Modern conflict, emergencies and cultural heritage: exploring the relevance of cultural rights

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Matters of cultural identity, heritage and practices are often at the heart of modern conflict and emergency patterns. If we recognize this, it triggers questions such as i) how threats to cultural heritage and cultural property may intensify or shift under armed conflict, ii) how to safeguard cultural property in the short-term maximizing what can be done under complex emergency contexts, but also iii) how to connect the dots between cultural property and heritage protection and the centrality of identity politics and heritage from the perspective of social cohesion, peace building and cultural rights. It is mainly the latter topic, I wish to address here.

Speaking here in my personal capacity as a researcher, I am also involved in a joint initiative by UNESCO and the OHCHR which seeks to better understand the challenges experienced by humanitarian, security and peacebuilding actors in dealing with culture and cultural rights ultimately leading to a joint capacity building tool.

Yesterday, indeed, we held powerful statements about the challenges of upholding International Humanitarian Law in times of conflict by the Red Cross. Yet, also we had a powerful statement by the Special Rapporteur on Karima Bennoune about a human rights approach to heritage. Attacks against property are also attacks against people and their rights. She stressed the importance of increasing ratifications of the 1954 Convention, as a way of ensuring this. A pragmatic approach of getting more actors to play by rules with a proposal to adopt a proposal in the short-term for more ratifications.
Yet, it is also a moment to ask questions like: Are we on track with the Convention and its instruments as an effective instrument for the challenges faced today? Could additional and complementary approaches potentially be relevant?

Yesterday, again, there were, on the one hand, strong arguments against a third Protocol. Also, there is perhaps some skepticism about aiming for more and higher requirements, if the international community is already struggling to uphold IHL. Let’s try to save what can realistically be saved. Would further rules run the risk of Parties abandoning customary law, altogether?

Yet, look again. In some respects, aren’t the challenges faced today with destruction of cultural property, extremist action and identity politics are different from the challenges leading to the adoption of the 1954 Convention? Whether we look to the recent tragedies in Sri Lanka, Iraq, at stake are not simply attacks on property, but deeper-running tensions, the instrumentalization of identity, extremist politicking and the denial of individual and collective rights. If property is at the heart of it, much more is clearly at stake.

For starters, if we consider the destruction of cultural property as the tip of the iceberg of a wider problem complex, what can be said about underlying cultural, political dynamics and how does a cultural rights approach fit with wider approaches to safeguard cultural heritage? Acknowledging that cultural heritage often ends up being dragged into longstanding complex conflicts, to what extent is conflict analysis equipped, on the one hand, to decrypt such dynamics and on the other hand, design culturally-sensitive responses? Given that culture is a very critical consideration in conflict today, as recognized in the very concept of identity politics, then culture must be at the heart of conflict analyses and peace strategies. Yet, what does this mean in practice?

Drawing on both literature interviews with practitioners in the field, this presentation explores implications for emergency response, in particular, addressing the relevance of a cultural rights-based framework.

In the summer of 2015, Professor Khaled al-Asaad, the head of archaeology at Palmyra, Syria for more than four decades, was brutally beheaded by Daesh, as he reportedly refused to tell the location of hidden artefacts. The brutality reminds us that heritage is not simply a profession, a matter of cultural policy, signs of distant past, but symbols, practices, and means of communication and targets of the present. Think also of communities and people losing lives and presence because who they, how they relate to past or ways they are connected distinct places. While it on the on the hand, may seem as meaningless symbol politics, it from another perspective alerts us to the centrality of matters of identity in justifying and waging war, but also more profoundly what it takes to maintain peace thus potentially avoiding or rather preventing the necessity of humanitarian action in the first place.

As a starting point, the protection of cultural property is at the heart of the 2015 Strategy for reinforcing UNESCO’s action for the protection of culture and the promotion of cultural pluralism in the event of armed conflict. The strategy also adopts a broader two-pronged approach. On the one hand, it is about strengthening Member States’ ability to prevent, mitigate, and

recover the loss of cultural heritage and diversity as a result of conflict. On the other hand, it concerns incorporating the protection of culture into humanitarian action, security strategies and peacebuilding processes. As the strategy clearly underlines:

“attacks on culture are characterized by the deliberate targeting of individuals and groups on the basis of their cultural, ethnic or religious affiliation. Combined with the intentional and systematic destruction of cultural heritage, the denial of cultural identity, including books and manuscripts, traditional practices, as well as places of worship, of memory and learning, such attacks have been defined as “cultural cleansing” (UNESCO 2015).

As the strategy continues:

“Similar acts, such as those recently perpetrated by ISIL/Daesh in Iraq and Syria and associated groups in other countries, are undertaken to impose a sectarian vision of the world and of societies, erase cultural diversity and pluralism and deny cultural rights and fundamental freedoms.”

At stake, in other words, is a clear attempt to connect the dots not just situating the destruction of cultural property as a rights issue, but also evoking the underlying clash of world views, attacks on cultural diversity and the denial of rights. How in essence can such rights violations be responded to and addressed in a way facilitating the implementation of the strategy? What we suggest here is exploring how the growing attention and focus on cultural property as a window of opportunity to promote a more comprehensive approach to culture, cultural pluralism and a rights-based approach to culture and heritage.

2019 is not only the 65th anniversary of the 1954 convention, the 20th anniversary of its Second Protocol, it is also the 25th anniversary of the Genocide in Rwanda and we are just out of the 70th anniversary of the Universal Declaration of Human Rights. Why mention this? Without likening the destruction of cultural property to genocide, nor other gross human rights violations faced in times of conflict, destruction has increasingly been framed as a crime against humanity. Also, it is fruitful to take a step back and think about what heritage is more broadly, and how it is used and how it might relate to destruction, loss of human dignity faced and the international human rights architecture put in place during the 20th century.

Cultural rights have long been described as neglected, the prodigal son of human rights and even an orphan in the wider human rights family. Today we are experiencing an awakening that culture, heritage and cultural rights do matter and are intimately connected. The last 20 years have seen growing recognition that cultural rights are not a cause of division, but rather a necessary ingredient of building social cohesion. Cultural rights, it must be added, are not just about cultural heritage protection, but concerns the right and ability to enjoy cultural


rights in more general terms, including free artistic expression, transmitting one’s language and participating in the cultural life of one’s choice.

If the destruction of globally recognized cultural property is dramatic, it must also be seen in the context of an equally dramatic loss of everyday buildings, hospitals, schools, sacred sites and lives.

Indeed, from one perspective, heritage conservation of singular properties, may not appear essential for the scramble of saving lives, and the need for shelter, food and medical support in the immediate emergency, yet clearly matter in the long-term and reveal deeper significance. However, such divides are easily too simplistic and black-and-white about the nature of conflicts, emergency and the value of a culturally-informed approach.

Yet, in another sense, the protection of cultural property and heritage more broadly is arguably more than merely a question of isolated cases of saving material evidence of the past, but also concerns the underlying tensions, the instrumentalization of identity and the individual and collective rights denied. From the destruction of the Stari Most Bridge during the Bosnian War targeted as a symbol of the ‘ethnically mixed’ Mostar to be ‘cleansed’ to Islamic State attacks against “sites associated with the commemoration of the dead” and buildings as signs of pre-Islamic cultures, the rights issues are profound concerning collective rights to memory, identity and survival grounded in long-standing historical and political conditions. Consider also how the rise of populism and polarized politics results in highly inflammatory grounds for sustaining conflict, antagonistic identity politics leaving heritage vulnerable to capture and instrumentalization and provoking human tragedies as we have seen in the case of the Rohinga. Heritage and cultural identity in such cases become targets or means to attack rather than spaces for social cohesion.

On the one hand, the safeguarding of cultural property is critical in the immediate term, on the other, more thinking and long-term approaches are needed to think about heritage and cultural rights as tools for recognition and reconciliation. A cultural rights-based approach arguably offers an important complementary approach allowing a stronger focus on heritage communities and stewards, their conditions and rights. It concerns everyday manifestations of connection to place, naming topographies, determining access and fundamentally how people live together – or apart. In this sense, it also offers a different bottom-up perspective on how cultural property and heritage matter, which may include but also go beyond globally recognized categories of cultural property and heritage.

It may thus allow us to think about cultural property threats and protection as the tip of the iceberg of structural dynamics of a social, cultural and political nature. Indeed, unless such underlying social tensions and identity politics are addressed head-on, the immediate safeguarding of cultural property in the short-term may easily be jeopardized in the long-term given the protracted nature of the conflict.

To put things simply: Without cultural heritage no cultural property, without a minimum of cultural rights no cultural heritage. Such a complementary perspective is arguably a foundation allowing for people to access, to practice and fundamentally live with cultural diversity and property in the first place. Interviews with practitioners on the ground from the humanitarian, peace-keeping and cultural heritage fields interestingly reveal the pragmatic importance of bringing together cultural property, heritage, and rights in a comprehensive approach from early on.

There is today growing advocacy and recognition of the rights implications of attacks against cultural heritage, which have been widely recognized such as through resolutions 2199 (2015) and 2347 (2017) by the UN Security Council, as well as Resolutions 33/20 (2016) and 37/17 (2018) by the Human Rights Council.

Yet, addressing the destruction of cultural property as a human rights violation is arguably only the tip of the iceberg in terms of recognizing the links between heritage and rights. What we suggest is a more comprehensive approach to culture, heritage and cultural rights, notably recognizing the additional dimensions and benefits deriving from this. More can be done to recognize the centrality of culture, heritage and identity matters in contemporary conflicts – and peacebuilding situations and humanitarian practice.

Moving forward on this would arguably thinking about a cultural rights approach with several pillars.

First, let us reiterate the importance of cultural rights framework is about more than cultural heritage protection and underlines the ability and conditions that enable individuals and communities to enjoy and practice cultural rights in general terms including free artistic expression, religion, language and participating in the cultural life of one's choice.

Second, let us not forget the protagonism of heritage practitioners and stewards in mobilizing local protection efforts in the first place. Discrete movements of objects and cooperation with local communities have proven successful from Mali to Syria\(^{26}\). Even high-profile rescue operations of the globally significant at the end of the day rely on hands-on support with local stewards in the long-term.

Third, cultural rights concern how issues are framed in the first place. This concerns what is deemed worthy of protection, what is saved and whether protection efforts take into account the conditions enabling people to freely and effectively practice and transmit cultural heritage to future generations. The challenge is of course that culture is easily manipulated, identity and heritage easily fall prey to instrumentalization by political interests, warring parties or material gain for that matter. In other words, addressing cultural property destruction is also about countering the destruction, about the iconoclasm taking place\(^{27}\), and ultimately protecting the cultural rights of vulnerable groups.


Fourth, cultural property and heritage protection is at times perceived as driven by economic and political elites, notably in social contexts characterized by poverty, exclusion and the rise of extremism. In response, is cultural property protection simply a rescue mission for what matters historically for the world, or can approaches be harnessed to make the connection to lives, communities, vulnerabilities and identity politics involved? As identity politics are at the heart of conflict, a cultural rights perspective may offer a complementary framework and alternative language for linking immediate rescue action to broader efforts to ensure space and building blocks necessary for building social and cultural cohesion in the long-term.

Fifth, if we connect questions of property destruction to matters of social complexity, ethnic tensions and social inequalities, this triggers responses that are not limited to the material dimensions, but explores ways of connecting the dots. This e.g. concern deeper-lying questions of cultural rights, whether in the case of language rights, rights to the identity or wider collective rights of particular groups to practice and transmit culture. This then becomes about more than a loss of a given place or property, and in fact more about the ways questions of identity, symbols and property can be mobilized to inform peace and conflict resolution.

Consider, for example, the centrality of cultural heritage and rights in peace accords bridging long-standing divides as seen in cases such as Guatemala. In that sense, the protection of cultural property is not (only) an ends in itself, but means and entry-point for a deeper social, cultural and political dialogue to enhance cultural rights in the context of armed conflict and peace-building.