

**“SO FAR AS WAR ALLOWS”:  
WHY THE AL MAHDI CONVICTION IS UNLIKELY TO STEM  
THE PACE OF CULTURAL DESTRUCTION PERPETRATED  
BY NON-STATE ACTORS**

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*Abstract:* In September of 2016, Ahmad Al Faqi Al Mahdi was convicted in the International Criminal Court (“ICC”) for the intentional destruction of several World Heritage sites during the 2012 conflict in Timbuktu, Mali. This conviction was hailed as a breakthrough after years of frustration with the lack of enforcement of international laws prohibiting the destruction of cultural property. It was also the first conviction of its kind, and advocates of cultural preservation have celebrated it as a much-needed general deterrent in North Africa and the Middle East, where iconoclasm has become a favorite tactic of various state and non-state actors in armed conflict. However, the Al Mahdi trial may in fact be the exception that proves the untenability of the legal regime protecting cultural heritage sites. Current treaty law protecting immovable cultural property reflects an increasingly outdated philosophical and historical narrative that is directly contradicted by the ideologies of the groups that most often threaten World Heritage sites. As long as the protection of cultural property remains more closely associated with a state’s sovereign responsibility to protect physical buildings, as opposed to the international community’s willingness to protect the people who hold those buildings dear, the effective prevention of the destruction of cultural heritage will remain out of reach.

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