



UNIVERSITY OF BRASÍLIA - UnB
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**RETHINKING THE CULTURAL GENOCIDE:
THE DESTRUCTION OF CULTURAL HERITAGE IN SYRIA**

BRASÍLIA, BRAZIL

2018

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Supervisor: Prof. Dr. Paulo César Villela Souto
Lopes Rodrigues

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Presentation on June 29, 2018

To my beloved Father.

ACKNOWLEDGEMENTS

I am very grateful for the experience of studying Law at the University of Brasília. I could not have been gone so far if it was not for the support I received along the way from God, my family, friends and Professors.

First of all, I would like to thank God for giving me the strength to pursue my dreams, for loving me unconditionally, for all the "coincidences" You put in my life, and for consoling me when I needed the most.

Secondly, I would like to thank my Father from all of my heart. You never doubted me. You were always cheering me up to be a better person and to make my dreams a reality. You were the first to support my decision to write this dissertation in English and I am very grateful for that. You were always proud of me being a daydreamer and I want to thank you for believing in me when I could not. I never had the chance to properly thank you for all the laughs, rides, food and love you gave me. You were an example of patience and persistence. I hope you can continue looking for me, my Sister and my Mom from heaven.

I also want to thank my family, especially my Mother and Sister for being so strong and for being with me all the time. Thank you, Mom, for all the advice, rides, support and love as well. You are the best example that a woman can be beautiful, strong, intelligent, confident and also have success. I am pretty sure you are the real Wonder Woman and I am deeply grateful for you being my Mom. Also, thank you Ingrid, for being this amazing Sister and human being. I am positive that you will be a great Doctor in the future. Thank you, my Grandmothers, Aunts, Uncles, for all the support along the way.

In addition, my special thanks go to my friends. There is a saying that friends are the family we can choose, so I am glad I chose such incredible friends to be by my side. Thank you, my childhood friends, school, university, internship, Christian and Model United Nations friends for all the support, meetings and comfort words. Even when I was having a tough time, you all helped me get through the difficulties in social and academic life. I will be grateful forever.

Moreover, I would like to thank my Supervisor, Professor Paulo, for all the guidance, for believing in my work and for accepting this challenge with me. And last, but not least, my sincere thanks go to Professor Mohamed Arafa. Thank you for all the academic advice and for believing in my potential as well.

“Heritage is not just the beauty of the ancient monuments, heritage is about dialogue among different cultures and this is why extremists are afraid of history, they destroy it because they don't want this to be true.”

Irina Bokova, 2016

ABSTRACT

Raphael Lemkin proposed the concept of Cultural Genocide in the context of World Wars, as a crime that attempts to destroy the identity of a certain people. With globalization, wars gained a new dynamic, characterized by the logic of labeling and eliminating the difference through identity politics - when the rise of power is done in the name of one specific group and detriment to another. The rise of Islamic State in 2014 seemed to follow the identity politics tendency, highlighted by the destruction of Cultural Heritage in Syria, drawing attention to the annihilation of the region's cultural identity. In this way, this work attempts to analyze international conventions and sentences from international court systems regarding the genocidal intent of destroying cultural heritage. It also aims to discuss the concept of Cultural Genocide and its importance of protecting the Syrian diverse culture. The conviction of Al-Mahdi by the International Criminal Court in 2016, for the crime of destruction of cultural heritage, may be, however, a determining factor for holding accountable ISIS leaders. Thus, the analysis of the term Cultural Genocide is essential in this context.

Keywords: Cultural Genocide; Destruction of Cultural Heritage; UNESCO World Heritage; War crimes; Crimes against humanity; Syria; Syrian conflict; ISIS; Islamic State; New Wars; Identity politics

RESUMO

Raphael Lemkin propôs o conceito de Genocídio Cultural no contexto das Grandes Guerras, como um crime que objetiva destruir a identidade de certos grupos. Com a globalização, as guerras ganharam uma nova dinâmica, caracterizada pela lógica de rotular e eliminar a diferença através da *identity politics*- quando a ascensão do poder é feita em nome de um grupo específico e em detrimento de outro. A ascensão do Estado Islâmico em 2014 pareceu seguir a tendência da *identity politics*, realçada pela destruição da herança cultural na Síria, chamando a atenção para a aniquilação da identidade cultural da região. Desta forma, este trabalho tenta analisar as convenções internacionais e sentenças dos tribunais internacionais em relação à intenção genocida de destruir patrimônios culturais. Também pretende discutir o conceito de Genocídio Cultural e sua importância para proteger a cultura diversa da Síria. A condenação de Al-Mahdi pelo Tribunal Penal Internacional em 2016, pelo crime de destruição do patrimônio cultural, pode ser, no entanto, um fator determinante para a responsabilização dos líderes do ISIS. Assim, a análise do termo Genocídio Cultural é essencial nesse contexto.

Palavras-chave: Genocídio Cultural; Destruição de Patrimônio Cultural; Patrimônio Cultural da UNESCO; Crimes de Guerra; Crimes contra a Humanidade; Síria; Conflito Sírio; EI; Estado Islâmico; Novas Guerras, *Identity politics*

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ABBREVIATIONS

HDZ - Croatian Democratic Party

ICC - International Criminal Court

ICRC - International Committee of the Red Cross

ICTY - International Criminal Tribunal for the Former Yugoslavia

IHL - International Humanitarian Law

ISIS - Islamic State of Iraq and Syria

JNA - Yugoslav People's Army

OPCW - Organization for the Prohibition of Chemical Weapons

SDA - Party of Democratic Action

SDS - Serbian Democratic Party

UN - United Nations

UNESCO - United Nations Educational, Scientific and Cultural Organization

UNHCR - United Nations High Commissioner for Refugees

UNSC - United Nations Security Council

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1. INTRODUCTION

The theory of new wars emerged after the Second World War, as an attempt to rethink the old assumptions of war. Mary Kaldor, a Professor at the London School of Economics and Political Science, noticed different patterns of violence during an armed conflict, which would constitute a new war. Consequently, wars gained a new dynamic, highlighted by the role of identity politics — a “claim to power on the basis of a particular identity”¹ —, decentralized violence and a globalized war economy².

Likewise, the rise of Islamic State was followed by its expansion through Iraq and Syria, as the group’s primary goal was to establish a State in the Middle East³. Consequently, the group used violent methods of warfare to spread hatred and fear, as well as to displace the population that did not convert to ISIS strict interpretation of Islam, and to radicalize individuals worldwide through social and broadcast media. The group also used the destruction of Cultural Heritage as a means of erasing traces from the Syrian diverse culture⁴.

Taking into account the complexity of the Syrian conflict and the threat of ISIS to the region, this work aims to analyze the importance of protecting Cultural Heritage during armed conflicts through international conventions and sentences from international courts⁵. Also, considering ISIS intentional destruction of Cultural Heritage, it is essential to discuss whether the concept of Cultural Genocide could be an alternative to enforce the protection of cultural landmarks and heritage⁶.

In this way, this work has three chapters. The first chapter will focus on a theoretical approach of new wars and identity politics. The second will describe the Syrian conflict and the rise of Islamic State, addressing the destruction of Cultural Heritage in Palmyra and Aleppo. Lastly, the third chapter will analyze how international mechanisms are protecting Cultural Heritage during and after war time, and what is the role of the concept of Cultural Genocide towards the protection of cultural landmarks.

¹ KALDOR, 2012, p. 7

² KALDOR, 2012

³ WHAT IS LEFT OF ISIL’S ‘CALIPHATE’?, 2017; HILL, 2016

⁴ HILL, 2016

⁵ HILL, 2016

⁶ GOMES, 2015; COLLINS, 2016

2. CHAPTER 1 - NEW WARS

2.1 THE PARADIGMATIC CASE OF BOSNIA-HERZEGOVINA

After the Second World War, the international community perceived a change in the warfare and methods of war, especially after the 1990s, with the Cold War. Along with the process of globalization, a different pattern of violence, war financing and the claim to power arose. Mary Kaldor states that there has been a development of a "new type of organized violence"⁷, since the end of the twentieth century. This new type of organized violence is what Kaldor called a "New War"⁸.

Mary Kaldor (2012), in her book *New and Old Wars - Organized violence in a Global Era*, identifies the 'New War' concept as one designed to describe wars from the end of the twentieth century. It was also designed in order to enlighten the logic besides contemporary wars, known by terms as "wars among the people, wars of the third kind, hybrid wars, privatized wars, post-modern wars"⁹. This work will use the term 'New War' as a guideline to understand armed conflicts after the Cold War.

The first paradigmatic case regarding new wars comes from the Eastern Europe: the war in Bosnia-Herzegovina in 1992. When analyzing the conflict back in the 1990s, Mary Kaldor noticed a different pattern of actors involved as the main parties in the war. At that time, the Bosnian warfare exceeded the old assumptions of Cold War. The changing patterns led to the international community astonishment, as they could not properly prevent and predict the effects of Bosnian conflict¹⁰.

Before 1992, Bosnia-Herzegovina was part of the Social Federal Republic of Yugoslavia, which gathered different ethnicities — Muslims, Serbs, and Croats mostly — in its territory. During the Yugoslav regime, this ethnic difference was institutionalized, in a sense that neither of the groups prevailed nor dominated another inside the political framework. Because of the role of ethnic difference in politics, Tito's regime settled six republics — Bosnia-Herzegovina,

⁷ KALDOR, 2012, p. 1.

⁸ Ibidem

⁹ Idem, 2013, p. 1.

¹⁰ Idem, 2012.

Montenegro, Croatia, Serbia, Macedonia, and Slovenia —, and two autonomous regions inside Serbia — Kosovo and Vojvodina — where each would have an ethnic prevalence¹¹.

IMAGE 1: Ethnic Groups in Yugoslavia



SOURCE: Central Intelligence Agency (CIA), 1992.

¹¹ KALDOR, 2012; INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA [ICTY], s.d; BALKANS WAR...; 2016

The main tension in the region, however, was related to religion. Part of the Bosnians were Muslims, Serbs were Orthodox, and Croats were mostly Catholics. Each ethnicity, connected to a religion, would have a political party to run for elections in 1990, the Party of Democratic Action (SDA) — a Muslim party — the Serbian Democratic Party (SDS), and the Croatian Democratic Party (HDZ). All of them would have supposedly promised to continue the peaceful relations after the elections, regardless of the winner. However, this did not actually happen¹².

As Kaldor¹³ points out "[t]he political goal of the Bosnian Serbs and the Bosnian Croats, backed by Serbia and Croatia, respectively, was 'ethnic cleansing'¹⁴". The Bosnian government, at that time composed by Bosnian Muslims, had territorial integrity as the main objective. The tensions between these groups began to rise as they started having the same goal: the control of Bosnia-Herzegovina¹⁵.

Later, the nationalism rhetoric started to appear as the only legitimate discourse, when the Yugoslav communist regime began to collapse¹⁶. The six republics would claim independence or, at least, claim for other republic to have the prevalence of power¹⁷. There was no totalitarian discourse, such as in Tito's regime, to maintain the different republics together anymore. As the Yugoslav regime lose support, the nationalist rhetoric was highlighted in order to fill this gap, deteriorating ethnic groups relations in the region. Also, by the beginning of 1990s, the economic and political crises were very severe in Yugoslavia. In this way, "[n]ationalist arguments were a way of coping with economic discontent, appealing to the victims of economic insecurity and concealing the growing *nomenklatura*-mafia alliance"¹⁸. Followed by a decrease in government power, the nationalism would appear in relation with Yugoslavian state disintegration¹⁹.

Apart from the bloody method of war firstly used in the conflict by the Serbs, the ethnic cleansing, another different pattern inside the war deserves attention: the participation of

¹² KALDOR, 2012.

¹³ Ibidem, p. 34

¹⁴ "This phenomenon has been defined by the UN Commission of Experts as 'rendering an area ethnically homogeneous by using force or intimidation to remove from a given area persons from another ethnic or religious group.'" (KALDOR, 2012, p. 34). It can also be described as "... a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas" (UNITED NATIONS SECURITY COUNCIL [UNSC], 1994, p. 33)

¹⁵ LEÃO *et. al*, 2015.

¹⁶ KALDOR, 2012.

¹⁷ ICTY, s.d.a.

¹⁸ KALDOR, 2012, p. 39

¹⁹ Ibidem

paramilitary groups and diaspora external assistance. Franjo Tudman, the Croat President during the Bosnian wartime, "developed the horizontal transnational form of organization"²⁰ by means of diaspora groups financial support in other regions, such as North America. These groups provided ammunition supplies, monetary resources, mercenaries, and influenced the perception of the group's identity worldwide, contributing to the inflation of nationalism as well as exclusivist politics²¹.

In addition, during the Bosnian war, the President of Serbia, Slobodan Milošević, spread nationalist propaganda through the radio, and other electronic devices, aiming to disseminate fear and hatred inside the country. As he was later indicted by the International Criminal Tribunal for the Former Yugoslavia (ICTY) in 2011, Milošević

controlled, manipulated or otherwise utilized Serbian state-run media to spread exaggerated and false messages of ethnically based attacks by Bosnian Muslims and Croats against Serb people intended to create an atmosphere of fear and hatred among Serbs living in Serbia, Croatia and Bosnia and Herzegovina which contributed to the forcible removal of the majority of non-Serbs, principally Bosnian Muslims and Bosnian Croats, from large areas of Bosnia and Herzegovina (ICTY, 2011, p.5).

As the conflict escalated, the violations of human rights became more frequent. The displacement of people and directed violence against civilians²² were one of the main methods of warfare to control the population and politics in Bosnia. The formal and informal armed forces would also siege the cities to divert humanitarian assistance. Along these lines, it is commonly stated that the Bosnian war was one "against the civilian population and against civil society"²³, ruining the concepts of religious and ethnic tolerance. The nationalism based on a group identity provided the label used to legitimize all the civilian harms, and most specifically the one directed to Bosnian Muslims²⁴.

²⁰ KALDOR, 2012, p. 41

²¹ Ibidem

²² Article 50. Definition of civilians and civilian population:

1. A civilian is any person who does not belong to one of the categories of persons referred to in Article 4 A 1), 2), 3) and 6) of the Third Convention and in Article 43 of this Protocol. In case of doubt whether a person is a civilian, that person shall be considered a civilian.

2. The civilian population comprises all persons who are civilians.

3. The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character (INTERNATIONAL COMMITTEE OF THE RED CROSS [ICRC], 2010, p. 37).

²³ KALDOR, 2012, p. 45

²⁴ Ibidem

2.2 WHAT IS A NEW WAR?

Bearing in mind the Bosnian war background, it is possible to understand how Mary Kaldor came up with the new war theory. This theory, however, needs to be considered inside the globalization and technological revolution framework, as a means of approaching governments, economies, individuals and cultures²⁵. Even though a lot of attributes of the new war thesis can be related to the old war theory - the one regarding the Second World War warfare between states and ideologies -, "the term 'new' is a way to exclude 'old' assumptions about the nature of war and to provide the basis for a novel research methodology"²⁶.

In addition to the globalization process, the Cold War also provided the ground to the new wars. After that period, there has been a surplus of ammunition, mistrust in the totalitarian, and ideological regimes. The outcome of these factors influenced the state sovereignty and monopoly of violence²⁷.

Combining the elements of globalization with the post-Cold War effects, the new wars emerge in loss of state authority to control its territorial borders and the monopoly of violence, as transnational military forces, privatized, and paramilitary groups, mercenaries, as well as jihadists began to appear as actors of armed conflicts²⁸. In this way, new wars would mostly develop inside a context of weakened authoritarian regimes, followed by the transitional politics, because "the distinction between state and non-state, public and private, external and internal, economic and political" is blurred²⁹.

In the Bosnian case, Tito's regime could no longer enforce an ethnic integration discourse in Yugoslavia. The economic big picture also revealed a decline of employment rates, markets, inputs, and currency rates. It jeopardized, consequently, the maintenance of the monopoly of violence when the formal economy was rapidly deteriorating. There was neither control nor state authority. The country was falling apart. Other groups would then appear to the citizens as an alternative to bear the crisis, such as privatized, and paramilitary groups. These groups would be maintained through humanitarian aid deviation, international diaspora financial support, looting,

²⁵ KALDOR, 2012

²⁶ Idem, 2013, p.3

²⁷ Idem, 2012

²⁸ Idem; 2013

²⁹ Ibidem, p. 2

black market, as well as other informal economies, making state sovereignty and legitimacy unclear³⁰.

According to Mary Kaldor, a new war has three main characteristics, such as “the politics of identity, the decentralization of violence, the globalized war economy”³¹. The logic of these new wars can be understood bearing in mind what are the actors, goals, methods and how is the financing system of war³².

The first element to take into consideration regarding the new war thesis is who fights the war: its actors. Contrary to the old wars theory, new wars are not only fought by States' Armed Forces, it combines different State and non-state actors: jihadists, paramilitary and/or privatized groups, warlords, Armed Forces and so on, as seen in the Bosnian war³³.

The second relates to the conflict goals. The objectives of the old war actors were mainly regarding political and ideological claims. New wars, however, involve the idea of labeling the difference for political demands, in a sense of "identity politics"³⁴. The identity politics can be used to destabilize a community through forms of population displacement. Also, the identity of a group plays an important role when claiming an exclusivist power, and the identity politics also connect to ethnic conflicts³⁵. In Bosnia, the ethnic cleansing was an identity mobilization through the excuse of self-determination to overlap one ethnicity over another³⁶.

When bearing in mind the methods of warfare, popular methods for new wars are the use of territorial size through population displacement — causing the rise of internal displaced people and refugees —, the widespread violence against civilians, and the politics of fear. Although these methods were also used during the Second World War, in the new wars they appeared as one of the main goals. As seen in the case of Bosnian conflict, Milošević spread fear and hatred over ethnicities through the state radio³⁷.

Besides, due to globalization effects, new wars are not solely financed by states, as they have lost the authority to control their territory, economy, and society. Because of the weakened legitimacy, the State cannot properly collect its revenues, and different patterns of predatory

³⁰ KALDOR, 2012

³¹ Ibidem, p. 185

³² Idem; 2013.

³³ Idem, 2012; Ibidem.

³⁴ This term will be further analyzed in the next subsection.

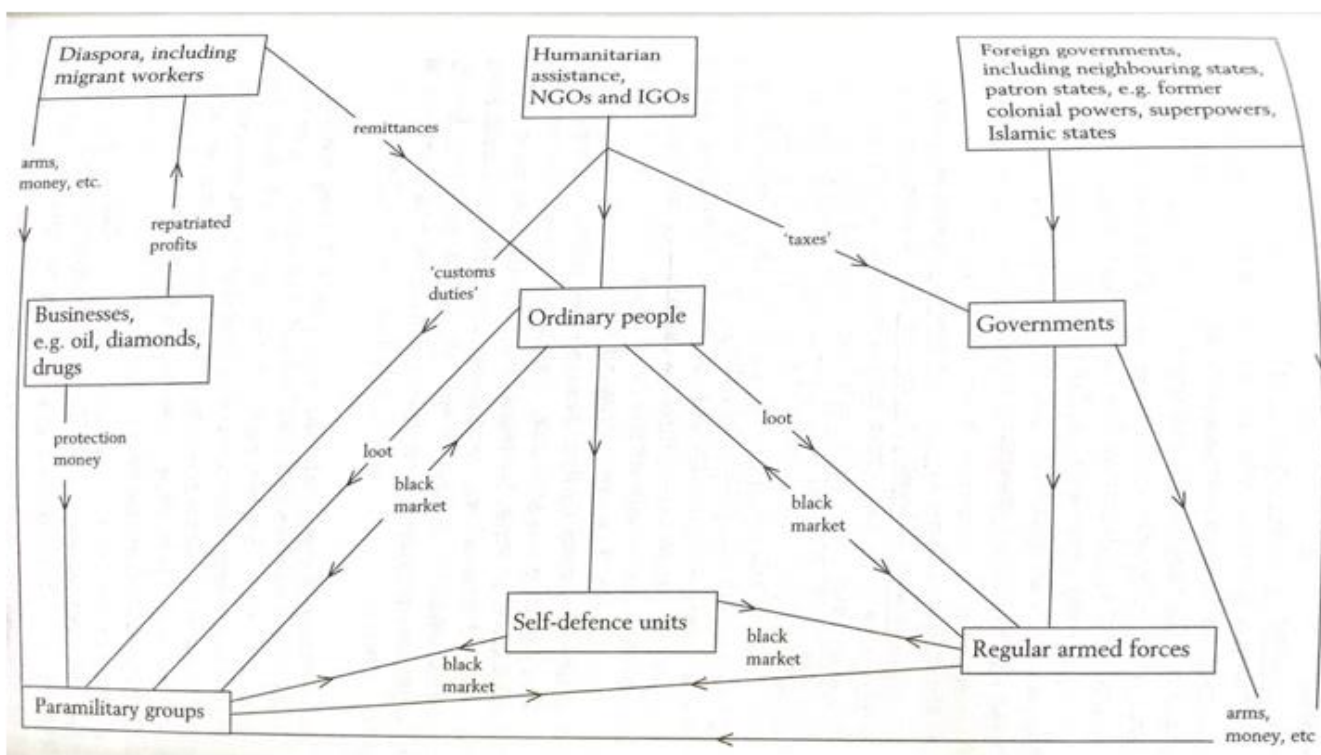
³⁵ KALDOR, 2012; KALDOR, 2013

³⁶ Idem, 2012.

³⁷ Idem, 2013

economies arose in the form of parallel and informal economy — looting, robbery, pillage, diversion of humanitarian aid, intensification of black market, prostitution of women and children, and human trafficking³⁸. Another important feature is the diaspora external assistance, as individuals, groups and/or governments supporting the identity politics send their financial support to the parties of the conflict. This process is highlighted by the globalization effects, which facilitates the process of (legal and/or illegal) financial transactions³⁹. In image 2, it is possible to understand the financial war support web.

IMAGE 2: Resource flows in new wars



SOURCE: KALDOR, 2012, p. 111.

Along these lines, the economic breakdown is a consequence of state retraction, disintegration, external destruction from criminal groups, e.g. robbers, blockades and/or lack of essential daily materials, and commodities. In this way, the local market breakdown led the parties

³⁸ KALDOR, 2012; LEATHERMAN, 2011

³⁹ KALDOR, 2012; KALDOR, 2013

to the conflict to find other sources of financial support to maintain their activities. This relates to a dependence of external assistance, which entails four examples⁴⁰.

Firstly, external assistance may come from relatives living abroad to their respective families. These relatives can send financial sources from the country they are staying to their families. These sources may end up converted into military assets. The second example derives from a "direct assistance from diaspora living abroad"⁴¹. Diaspora groups may send military equipment and funds to parties to the conflict, "for example, from Irish Americans to the IRA, from Armenians all over the world to Nagorno-Karabakh, from Canadian Croatians to the ruling Croatian party, and so on"⁴².

But the external assistance may also come from other governments, and ex-colonial powers. Adjacent governments can also support specifically some warring parties. This type of example was very common during the Second World War, when colonial powers and other countries supported other groups based on their ideological interests. The last example is humanitarian assistance diversion by governments or parties to the conflict⁴³.

Bearing in mind all these examples, it is possible to understand how the war is complexly compound. As also stated by Mary Kaldor, "a new type of globalized informal economy is established in which external flows, especially humanitarian assistance and remittances from abroad, are integrated into local and regional economy based on asset transfer and extra-legal trading"⁴⁴.

2.3. THE NEW WARS: ADDRESSING THE VIOLENCE IN ARMED CONFLICTS

In new war thesis, the violence escalates and becomes one of the main methods used to conquer political control, based on a given identity label. When describing the role of violence in new wars, Mary Kaldor points out that it adopts counter-insurgency and guerrilla perspectives, respectively applying methods of forcible displacement, and political control based on ethnicity. The population displacement, more precisely, appears alongside to assassination of members from

⁴⁰ KALDOR, 2012

⁴¹ Ibidem, p. 109

⁴² Ibidem.

⁴³ Ibidem

⁴⁴ Ibidem, p. 110

the same ethnic origin, ethnic cleansing, destruction of cultural and historical landmarks, and sexual violence towards children and women from a specific group. If the forcible displacement could be measured, it would be done taking into account refugees, Internally Displaced Persons (IDPs), and civilian killing rates when compared to military official's casualty's ratio after the Cold War⁴⁵.

Thus, when considering Kaldor's thesis, the violence consists of a method of war aiming the widespread brutality against the civilian population. Rethink violence in a new war context connects to a long-term persistence to spread violence in numerous ways⁴⁶. It is so under the logic of sustaining a globalized war economy, as "new wars tend to spread and to persist or recur as each side gains in political or economic ways from violence itself rather than 'winning'"⁴⁷.

According to the most recent data from the United Nations High Commissioner for Refugees (UNHCR), the displacement rate nowadays is unprecedented. More than 65 million people fled their home countries, approximately 23 million became refugees, and more than 10 million are under 18 years old. Additionally, other 10 million do not have a nationality, becoming the stateless people, whose basic rights are declined⁴⁸.

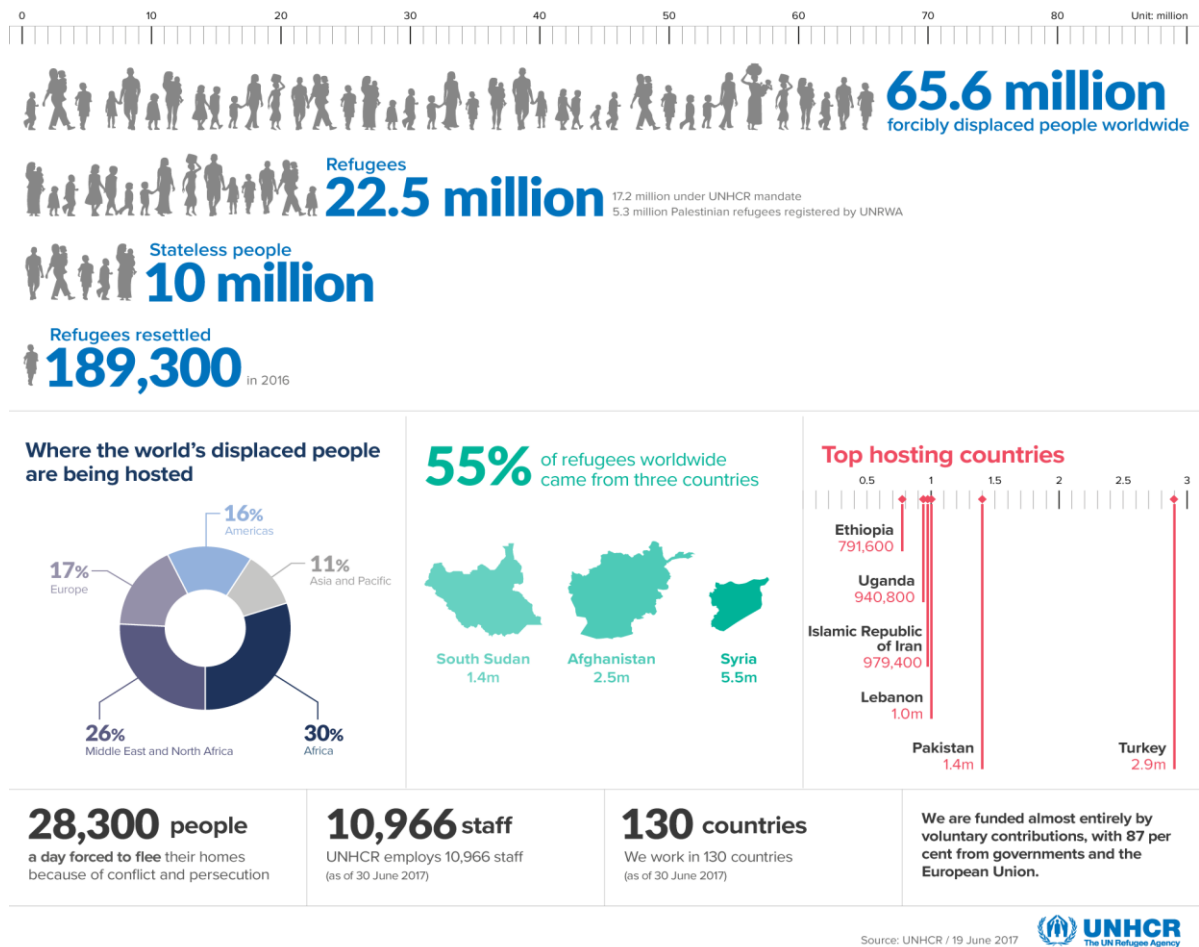
IMAGE 3: Refugee and Displaced Persons Rates

⁴⁵ KALDOR, 2012.

⁴⁶ Idem, 2013

⁴⁷ Ibidem, p.3

⁴⁸ UNHCR, 2017



SOURCE: UNHCR, 2017.

When contrasting the civilian killing rates, since the Cold War, the number of civilian casualties (also perceived as non-combatants) continues to be higher than war combatants⁴⁹, even though the data can indicate a decrease in casualty's number during war throughout the time. As the main purpose of warring parties is the population displacement, methods of spreading fear and

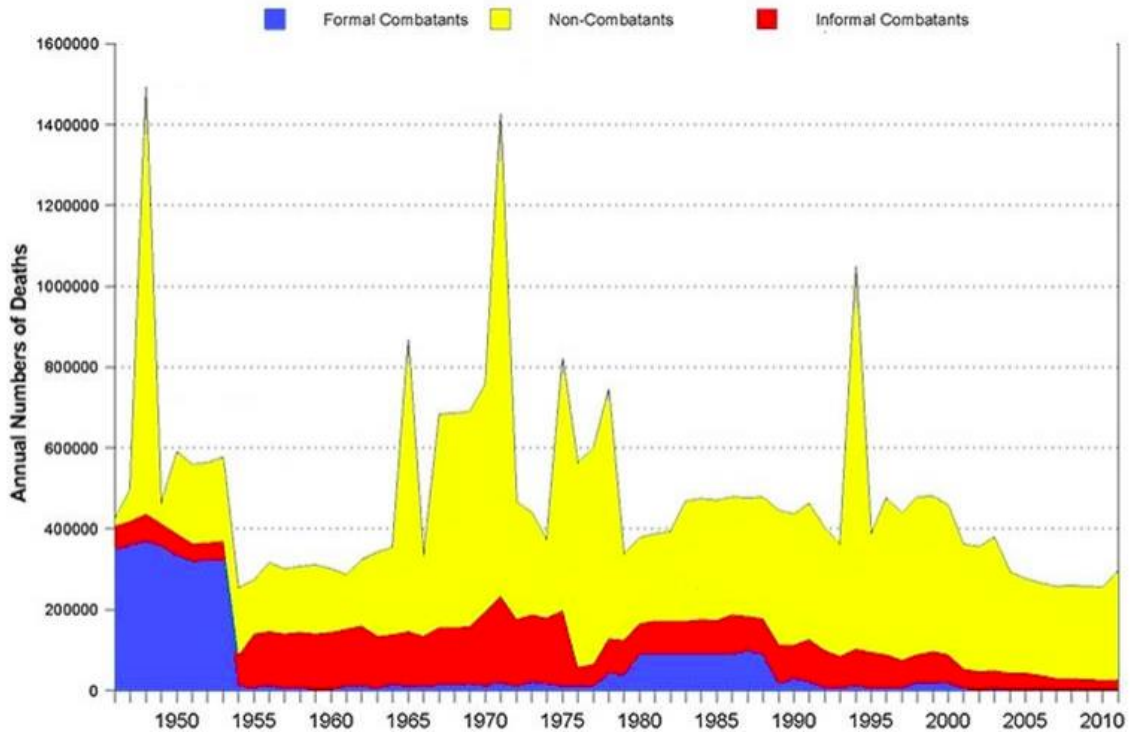
⁴⁹ Article 43 — Armed forces

1. The armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict.

2. Members of the armed forces of a Party to a conflict (other than medical personnel and chaplains covered by Article 33 of the Third Convention) are combatants, that is to say, they have the right to participate directly in hostilities (ICRC, 2010, p.36).

hatred can lead to the increasing rates of refugees and displaced persons, but it does not necessarily mean that the use of violence increase the killing rates, as seen in Image 4⁵⁰.

IMAGE 4: Conflicts are increasingly affecting civilians



SOURCE: CENTER FOR SYSTEMIC PEACE, 2014 *apud* MARC, 2016.

As noticed by Adam Roberts⁵¹, the civilian casualties must also consider different situations when quantified:

1. Those killed as a direct effect of war;
2. Those injured as a direct effect of war;
3. Those dying, whether during or after a war, from indirect effects of war such as disease, malnutrition and lawlessness, and who would not have been expected to die at such rates from causes in the absence of war;
4. Victims of one-sided violence, such as when states slaughter their own citizens in connection with a war;
5. Victims of rape and other forms of sexual violence in connection with a war;
6. Those uprooted in a war - that is, refugees and Internally Displaced Persons (IDPs);
7. Those who, even after a war is over, die prematurely from injuries sustained in war⁵².

⁵⁰ KALDOR, 2012

⁵¹ 2010, p. 2

⁵² ROBERTS, 2010, p. 2

However, the data on civilian casualties are not often completely reliable, since it is difficult to know whether a civilian was slaughtered due to incidental military attacks⁵³, or if the civilian died because of indirect effects of the conflict, or even due to war side effects (as the increase of criminalization rates). Also, since the new wars involved different actors — e.g. privatized, and paramilitary groups, militias, mercenaries, and so on — a civilian can be mistaken as a combatant, and vice-versa, leading to a more difficult identification, and quantification of civilian casualties⁵⁴. To this extent, the non-compliance with the International Humanitarian Law⁵⁵ becomes more common, as a result of this complicated identification between civilians and combatants, affecting a guideline principle of IHL: distinction⁵⁶.

In addition, another form of violent method used in new war to force population displacement is the sexual violence, which can specifically target an ethnic group. The sexual violence can entail the dimensions of rape, collective rape, mass rape campaigns, genocide, and ethnic cleansing⁵⁷. It must be taken into account, as stated by Leatherman, that "sexual violence in war is often accompanied by torture, mutilation, and cannibalism. Sexual violence in war can even involve forcing family members to commit incest; or child soldiers to commit sexual violence or be killed"⁵⁸.

In a sense of sustaining a global war economy⁵⁹, the sexual violence is not only a war method, but also a strategy used for socioeconomic, and political purposes, aiming the elimination of certain groups, displacement and terrorism⁶⁰. More often women are the main targets of sexual violence. However, children, orphans, child soldiers, and men can be at risk too. The men, as

⁵³ EPPS, 2013

⁵⁴ KALDOR, 2012

⁵⁵ "International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflict.

International humanitarian law is part of international law, which is the body of rules governing relations between States. International law is contained in agreements between States – treaties or conventions –, in customary rules, which consist of State practice considered by them as legally binding, and in general principles.

International humanitarian law applies to armed conflicts. It does not regulate whether a State may actually use force; this is governed by an important, but distinct, part of international law set out in the United Nations Charter" (ICRC, 2004, p.1).

⁵⁶ ICRC, s.d.b

⁵⁷ LEATHERMAN, 2011

⁵⁸ LEATHERMAN, 2011, p. 32

⁵⁹ KALDOR, 2012

⁶⁰ LEATHERMAN, 2011

regarded by Janie Leatherman⁶¹, "may be forced to commit sexual violence against family members or witness it being done to emasculate them".

Lastly, the population displacement can involve the Destruction of Cultural Heritage Patrimony, affecting the identity and culture of a given ethnic group. The destruction can be of a historical, and religious monument, for example. This method is commonly used to annihilate the cultural elements of a group in a particular region⁶².

2.4. LABELING THE DIFFERENCE THROUGH IDENTITY POLITICS

In the new war perspective, the identity politics appear combined with globalization, in the means of the concept of a weak state (commonly associated with the concept of *fragile state*) in its political and economic framework⁶³. According to the Fragile States Index, there are four main components to conceptualize a fragile state: (i) cohesion; (ii) economic; (iii) political, and (iv) social indicators. These are subdivided in groups of each component: C1⁶⁴) Security Apparatus; C2) Factionalized Elites; C3) Group Grievance; E1) Economic Decline; E2) Uneven Economic Development; E3) Human Flight and Brain Drain; P1) State Legitimacy; P2) Public Services; P3) Human Rights and Rule of Law; S1) Demographic Pressures; S2) Refugees and IDPs; and X1) External Intervention⁶⁵.

In addition, the belligerents or warring parties claim the power is based on a label of identity, usually with exclusivist interests of accessing State's resources⁶⁶. This label may also be thought based on inborn or an ethnic aspect; a type of nationalism⁶⁷. Or the identity politics can be imposed in the prominence of conflict, taking the form of a strict obedience of specific religious or ethnic doctrines; a type of fundamentalism. As Kaldor asserts:

(...) identity politics tends to be fragmentative, backward-looking and exclusive. Political groupings based on exclusive identity tend to be movements of nostalgia, based on the reconstruction of an heroic past, the memory of injustices, real or imagined, and of famous battles, won or lost. They acquire meaning through insecurity, through rekindled fear of historic enemies, or through a sense of being threatened by those with different labels⁶⁸.

⁶¹ LEATHERMAN, 2011, p. 9

⁶² KALDOR, 2012

⁶³ Ibidem

⁶⁴ C1 as for cohesion indicator number 1, E1 as for economic indicator number 1, and so on.

⁶⁵ FUND FOR PEACE, 2017

⁶⁶ KALDOR, 2012; KALDOR, 2013

⁶⁷ KALDOR, 2012

⁶⁸ KALDOR, 2012, p. 80-81

Furthermore, the process of globalization plays a two-fold role in identity politics. First, it acts as a reaction of political groups' legitimacy deterioration, serving as political mobilization to promote prejudice, fear, and hate in the population. Second, it enforces a feeling of insecurity in the economic sector, especially in form of a parallel economy. This type of economy then highlights criminal activities, the intensification of black market, human trafficking, and so on⁶⁹.

The identity politics, however, are different from ideological politics. The latter refers to future integrative projects, an attempt to integrate different people into the same rhetoric. It was the case of nationalism during the nineteenth century in Europe. The former, in contrast, encompasses the idea of State's economic, and political fragmentation, also related to a surpass of one group identity over others⁷⁰.

It is possible to understand the difference between ideological politics and identity politics while analyzing the case of Yugoslavia. Before the disintegration of Yugoslavia, the Communist regime controlled the six Yugoslavian republics. For the first time, after Tito's regime collapsed, there would be democratic elections to decide which politicians would run the government. However, the population was not used to the democratic tradition of voting. This is why nationalism appeared to be the most obvious option for the voters because in a society where democracy was not a tradition, the national discourse was more "reliable"⁷¹.

Along these lines, Mary Kaldor explains how the nationalism discourse was more reliable as a result of the value it had on contradicting the previous regime, the communism⁷²:

Nationalism represents both a continuity with the past and a way of denying or 'forgetting' a complicity with the past. It represents a continuity partly because of the ways in which it was nurtured in the preceding era, not only in multinational states, and partly because its form is very similar to the preceding Cold War ideologies. Communism, in particular, thrived on an us-them, good-bad war mentality and elevated the notion of an homogeneous collective community. At the same time, it is a way of denying the past because communist regimes overtly condemned nationalism. As in the case of rabid attachment to the market, nationalism is a form of negation of what went before. **Communism can be treated as an 'outsider' or 'foreigner'**, particularly in countries occupied by Soviet troops, thus exculpating those who accepted, tolerated or collaborated with the regime. **National identity is somehow pure and untainted** in comparison with other professional or ideological identities that were determined by the previous context⁷³ (*emphasis added*).

⁶⁹ KALDOR, 2013; LEATHERMAN, 2011

⁷⁰ KALDOR, 2012

⁷¹ KALDOR, 2012

⁷² Ibidem

⁷³ KALDOR, 2012, p. 83

The identity politics' experiences may likewise be found on the context of post-colonial states and states with foreign intervention historic background. This was partly followed by the European influence in determining ethnic or religious labels in colonies. An example of this phenomena was the Hutu-Tutsi difference highlighted after the Belgian government established identity cards, when Rwanda was still a Belgian colony. Before the Belgian ruling power in Rwanda, the Hutu-Tutsi difference was not very significant. Disillusioned by promises of post-independence, the new states in Africa and Asia saw politicians using the ethnic or religious rhetoric to be sustained in the government⁷⁴. As portrayed by Mary Kaldor, "at the same time, pressure for democratization led to increasingly desperate bids to remain in power, often through fomenting ethnic tension and other forms of identity politics"⁷⁵.

Further, in the context of the Middle East, there was also discredit of development, and secular state hopes, after the dismissal of colonies in the region. Consequently, there was an increase of Islamic movements in the model of identity politics. After the terrorist attack in United States on September 11th, 2001, however, Western countries reinforced insecurity through the label of Islamic Terrorism, and this further influenced the discourse of "War on Terror"⁷⁶.

Diaspora groups play an additional role in reinforcing identity politics in such cases, emphasized by the globalization technology and rapid communication across borders. Diaspora groups can consist of individuals or families of certain ethnic or religious origin living abroad, who perceive their identity nostalgically. They usually finance a conflict through the remittances mail to their relatives, or through ammunition supplies, knowledge, and ideas. As diaspora groups live outside the conflict zone, they have better access to education, and they can rapidly share it due to technology⁷⁷. Thus, providing "mechanisms for speeding up the pace of political mobilization" in their country of origin⁷⁸.

To complete, the identity politics, combined with globalization technology and rapid expansion, can provide: (i) a way of building alliances and concealing illegal activities; (ii) enforcement of political mobilization; (iii) the promotion of particularistic political interest of

⁷⁴ KALDOR, 2012.

⁷⁵ Ibidem, p. 85

⁷⁶ Ibidem

⁷⁷ Ibidem

⁷⁸ Ibidem, p. 91

remaining in power; (iv) population insecurity; and (v) knowledge and war financial through diaspora groups⁷⁹. Therefore,

[t]he greater the sense of insecurity, the greater the polarization of society, the less is the space for alternative integrative political values. In conditions of war, such alliances are cemented by shared complicity in war crimes and a mutual dependence on the continued functioning of the war economy⁸⁰.

In the next section, ISIS warfare and the Destruction of Cultural Heritage will be analyzed, bearing in mind new war concepts, especially the identity politics.

⁷⁹ KALDOR, 2012.

⁸⁰ KALDOR, 2012, p. 87

3. CHAPTER II - ISIS AND CULTURAL HERITAGE

3.1 THE EMERGENCE OF THE SYRIAN CONFLICT

In 2011, the uprising of the Arab Spring began with protests aiming at regime change in the Middle East. It firstly took place in Tunisia, as the population started claiming democratic social and political changes. In Tunisia, the citizens were able to overthrow the Dictatorship regime. However, as the Arab Spring spilled over in the region, it had different effects in the neighboring countries. In some of them, such as Libya and Syria, the consequences of Arab Spring led to the governments' violent repression and an outbreak of civil wars⁸¹.

In the case of Syria, the protests started in the beginning of 2011, reaching its peak by March during the same year, as the violence intensified. By March, the death toll was approximately 9,000. At that time, the regime of Bashar al-Assad was responsible for carrying out violent repression against the protesters⁸². Later on, it would emerge in Syria an armed insurgency, followed by Government's counter-insurgency and war⁸³.

Syria has an historic context of ethnic diversification in the territory. The Alawites, which comprises one of the minorities groups, backed and continue to back al Assad's regime. When the Assad government supported an alliance with the Alawites, they had a discourse of a possible ethnic integration with the other groups in the region⁸⁴. This goal was not achieved. And even though Alawites, which are Shia Muslims, represent nearly 12% of the Syrian population, they control most of the government areas⁸⁵.

Still, most of the Syrian population is composed by Sunni Muslims, which represents over 70% of the Syrians⁸⁶. They control parts of the economy and are mostly aligned with western and rebel forces⁸⁷. The main Sunni Muslim Alawite opposition is the Free Syria Army (FSA), which is one of the main groups fighting in the Syrian conflict⁸⁸.

The Sunni opposition, however, is not recent. Since 1970s, the Assad family regime has been oppressing Sunni Muslims in Syria.

⁸¹ BHARDWAJ, 2012

⁸² Ibidem

⁸³ DAOUDY, 2011

⁸⁴ BHARDWAJ, 2012

⁸⁵ KANNIKE, 2016

⁸⁶ U.S. DEPARTMENT OF STATE, 2016

⁸⁷ LAUB, 2017; KANNIKE, 2016

⁸⁸ RAUF, 2012

From the early 1970s through 2000—at which point Hafez⁸⁹ died and Bashar assumed power—the Alawi Arab, Iranian-aligned, Russian-backed government oppressed Sunni (and many Kurdish) Syrians, jailing; torturing; and, in the case of the Hama Massacre⁹⁰ in 1982, reportedly slaughtering Sunni by the thousands. This event set the tone for future relations with Syria's Sunni community and almost certainly factored in to the eventual 2011 revolt⁹¹.

As the main Alawite opposition, Assad's regime also spoiled the Sunni population throughout the war. According to the International Religious Freedom Report for 2016, "[a]s the insurgency continued to be identified with the Sunni population, the government reportedly targeted towns and neighborhoods for siege, mortar shelling, and aerial bombardment on the basis of the religious affiliation of residents"⁹².

Other ethnic groups are also involved in the war, as the Christians from different Catholic branches — mostly Orthodox, Uniate, Roman Catholic, Assyrian, and so on —, Druzes, and Kurds. Concerning the Christians, they are spread in the region between Idlib and Homs, as can be seen in the Image 5. Even though they are involved in the conflict, they are usually in the crossfire⁹³. In addition, the Druzes constitute another minority group in the region, but they had been standing in the war with a more neutral posture⁹⁴.

IMAGE 5: The ethnic distribution in Syria

⁸⁹ Hafez al-Assad was the former Syrian President and father of Bashar al-Assad.

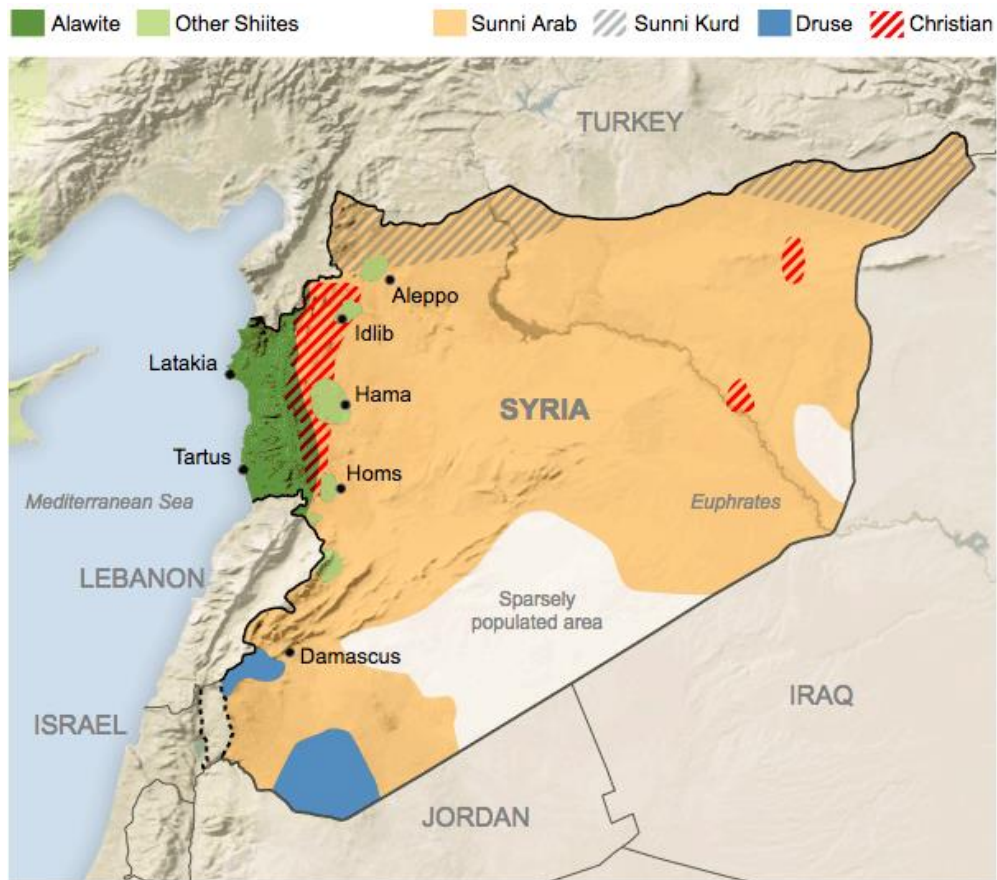
⁹⁰ In 1982, there was a Massacre against a Sunni rebellion by the then Syrian President Hafez al-Assad. The massacre killed approximately 20,000 people (RODRIGUES, 2011).

⁹¹ CONNABLE *et. al*, 2017, p. 16

⁹² U.S. DEPARTMENT OF STATE, 2016, p.1

⁹³ *Ibidem*

⁹⁴ GLASS, 2018



SOURCE: MARSH; BURGESS, 2012

The Kurds represent nearly 10% of the Syrian population. The majority of Kurds are devoted to Sunni Muslim religion. In addition, the Kurdish population has an important role in fighting the Islamic State of Iraq and Syria (ISIS). However, they are a very religiously diverse group distributed in parts of Iraq, Turkey, Iran, Syria and Armenia, composing one of the biggest stateless population of the world. Because of Turkey's interests in maintaining the Kurds as a stateless group, the Turkish government does not support the Kurds' fight against ISIS⁹⁵. The Kurds living in Syrian territory are also opposed to Bashar al-Assad government, and they support anti-Turkish groups, having ties with the Kurdish Workers Party (PKK)⁹⁶.

Finally, the Islamic State of Iraq and Syria (ISIS or *Daesh* in Islamic name) has its origins before the American intervention in Iraq and is related to Al-Qaeda. It was created in 1999 under

⁹⁵ KANNIKE, 2016; WHO ARE..., 2017

⁹⁶ CONNABLE *et. al*, 2017.

the Al-Qaeda cell leader Abu Musab al-Zarqawi, a Jordanian extremist⁹⁷. The United States defined ISIS as a terrorist organization, but the term jihadist, "a word of recent coinage deriving from jihad meaning "struggle," as in a personal, spiritual struggle to remain pure in one's adherence to the teachings of Islam, or a physical struggle against the domestic and foreign enemies of Islam" can be used⁹⁸.

ISIS mostly targeted the minority groups in Syria, attacking Christians, Alawites, Kurds, for instance, which they consider as opposed to ISIS interpretation of Quran, the sacred text of Islam⁹⁹. Between 2013 and 2014, they started gaining control over Syria's and Iraq's territory and their goal was to build a Caliphate, which would be an "independent Islamic state in the Middle East based on radical anti-Western principles. The Islamic State has come to be known for its extremely brutal tactics and was disavowed by al Qaeda in early 2014".¹⁰⁰

Since 2014, the international community got involved in the Syrian war. The United States entered in 2014 and created a coalition to combat the Islamic State. During the following year, the French and English governments entered the war and launched airstrikes against ISIS as well. Russia entered in 2015, backing Assad's regime. Other governments that had Shia Muslim majorities also got involved in order to support Assad, as Iran, Iraq and Hezbollah — a Lebanese political and military group. The rebels, which fight against the Syrian government, are backed by Sunni Muslims countries, as Saudi Arabia, Turkey and Qatar. Turkey, however, is also targeting Kurds, as it fears the Kurdish independence interests. Moreover, Israel is involved in the Syrian war intending to fight against Hezbollah and other government forces¹⁰¹.

The intensification of international intervention happened after the use of chemical weapons in the conflict, which was mostly used by the government. Assad's regime used chemical weapons, such as sarin and mustard gas, against rebel forces. It affected, however, numerous civilians in the cities of Homs, Aleppo, Damascus, Ghouta region, Idlib, and Khan Sheikhoun from 2012 to 2018. Besides, the Organization for the Prohibition of Chemical Weapons (OPCW) confirmed that the Islamic State already used sulfur mustard gas, such as in Marea, in the north

⁹⁷ CUNO, 2015; HILL, 2017; CONNABLE *et. al*, 2017

⁹⁸ CUNO, 2015, p. 8

⁹⁹ U.S. DEPARTMENT OF STATE, 2016

¹⁰⁰ HILL, 2016, p. 5

¹⁰¹ SYRIA'S CIVIL..., 2018

part of Syria. Even though, measures to cope with the ongoing chemical weapons use are still uncertain in the United Nations Security Council¹⁰².

In the next section, the ISIS warfare in Syria will be further analyzed.

3.2 HOW IS ISIS FIGHTING THE WAR IN SYRIA: AN IDENTITY POLITICS APPROACH?

The Islamic State of Iraq and Syria started participating in the rebellion against Bashar al-Assad regime in 2011, when the Arab Spring could not fulfill its democratic goals. As the rebellion was being transformed into war, the Islamic State took advantage of: (i) the chaos in the territory, (ii) the Sunni Muslim population disagreement with the government; and as well as (iii) the American troops removal from Iraq¹⁰³.

The ISIS originated from Sunni Muslims from Al-Qaeda in Iraq back in 2003, under the leader Abu Musab al-Zarqawi. It is relevant to mention that the group played a critical role in Iraq's sectarian rebellion. However, it was only in 2013 that group presented itself under the name of Islamic State in Iraq and the Levant (ISIL). In 2014, they self-proclaimed as a State (or Caliphate) of the Islamic State, after achieving control of Iraq's Northern and Western parts, and attacking Kurdish and Yazidi religious populations¹⁰⁴¹⁰⁵.

But before advancing into Syria, Al-Qaeda "maintained networks in Syria throughout the 2003-2011 U.S.-led coalition war in Iraq. It utilized Syria's airports, road networks, and Syrian facilitators to help launder money and move foreign fighters to and from Iraq"¹⁰⁶. This network would reappear with Abu Bakr al-Baghdadi, the future caliph of the Islamic State, as the group advanced towards Syria in 2012. At that year, al-Baghdadi tried to merge with Jabhat al-Nusra (another jihadist group), but soon they separated, as there has been a disagreement between the groups' leaders. Also, al-Baghdadi's cut ties with Al Qaeda during that time¹⁰⁷. As stated by Connable et al, "this placed IS in opposition to both JaN¹⁰⁸ and Al Qaida, and it recharacterized the

¹⁰² KIMBALL, 2018

¹⁰³ ISLAMIC STATE..., 2018

¹⁰⁴ Yazidis population have Yazidism as their main religion, which combines different aspects of Zoroastrianism, Islam, Judaism and Christianity. They do not consider themselves as Muslims nor Arabs (REFUGEE SPONSORSHIP TRAINING PROGRAM, 2017).

¹⁰⁵ CUNO, 2015; ISLAMIC STATE..., 2018

¹⁰⁶ CONNABLE *et. al*, 2017, p. 16

¹⁰⁷ Ibidem

¹⁰⁸ This term refers to Jabhat al-Nusra.

Sunni population: It now consisted of a fractured array of groups seeking to overthrow Bashar al-Assad and a new group - IS - that pursued total regional dominance¹⁰⁹.

In 2013, al-Baghdadi, the ISIS leader, started gaining control over parts of Syrian territory, expelling or subjugating opponents of the Islamic State. One year later, the group already had control over Raqqa, and they were also expanding themselves towards Iraqi territories¹¹⁰. "By 2015, IS controlled large portions of Syria's oil resources, its eastern road networks, vital dams controlling its water resources, and population centers outside the western-Damascus-to-Aleppo corridor"¹¹¹. Finally, in 2016, the caliph al-Baghdadi attempted to extend the Islamic State in the Middle East¹¹².

Throughout the wartime, ISIS expanded itself in Iraq and Syria by using violent methods of warfare¹¹³. Its primary goal was "to establish an independent Islamic state in the Middle East based on radical anti-Western principles"¹¹⁴. In Iraq, ISIS controlled almost one third of the territory by 2014, for example¹¹⁵. The Islamic State would be called as 'Caliphate' by ISIS, and the caliphate organization structure would resemble emirates or principdoms, across Iraq and Syria. However, there would also be Caliphate affiliates in Asia, as Afghanistan, and Africa, as Nigeria and Libya, as well as other parts of the world¹¹⁶.

ISIS's form of conquering territories was to build the idea of subjugating Syrian and Iraqi ethnic and religious identity, in order to claim - and remain - in power based on their particularistic interpretation of Islam. Because of this form of interpretation, ISIS wanted to augment its status, differentiating them from Muslims and other groups, as a tentative of establishing a connection with the Prophet Muhammad¹¹⁷.

Based on Mary Kaldor's concept of new wars and identity politics in relation to Daesh's interpretation of Sharia Law, it is possible to notice that ISIS attacks happening through the Syrian conflict were related to ethnic and religious features, highlighted by the role of globalization. According to the International Religious Freedom Report by the U.S. Department of State (2016),

¹⁰⁹ CONNABLE *et. al*, 2017, p. 17

¹¹⁰ Ibidem

¹¹¹ Ibidem, p. 17

¹¹² Ibidem

¹¹³ HILL, 2016

¹¹⁴ Ibidem, p. 195

¹¹⁵ WHAT IS LEFT OF ISIL'S 'CALIPHATE'?, 2017

¹¹⁶ CONNABLE *et. al*, 2017

¹¹⁷ HILL, 2016

Nonstate actors, including a number of groups designated as terrorist organizations by the United States and other governments, such as ISIS and Jabhat al-Nusra (JAN, also known as al-Nusra Front), **targeted Shia, Alawites, Christians, and other religious minorities, as well as other Sunnis, with indiscriminate attacks as well as killings, kidnappings, physical mistreatment, and arrests in the areas of the country under their control.** Extremist groups, for example, launched multiple suicide bomb attacks in Latakia Province¹¹⁸, aiming their attacks at Alawite Muslims, according to the groups themselves. **ISIS killed dozens through public executions, crucifixions, and beheadings of men, women, and children on charges of apostasy, blasphemy, homosexuality, and cursing God¹¹⁹ (emphasis added).**

Other examples involve (i) human trafficking (ISIS had been trafficking numerous Yazidi women and girls from Iraq to Syria to be "sold or distributed to ISIS members as "spoils of war" because of their religious beliefs")¹²⁰; (ii) punishment for minor religious offenses, as insulting the Prophet or not abiding to ISIS costume standards; (iii) conversion of Christians, otherwise they would need either to flee the territory, pay a tax or be executed; (iv) destruction of Cultural Heritage and religious sites; and (v) dissemination of ISIS interpretation of Islam through scholar curriculum, court system, and police force¹²¹.

This all led to an unprecedented population displacement¹²² of Syrian and Iraqi population¹²³ by ISIS, not only because of violent mass atrocities based on a label of identity, but partly because of the two-fold role of globalization in highlighting the identity politics. This two-fold role would be used as a means of political mobilization to promote fear and hatred, and to enforce a feeling of economic insecurity. In the Middle East region, the regional insecurity was reinforced through the label of Islamic Terrorism after the terrorist attack on September 11, influencing the discourse of "War on Terror"¹²⁴.

The political mobilization towards prejudice and hatred by ISIS happened through the use of social and broadcast media. The so called Islamic State used the radio¹²⁵, newsletters emails,

¹¹⁸ Latakia Province is located in the western part of Syria, close to the Turkish border.

¹¹⁹ U.S. DEPARTMENT OF STATE, 2016, p. 2

¹²⁰ Ibidem, p. 2-3

¹²¹ Ibidem

¹²² Population displacement, as seen in Chapter 1, involves extreme violence towards people with an identity different label, in comparison to ISIS. It would also involve ethnic cleansing, destruction of cultural and historical landmarks, and sexual violence towards children and women from a specific group (KALDOR, 2012).

¹²³ If the population displacement could be measured, it would be done taking into account the refugee and Internally Displaced Persons (IDPs) numbers (KALDOR, 2012). In this case, the rise of ISIS in Iraq was responsible to displace more than 3 million people by 2015. In Syria, the number was higher, almost 4 million people (CROWCROFT, 2015).

¹²⁴ KALDOR, 2012

¹²⁵ Radio bulletins was available in five languages, at least (DASTMALCHI, 2018).

extensions for browsers, social media (Twitter, Facebook, and other social medias), magazines, and even mobile apps for children, to spread the ISIS daily life routine and combatants' activities worldwide¹²⁶. The Amaq Agency was one of the main channels used to spread propaganda and radicalization of Islam, in nine languages at least. The Agency aimed to spread ISIS propaganda and recruit members across the world, being one of the essential sources for information about the Islamic State¹²⁷.

The US-EU operation, however, was able to seize Amaq Agency and other channels of communication in April 2018. The Amaq Agency claimed ISIS responsible for Paris, Brussels, Berlin and Barcelona's attacks back in 2016. But the US-EU operation hampered the spread of ISIS propaganda, as it identified servers, and stopped radical content messages from being spread worldwide. The operation mobilized the United States, France, UK, Bulgaria, Canada, Netherlands, Romania, as well as other countries, to deter the ISIS propaganda machine¹²⁸.

ISIS communication channel worldwide spread not only a radical interpretation of Islam, but also daily life routine. As there was intense information released in different social and broadcast media, ISIS was able to radicalize people from more than 100 countries¹²⁹. This relates to the role of *diaspora groups* in financing¹³⁰ and spreading a nostalgic identity label abroad through technological means. Taking this into account, it is possible to relate the role of ISIS propaganda and radicalization across the globe with the role of *diaspora groups* in a global war economy¹³¹.

In this sense, diaspora groups, influenced by a portrait of ISIS identity, financed and helped to spread fear and hatred abroad, resulting in terrorist attacks in different parts of the world, and in socioeconomic insecurity¹³². It is believed that ISIS had wide-ranging resources, coming from the black market, and "criminal activities in Iraq, together with robbery, kidnappings, extortions, and

¹²⁶ Idem; HENLEY, 2018

¹²⁷ DASTMALCHI, 2018; HENLEY, 2018.

¹²⁸ Ibidem; Ibidem.

¹²⁹ DASTMALCHI, 2018; HENLEY, 2018.

¹³⁰ A UN Secretary-General Report on the threat posed by ISIS, released in February 2017, stated that "One Member State indicated that it intercepted ISIL facilitators carrying funds to the conflict zone and funds flowing out of the conflict zone. The same Member State reported that some foreign terrorist fighters maintain access to their home bank accounts. They ask sympathizers to transfer money to these accounts, which ISIL facilitators outside the conflict zone then withdraw and provide to ISIL" (UNSC, 2017, p.3).

¹³¹ KALDOR, 2012

¹³² Ibidem; GULMOHAMAD, 2014

even arms and drug trafficking"¹³³. Yet it is not possible to affirm the exact origin of this financial support, the money extracted from population across Syria and Iraq reached \$8 million. The control of oil fields and sell of illegal oil¹³⁴ also facilitated the collecting of financial resources to the terrorist group¹³⁵. This all led to a feeling of economic insecurity, highlighted by the role of identity in labelling the difference to legitimize criminal activities.

To complete, even though ISIS had lost a huge part of its territorial control in Syria and Iraq, compared to 2015¹³⁶, it is not possible to exclude the possibility of a threat. Partly because of "the marked reduction of territorial control by ISIL in Iraq and the Syrian Arab Republic will force many foreign terrorist fighters to make a choice either to join other groups or to leave the region"¹³⁷; partly because the terrorist "group continues to transform into a terror organization with a flat hierarchy, with cells and affiliates increasingly acting autonomously. The global fight against ISIL will have to focus on the threat posed by less visible international networks"¹³⁸. With this organizational structure as a network group, ISIS will probably incite autonomous terror attacks by sympathizers across the globe¹³⁹.

3.3 THE ISLAMIC STATE WARFARE AND DESTRUCTION OF CULTURAL HERITAGE: THE ANNIHILATION OF SYRIAN CULTURE

When bearing in mind ISIS' methods of warfare, the identity politics played a role in defining labels to the Syrian population, leading to mass violence atrocities, ethnic cleansing, and destruction of Cultural Heritage of those "different" from ISIS¹⁴⁰. More specifically, the destruction of Cultural Heritage appears as "the destruction of history and culture by removing the physical landmarks that define the social environment for particular groups of people. The destruction of religious buildings and historic monuments is supposed to erase all traces of cultural claim to a particular area"¹⁴¹.

¹³³ GULMOHAMAD, 2014, p.2

¹³⁴ "The United Nations Assistance Mission for Iraq (UNAMI) estimates that, in 2016, ISIL earned approximately \$260 million from illicit oil sales (...)" (UNSC, 2017, p. 3).

¹³⁵ GULMOHAMAD, 2014

¹³⁶ Appendix 1 and 2 show a map of ISIS territorial loss.

¹³⁷ UNSC, 2018, p. 2

¹³⁸ Ibidem, p. 2

¹³⁹ UNSC, 2018

¹⁴⁰ HILL, 2016; KALDOR, 2012

¹⁴¹ KALDOR, 2012

ISIS documented the destruction of religious and archaeological sites, some considered as World Cultural Heritage by the United Nations Educational Scientific and Cultural Organization (UNESCO), as a means of annihilating the Syrian culture and spreading hatred and fear. The terrorist group destroyed these patrimonies because they believe other cultures were idolatrous¹⁴², and ISIS was against it¹⁴³. If the cultural sites were not destroyed, they were either used for military purposes or looted¹⁴⁴.

Known for their video footage documenting the atrocities they commit, the Islamic State uses the destruction of cultural heritage as a means of cultural cleansing; literally erasing the culture and history of Iraq and Syria, considering all religious shrines and archaeological sites to be idolatrous¹⁴⁵.

UNESCO defines Culture Heritage¹⁴⁶ as a legacy of tangible and intangible heritage. Tangible cultural heritage comprises (i) movable; (ii) immovable, and (iii) underwater aspects. Movable cultural heritage refers to objects, e.g., artworks, manuscripts, sculptures. Immovable cultural heritage consists of landmarks, monuments, such as mosques, shrines, and archaeological sites, for instance. And underwater cultural heritage relates to underwater ruins, caves, landscapes, shipwrecks, cities, and so on. Moreover, intangible cultural heritage refers to social practices, oral traditions, rituals, and performing arts, etc¹⁴⁷.

According to the World Heritage List, there are six World Heritage sites in Syria¹⁴⁸: Site of Palmyra; Ancient City of Aleppo; Ancient City of Damascus; Ancient City of Bosra; *Crac des Chevaliers* and *Qal'at Salah El-Din*; and Ancient Villages of Northern Syria¹⁴⁹. They represent traces from Pre-Christian, Cristian, Greek as well as Muslim cultures. However, because of the Syrian conflict, most of them were either destroyed or damaged, especially by ISIS¹⁵⁰.

¹⁴² This can also be regarded as an iconoclast attitude. "Iconoclasm is understood as a historically pervasive tactic of removing the animacy, agency, effective power, and present liveliness of images, and is attested in the history of all monotheistic religions, not just Islam" (HARMANSAH, 2015, p. 176).

¹⁴³ HILL, 2016

¹⁴⁴ RHARADE, 2017

¹⁴⁵ HILL, 2016, p.195

¹⁴⁶ The concept of Cultural Heritage in the International Law will be further analyzed in Chapter 3.

¹⁴⁷ UNESCO, s.d.e

¹⁴⁸ According to the Decision about World Heritage properties of the Syrian Arab Republic, the six monuments are in the List of World Heritage in danger. For more information, please proceed to: <<https://whc.unesco.org/en/decisions/5954>>.

¹⁴⁹ UNESCO, s.d.d

¹⁵⁰ RHARADE, 2017

As will be seen in the following images, the destruction of Cultural Heritage was a frequent method used by Daesh to destroy and annihilate Syrian cultural traces. In some cases, the damage was irreversible, according to Irina Bokova¹⁵¹, the UNESCO Director-General¹⁵². In this section, however, we will only focus on the cases of destruction of immovable World Cultural Heritage by ISIS in Palmyra and Aleppo.

3.3.1 Palmyra

The Cultural Heritage in Palmyra was one of the first sites to be affected by ISIS. Located in the eastern side of Damascus, the Syrian capital, Palmyra was known for being an oasis for those travelling on the Silk Road during the 2nd and 3rd century, and it was especially important for the Roman Empire. By the 2000s, Palmyra was one of the main Syrian tourist attractions¹⁵³.

ISIS, however, firstly seized Palmyra in May 2015, destroying the ancient the Al Lat Lion statue. The statue was related to an archaic Islamic goddess, and it could be found near the Palmyra Museum. This intentional infliction of cultural damage also led to the execution Khaled al-Assad, an archeologist responsible for the Museum's antiquities and excavations in the site. He was murdered because he declined to tell ISIS the location of valued objects¹⁵⁴. In addition, the terrorist group destroyed the Temples of Bel and Baalshamin¹⁵⁵, Palmyra's Monumental Arch¹⁵⁶, Al Sutaniya Mosque, and the Museum of Folk Arts. The Museum objects that could not be protected were trafficked or found in the black market later on¹⁵⁷.

IMAGE 6: Temple of Bel, Palmyra, on 27 August 2015, before its destruction

¹⁵¹ For more information regarding Irina Bokova statement about Destruction of Cultural Heritage in Syria, please proceed to: <https://www.un.org/sg/en/content/sg/statement/2014-03-12/statement-un-secretary-general-ban-ki-moon-unesco-director-general>.

¹⁵² KALDOR, 2012; UN, 2014.

¹⁵³ CURRY, 2015

¹⁵⁴ CURRY, 2015; BUFFENSTEIN, 2017

¹⁵⁵ The Temple of Baalshamin was very special to the Syrian Culture, since it was well-preserved since its construction, 2000 years ago (BARNARD, 2015).

¹⁵⁶ This Arc was also a very famous tourist attraction in Syria. Its origin back from 20 centuries ago, but it was destroyed in October 2015 by the Islamic State (HENDERSON, 2016).

¹⁵⁷ BUFFENSTEIN, 2017



Source: PLÉIADEs *et. al*, 2015

IMAGE 7: Temple of Bel, Palmyra, on 31 August 2015, after its destruction



SOURCE: PLÉIADEs *et. al*, 2015

ISIS lost the control of Palmyra in March 2016, but it regained control in December of the same year. The second time Daesh seized the city, it damaged the Tetrapylon monument¹⁵⁸ and a Roman theater¹⁵⁹. In such a way, ISIS was trying to impose its label of strict interpretation of Islam by destroying traditional monuments, as recording and documenting the destruction¹⁶⁰.

IMAGE 8: The Tetrapylon monument before its destruction by ISIS

¹⁵⁸ UNESCO released a video about the destruction of the Tetrapylon landmark. The link is: <https://www.youtube.com/watch?v=rPwt8w95Cz8>.

¹⁵⁹ BUFFENSTEIN, 2017

¹⁶⁰ HARMANSAH, 2015



SOURCE: VAN OERS, s.d.

IMAGE 9: Damage to the Tetrapylon as seen on March 2, 2017



SOURCE: Directorate-General of Antiquities & Museums [DGAM], 2017

IMAGE 10: The Roman Theater before the destruction by ISIS



SOURCE: GAGNON, 2010

IMAGE 11: Damage to the Roman Theater seen on March 2, 2017



SOURCE: Directorate-General of Antiquities & Museums [DGAM], 2017

3.3.2. *Ancient City of Aleppo*

The Ancient City of Aleppo once represented an important trade route, from 2000 B.C. Yet, ISIS occupied Aleppo from July 2012 to December 2016, being the Umayyad Mosque on the conflict front line¹⁶¹. In the meantime, the group destroyed approximately 30% of the Umayyad

¹⁶¹ BASSAM, 2016

Mosque, built during the 12th century. The Mosque was a UNESCO World Cultural Heritage and its importance related to the Greco-Roman period¹⁶².

IMAGE 12: Ablution fountains of the Umayyad mosque, Aleppo, in early 2014



SOURCE: UNESCO (s.d.b)

IMAGE 13: Umayyad mosque, Aleppo, in early 2014



SOURCE: UNESCO (s.d.b)

The next section will explore the importance of Cultural Heritage, in a broader thinking, to the International Law. Also, it will be analyzed how the destruction of this traditional landmarks can be related to the concept of Cultural Genocide.

¹⁶² BUFFENSTEIN, 2017

4. CHAPTER III - CULTURAL GENOCIDE?

4.1 THE PROTECTION OF CULTURAL HERITAGE IN THE INTERNATIONAL LAW

After the World War II, there was a need of guaranteeing the international protection of Cultural Heritage through international law mechanisms. In this context, the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict emerged. Also known as 1954 Hague Convention, this was the first international treaty adopted aiming the safeguard of Cultural Heritage during an armed conflict¹⁶³. However,

[t]he first binding international obligations for the protection of cultural heritage related to the rules of war emerged from the series of international conferences held in 1899 and 1907. The Regulations annexed to the Convention (II) with Respect to the Laws and Customs of War on Land (1899 Hague II Convention) and Convention (IV) respecting the Laws and Customs of War on Land (1907 Hague IV Convention), were found to be customary international law and ‘recognized by all civilized nations’ by the International Military Tribunal (IMT) at Nuremberg in 1945¹⁶⁴.

The emergence of other Conventions after the World War II expressed the importance of Cultural Heritage to the international community, as an element that connects the future of a group or society with past generations¹⁶⁵. For example, in 1972, the Convention Concerning the Protection of the World Cultural and Natural Heritage came out. This Convention settled two focuses regarding the Cultural Heritage: nature preservation and conservation of cultural heritage. By doing this, the Convention attempted to enforce the importance and relation between nature and social interaction through the Cultural Heritage¹⁶⁶.

In this way, regarding the protection of this traditional landmarks, there are key conventions to understand what is defined as Cultural Heritage in the international law, especially regarding armed conflicts and tangible or intangible Cultural Heritage¹⁶⁷. In this work, we will focus on three documents and how they define the concept of Cultural Heritage: (i) 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage; (ii) 2003 Convention for the Safeguarding of the Intangible Cultural Heritage¹⁶⁸; and (iii) 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.

¹⁶³ UNESCO, 2017a

¹⁶⁴ VRDOLJAK, 2016, p. 3

¹⁶⁵ UNESCO, 2017b

¹⁶⁶ Idem, s.d.c

¹⁶⁷ FINLAND, s.d.

¹⁶⁸ "The 2003 UNESCO Declaration is an important reference point because it provides for State and individual responsibility for intentional destruction of cultural heritage (Articles VI and VII); and outlines the obligation to

4.1.2 Cultural Heritage or Cultural Property?

The 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage defines Cultural Heritage in the Article 1.

Article 1. For the purpose of this Convention, the following shall be considered as "cultural heritage":

monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;

groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;

sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view. (*emphasis added*)¹⁶⁹

To the monuments, groups of buildings and sites be registered in the World Heritage List, they must attend the criteria requirements¹⁷⁰, as defined in the Operational Guidelines for the Implementation of the World Heritage Convention. However, the article 1 above refers to tangible Cultural Heritage¹⁷¹. Only in 2003, the Convention for the Safeguarding of the Intangible Cultural Heritage would define the intangible Cultural Heritage, in these means

1. The “intangible cultural heritage” means the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity. For the purposes of this Convention, consideration will be given solely to such intangible cultural heritage as is compatible with existing international human

cooperate in respect of protecting cultural heritage against intentional destruction (Article VIII). It calls on States to establish jurisdiction and effective criminal sanctions against individuals who commit or order others to commit such acts. It requests States to cooperate with one another and UNESCO including through information sharing; consultation in cases of actual or impending destruction; assist in respect of educational, awareness-raising and capacity-building programmes for prevention and repression; and assist judicial and administrative processes. States are also encouraged to establish jurisdiction and effective criminal sanction against individuals ‘who have committed or have ordered to be committed acts referred to [individual criminal responsibility] and who are found present on its territory, regardless of their nationality and the place where such act occurred’ (para.VIII(2)). The Declaration requires states to recognize ‘international rules related to the criminalization of gross violations of human rights and international humanitarian law, in particular, when intentional destruction of cultural heritage is linked to those violations.’” (VRDOLJAK, 2016, p. 24)

¹⁶⁹ UNESCO, 1972, p. 3

¹⁷⁰ All the requirements can be seen through this link: <<https://whc.unesco.org/archive/opguide12-en.pdf>>.

¹⁷¹ UNESCO, 2012

rights instruments, as well as with the requirements of mutual respect among communities, groups and individuals, and of sustainable development.

2. The “intangible cultural heritage”, as defined in paragraph 1 above, is manifested inter alia in the following domains:

- (a) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;
- (b) performing arts;
- (c) social practices, rituals and festive events;
- (d) knowledge and practices concerning nature and the universe;
- (e) traditional craftsmanship¹⁷².

However, when it comes to the protection of Cultural Heritage under the International Humanitarian Law, the concept of Cultural Property is used, instead of Cultural Heritage. Cultural Property is defined in the Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954¹⁷³:

Article 1. Definition of cultural property

For the purposes of the present Convention, the term ‘cultural property’ shall cover, irrespective of origin or ownership:

- (a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
- (b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);
- (c) centers containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as ‘centers containing monuments’¹⁷⁴.

Even so there is a slight difference, it is possible to notice that the concept of Cultural Heritage has a broader meaning than Cultural Property. This is so given that the concept of Cultural Heritage encompasses the notion of intangible heritage, as oral traditions, performing arts, dance, rituals, and so on¹⁷⁵.

This can readily be seen from the text of Article 2 of the above Convention for the Safeguarding of the Intangible Cultural Heritage of 17 October 2002, which includes in the definition of “intangible cultural heritage” the practices, expressions, knowledge, skills

¹⁷² UNESCO, 2003.

¹⁷³ FRIGO, 2004

¹⁷⁴ UNESCO, 1954

¹⁷⁵ FRIGO, 2004

— as well as the instruments, objects, artefacts and cultural spaces associated therewith
— that communities, groups and in some cases individuals recognize as part of their cultural heritage¹⁷⁶.

Despite the disparity between the concepts, one thing is certain: there is an internationalist aspect in the provision of the protection of cultural landmarks during an Armed Conflict "in the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, of 26 March 1999, which applies to both international and non-international armed conflicts"¹⁷⁷. The protection of Cultural Property in the 1954 Hague Convention, in this way, "necessarily invokes an internationalist perspective of cultural property"¹⁷⁸, as seen in the preamble of the Convention: "being convinced damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world," and should therefore "receive international protection"¹⁷⁹.

4.2 THE IMPORTANCE OF PROTECTING CULTURAL HERITAGE DURING AN ARMED CONFLICT

There are three approaches of why it is important to protect Cultural Heritage (or Cultural Property in its stricter meaning in the 1954 Hague Convention) during an armed conflict, especially for military purposes. They are: (i) abstract; (ii) strategic; and (iii) legal¹⁸⁰.

The abstract approach refers to the expression of identity itself, related to the importance of a cultural heritage to the identity of specific groups, population and/ or, the mankind. As portrayed by O'Keefe et al, "it is the tangible expression of the unchanging human condition and of the creative genius, diversity and memory of humankind. Its preservation is essential to human wellbeing and flourishing"¹⁸¹.

The protection of Cultural Heritage in its strategic approach appears as indispensable, since the destruction or looting can encompass the logic of global war economy and the propaganda of hatred and fear¹⁸². In this way, the protection by Armed Forces¹⁸³ can prevent the looting and

¹⁷⁶ Ibidem, p. 369

¹⁷⁷ FRIGO, 2004

¹⁷⁸ MILLIGAN, 2008, p. 93

¹⁷⁹ Ibidem; UNESCO, 1954, Preamble

¹⁸⁰ O'KEEFE *et al.*, 2016

¹⁸¹ Ibidem, p. 1

¹⁸² Ibidem; KALDOR, 2012

¹⁸³ Article 43 — Armed forces

trafficking of cultural properties by other belligerents, as a way of financing terrorist groups or non-state armed groups, such as ISIS. As seen in the logic of global war economy in Chapter I, looting, robbery, pillage and the intensification of black market can enforce different patterns of predatory economies in the form of parallel and informal economy¹⁸⁴.

Furthermore, the protection of cultural properties would also prevent the emergence of hostility inside the community where the cultural property is, because the destruction "offers the adversary a potent propaganda weapon, undermines support on the home front and among allies for the continued pursuit of victory"¹⁸⁵. In the case of ISIS, for example, the documentation of destruction of cultural landmarks in Syria was also a way of spreading a propaganda of fear and hatred worldwide¹⁸⁶, damaging not only a group identity, but the mankind as a whole¹⁸⁷.

Lastly, the legal importance of protecting cultural heritage relates to the state or individual responsibility, as a means of compensating the damage. The responsibility comprises elements of guilt or omission, when encompassing the destruction, damage or misappropriation of cultural heritage during armed conflicts. In such a way, an individual or State may be held accountable for destroying, failing (intentionally or not), or not taking all necessary measures to prevent the destruction of Cultural Property during an Armed Conflict. Besides, the responsibility also concerns the submission of the case for competent authorities to investigate, prosecute, and judge, when applicable, war crimes and/ or, crimes against humanity¹⁸⁸. In the case of the new war paradigmatic case of Bosnian conflict, for example,

Several of the defendants before the International Military Tribunal at Nuremberg were convicted for their role in the systematic destruction and plunder of cultural heritage in occupied territory. More recently, a number of the accused before the International Criminal Tribunal for the former Yugoslavia were convicted for their intentional destruction and damage of cultural sites during the conflicts in the Balkans in the 1990s. The deliberate destruction of cultural property has also been the sole focus of one conviction to date before the International Criminal Court, and the Prosecutor has expressed an interest in pursuing further such cases should the opportunity arise.

1. The armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict (ICRC, 2010, p. 32).

¹⁸⁴ KALDOR, 2012

¹⁸⁵ O'KEEFE *et al.*, 2016, p. 1

¹⁸⁶ HILL, 2016

¹⁸⁷ Ibidem, O'KEEFE *et al.*, 2016

¹⁸⁸ O'KEEFE *et al.*, 2016; MILLIGAN, 2008

Prosecutions for war crimes against cultural property have taken place at the national level as well¹⁸⁹.

Bearing in mind the approaches of why it is important to protect Cultural Heritage during an armed conflict, the next section will focus on how the international courts are deciding in the case of destruction of cultural landmarks.

4.3 THE INTERNATIONAL COURTS' DECISIONS CONCERNING THE DESTRUCTION OF CULTURAL HERITAGE DURING ARMED CONFLICTS

After World War I and II, the Allied Forces¹⁹⁰ created the International Military Tribunal, commonly known by Nuremberg Tribunal, in order to prosecute the Nazis who perpetrated crimes during the war. The crimes included the destruction of properties not justified by the principle of military necessity¹⁹¹. Therefore, the Nuremberg Tribunal can be considered as the first court to address the destruction of cultural landmarks¹⁹².

Still, the first decision by an International Court to be held in trial involving the destruction of Cultural Heritage came from the *ad hoc* International Criminal Tribunal for the Former Yugoslavia in 2001, in the case of Prosecutor v. Pavle Strugar. The case regarded the killing and inhumane treatment of civilians in the city of Dubrovnik, coast of Croatia, in 1991, by the Yugoslav People's Army (JNA) General Pavle Strugar, and its subordinates. The case also involved the destruction of Cultural Heritage, commercial, religious and private buildings, yet the destruction was not an indictment to the case. Still, the intentional damage to the Cultural Heritage defined by UNESCO played an important role to this trial in an international court, serving as evidence, influencing the public perception to the case, and leading to an interpretation of destruction of Cultural Heritage as a crime against humanity¹⁹³.

In Dubrovnik's case, the ICTY interpretation about the destruction of World Heritage as a crime against humanity was based on the element of systematic damage and attack at cultural properties. The interpretation also considered the extension of cultural loss for humanity¹⁹⁴.

¹⁸⁹ O'KEEFE *et al.*, 2016, p. 2

¹⁹⁰ the United States, Great Britain, the Soviet Union, and France (UNITED STATES HOLOCAUST MEMORIAL MUSEUM [USHMM], s.d.)

¹⁹¹ The principle of military necessity is associated with the principle of proportionality and encompasses the legitimate acts under the International Humanitarian Law that can be taken during an armed conflict (ICRC, s.d.a)

¹⁹² USHMM, s.d.

¹⁹³ ICTY, 2001; *Idem*, s.d.b.

¹⁹⁴ ICTY, s.d.b

Only in 2016, however, the destruction of Cultural Heritage appeared as the main indictment to an international court, in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*. Al Mahdi, a member of a jihadist organization in Mali, was found guilty for attacking cultural properties, in which nine represented UNESCO World Heritage sites¹⁹⁵. The case was judged by the International Criminal Court (ICC)¹⁹⁶, and it was the first time this court litigated the destruction of Cultural Heritage as a war crime, applying the Article 8 (2) (e) (iv) from the Rome Statute.¹⁹⁷ According to the Article 8,

2. For the purpose of this Statute, ‘war crimes’ means:

a)

(iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly; (...)

e) (...)

(iv) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;¹⁹⁸ (*emphasis added*)

As it was analyzed by the ICC's sentence, Al Mahdi was guilty of directing an attack to cultural monuments in the context of war, even though it was not an international armed conflict — in which the cultural monuments would be only viewed as civilian objects¹⁹⁹. Still, Al Mahdi was then

Found guilty, sentenced to 9 years. On 27 September 2016, Trial Chamber VIII found Mr Al Mahdi guilty, as a co-perpetrator, of the war crime of intentionally directing attacks against historic monuments and buildings dedicated to religion, including nine mausoleums²⁰⁰ and one mosque in Timbuktu, Mali, in June and July 2012²⁰¹.

The Al Mahdi case was very important to the international protection of Cultural Heritage, since it provided the ground for the prosecution of crimes against Cultural Heritage under international courts. Before this decision, most of the international tribunals systems have been

¹⁹⁵ PROSECUTOR v. Ahmad Al Faqi Al Mahdi, 2017

¹⁹⁶ COLLINS, 2016

¹⁹⁷ INTERNATIONAL CRIMINAL COURT [ICC], 2016

¹⁹⁸ ICC, 2018, p.5-6

¹⁹⁹ ICC, 2016

²⁰⁰ "These mausoleums and mosques all qualify as both religious buildings and historic monuments, as evidenced by their role in the cultural life in Timbuktu and the status of nine of these buildings as UNESCO World Heritage sites. UNESCO's designation of these buildings reflects their special importance to international cultural heritage, noting that 'the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern'" (ICC, 2016, p. 26).

²⁰¹ ICC, 2018, p. 1

silent in prosecuting and suing States or individuals for the destruction of Cultural Heritage, with the exception of ICTY. Consequently, the Al Mahdi prosecution can serve as a basis for the crimes of destruction of Cultural Heritage by ISIS not go unpunished by the international community. In this way, it is necessary to consider the prosecution of Daesh leaders for encouraging the attack at UNESCO World Heritage and cultural properties²⁰².

The ICTY and ICC cases showed that the destruction of Cultural Heritage may be regarded as a war crime or crime against humanity — this one depending on the interpretation of the case²⁰³. Either way, the prosecution for destruction of cultural landmarks is important as a means of deterrence to contain crimes against Cultural Heritage, aiming at the discouragement of future perpetrators, as well as the protection of a social and symbolic significance for a group's and mankind's identity²⁰⁴.

4.4 BEYOND CULTURAL LOSS: THE CONCEPT OF CULTURAL GENOCIDE AND THE (IN)APPLICABILITY OF THE CONVENTION FOR GENOCIDE

When bearing in mind the massive destruction of Cultural Heritage in Syria, with the ISIS intention to erase traces from the Syrian diverse culture, the identity politics still play a role in defining the patterns used to target cultural properties²⁰⁵. Also, considering the consequences of violent attacks to Syrian Cultural Heritage, which spread fear and hatred across the Middle East region and the world, the international protection of this heritage became fundamental. Consequently, it is necessary to take into account that the destruction of Cultural Heritage in Syria goes beyond a cultural loss²⁰⁶.

In this way, recognizing the impact of destruction of cultural landmarks to a group identity, Raphael Lemkin proposed the crime of barbarity and vandalism during the 5th International Conference for the Uniformization of Criminal Law in 1933. Firstly, Lemkin considered the destruction of artistic and cultural works of especial importance as a crime of barbarity and

²⁰² COLLINS, 2016

²⁰³ ICC, 2018; ICTY, s.d.b

²⁰⁴ COLLINS, 2016

²⁰⁵ KALDOR, 2012

²⁰⁶ LAWYERS COMMITTEE FOR CULTURAL HERITAGE PRESERVATION [LCCHP], s.d.

vandalism. In a second approach, he considered the element of intentional destruction of a specific group or community²⁰⁷.

Raphael Lemkin, however, realized that the destruction of Cultural Heritage, associated with the intention of destroying a group, totally or in part, due to racial, ethnic or religious purposes, would actually be considered a Cultural Genocide. Along these lines, there was a provision of a crime of Cultural Genocide during the process of writing the Convention on the Prevention and Punishment of the Crime of Genocide. This provision contemplated the elements of damaging or destroying a cultural identity by (i) forcibly transferring children of the group to another group; (ii) forced exile of cultural representatives; (iii) the prohibition of the group's language; (iv) the destruction of books or the prohibition of publications; and (v) the destruction of religious works, monuments and historical or religious objects²⁰⁸. The destruction of Cultural Heritage would damage, in this way, the group's identity, partly or in a whole.

The only element that succeed referred to the forced transfer of children from the group. This element was related to the provision of the crime of Genocide, as it is possible to see in the Article II of the Convention:

In the present Convention, **genocide** means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) **Forcibly transferring children of the group to another group** (*emphasis added*)²⁰⁹.

Despite the efforts, the Cultural Genocide did not proceed as a crime in the Convention about genocide. The crime of Genocide, therefore, would only consider a physical or biological element, which can be inferred by the Article II, but not in an identity and cultural heritage approach²¹⁰.

Along these lines, the ICTY already decided that the intentional destruction of cultural landmarks would not be considered an element of genocide, as can be seen in the case Prosecutor v. Radislav Krstić in 2004²¹¹:

²⁰⁷ GOMES, 2015

²⁰⁸ GOMES, 2015, p. 99

²⁰⁹ UN, 1951, p.3

²¹⁰ GOMES, 2015

²¹¹ GOMES, 2015; ICTY, 2004

The Genocide Convention, and customary international law in general, prohibit only the physical or biological destruction of a human group.³⁹ The Trial Chamber expressly acknowledged this limitation, and eschewed any broader definition. The Chamber stated: “[C]ustomary international law limits the definition of genocide to those acts seeking the physical or biological destruction of all or part of the group. [A]n enterprise attacking only the cultural or sociological characteristics of a human group in order to annihilate these elements which give to that group its own identity distinct from the rest of the community would not fall under the definition of genocide²¹².

The ICTY considered in this case, however, that the attacking of cultural monuments served as an evidence to convict the defendants for the crime of Genocide. Therefore, it is crucial to take into account that the intentional destruction of cultural landmarks and heritage can be very important when considering the circumstances of war crimes against humanity — as in the Dubrovnik's case in Croatia²¹³ — or genocide, serving as evidence to the trials²¹⁴. It is also of great importance to consider that physical or biological destruction of a group is often followed by attacks on Cultural Heritage or properties²¹⁵. This can be regarded in the case of ISIS attacks as well — in which the terrorist group killed and displaced thousands of Syrians, while documenting the destruction of UNESCO World Heritage sites²¹⁶.

Even though the Cultural Genocide may not be considered a crime under the International Criminal Law, or the International Humanitarian Law, the recent conviction of Al Mahdi by the ICC will possibly promote more discussions about the intentional destruction of Cultural Heritage during an armed conflict, aiming to erase and annihilate a group identity, in total or in part, relating to a genocidal intent. Consequently, that would lead, in some way, to the consideration of a Cultural Genocide and to the examination of the Syrian war context, the identity politics concept and ISIS warfare. In order to individually prosecute and hold accountable the leaders of Daesh, the discussion will most likely lead to a consideration of a Cultural Genocide, bearing in mind Lemkin's element applied to ISIS violent methods of war²¹⁷.

²¹² ICTY, 2004, p. 9

²¹³ ICTY, s.d.b

²¹⁴ GOMES, 2015

²¹⁵ The ICTY considered that physical or biological destruction of a group was followed by attacks on Cultural Heritage or properties in the case Prosecutor v. Radislav Krstić. For the complete decision, please proceed to: <http://www.icty.org/x/cases/krstic/acjug/en/krs-aj040419e.pdf>.

²¹⁶ GOMES, 2015; HILL, 2016

²¹⁷ ISIS methods of war can relate to new wars warfare: violent attacks, territorial size through population displacement widespread violence against civilians, and politics of fear and hatred, highlighted by the globalization technology (KALDOR, 2012; HILL, 2016)

The provision of Cultural Genocide as a crime would then represent a major step towards the protection of vulnerable groups and cultural identity during an armed conflict, under the International Criminal Law and the IHL. This provision would also enforce the protection of cultural tangible and intangible heritage as an affirmation of identity and the very existence of the diverse groups, communities, and the mankind²¹⁸.

²¹⁸ GOMES, 2015

5. CONCLUSION

The concept of Cultural Genocide was firstly proposed by Polish Raphael Lemkin in the context of World Wars, as a crime that attempts to destroy the identity of a certain people. With globalization, wars have gained a new dynamic, characterized by a "new type of organized violence"²¹⁹. According to Mary Kaldor, this new type of organized violence is called a "New War"²²⁰, and it was perceived during the Bosnian conflict in 1992. The Bosnian war was a paradigmatic case to the new wars theory, as it exceeds the old assumptions of what was known as a war. In this way, "the term 'new' is a way to exclude 'old' assumptions about the nature of war and to provide the basis for a novel research methodology"²²¹.

During the Bosnian war, it was possible to notice different patterns of actors, goals, methods and financing system of war²²². There were, however, three new wars' characteristics that guided this work: the politics of identity, the decentralization of violence, the globalized war economy²²³. They were related to: (i) a logic of labelling and eliminating the difference through identity politics — when the rise of power is done in the name of one specific group and detriment to another; (ii) the combination of different state and non-state actors fighting the war; and (iii) the different patterns of predatory economies in the form of parallel and informal economy — looting, robbery, pillage, diversion of humanitarian aid, intensification of black market, prostitution of women and children, human trafficking²²⁴, and diaspora external assistance. All of them were highlighted by the globalization and the weakening of the state, as well as used to finance the war through the logic of identity politics²²⁵.

Bearing in mind the elements of new wars, analyzed in Chapter 1, the rise of Islamic State in 2014 was followed by the destruction of Cultural Heritage in Syria, drawing attention to the annihilation of the region's cultural identity. The group destroyed UNESCO World Heritage sites, as Palmyra and Aleppo, documenting through video footages the damages as a means of spreading fear and hatred in the region²²⁶. This can relate to the new wars concept of identity politics, as there

²¹⁹ KALDOR, 2012, p. 1

²²⁰ Ibidem

²²¹ KALDOR, 2013, P. 3

²²² KALDOR, 2013

²²³ KALDOR, 2012, p. 185

²²⁴ Ibidem; LEATHERMAN, 2011; GULMOHAMAD, 2014

²²⁵ KALDOR, 2012

²²⁶ HILL, 2016

were also massive ISIS acts perpetrated in order to displace the population, being the destruction of Cultural Heritage one of those methods. In this way, the identity politics of Daesh can be translated as a form of conquering territories, built on the idea of labelling and targeting Syrian identity, claiming the power based on ISIS particularistic interpretation of Islam²²⁷.

Along these lines, the social and broadcast media was commonly used by Daesh to influence diaspora groups worldwide, sharing daily life routine to a radical interpretation of Islam²²⁸. The ISIS communication channel was very intense, contributing to the role of diaspora groups in spreading a portrait of ISIS exclusivist identity as well. Also, diaspora groups were important because they helped the Islamic State through a new war financing web²²⁹.

Besides, the Syrian conflict had numerous actors fighting the war, such as state and non-state actors, involving from Syrian government members to ethnic minorities, as well international actors - such as the U.S., Russia, Middle East and European countries - and jihadists, rebels, and other groups. This background led to a decentralized violence in the conflict across the region, contributing to the complexity of the Syrian war²³⁰.

Considering this complexity and ISIS intentional destruction of Cultural Heritage as a way of erasing traces from Syrian diverse culture, this work aimed at highlighting the importance of protecting Cultural Heritage during armed conflicts through international mechanisms²³¹, especially through the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage; the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage; and the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict²³².

The importance of protecting Cultural Heritage during armed conflicts surpass a material loss, but relates to (i) an abstract approach, referring to the identity of a certain group or the mankind; (ii) the strategic, in which the protection of cultural properties can prevent the looting, trafficking and financing of parties to the conflict, and, at the same time, it can prevent the arise of

²²⁷ KALDOR, 2012; HILL, 2016

²²⁸ DASTMALCHI, 2018; HENLEY, 2018

²²⁹ KALDOR, 2012; DASTMALCHI, 2018; HENLEY, 2018

²³⁰ U.S. DEPARTMENT OF STATE, 2016

²³¹ HILL, 2016

²³² FINLAND, s.d.

hostility in war by the propaganda of fear and hatred in the region; and (iii) a legal approach, referring to a state or individual responsibility²³³.

When facing the recent conviction of Al Mahdi by the ICC, it is possible to notice that Cultural Heritage has gained more significance throughout the time. Since the end of World Wars, the destruction of cultural landmarks only served as evidence or enforcement of other convictions, mostly regarding war crimes or crimes against humanity²³⁴. Even so, there has not been a conviction of non-state actors or individuals by international court systems solely regarding the destruction of Cultural Heritage as a war crime. In 2016, however, the International Court has decided following a different pattern in the case Prosecutor v. Ahmad Al Faqi Al Mahdi. Al Mahdi, a member of a terrorist group, was found guilty for destroying Cultural Heritage in Timbuktu, Mali, considered the destruction a war crime²³⁵.

However, considering the context of a different dynamics of war through the identity politics, the conviction of Al Mahdi could possibly serve as a basis to open the discussions about the intentional destruction of Cultural Heritage by non-state actors or terrorist groups during an armed conflict. Especially in the cases of intentional destruction of Cultural Heritage that have a genocidal purpose of erasing or annihilating a group identity, totally or in part²³⁶.

Acts committed with the intent to destroy, in a whole or in part, some group for ethnic, religious and/or identity reasons are typified as genocide by International Conventions. Yet, the destruction of cultural heritage with the intention of erasing cultural traits of a people's identity does not yet constitute a crime of cultural genocide²³⁷. According to the understanding of international tribunals, the destruction of cultural heritage serves only as evidence to prove other crimes, such as war crimes and crimes against humanity. The condemnation of Al-Mahdi in 2016 for the crime of destruction of cultural heritage may, nevertheless, be a determining factor in thinking about the importance of protecting cultural identity and hold accountable those guilty in the Syrian conflict, especially the Islamic State. In this way, the analysis of the term Cultural Genocide is essential in this context, as a means of enforcing the importance of protecting the identity of a group, community and the whole mankind²³⁸.

²³³ O'KEEFE *et al.*, 2016

²³⁴ ICTY, 2001; ICTY, s.d.b.

²³⁵ ICTY, 2001; COLLINS, 2016

²³⁶ COLLINS, 2016; GOMES, 2015

²³⁷ GOMES, 2015

²³⁸ GOMES, 2015; COLLINS 2016.

To conclude, as the term “new” in the new war concept was thought as a way of excluding “old assumptions about the nature of war”²³⁹, the concept of Cultural Genocide could be a way of excluding old assumptions of Genocide.

²³⁹ KALDOR, 2013, p.3

6. REFERENCES

BALKANS WAR: A BRIEF GUIDE. **BBC**. March, 2016. Retrieved from: <<http://www.bbc.com/news/world-europe-17632399>>. Accessed on March 28, 2018.

BARNARD, A. ISIS Speeds Up Destruction of Antiquities in Syria. August, 2015. **The New York Times** - Middle East section. Retrieved from: <<https://www.nytimes.com/2015/08/25/world/isis-accelerates-destruction-of-antiquities-in-syria.html>>. Accessed on June 6, 2018.

BASSAM, L. After siege, Aleppo's famed Umayyad Mosque is damaged but endures. 2016 **Reuters**. Retrieved from: <<https://www.reuters.com/article/uk-mideast-crisis-syria-mosque-idUSKBN1430UD>>. Accessed on June 6, 2018.

BHARDWAJ, M. Development of Conflict in Arab Spring Libya and Syria: From Revolution to Civil War. **The Washington University International Review**, Vol. 1, Spring 2012, pp. 56-75. Retrieved from: <http://pages.wustl.edu/files/pages/imce/migration/wuir_spring_2012.pdf#page=76>. Accessed on April 9, 2018.

BUFFENSTEIN, A. A Monumental Loss: Here Are the Most Significant Cultural Heritage Sites That ISIS Has Destroyed to Date - Cultural heritage sites continue to be casualties of the ongoing Syrian Civil War. 2017. **Artnet news** - Art World. Retrieved from: <<https://news.artnet.com/art-world/isis-cultural-heritage-sites-destroyed-950060>>. Accessed on May 27, 2018.

CENTRAL INTELLIGENCE AGENCY [CIA]. **Ethnic Groups in Yugoslavia**. 1992. Making the History of 1989. Retrieved from: <<http://chnm.gmu.edu/1989/items/show/170>>. Accessed on April 9, 2018.

COLLINS, L. **Protecting Cultural Heritage: The International Criminal Court's Prosecution of Destruction of Cultural Property**. Human Rights Brief. American University. November 5th, 2016. Retrieved from: <<http://hrbrief.org/hearings/protecting-cultural-heritage-international-criminal-courts-prosecution-destruction-cultural-property/>>. Accessed on June 10, 2018.

CONNABLE, B.; LANDER, N.; JACKSON, K. **Beating the Islamic State: Selecting a New Strategy for Iraq and Syria**. National Defense Research Institute. RAND Corporation, Santa Monica, California, 2017. Retrieved from: <https://www.rand.org/content/dam/rand/pubs/research_reports/RR1500/RR1562/RAND_RR1562.pdf>. Accessed on April 10, 2018.

CROWCROFT, O. Isis: Worst refugee crisis in a generation as millions flee Islamic State in Iraq and Syria. **International Business Times**. Human Rights. June 2015. Retrieved from: <<https://www.ibtimes.co.uk/isis-worst-refugee-crisis-generation-millions-flee-islamic-state-iraq-syria-1506613>>. Accessed on May 24, 2018.

CUNO, J. **ISIS and the Threat to Our Cultural Heritage: What Can the World Do? A Five-Point Proposal**. The Eighteenth Horst Gerson Lecture held in memory of Horst Gerson

(1907-1978) in the aula of the University of Groningen on the 8th of October 2015. The Gerson Lectures Foundation, 2015. Retrieved from: <<https://www.rug.nl/let/organization/bestuur-afdelingen-en-medewerkers/afdelingen/afdeling-kunstgeschiedenis/horst-gerson-lectures/gersonlezing.pdf>>. Accessed on May 18, 2018.

CURRY, A. **Here Are the Ancient Sites ISIS Has Damaged and Destroyed.** 2015. National Geographic. Retrieved from: <<https://news.nationalgeographic.com/2015/09/150901-isis-destruction-looting-ancient-sites-iraq-syria-archaeology/>>. Accessed on June 5, 2018.

DAOUDY, M. The structure-identity nexus: Syria and Turkey's collapse (2011). **Cambridge Review of International Affairs**, v. 293, n. 3, p. 1074–1096, 2011. Retrieved from: <<http://www.tandfonline.com/action/journalInformation?journalCode=ccam20>>. Accessed on May 16, 2018.

DASTMALCHI, J. The rise and fall of Islamic State's propaganda machine. 2018. **BBC**. Retrieved from: <<http://www.bbc.com/news/av/world-middle-east-42824374/the-rise-and-fall-of-islamic-state-s-propaganda-machine>>. Accessed on May 23, 2018.

DIRECTORATE-GENERAL OF ANTIQUITIES & MUSEUMS [DGAM]. **Damage to the Tetrastyle as seen on March 2, 2017.** 2017. ASOR Cultural Heritage Initiatives. Retrieved from: <<http://www.asor-syrianheritage.org/update-palmyra-new-photographs-detail-damage-to-the-unesco-world-heritage-site-of-palmyra/>>. Accessed on June 7, 2018.

EPPS, V. Civilian Casualties in Modern Warfare: The Death of the Collateral Damage Rule. **Georgia Journal of International and Comparative Law**, vol. 37, pp. 307-355. August, 2013. Retrieved from: <<http://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1036&context=gjicl>>. Accessed on April 25, 2018.

FINLAND, Ministry of Education and Culture. **International conventions related to cultural heritage.** Finland, (s.d.). Retrieved from: <<http://minedu.fi/en/international-conventions-related-to-cultural-heritage>>. Accessed on June 8, 2018.

FRIGO, M. **Cultural property v. cultural heritage: A “battle of concepts” in international law?** International Committee of the Red Cross [ICRC], June 2004, Vol. 86 No 854. Retrieved from: <<https://www.icrc.org/en/international-review/article/cultural-property-v-cultural-heritage-battle-concepts-international-law>>. Accessed on June 8, 2018.

FUND FOR PEACE. **Indicators.** 2017. Retrieved from: <<http://fundforpeace.org/fsi/indicators/>>. Access on May 3, 2018.

GAGNON, B. **File: Roman theatre of Palmyra 02.jpg.** Wikimedia Commons. December 2, 2010. Retrieved from: <https://commons.wikimedia.org/wiki/File:Roman_theatre_of_Palmyra_02.jpg>. Accessed on June 7, 2018.

GLASS, C. **Syria's Druze Maintain a Difficult Neutrality**. Stratfor Worldview. April 2018. Retrieved from: <<https://worldview.stratfor.com/article/syria-druze-maintain-difficult-neutrality>>. Accessed on May 16, 2018.

GOMES, I. M. S. **A Protecção Internacional do Património Cultural em Caso de Conflito Armado**. 124 fls. Master's Thesis, in the Area of Specialization in Legal Sciences/ Mention in International Law and in the Faculty of Law of the University of Coimbra. Coimbra - Portugal, 2015. Retrieved from: <<https://estudogeral.sib.uc.pt/bitstream/10316/30151/1/A%20proteccao%20internacional%20do%20patrimonio%20cultural%20em%20caso%20de%20conflito%20armado.pdf>>. Accessed on June 14, 2018.

GULMOHAMAD, Z. K. The Rise and Fall of the Islamic State of Iraq and Al-Sham (Levant) ISIS. **Global Security Studies**, Spring 2014, Volume 5, Issue 2. Department of Politics - University of Sheffield. Retrieved from: <<http://www.globalsecuritystudies.com/Gulmonhamad%20ISIS%20AG.pdf>>. Accessed on May 22, 2018.

HARMANSAH, O. ISIS, heritage, and the spectacles of destruction in the global media. **Near Eastern Archaeology**, Vol. 78, No. 3, Special Issue: The Cultural Heritage Crisis in the Middle East (September 2015), pp. 170-177. Retrieved from: <<https://www.jstor.org/stable/pdf/10.5615/neareastarch.78.3.0170.pdf?refreqid=excelsior%3A58ab418f2a6f00d6ab7d62a0fc95374c>>. Accessed on June 7, 2018.

HENDERSON, E. Syria's six Unesco World Heritage Sites all damaged or destroyed during civil war. **Independent**. Middle East section. March 16, 2016. Retrieved from: <<https://www.independent.co.uk/news/world/middle-east/syrias-six-unesco-world-heritage-sites-all-damaged-or-destroyed-during-civil-war-a6934026.html>>. Accessed on June 6, 2018.

HENLEY, J. US-EU operation deals blow to Isis propaganda machine. **The Guardian**. April 2018. Retrieved from: <<https://www.theguardian.com/world/2018/apr/27/isis-media-outlets-immobilised-us-eu-amaq>>. Accessed on May 23, 2018.

HILL, C. V. Killing a Culture: The Intentional Destruction of Cultural Heritage in Iraq and Syria under International Law, **Georgia Journal of International and Comparative Law**, 2016. Retrieved from: <<http://digitalcommons.law.uga.edu/gjicl/vol45/iss1/7>>. Accessed on May 16, 2018.

INTERNATIONAL COMMITTEE OF THE RED CROSS [ICRC]. **Military Necessity. How does Law Protect in War?** Casebook. [s.d.a]. Retrieved from: <<https://casebook.icrc.org/glossary/military-necessity>>. Accessed on June 13, 2018.

ICRC. **Principle of Distinction. How does Law Protect in War?** Casebook. [s.d.b]. Retrieved from: <<https://casebook.icrc.org/law/principle-distinction>>. Accessed on April 27, 2018.

ICRC. **Protocols additional to the Geneva Conventions of 12 august 1949**. May 2010. Retrieved from: <https://www.icrc.org/eng/assets/files/other/icrc_002_0321.pdf>. Accessed on April 29, 2018.

ICRC. **What is International Humanitarian Law?**. Advisory Service on International Humanitarian Law. July, 2004. Retrieved from: <https://www.icrc.org/eng/assets/files/other/what_is_ihl.pdf>. Accessed on April 27, 2018.

INTERNATIONAL CRIMINAL COURT [ICC]. **Case Information Sheet - Situation in the Republic of Mali The Prosecutor v. Ahmad Al Faqi Al Mahdi**. March 20, 2018. Retrieved from: <<https://www.icc-cpi.int/mali/al-mahdi/Documents/Al-MahdiEng.pdf>>. Accessed on June 10, 2018.

ICC. **Situation in the Republic of Mali in the case of the Prosecutor v. Ahmad Al Faqi Al Mahdi**. Public Sentence and Judgment, Trial Chamber VII, ICC-01/12-01/15. 27 September 2016. Retrieved from: <https://www.icc-cpi.int/CourtRecords/CR2016_07244.PDF>. Accessed on June 13, 2018.

INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA [ICTY]. **Dubrovnik and Crimes against Cultural Heritage**. (s.d.a.). Outreach section. Retrieved from: <<http://www.icty.org/en/outreach/documentaries/dubrovnik-and-crimes-against-cultural-heritage>>. Accessed on June 10, 2018.

ICTY. **Full Contents of the Dubrovnik Indictment made Public**. Press Release. The Hague, 2 October 2001. Retrieved from: <<http://www.icty.org/en/press/full-contents-dubrovnik-indictment-made-public>>. Accessed on June 10, 2018.

ICTY. **Indictment - Case No. IT-01-51-I**. November 2011. Retrieved from: <http://www.icty.org/x/cases/slobodan_milosevic/ind/en/mil-ii011122e.htm>. Accessed on April 10, 2018.

ICTY. **Prosecutor. Radislav Krstić**. Judgement, pp. 1-136. 19 April 2004. Retrieved from: <<http://www.icty.org/x/cases/krstic/acjug/en/krs-aj040419e.pdf>>. Accessed on June 14, 2018.

ICTY. **The Conflicts**. (s.d.b). Retrieved from: <<http://www.icty.org/en/about/what-former-yugoslavia/conflicts>>. Accessed on April 7, 2018.

ISLAMIC STATE AND THE CRISIS IN IRAQ AND SYRIA IN MAPS. **BBC**. March 2018. Retrieved from: <<http://www.bbc.com/news/world-middle-east-27838034>>. Accessed on May 18, 2018.

KIMBALL, D. **Timeline of Syrian Chemical Weapons Activity**, 2012-2018. Arms Control Association. April 2018. Retrieved from: <<https://www.armscontrol.org/factsheets/Timeline-of-Syrian-Chemical-Weapons-Activity>>. Accessed on May 17, 2018.

LAUB, Z. **Who's Who in Syria's Civil War**. Council on Foreign Relations. April, 2018. Retrieved from: <<https://www.cfr.org/background/whos-who-syrias-civil-war>>. Accessed on May 16, 2018.

LAWYERS COMMITTEE FOR CULTURAL HERITAGE PRESERVATION [LCCHP]. **The Prosecutor v. Ahmad Al Faqi Al Mahdi: Cultural Property and World Heritage in International Criminal Law**. (s.d). pp. 1-35. Retrieved from: <<https://www.culturalheritagelaw.org/resources/Pictures/The%20Prosecutor%20v.%20Ahmad%20Al%20Faqi%20Al%20Mahdi.pdf>>. Accessed on June 13, 2018.

LEÃO, A. *et al.* "The Case Prosecutor v. Popovic et. al. and 20 years of the Srebrenica Genocide". In: CAMPBELL *at al* (Orgs). **Long-lasting Peaces: Overcoming the War-peace Hiatus for a Sustainable Future**. Editora Art Letras: Brasília. 2015.

LEATHERMAN, J. L. **Sexual Violence and Armed Conflict - War and Conflict in the Modern World**. Polity Press: Cambridge. 1st Edition. 2011.

LISTER, T. Bigger battles are rising from the ashes of the war on ISIS. **CNN**. October, 2017. Retrieved from: <<https://edition.cnn.com/2017/10/21/middleeast/war-on-isis-bigger-battles/index.html>>. Accessed on May 18, 2018.

KALDOR, M. In Defence of New Wars. **Stability: International Journal of Security and Development**. 2(1), p. Art. 4. 2013. Retrieved from: <<http://doi.org/10.5334/sta.at>>. Accessed on March 8, 2018.

KALDOR, M. **Organized Violence in a global era**. Stanford Press. 3rd Edition. 2012.

KANNIKE, E. M. The ethnic and Religious Groups of Syria 2016. Syrian Civil War Map. Retrieved from: <<https://syriancivilwarmap.com/ethnic-and-religious-groups-of-syria/>>. Accessed on May 16, 2018.

MARC, A. **Conflict and Violence in the 21st Century Current Trends as Observed in Empirical Research and Statistics**. 2016. World Bank Group - Fragility, Conflict & Violence. Retrieved from: <<https://www.un.org/pga/70/wp-content/uploads/sites/10/2016/01/Conflict-and-violence-in-the-21st-century-Current-trends-as-observed-in-empirical-research-and-statistics-Mr.-Alexandre-Marc-Chief-Specialist-Fragility-Conflict-and-Violence-World-Bank-Group.pdf>>. Accessed on April 24, 2018.

MARSH, B.; BURGESS, J. A Sectarian Patchwork: Distribution of ethnic groups in Syria. **The New York Times**. July 28, 2012. Retrieved from: <https://archive.nytimes.com/www.nytimes.com/interactive/2012/07/29/sunday-review/a-sectarian-patchwork.html?_r=4>. Accessed on June 14, 2018.

MILLIGAN, A. Targeting Cultural Property: the Role of International Law. **Princeton Journal of Public and International Affairs**, Vol. 19, Spring 2008, pp. 91-106. Princeton, New Jersey.

Retrieved from: <<https://jpia.princeton.edu/sites/jpia/files/2008-5.pdf>>. Accessed on June 10, 2018.

O'KEEFE, R; PÉRON, C; MUSAYEV, T; FERRARI, G. **Military Manual Protection of Cultural Property**. UNESCO. Paris, France and Sanremo, Italy. 2016. Retrieved from: <<http://unesdoc.unesco.org/images/0024/002466/246633e.pdf>>. Accessed on June 9, 2018.

PLÉIADEs *et. al.* **Temple of Bel, Palmyra, on 27 August 2015, before its destruction/after its destruction**. UNESCO. 2015. Retrieved from: <<https://en.unesco.org/photo-galleries/26278>>. Accessed on June 5, 2018.

PROSECUTOR v. Ahmad Al Faqi Al Mahdi. **Harvard Law Review**, Public International Law. May 10, 2017, 130 Harv. L. Rev. 1978. Retrieved from: <<https://harvardlawreview.org/2017/05/prosecutor-v-ahmad-al-faqi-al-mahdi/>>. Accessed on June 12, 2018.

RAUF, E. **Ethnic Complexities of the Syrian Conflict**. *Northeastern University Political Review*. November, 2012. Retrieved from: <<http://www.nupoliticalreview.com/2012/11/08/ethnic-complexities-of-the-syrian-conflict/>>. Accessed on May 16, 2018.a

REFUGEE SPONSORSHIP TRAINING PROGRAM. **Population Profile: The Yazidis**. Immigration, Refugees and Citizenship Canada. February 2017. Retrieved from: <<http://www.rstp.ca/wp-content/uploads/2016/07/Yazidi-Population-Profile-February-2017.pdf>>. Accessed on May 24, 2018.

RHARADE, L. **Syria, Destruction of Cultural Heritage**. How Does Law protect in war? - Online Casebook ICRC. May 2017. Retrieved from: <<https://casebook.icrc.org/case-study/syria-destruction-cultural-heritage>>. Accessed on May 27, 2018.

ROBERTS, Adam. Lives and Statistics: Are 90% of War Victims Civilians?. **Survival**, [s.l.], v. 52, n. 3, p.115-136, 2 jun. 2010. Informa UK Limited. <http://dx.doi.org/10.1080/00396338.2010.494880>. Retrieved from: <https://weblearn.ox.ac.uk/access/content/user/1044/Survival_Jun-Jul_2010_-_AR_on_lives_statistics_-_non-printable.pdf>. Accessed on April 24, 2018.

RODRIGUES, J. 1982: Syria's President Hafez al-Assad crushes rebellion in Hama. **The Guardian**. August, 2011. Retrieved from: <<https://www.theguardian.com/theguardian/from-the-archive-blog/2011/aug/01/hama-syria-massacre-1982-archive>>. Accessed on May 19, 2018.

SYRIA'S CIVIL war explained from the beginning. **Al Jazeera**. April 2018. Retrieved from: <<https://www.aljazeera.com/news/2016/05/syria-civil-war-explained-160505084119966.html>>. Accessed on May 17, 2018.

UNITED NATIONS [UN]. **Convention on the Prevention and Punishment of the Crime of Genocide. Adopted by the General Assembly of the United Nations on 9 December 1948**. 12 January 1951, Vol. 78, No. 1021, English. Retrieved from:

<<https://treaties.un.org/doc/publication/unts/volume%2078/volume-78-i-1021-english.pdf>>. Accessed on June 14, 2018.

UN. Statement by UN Secretary-General Ban Ki-moon, UNESCO Director-General Irina Bokova and UN and League of Arab States Joint Special Representative for Syria Lakhdar Brahimi: The destruction of Syria's cultural heritage must stop. March 2014. Retrieved from: <<https://www.un.org/sg/en/content/sg/statement/2014-03-12/statement-un-secretary-general-ban-ki-moon-unesco-director-general>>. Accessed on June 5, 2018.

UNITED NATIONS EDUCATIONAL SCIENTIFIC AND CULTURAL ORGANIZATION [UNESCO]. **1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.** Conventions and Protocols. (2017a). Retrieved from: <<http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/convention-and-protocols/1954-hague-convention/>>. Accessed on June 8, 2018.

UNESCO. **Convention Concerning the Protection of the World Cultural and Natural Heritage.** November 16, 1972. Paris, França. Retrieved from: <<https://whc.unesco.org/archive/convention-en.pdf>>. Accessed on June 8, 2018.

UNESCO. **Convention for the Safeguarding of the Intangible Cultural Heritage.** 2003. Retrieved from: <<https://ich.unesco.org/en/convention>>. Accessed on June 8, 2018.

UNESCO. **Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954.** 14 May 1954. The Hague. Retrieved from: <http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html>. Accessed on June 8, 2018.

UNESCO. **Gallery: Heritage at Risk in the World.** (s.d.b). Retrieved from: <<https://en.unesco.org/photo-galleries/26278>>. Accessed on May 27, 2018.

UNESCO. **Operational Guidelines for the Implementation of the World Heritage Convention,** July 2012, World Heritage Centre 12/01. Retrieved from: <<https://whc.unesco.org/archive/opguide12-en.pdf>>. Accessed on June 8, 2018.

UNESCO. **Tangible Cultural Heritage.** Culture. (2017b). Retrieved from: <<http://www.unesco.org/new/en/cairo/culture/tangible-cultural-heritage/>>. Accessed on June 8, 2018.

UNESCO. **The World Heritage Convention.** (s.d.c). Retrieved from: <<https://whc.unesco.org/en/convention/>>. Accessed on June 8, 2018.

UNESCO. **World Heritage List.** (s.d.d). Retrieved from: <<https://whc.unesco.org/en/list/>>. Accessed on May 27, 2018.

UNESCO. **What is meant by "cultural heritage"?**. (s.d.e). Retrieved from: <<http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/unesco-database-of-national-cultural-heritage-laws/frequently-asked-questions/definition-of-the-cultural-heritage/>>. Accessed on May 27, 2018.

UNITED NATIONS SECURITY COUNCIL [UNSC]. **Fourth report of the Secretary-General on the threat posed by ISIL (Da'esh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat (S/2017/97)**. February 2017. Retrieved from: <http://www.un.org/ga/search/view_doc.asp?symbol=S/2017/97>. Accessed on May 24, 2018.

UNSC. **Letter dated 17 January 2018 from the Chair of the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011), and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities addressed to the President of the Security Council (S/2018/14)**. January 2018. Retrieved from <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2018/14>. Accessed on May 24, 2018.

UNSC. **Letter dated 24 may 1994 from the Secretary-General to the president of the Security Council**, 1994. Retrieved from: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/1994/674>. Accessed on March 23, 2018.

UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES [UNHCR]. **Figures at a Glance - Statistical Yearbooks**. June 2017. Retrieved from: <<http://www.unhcr.org/figures-at-a-glance.html>>. Accessed on April 25, 2018.

UNITED STATES HOLOCAUST MEMORIAL MUSEUM (USHMM). **International Military Tribunal at Nuremberg**. (s.d.). Holocaust Encyclopedia. Retrieved fom: <<https://www.ushmm.org/wlc/en/article.php?ModuleId=10007069>>. Accessed on June, 13.

U.S. DEPARTMENT OF STATE. **International Religious Freedom Report - Syria**. 2016. Bureau of Democracy, Human Rights and Labor. Retrieved from: <<https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2016&dclid=268914#wrapper>>. Accessed on May 18, 2018.

VAN OERS, R. **Site of Palmyra (Syrian Arab Republic)**. (s.d.). UNESCO. Retrieved from: <<https://whc.unesco.org/en/documents/107726>>. Accessed on June 7, 2018.

VRDOLJAK, A. F. **The Criminalisation of the Intentional Destruction of Cultural Heritage. From the Selected Works of Ana Filipa Vrdoljak**. University of Technology, Sydney, p. 1–27, 2016. Retrieved from: <http://works.bepress.com/ana_filipa_vrdoljak/38/>. Accessed on June 13, 2018.

WHAT IS LEFT OF ISIL'S 'CALIPHATE'?. Al Jazeera. August, 2017. Retrieved from: <<https://www.aljazeera.com/news/2017/08/left-isil-caliphate-170831155337858.html>>. Accessed on May 21, 2018.

WHO ARE THE KURDS?. Al Jazeera. October 2017. Retrieved from:
<<https://www.aljazeera.com/news/2017/05/kurds-170516072934887.html>>. Accessed on May 16,
2018.

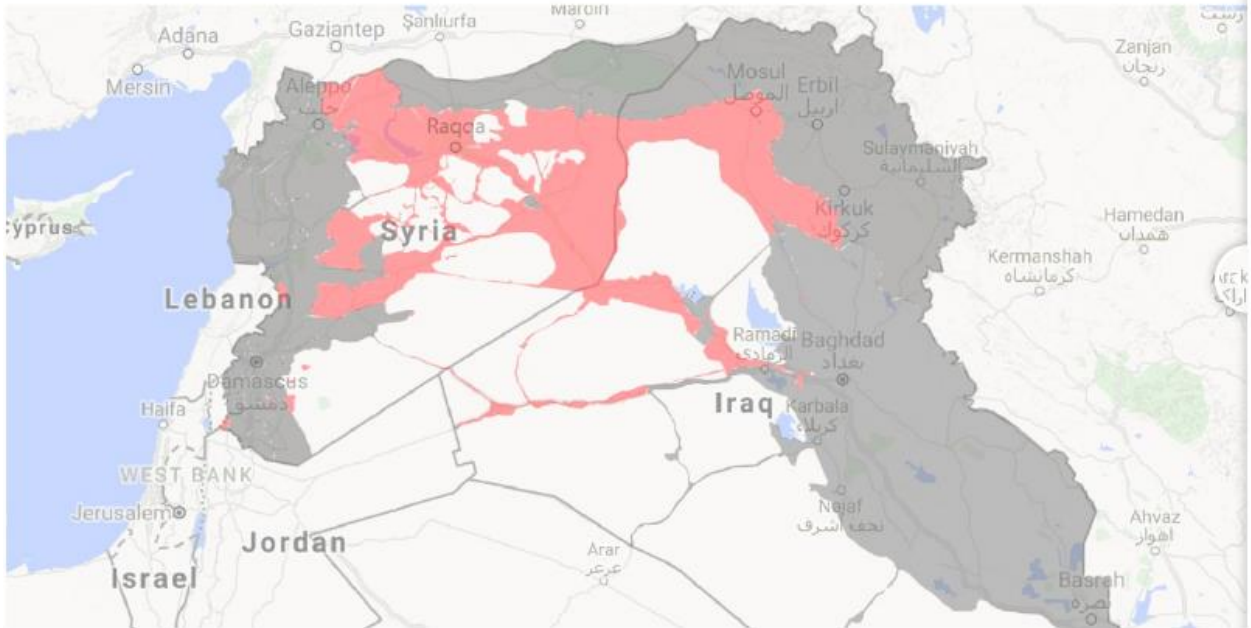
7. APPENDIX

ANNEX 1: ISIS territory control map

January, 2016

ISIS controlled territories

■ ISIS control ■ Controlled by others

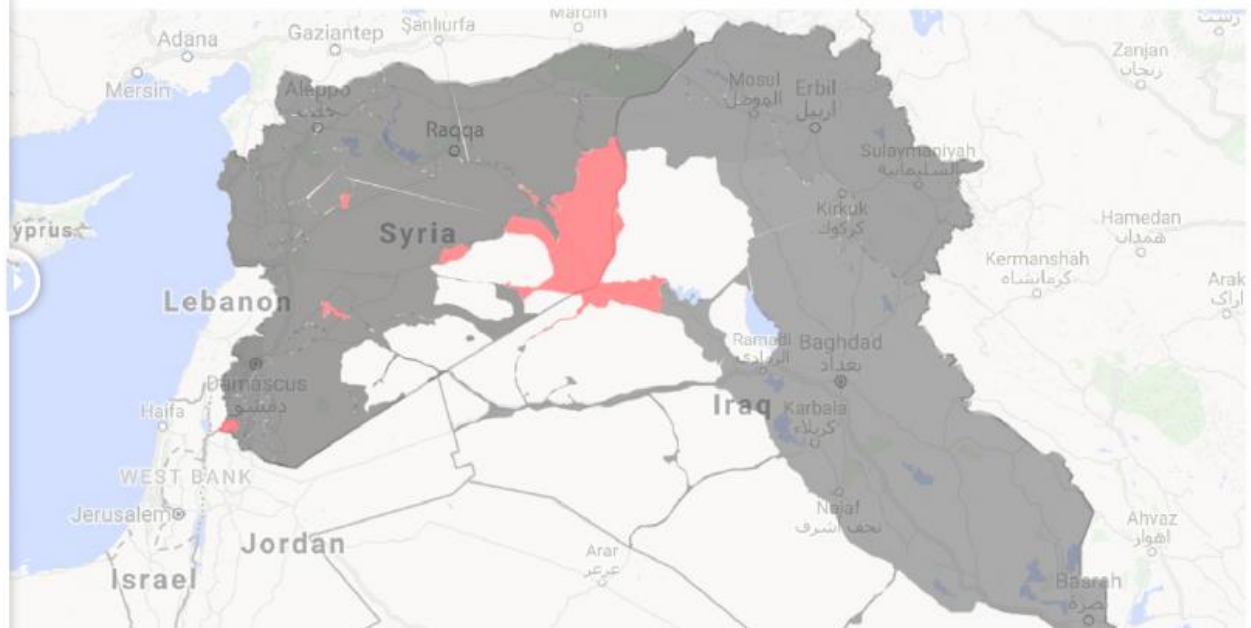


IHS CONFLICT MONITOR

October, 2017

ISIS controlled territories

■ ISIS control ■ Controlled by others

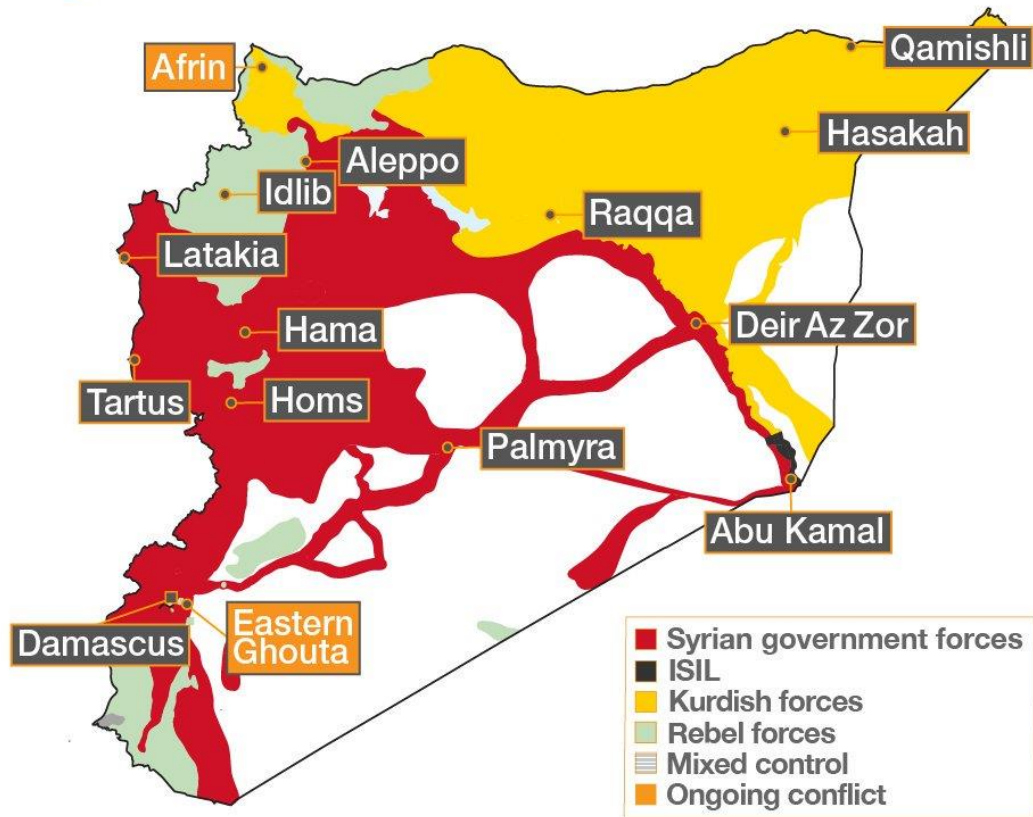


IHS CONFLICT MONITOR

SOURCE: LISTER, 2017.

ANNEX 2: Syria map in February 2018

Syria: Who controls what?



Source: Institute for the Study of War, South Front
Updated: February 21, 2018



SOURCE: SYRIA'S CIVIL war explained from the beginning, 2018