available at http://www.bundesrat.de/SharedDocs/drucksachen/2016/0301-0400/346-16%28B%29.pdf?__blob=publicationFile&v=1. Last visited on 21 September 2016.

²¹⁷ Summary of the Report of the Federal Government on the protection of cultural property in Germany. Retrieved from https://www.bundesregierung.de/Content/DE/_Anlagen/BKM/2013-07-11-bericht-kulturgutschutz-englisch.pdf?__blob=publicationFile&v=2 on 21 September 2016.

²¹⁸ New German cultural property act passed, *IADAA Press Statement of 8 July 2016*. Retrieved from <http://us13.campaign-archive2.com/?u=a81e683eb56ca7b9e39ed26a1&id=2c74785327&e=15e9ca8433> on 21 September 2016. And Neuendorf, H. (19 July 2015). Proposed Law Regulating Art Sales Would Destroy German Art Market Experts Say, *Artnetnews*. Retrieved from <https://news.artnet.com/market/german-culture-protection-law-amendment-315523> on 21 September 2016.

²¹⁹ ICOM statement concerning the protection of cultural property and the amendment of the law in Germany, *ICOM Press Statement (n.d.)*. Retrieved from <http://icom.museum/news/news/article/icom-statement-concerning-the-protection-of-cultural-property-and-the-amendment-of-the-law-in-german/> on 21 September 2016.

²²⁰ Bundesministerium der Finanzen (2013). *Die Bundeszollverwaltung Jahresstatistik 2012*. Berlin: Bundesministerium der Finanzen.

²²¹ Bundesministerium der Finanzen (2014). *Die Bundeszollverwaltung Jahresstatistik 2013*. Berlin: Bundesministerium der Finanzen.

²²² Bundesministerium der Finanzen (2015). *Die Bundeszollverwaltung Jahresstatistik 2014*. Berlin: Bundesministerium der Finanzen.

²²³ Bundesministerium der Finanzen (2016). *Die Bundeszollverwaltung Jahresstatistik 2015*. Berlin: Bundesministerium der Finanzen.

²²⁴ See Chapter 7 and 8.

²²⁵ Ramthun, C. (17 December 2015). Keine Erkenntnisse über Einfuhr von Kulturgütern aus IS-Gebieten, *Wirtschafts Woche*. Retrieved from <http://www.wiwo.de/politik/deutschland/deutscher-zoll-keine-erkenntnisse-ueber-einfuhr-von-kulturguetern-aus-is-gebieten/12736132.html> on 21 September 2016.

²²⁶ Turner, Z. (6 April 2016). Syrian Arrested in Germany for Suspected War Crimes, *the Wall Street Journal*. Retrieved from <http://www.wsj.com/articles/syrian-arrested-in-germany-for-suspected-war-crimes-1459964827> on 21 September 2016.

German police arrest Syrian national accused of war crimes, *DW.com*. Retrieved from <http://dw.com/p/1IRAV> on 21 September 2016.

9.7. Belgium

Belgium is not as strict in its legislation as Germany, regarding trade in cultural property. Due to these legal deficiencies, illegal trade occurs: sand-covered items from Afghanistan were being offered for sale²²⁷.

The Belgian police used to have a specialized Art Crimes Squad in 2013²²⁸, but this institutionalized team is now being disbanded because of a reorganization²²⁹. There is, however, a specialized unit within the Customs Authority that is tasked with investigating illegal trade via internet²³⁰. This unit closes down websites that are involved in or connected to illegal trade on a regular basis.

The Belgian Ministry of Finance publishes an annual report on their website. Details about customs activities and discovered violations are available since 2013, but there is no mention of confiscated cultural property or any illegal trade besides drugs and alcohol in 2013²³¹, 2014²³² or 2015²³³. The tables with confiscated fake products do not mention fake cultural property.

9.8. United Kingdom

The United Kingdom's (UK) capital London is a major art city with numerous antique shops. In July 2015 the Guardian reported that looted antiques, 'blood antiques', were displayed for sale in London antique stores and represented "just the tail end of it [the illegal trade in cultural property]"²³⁴.

9.8.1. Art & Antiques Unit

The Art & Antiques Unit of the London Metropolitan Police (LMP) was established in 1969 to investigate art crimes surrounding London and involving the numerous art dealers. The Annual Report of the LMP mentions asset seizures in 2011-2012, but no accounts of the

²²⁷ Fromm, R., Strompen, M. & Lüders, K. (2011). Blutige Schätze Der Antikenhandel und der Terror Reportage über Antikenhandel, ZDF documentary. Retrieved from <https://www.youtube.com/watch?v=LnmRXzKqq4> on 21 September 2016.

²²⁸ According to the Minister of Interior the Art crimes unit consists of one operational expert and one administrative staff. See: Vraag van lid Brothorn over de illegale kunsthandel van 30 September 2013. *Schriftelijke vragen en antwoorden*, QRA 53 130. Retrieved from <https://www.dekamer.be/kvvcr/showpage.cfm?section=qra&language=nl&cfm=qraXml.cfm?legislat=53&documentID=53-b130-665-1072-2012201313898.xml> on 21 September 2016.

²²⁹ The reorganisation within the Belgian Police seems to be opposite to the one in the Netherlands. The Belgian Police will be more decentralized according to the 'Kanaalplan' presented by Minister of Security and Interior Jan Jambon. In the fight against terrorism should the local police be more in the centre of the operation. In the Netherlands a centralization is taking place, although the local police departments are important. Visit <https://www.vlaamsparlament.be/parlementaire-documenten/vragen-en-interpellaties/1056578> for more information about the Belgian reorganisation.

²³⁰ De douane bestrijdt de illegale handel van goederen op het internet, *Press Statement Federale Overheidsdienst Financiën* (n.d.). Retrieved from <http://2013.jaarverslag.financien.belgium.be/nl/de-douane-bestrijdt-de-illegale-handel-van-goederen-op-het-internet> on 21 September 2016.

²³¹ Federale Overheidsdienst Financiën (2013). *Jaarverslag 2013, Controle binnen de AAD&A*. Retrieved from <http://2013.jaarverslag.financien.belgium.be/nl/verslag/control-en-invordering/control-binnen-aada> on 21 September 2016.

²³² Federale Overheidsdienst Financiën (2014). *Jaarverslag 2014, AA Douane en Accijnzen*. Retrieved from <http://www.2014.jaarverslag.financien.belgium.be/nl/cijfers/control-en-invordering/aa-douane-en-accijnzen> on 21 September 2016.

²³³ Federale Overheidsdienst Financiën (2015). *Jaarverslag 2015, AA Douane en Accijnzen*. Retrieved from <http://www.2015.jaarverslag.financien.belgium.be/nl/cijfers/control-en-invordering/aa-douane-en-accijnzen> on 21 September 2016.

²³⁴ Shabi, R. (3 July 2015). Looted in Syria – and sold in London: the British antiques shops dealing in artefacts smuggled by ISIS, *the Guardian*. Retrieved from <https://www.theguardian.com/world/2015/jul/03/antiquities-looted-by-isis-end-up-in-london-shops> on 21 September 2016.

Art & Antiques Unit²³⁵. No successive Annual Reports were found on internet and there are no reports of successful confiscations after the Guardian article reported that looted items were being sold.

9.8.2. *Legislative developments*

The UK government has recognized the existence of cultural property crimes in general and launched a cultural protection fund for countries in war zones, to contribute to the protection of heritage sites at risk²³⁶. The UK Armed forces are establishing a 'monuments men' unit to protect cultural heritage in accordance with article 7.2 of the 1954 Hague Convention²³⁷. But the UK hasn't ratified this Convention and its protocols according to UNESCO²³⁸ - the only country seated in the UN Security Council that didn't ratify it. Implementation of the Convention provisions is already being considered in some form: the Cultural Property (Armed Conflicts) Bill is being discussed in the House of Commons.²³⁹

9.8.3. *Illegal cultural property*

In 2014 Italian and Swiss police discovered 45 crates of archaeological relics with an estimated value of €9 million²⁴⁰. The crates were stored in a storage unit at the Geneva Freeport warehouse complex and belonged to British antiques dealer Robin Symes – formerly one of the most esteemed antique dealers in the UK who sold items in London. The British Museum claimed that they are holding a looted item from Syria, awaiting an eventual return of the item to the Syrian authorities. It is not clear what item the Museum is safeguarding.²⁴¹

9.9. *United States of America*

9.9.1. *The Abu Sayyad Raid*

United States law enforcement and military have obtained crucial pieces of evidence about IS's involvement in the illegal trade in cultural property and their financing structure. These documents are found during a raid in northern Syria. A high ranking IS member called Abu Sayyaf Al Iraqi was killed and in his house and (electronic) documents and cultural property was found that indicated a financing structure²⁴². This structure consists of a 'Diwan al Rikaz', a Ministry for Natural Resources, with two departments: an oil department and an antiquities department (archaeological treasures and valuable plundered items). This Ministry is geographically divided in two: a Western Governorate (Syria) and an Eastern Governorate (Iraq). Abu Sayyaf was the leader of the Syrian branch. These documents found at his house given an account of approximately \$260.000 in a four month period in the Deir ez-Zor

²³⁵ Metropolitan Police (2012). Commissioner's Annual Report 2011/12. London: Metropolitan Police Service.

²³⁶ Cultural Protection Fund: 2016 – 2020, *British Council Web Article* (n.d.). Retrieved from <https://www.britishcouncil.org/arts/about/cultural-protection-fund-2016-2020> on 21 September 2016.

²³⁷ Famer, B. (25 December 2015). Army sign up 'Monument Men' to save treasures from warzones, *the Telegraph*. Retrieved from <http://www.telegraph.co.uk/news/12057177/Army-sign-up-Monument-Men-to-save-treasures-from-warzones.html> on 21 September 2016.

²³⁸ According to the UNESCO Treaty Portal <http://www.unesco.org/eri/la/convention.asp?KO=13637&language=E&order=alpha> on 12 September 2016.

²³⁹ To follow progress of this bill, see <http://services.parliament.uk/bills/2016-17/culturalpropertyarmedconflicts.html>. Last visited on 12 September 2016.

²⁴⁰ French Pres Agency (22 March 2016). Stolen artefacts stashed by British art dealer are returned to Italy. *The Guardian*. Retrieved from <https://www.theguardian.com/world/2016/mar/22/stolen-artefacts-stashed-british-art-dealer-returned-italy> on 21 September 2016.

²⁴¹ N.a. (5 June 2015). British Museum 'guarding' object looted from Syria, *BBC News*. Retrieved from <http://www.bbc.com/news/entertainment-arts-33020199> on 21 September 2016.

²⁴² Keller, A. (29 September 2015). Documenting ISIL's Antiquities Trafficking: The Looting and Destruction of Iraqi and Syrian Cultural Heritage: What We Know and What Can Be Done, *Remarks at The Metropolitan Museum of Art, New York, NY*. Retrieved from <http://www.state.gov/e/eb/rls/rm/2015/247610.htm> on 21 September 2016.

province in Eastern Syria. Deir ez-Zor is an area with multiple archaeological sites²⁴³ and all those sites have suffered from illegal excavations according to UNESCO²⁴⁴. Deir ez-Zor is also the province where two of the Syrian sites listed on the UNESCO World Heritage tentative list are located: Mari and the Europos-Dura sites in the Euphrates Valley²⁴⁵.

The collection of cultural property that was found in Abu Sayyaf's house was turned over to the Iraq National Museum by the US Department of State²⁴⁶. The collection consisted of coins, Christian books, an ivory plaque stolen from the Mosul Museum and fake items.²⁴⁷

9.9.2. Law enforcement

Within US law enforcement, different organizations monitor and investigate the illegal trade (in cultural property).

The Immigration and Customs Enforcement (ICE) gathers intelligence about the illegal trade in antiquities by IS²⁴⁸. There are no mentions of investigations into this trade, arrests or gathered documents in the ICE's annual reports. According to ICE their biggest priority lies with the removal of expelled individuals from US soil, not the investigations into illegal trading. The ICE website, however, does give some information about their activities to combat the illegal trade in cultural property²⁴⁹. In 2008 and 2010 ICE returned objects to Iraq – no items were returned to Syria and no investigations or returns were related to IS.

The Department of Homeland Security (DHS) actively combats smuggling networks and has an eye out for illegal traders in cultural property²⁵⁰. There have been some successes in investigating and prosecuting art dealers that have been found to be involved in the illegal trade as well, besides their legit trade business. To the extend data was available, these cases did not involve items from Syria or Iraq.

According to the US Government Accountability Office (GAO), the DHS and Federal Bureau of Investigations (FBI) opened investigations regarding smuggling of Syrian and Iraqi antiquities²⁵¹. The GAO further expressed wishes to develop measures to safeguard cultural property and prevent smuggling of cultural property. No figures or evidence was presented.

Following the UN Security Council's resolution 2199 in February 2015, the FBI issued a clear warning in August 2015 addressing traders and others involved in the art business to be careful with Syrian or Iraqi cultural property²⁵². The FBI considers the possibility that buyers finance IS with their actions as a risk to national security.

9.9.3. Legislative developments

²⁴³ According to the Association for the Protection of Syrian Archaeology. See <http://apsa2011.com/apsanew/> for more information. Last visited on 21 September 2016.

²⁴⁴ An overview of UNESCO updates on the topic can be found on <http://www.unesco.org/new/en/safeguarding-syrian-cultural-heritage/situation-in-syria/movable-heritage/archaeological-sites/>. Last visited on 21 September 2016.

²⁴⁵ See Chapter 12, Table 2 and Table 3 for an overview of the status of all Syrian and Iraq World Heritage sites.

²⁴⁶ U.S. Embassy returns over 400 ancient cultural artefacts to the Government of Iraq. "Da'esh is stealing your antiquities, and we are giving them back to you.", *Press Statement US Embassy in Iraq* (n.d.). Retrieved from <https://iraq.usembassy.gov/artifacts-gallery.html> on 21 September 2016.

²⁴⁷ ISIL Leader's Loot, *Press Statement of the US Department of State* (n.d.). Retrieved from <https://eca.state.gov/cultural-heritage-center/iraq-cultural-heritage-initiative/isil-leaders-loot> on 21 September 2016.

²⁴⁸ According to their website: <https://www.ice.gov/intelligence>. Last visited on 21 September 2016.

²⁴⁹ Fact Sheet Cultural Property, Art and Antiquities Investigations, *Immigration and Customs Enforcement Web Article*. Retrieved from <https://www.ice.gov/factsheets/cultural-artifacts> on 21 September 2016.

²⁵⁰ Smuggling Cases, *Department of Homeland Security Website* (n.d.). Retrieved from <https://www.dhs.gov/smuggling-cases> on 21 September 2016.

²⁵¹ United States Government Accountability Office (August 2016). *Cultural Property – Protection of Iraqi and Syrian Antiquities*. Retrieved from <http://www.courthousenews.com/2016/08/16/Art.pdf> on 21 September 2016.

²⁵² ISIL and Antiquities Trafficking, *FBI Warning of 26 August 2015*. Retrieved from <https://www.fbi.gov/news/stories/isil-and-antiquities-trafficking> on 21 September 2016.

In December 2015 the US Congress Committee on Homeland Security discussed a new law to prevent trafficking in cultural property²⁵³. The draft hasn't passed Congress yet²⁵⁴.

9.10. Turkey

Turkey is frequently mentioned as a transit country for illegally exported or excavated cultural property from Syria or Iraq. Therefore, it is very worthwhile to study Turkish Customs documents.

Turkish Customs or law enforcement officials are bound to the 1970 UNESCO Convention since Turkey ratified it in 1981 and thus has to combat illegal trading in cultural property. Unfortunately, Turkish government documents were not readily available and largely not translated in English or another language the author comprehends. A study of Turkish documents was not possible.

9.11. FATF

The Financial Action Task Force (FATF) is an intergovernmental organization established by the G7 and the European Commission. The FATF develops and promotes policies to protect global systems against money laundering and financing activities of criminal and terrorist organizations. The FATF has published reports about financing of terrorism in general²⁵⁵ and about IS specifically²⁵⁶. A summary of those reports is also published²⁵⁷. The more general reports do not mention cultural property trade as a source of income, but the specialized reports about IS do. FATF recognizes the difficulty of proving this because it happens on the black market. It recognizes two ways of funding: the issuing of permits for illegal excavations and traders and the sale of looted artefacts from museums. The FATF largely bases this analysis on the fact that many archaeological sites are located in IS territory, and have thus been plundered and the found items sold.

Although no new evidence is presented, it is concluded that one of IS's sources of income is the illegal trade in cultural property that has been stolen from museums or illegally excavated.

9.12. Conclusion

There are large differences between countries and the methods their governments work with. Annual Reports provide insights in how agencies work and what the results of these efforts were. It becomes clear from these reports that there is no large influx of illegal cultural property from Syria and Iraq. There are incidents, but these incidents have been around for a long time, also before the conflict with IS started.

²⁵³ Prevent Trafficking in Cultural Property Act. *H.R. 2285, 114th Congress (2015-2016)*.

²⁵⁴ To follow the status of this proposed law, see <https://www.congress.gov/bill/114th-congress/house-bill/2285/actions>. Last visited on 15 September 2016.

²⁵⁵ FATF (February 2012). *International standards on combating money laundering and the financing of terrorism & proliferation*. Retrieved from <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html> on 15 September 2016. FATF (June 2013). *International best practices. Targeted financial sanctions related to terrorism and terrorist financing (recommendation 6)*. Retrieved from <http://www.fatf-gafi.org/documents/documents/bpp-finsanctions-tf-r6.html> on 15 September 2016.

²⁵⁶ FATF (February 2015). *FATF Report. Financing of the Terrorist Organisation Islamic State in Iraq and the Levant (ISIL)*. Retrieved from <http://www.fatf-gafi.org/documents/documents/financing-of-terrorist-organisation-isil.html> on 15 September 2016.

FATF (October 2015). *FATF Report. Emerging Terrorist Financing Risks*. Retrieved from <http://www.fatf-gafi.org/publications/methodsandtrends/documents/emerging-terrorist-financing-risks.html> on 15 September 2016.

²⁵⁷ FATF (February 2016). *Consolidated FATF Strategy on combatting terrorist financing*. Retrieved from <http://www.fatf-gafi.org/publications/fatfgeneral/documents/terroristfinancing.html> on 15 September 2016.

There is a lot of attention for the topic and new legislation is being drafted, or has recently been implemented. It is remarkable that this political attention for the topic does not result in extra law enforcement capacity to combat cultural property crimes. This can develop over time.

Chapter 10: NGO's

10.1. Introduction

Besides governments and media agencies, non-governmental organizations (NGO's) study the phenomena. Policy-making bodies, private research centres and interest groups write reports and draft recommendations. This Chapter gives an overview of the developments of the largest NGO's involved.

10.2. RAND Europe

RAND Europe is a non-profit research organization that aims to improve policy making. In 2011, they conducted extensive research into the illegal art market, with special attention for illegal cultural property trade linked to terrorist organizations²⁵⁸. This study concluded that, although cultural property crimes are considered as serious violations of (international humanitarian) law by governments and individuals, law enforcement lacks sufficient knowledge and expertise to combat these forms of crimes. Furthermore, the study found that many claims about cultural property crimes, the amount of money earned with these crimes and criminal or terrorist networks are badly funded by real evidence. Anecdotal stories fuel assumptions, but no hard numbers are available that support the large claims of millions or (as the introduction of the RAND study refers to) billions of dollars. The illegal trade in cultural property is a specialized trade and therefore connections between the black market and white market are likely to exist. Money laundering practices are likely to occur. These assumptions are largely based on the academic dissertation research of Tijhuis²⁵⁹. The illegal trade network can be divided in three parts: supply, transfer and demand. In the supply phase the illegal excavations and actual plunder and looting take place. The items are then transported over borders by smugglers (transfer phase), and sold to middlemen and dealers in the demand phase. Figure 4 and Figure 5 show the connection between the 'white' and 'black' market, and the roles of different actors²⁶⁰.

The RAND study did not provide new evidence and did not explicitly mention IS.

²⁵⁸ Ní Chonaill, S., Reding, A. & Valeri, L. (2011). Assessing the illegal trade in cultural property from a public policy perspective. Retrieved from http://www.rand.org/content/dam/rand/pubs/documented_briefings/2011/RAND_DB602.pdf on 15 September 2016.

²⁵⁹ Tijhuis, A. J. G. (2006). *Transnational crime and the interface between legal and illegal actors: The case of the illicit art and antiquities trade*. Nijmegen: Wolf Legal Publishers.

²⁶⁰ These pictures are published in this report with authorisation of RAND Europe. The pictures are originally published in Ní Chonaill, *supra* note 258 on pages 11 and 12.

Figure 4. Connection between the 'white market' and the 'black market' for cultural property

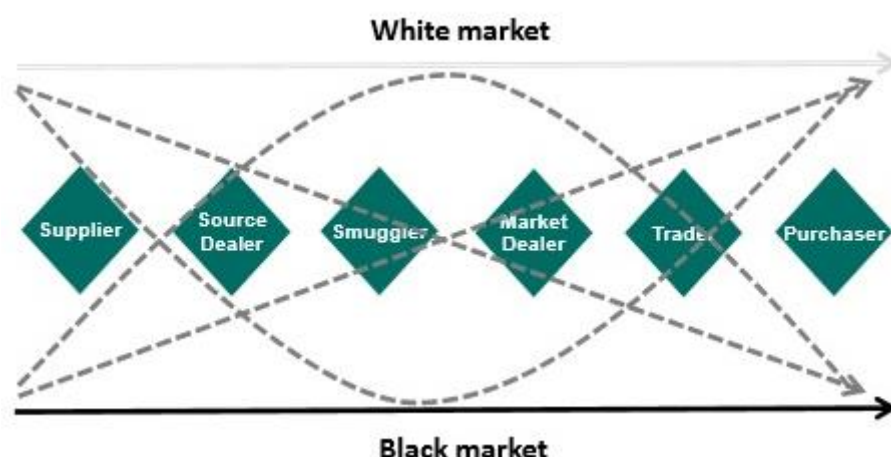


Figure 5. Stages of the illegal trade in cultural property



10.3. ICOM

The International Council of Museums (ICOM) is an overarching organization for over 20000 museums worldwide. The ICOM is very concerned with the developments in Syria and Iraq and has made lists of valuable items that might appear on the black market: the ICOM Red Lists. Such lists have been made available for Iraq, Syria, Afghanistan, Cambodia, Libya and many others²⁶¹. Besides items that might be sold illegally, the Red Lists also provide an overview of national legislation for the relevant countries, and historic information to more correctly value cultural property.

The ICOM has also established a new intelligence body in January 2013: the ICOM International Observatory on Illicit Traffic in Cultural Goods. The EU has financially supported this project. The goal is to gather more centralized statistics about the illegal trade²⁶². It has already published a large-scale study in 2015²⁶³. This study can be considered the most elaborate and advanced study so far, although very theoretical. As other organizations have also acknowledged, it is difficult to monitor the black market without proper law enforcement investigations.

²⁶¹ Visit <http://icom.museum/resources/red-lists-database/> for all the ICOM Red Lists. Last visited on 15 September 2016.

²⁶² Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the implementation of Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods, Brussels 1 April 2015. COM(2015) 144. Retrieved from <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-144-EN-F1-1.PDF> on 21 September 2016.

²⁶³ Desmarais, F. (Ed.)(2015). *Countering Illicit Traffic in Cultural Goods. The Global Challenge of Protecting the World's Heritage*. Paris: ICOM.

Published in the ICOM study, Brody paid attention to antique sales at internet auctions based on examples from Colombia, Bulgaria and Egypt²⁶⁴, comparable to the Dutch study by Van Ham et al. (2011)²⁶⁵. Daniels and Hanson evaluated the available evidence that illegal excavations take place, basing their conclusions largely on satellite imagery²⁶⁶.

A third aspect of ICOM's work is the drafting of a Code of Ethics for Museums. This code lays down provisions that prescribe how museum staff should acquire collections. Buying from the black market, or collecting items without a clear provenance is not the ICOM standard²⁶⁷.

10.4. Blue Shield

The International Committee of the Blue Shield (ICBS) is the equivalent of the International Committee of the Red Cross for the protection of cultural property as defined in the 1954 Hague Convention²⁶⁸. The name refers to the Emblem introduced by the 1954 Hague Convention (see Figure 2). ICBS has national committees in member states and promotes the protection of cultural property. ICBS works closely together with national civil military units that are tasked to protect cultural property in war zones. The 1954 Hague Convention obliges member states to have such units²⁶⁹. In the Netherlands, Blue Shield Nederland²⁷⁰ therefore cooperates with the First Civil Military Interaction Command, 1 CMI co., of the Dutch armed forces²⁷¹. Blue Shield is a network organization, not a research centre. It does not publish its own reports but facilitates a knowledge network for interested organizations.

10.5. ARCA

The Association for Research into Crimes against Art (ARCA) is a private research centre that promotes the study of trends in art crime. Illegal trade in cultural property from Syria and Iraq is one of the topics ARCA studies. ARCA publishes their own journal, the *Journal of Art Crime*, with articles from scholars and professionals. The most recent available issue (Fall 2015) explained why IS destroys cultural heritage sites, including Muslim sites²⁷². These motives are covered in Chapter 11 of this report.

ARCA also offers a postgraduate certificate program in art crime and cultural heritage protection²⁷³.

²⁶⁴ Brodie, N. (2015). The Internet Market in Antiquities. In: F. Desmarais (Ed.). *Countering Illicit Traffic in Cultural Goods. The Global Challenge of Protecting the World's Heritage* (pp. 11 -20). Paris: ICOM.

²⁶⁵ Van Ham et al (2011), *supra* note 209.

²⁶⁶ Daniels, B. I. & Hanson, K. (2015). Archaeological Site Looting in Syria and Iraq: A Review of the Evidence. In: F. Desmarais (Ed.). *Countering Illicit Traffic in Cultural Goods. The Global Challenge of Protecting the World's Heritage* (pp. 82 -93). Paris: ICOM.

²⁶⁷ ICOM Code of Ethics for Museums, Buenos Aires 4 November 1986 (lastly amended in Seoul 8 October 2004). Retrieved from http://icom.museum/fileadmin/user_upload/pdf/Codes/code_ethics2013_eng.pdf on 15 September 2016.

²⁶⁸ The international website is <http://www.ancbs.org/cms/en/>. Last visited on 15 September 2016.

²⁶⁹ 1954 Hague Convention, *supra* note 38, art. 7.2.

²⁷⁰ Visit <http://www.blueshield.nl/nl/> for more information. Last visited on 15 September 2016.

²⁷¹ Visit <https://www.defensie.nl/organisatie/landmacht/inhoud/eenheden/oocl/cmi-commando> for more information. Last visited on 15 September 2016.

²⁷² Rutelli, F. (2015). The Return of Iconoclasm: Barbarian Ideology and Destruction by ISIS as a Challenge for Modern Culture, Not Only for Islam, *Journal of Art Crime, Fall 2015*, pp. 55 – 60.

²⁷³ Visit <http://www.artcrimeresearch.org/2016-postgraduate-certificate-program-in-art-crime-and-cultural-heritage-protection/> for more information. Last visited on 15 September 2016.

In February 2016 ARCA hosted a symposium on art and terrorism. There, Giglio, a war correspondent and investigative journalist, noted that despair drives local civilians to start illegal excavations and trade in cultural property. IS has clearly profited from this²⁷⁴.

10.6. AAAS

The American Association for the Advancement of Science (AAAS) is an international non-profit organization. It aims to benefit all peoples by advancing science and research methodology.

AAAS has developed a satellite imagery project to study the damage being done to cultural heritage sites where men cannot come due to the conflict²⁷⁵. The focus is on Syria and Iraq. The project has already resulted in a photo report about the destruction of the tomb of the Prophet Jonah in Iraq²⁷⁶, and reports about Syria's cultural heritage sites²⁷⁷ and sites on the tentative list²⁷⁸.

10.7. ASOR

The American School of Oriental Research (ASOR) is a specialized research centre at the Boston University and studies the history and developments in the Near East. Together with the US Department of State ASOR developed a specialized project, the 'Cultural Heritage Initiative' to monitor and raise awareness about the destruction of Syria's cultural heritage sites, and the sites in Northern Iraq. Based on media reports, satellite imagery and a network of informants, ASOR publishes a weekly report with updated information²⁷⁹. Besides the weekly reports special attention is paid to the UNESCO World Heritage sites in Special Reports, such as Palmyra and Nimrud²⁸⁰.

10.8. Art Loss Register

Art Loss is a private organization that developed the largest database for stolen artworks. The Art Loss Register has listed over 200000 items. The Register works in two ways according to the website²⁸¹. First, it deters criminals if they want to sell stolen pieces of art. Second, it gives dealers the possibility to check if the item they are being offered or trying to sell is reported as stolen: due diligence. In general, these are the same working mechanisms as the Interpol database of stolen art, but the Art Loss Register is bigger. Similar to the Interpol database, the Art Loss Register's limitation is the fact that an item has to be registered first, before it can be identified as stolen. Therefore, this register is not the most useful (however, one of the only) tools to identify illegal cultural property from Syria or Iraq – unless plundered museums enlist their stolen objects in these databases.

²⁷⁴ Giglio, M. (2016). Antiquities Looting and Terrorism: a View from the Field. Presentation at the February 2016 ARCA Symposium on Art and Terrorism. Retrieved from <http://www.artcrimereasearch.org/courtauld-institute-of-art-arca-symposium-on-art-and-terrorism-2016/> on 15 September 2016.

²⁷⁵ Visit <https://www.aaas.org/geotech/culturalheritage> for more information. Last visited on 15 September 2016.

²⁷⁶ Geospatial Technologies Project, AAAS (2015). *Mosul, Iraq: Destruction of Nebi Yunis (Tomb of the Prophet Jonah)*. Retrieved from <http://www.aaas.org/report/mosul-iraq-destruction-nebi-yunis-tomb-prophet-jonah> on 15 September 2016.

²⁷⁷ Geospatial Technologies Project, AAAS (2014). *Ancient history, modern destruction. Assessing the current status of Syria's World Heritage Sites using high-resolution satellite imagery*. Retrieved from http://www.aaas.org/sites/default/files/content_files/AAAS-SyrianWHS-9182014.pdf on 15 September 2016.

²⁷⁸ Geospatial Technologies Project, AAAS (2014). *Ancient history, modern destruction. Assessing the current status of Syria's Tentative World Heritage Sites using high-resolution satellite imagery*. Retrieved from http://www.aaas.org/sites/default/files/content_files/AAAS-SyrianTWHS-122014.pdf on 15 September 2016.

²⁷⁹ A subscription is not necessary. The reports are published on the ASOR website. All reports can be viewed without charge at <http://www.asor-syrianheritage.org/weekly-reports/>. Last visited on 15 September 2016.

²⁸⁰ Available via <http://www.asor-syrianheritage.org/special-reports/>. Last visited on 15 September 2016.

²⁸¹ Visit <http://www.artloss.com/> for more information. Last visited on 15 September 2016.

To have an item checked, dealers, law enforcement or private individuals have to pay a fee.

10.9. The Legal trade

Lastly, the legal trade. Although it seems, based on main stream media, as if all art and antique dealers are black market dealers, the legal trade tries to regulate itself. The legal trade is organized in different associations.

The International Association for Dealers in Ancient Art (IADAA) is one of the leading international organizations. IADAA upholds a strict Code of Ethics and Practice for its members, restricting them to trade in illegal cultural property²⁸². CINOA is the international association for art and antique dealers associations – an overarching organization. CINOA also upholds a Code of Ethics and informs their members about laws that prohibit illegal trading or using art for money laundering operations.

Countries also have their own national associations. More often than not these associations are willing to cooperate with law enforcement. This is also the case for the Netherlands.

From a criminal investigation perspective, the legal trade is an easy suspect. It is a specialized market and entering it is difficult. Legal traders possess the means, network and knowledge to trade in illegal cultural property and can thus be useful for criminals. This is possible and can be logical²⁸³ that the legal trade is involved in the black market. But no evidence that this happens on a large scale is found. The legal trade could not be linked to financing IS based on this research. Contrary, the Dutch art market is less attractive for criminals than the international art market²⁸⁴.

10.10. Conclusion

Some NGO's provide valuable knowledge and material that can be used by law enforcement. Satellite imagery can provide evidence that could otherwise not be gathered. With the help of such information about the destruction of cultural property and heritage sites, the scale of these crimes becomes clear. However, the scale of the illegal trade is unclear. Often governments and NGO's rely on the same limited sources. How these sources are being used and valued differs. The difference between academic reasoning and police reasoning ('evidence') is a distinct feature of this.

Chapter 11: Islamic State documents

11.1 Introduction

IS is very active on social media and internet. One of their ways of communicating with (potential) members is via magazines. The 'Al Hayat Media Center' is a media wing of IS and publishes their outreach magazine 'Dabiq'. Dabiq was first published in July 2014 and covers all relevant topics for the purpose of uniting (potential) IS fighters²⁸⁵.

11.2. Dabiq contents

In Dabiq, IS describes their actions, and also the destruction of cultural heritage sites and other places that don't match their interpretation of Islam.

²⁸² See <http://iadaa.org/about-us/>. Last visited on 15 September 2016.

²⁸³ Consider the work of Tjhuus in this respect: *supra* note 259. Or the RAND report: *supra* note 258.

²⁸⁴ Bieleman et al., *Supra* note 206.

²⁸⁵ The tone of Dabiq is hostile against Western countries and culture and everything else that does not represent Islam in the way IS perceives Islam. The name of the magazine is the same as a small town in Syria at the heart of IS's territory is called. This town, an Islamic prophecy predicts, is the town where the final battle between Muslims and 'infidels' will be fought – naming their magazine after this town is a symbolic action. Late 2014, IS 'invited' the USA to engage in the final battle at Dabiq.

Table 1. The destructions of cultural property and heritage sites mentioned in Dabiq

Date (Gregorian Calendar ²⁸⁶)	Issue	Page	Content	Act
27 July 2014	2	14	Pictures	Destruction of the Husayniyyatul-Qubbah Temple in Mosul using explosives
27 July 2014	2	15	Pictures	An IS member calls upon the local community to destroy tombs in and near temples. ²⁸⁷
27 July 2014	2	15	Pictures	A bulldozer destroys a tomb called ‘The Grave of the Girl’ in Mosul. Many more Shia tombs and religious sites have been destroyed around this date ²⁸⁸ .
27 July 2014	2	16	pictures	A bulldozer destroys the shrine and tomb of Ahmad Ar-Rifa’i, founder of the Rifa’i order, a Sufi order within Islam.
27 July 2014	2	17	pictures	Blowing up the Husayniyyat Jawwad Temple in Tal Afar, near Mosul.
27 July 2014	2	17	pictures	Blowing up the tomb of Arnaút.
10 September 2014	3	17	Pictures	Destruction of the tomb of Yahya Abul-Qasim in the Biblical city of Nineveh, in order to “educate its citizens [Islamic State citizens, red], preach and admonish them”.
30 March 2015	8	22	Report	An extensive report with pictures about the destruction of statues and sculptures in and around the Mosul Museum. The article explains their motive: purification of Islam.
13 July 2015	10	54	Picture	Destroying statues because they were idolated and worshipped, according to IS.
9 August 2015	11	32	Pictures	A photo report about the destruction of temples in Palmyra with barrel bombs.
9 August 2015	11	33	Pictures	A photo report about the destruction of temples in Palmyra with barrel bombs.
19 January 2016	13	41	Picture	A blown up Shi’ite temple.

²⁸⁶ IS uses the Islamic calendar (or: Hijri calendar) on the covers of Dabiq. These dates are transposed to the Gregorian calendar (the Western/Christian calendar)

²⁸⁷ A similar call to action led to the destruction of the mausoleums in Mali in 2012, for which Ahmad Al Faqi Al Mahdi is held responsible. See Chapter 4 about this trial.

²⁸⁸ N.a. (5 July 2014). Islamic State claims Shia mosque destruction, *Al Jazeera online*. Retrieved from <http://www.aljazeera.com/news/middleeast/2014/07/islamic-state-claims-shia-mosque-destruction-20147414533266331.html> on 21 September 2016.

As described above, destroying cultural heritage, religious sites and historic monuments is a war crime. Not all destructions are reported in Dabiq or similar media outings²⁸⁹. An extensive, weekly updated overview of the destruction of cultural heritage is provided by ASOR in their weekly reports.²⁹⁰

11.3. Looting and illegal trade

It is widely reported that museums in IS held territory are being looted and collections destroyed. Statues are torn down and sculptures destroyed. Although footage of these actions shock art connoisseurs and historians, the Syrian authorities claim that they've secured 99% of all valuable museum items. The remaining items that are destroyed are replicas or worthless leftovers.²⁹¹

So far, IS hasn't explicitly mentioned the trade in cultural property as a source of income in Dabiq, short clips or other propaganda or communication material. Chapter 13 gives a more detailed description of what is known about IS's involvement in the illegal trade in cultural property. The documents found at Abu Sayyaf's home provide the most explicit insights in this financial system.

However, in July 2016 IS released a video in which the state-like structure is explained (see Addendum IV)²⁹². This video was published on the regular open source internet. The different committees, ministries and responsible organs are named and placed in an organizational structure ultimately headed by Abu Bakr al Baghdadi, the self-proclaimed Caliph of the Islamic State. One of the ministries is the 'Diwan al Rikaz' (as explained above this is the Ministry of Natural Resources). This Ministry is responsible for organizing and collecting all oil trade revenues and cultural property revenues. This IS video confirms what the Abu Sayyaf raid documents had already disclosed and prove that IS has an institutionalized way of making money in the cultural property business. The authenticity of this video is confirmed by IS itself when they advertised with the publication of the video in their 15th issue of Dabiq²⁹³.

11.4. Conclusion

The destruction of cultural property and heritage and the trade in these items is widely covered by the media. Governments also pay attention to the topic. Despite global awareness and outrage, IS can commit these crimes. The call for more and better *in situ* protection of cultural property is based on this observation and issued by archaeologists and legit art dealers worldwide²⁹⁴.

News agencies try to base their stories on primary source material such as interviews with (former) IS members or (former) illegal art dealers. But many news agencies also copy each other's reports – a lazy way of journalism that is recognized by journalists themselves -

²⁸⁹ IS publishes multiple magazines. Dabiq, however, is the one most aimed at recruiting new members and glorifying IS's actions from a religious perspective. More magazines and IS issued documents can be found on the personal website of Aaron Y. Zelin, a research fellow at the Washington Institute for Near East Policy: www.jihadology.net, last visited 5 September 2016.

²⁹⁰ See www.asor-syrianheritage.org/weekly-reports/. Last visited on 15 September 2016.

²⁹¹ N.a. (18 May 2016). DGAM: 99% of Syrian museums' contents kept in safe locations, *Syrian Arab News Agency*. Retrieved from <http://sana.sy/en/?p=77656> on 21 September 2016.

²⁹² The video is available on the clear web via <http://heavy.com/news/2016/07/new-isis-islamic-state-daesh-al-furqan-media-amaq-news-pictures-videos-the-structure-of-the-khilafah-full-uncensored-youtube-video-mp4-download/>. Last visited on 21 September 2016.

²⁹³ Islamic State (2016). Break the Cross, *Dabiq* 15, p. 3. Retrieved from <http://www.clarionproject.org/factsheets-files/islamic-state-magazine-dabiq-fifteen-breaking-the-cross.pdf> on 15 September 2016.

²⁹⁴ *In situ* protection means physical protection at the sites themselves: armed guards and daily monitoring.

without proper fact checking. This lazy form of journalism is often observed on internet-based media, fuelled by freelance journalists, bloggers and the desire to stay up to date and be online and live 24/7.

Despite flawed media reports, it is clear that IS destroys cultural heritage sites and is involved in the illegal trade of cultural property, mainly in the early phases as described in the RAND Europe. It must be noted, however, that reports about huge revenues and complex IS trafficking operations, must be nuanced to a large extent due to a lack of evidence. The following chapters will go more in-depth in the real size and modus operandi of IS regarding cultural property crimes.

Chapter 12: Case-file Destruction

12.1 Introduction

This chapter provides a written ‘case file’ of the destruction of cultural property and cultural heritage in Syria and Iraq. It is based on the open source analysis in previous chapters and contains all discovered knowledge and facts that could be compared with and supported by multiple sources.²⁹⁵

12.2. Recap legal provisions

As described in Chapter 5 it is a war crime to destroy private or public property. It is also a war crime to intentionally attack and destroy buildings dedicated to religion, science, education, arts, healthcare or historic monuments provided that these buildings are not used for military purposes.

IS’s intentional destruction of ancient sites, religious buildings or museum property can therefore be considered a war crime. UNESCO’s Director General Irina Bokova has also concluded this.²⁹⁶

Illegally excavating sites (in an unprofessional manner) cannot be considered a war crime. It is, however, a ‘regular’ violation of Syrian and Iraqi law and an unwanted feature of conflicts²⁹⁷, especially from an archaeological and historical perspective.

12.3. Perpetrators²⁹⁸

Based on IS documents, propaganda material and media reports it is clear that one of the parties destructing cultural heritage sites is IS. This armed group declared their intention to commit these acts in their magazine, detailed the actual execution of these acts with pictures and written reports²⁹⁹ and has captured the destruction of cultural property and heritage sites on film. With this material some vandals can probably be recognized with the

²⁹⁵ This is in line with the *unus testis, nullus testis* principle in criminal law. This principle means that a conviction cannot be based on one piece of evidence alone. This provision is laid down in article 342 of the Dutch Code of Criminal Procedure.

²⁹⁶ Director-General of UNESCO Irina Bokova firmly condemns the destruction of Palmyra's ancient temple of Baalshamin, Syria, *UNESCO Press Statement of 24 August 2015*. Retrieved from <http://whc.unesco.org/en/news/1339/> and <http://www.hurriyetdailynews.com/attacks-on-world-heritage-sites-a-war-crime-unesco.aspx?pageID=238&nID=101469&NewsCatID=375> on 21 September 2016.

²⁹⁷ During the conflict in Cambodia, illegal excavations and looting took place. In Egypt, for example, illegally excavating is a frequently occurring crime.

²⁹⁸ Although this report focusses specifically on IS, it must be noted here that IS is not the only group involved in destroying cultural property and cultural heritage sites. The Assad regime, for example, severely damaged the ‘Crac des Chevaliers’ during air raids. IS doesn’t have airplanes to carry out such air raids. This World Heritage site is listed on the ‘List of World Heritage in Danger’ in 2013, together with all other Syrian cultural heritage sites.

²⁹⁹ For an overview of the Dabiq references to destruction of cultural property, see Chapter 11, Table 1.

help of advanced facial recognition software combined with intelligence and information from locals.

If law enforcement agencies have knowledge of nationals that have travelled to Syria or Iraq with the ambition to join IS, these individuals can be monitored on social media, for example. If these individuals can be pinpointed in a geographic area in a certain time, it is likely that these individuals can have knowledge about destruction or plunder activities in that area in that timeframe. These activities are widely communicated by IS, as can be concluded based on the open source material.

This open source material often displays the destruction act – it doesn't pay explicit attention to the ones executing the destruction. Therefore and due to the open source nature of this research³⁰⁰, this research hasn't resulted in the identification of an individual offender.

12.4. Modus Operandi

Cultural heritage sites and museums are easy to locate. These sites are indicated on (online) maps and often also on road signs.

Destroying property or ancient sites is relatively easy. IS attaches barrel bombs or other explosives to the monuments and statues and tears them down, frequently accompanied by chanting religious slogans. Another method is using digging equipment such as bulldozers, drills and sledgehammers – the last two being used mostly for sculptures and statues, such as in the ancient palace of Nimrud or in museums.

Illegal excavations are made easy due to the continuous shelling of regions such as done around Palmyra by the Syrian government³⁰¹. These shell holes provide good places to start digging and make it more difficult to spot illegal excavators immediately.

12.5. Motives

IS's motive to destroy cultural heritage sites, museums or cultural property is of a religious nature: their interpretation of the Islam. IS has banned idolatry and punishes 'infidels' severely³⁰². IS wants to purify Islam and has enacted laws prohibiting worshipping statues, for instance in Palmyra³⁰³. This motive is similar as the one Al Mahdi testified before the ICC, and the one described in the before mentioned issues of Dabiq. As a report in Dabiq shows, another motive to destroy cultural property that is valued by the West is to simply upset the West, to evoke a ground war.

12.6. Overview of destructed property and sites

ASOR publishes a weekly newsletter in which they report on the situation in Syria regarding cultural property and heritage sites. Via their website an overview of all damaged and destroyed religious and historical sites can be found.³⁰⁴

The UNESCO List of World Heritage in Danger provides an overview of world heritage sites endangered by war or conflict. Below, two tables are included with the status of

³⁰⁰ This research was an open source research project. Classified information or intelligence is not used for this report. A more detailed demarcation is provided in the Introduction.

³⁰¹ Soguel, D. (27 April 2014). Syrian smugglers enjoy a free-for-all among ancient ruins, *the Christian Science Monitor*. Retrieved from <http://www.csmonitor.com/World/Middle-East/2014/0427/Syrian-smugglers-enjoy-a-free-for-all-among-ancient-ruins> on 21 September 2016.

³⁰² In many execution videos and propaganda material this motive is named as one of IS's primary drivers.

³⁰³ Al-Tamimi, A. J. (24 August 2015). *The Archivist: 26 Unseen Islamic State Administrative Documents: Overview, Translation & Analysis*. Retrieved from <http://www.aymennjawad.org/17757/the-archivist-26-unseen-islamic-state> on 21 September 2016.

³⁰⁴ See <http://www.asor-syrianheritage.org/index-weekly-reports/>. Last visited on 21 September 2016.

each cultural heritage site and sites from the Tentative List³⁰⁵. Their status report is based on media article, scholarly research and official documents. These tables do not necessarily suggest that IS destroyed all these sites. A more extensive overview with geographic coordinates and additional information on the armed groups involved at the different sites is published by Dittman & Almohamed in 2015.³⁰⁶

Table 2. World Heritage List sites

Country	Site	List	Status
Iraq	Hatra	WHL + Danger List	Destroyed by IS
	Ashur (Qal'at Sherqat)	WHL + Danger List	Partially destroyed by IS
	Samarra Archaeological City	WHL + Danger List	Partially destroyed by IS
	Citadel of Erbil	WHL	Partially destroyed by multiple conflicting parties
Syria ³⁰⁷	Ancient City of Aleppo	WHL + Danger List	Current battlefield. Destroyed by multiple conflicting parties ³⁰⁸
	Ancient City of Bosra	WHL + Danger List	Current battlefield. Destroyed by multiple conflicting parties ³⁰⁹

³⁰⁵ Natural landscapes or phenomena can also be included on the World Heritage List. These sites are excluded from the tables below.

³⁰⁶ Dittman, A. & Almohamed, H. (2015). Devastation of Cultural Heritage and Memory in Syria and Iraq: Component of a Multi-level Provocation Strategy?, *International Journal of Humanities and Social Science*, 5(11), pp. 28 – 40.

³⁰⁷ Media Agency RT has collected some footage of the destruction of the six World Heritage Sites in Syria. See <https://www.rt.com/news/335619-syria-unesco-heritage-damage/>. Last visited on 14 September 2016.

³⁰⁸ Aleppo is at the centre of the conflict and is heavily damaged by all parties. Currently, IS is not present in the city anymore according to open source maps of the conflict, such as <http://isis.liveuamap.com/>. Last visited on 14 September 2016.

³⁰⁹ Bosra has suffered shelling and fighting during the conflict and is heavily damaged by all parties. Currently, IS is not present in the city anymore according to open source maps of the conflict, such as <http://isis.liveuamap.com/>. Last visited on 14 September 2016.

Site of Palmyra	WHL + Danger List	Partly destroyed and plundered by IS
Crac des Chevaliers and Qal'at Salah El-Din	WHL + Danger List	Damaged by other armed groups
Ancient Villages of Northern Syria	WHL + Danger List	Damaged by multiple armed groups
Ancient City of Damascus	WHL + Danger List	Current battlefield. Destroyed by multiple conflicting parties ³¹⁰

Table 3. Tentative List Sites.

Iraq	City of Amedy	Tentative list	Destroyed by multiple conflicting parties
	Babylon - Cultural Landscape and Archaeological City	Tentative list	Partly destroyed by IS
	Nimrud	Tentative list	Destroyed by IS
	The Ancient City of Nineveh	Tentative list	Partly destroyed by IS
	The Fortress of Al-Ukhaidar	Tentative list	Unclear
	The Site of Thilkifl	Tentative list	Unclear
	Ur	Tentative list	Plundered
	Wadi Al-Salam Cemetery in Najaf	Tentative list	Partially destroyed
	Wasit	Tentative list	unclear
Syria	Water wheels of Hama	Tentative list	unclear

³¹⁰ Damascus is heavily besieged during the conflict and is heavily damaged by all parties. Currently, IS is not present in the city anymore according to open source maps of the conflict, such as <http://isis.liveuamap.com/>. Last visited on 14 September 2016.

Ebla (Tell Mardikh)	Tentative list	Damaged by multiple conflicting parties
Apamea (Afamia)	Tentative list	Partly damaged and plundered by IS
Maaloula	Tentative list	Churches are plundered by IS
Citadel of the Crusaders in Tartus	Tentative list	unclear
Dura Europos	Tentative list	Illegal excavations
Arwad Island	Tentative list	unclear
Mari & Europos-Dura sites of Euphrates Valley	Tentative list	Illegal excavations
Mari (Tell Hariri)	Tentative list	Illegal excavations
The Abbasid City of Raqqa	Tentative list	Damaged and plundered by IS ³¹¹
Ugarit (Tell Shamra)	Tentative list	unclear
The Qasr al-Hayr ach Charqi Castle	Tentative list	unclear

12.7. Conclusion

World Heritage Sites and sites on the Tentative List have been (partially) destroyed. IS is one of the organizations to blame. They intentionally and systematically attack cultural places that are not in line with their beliefs. The Assad regime and other armed groups have also damaged sites. Some sites are still located in the heart of the conflict area and endure daily shelling and combat.

Chapter 13: Case-file Illegal trade

13.1. Introduction

This chapter provides a written ‘case file’ of the trade in cultural property from Syria and Iraq. It is based on the open source analysis in previous chapters and contains all

³¹¹ Raqqa functions as the capital of the Islamic State and is purified from everything that doesn’t match IS’s interpretation of Islam.

discovered knowledge and facts that could be compared with and supported by multiple sources.³¹²

13.2. Recap legal provisions

Trading in cultural property from Syria and Iraq is a violation of economic sanctions and results in an economic crime, not a war crime. Trading in goods that are plundered or seized (which is a war crime) falls within the jurisdiction of the WIM, and thus the TIM can investigate these cases. Via the 1970 UNESCO Convention and the Dutch implementation of provisions of this convention in the new Heritage Law, goods from conflict zones can be confiscated by the State and returned to the rightful owner (the Syrian and Iraqi state, for example). Concluding: the TIM can investigate illegal trading in goods that are plundered or seized in Syria and Iraq. The Heritage Inspection can confiscate these items and you can be charged with committing an economic crime (and sentenced to 6 years imprisonment).

13.3. Perpetrators

It must be noted that illegal trading in cultural property is not a new crime. Illegal excavations have been around for a long time. Therefore, IS is not the only one committing these crimes³¹³.

IS is frequently mentioned as key player in the illegal trade in cultural property from Syria and Iraq. IS's territory covers a lot of archaeological sites, possibly with valuable items still unexcavated. It is likely that IS funds (some) activities with, amongst others, illegal trade in cultural property. Anything that generates income is useful for armed groups such as IS. For similar reasons they have used the oil reserves in their territory and robbed banks in conquered cities.

CBS News reported that IS is involved in illegal trading in cultural property³¹⁴ when the oil sales dropped (because of bombings of oil fields) and after they had destroyed large parts of Palmyra. These reports resemble what Russia Today found in documents they had received from Peshmerga's³¹⁵.

The documents found at Abu Sayyaf's home as described earlier show that IS has an organized way of issuing excavation and trade permits. Combined with news reports (partly based on interviews with locals, captures IS fighters and retrieved IS documents), it can be concluded that IS is at some level involved in the illegal trade in cultural property and that they earn money with this trade.

13.4. Trade routes and Modus Operandi

That IS is involved at some level, is clear. But the extent of their involvement is unclear. It is unlikely that IS has a complete network from diggers all the way up to buyers and collectors. It is more likely that IS is involved in the trade on a small scale and limited to their own territory and sphere of influence. Based on the foregoing analysis and underlying documents, the following practices can be identified.

³¹² This is in line with the *unus testis, nullus testis* principle in criminal law. This principle means that a conviction cannot be based on one piece of evidence alone. This provision is laid down in article 342 of the Dutch Code on Criminal Procedure.

³¹³ In April 2016 a FSA soldier was arrested in Germany for having sold plundered antiques in Aleppo. According to the Syrian News Free Press agency, FSA are systematically involved in illegal excavations and plunder to fund their campaign (<https://www.youtube.com/watch?v=EpsG3eMZQVY>, last visited on 17 September 2016).

³¹⁴ See CBS News report 'ISIS destroys historic ruins in Palmyra, Syria' published on 25 August 2015 via <https://www.youtube.com/watch?v=73-2iXkrAyM>. Last visited on 17 September 2016.

³¹⁵ See RT report 'ISIS Silk Road: Leaked documents expose antique loot trade via Turkey', published on 31 March 2016 https://www.youtube.com/watch?v=xnRW_feEI0I. Last visited on 17 September 2016.

13.4.1. *Organized criminal groups and the intersection between black market and 'white' market*

It is probable that IS depends on transnational organized criminal groups for the logistic chain and sale to collectors and private individuals. The TNO study³¹⁶ showed that 'regular' criminals offer their logistic services to traders in illegal cultural property. And near the Turkish border is a network of middle men that collects artefacts from Syria and Iraq and further distributes those items³¹⁷. It seems as if IS does not have specialized knowledge or means to engage in international trading.

Former art criminal Michiel van Rijn explains that criminal groups have been involved in illegal cultural property trade for decades, and that these groups do business with terrorist organizations. Although a former criminal might not be the most reliable source, these statements do make sense, because the illegal cultural property trade is a sensitive and difficult business³¹⁸.

13.4.2. *Storage of CP*

If IS would have obtained museum quality items³¹⁹, these items cannot be sold directly. These items are 'too hot' and law enforcement agencies will confiscate them. It is more likely that such items are stored for a while until the attention for these items weakens. Storage places can be found in free trade zones, such as Geneva or Dubai. Art criminals have used this practice before, such as former art dealer Robin Symes³²⁰. No proof that IS deploys such tactics has been found, however.

13.4.3. *Use existing facilities and knowledge*

That IS is violent and threatening to people is well-known and can be seen in all the issues of Dabiq and their media clips. This threatening is also aimed at people that know about the locations of valuable cultural property, or archaeological sites.

In August 2015 Khaled al-Asaad was killed by IS. This archaeologist who worked in Palmyra and has protected the ancient ruins for forty years was beheaded by IS because he worked with 'infidels' and protected Palmyra's 'Idols'. It is probable that al-Asaad was killed because he knew where some cultural treasures were hidden, according to Syria's Director of Antiquities Maamoun Abdul Karim³²¹.

Local civilians have declared to investigative journalists that IS systematically threatens people to cooperate. They want to know the places where valuable items can be dug up or stolen, and they want the local community to find these items for them³²².

IS also takes over local administrative structures, specifically to collect cultural property. These local structures are then incorporated in branches of the 'Diwan al-Rikaz', the Ministry of Natural Resources³²³. It is clear that IS uses existing knowledge and facilities for

³¹⁶ Oggero et al., *supra* note 211.

³¹⁷ Letter dated 31 March 2016 from the Permanent Representative of the Russian Federation to the United Nations addressed to the President of the Security Council (31 March 2016), *UN Doc S/2016/298*. See also Chapter 7.2 of this report for more information about the involved Turkish border towns.

³¹⁸ Bieleman et al., *supra* note 206.

³¹⁹ The author could not prove that IS has obtained museum items, besides one of the items that Abu Sayyaf had in his possession.

³²⁰ See Chapter 9.8.3. or 'Stolen artefacts stashed by British art dealer are returned to Italy', 22 March 2016, *The Guardian*. Retrieved from <https://www.theguardian.com/world/2016/mar/22/stolen-artefacts-stashed-british-art-dealer-returned-italy> on 17 September 2016.

³²¹ Syrian archaeologist 'killed in Palmyra' by IS militants, 19 August 2015, *BBC News*. Retrieved from <http://www.bbc.com/news/world-middle-east-33984006> on 17 September 2016.

³²² Giglio, M. & al-Awad, M. (2015). Inside the Underground Trade to Sell Off Syria's History. Retrieved from https://www.buzzfeed.com/mikegiglio/the-trade-in-stolen-syrian-artifacts?utm_term=.wav1DgqLZ#.feqYQZwxK on 17 September 2016.

³²³ Al-Tamimi, A. J. (2015). *The Islamic State's Diwan al-Rikaz in Mosul*. Retrieved from <http://www.aymennjawad.org/2015/07/the-islamic-state-diwan-al-rikaz-in-mosul> on 17 September 2016.

their own good. This indicates a lack of knowledge about cultural property within their organization.

13.4.4. Permit system

Journalists and US Special Forces have discovered documents that indicate the existence of an organized financial structure: permits. IS issues permits to locals who want to search for cultural property, (illegally) excavate sites or trade goods on IS territory. Besides the documents found in Abu Sayyaf's house, evidence for this practice is also found in Homs³²⁴ and Aleppo. See, for example, two excerpts from IS permits:

“Brothers in Wilayat Halab,
All antiquities, moved statues and unprocessed gold bullions are to be confiscated in the event that they are being passed through the border areas towards Turkey. And the confiscated goods are to be referred to the Diwan al-Rikaz office in the wilaya. Islamic State”³²⁵.

“To the brothers in Wilayat Halab,
The brother Mahmoud Sari ibn Muhammad has been permitted to excavate and search for antiquities and gold north of the town of al-Bab. And God is the guarantor of success.
Wilayat Homs: Abu al-Layth al-Furati
Wilayat Halab: Abu Omar al-Falastini”³²⁶.

A ‘Wilayat’ is comparable to a municipality. See Addendum IV for an overview of the organizational structure of IS, focussed on the divisions concerned with cultural property.

The Qur'an prescribes a 20% tax on all war profits, a ‘khums’. IS uses a similar system: 20% of the revenue of all antique sales in their territory is to be paid to IS. Sometimes a higher percentage is calculated for gold or if you hire equipment from IS, like bulldozers or personnel, according to a fled Syrian who was forced to loot and search for cultural property³²⁷.

13.5. Motives

Since there is a market for cultural property, criminal and terrorist organizations such as IS are likely to enter that market to earn money. Western collectors have always collected cultural property, sometimes to ‘save the items from being destroyed in war zones’. Although this attitude might help preserve the items in the long run; it does trigger criminal or terrorist involvement.

IS has not released any information about why they (want to) earn money with cultural property. The ‘khums’ system is based on the Qur'an and helps IS finance their state like structure, including war activities. It is likely that IS uses money earned with cultural property to buy weaponry or bullets. Al Qaida has done the same thing.

As said before, IS is not the only one involved in the cultural property business. Impoverished civilians feel forced to search for cultural property or plunder museums to earn

³²⁴ Al-Tamimi, A. J. (2015). *The Archivist: Unseen Documents from the Islamic State's Diwan al-Rikaz*. Retrieved from <http://www.rubincenter.org/2015/10/the-archivist-unseen-documents-from-the-islamic-states-diwan-al-rikaz/> on 17 September 2017.

³²⁵ Al-Tamimi, *supra* note 324, Specimen B.

³²⁶ Al-Tamimi, *supra* note 324, Specimen D.

³²⁷ ‘ISIS selling artifacts on black market’, 9 September 2015, *CBS News*. Retrieved from <https://www.youtube.com/watch?v=rtbUbX0SySU> on 17 September 2016.

money to stay alive, or flee the country. But eventually, IS pulls all the strings³²⁸ and earns the money. For refugees, these cultural property items are useful sources of income, since they do not alert sniffer dogs or metal detectors³²⁹.

13.6. Financial gains

Reports frequently mention amounts of money IS would have earned with selling stolen or illegally excavated cultural property. All these amounts are estimates. The only known fact is that an IS branch headed by Abu Sayyaf earned approximately \$260.000 in taxes.

Before IS existed, the Economic and Social Council estimated the illegal trade in cultural property to be worth several billions of dollars³³⁰.

The BBC has reported pieces worth of \$500.000 and \$1 million being sold by a middle man³³¹, but he is not related to IS. This middle man works with ‘friends in Aleppo’.

In a German documentary the estimated revenues were between €6 and €8 million³³² and The Guardian reported revenues of \$36 million from the al-Nabuk region alone³³³.

The Daily Mail Online tops this and estimates the total revenues including sales via Facebook on \$100 million³³⁴. The Russian Envoy to the UN estimates between \$150 and \$200 million³³⁵. RAND Europe refers to a source that estimates the total worth of international art crimes, including terrorist financing, to be around \$6 billion³³⁶.

These estimates are ‘worthless’ and unfunded. The University of Chicago has set up a research project to model the illegal trade in cultural property from Syria and Iraq: MANTIS³³⁷. They monitor the trade ‘from the ground to the auction house’ and have identified several steps in the process (digging, middle men, items enter the international market) and concluded that IS only earns money within their own territory – not on an international scale. Despite the early phase their research is still in, they have concluded that the high figures are mostly politically fuelled (“It’s a lot easier to call for action against a \$7 billion crime than a \$4 million one”)³³⁸ and not based on real evidence.

13.7. Conclusion

IS is involved in the cultural property business. They earn money with a permit system. Besides IS members themselves, impoverished civilians and members of other armed groups plunder and loot archaeological excavation sites and museums. The obtained items are

³²⁸ ‘Syria: on the trail of looted antiquities’, 26 June 2015, *France 24*. Retrieved from <https://www.youtube.com/watch?v=YBmD19v6zUo> on 17 September 2016.

³²⁹ CBS News, *supra* note 314.

³³⁰ Resolution 34 of the UN Economic and Social Council (21 July 2004).

³³¹ Cox, S. (2015). The men who smuggle the loot that funds IS. *BBC News*. Retrieved from <http://www.bbc.com/news/magazine-31485439> on 17 September 2016.

³³² Das geplünderte Erbe, *supra* note 145.

³³³ Chulov, M. (2014). How an arrest in Iraq revealed Isis's \$2bn jihadist network. *The Guardian*. Retrieved from <https://www.theguardian.com/world/2014/jun/15/iraq-isis-arrest-jihadists-wealth-power> on 17 September 2016.

³³⁴ Spargo, C. (2015). ISIS sells priceless ancient artifacts on FACEBOOK: Gold statues, scrolls written in Aramaic and coins up to 10,000 years old being peddled online by terror group. *The Daily Mail*. Retrieved from <http://www.dailymail.co.uk/news/article-3120941/Facebook-purges-pages-offering-priceless-ISIS-plunders-sale-including-gold-statues-ancient-coins-Hebrew-scrolls-clay-tablets.html> on 17 September 2016.

³³⁵ Russian Envoy to the UN, *supra* note 317.

³³⁶ Ní Chonaill et al., *supra* note 258.

³³⁷ Visit <https://oi.uchicago.edu/research/projects/mantis> for more information. Last visited on 17 September 2016.

³³⁸ Rose-Greenland, F. (2016). Inside ISIS' looted antiquities trade. *The Conversation*. Retrieved from <https://theconversation.com/inside-isis-looted-antiquities-trade-59287> on 17 September 2016.

likely to be stored, if they are of high quality. The amount of money illegal traders earn with this, is unknown:

“We don’t have reliable quantitative data on the legal antiquities trade from the region, never mind the illegal trade.

We don’t know what was in the ground when ISIS started digging.

We don’t have established revenue estimate methodologies for this type of good”³³⁹.

³³⁹ Rose-Greenland, *supra* note 338.

Part III: Conclusions

Chapter 14: Conclusions

14.1. Answering Research Questions

Three research questions have been formulated in the introduction. These questions will be answered in this paragraph.

1. How does the destruction of cultural property relate to international crimes?

IS is involved in destroying public and private property, historic monuments, cultural property and heritage sites. Evidence that IS commits these acts is available, so is a motive, opportunity and testimonies. These acts constitute war crimes according to international treaties and Dutch national laws. The TIM is tasked with investigating war crimes and has jurisdiction to investigate these crimes committed by IS. Therefore: the destruction of cultural property and heritage sites can and should be investigated by the TIM if offenders can be identified.

→ If IS destroys a building dedicated to religion, art, science, education or healthcare, a historic monument or a recognized cultural heritage site, they commit a war crime. How does the illegal trade in cultural property relate to international crimes?

2. How does the illegal trade in cultural property relate to international crimes?

IS makes money with the cultural property business. The only proven way they do this is by issuing illegal excavation and trade permits in return for money (not a war crime). IS also plunders museums (a war crime), but it is unknown what they've sold afterwards (not a war crime, but within the jurisdiction of the TIM). This war crime should, in theory, be investigated by the TIM. If the TIM will also be assigned to investigate illegal trade in cultural property from war zones, is unknown. In every case, it falls within their jurisdiction and investigative possibilities.

→ Illegally exporting, importing, owning or transferring ownership is not a war crime. But the TIM can investigate it based on the extended jurisdiction in the WIM. Plunder and seizure of private and public property such as museum collections is a war crime. If IS commits one of these acts, the TIM can investigate it.

3. What knowledge is available about this destruction and trade?

The destruction of sites and property happens intentionally and on a regular basis – this is clear. Satellite imagery captures this. IS also uses these actions as propaganda material. IS doesn't earn money with destroying things.

However, the scale of looting, selling and illegally trading, and the amount of money IS earns with this, is not clear. Sources claim that IS makes millions or even billions with this business. Other sources only account for approximately \$260.000. The truth lies in the middle and it is unknown where. The following should be taken into account when discussing IS's financing structures relating to cultural property.

- To the extent that IS makes money with trading cultural property, this is limited to their territory. IS issues excavation and trade permits, but these permits are only valid in IS held territory. This way IS only earns money with the cultural property business within their territory. There is no evidence of organized IS trade activities outside their conquered territory. It is more likely that transnational organized criminal groups are involved in this trade³⁴⁰.
- The amount one would (illegally) pay in the Netherlands, London, Munich or New York for an item is not the amount IS earns with this trade. IS only earns money with

³⁴⁰ But this falls not within the scope of this research.

their permit-system and what they sell themselves on illegal local auctions, if they would do so, for example. Buying illegal items on, for example, the Dutch art market does not finance IS or their terrorist activities directly. It does however contribute to the existence of an illegal market that triggers IS members (and others) to get involved in the illegal trade in cultural property.

- Syrian museums have been evacuated and collections are safely stored away according to Syrian authorities. This means that there is almost nothing of value left for IS to steal and sell. It is unclear what items have been stolen from museums in Syria. It is unlikely that the art market will be flooded with stolen Syrian museum pieces.
- There is no such statement issued by the Iraqi government. Although it might be the case that the Iraqi museums do not have large collections nowadays, because of the large-scale plundering of museums before and after the US invasion. It is unclear what collections from Iraqi museums have been stolen by IS and what IS earned with selling these items.
- If IS or another organization would have museum quality items or other very valuable cultural property items that have been obtained illegally, it is very likely that these items will not be offered for sale now or in the very near future. These items are too 'hot' and will be safely stored before they are offered on the market, for example in economic free trade zones such as Geneva or Dubai. If eventually offered on the market, stolen museum pieces can be recognized and returned to the rightful owners (and their value will decrease) by using the ICOM Red Lists.
- The worth of valuable items that are still unexcavated cannot be estimated. Similarly, it is not possible to calculate the value of items that are dug up under IS authority, without archaeological experts or authorities knowing about it. It can therefore be that valuable items are still in the ground, or are dug up by IS and sold.
- Moonlike landscapes that indicate illegal excavations do not prove that IS makes a lot of money with this business. Archaeological experiences make clear that it is far from guaranteed that you find something when you dig in a certain area. (Satellite) imagery therefore cannot be used to support claims that IS makes a lot of money with illegal trade in cultural property. It can only be used to indicate that illegal excavating is going on in an unprofessional manner.
- Many organizations, governments, experts and journalists are outraged about IS's financing structures relating to cultural property. These claims are funded on reports that are, as to the extent this report can show, contradictory. It can be the case that some claims about earning millions of dollars are correct, but then that person possesses knowledge that isn't available on open source (intelligence, classified documents).
- Official reports from customs authorities and other law enforcement or governmental agencies do not support claims that IS makes millions of dollars with illegally trading in cultural property. Contrary, these reports barely mention discovered illegal cultural property. It can be the case that these agencies are not equipped well enough to investigate these crimes, or that criminals successfully dodge law enforcement.

14.2. Further conclusions

14.2.1. The Turkish border

The Turkish border is porous. Border-crossing cannot effectively be controlled. This accounts for people crossing the border as well goods being trafficked across the border. Illegal trade in cultural property, and other items, occurs via the Turkish border. Many interviews with refugees, captures IS members or locals indicate this. It is unknown to the

author what efforts Turkey takes to improve this situation and combat the cross-border smuggling.

14.2.2. Cooperation

Many organizations study, monitor and try to combat the illegal trade in items such as cultural property. Some organizations have signed Memorandums of Understanding or have otherwise agreed to work together. Despite these networks, it seems as if governments and agencies all work on the topic individually, or are loosely connected via personal relations instead of institutionalized cooperation agreements. There is a lack of substantive institutionalized cooperation between those organizations – this is at least the case for the Netherlands. A lot of knowledge is available and experts are willing to share their knowledge to protect cultural property and heritage. Amongst these experts are museum curators, customs officials, government inspectors, academics, the ‘legal’ trade in antiquities and a few specialized law enforcement officials³⁴¹.

14.2.3. Politics

Law enforcement officials should be aware of the political sensitivity and strategic value of this topic. Legislators seem to be very busy with drafting laws to combat cultural property crimes, combat IS and specifically the ways IS earns money. Legislators seem to be more occupied with the topic than law enforcement, but no unequivocal proof of huge revenues of the illegal trade in cultural property is found that could support such an active legislative role – besides political reasons. Large amounts of plundered items have not surfaced on Western (art) markets.

Chapter 15: Recommendations

15.1. General

Based on these conclusions it seems to make more sense to focus on effective law enforcement than to draft new legislation, for example to restrict legal trade. Illegal cultural property trade is not a new crime. It is necessary that evidence is gathered that is acceptable and useful for law enforcement. It is necessary that available knowledge is directed and sent to law enforcement agencies, if the political priority of the topic is to be transferred to real investigations into these crimes. It is necessary that knowledge centres fuel debate based on real evidence, not on speculations or contradictory (media) reports. It would contribute to effective investigations if UNESCO, media agencies and other agencies stop ‘hype’ cultural property crimes, specifically the illegal trade in these items. If the hype cools down, owners of illegal cultural property will be more likely to offer these items for sale. If the hype continuous and political rhetoric endures, the illegal trade will stay hidden and less likely surface than otherwise.

15.2. More specific

Besides these general recommendations, a few more practical improvements can be recommended:

- Immigration services (such as the Dutch IND) should also gather information about how asylum seekers and refugees have financed their journey to the country of destination.

It is likely that impoverished refugees use every financial source they can find to finance their journey – including plunder, illegally excavating and selling cultural property. These transactions can lead to organized criminal groups and collectors of illegal cultural property. Furthermore, these refugees can have information about the status of museums and active criminal groups in their countries of origin. Questions

³⁴¹ An extended list of parties occupied with studying, monitoring, combatting or otherwise occupied with IS and the illegal trade in cultural property is included in Addendum I.

covering this topic should be included in standard questionnaires asylum seekers have to fill in with their asylum application. The ICOM Red Lists of endangered cultural property can be useful to get a quick understanding of what items are likely to be smuggled or sold.

- It is beneficial to law enforcement agencies to start collecting evidence and knowledge about cultural property crimes.

It is likely that illegal trade in cultural property from Syria and Iraq will start to grow in a decade from now. The link between the black market and legal market is studied but very little is known about real-life networks. This link is likely to become relevant when the illegal trade grows. Furthermore, it is likely that offenders of cultural property crimes enter Western countries after a war, or otherwise fall within the scope of police investigations (such as with the extended jurisdiction the WIM offers Dutch Law enforcement). Gathered knowledge will be of great use then. It is useful to start with automatically scraping the clear, deep and dark web in multiple languages (also Arabic) to collect data about illegal online trading. TNO conducted a study on this topic and is able to collect more data.

- Cultural property crimes are linked to organized crime. Art is used to launder or hide criminally obtained money. Law enforcement agencies should therefore implement standardized practices of looking for art and cultural property when they enter houses and seize criminal assets. It is necessary that knowledge about art and antique crime is preserved within law enforcement – and not only in the form of a database with external experts that can be called for help or advice. Cutting budgets and dismantling specialized art crime units will be a short term financial win, but a long term investigative loss.
- International cooperation can be improved in practice (the legal and theoretical framework already exist – the main challenge in this field is the current lack of ratification of international treaties by key players).
The Turkish border should be better guarded if the illegal trade in cultural property from Syria and Iraq is to be stopped, or at least better prevented. Although a ‘waterbed effect’ is imminent, one frequently used smuggling route is dismantled when the Turkish border is better closed off. The international community can help Turkey to accomplish this. A second point of improvement can be law enforcement in the free trade zones such as in the Dubai or Geneva. These places are frequently mentioned in relation to transnational organized crime.
- Media agencies should stop copying each other’s articles without proper fact checking. Investigative journalism can contribute to combatting illegal trade in cultural property, if it is conducted properly. A tendency of proving what you think to know can be observed (tunnel vision), instead of neutrally studying a phenomenon and concluding based upon primary source findings. Law enforcement and legislators should be aware of this and be careful to not resort to similar reasoning.

15.3. Recommendations for investigations³⁴²

Since the destruction of cultural heritage and property, and plunder and seizure of property can be considered war crimes, the TIM can investigate this. IS is one of the organizations that commits these crimes. As described in previous chapters, IS has a motive, opportunity, the means and intention to commit these crimes. IS is also active on (social) media.

³⁴² The author is not a trained law enforcement official. The author is trained to analyse policies and laws, and to study societal phenomena in their context. These recommendations are based on the findings presented in this report and the experiences of the author with specialized investigators of the TIM.

The following actions can be considered to start concrete investigations into these crimes:

1. Map the possible suspects: identify which Dutch citizens have joined IS in Syria or Iraq, try to locate them in time and place. (Foreign) intelligence is useful. Citizens of other nationalities can also be investigated based on the WIM, but it is never sure if and when they will enter the Netherlands and the TIM can effectively start investigating them. Starting with 'Dutch cases' is most convenient.
2. Decide which events will be investigated: Table 2 and Table 3 provide an overview of the status of the different Heritage Sites in Syria and Iraq. The respective governments can complete information and provide more details about when and how the sites are destroyed. The ASOR weekly update and (AAAS) satellite imagery can be useful. Create a timeline of the destruction.
3. Find out if Dutch IS members have been on the destroyed cultural heritage sites. IS material is available on the clear web and deep and dark web. IS also publishes magazines and photographs of their actions. Dabiq is not the only magazine of IS. The others, however, are mostly in Arabic or French. These available sources can provide information. Organizations with experience with big data and online investigations, such as TNO, can assist with advanced facial recognition software. Via (social) media individuals can be traced. Facebook and Twitter messages contain valuable information. The TIM already has experience with investigating by using social media.
4. The IND should interview refugees from the locations that are identified as 'sites under investigation' in step 2. These refugees must be interviewed about what they know that happened to those cultural heritage sites, who was involved, if there were any foreigners, and how they behaved. In the same interview, refugees can be asked about their financial resources that funded the journey to the Netherlands (i.e.: did they pay for it by selling cultural property, and to whom did they sell it?).
5. Collect all available information and build up a file for the Dutch IS members. When they return, law enforcement already has a file about their involvement in destroying cultural property as a war crime. Cooperation with other (departments of) law enforcement agencies is necessary to enhance effectiveness: share practices, make others aware of the cultural property crimes that are being committed.

Chapter 16: Limitations and closing remarks

The research for this background report was limited in several ways.

- Language
This research was mainly conducted in English and Dutch. Although the author also studied German sources and, together with TIM members, some Arabic ones on (social) media, sources in other languages are not included. These sources can very well be valuable to this research. It is worthwhile to control for these deficiencies in further research or investigative projects. More attention for the Turkish situation is necessary to better understand the illegal trade via the Turkish border.
- Time
This research was conducted in a four month period from June up to and including September 2016. The author worked full-time on this project and was able to gather large quantities of articles, data, (media) reports and video material. Interviews with experts were also conducted. More time would probably have resulted in a more in-depth analysis or more precise recommendations.
- Available sources

This report is fully based on open source material. No confidential information was included with the goal of making this report available for a large audience. Therefore: the analysis, conclusions and recommendations in this report can be just a part of reality. A more accurate report could probably be drafted if confidential and classified information is also included, but this would have made the report only suited for small audiences.

- Developments

New evidence can place cultural property crimes and the involvement of IS in a new context. This report becomes outdated if new material emerges, comparable to, and of similar quality as the Abu Sayyaf documents.

It should be noted in the end, however, that crime will always be an (unwanted) aspect of society. As long as men create rules, some actions will be considered criminal and some people will resort to such actions, for varying reasons. It will always be the case that criminal actors and legal actors work together or facilitate each other, in one way or another. Further research can contribute to a better understanding of these crimes, and could help law enforcement agencies to start investigations and bring cases before a court, such as the Al Mahdi case at the ICC. It is necessary that the topic is valued on a right scale and that future investigations and legislative acts are based on real facts, not on contradictory (media) reports or suggestive financial accounts that support political rhetoric, instead of actual law enforcement efforts.

Addendum 1: Chain partners

Besides museums, private collectors and different national law enforcement agencies, these organizations are involved (or have been involved) with studying, preserving, or protection cultural property and heritage.

Name	About
1 CMI co	see chapter 10
AAAS	see chapter 10
ARCA	see chapter 10
ArtLoss	see chapter 10
ASOR	see chapter 10
BAK	see chapter 8 and 9
Blue Shield	see chapter 10
CINOA	see chapter 10
CITES	see chapter 10
CULTNET	see chapter 9
Customs Authorities	see chapter 9
Different national law enforcement agencies	see chapter 9
Eurojust	see chapter 9
Europa Nostra	Interest group concerned with European heritage and culture
Europol	see chapter 9
FATF	see chapter 9
Heritage Inspection	see chapter 9
IADAA	see chapter 10
ICC	see chapter 4
ICCROM	International Centre for the Study of the Preservation and Restoration of Cultural Property
ICOM	see chapter 10
ICTY	see chapter 4
Interpol	see chapter 9
OM	see chapter 5
RAND	see chapter 10
TIM	see chapter 5
UN Security Council	see chapter 5
UNESCO	see chapter 9
UNODC	see chapter 9
WCO	see chapter 9

Addendum 2: Transposition tables

This report is based on the Dutch legal context. This legal context is largely influenced by European and international legislation and treaties. In this Addendum, this Dutch context is transposed to a European and International level to accommodate non-Dutch readers.

This Addendum contains three transposition tables. Table 1 presents the European and International legal equivalents of Dutch national laws. Table 2 and Table 3 are copied in full from the Explanatory Memorandum attached to the WIM³⁴³. The tables are translated from Dutch to English and some references are omitted for reasons of clarity.

Table 2 transposes art. 5 WIM to the 1998 Rome Statute and other legal source. Art. 5 is applicable for International Armed Conflicts.

Table 3 transposes art. 6. WIM to the 1998 Rome Statute and other legal source. Art. 6 is applicable for non-International Armed Conflicts, such as the one in Syria and Iraq.

The abbreviations used in Table 2 and Table 3 are written in full below the table.

Table 1. Transposition table for Dutch national law

Dutch law	European legal source	International Humanitarian Law
Erfgoedwet 2016	Partly based on European Council Regulation No. 116/2009	Partly the 1970 UNESCO Convention; Partly the 1972 World Heritage Convention;
Sanctieregeling Syrië 2012	European Council Regulation No. 36/2012	UN Security Council Resolution 2199/2015
Sanctieregeling Irak 2004 II	European Council Regulation No. 1210/2003	UN Security Council Resolution 2199/2015
Wet Internationale Misdrijven	n.a.	1998 Rome Statute of the International Criminal Court
Sanctiewet 1977	n.a.	n.a.
Wet Economische Delicten	n.a.	n.a.

Table 2. Transposition table for art. 5 WIM.

WIM art. 5	1998 Rome Statute	Treaties
sub 1	art. 8 sub 2 part (a)	GCI 50; GCII 51; GCIII 130; GCIV 147
sub 2 part a	N.a.	API 85 sub 2
sub 2 part b	N.a.	API 11 sub 4
sub 2 part c	N.a.	API 85 sub 3
sub 2 part d	N.a.	API 85 sub 4

³⁴³ *Kamerstukken II*, 2001/02, 28337, 3 (Memorie van Toelichting bij de Wet Internationale Misdrijven), Transponeringstabel

sub 3 part a	art. 8 sub 2 part (b)(xxii)	based on API 75 sub 2 (b)
sub 3 part b	art. 8 sub 2 part (b)(xxii) j°. art. 7 sub 2(f)	N.a.
sub 3 part c	art. 8 sub 2 part (b)(x)	Combination of GCI 50; GCII 51; GCIII 130; GCIV 147; API 11 sub 1 and 2
sub 3 part d	art. 8 sub 2 part (b)(xi)	HPC 23 (b)
sub 3 part e	art. 8 sub 2 part (b)(vi)	HPC 23 (c) j°. API 41 sub 1 and 2
sub 3 part f	art. 8 sub 2 part (b)(vii)	HPC 23 (f) j°. API 38 and 39
sub 4 part a	N.a.	SPHC 15 (a)
sub 4 part b	N.a.	SPHC 15 (b)
sub 4 part c	N.a.	SPHC 15 (c)
sub 4 part d	N.a.	SPHC 15 (d)
sub 4 part e	N.a.	SPHC 15 (e)
sub 5 part a	art. 8 sub 2 part (b)(ii)	Based on API 52 sub 1
sub 5 part b	art. 8 sub 2 part (b)(iv)	Combination of API 35 sub 3; 51 sub 5 (b); 55 sub 1; 85 sub 3 (b)
sub 5 part c	art. 8 sub 2 part (b)(v)	HPC 25
sub 5 part d	art. 8 sub 2 part (b)(viii)	GCIV 49; API 85 sub 4 (a)
sub 5 part e	art. 8 sub 2 part (b)(xiv)	HPC 23 (h)
sub 5 part f	art. 8 sub 2 part (b)(xv)	art. 8 sub 2 part (b)(xv)
sub 5 part g	art. 8 sub 2 part (b)(xvii)	HPC 23 (a)
sub 5 part h	art. 8 sub 2 part (b)(xviii)	GGP1925
sub 5 part i	art. 8 sub 2 part (b)(xix)	HDIV(3)1899
sub 5 part j	art. 8 sub 2 part (b)(xxi)	API 75 sub 2 (b)
sub 5 part k	art. 8 sub 2 part (b)(xxiii)	based on GCIII 23; GCIV 28; API 51 sub 7
sub 5 part l	art. 8 sub 2 part (b)(xxv)	based on API 54
sub 5 part m	art. 8 sub 2 part (b)(i)	based on API 51 sub 2 and 85 sub 3 (a)
sub 5 part n	art. 8 sub 2 part (b)(xxiv)	Combination of GCI 24-27, 36, 39-44; GCII 42-44; GCIV 18-22; API 8, 12, 15, 18, 23-24
sub 5 part o	art. 8 sub 2 part (b)(iii)	N.a.
sub 5 part p	art. 8 sub 2 part (b)(ix)	Combination of HPC 27 and 56; all GC, multiple articles
sub 5 part q	art. 8 sub 2 part (b)(xvi)	HPC 28

sub 5 part r	art. 8 sub 2 part (b)(xxvi)	based on API 77 sub 2, TRC 38
sub 5 part s	art. 8 sub 2 part (b)(xii)	HPC 23 (d)
sub 5 part t	art. 8 sub 2 part (b)(xiii)	HPC 23 (g)
sub 6	N.a.	WO 8 sub 3
sub 7	N.a.	API 11 sub 3

Abbreviations

GCI = Treaty I of the Geneva Convention 1949

GCII = Treaty II of the Geneva Convention 1949

GCIII = Treaty III of the Geneva Convention 1949

GCIV = Treaty IV of the Geneva Convention 1949

API = Additional Protocol I of the Geneva Convention 1949

APII = Additional Protocol II of the Geneva Convention 1949

HPC = The Hague Peace Convention for land warfare 1907

TRC = Treaty on the rights of children

GGP1925 = Gasprotocol van Genève van 1925

HDIV(3)1899 = The 1899 Hague Peace Declaration (IV, 3)

SPHC = Second Protocol to the 1954 Hague Convention

Table 3. Transposition table for art. 6 WIM.

WIM art. 6	1998 Rome Statute	Treaties
sub 1 sub a	art. 8 sub 2 sub (c) (i)	GCI 3 sub 1 (a); GCII 3 sub 1 (a); GCIII 3 sub 1 (a); GCIV 3 sub 1 (a)
sub 1 sub b	art. 8 sub 2 sub (c) (iii)	GCI 3 sub 1 (b); GCII 3 sub 1 (b); GCIII 3 sub 1 (b); GCIV 3 sub 1 (b)
sub 1 sub c	art. 8 sub 2 sub (c) (ii)	GCI 3 sub 1 (c); GCII 3 sub 1 (c); GCIII 3 sub 1 (c); GCIV 3 sub 1 (c)
sub 1 sub d	art. 8 sub 2 sub (c) (iv)	GCI 3 sub 1 (d); GCII 3 sub 1 (d); GCIII 3 sub 1 (d); GCIV 3 sub 1 (d)
sub 2 sub a	art. 8 sub 2 sub (e) (vi)	based on APII 4 sub 2 (e)
sub 2 sub b	art. 8 sub 2 sub (e) (vi) j°. art. 7 sub 2(f)	N.a.
sub 2 sub c	art. 8 sub 2 sub (e) (xi)	based on APII 5 sub 2 (e)
sub 2 sub d	art. 8 sub 2 sub (e) (ix)	n.a. (HPC 23 (b))
sub 3 sub a	art. 8 sub 2 sub (e) (i)	based on APII 13 sub 2
sub 3 sub b	art. 8 sub 2 sub (e) (ii)	Combination of APII 9 sub 1, APII 11, APII 12
sub 3 sub c	art. 8 sub 2 sub (e) (iii)	N.a.
sub 3 sub d	art. 8 sub 2 sub (e) (iv)	based on APII 16, APII 11 (HPC 27, 56)
sub 3 sub e	art. 8 sub 2 sub (e) (iv)	based on APII 4 sub 2 (g) (HPC 28)
sub 3 sub f	art. 8 sub 2 sub (e) (vii)	TRC 38
sub 3 sub g	art. 8 sub 2 sub (e) (x)	based on APII 4 sub 1

sub 3 sub h	art. 8 sub 2 sub (e) (xii)	based on APII 13 sub 1 (HPC 23 (g))
sub 3 sub i	art. 8 sub 2 sub (e) (viii)	based on APII 17 sub 1
sub 4	N.a.	WO 8 sub 3

Abbreviations

GCI = Treaty I of the Geneva Convention 1949

GCII = Treaty II of the Geneva Convention 1949

GCIII = Treaty III of the Geneva Convention 1949

GCIV = Treaty IV of the Geneva Convention 1949

API = Additional Protocol I

HPC = The Hague Peace Convention for land warfare 1907

Addendum 3: List of abbreviations

Abbreviation	In full
1 CMI co.	First Civil Military Interaction Commando
AAAS	American Association for the Advancement of Science
API	Additional Protocol I of the Geneva Convention 1949
APII	Additional Protocol II of the Geneva Convention 1949
AQI	Al Qaida in Iraq
ARCA	Association for Research into Crimes against Art
ASOR	American Schools of Oriental Research
BAK	Bundes Kriminal Amt
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DHS	Department of Homeland Security
ECCC	Extraordinary Chambers in the Courts of Cambodia
EU	European Union
EW	Erfgoedwet
FATF	Financial Action Task Force
FBI	Federal Bureau of Investigation
FSA	Free Syrian Army
GAO	Government Accountability Office
GCI	Treaty I of the Geneva Convention 1949

GCII	Treaty II of the Geneva Convention 1949
GCIII	Treaty III of the Geneva Convention 1949
GCIV	Treaty IV of the Geneva Convention 1949
GGP1925	Geneva Gasprotocol 1925
HCP	High Contracting Party
HDIV(3)1899	The 1899 Hague Peace Declaration (IV, 3)
HPC	The Hague Peace Convention for land warfare 1907
IAC	International Armed Conflict
IADAA	International Association for Dealers in Ancient Art
ICBS	International Committee of the Blue Shield
ICC	International Criminal Court
ICE	Immigration and Customs Enforcement
ICOM	International Council Of Museums
ICTY	International Criminal Tribunal for the former Yugoslavia
IHL	International Humanitarian Law
IND	Immigratie en Naturalisatie Dienst (Dutch immigration service)
IS	Islamic State
LMP	London Metropolitan Police
LP	Landelijk Parket (Dutch National Public Prosecutor's Office)

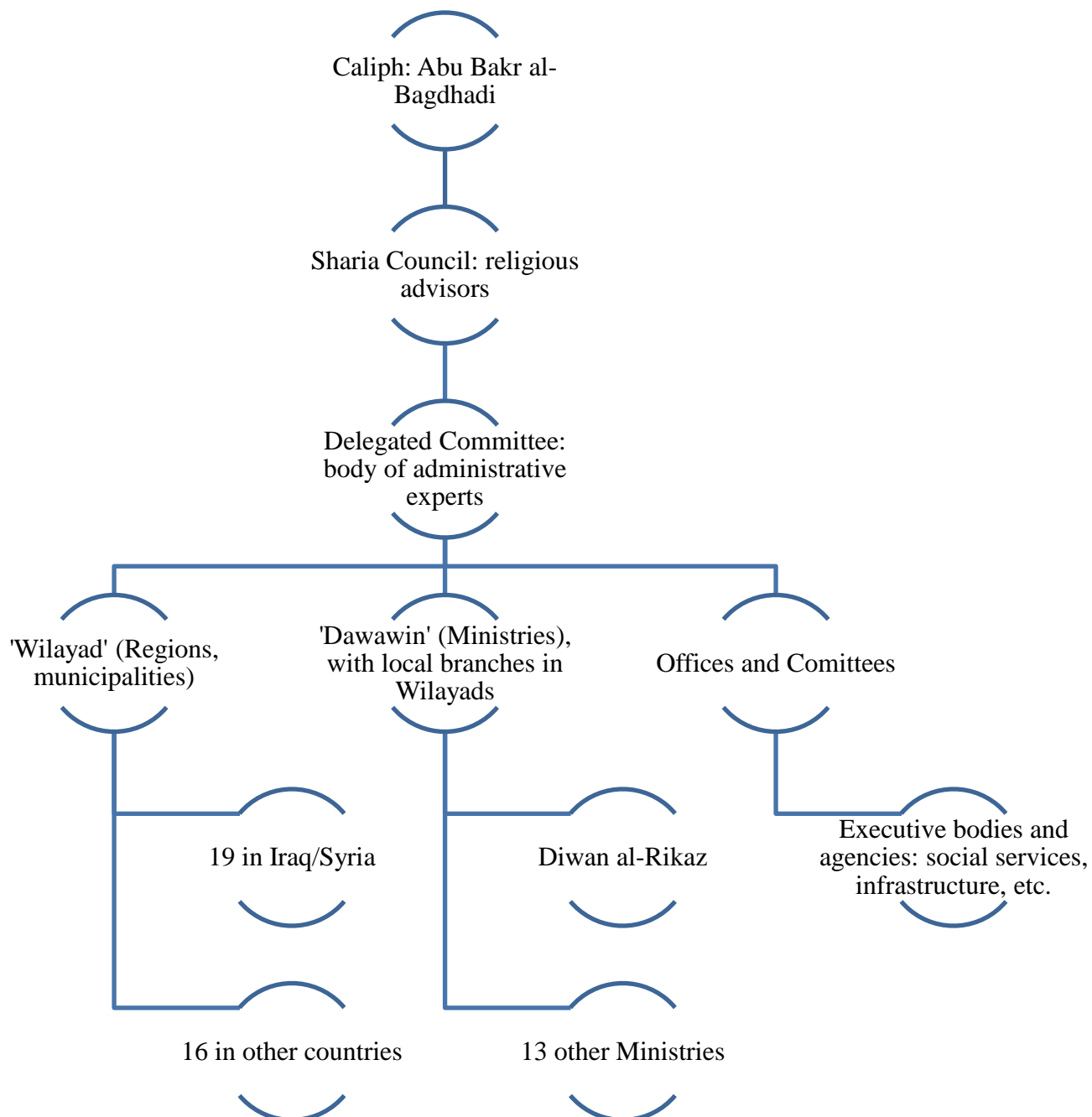
LTTE	Liberation Tigers of Tamil Eelam
MANTIS	Modelling the Antiquities Trade in Iraq and Syria
MINUSMA	Mission of the UN in Mali
MoU	Memorandum of Understanding
NGO	Non Governmental Organization
NIAC	Non-international Armed Conflict
OtP	Office of the Prosecutor
RT	Russia Today
SC	Security Council
SPHC	Second Protocol to the 1954 Hague Convention
SW	Sanctiewet 1977
TFEU	Treaty on the Functioning of the European Union
TIM	Team Internationale Misdrijven
TRC	Treaty on the rights of children
UK	United Kingdom
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNODC	United Nations Office on Drugs and Crime
US or USA	United States (of America)
WCO	World Customs Organization

WED	Wet Economische Delicten
WHC	World Heritage Convention
WHL	World Heritage List
WIM	Wet Internationale Misdrijven
WWI	First World War
WWII	Second World War
YNA	Yugoslav National Army

Addendum IV: Organizational structure of Islamic State

IS published a video explaining their structure³⁴⁴. Based on this video and with a focus on the relevant departments for this report, an organigram of IS is included below.

The Diwan al-Rikaz is the responsible ministry for natural resources and antiques. The local branches of this ministry are located in the different 'Wilayad'. Iraq and Syria have had local departments of the Diwan al-Rikaz.



³⁴⁴ IS Video, *supra* note 292.