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Cultural Heritage as an Object of Criminal-Law Protection: Comparative and International Perspectives with Reference to Azerbaijan*

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Abstract
The article identifies cultural heritage as an important object of criminal law protection in international and comparative dimensions, with an emphasis on the legislation of Azerbaijan.The methodological basis is a theoretical and legal comparative study, which consisted of a dogmatic analysis of international legal acts (the Hague Convention of 1954, the UNESCO conventions of 1970 and 2003, the Rome Statute of the ICC) with a comparison of national criminal legislation. The analysis was carried out based on the use of the corpus delicti construction (actus reus, mens rea, subject, sanction) in selected jurisdictions of the EU, the post-Soviet space and the Middle East. As a result, the existence of three models of criminal law protection of cultural heritage was established: institutionalized (EU), mixed (post-Soviet space) and fragmentary (Middle East). The main difference between them was the degree of transition from a material model (cultural property) to a human-centered one (cultural heritage). The results indicated that the criminal legislation of Azerbaijan mainly reflected a material approach, since cultural heritage was not defined as an independent object of criminal law protection and was regulated through general property norms. At the same time, the latest legislative changes (2024–2026), in particular the introduction of liability for negligent destruction of cultural values and the expansion of the liability of legal entities, indicated a gradual transition to a hybrid model. Despite this, significant gaps were identified, in particular, the lack of specialized categories of crimes, the incomplete implementation of international standards, and the lack of a normative definition of cultural value.
Keywords: cultural heritage; criminal law; comparative legal analysis; illicit trafficking of cultural property; Azerbaijan

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A. INTRODUCTION

In the current conditions, cultural heritage is under threat as a result of the illegal circulation of cultural property, acts of vandalism and the targeted destruction of cultural objects. In addition, wars and regional conflicts have made the issue of criminal law protection of cultural heritage important for the preservation of identity, historical memory and cultural diversity of humanity. In this space, the development of effective legal mechanisms that are able to ensure an adequate level of protection of cultural property plays a special role. Several universal acts form the international legal framework in the field of cultural heritage protection: the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, and the Rome Statute of the International Criminal Court. However, the scientific literature indicates that these instruments have mainly formed a general framework and left a significant space for their implementation at the national level. As a result, criminal law regulation in this area has become one of the least unified areas. This has led to differences in the approaches of states to defining the elements of crimes, sanctions, and mechanisms of liability.

The scientific discussion on this issue is expressed in the works of scientists who have focused on international legal standards, issues of restitution, liability for war crimes against cultural heritage and mechanisms for combating the illicit trafficking of cultural property. However, most of these studies are of a general theoretical nature (Zaręba, 2024; Aliyeva, 2020). On the other hand, some scientists have focused exclusively on the legal systems of developed countries (EU countries and the USA). For this reason, the analysis of post-socialist states, especially the countries of the Caucasus region, remains underrepresented in the comparative legal literature. (O'Keefe, 2013)

The space clearly identifies a scientific problem, which is determined by the lack of unified approaches to the criminal law protection of cultural heritage and the uneven implementation of international standards in national legal systems. This problem is especially relevant for states that are at the stage of reforming legislation, in particular Azerbaijan, in which changes in the field of cultural heritage protection came into force in 2024 and new amendments to the Criminal Code were proposed in 2025 to introduce criminal liability of legal entities for the destruction of cultural property. Thus, the research gap lies in the lack of a systematic analysis of criminal law mechanisms for the protection of cultural heritage in the post-socialist states of the Caucasus, in particular

Azerbaijan, in relation to international standards and practices of other legal systems. Filling this gap will make it possible to make practical recommendations for improving national legislation.

The aim of the article is to conduct a comparative legal analysis of the mechanisms of criminal law protection of cultural heritage in the international and national dimensions with a special emphasis on the experience of Azerbaijan and to identify areas for its improvement. The research questions are as follows: 1. how does international criminal law conceptualize cultural heritage as an object of criminal law protection; 2. what models of criminal law protection of cultural heritage exist in a comparative context (EU, post-Soviet space, Middle East); 3. does the criminal legislation of Azerbaijan comply with international standards and what gaps need to be eliminated.

The study hypothesizes that the criminal legislation of Azerbaijan in the field of cultural heritage protection partially uses international standards, but contains gaps in the definition of objective and subjective elements of the elements of crimes, which can be eliminated by adopting the best practices of comparative law. Structurally, the article consists of three main parts: the first describes international legal approaches to the protection of cultural heritage; The second part provides a comparative analysis of national models of criminal law regulation, while the third part analyzes the legislation of Azerbaijan with proposals for its improvement.

Theoretical Framework

The theoretical basis of this study is a combination of the international legal doctrine of the protection of cultural heritage and the criminal law theory of the object of crime. The purpose of this theoretical basis is to ensure the conceptual coherence of the analysis and the formation of an analytical lens through which the criminal law protection of cultural heritage will be described in a comparative and international dimension.

The first main element is the distinction between the concepts of cultural property and cultural heritage. Despite their external similarity, they have different legal and conceptual implications. In particular, in classical international law (the 1954 Hague Convention), the term cultural property is used. This concept defined the material (object-oriented) nature of cultural values, which are material objects and are subject to protection, preservation and protection from destruction or illicit trafficking. Instead, doctrines after the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage used the concept of cultural heritage, which is human-centric in nature

and encompasses material objects, practices, knowledge, traditions and the connection of communities with them. At the same time, within the framework of this study, cultural heritage was chosen as the basic category, because this term allows for a broader conceptualization of the object of criminal law protection, in particular, as an element of cultural identity and collective memory. At the same time, the concept of cultural property was used as an important analytical tool for determining those legal constructs that remain tied to the material nature of objects.

The second element of the theoretical framework was the contrast of two basic models of the protection of cultural values: the object-based model and the human-centered model. The object-based model arose from the understanding of cultural values as material objects that have economic, historical or artistic value. In this space, criminal law protection is aimed at preventing the physical destruction, damage or illicit trafficking of such objects.

In contrast, the human-centered model has identified cultural heritage as an important component of human rights, in particular the right to cultural identity and participation in cultural life. In this case, the harm from encroachment on cultural heritage goes beyond material losses and involves the violation of the collective rights of communities. This is the logic defined in current international practice; however, in international criminal justice approaches, the destruction of cultural heritage is defined as an encroachment on human dignity and identity.

The tension between these two models has influenced the construction of criminal law norms. In legal systems based on the property model, the elements of crime are usually focused on the material aspect of the act (destruction, damage, theft). At the same time, in systems where the human-centric approach is more noticeable, the emphasis shifts to a broader context - the significance of the object for the community and its symbolic value.

The third key element was the conceptualization of cultural heritage. This object of criminal law protection was defined through the category of corpus delicti. In this study, the classical three-stage structure of the object of crime was applied, which made it possible to analyze criminal law norms.

The general object of this study was social relations in the field of cultural heritage protection as part of broader relations to ensure cultural security and preserve historical memory. The specific object was relations regarding the protection of specific categories of cultural heritage - tangible, intangible, archaeological, architectural, etc. The direct object was a specific element of

cultural heritage - a monument, artifact, object of cultural property, or an element of intangible heritage- in relation to which a criminally punishable act is committed (See Table 1).

Table 1. Integrated Conceptual Framework of Cultural Heritage as an Object of Criminal-Law Protection

Dimension	Object-Based Model (*Cultural Property*)	Human-Centered Model (*Cultural Heritage*)	Criminal-Law Interpretation (Corpus Delicti)
Core concept	Tangible object with material value	System of meanings, practices, identity	Defines the nature of the protected legal interest
Legal origin	Hague Convention (1954)	UNESCO Convention (2003), modern doctrine	Shapes the scope of criminalization
Ontological focus	Physical object (artifact, monument)	Community–heritage relationship	Determines what is recognized as the object of crime
Legal nature	Object of ownership	Component of cultural and human rights	Influences qualification of offences
Protected interest	Material integrity	Cultural identity and continuity	**General object**: social relations in heritage protection
Level of protection	Individual object	Collective/community dimension	**Specific object**: categories of heritage (tangible/intangible)
Immediate target	Specific item (artifact, monument)	Heritage as experienced by a community	**Immediate object: a specific artifact / monument**
Harm conceptualization	Damage, destruction, theft	Identity loss, symbolic harm	Determines objective element of the offence
Criminal-law focus	Property offences	Rights-based / hybrid offences	Affects structure of corpus delicti
Enforcement logic	Protection of res (thing)	Protection of human–heritage link	Guides interpretation of intent and harm
Key limitation	Ignores intangible dimension	Difficult to codify and prove	Creates gaps in legal qualification

The application of such a structure made it possible to combine international legal doctrine with national criminal law approaches and form an important analytical basis for further research.

The current scholarly discussion on the criminal law protection of cultural heritage has developed in several directions. For this study, the literature review is classified into three thematic blocks: (1) international legal dimension, (2) comparative legal approaches in national jurisdictions, (3) studies related to Azerbaijan.

Block 1: International Legal Dimension

The most developed area was the problem of international legal analysis of the protection of cultural heritage, however, within the framework of international criminal law. In particular, modern authors analyzed the interaction of international criminal law and cultural heritage and defined it as an independent object of criminal law protection (O'Keefe, 2013). The authors also described in detail the qualification of crimes against cultural values within the framework of war crimes. (Aliyeva, 2023; O'Keefe, 2013)

Ann Marie Thake expanded this issue and pointed out that the intentional destruction of cultural heritage is a potential manifestation of genocide and a crime against humanity. She argued that damage to cultural heritage has a material and socio-anthropological dimension (Thake, 2018). This principle justified its criminalization at the highest level of international law. At the same time, Norman Reves defined the legal protection of cultural heritage based on the interaction of international criminal law and human rights. His research indicated a transition from a material to a human-centric model of protection, in which cultural heritage is described as an element of cultural identity. (Reves, 2023)

Sebastián Green Marttnez, studied the case of Mali and indicated that the destruction of cultural heritage can be qualified as a crime against humanity (Marttnez, 2014). The work was mainly applied in nature. The author also showed how various international norms are used in specific conflict situations. In addition, Nout Woudenberg focused on the problem of impunity for crimes against cultural heritage and analyzed mechanisms for overcoming it. The author pointed out that even in the presence of international legal norms, their effectiveness depends on implementation at the national level. (Woudenberg, 2024)

Salwa Elekiaby made a comparative analysis of international mechanisms for the protection of cultural property during armed conflicts. The author concluded that they are fragmented and that coordination needs to be strengthened (Elekiaby, 2021). An important part was the study of the illicit trafficking of cultural property. In particular, Sima Suleymanli identified international mechanisms for combating illicit trafficking through the prism of economic integration (Suleymanli, 2022; Suleymanli, 2023). The author also recognized the role of transnational cooperation. In his subsequent works, the researcher analyzed the principles of international law and indicated that it is the basis for combating the illicit trafficking of cultural property.

The authors also analyzed the criminal law aspects of the protection of underwater cultural heritage. The authors pointed out the problem of its

protection due to various jurisdictional restrictions (Looram, 2024). Moreover, scholars also identified the capabilities of law enforcement agencies to protect cultural property during armed conflicts. Despite the importance of this work, it does not contain a systematic analysis of criminal law norms (Farzullayeva, 2025). Thus, the international legal bloc has been characterized by a high level of theoretical development, but the main focus is on international standards, rather than on their implementation in specific legal systems.

Block 2: Criminal Law Protection through a Comparative Perspective

Unlike the previous block, modern comparative law studies of the criminal law protection of cultural heritage are limited and fragmentary. In particular, the authors described the criminal law mechanisms of cultural protection and focused on general approaches to the criminalization of relevant acts. The authors also identified the general structure of the elements of crimes and highlighted the problem of heterogeneity of legal approaches. (Redchits, 2016) At the same time, Marcel Boșcaneanu carried out a qualitative comparative analysis of criminal and administrative liability in the field of natural resource protection in Moldova and the EU (Boșcaneanu, 2021). Although the study does not directly concern cultural heritage, it pointed out important approaches used to protect socially significant objects in a comparative dimension. At the same time, Natig Khalilov analyzed the main legal aspects of illegal construction in Azerbaijan from a comparative perspective (Khalilov, 2025). This study is important for the protection of cultural heritage, however, and in the space of preserving historical territories. The author pointed out the influence of national legislation on the regulation of spatial and cultural objects.

The authors also described the criminal procedural aspects of international legal assistance between states (Suleymanli, 2023). The article became important for understanding cross-border prosecution of crimes (Pasha, 2022). However, the author did not describe cultural heritage as an independent object of criminal law protection. Therefore, even though the problem of protecting cultural values exists in different jurisdictions, a detailed analysis of cultural heritage as an object of criminal law protection is virtually absent.

Block 3: Azerbaijan: limited and fragmented aspects

Research on Azerbaijan is limited in scope and thematically fragmented. Thus, this state of affairs did not allow for the formation of qualitative conclusions on the criminal law protection of cultural heritage in this country. The available works mainly described related issues and touched on cultural heritage only

indirectly. Thus, Aliyeva described the state policy of preventing crimes against the person and indicated various practical recommendations for improving the national prevention system. Unfortunately, the work did not include cultural heritage in the list of its priority objects of criminal law protection (Aliyeva, 2023). This indicated the demonstration of the problems of integrating cultural heritage into the discourse of the state's criminal policy.

In addition, Talibli addressed the topic of the destruction of cultural heritage as a result of armed conflict. The author paid considerable attention to historical, factual and political aspects (Talıblı, 2024). The study is considered from the point of view of documenting the loss of cultural heritage, but did not carry out a legal qualification of the relevant acts. The author also did not analyze the elements of crimes. Thus, the legal dimension of the problem remains practically outside the scope of the analysis.

Farzullaeva Afat described the problem of protecting cultural values within the framework of the activities of law enforcement agencies during armed conflicts (Elkhan, 2025; Rzayeva, 2025; Girginov, 2019). The author determined the assessment of institutional suitability and drew attention to the organizational mechanisms and practical challenges that arise in the process of ensuring the protection of cultural objects. At the same time, the study does not contain an analysis of criminal law norms.

Other works related to the legal system of Azerbaijan were mainly sectoral in nature and did not cover the sphere of cultural heritage (Asgarov and Mustafayev, 2024). At the same time, the studies are devoted to cybercrime and indicate the development of criminal law policy in the digital sphere. However, these authors did not address the issue of protecting cultural values. Thus, even if there are separate studies that partially touch on the legal system of Azerbaijan or the problem of cultural heritage, it is noticeable that there is no analysis that would combine international legal standards, a comparative legal approach, and a study of national criminal legislation. Thus, the gap in the research transforms the conceptual fragmentation of the research. This is an attempt to fill this gap and describe the criminal legal protection of cultural heritage in Azerbaijan as an important systemic phenomenon in a comparative legal sense.

B. METHODS

This study is a theoretical and legal comparative study, which consists of a dogmatic analysis of legal norms with a systematic comparison of different

legal systems. This work is also based on the positivist legal paradigm, within which a system of norms is described that is subject to interpretation, systematization, and evaluation in terms of their internal consistency and compliance with international standards. The chosen research design met the research questions posed, as it made it possible to: 1). conceptualize cultural heritage as an object of criminal law protection; 2). carry out a structural analysis of the corpus delicti of crimes; 3). compare criminalization models in different jurisdictions; 4). determine the level of implementation of international legal standards in the national legislation of Azerbaijan.

The analytical basis of the study was formed by various regulatory, judicial, and doctrinal sources, which were selected according to the criteria of relevance, representativeness, and relevance. The normative body provided for the use of the main international legal acts that formed the modern system of protection of cultural heritage: the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, the 1970 UNESCO Convention for the Prevention of the Illicit Trafficking in Cultural Property, the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage and the Rome Statute of the International Criminal Court. These documents are described as an important basis for determining the harmonization of national criminal legislation with international standards.

The national level is represented by the criminal codes of the selected jurisdictions, which belong to different legal traditions (continental and post-socialist) and indicate different degrees of implementation of international legal norms. The analysis is carried out on the norms that directly regulate the protection of cultural heritage and related crimes (destruction of property, illegal trafficking, violation of the rules for the protection of monuments). This made it possible to identify direct and indirect mechanisms of criminal law protection.

An important element of the source base was the practice of international criminal justice, as well as the decisions of the International Criminal Court in cases related to the destruction of cultural heritage. The analysis of these decisions made it possible to clarify the approaches to the qualification of the relevant acts and the interpretation of the object of the crime.

The doctrinal basis of the study was formed by scientific publications selected according to clearly defined criteria: indexing in international scientometric databases, language accessibility, and thematic relevance: criminal law or international law protection of cultural heritage. An important criterion was chronological relevance: mainly 2015–2025. Therefore, this

approach made it possible to ensure a high level of scientific validity and integration of the study into modern academic discourse.

The selection of jurisdictions for comparative analysis was formed according to a multi-criteria model. The key criteria included: 1). belonging to different legal traditions, which allows identifying the variability of approaches to criminalization; 2). geographical relevance: the main emphasis is on Azerbaijan; however, Europe, the Caucasus, and the Middle East are taken into account); 3). the presence of specialized or related criminal law norms on the protection of cultural heritage; 4). the degree of implementation of international conventions; 5). the availability of regulatory texts for analysis.

The use of these criteria made it possible to achieve representativeness of the sample and create a basis for identifying universal patterns and specific features of criminal law regulation. The work used various complementary methods, each of which had a clear function. In particular, the comparative legal method was used for a systematic comparison of criminal law norms of different jurisdictions. The comparison was implemented based on a unified analytical matrix, which consisted of the following parameters: object of criminal law protection; objective side (actus reus); subjective side (mens rea); subject of the crime; sanctions; compliance with international standards (Hague 1954, UNESCO 1970, ICC).

This ensured the reproducibility of the results and the possibility of direct comparison of legal models. The doctrinal method was used to analyze the structure of the elements of crimes against cultural heritage. Within the framework of this method, the decomposition of criminal law norms into key elements was carried out: actus reus (external manifestation of the act); mens rea (form of guilt); subject of the crime; and sanction. Further, the correspondence of these elements in the classical construction of corpus delicti was carried out.

The historical-legal method was used to reconstruct the evolution of international legal approaches to the protection of cultural heritage. In particular, it was traced from the 1954 Hague Convention to modern standards of international criminal law and recent reforms of the criminal legislation of Azerbaijan (2024–2025). The systematic method was used to analyze the criminal legislation of Azerbaijan. Within the framework of this approach, the internal consistency of norms, the presence of gaps in criminalization, collisions between individual norms and the connection of criminal legislation with other branches were described. The formal-logical method was used to establish logical contradictions and defects in legal regulation. In particular,

inconsistencies between the definitions of the object of the crime and contradictions between the norms of national legislation and international standards were recorded.

C. RESULTS AND DISCUSSION

1. International legal aspects of the protection of cultural heritage

The 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict (the Hague Convention) and its two Protocols (1954, 1999) formed the basis of international legal regulation in this area. This Convention established the definition of "cultural property" (Article 1) based on an enumerative approach. This document covered movable and immovable objects regardless of their origin and owner. The First Protocol (1954) specified the procedure for the removal of cultural property from occupied territories; the Second Protocol (1999) introduced the category of "enhanced protection" and contained a list of "serious violations" (Article 15), which the participating States were obliged to criminalize in their national law (Articles 15–21). However, the Hague System did not provide for direct criminal liability of individuals at the international level: the obligation to criminalize is delegated to the States Parties, and there is no enforcement mechanism.

At the same time, Article 8(2)(b)(ix) of the 1998 Rome Statute included as war crimes "intentional attacks on buildings dedicated to religion, education, art, science or charitable purposes, as well as on historic monuments", provided that they are not military objectives. Article 8(2)(e)(iv) extended this rule to non-international armed conflicts. The elements of the crime required: (a) the existence of an armed conflict, (b) intentional intent (dolus specialis not required), (c) the object of the attack is not a military objective. The jurisdiction of the ICC is largely complementary in nature and has not replaced national prosecution. At the same time, Article 8 did not cover the destruction of cultural heritage outside the context of armed conflict and did not provide for the liability of legal entities. Table 2 shows a summary matrix comparing these documents (See Table 2).

Table 2. Comparative Matrix of International Legal Instruments for the Protection of Cultural Heritage

Instrument	Scope of Application	Criminal Responsibility	Subject of Liability	Limitations
Hague Convention	Armed conflict	Indirect (through	State	Lack of enforcement

(1954)		state obligations)		mechanisms
Second Protocol (1999)	Armed conflict	Obligation to criminalize at national level	Natural persons	Applies only to States Parties
Rome Statute (Art. 8)	Armed conflict	Direct (ICC jurisdiction)	Natural persons	Limited to conflict situations; no corporate liability
UNESCO Convention (1970)	Peacetime	Not provided	—	Limited to illicit trafficking of cultural property
UNESCO Convention (1972)	Peacetime and armed conflict	Not provided	—	Focus on listing and protection mechanisms only

A comparative analysis of different jurisdictions made it possible to identify structural models of criminal law protection of cultural heritage, which differ in the level of institutionalization, the degree of implementation of international law. In particular, the Institutionalized Model is mainly represented in EU countries that have a high level of institutionalization of criminal law protection of cultural heritage, which is expressed in the combination of national criminal legislation with the norms of international criminal law.

In Germany, a two-level model has been established: in peacetime, § 304 of the Criminal Code (StGB) is applied, which criminalized damage or destruction of cultural objects. At the same time, in the system of armed conflict, the Code of Crimes against International Law (VStGB) is in effect, which implemented the Rome Statute and provided for liability for looting and destruction of cultural property (Redchits, 2016). Such a structure ensured a functional distinction between the regimes of peacetime and wartime protection.

Poland used a different model – specialized criminalization within the framework of international crimes. Article 125 of the Criminal Code provided for liability for encroachment on cultural property in an armed conflict, including qualified warehouses for objects of special cultural value. This indicated a high level of integration of international humanitarian law into national legislation. (Lagrange; Oeter; and Robert, 2018)

The Netherlands introduced the most implemented international model based on the International Crimes Act (2003). This law reproduced the

provisions of the Hague Convention and the Second Protocol. A feature is the differentiation of liability depending on the level of protection of the object (general/enhanced protection) and the possibility of involving legal entities. At the same time, in post-Soviet states, a mixed model is noticeable, consisting of elements of international criminal law with limited detail at the national level.

Article 411 of the Criminal Code of Georgia criminalized the destruction or appropriation of cultural and spiritual heritage objects, unless such actions are justified by military necessity. At the same time, the norm was mainly declarative in nature: it did not contain a clear definition of cultural heritage.

This indicates a partial implementation of international standards without their full dogmatic adaptation in domestic legislation. As a result, cultural heritage is defined as an object of protection, but its criminal legal interpretation has become insufficiently detailed (in particular, regarding actus reus and mens rea). At the same time, in legal systems that gravitate towards the Middle East, a fragmented model is noticeable, in which the criminal law protection of cultural heritage is not systematically integrated.

In particular, the Turkish Criminal Code does not contain special provisions on crimes against cultural heritage in armed conflicts. Protection is carried out on the basis of special legislation (Law No. 2863), which regulates illegal excavations, damage to monuments and illegal export of cultural values.

At the same time, the analysis of Turkey within the framework of this study was limited. This was due to the fact that the criminal law protection of cultural heritage in this jurisdiction is implemented mainly through special legislation (in particular, Law No. 2863), while the criminal code did not contain detailed norms that would allow for a full analysis of the elements of the crime (corpus delicti) according to the selected analytical matrix. In this regard, the Turkish case is used in the study rather as an illustration of a fragmented model of legal regulation. This limitation should be considered when interpreting the results. Such a model is characterized by the dominance of administrative and special legal mechanisms and an orientation exclusively on material objects (cultural property). Thus, the analysis indicated the existence of three main models of criminal law protection of cultural heritage: institutionalized, mixed, and fragmented.

The main difference between them lies in the degree of integration of international criminal law and the transition from an object-based (cultural property) to a human-centered (cultural heritage) model. However, the Criminal Code of Azerbaijan (1999) does not contain a systematically

formulated model of criminal law protection of cultural heritage as an independent object. Instead, the relevant acts are covered by general or related elements of the crime. This indicated the dominance of the object-based (property-oriented) approach.

The analysis of the basic elements of the crimes indicated this trend. Article 199 of the Criminal Code (intentional destruction or property damage) performed the function of a de facto universal norm that was also applied to cultural heritage objects. At the same time, its actus reus covered the physical destruction or damage to property; however, in fact, the cultural value of the object did not affect the qualification or sanction. The absence of a special feature indicated that the destruction of a unique cultural object is equated with damage to any other property. Thus, this indicated the lack of differentiation of the object of the crime.

Article 214 of the Criminal Code (terrorism) indirectly covered the encroachment on cultural heritage by involving the category of "significant property damage". However, in this norm, cultural heritage is not defined as an independent object of protection. The process of destruction does not have an autonomous criminal law significance. This recognized the lack of conceptualization of cultural heritage as a public or collective good.

Article 103 of the Criminal Code (genocide) also did not include the destruction of cultural heritage as an actus reus. In particular, in cases where such actions may be significant for the identity of a group. This distinguished Azerbaijani legislation from modern trends in international criminal law, in which cultural heritage is described as an element of protected group rights.

The analysis of war crimes was particularly revealing. Despite the presence of a separate section in the Criminal Code of Azerbaijan dedicated to crimes against peace and humanity, there is no norm in it that would directly criminalize the destruction or damage to cultural values. This created a fundamental difference from EU models, in which such norms are a central element of criminalization (see Table 3).

Table 3. Corpus Delicti Structure of crimes related to cultural heritage in Azerbaijani criminal law

Article	Qualification	Actus Reus	Mens Rea	Subject	Sanctions	Relevance to Cultural Heritage
Art. 199	Destruction or damage of property	Destruction or damage of property	Intent	Natural person (from 14	Fine / up to 5 years imprisonment	Applies indirectly; no distinction for

				years)		cultural objects
Art. 214	Terrorism	Acts causing danger to life or major damage	Direct intent with special purpose	Natural and legal persons	7–20 years or life imprisonment	Cultural heritage only indirectly via "significant damage"
Art. 103	Genocide	Acts aimed at destruction of protected group	Dolus specialis	Natural person	10–15 years or life imprisonment	No inclusion of cultural destruction
Chapter VII	War crimes	Various acts during armed conflict	Intent	Natural person	Varies	No specific provision on cultural heritage

Besides, the analysis made it possible to identify systemic gaps in the criminal legislation of Azerbaijan. In particular, there is no separate criminal law provision that would directly provide for liability for the destruction or damage of cultural heritage, as is provided for in the legislation of the EU countries. In addition, the legislation did not contain qualified elements of crimes for cases in which encroachments are committed against cultural heritage objects or in conditions of armed conflict. This means that there is no increased criminal law response to socially dangerous acts that may affect culture and values. On the other hand, the Criminal Code does not contain a normative definition of "cultural value", nor does it refer to special legislation. This situation has led to a gap between the protective (cultural) and criminal law regimes and has complicated the qualification of the relevant acts.

In addition, the provisions on war crimes did not fully implement the provisions of the Second Protocol of 1999 to the Hague Convention, including those concerning serious violations against cultural property. This indicated a partial and incomplete harmonization of international and national law. At the same time, even in general norms (destruction of property, hooliganism) there is no qualifying feature related to the cultural significance of the object. This once again confirmed the fact that cultural heritage is not singled out as a special object of the criminal law sphere (See Table 4).

Table 4. Identified problems in the criminal legislation of Azerbaijan

Dimension	Azerbaijani Criminal Law	International Standards	Gap Identified
Specific criminalization	Absent	Required (Hague 1954, Rome Statute Art. 8)	No separate offence for cultural heritage
War crimes qualification	Not specified	Explicitly required	No provision for attacks on

			cultural objects
Definition of cultural property	Absent	Clearly defined in conventions	Normative inconsistency
Qualified offences	Absent	Present in EU systems	No aggravated liability
Corporate liability	Limited (not applicable)	Increasingly recognized	Exclusion of legal persons
Integration with intl. law	Partial	Required	Incomplete implementation

Thus, the criminal legislation of Azerbaijan complies with international standards only partially and is focused mainly on the declarative level. The implementation of international legal norms is incomplete and fragmentary. At the same time, the process of conceptualizing cultural heritage remains limited to the framework of a material object. The results obtained made it possible to interpret the criminal legislation of Azerbaijan through the prism of two conceptual models defined in the theoretical framework: property (cultural property) and human-centered (cultural heritage).

The analysis of the corpus delicti indicated that the current Criminal Code of Azerbaijan mainly had a property model of protection. Within the framework of this model, cultural heritage is not defined as an independent object of criminal law protection, but is dissolved in a broader category of property. This was also reflected in the absence of special categories of crimes that would be focused on the material aspect of harm (actus reus as physical destruction or damage) and ignoring the symbolic or even identification value of cultural heritage. Accordingly, the general object of the crime is formed as property relations.

At the same time, some elements of legislative changes, including the introduction of criminal liability of legal entities (amendments of 2012 and their further development) and current legislative initiatives (2024–2025) indicated a gradual, but possibly inconsistent, approach to a broader protection model. In particular, the very logic of expanding the circle of subjects of responsibility potentially opened up the possibility of integrating more complex forms of encroachment on cultural heritage, in particular, organized illegal trafficking. Therefore, the Azerbaijani model can be characterized as a mixed model with the dominance of the material approach, which is currently at the stage of transformation; however, has not yet reached the level of a human-centric conceptualization of cultural heritage. At the same time, the results generally confirmed the conclusions formulated in the international scientific literature (Allahverdiyev, 2021). At the same time, they clarified them and made important adjustments.

In particular, Roger O'Keefe pointed out that one of the main problems was the gap between international legal standards and their implementation in national legal systems (O'Keefe, 2013). The analysis of the Criminal Code of Azerbaijan confirmed this thesis: international standards (in particular, the 1954 Hague Convention and the Second Protocol of 1999) have been formally ratified. However, their criminal legal implementation was incomplete.

At the same time, the results of the study made it possible to clarify this position. The problem lies in the structural inconsistency of conceptual models: international law tends more towards a human-centric model (cultural heritage as a value), however, the national legislation of Azerbaijan remained within the framework of the material paradigm. It is this asymmetry that explained why the formal borrowing of norms does not lead to their effectiveness. (Berkes, 2026; Gerstenblith, 2025)

Similar conclusions can be partially compared with other authors who point out the complexity of transforming international standards into domestic law, especially in areas where the object of protection is of a symbolic nature (Temiño, 2017; Schipper, 2022). In this space, the Azerbaijani case indicated that without changing the basic legal concept of cultural heritage, the implementation of international norms was superficial.

The results obtained have theoretical and practical significance, as they make it possible to formulate specific recommendations for improving the criminal legislation of Azerbaijan. In particular, it is worth introducing a separate element of the crime, which provides for liability for the destruction, damage or misappropriation of cultural property, with a clear definition of the object of the crime based on a reference to international acts (in particular, the 1970 UNESCO Convention and the 1954 Hague Convention). It is also necessary to integrate the norms of international humanitarian law based on the introduction of a separate element of the war crime. This may be analogous to Article 8(2)(b)(ix) of the Rome Statute, which directly criminalizes attacks on cultural heritage sites.

In addition, it is worth providing for qualified elements of the crime if the encroachment concerns sites that have special cultural value. It would also be advisable to expand the criminal liability of legal entities to crimes related to cultural heritage (Auwera, 2013; Vrdoljak, 2023; Hufnagel, 2026). This generally corresponds to modern trends in combating the illicit trafficking of cultural property. At the same time, it is worth legislating the definition of "cultural property" in criminal law and providing a direct reference to special legislation.

In the theoretical dimension, the results of the study demonstrate the need to transition from a material to a human-centric model of cultural heritage protection, which should be reflected in the structure of criminal law norms. However, the study has certain limitations. In particular, it is focused on normative analysis and did not cover the judicial practice of Azerbaijan. In addition, the use of translated versions of the legislation may affect the accuracy of the interpretation of individual norms. In addition, comparative analysis of individual jurisdictions (in particular Turkey) was limited by the lack of sufficiently detailed criminal law provisions, which made it difficult to apply a single methodological framework for corpus delicti analysis. Further research should be directed at an empirical analysis of judicial practice.

D. CONCLUSIONS

Therefore, the study analyzed the criminal law protection of cultural heritage in international and comparative dimensions with a focus on the legislation of Azerbaijan. It was established that international criminal law conceptualized cultural heritage, as modern doctrine demonstrated a gradual transition from a material (cultural property) to a human-centric (cultural heritage) model. This shift reflected the expansion of the understanding of harm - from material destruction to encroachment on cultural identity.

The comparative analysis showed the existence of three main models of criminal law protection of cultural heritage: institutionalized (EU countries), mixed (post-Soviet space), and fragmented (Middle Eastern countries). The main criterion for their differences was the degree of implementation of international standards and the level of autonomization of cultural heritage.

In addition, it was established that the criminal law of Azerbaijan partially complies with international standards. In particular, the analysis of corpus delicti indicated the absence of specialized crime elements, insufficient detailing of the object of the crime, and limited integration of international legal norms. Cultural heritage is not defined as an independent object of criminal law protection and is regulated through general property norms. This indicated the dominance of the property model. Thus, the hypothesis put forward was confirmed: the criminal legislation of Azerbaijan partially implements international standards. However, it contains important structural gaps in the definition of the objective and subjective elements of crime.

The scientific novelty of the study lies in the combination of a theoretical model (object-based vs human-centered) with corpus delicti analysis and a

comparative legal approach. This approach made it possible to comprehensively and systematically assess the level of compliance of national legislation with international standards. The practical significance of the work lies in the formulation of specific recommendations for improving the criminal legislation of Azerbaijan. At the same time, the results of the study indicated the need for further research, including an empirical analysis of judicial practice.

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