The Narrow Protection of Cultural Properties and Historical Monuments in The Rome Statute: Filling the Gap

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Abstract

In the Al Mahdi case before the International Criminal Court (ICC), the Court raised the possibility of charging the accused with the crime of destroying or seizing the property included in 8(a)(e)(iii) of the ICC Statute. A first look would suggest that this crime has different characteristics, or an alternative character, from the crime of attacking protected buildings included in article 8(a)(e)(iv) of which Al Mahdi was finally charged. But upon closer examination, it is also possible to conclude that the crime concerning the destruction or seizure of enemy’s property is supplementary to the criminalisation of the destruction of cultural property. Therefore, a wide and joint interpretation of the crimes could enhance the protection of human cultural legacy through criminal prosecution.

Keywords