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Weaponizing Memory: The Legal Implications of Russia's Monument Policy on Occupied Territories of Ukraine

Abstract

This article explores Russia's use of monuments as tools of ideological control in occupied Ukrainian territories following the 2022 invasion. Focusing on the removal, alteration, or erection of monuments and the reconfiguration of symbolic space, the study situates these actions within the frameworks of international humanitarian law and international human rights law. The article argues that by dismantling Ukrainian memorials and restoring Soviet symbols, Russia seeks to rewrite historical memory and impose its narrative, thus violating the conservationist principle of occupation and undermining cultural rights. Drawing on the concepts of memocide and identicide, it calls for stronger legal safeguards to protect national memory and cultural identity under occupation in contemporary armed conflicts.

KEYWORDS: memory laws, identicide, monument policy, memocide, Ukraine, Russia, occupation

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*The dead are dead. We know that.
But if you don't have the memory of the past,
the rest of us can't continue living.^[1]*

1 | Introduction

As early as the 18th century, Emer de Vattel noted that the “wilful destruction of public monuments, temples, tombs, statues, paintings, etc.” was “absolutely condemned, even by the voluntary law of nations, as never being conducive to the rightful object of war.”^[2] However, the destruction of memory sites remains relevant also in the 21st century, and as the case of the Russo-Ukrainian war demonstrates, it is part of both a political process called “memory wars” and of more conventional warfare. The term “memory wars” was introduced by Nikolay Koposov to describe the interstate process of adopting memory laws^[3] with contradicting narratives. According to Koposov, the Russian case “convincingly demonstrates the changing nature of legislation on the issues of the past” that can “potentially lead to shooting wars.”^[4] This “shooting war” openly started on 24 February 2022,^[5] when the Russian Federation announced the launch of the so-called “Special Military Operation” with the purported aim of the “denazification”

¹ Quoted in Marc Lacey, “Cultural riches turn to rubble in Haiti quake” *New York Times*, January 23, 2010, taken from the UN Human Rights Council Report of the Special Rapporteur in the Field of Cultural Rights, UN Doc. A/HRC/31/59 (February 3, 2016).

² Emer de Vattel, *Le Droit des Gens, ou Principes de la Loi Naturelle, appliqués à la Conduite et aux Affaires des Nations et des Souverains* (text of 1758) (Carnegie Institution, 1916), book III, 143-4. The translations from Vattel are the author’s [in:] Roger O’Keefe, “Protection of Cultural Property under International Criminal Law” *Melbourne Journal of International Law* 11 (2010): 339-392.

³ “Memory laws” are defined as “state-approved interpretations of crucial historical events” which “promote certain narratives about the past” by banning totalitarian ideologies or criminalizing expressions that deny past atrocities. Council of Europe, *Factsheet on Memory Laws*, July 2018, <https://rm.coe.int/factsheet-on-memory-laws-july2018-docx/16808c1690>.

⁴ Nikolay Koposov, *Memory Laws, Memory Wars: The Politics of the Past in Europe and Russia*, 1st ed. (Cambridge: Cambridge University Press, 2017), 45.

⁵ Albeit the armed conflict itself has been ongoing since the 2014 occupation of Crimea and military operation in the Donbas region.

of Ukraine.^[6] This unjust invasion^[7] was later misrepresented as a humanitarian intervention,^[8] which also aimed at “righting” historical wrongs and in actuality – imposing its politics of remembrance on a neighboring nation.

A clear link between the Russian politics of memory and the current armed conflict with Ukraine can easily be established, as most of Russia’s memory laws enforcing an exclusively heroic interpretation of the USSR’s role in the “Great Patriotic War” (1941-1945)^[9] were introduced in the aftermath of the purported annexation of Crimea and the invasion of Donbas in 2014. After the 2020 Constitutional amendments proclaiming Russia as USSR’s successor, it now views itself as a legal guardian of the “correct historical interpretation” of the heroic memory of the “Great Patriotic War” while any contradictory outlook is deemed potentially offensive and hostile.^[10] This also concerns the preservation and protection of relevant monuments, which is deemed part of Russia’s broader information warfare program targeting Ukraine and former members of the Soviet Union.^[11]

⁶ President of Russia, *Address by the President of the Russian Federation*, February 24, 2022, <http://en.kremlin.ru/events/president/news/67843>. The Russian outlet RiaNovosti also published an article explaining how this “denazification” should be conducted, which in practice means a nearly full destruction of Ukrainian identity. The translated version is available here: Timofey Sergeytsev, “What Should Russia Do with Ukraine?” *The Ukrainian Post*, April 5, 2025, <https://ukrainianpost.com/opinions/272-what-should-russia-do-with-ukraine>.

⁷ United Nations General Assembly, *Resolution Adopted by the General Assembly on 2 March 2022: ES11/1. Aggression against Ukraine*, A/RES/ES11/1.

⁸ Francine Hirsch, “Putin’s Memory Laws Set the Stage for His War in Ukraine” *Lawfare*, February 28, 2022, <https://www.lawfareblog.com/putins-memory-laws-set-stage-his-war-ukraine>.

⁹ Within Russia, it is more common to use the term the “Great Patriotic War” (1941-45) starting with Hitler’s attack on the USSR as opposed to the WWII (1939-1945) due to the ambiguity of USSR’s involvement in Hitler’s partition of Poland – the fact which the current Russian government is desperately trying to conceal in order to preserve its exceptionally heroic role in saving the world from the “evils of Nazism.”

¹⁰ Lauri Mälksoo, “Patterns of Post-Soviet Russian State Practice in International Law,” [in:] *Russian Approaches to International Law*, ed. Lauri Mälksoo (Oxford: Oxford University Press, 2015), <https://doi.org/10.1093/acprof:oso/9780198723042.003.0004>.

¹¹ Daniel Shultz and Christopher Jasparro, “How Does Russia Exploit History and Cultural Heritage for Information Warfare? Recommendations for NATO” *Antiquities Coalition Think Tank Policy Brief* 11 (April 1, 2022), <https://acthinktank.scholasticahq.com/article/118601-how-does-russia-exploit-history-and-cultural-heritage-for-information-warfare-recommendations-for-nato>.

However, on the level of ideology, Russians have routinely attempted to justify the war by the need to reassert the unity of Russians and Ukrainians as a single Russian people, denying the Ukrainian state and culture the right to exist.^[12] As one UN expert noted “the questioning and denial of the Ukrainian identity and history as a justification for war, is a violation of the Ukrainians’ right to self-determination and their cultural rights.”^[13] This denial of identity is carried out through, inter alia, the deliberate destruction of existing monuments and the installation of new ones^[14] that promote Russia’s narrative of remembrance in the occupied territories of Ukraine.^[15]

In doing so, memory laws are applied extraterritorially and serve as instruments of Russia’s imperial policy, reshaping the memory landscape of Ukrainian lands. This article therefore presents a novel legal analysis of how memory laws are operationalized as an instrument of *jus in bello*, in particular in the context of belligerent occupation, and examines their extraterritorial application through the lens of international humanitarian law and cultural rights. While much has been written on memory laws and cultural heritage protection, there is a striking gap in legal scholarship concerning the use of state-imposed historical narratives as tools of occupation. This article addresses that gap by framing Russia’s manipulation of memory in Ukraine as a form of symbolic warfare and as a strategic component of contemporary occupation policy.

¹² Nadiia Koval and Oleksandra Gaidai, “The Destruction of Ukrainian Cultural Heritage during Russia’s Full-Scale Invasion in 2022” *CERI – Sciences Po*, <https://www.sciencespo.fr/ceri/fr/content/dossiersduceri/destruction-ukrainian-cultural-heritage-during-russia-s-full-scale-invasion-2022>.

¹³ “Cultural Destruction in Ukraine by Russian Forces Will Reverberate for Years, UN Rights Expert Warns” *UN News*, May 25, 2022, <https://news.un.org/en/story/2022/05/1119052>.

¹⁴ United Nations High Commissioner for Human Rights (OHCHR), *Report on the Russian Occupation of Ukraine and its Aftermath: Human Rights Situation during the Occupation 24 February 2022–31 December 2023*, March 20, 2024, paras. 137–138.

¹⁵ For example, the 2024 “State Cultural Policy Strategy until 2030” highlights that its key priorities include “the integration of new subjects of the Russian Federation” (meaning the occupied parts of Donetsk, Luhansk, Zaporizhzhia and Kherson regions into the Russian cultural and humanitarian space) and the “preservation of a unified Russian civic identity.” КонсультантПлюс, *Федеральный закон Российской Федерации “О внесении изменений в отдельные законодательные акты Российской Федерации” № 485-ФЗ от 2022 г.*, https://www.consultant.ru/document/cons_doc_LAW_485830/09efiff92a24b247084806b8964151e371af66b6/, [accessed 16.09.2025].

2 | Mnemonic Security as a Pretext for the Invasion and the Importance of Monuments

2.1. Mnemonic Security as a Pretext for the Invasion

Russian scholar Anatoliy Yefremenko explains that the 2022 invasion of Ukraine was, in fact, a matter of preserving “mnemonic security.”^[16] The mnemonic security dilemma, according to Yefremenko, was triggered by the fact that Ukraine’s historical policy began to be seen by the Kremlin as “a direct justification of steps designed to cause unacceptable damage to Russia’s geopolitical and economic interests, and undermin[ing] its credibility as the Soviet Union’s successor.” The massive demolition of Soviet-era monuments following the 2014 Revolution of Dignity in Ukraine was seen as one of the elements of the purported memory war with Russia,^[17] minimizing the possibility of promoting alternative (“pro-Russian”) interpretations of the historical past, which later resulted in a full-scale war launched by Russia in 2022.^[18]

Hence, the current development of Russia’s memory politics both internally and externally indicate a special approach within the *jus ad bellum* (Ukraine’s invasion is not even characterized as a “war” but a “special military operation”, and justified by the necessity to “denazify” a neighboring nation), and *jus in bello* regarding Russia’s policy on the occupied territories and subsequent interlinkage of IHL and IHRL to memory politics.

¹⁶ See also an earlier work by Yefremenko from 2019, where he ominously warns that Ukraine’s memory politics will position it as a “problem country” for Russia. Fyodor A. Lukyanov and Dmitry V. Yefremenko, “Politics of Memory, Kiev Style” *Global Affairs*, 2017, <https://eng.globalaffairs.ru/articles/politics-of-memory-kyiv-style/>.

¹⁷ Ministry of Foreign Affairs of the Russian Federation, *Report Regarding the Situation with the Desecration and Destruction of Monuments Dedicated to Those Who Fought against Nazism in the Years of World War II*, May 27, 2025, https://mid.ru/en/foreign_policy/reports/2014247/.

¹⁸ Dmitry V. Yefremenko, “Mnemonic Security Dilemma. Memory as *Casus Belli*” *Russia in Global Affairs* 20, No. 4 (2022): 142-164.

2.2. Mnemonic Security, Memory Laws and Monuments

The conduct of the occupying authorities in the newly occupied territories demonstrates the perceived urgency of reinstating the “correct” interpretation of history among the local population,^[19] reflecting Yefremenko’s concept of “mnemonic security.” Accordingly, the reshaping of the memory landscape must align with the Kremlin-sanctioned narrative and serve to justify the invasion as a mission to reverse the alleged distortions of the “glorious past” by Ukrainian authorities.

For example, in modern Ukraine, Soviet symbols in the public space are strongly associated with Russian imperial power.^[20] In the ongoing war, Russian propaganda has frequently claimed that the Ukrainian government is deliberately destroying monuments to any Russian presence in Ukraine, to the shared Soviet past, and especially to the Great Patriotic War of 1941-45.^[21] During the 2022 invasion, Russian media constructed visual parallels between the familiar symbolic canon of the Soviet liberation from Nazi rule during the Second World War and the narrative of liberating Ukraine from what was portrayed as a new Nazi regime.^[22]

The Russian occupation administrations are actively exploiting these historical tropes.^[23] In total, the Ukrainian outlet Texty.org identified 124 monuments erected in Ukraine’s occupied territories since the full-scale invasion, which perpetuate the memory of the Great Patriotic War or Soviet nostalgia in parallel to the so-called heroes of the Russo-Ukrainian war, and establish Russian historical narratives at those sites. Additionally, the occupational authorities demolish historical monuments that testify

¹⁹ OHCHR, *Report on the Russian Occupation*, 2024.

²⁰ Tatiana Zhurzhenko, “Krieg und Erinnerung im postsowjetischen Raum: Bewaffnung ohne Grenzen?” *Ukraine & Beyond – Körber-Stiftung*, March 29, 2022, <https://koerber-stiftung.de/projekte/ukraine-beyond/krieg-und-erinnerung-im-postsowjetischen-raum-bewaffnung-ohne-grenzen/>.

²¹ Ministry of Foreign Affairs of the Russian Federation, *Report on the Desecration of Monuments*, 2025.

²² Mischa Gabowitsch and Mykola Homanyuk, *Monuments and Territory: War Memorials in Russian-Occupied Ukraine* (Budapest/New York: CEU Press, 2025), 7.

²³ Anastasiia Vorobiova, “The ‘Crimea Scenario’: How the Russian Federation Is Destroying the Ukrainian Identity of Children in Territories” *Almenda*, <https://almenda.org/wp-content/uploads/2023/02/Analytical-report-The-‘Crimea-scenario-how-the-Russian-Federation-is-destroying-the-Ukrainian-identity-of-children-in-the-occupied-territories.pdf>, [accessed 20.02.2023].

to the Ukrainian people's struggle for freedom and independence, and erase "the very memory of the Ukrainian roots of these territories."^[24]

The symbolic nature of certain monuments associated with Russian imperial ambitions is confirmed by the fact that since Russia's full-scale invasion of Ukraine, EU states have actively engaged in the removal and relocation of Soviet monuments.^[25] Russia's State Duma even adopted a statement condemning the idea of dismantling the monument to the Soviet soldier-liberator Alyosha in the Bulgarian city of Plovdiv.^[26] As Russia's army occupies the Ukrainian territory, recasting the Soviet army as occupiers rather than liberators in the symbolic landscape has come to be seen as another way to push back against persisting Russian imperialism.^[27]

Hence, the reinstatement of Soviet and Russian monuments in the occupied territories is far from a purely symbolic gesture. These monuments function as markers of imperial power, asserting Russia's claim over the territory and signaling its inclusion within the Russian sphere of influence. By reshaping the so-called "memory landscape", the occupying authorities seek to inscribe a narrative of inherent "Russianness" while simultaneously erasing Ukraine's historical and cultural presence.

2.3. The 2022 Invasion and Changes to the Memory Landscape

The significance of monuments in city landscapes lies in the fact that positioning a monument is one of the most efficient ways to exercise political power and disseminate ideology. As signs of political power, monuments also have the potential to become signs of resistance and an object of political contestation. Monuments inscribe the significance and memory of the space in materiality, shaping how the landscape is read, and construct

²⁴ Serhii Mikhalkov and Nadia Kelm, "War on Pedestals: How Monuments Serve Propaganda in Modern Russia" *Texty.org.ua*, January 7, 2025, <https://texty.org.ua/articles/114168/war-on-pedestals-how-monuments-serve-russian-propaganda/>.

²⁵ Katie Stewart, "Erection and Demolition of Monuments in Russian East European Memory Wars" *PONARS Eurasia Policy Memo*, December 9, 2024, <https://www.ponarseurasia.org/erection-and-demolition-of-monuments-in-russian-east-european-memory-wars/>.

²⁶ State Duma of the Russian Federation, "Members of the State Duma Adopt Statement Condemning Initiative to Dismantle Soviet Era Monument" *State Duma News*, April 1, 2024, <https://duma.gov.ru/en/news/58628/>.

²⁷ Stewart, "Erection and Demolition of Monuments."

the interpretative space of identity.^[28] In the context of the current invasion, the occupation of Ukrainian territories is accompanied by a deliberate transformation of the memory landscape, aimed at restoring what the Russian state frames as the “correct” interpretation of history and shaping the new identity of the occupied territories.

The “memoryscape” is understood as “a landscape in which the memory (or memories, often in conflict with each other) of the community to which a given landscape belongs is materially and symbolically deposited.”^[29] The concept examines “the cultural construction of collective identities through the tangible sites at which shared historical consciousness is inculcated.”^[30] According to Boyer, a memoryscape is understood as a “schema-based biased reconstruction of autobiographical memories.”^[31] Changes to the memoryscape pertain to monument demolition/erection (for example, the destruction of a memorial to members of the Ukrainian military who died during Russia’s war against Ukraine prior to the full-scale invasion^[32] and the resurrection of Soviet monuments^[33] in Mariupol). In this way, Russia is presenting itself as a guardian of the “correct interpretation of history” and is trying to extraterritorially apply its memory laws on the occupied territories of Ukraine. Although the alteration of the “memoryscape” can be observed since the 2014 occupation of Crimea and Donbas, the 2022 invasion and occupation clearly demonstrate how Russia is eager to quickly change the memoryscape of the so-called “new territories.” Occupational Russian forces are systematically demolishing

²⁸ Solomon Lartey, “The Role of Monuments in Commemorating History and Controversies Surrounding Their Preservation” ResearchGate (preprint), September 2, 2024.

²⁹ “Memory of Landscape Archives” *Kulturowe Studia Krajobrazowe*, http://studiakrajobrazowe.amu.edu.pl/en/vocabulary_tag/memory-of-landscape/.

³⁰ Paul Basu, “Memoryscapes and Multi-Sited Methods,” [in:] *Research Methods for Memory Studies*, ed. Emily Knightley and Michael Pickering (Edinburgh: Edinburgh University Press, 2013), 115.

³¹ Pascal Boyer, “Extending the Range of Adaptive Misbelief: Memory ‘Distortions’ as Functional Features” *Behavioral and Brain Sciences* 32, No. 6 (2009): 513–514, <https://doi.org/10.1017/S0140525X09991397>.

³² #Bukvy, “Ukrainian Military Memorial Destroyed by Occupiers in Mariupol” August 3, 2022, <https://mezha.net/eng/bukvy/ukrainian-military-memorial-destroyed-by-occupiers-in-mariupol/>.

³³ Tim Lister, “Images Showing Restoration of Soviet-Era Symbols in Mariupol Posted by Adviser to Mayor” *Egypt Independent*, May 6, 2022, <https://egyptindependent.com/images-showing-restoration-of-soviet-era-symbols-in-mariupol-posted-by-adviser-to-mayor/>.

Ukrainian monuments in occupied areas and replacing them with others that promote Russian military might while pushing the false narrative of Ukraine's supposed "Russian roots."^[34]

Firstly, Russian occupational authorities are actively dismantling the monuments related to Ukraine's memory politics. For example, a memorial dedicated to Ukrainian opera singer Vasyl Yaroslavovych Slipak, who died during the Russo-Ukrainian war, was demolished near the village of Mironovsky (Luhansk region).^[35] In Mariupol^[36] and Luhansk,^[37] a monument to the Ukrainian victims of Stalin's Holodomor was destroyed. In Melitopol (Zaporizhzhia region), the occupational authorities dismantled the monument to Ukrainian poet Taras Shevchenko from the city's central square.^[38] In the temporarily occupied Manhush in the Donetsk region, the occupational authorities demolished a monument to the Ukrainian Cossacks' leader Petro Konashevich-Sahaidachny.^[39]

Secondly, occupational authorities are actively erecting monuments promoting Russia's memory politics. In total, 20 Lenin monuments were erected in the Russia-occupied regions of Ukraine, following the onset

³⁴ Ukrainian World Congress, "Russians Alter Identity of Occupied Territories through Replacement of Monuments" February 12, 2025, <https://www.ukrainianworldcongress.org/russians-alter-identity-of-occupied-territories-through-replacement-of-monuments/>.

³⁵ Sophia Alexandra Hall, "Russian Occupiers Destroy Memorial of Ukrainian Opera Singer Who Died Defending His Country" *Classic FM*, July 13, 2022, <https://www.classicfm.com/music-news/ukraine-opera-singer-memorial-destroyed/>.

³⁶ "The Russians Destroyed a Monument to Holodomor Victims in Temporarily Occupied Mariupol" *The Moscow Times*, October 21, 2022, <https://www.themoscow-times.com/2022/10/20/vodka-gift-berlusconi-in-fresh-row-over-putin-ties-a79138>.

³⁷ Halya Coynash, "Russia Destroys Monuments to Victims of Holodomor and Stalin's Terror in Occupied Luhansk" *Kharkiv Human Rights Protection Group*, July 22, 2024, <https://khp.org/en/1608813845>.

³⁸ "Окупанти знесли пам'ятник Шевченку в Мелітополі: у місті прогрімів вибух (ФОТО)" *ДСНЮС*, January 14, 2023, <https://www.dsnews.ua/ukr/politics/okupanti-znesli-pam-yatnik-shevchenku-v-melitopoli-u-misti-progrimiv-vibuh-foto-14012023-472562>.

³⁹ Віолетта Орлова, "Під Маріуполем окупанти знесли пам'ятник гетьману Сагайдачному (відео)" *УНІАН*, May 7, 2022, <https://www.unian.ua/war/u-man-gushi-pid-mariupolem-okupanti-znesli-pam-yatnik-sagaydachnomu-video-novini-vtorgnennya-rosiji-v-ukrajinu-11817264.html>.

of the full-scale war.^[40] A new monument to Alexander Nevsky^[41] as the patron saint of the Russian marines^[42] replaced the memorial to Ukrainian soldiers in Mariupol.^[43] In Lysychansk (Luhansk region), a monument to the Soviet marshal Klyment Voroshilov was re-erected.^[44] A monument to soldiers of the Great Patriotic War was also restored in Henichesk (Kherson region).^[45] On 8 May 2025, the Communist Party of Russia unveiled a monument to Joseph Stalin in occupied Melitopol, Zaporizhzhia Oblast.^[46] In the occupied city of Berislav (Kherson region), the former Ukrainian war veterans were forced to restore the monument to “Soviet soldiers-liberators from Nazi invaders.”^[47]

The Ukrainian President Volodymyr Zelensky himself stated that the destruction of monuments and museums in occupied territories is done “to incline people to renounce their national identity.”^[48] Russia does not

⁴⁰ Vladimir Kirillov, “How and Why Russia Is Rebuilding Lenin’s Monuments in Occupied Ukrainian Territories” *Belsat*, February 12, 2025, [https://en.belsat.eu/84418402/how-and-why-russia-is-rebuilding-lenins-monuments-in-occupied-ukrainian-territories.:contentReference\[oaicite:3\]{index=3}](https://en.belsat.eu/84418402/how-and-why-russia-is-rebuilding-lenins-monuments-in-occupied-ukrainian-territories.:contentReference[oaicite:3]{index=3}).

⁴¹ A Prince who defeated the Swedes at the Battle of the Neva in 1240. In recent years, at least four objects have been erected in Russia-occupied Crimea in honor of Prince Alexander Nevsky, recognized as a saint and a patron of Russian military glory.

⁴² “Політика монументальної пропаганди російської окупаційної влади на Кримському півострові” *Voice of Crimea*, November 18, 2020, https://voicocrimea.com.ua/main/articles/politika-monumentalnoi-propagandi-rosijskoi-okupacijnnoi-vladi-na-krimskomu-pivostrovi.html#_ftn1.

⁴³ Mykhailo Zahorodnii, “Russians in Occupied Mariupol Put up Monument to Alexander Nevsky in Place of Memorial to Ukrainian Soldiers – Mayor’s Adviser” *Ukrainska Pravda*, September 12, 2022, <https://www.pravda.com.ua/eng/news/2022/09/12/7367145/>.

⁴⁴ “У Лисичанську відновили знесений пам’ятник радянському маршалу Клим Ворошилову” *Strana.ua*, March 21, 2023, <https://strana.today/ukr/news/428755-u-lisichansku-vidnovili-pamjatnik-klimu-voroshilovu.html>.

⁴⁵ “В Геническом восстановлен памятник воинам Великой Отечественной войны” *Kherson-news.ru*, October 31, 2022, <https://kherson-news.ru/society/2022/10/31/59888.html>.

⁴⁶ Tim Zadorozhnyy, “Russia Erects Stalin Monument in Occupied Melitopol to Mark Victory Day.” *The Kyiv Independent*, May 9, 2025, <https://kyivindependent.com/russia-erects-stalin-monument-in-occupied-melitopol-to-mark-victory-day/>.

⁴⁷ “Бывших АТОшников привлекают к общественной работе” *Kherson-news.ru*, May 5, 2022, <https://kherson-news.ru/incident/2022/05/05/990.html>.

⁴⁸ Vitalii Poberezhnyi, “Opinion: Why Russia’s Memory Policy in Occupied Territories Leaves Some Ukrainian Monuments Standing” *The Kyiv Independent*, October 3, 2024, <https://kyivindependent.com/opinion-why-russias-memory-policy-in-occupied-territories-leaves-some-ukrainian-monuments-standing/>.

entirely erase the memory of Ukrainian history in occupied territories but rather reinterprets it through pervasive propaganda by, inter alia, erecting monuments in occupied cities. Russia is not only destroying Ukrainian history and culture; its contemporary memory policy involves weaponizing Ukrainian history against Ukraine.^[49] Russia's selective monument removals are part of a deliberate strategy to rehabilitate favorable aspects of the Soviet past while whitewashing the crimes of the Communist era and Tsarist Russia, as well as to glorify Russian imperialism, which legitimizes Moscow's land grab and suppresses any traces of a separate Ukrainian national identity.^[50]

Russian actions targeting the memory landscape in the occupied territories cannot therefore be explained by motives of military necessity. It is difficult to argue, for instance, that the removal of a Holodomor memorial and the installation of statues of Russian military figures, or even Lenin, offers any tangible military advantage. These practices serve a broader purpose, one that extends beyond the battlefield and into the symbolic and ideological realm. Nevertheless, their legal assessment must still be articulated within the relatively narrow frameworks of international humanitarian law (IHL) and international human rights law (IHRL).

2.4. Russian Monumental Politics as Memorycide, Urbicide, and Identicide

Trouillot notes that every act of "historical production," like assembling an archive or erecting a monument, places a "burden of the concrete" on producing and validating a particular historical narrative and shows that material evidence (statues, murals, or architecture) makes history alive.^[51] Therefore, monuments proclaim the purported historical truths, showing the importance of a particular narrative among a certain group of people and acting as "literal concrete burdens" reminding of violence

⁴⁹ Ibidem.

⁵⁰ Yevhenii Monastyrskyi and John Vsetecka, "Russia Is Destroying Monuments as Part of War on Ukrainian Identity" *Atlantic Council – Ukraine Alert*, August 6, 2024, <https://www.atlanticcouncil.org/blogs/ukrainealert/russia-is-destroying-monuments-as-part-of-war-on-ukrainian-identity/>.

⁵¹ Hilary Morgan V. Leathem, "Monumental Destruction" *Monument Lab*, September 14, 2020, <https://monumentlab.com/bulletin/monumental-destruction>.

and oppression.^[52] Statues, literally embodying a particular version of history, are purported to represent a consensus regarding a specific historical event or narrative.^[53] Statues and monuments as parts of a “memory landscape” commemorate the past for a present and future audience.^[54] Public monuments have a particular sacral meaning and their destruction has a long history, such as “damnatio memoriae” in Roman times, where physical evidence of a past ruler (statues, coins, and archives) was destroyed as an act of symbolic condemnation.^[55]

The destruction of monuments and material heritage has a special meaning during armed conflicts. According to Assomo, during armed conflicts “cultural properties are targeted because they represent the soul of a society.”^[56] Mulsby notes that a deliberate attack on cultural artifacts in wartime is a specific strategy due to its particularly demoralizing character.^[57] Attacks on both tangible (buildings, monuments, and artefacts) and intangible (practices, customs, and knowledges) heritage are not only forms of propaganda by deed, but can be used as a means of denying people their very identities and sense of self, their sense of belonging and attachment to a place.^[58]

Monuments are powerful instruments of propaganda, which make the events of the past visible in the present, define the heroes of history and create a nation’s identity. But such objects being removed reflect

⁵² Ibidem.

⁵³ Jonah Engel Bromwich, “What Does It Mean to Tear Down a Statue?” *The New York Times*, June 11, 2020, <https://www.nytimes.com/2020/06/11/style/confederate-statue-columbus-analysis.html>.

⁵⁴ Demelza Hookway, “Soviet Monuments Are Being Toppled – This Gives the Spaces They Occupied a New Meaning” *Connecting Research*, September 26, 2022, <https://research.reading.ac.uk/research-blog/soviet-monuments-are-being-toppled-this-gives-the-spaces-they-occupied-a-new-meaning/>.

⁵⁵ Ibidem.

⁵⁶ Catherine Fiankan-Bokonga, “UNESCO: Deliberate Destruction of Ukraine’s Cultural Heritage Could Be Considered a War Crime” *Geneva Solutions*, May 16, 2022, <https://genevasolutions.news/peace-humanitarian/unesco-deliberate-destruction-of-ukraine-s-cultural-heritage-could-be-considered-a-war-crime>.

⁵⁷ Molly Callahan, “The Other Casualty of the War in Ukraine – Architecture” *News @ Northeastern*, March 25, 2022, <https://news.northeastern.edu/2022/03/25/ukraine-architecture-destruction/>.

⁵⁸ Timothy Clack, “Cultural Heritage on the Frontline: The Destruction of Peoples and Identities in War” *University of Oxford*, October 4, 2022, <https://www.ox.ac.uk/news/2022-10-04-cultural-heritage-frontline-destruction-peoples-and-identities-war>.

(and create) conflicting histories and interpretations of the aftermath of war. For example, statues and memorials erected in the years after WWII on Soviet-occupied lands, for example in the Baltic republics, were originally intended to commemorate the liberation from Nazism.^[59] However, these statues proved to be symbols of the Soviet political and military occupation in Eastern Europe, physical evidence of the post-war world order which turned Europe into different “spheres of influence” and secured Russia’s dominance in the region, including in history-writing and memory-creating. As a result, in the present, memorials, statues, and monuments that commemorate the Soviet past have been subject to government-sanctioned removal as an attempt to create “a new way of remembering”^[60] and eliminate traces of Soviet rule, which might be used as a claim to ownership of these lands by modern Russia.

Therefore, physical alterations to the memorial landscape can be aimed at showing dominance over a particular territory, creating “a new way of remembering” and eventually changing the national identity. The latter is most relevant in the Ukrainian case, as deliberate destruction of cultural objects “as an essential and indispensable element of the collective memory of a nation” can be viewed as an assault on the cultural identity of Ukrainians.^[61] Moreover, in the Ukrainian case, the destruction of physical monuments is employed to symbolically “claim” ownership of the occupied territory and symbolically defame the ousted sovereign, nullifying its history and memory. The assimilation of heritage by an aggressor state is aimed at eliminating the will of a people to fight internally and at the same time serves as false evidence legitimizing its irregular actions as purported “righting of historical wrongs.”^[62] The deliberate destruction of monuments during armed conflict in modern warfare exemplifies the phenomena of “identicide” and “urbicide.”

⁵⁹ Hookway, “Soviet Monuments Are Being Toppled.”

⁶⁰ Ibidem.

⁶¹ Lando Kirchmair, “The War of Aggression Against Ukraine, Cultural Property and Genocide: Why It Is Imperative to Take a Close Look at Cultural Property” *EJIL: Talk!*, March 21, 2022, <https://www.ejiltalk.org/the-war-of-aggression-against-ukraine-cultural-property-and-genocide-why-it-is-imperative-to-take-a-close-look-at-cultural-property/>.

⁶² Edward Salo, “Assimilating Heritage in Irregular Warfare: Ukraine 2014 through 2021” *Civil Affairs Association*, April 10, 2022, <https://www.civilaffairsassoc.org/post/assimilating-heritage-in-irregular-warfare-ukraine-2014-through-2021>.

The term “identicide” is used to describe the deliberate ruin of buildings belonging to persecuted minorities, especially when the destruction is a prelude to genocide, for instance, the attacks on synagogues in Germany on Kristallnacht, 9 November 1938, and the destruction of mosques during the Balkans Conflict of the 1990s.^[63] Identicide can be characterized as “the killing of the relatedness between people and place and eliminat[ing] the bond, which underpins individual, community, and national identity.”^[64] Bazhenova illustrates identicide in Ukraine through, inter alia, the reeducation of Ukrainian children in occupied territories, persistent political propaganda and persecution on the occupied territories, and the systematic implementation of the education standards of the Russian Federation in Ukrainian educational institutions, which includes the history curriculum.^[65] Russian attacks on village churches and libraries as “an integral part of people’s identity, belonging, and sense of wellbeing” are classified as “identicide.”^[66]

Memoricide (the “killing of memory”) first emerged as a concept in 1992, after the brutal attack on the National Library in Sarajevo, and is defined as “the willful destruction of the memory and the cultural treasures of the ‘others’, the adversaries, the (un)known ones.”^[67] Importantly, memoricide may also target the memory of a person, a place, a group or an event without being attached to any macro-scale assault on a nation or culture.^[68] The memoricide in Ukraine manifests, inter alia, in the systematic attacks on cultural and religious sites, including libraries and archives, seeking to “impose [Russia’s] own version of history on the next generation.”^[69]

⁶³ Cathleen Hoeniger, “The Protection of Monuments and Immoveable Works of Art from War Damage: A Comparison of Italy in World War II and Ukraine during the Russian Invasion” *Arts* 13, No. 2 (2024): 65, <https://doi.org/10.3390/arts13020065>.

⁶⁴ Sarah Jane Meharg, *Identicide: Precursor to Genocide*, Working Paper No. 05 (Carleton University: Centre for Security and Defence Studies, November 2006).

⁶⁵ Hanna Bazhenova, “Genocidal Dimensions of the Russo-Ukrainian War: Targeting the People and Cultural Heritage of Ukraine” *Genocidas ir rezistencija* 2, No. 56 (2024): 230.

⁶⁶ Hoeniger, “The Protection of Monuments.”

⁶⁷ Edgardo Civalero, “When Memory Is Turned into Ashes... Memoricide during the XX Century” *Information for Social Change*, Summer 2007, National University of Córdoba, <https://www.aacademica.org/edgardo.civallero/113.pdf>.

⁶⁸ Scott Webster, “Revisiting Memoricide: The Everyday Killing of Memory” *Memory Studies* 17, No. 3 (2024): 1408-1428.

⁶⁹ Richard Ovenden, “Putin’s War on Ukrainian Memory” *The Atlantic* 2, No. 1 (2023): 1-5.

Urbicide is defined by, first, the deliberate and non-selective targeting of cities, and second, the deliberate (not incidental) destruction of symbolic places and buildings important for ethnic or national identity combined with the destruction of mundane, ordinary spaces and buildings, in which everyday practices of ordinary people are embedded.^[70] According to Mezentsev O. and Mezentsev K., urbicide in Ukraine prominently takes place in the occupied cities through, inter alia, the alteration of the memory landscape, which significantly changes the outlook of the cities by destroying symbolic buildings important for the Ukrainian identity.^[71]

On the level of ideology, Russians have routinely attempted to justify the war based on the need to reassert the unity of Russians and Ukrainians as a single Russian people, denying the Ukrainian state and culture the right to exist based on the falsification of historical events. This kind of ideology renders Ukraine's distinct cultural heritage unnecessary and unwelcome,^[72] something that needs to be destroyed and replaced with the "correct one" dictated by Russia as a conqueror state. As mentioned above, these actions are easily traced in the Russian practices on the occupied Ukrainian territories, especially in the aftermath of the 2022 invasion, which has a nearly sacral meaning for Russia's image as the "the world's savior from Nazism." But these practices fall under at least two legal regimes relevant in *casu*, mainly the law of occupation and international human rights law, and the question is whether any of these regimes is adequately equipped to respond to the present scenarios, and what lessons can be learned from them.

⁷⁰ Kostyantyn Mezentsev and Oleksiy Mezentsev, "War and the City: Lessons from Urbicide in Ukraine" *Czasopismo Geograficzne* 93, No. 3 (2022): 495-521, <https://doi.org/10.12657/czageo-93-20>.

⁷¹ Ibid., 504.

⁷² Nadiia Koval and Oleksandra Gaidai, "The Destruction of Ukrainian Cultural Heritage during Russia's Full-Scale Invasion in 2022" *Les dossiers du CERI*, November 3, 2022, <http://sciencespo.fr/ceri/fr/content/destruction-ukrainian-cultural-heritage-during-russia-s-full-scale-invasion-2022>.

3 | Legal Perspective on Destruction of Monuments during Wartime: IHL and IHRL Perspective

The concepts of “memoricide”, “identicide”, and “urbicide” have not yet been fully articulated within a legal framework. Nevertheless, international law does contain provisions relevant to the protection of memory landscapes during armed conflict. Notably, international cultural heritage law has shifted from a narrow focus on the conservation of monuments and major historical buildings toward a broader recognition of urban cultural heritage as essential to the cultural identity of individuals and communities.^[73] In my view, both international humanitarian law (IHL) and international human rights law (IHRL) provide the legal foundation for safeguarding the memory landscape during armed conflict and occupation. With respect to IHL, this analysis draws on the “no-change” or conservationist principle, which protects the pre-war governmental and legal structures of the occupied state, as well as on general rules concerning the protection of cultural heritage in times of war. As for IHRL, which continues to apply as *lex specialis* during armed conflict, the focus will be on the framework of cultural rights.

3.1. Occupation and the Memoryscape According to IHL

The Russian Federation does not recognize the situation in the occupied Ukrainian territories as an occupation. Instead, it frames its actions as the restoration of what it claims to be historically Russian lands and strongly resists the use of occupation-related terminology. While such denial has no bearing on the applicability of international humanitarian law (IHL)—which applies regardless of recognition—it clearly illustrates how selectively the Russian authorities treat the rules of war. Accordingly, Ukrainian territories under effective Russian control must be regarded as subject to belligerent occupation.^[74] Benvenisti defines occupation as “the effective control of a power (be it one or more states or an international organization,

⁷³ Alessandra Lanciotti, “Preservation of Historical Buildings through the Lens of International Law” *Real Estate* 1, No. 2 (2024): 198–211, <https://doi.org/10.3390/realestate1020010>.

⁷⁴ OHCHR, *Report on the Russian Occupation*, 2024.

such as the United Nations) over a territory to which that power has no sovereign title, without the volition of the sovereign of that territory.”^[75] With reference to Article 42 of the Hague Regulations, the International Court of Justice (ICJ) has stated that a “territory is considered occupied when it is actually placed under the authority of the hostile army, and the occupation extends only to the territory where such authority has been established and can be exercised.”^[76]

This raises the question of whether the law of occupation permits an occupying power to alter the memory landscape of occupied territories and to apply its own memory laws extraterritorially. While the law of occupation does not explicitly address mnemonic regulation, its general principles may offer guidance as to whether an occupying power may lawfully reshape collective memory and impose its historical narrative on the local population.

The Hague Regulation stipulates the maintenance of the *status quo ante* which is captured in Article 43, which states that when the authority of the legitimate power pass into the hands of the occupant, the latter shall take all the measures to “restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.”^[77] The “respect to the laws in force” in Article 43 refers to the “conservationist principle” as the bedrock of the law of occupation, which presupposes that an occupied territory shall not be subjected to legal, political, social, or economic transformation by the occupying force.^[78] The occupier cannot act as a sovereign legislator, even less so in fields that involve long-term consequences going beyond the duration

⁷⁵ Eyal Benvenisti, *The International Law of Occupation*, rev. ed. (Princeton, NJ: Princeton University Press, 1993), 4.

⁷⁶ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, [2004] I.C.J. Rep., para. 78.

⁷⁷ *Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations*, art. 43 (1907).

⁷⁸ Jean Louise Cohen, “The Role of International Law in Post-Conflict Constitution-Making: Toward a *Jus Post Bellum* for Interim Occupations” *New York Law School Law Review* 51, No. 3 (2006): 497, cited in Ebunoluwa Pris Bamigboye, Victor Oluwasina Ayeni, “Laying the Foundations for *Jus Post Bellum*: The Conservationist Principle in the Law of Occupation as a Foundation for a Fourth Additional Protocol to the Geneva Conventions” *International Journal of Comparative Law and Legal Philosophy* 4, No. 1 (2022): 61–67.

of the occupation,^[79] and any alteration of the existing order in the occupied territory should be minimal.^[80]

Ferraro and Orkin note that the rights and duties of the Occupying Power require maintaining as normal a life as possible and to administer the territory for the benefit of the local population. The rules of occupation do not allow the Occupying Power to exercise its authority in order to further its own interests, other than its military interests.^[81] Measures taken by the occupying authorities should avoid far-reaching changes in the existing order.^[82] The expression “laws in force in the country” in Article 43 refers not only to laws in the strict sense of the word, but also to the constitution, decrees, ordinances, court precedents (especially in territories of common law tradition) as well as administrative regulations and executive orders, provided that the “norms” in question are general and abstract.^[83]

Article 64 of the 1949 Fourth Geneva Convention expresses in a more precise and detailed form the terms of Article 43 of the Hague Regulations, allowing for a suspension or repeal of existing laws and the enactment of new legislation in three exceptional situations. First, to remove any direct threat to its security and to maintain safe lines of communication; second, to discharge its duties under the Geneva Convention, and third, to ensure the “orderly government” of the occupied territory.^[84] Moreover,

⁷⁹ Oppenheim, *International Law – A Treatise*, 7th edition ed. Hersch Lauterpacht, Vol. II, Disputes, War and Neutrality, (1952), pp. 436 and 437 cited in Théo Boutruche and Marco Sassoli, *Expert Opinion on the Occupier’s Legislative Power over an Occupied Territory under IHL in Light of Israel’s Ongoing Occupation*. Norwegian Refugee Council, June 2017.

⁸⁰ Adam Roberts, “Transformative Military Occupation: Applying the Laws of War and Human Rights” *The American Journal of International Law* 100, No. 3 (2006): 580-622.

⁸¹ Mikhail Orkin and Tristan Ferraro, “IHL and Occupied Territory” *Humanitarian Law & Policy Blog*, July 26, 2022, <https://blogs.icrc.org/law-and-policy/2022/07/26/armed-conflict-ukraine-ihl-occupied-territory/>.

⁸² International Committee of the Red Cross, *The Law of Armed Conflict: Belligerent Occupation*, Lesson 9, Geneva, June 2002, https://www.icrc.org/sites/default/files/external/doc/en/assets/files/other/law9_final.pdf, [accessed 01.07.2025].

⁸³ Marco Sassoli, “Legislation and Maintenance of Public Order and Civil Life by Occupying Power” *Yearbook of International Humanitarian Law* 16 (2005): 661.

⁸⁴ Yoram Dinstein, *Legislation under Article 43 of the Hague Regulations: Belligerent Occupation and Peacebuilding*, Occasional Paper No. 1 (Harvard Program on Humanitarian Policy and Conflict Research, Fall 2004).

no fundamental institutional changes ought to be permitted even on a provisional basis.^[85]

The international law of belligerent occupation must therefore be understood as meaning that the Occupying Power exercises provisional and temporary control over a foreign territory. It follows from this that measures taken by the occupying authorities should avoid far-reaching changes in the existing order.^[86] The conservationist principle also dictates that the changes are to correspond to the temporary nature of occupation, and thus, the fact of Russia drastically changing the memory landscape and mnemonic memories of the occupied territories is clearly contrary to these principles.

3.1.1. Memory as Part of Cultural Property and Heritage under IHL

Under the 1954 Hague Convention, international humanitarian law protects cultural property defined as “movable or immovable property of great importance to the cultural heritage of every people”^[87] from destruction and appropriation during armed conflict. However, beyond these tangible elements, the notion of “cultural heritage” also encompasses collective memory, language, and traditions, all of which are increasingly targeted through symbolic and mnemonic warfare. The common elements of cultural heritage as understood in international law are a) the sense that it is a form of inheritance to be kept in safekeeping and handed down to future generations, b) its linkage with group identity, and c) being both a symbol of the cultural identity of a self-identified group, be it a nation or a people, and an essential element in the construction of that group’s identity.^[88] As Blake notes: “it is its role in the construction of cultural identity which is the element being protected when cultural heritage is treated as an element within human rights.”^[89]

The ICC Prosecutor’s Office broadly construes the term “cultural heritage” to extend beyond cultural property and to incorporate both products

⁸⁵ Ibid., 12.

⁸⁶ ICRC, *Law of Armed Conflict: Belligerent Occupation*, 2002.

⁸⁷ *Convention for the Protection of Cultural Property in the Event of Armed Conflict, with Regulations for its Execution*, adopted at The Hague, May 14, 1954, entered into force August 7, 1956.

⁸⁸ Janet Blake, “On Defining the Cultural Heritage” *International and Comparative Law Quarterly* 49, No. 1 (2000), 77.

⁸⁹ Ibidem.

and processes. This term denotes a community's sense of identity and belonging and involves cultural resources in both their tangible and intangible forms. Hence, cultural heritage includes monuments with features of cultural value. Cultural heritage refers not only to physical forms of heritage, such as material objects and artefacts (including digital artefacts), but also to the "practices and attributes of a group or society that are inherited from past generations, maintained in the present, and bestowed upon future generations for benefit and continuity."^[90] As such, when embedded in practices, symbols, and sites of significance, both collective memory and memory landscapes can potentially qualify as part of cultural heritage.

Under IHL rules, cultural property and heritage are afforded general protection enjoyed by all civilian objects. These include the principle of distinction (which prohibits direct attacks against any target that does not meet the definition of a legitimate military objective); the principle of proportionality (which requires that the effects of attacks on the civilian population and on civilian objects, including of cultural value, must not be excessive in relation to the concrete and direct military advantage sought); and the principle of precaution (which requires the attacking and defending parties to take various precautionary measures to limit the consequences of the hostilities on protected persons and objects).^[91] Accordingly, any attack on monuments and other cultural sites important to collective memory must strongly adhere to general IHL principles.

Otherwise, such attacks can fall under the framework of international criminal law. Under the Statute of the International Criminal Court, the destruction of buildings dedicated to religion, education, arts, science or charitable purposes and historic monuments as well as the destruction and seizure that is not imperatively demanded by the necessities of the conflict constitute war crimes in both international and non-international armed conflicts.^[92] Such attacks may also be considered a crime against

⁹⁰ Office of the Prosecutor, International Criminal Court, *Policy on Cultural Heritage* (June 14, 2021), paras. 15-16.

⁹¹ Benjamin Charlier and Tural Mustafayev, "International Humanitarian Law and the Protection of Cultural Property" [in:] *Cultural Heritage and Mass Atrocities*, eds. James Cuno, Thomas G. Weiss (Getty Publications, 2022), [https://www.getty.edu/publications/cultural-heritage-mass-atrocities/part-4/22-charlier-mustafayev/#:~:text=Under%20the%201954%20Hague%20Convention,\(i.e.%2C%20tangible%20heritage\)%20that.](https://www.getty.edu/publications/cultural-heritage-mass-atrocities/part-4/22-charlier-mustafayev/#:~:text=Under%20the%201954%20Hague%20Convention,(i.e.%2C%20tangible%20heritage)%20that.)

⁹² International Committee of the Red Cross, *Customary IHL: Rule 40 - Respect for Cultural Property*, part of the Customary IHL Database, https://ihl-databases.icrc.org/en/customary-ihl/v1/rule40#Fn_7420CB30_00003, [accessed 01.07.2025].

humanity when they amount to persecution, if they are “committed as part of a widespread or systematic attack [...] against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender [...], or other grounds that are universally recognized as impermissible under international law” (ICC Statute, Art. 7(1)(h)).^[93]

In this context, the transformation of the memoryscape through acts amounting to identicide, memocide, and urbanicide may fall within the protective scope of cultural heritage under international humanitarian law (IHL). Russia’s systematic efforts to reshape the memoryscape by destroying Ukrainian monuments in the occupied territories could potentially be qualified as a war crime. However, in my view, the dual strategy of erasing Ukrainian identity markers and replacing them with a Russian historical narrative should also be examined through the lens of crimes against humanity, and specifically, the crime of persecution. This is particularly relevant in the context of occupation, where such practices form part of a broader policy aimed at asserting the territories as “inherently Russian” by eradicating any traces of Ukrainian identity, including history and memory.

4 | Occupation and Memory: IHRL Stance

Even though some argue that historically the practice of Occupying Powers “reflects their vigorous resistance to the idea of the applicability of IHRL,”^[94] the nature of belligerent occupation clearly illustrates the importance of the co-applicability of both branches. The law of military occupation provides a “balance between the interests of the local population and those of the occupying army” and taking these two opposing facets into account

⁹³ British Institute of International and Comparative Law (BIICL), “How Does International Law Protect Ukrainian Cultural Heritage in War? Is It Protected Differently Than Other Civilian Objects?” (London: BIICL, March 10, 2022), https://www.biicl.org/documents/11200_how_does_international_law_protect_ukrainian_cultural_heritage_in_war.pdf, [accessed 26.06.2025].

⁹⁴ Tristan Ferraro, “Occupation and Other Forms of Administration of Foreign Territory” *International Committee of the Red Cross*, [in:] *Expert Meeting Report*, March 2012, 117.

simultaneously.^[95] In the 2004 Wall opinion, the ICJ resorted to IHRL concurrently with IHL as the *lex specialis* during belligerent occupation and ruled on extraterritorial applicability of the major human rights treaties, including the ICCPR, ICESCR, and CRC.^[96]

Generally, the regime of belligerent occupations presumes that all functions of government must be provisionally assumed by the Occupying Power to guarantee normal life for the civilian population.^[97] But these powers are not absolute, as according to Pellet “the rights of the occupier [...] find their absolute limits in the respect of the sovereign rights of the people whose territory is occupied.”^[98] Therefore, human rights law can provide a normative clarification, with its extensive practice (lacking under IHL), in addressing specific guidance for interactions between the occupant’s administration and the civilian population in the context of ordinary life.^[99]

Since international human rights law (IHRL) continues to apply during occupation, the occupying power remains bound by its human rights obligations towards the population of the occupied territory. This carries important legal implications. In the context of memoryscapes, this analysis will briefly address the broader framework of cultural rights protection, as well as the more specific issue of memorialization and memory-related rights.

Cultural rights

In human rights law, cultural heritage is understood as the resources enabling the cultural identification and development processes of individuals and groups, which they, implicitly or explicitly, wish to transmit

⁹⁵ Danio Campanelli, “The Law of Military Occupation Put to the Test of Human Rights Law” *International Review of the Red Cross* 90, No. 871 (2008): 653, 667.

⁹⁶ *Legal Consequences of the Construction of a Wall*, paras. 105-113.

⁹⁷ Marco Sassòli, “Legislation and Maintenance of Public Order and Civil Life by Occupying Powers” *European Journal of International Law* 16 (2005): 661, 663.

⁹⁸ Alain Pellet, “The Destruction of Troy Will Not Take Place,” [in:] *International Law and the Administration of Occupied Territories*, ed. Emma Playfair (Oxford: Clarendon Press, 1992), 174.

⁹⁹ Gilles Giacca, *Economic, Social, and Cultural Rights in Armed Conflict* (Oxford: Oxford University Press, 2014), 187.

to future generations.^[100] The preamble to the 2003 UNESCO Declaration stresses that “cultural heritage is an important component of cultural identity and of social cohesion, so that its intentional destruction may have adverse consequences on human dignity and human rights.”^[101]

Important legal bases for cultural rights are to be found not only in the International Covenant on Economic, Social and Cultural Rights, in particular articles 13-15, but also in the International Covenant on Civil and Political Rights, most notably in provisions protecting the right to privacy, freedom of thought, conscience and religion, freedom of opinion and expression, freedom of association and peaceful assembly. Those rights are also key to ensuring the full realization of cultural rights. Indeed, cultural rights transcend the juncture of civil and political rights as well as economic and social rights, and are thus important markers of interdependence and indivisibility.^[102] Cultural rights protect the rights of each person, individually and in community with others, as well as groups of people, to develop and express their humanity, their world view and the meanings they give to their existence and their development through, inter alia, values, beliefs, convictions, languages, knowledge and the arts, institutions and ways of life. Such rights may also be considered as protecting access to cultural heritage and resources that allow such identification and development processes to take place.^[103]

As for the circumstances of the Russian occupation of Ukrainian territories, the deliberate destruction of Ukraine’s cultural heritage on occupied territories, including via demolition and replacement of monuments, has been recognized as a human rights issue by the OHCHR.^[104] First, attempts to erase any monuments associated with Ukraine may be interpreted as a “willingness to erase one part of history or a specific narrative.”^[105] It should also be noted that cultural heritage is not only protected under the law of armed conflict but that participating in cultural life is part

¹⁰⁰ Farida Shaheed, *Report of the Independent Expert in the Field of Cultural Rights*, UN Doc. A/HRC/17/38 (Mar. 21, 2011), paras. 1-3, paras. 4-5.

¹⁰¹ UN Human Rights Council, *Report of the Special Rapporteur in the Field of Cultural Rights (Karima Bennouna)*, UN Doc. A/HRC/31/59 (February 3, 2016), para. 68.

¹⁰² *Ibid.*, para. 22.

¹⁰³ Farida Shaheed, *Report of the Independent Expert in the Field of Cultural Rights*, UN Doc. A/HRC/14/36 (March 22, 2010), para. 9.

¹⁰⁴ OHCHR, *Report on the Russian Occupation*, 2024.

¹⁰⁵ *Report of the Independent Expert in the Field of Cultural Rights (A/HRC/14/36)*, para. 10.

of human rights and an essential component of cultural identity. This means that both Russia and Ukraine, as party to the International Covenant on Economic, Social and Cultural Rights, must ensure the realization of the right to access and enjoy cultural heritage with regard to those under their jurisdiction, including those under their effective control.^[106] The protection of a particular memoryscape can fall under the auspices of cultural rights protection and must be ensured by the Occupying Power as part of its obligations under international human rights law.

Memorialization

International human rights law (IHRL) contains no specific provisions on memorialization. However, the UN Special Rapporteur on Cultural Rights has issued two consecutive thematic reports addressing memorialization and the teaching of history in post-conflict and conflict-affected societies. While these reports are not legally binding, they provide valuable interpretive guidance and seek to clarify the responsibilities of States and other actors in the field of memorialization. Specifically, the Special Rapporteur notes that memorials impact people's perspectives and understanding of the past and present, and they must be critically assessed as people are constantly subjected to the influence of numerous, repetitive images and symbols, such as murals and statues.^[107] Second, memorialization can be used as a tool to build identities and affirm predominance over a territory,^[108] as in the present case, with Russia using its aggressive memory politics for the russification of occupied Ukrainian territories.

Second, the international human rights system has increasingly grappled with public memory as a condition of human rights-based justice. For example, the United Nations Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence has held that memorialization is a pillar of transitional justice, whose purpose is "to establish a dialogic truth, that is, to create the conditions for a debate within society on the causes and consequences of past crimes and violence,

¹⁰⁶ BIICL, "How Does International Law Protect Ukrainian Cultural Heritage?"

¹⁰⁷ Farida Shaheed, *Report of the Special Rapporteur in the Field of Cultural Rights*, UN Doc. A/HRC/25/49 (January 23, 2014), para. 64.

¹⁰⁸ *Ibid.*, para. 14.

and on the attribution of direct and indirect responsibility.^[109] The alterations to the memoryscape on the occupied territories aimed to reshape the collective identity can also serve as an impediment to the transitional justice processes once the territories return under Ukrainian control.

Third, as noted by the UN Special Rapporteur on Cultural Rights, due to the consistent attempts of undemocratic governments to control memory as a tool for a total homogenization of society, people's access to a pluralistic memory should be recognized as a separate human right.^[110] As an occupying power, Russia systematically denies Ukrainians in the occupied territories such access by arbitrarily enforcing its domestic memory laws, which exclusively promote state-sanctioned, pro-Russian historical narratives.

* * *

The Russian occupation of Ukrainian territories is unique in that, to legitimize its claim over the land, the Russian state has begun applying its memory laws extraterritorially. However, as an occupying power, Russia remains bound by its human rights obligations toward the local Ukrainian population, and any attempt to indoctrinate civilians by manipulating historical memory constitutes a potential violation of both international humanitarian law (IHL) and international human rights law (IHRL). Ukrainians living under occupation must retain access to pluralistic memory, which is a core element of both cultural and individual identity. Memorialization can be weaponized to assert political control over a territory, which is evident in Russia's efforts to resurrect Soviet-era monuments and forge symbolic links between occupied Ukrainian lands and Russian imperial narratives. These practices may constitute violations of Russia's obligations under IHRL, particularly in relation to cultural rights, and risk undermining future reintegration efforts once these territories are returned to Ukrainian sovereignty.

¹⁰⁹ United Nations Human Rights Council, *Memorialization Processes in the Context of Serious Violations of Human Rights and International Humanitarian Law: The Fifth Pillar of Transitional Justice*, Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, A/HRC/45/45, July 9, 2020, para. 36.

¹¹⁰ *Ibid.*, para. 61.

5 | Concluding Remarks

The Russian occupation practices raise critical questions as to whether inhabitants of the occupied territories are entitled to preserving their memory landscape from unlawful interventions by the occupying power, and what legal mechanisms may be invoked to protect this right. The Russo-Ukrainian war illustrates that contemporary armed conflicts extend beyond conventional violence such as shootings or looting, and increasingly encompass a war on memory. Russia, as the occupying power, has engaged in a selective and instrumental application of both international humanitarian law (IHL) and international human rights law (IHRL), with one of its key aims being the imposition of an alternative, state-sanctioned historical narrative upon the local population. In light of the UN Special Rapporteur's assertion that the right to historical memory may constitute an element of cultural rights, this practice raises the question of whether memory itself is subject to legal protection during occupation.

The reshaping of the memory landscape under occupation presents novel challenges for assessing the legality of such practices under the existing IHL/IHRL framework. This reconceptualization of occupation policy reveals the limitations of the current legal regime, which is primarily designed to address the tangible destruction of cultural property. What is now unfolding is a more insidious process, a form of "mental occupation", whereby the destruction of memorials, the reinstallation of previously banned symbols, and the erection of new monuments work in tandem to symbolically mark the territory and legitimize occupation in the collective consciousness. The conservationist principle of occupation law should preclude such irreversible interventions aimed at manipulating historical memory. There is thus a pressing need to further develop and operationalize IHRL norms to ensure access to pluralistic historical narratives and to provide safeguards against memory-based indoctrination.

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