Santander Art and Culture Law Review 2/2023 (9): 263-292
DOI: 10.4467/2450050XSNR.23.031.18651

VARIA

Pádraig McAuliffe*

p.g.mcauliffe@liverpool.ac.uk
orcid.org/0000-0002-7712-5472
School of Law and Social Justice
University of Liverpool
Chatham Street
Liverpool, L69 7ZR, United Kingdom

From the Ashes: Guarantees of Non-Recurrence for Destruction of Cultural Heritage

Abstract: Because cultural heritage is a significant aspect of identity, it is often targeted during conflict or periods of repression. The danger may diminish with peace or transition, but it does not evaporate. Heritage is inherently contentious *post bellum*, so communities fear for the ongoing safety of their heritage, either because conflict might recur or because past patterns of cultural chauvinism or neglect might be repeated. The material integrity of heritage has gradually become a matter of concern for transitional justice. It has long been a maxim of transitional justice that dealing with the past implies preventing in the future. There is a need for regulatory schema and administrative structures serving the goal of preserving and protecting the tangible cultural riches of the state and/or communities of origin from the lingering threats that the politics of power might again be played out over heritage. Guarantees of non-recurrence (GNR) offer both an ethos and a framework in which

* **Pádraig McAuliffe** is Professor in Transitional Justice at the School of Law and Social Justice, University of Liverpool (United Kingdom). He holds a PhD from University College Cork. He has published two books, namely *Transitional Justice and Rule of Law Reconstruction: A Contentious Relationship* (Routledge, 2013) and *Transformative Transitional Justice and the Malleability of Post-Conflict States* (Edward Elgar, 2017). The first version of this article was presented at the European Society of International Law's Panel on International Law of Culture in Armed Conflict during its 2022 Conference in Utrecht. The Panel was organized by Giovanni Carlo Bruno, Beatriz Barreiro Carril, Andrzej Jakubowski, and Lucas Lixinski.

to prioritize and think through this work of protection, conservation, and safeguarding. This article argues that the World Heritage Convention, notwithstanding its circumscribed emphasis on material and places of outstanding universal value, is nevertheless applicable to all heritage to which a GNR might be attached and provides an achievable "good enough" practice model, provided there is a threshold level of domestic political will.

Keywords: cultural destruction, cultural heritage, transitional justice, guarantees of non-recurrence, World Heritage Convention

Introduction: Heritage in the Aftermath of Conflict

Heritage is one of the primary means by which groups at the state, regional, transregional, and local levels share cultural values, foster a sense of belonging, shape memory, and construct identity. It is inseparable from perceptions of power and inclusion. Because communities derive meaning from heritage, it is frequently attacked in civil conflicts as a means of undermining morale and social cohesion.[1] Examples of this phenomenon are wearily familiar in intrastate wars – both Cypriot communities deliberately attacked the other's monumental and architectural heritage in the civil war there;[2] the Old Cities of Damascus and San'aa have been destroyed in the civil conflicts in Syria and Yemen (albeit with much external assistance);[3] and Eritreans suffered the loss of monuments, churches, and symbolically important sycamores during their war for separation from Ethiopia.[4] This type of cultural destruction is often pre-dated by state and non-state subversion of heritage to reinforce certain dominant identities,[5] as well as outright neglect by

[1] Civil conflict is defined herein as sustained, large-scale, politically organized war that occurs within a state among numerically significant groups of its inhabitants or citizens.

[2] M.E. Jansen, *War and Cultural Heritage: Cyprus after the 1974 Invasion*, University of Minnesota, Minneapolis, MN 2005.

[3] W. Logan, *Heritage, Sustainable Development and the Achievement of Peace and Security in Our World: Ambitions and Constraints*, in: P.B. Larsen, W. Logan (eds.), *World Heritage and Sustainable Development*, Routledge, London 2018, pp. 134-152.

[4] Y. Libseqal, *Eritrea*, in: International Council on Monuments and Sites (ICOMOS), *World Report 2001–02 on Monuments and Sites in Danger*, 2002, https://web.archive.org/web/20220307175958/https://www.icomos.org/risk/2001/erit2001.htm [accessed: 08.02.2023].

[5] See for example how Syrian cultural heritage and its administrative institutions were used by the Assad regime to reinforce a Ba'athist narrative: A. Al-Azm, *The Importance of Cultural Heritage in Enhancing a Syrian National Identity and the Role of Local Non-State Actors in Preserving It*, in: P.G. Newsome, R. Young (eds.), *Post-Conflict Archaeology and Cultural Heritage*, Routledge, London 2017, pp. 92-93.

failed state institutions.[6] The end of conflict does not mean the end of the danger to heritage – in addition to the risk of conflict recurrence or revanchist attacks on material culture, one might also add the more prosaic dangers of thwarted agricultural and industrial development, climate change and natural disasters, tourism, and illicit trade.

Recommendations for how to address ongoing danger to cultural heritage post-conflict have been proposed in terms of protection, conservation, and management. Some propose inventories of damaged and surviving heritage; revision of ineffective laws; training for heritage management; and outreach to schools and communities.[7] Others cite local-level early warning systems;[8] inter-ministerial mechanisms for mainstream heritage protection;[9] (renewed) adherence to relevant treaties; and the criminalization of acts of intentional destruction as key to post-conflict heritage recovery.[10] Others go further and emphasize healing, rights-based practice, links to civil society, and gender-sensitivity in heritage practice.[11] Above all, scholars and policy-makers urge that more attention be paid to institutional capacities for protecting heritage from acute conflict-related risks as well as from more everyday degradation – stressing the need for proper planning, management, stewardship, and regulation of competition vis-à-vis heritage – which may or may not have been performed effectively by the state and/or local authorities prior to conflict. Many countries have laws on the books, but these have historically proven ineffective.[12] They may further lack a philosophy of conservation or protection that corresponds to the obvious dangers posed to heritage after the guns go silent. Notwithstanding an "awakening" to the importance of culture at the international level[13] and the compelling domestic interest in heritage for the reasons outlined above, ostensibly "greater concerns" tend to dominate the agenda of post-conflict governments.[14] As Alvaro Higueras argues

---

6 P. Basu, *Confronting the Past? Negotiating a Heritage of Conflict in Sierra Leone*, "Journal of Material Culture" 2008, Vol. 13(2), pp. 233, 234.

7 A. Abdulkariem, P. Bennett, *Libyan Heritage under Threat: The Case of Cyrene*, "Libyan Studies" 2014, Vol. 45(1), pp. 155, 158-161.

8 S. Barakat, *Necessary Conditions for Integrated Approaches to the Post-Conflict Recovery of Cultural Heritage in the Arab World*, "International Journal of Heritage Studies" 2021, Vol. 27(5), p. 445.

9 N.H. Dupree, *Cultural Heritage and National Identity in Afghanistan*, "Third World Quarterly" 2002, Vol. 23(5), p. 987.

10 C. Hill, *Killing a Culture: The Intentional Destruction of Cultural Heritage in Iraq and Syria under International Law*, "Georgia Journal of International and Comparative Law" 2016, Vol. 45(1), p. 210.

11 R. Matthews et al., *Heritage and Cultural Healing: Iraq in a Post-Daesh Era*, "International Journal of Heritage Studies" 2020, Vol. 26(2), pp. 121, 136.

12 E.g. Sierra Leone (P. Basu, op. cit., p. 233) and Libya (A. Abdulkariem, P. Bennett, op. cit., p. 159).

13 Traced convincingly to the looting of antiquities that attended the Iraq war in A.F. Vrdoljak, *Cultural Heritage, Human Rights and the Privatisation of War*, in: A. Durbach, L. Lixinski (eds.), *Heritage, Culture and Rights: Challenging Legal Discourses*, Bloomsbury Publishing, London 2019, p. 63.

14 A. Abdulkariem, P. Bennett, op. cit., p. 156.

> Post-conflict contexts are extremely difficult for cultural heritage. Heritage managers must wait for a reasonable easing of the humanitarian situation; that is solutions for food, health, and shelter issues for displaced and affected populations must be enacted before cultural heritage can be addressed.[15]

This paper explores the extent to which transitional justice (TJ) can catalyze the political will to safeguard vulnerable heritage amidst the welter of competing claims for attention. TJ is a body of principles and practices oriented towards "addressing past violations as a means of strengthening the capacity of the transitional state to move forward", and as such it can respond to both past experiences and enduring contemporary risks of heritage destruction.[16] Transition tends to be a time for re-evaluation of the politics of heritage, as new narratives or resignifications become embedded.[17] In particular, this article assesses whether guarantees of non-recurrence (GNR) might serve as an adequate response to a past loss of heritage and the contemporary risk of recurrence. GNRs are defined herein as "steps taken in response to a violation to prevent them from happening again to the same or other victims similar to them".[18] GNRs emerged in part from the *Updated Set of Principles to Combat Impunity*, the *Basic Principles and Guidelines on the Right to a Remedy and Reparation* and TJ's "never again" ethos to become a distinct obligation and the fourth main limb of TJ – after trial, truth, and reparation. GNRs go beyond responses to individual or collective human rights violations and target the laws, systems, and institutions that commit or permit them. Though steps to prevent abuses are often obvious, GNRs *qua* guarantee counteract the political tendency towards failure of implementation by reason of limited resources, insufficient capacity, or political will. Familiar forms of GNR include reforms of security services, vetting, education, and repeal of discriminatory laws.[19] GNR tends to draw on established international norms.[20] This is because, as Lucas Lixinski argues, contemporary heritage norms manifest a "deeply institutionalized and law-shaped set of practices", and thus there is good reason

[15] A. Higueras, *A Post-Conflict Scenario in the Caucasus Region: A Documentation Drive to Assess Monumental Heritage*, in: P. Newson, R. Young (eds.), *Post-Conflict Archaeology and Cultural Heritage: Rebuilding Knowledge, Memory and Community from War-Damaged Material Culture*, Routledge, New York 2018, p. 138.

[16] J. Cavallaro, *Looking Backward to Address the Future: Transitional Justice, Rising Crime, and Nationbuilding*, "Maine Law Review" 2008, Vol. 60(2), p. 466.

[17] L. Demeter, *Regime Change and Cultural Heritage Protection: A Matter of State Security*, "International Journal of Heritage Studies" 2019, Vol. 25(5), p. 522 [Preamble].

[18] C. Ferstman, *Do Guarantees of Non-Recurrence Actually Help to Prevent Systemic Violations? Reflections on Measures Taken to Prevent Domestic Violence*, "Netherlands International Law Review" 2021, Vol. 68(3), p. 387.

[19] I therefore follow the practice (and, indeed, title) of the UN Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence in separating GNRs conceptually from truth commissions, trials, and reparations, even if we accept that all mechanisms conduce to non-recurrence.

[20] See generally P. McAuliffe, *Two Logics of Non-Recurrence After Civil War*, "International Human Rights Law Review" 2023, Vol. 12(2), pp. 153-185.

to believe they can and should underpin the guarantees contained in TJ's responses to cultural destruction in general,[21] and GNRs in particular.

Consequently, I argue that domestic and international policy-makers can draw on the World Heritage Convention (WHC) as an operable and pragmatic framework around which to orient the state's duties as guardians of heritage after a period of conflict or authoritarianism in which this duty was insufficiently exercised.[22] Like all forms of GNR, "in practical terms the management and protection of World Heritage properties is very often about managing people, usually in the form of minimising negative human impact".[23] Both GNRs and the World Heritage Convention have a predominantly preventive ethos. The positive impact that publicizing and protecting cultural heritage might have on the endurance of heritage underpins the inscription and monitoring processes of the World Heritage Committee and its secretariat, to say nothing of the Endangered Heritage list. The management models that have been developed over time in its implementation "emphasise the process of establishing [heritage] value and identifying and mitigating threats to it".[24]

Though drawn to the regulatory potential of the WHC and its Operative Guidelines (examined in the third section of this article), it is of course the case that the Convention applies only to material or natural culture of "outstanding universal value" (OUV) on the World Heritage List, i.e. that which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity. As such, the Convention is selective – it is not intended to encompass all heritage worthy of protection. This is concerning if we accept that for every UNESCO World Heritage Site – like Old Mosul or the Sufi shrines in Mali – there are countless sites like mosques, churches, temples, and shrines not considered worthy of OUV status and which are destroyed in conflict or are in danger thereof afterwards.[25] The WHC has obvious benefits for World Heritage Sites like Cyrene or Shibam, inasmuch as it provides a mechanism by which concerned states can activate internationalized protective measures for heritage at risk, like warnings, surveillance, fencing, and patrols. However, these are not the only sites that have value to communities, and indeed many sites like Palmyra or the

[21] L. Lixinski, *Legalized Identities: Cultural Heritage Law and the Shaping of Transitional Justice*, Cambridge University Press, Cambridge 2021, p. 6.

[22] UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage, 16 November 1972, 1037 UNTS 151. This is not inconsistent with approaches to heritage that de-centre the state from conservation, protection, and management when concerned non-state groups can do so, as the fifth section goes on to argue.

[23] J. Gillespie, *Heritage and Human Rights: Reframing the Conservation Ethic*, in: A. Durbach, L. Lixinski (eds.), op. cit., pp. 169-170.

[24] H. Deacon, R. Smeets, *Authenticity, Value and Community Involvement in Heritage Management under the World Heritage and Intangible Heritage Conventions*, "Heritage & Society" 2013, Vol. 6(2), pp. 136-143.

[25] An argument made in B. Isakhan, A. Akbar, *Problematizing Norms of Heritage and Peace: Militia Mobilization and Violence in Iraq*, "Cooperation and Conflict" 2022, Vol. 57(4), p. 517.

Bamiyan Buddhas have arguably a greater international resonance than domestic. These "quotidian sites" are hard to glamorize and suffer from the disparity of state and international efforts towards OUV heritage, but are every bit as important in the aftermath of conflict.[26] As Laurajane Smith puts it:

> Heritage matters, but it matters not necessarily because it is nice, pretty or an expression of so-called "universal" values, it matters because how it is used has consequences for the individual, community, national, and global understanding of self and "other".[27]

Article 12 WHC confirms that "The fact that a property belonging to the cultural or natural heritage has not been included" in either the World Heritage List or the List of World Heritage in Danger "shall in no way be construed to mean that it does not have an outstanding universal value for purposes other than those resulting from inclusion in these lists". Furthermore, Article 5 WHC imports broader commitments than OUV heritage, as States Parties commit themselves in general to establishing effective measures for the protection, conservation, and presentation of the cultural and natural heritage throughout the national territory. As such, Article 5 can and should provide guidance for complex heritage sites that fall outside World Heritage status.[28]

More broadly, national-level heritage protections increasingly draw on international legal regimes that do not necessarily protect the heritage in question.[29] In short, I am less interested in the WHC as a global regulatory regime with its attendant powers to "name and shame" than its potential impact via Articles 4 and 5 and the Operational Guidelines as an admittedly non-mandatory (except in the case of designated world heritage) but structured praxis to guide domestic policy and rule-making in terms of vulnerable heritage where under-regulation was the norm. Put another way, while drawing on the global legal space of the WHC, I am concerned more with the interests of the nation or community, as opposed to the world, where the internal interest in heritage preservation is significantly greater than the external concern.[30] While the guiding principle of the WHC is the exceptionality of heritage, when using the Convention to spearhead guarantees of non-recurrence the guiding factors are imminent threat and/or proven vulnerability.

[26] P. Newson, R. Young, *Conflict: People, Heritage and Archaeology*, in: eidem (eds.), op. cit., pp. 5, 6.

[27] L. Smith, *Discussion*, in: R. Bendix, A. Eggert, A. Peselmann (eds.), *Heritage Regimes and the State*, Universitätsverlag Göttingen, Göttingen 2013, p. 393.

[28] An argument made in D. Rodwell, *The World Heritage Convention and the Exemplary Management of Complex Heritage Sites*, "Journal of Architectural Conservation" 2002, Vol. 8(3), pp. 40-41 [Preamble].

[29] B. Boer, S. Gruber, *Heritage Discourses*, in: B. Jessup, K. Rubenstein (eds.), *Environmental Discourses in Public and International Law*, Cambridge University Press, Cambridge 2012, pp. 375-376.

[30] To draw on language in S. Battini, *The Procedural Side of Legal Globalization: The Case of the World Heritage Convention*, "International Journal of Constitutional Law" 2011, Vol. 9(2), p. 348.

The article begins by exploring the enduring risk to heritage post-conflict. It then goes on to explore how and why the WHC can inform guarantees of non--recurrence. It concludes by arguing that the risks of alienation with respect to communities – stemming from internationalization and expertise-driven technicism – are in fact manageable.

Post-Bellum Risks to Heritage

The reasons why, and the means by which, heritage is attacked in conflict need little elaboration. What is less well understood is that the end of conflict is not the end of danger to heritage. Many peace agreements mask frozen conflict where the guns have gone silent but there is reason to believe that one or both sides might try to violently revise the settlement. Christine Bell and Jan Pospisil argue that "formalised political unsettlement" is often the best that can be achieved, fashioned around the conflict's fundamental disagreement and yielding an inherently insecure "no war, no peace" dispensation.[31] Collective fear, insecurity, and resentment are therefore considered normal, particularly where generalized or localized power vacuums or breakdowns in basic services occur. This background atmosphere of latent violence and revanchism needs to be borne in mind. Heritage is a core aspect of the politics of recognition and status (which of course is why it is targeted in conflict) and it legitimizes claims for political or social justice.[32] Heritage serves as "ontic spaces", physical extensions of the community's self-identification process that often serves to exclude some contestations and pluralities that might inhere in the objects or landscape.[33] It is for this reason that we misunderstand heritage after conflict. Though heritage destruction is an attempt to delegitimize or demoralize a culture, it tends to be the case that "the underlying repressed culture will eventually re-emerge and, in some cases regenerate in a stronger form than before the suppression".[34] The "strong emotions" and "old rancours" that led to material damage during conflict[35] serve as barriers to positive peace if antagonistic narratives remain potent, particularly where heritage was used to shore up an imposed national culture on minorities.

31 C. Bell, J. Pospisil, *Navigating Inclusion in Transitions from Conflict: The Formalised Political Unsettlement*, "Journal of International Development" 2017, Vol. 29(5), pp. 583, 584, 590.

32 L. Smith, op. cit., p. 392.

33 F. Ejdus, *Abjection, Materiality and Ontological Security: A Study of the Unfinished Church of Christ the Saviour in Pristina*, "Cooperation and Conflict" 2021, Vol. 56(3), p. 267.

34 B. Boer, S. Gruber, op. cit., p. 382.

35 A. Jakubowski, *The Human Dimension of State Succession to Cultural Property: The Balkan Lesson*, in: S. Borelli, F. Lenzerini (eds.), *Cultural Heritage, Cultural Rights, Cultural Diversity*, Brill Nijhoff, Leiden 2012, p. 370.

Of course, culture is manifested not only in what a society *has*, but also in what it *thinks* (tradition, beliefs) and how it behaves (ritual, recreation, behaviour).[36] It is therefore the case that foregrounding the WHC also foregrounds tangible and natural cultural heritage over intangible cultural heritage as protected in the "necessary measures" to secure things like story-telling, rituals, and craftmanship in the Intangible Heritage Convention.[37] There is something to the argument that the historicist-monumentalist preoccupations of the former Convention reflect Eurocentric conceptions of architectural and archaeological heritage that are quite distinct from many cultural concepts in the Global South, and I further accept the artificiality of the distinction between the two (the Intangible Cultural Heritage Convention recognizes the "deep-seated interdependence between" the two).[38] My focus on tangible and natural heritage owes to the reality that because human lives are "shot through with traditions that will run on whatever happens to buildings", heritage as *practice* raises different policy dilemmas and possibilities than heritage as *product*.[39] Furthermore, what is ethically possible in terms of the ownership, rebuilding, or presentation of tangible heritage is obviously less circumscribed than what is ethically possible in relation to people.[40] That said, any prescriptions or models in terms of GNRs that relate to tangible heritage *might* apply with greater or lesser force to its intangible manifestations. Indeed, it would seem clear that intangible heritage is enshrined in heritage law "obliquely" through the Operational Guidelines to the WHC.[41]

While it is something of an article of faith that the reconstruction or protection of heritage in conflict inevitably enhances the prospects of reconciliation and stability,[42] heritage is too polysemic for this assumption to be a safe one. Annika Björkdahl and Johanna Mannergren Selimovic, for example, show how the international community has misunderstood cross-community bridges in Mostar and across the Drina, enchanting them via metaphor as visual symbols of reconciliation when they in fact are sites of "contentious commemoration", where mutually-exclusive cultural politics of identity are played out.[43] Heritage is often at its most

[36] D. Rodwell, *The Historic Urban Landscape and the Geography of Urban Heritage*, "The Historic Environment: Policy & Practice" 2018, Vol. 9(3-4), pp. 192-193.

[37] UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, 17 October 2003, 2368 UNTS 3, Art. 11(a).

[38] Ibidem, Preamble.

[39] C. Brumann, D. Berliner, *Introduction: UNESCO World Heritage-Grounded?*, in: eidem (eds.), *World Heritage on the Ground: Ethnographic Perspectives*, Berghahn Books, New York 2016, p. 17.

[40] W. Logan, *Cultural Diversity, Cultural Heritage and Human Rights: Towards Heritage Management as Human Rights-Based Cultural Practice*, "International Journal of Heritage Studies" 2012, Vol. 18(3), p. 236.

[41] L. Lixinski, op. cit., p. 86.

[42] B. Isakhan, A. Akbar, op. cit., pp. 2, 5.

[43] A. Björkdahl, J. Mannergren Selimovic, *A Tale of Three Bridges: Agency and Agonism in Peace Building*, "Third World Quarterly" 2016, Vol. 37(2), p. 323.

"dissonant" in the aftermath of war,[44] when it acts as "lightning rods" for the recurrence of divisions,[45] and often becomes "more than ever [...] a site of contestation".[46] This could be because heritage is shared (e.g. in Palestine, to the very dubious extent we consider it a site of transition);[47] because lack of access to heritage can cause instability;[48] or because attacking heritage is a low-risk but highly communicative weapon of the weak.[49]

Examples are legion. Kosovo may be the *locus classicus*. Because Serb Orthodox sites were seen as symbols of oppression and discrimination by the Albanian majority population, ethnic tensions gave rise to the vandalization of Orthodox monasteries and churches, a "reverse ethnic-cultural cleansing" by an Albanian community formerly the victims of discrimination.[50] Peace and security arrangements there made establishing an effective protection system for this heritage a political priority for the international community and the interim administration.[51] Nevertheless, antagonism over heritage endures. Construction of the Serbian Orthodox Church of Christ the Saviour in Pristina began in 1992 but was never completed on account of the war. The unfinished building still lies there, but every proposal to do something with it sharpens the enduring senses of victimhood and threat.[52] Similar dynamics were at play in Bosnia. After the Dayton Accords, restoration of minority heritage in areas where ethno-national majorities had opposed it led to violent contestations, most notoriously the anti-Muslim riots at the cornerstone-laying ceremonies for the Ferhaija Mosque in Banja Luka and the Osman-paša mosque in Trebinje.[53] Likewise, in Armenia, although the first Nagorno-Karabakh war ended in 1994, from the late 1990s onwards Azeri Army units systematically destroyed thousands of *khachkars* (decorated cross-stones charac-

44 G.J. Ashworth, J.E. Tunbridge, *Dissonant Heritage: The Management of the Past as a Resource in Conflict*, Wiley, Chichester 1996.

45 L. Lixinski, op. cit., p. 11.

46 D. Viejo-Rose, *Reconstructing Heritage in the Aftermath of Civil War: Re-visioning the Nation and the Implications of International Involvement*, "Journal of Intervention and Statebuilding" 2013, Vol. 7(2), p. 126.

47 E. Assi, *World Heritage Sites, Human Rights and Cultural Heritage in Palestine*, "International Journal of Heritage Studies" 2012, Vol. 18(3), pp. 316-323.

48 UN Human Rights Council, *Resolution 33/20: Cultural Rights and the Protection of Cultural Heritage*, 6 October 2016, UN Doc. A/HRC/RES/33/20, Preamble.

49 J. Brosché et al., *Heritage under Attack: Motives for Targeting Cultural Property during Armed Conflict*, "International Journal of Heritage Studies" 2017, Vol. 23(3), p. 254.

50 F. Francioni, *Culture, Heritage and Human Rights: An Introduction*, in: F. Francioni, M. Scheinin (eds.), *Cultural Human Rights*, Brill Nijhoff, Leiden 2008, p. 9.

51 Annex 2(6) of UN Security Council Resolution 1244 (10 June 1999, UN Doc. S/RES/1244) provided that an agreed number of Serb personnel would maintain a presence at these sites, but this provision was not implemented.

52 F. Ejdus, op. cit., pp. 269-274.

53 H. Walasek, *Cultural Heritage and Memory after Ethnic Cleansing in Post-Conflict Bosnia-Herzegovina*, "International Review of the Red Cross" 2019, Vol. 101(1), p. 286.

teristic of medieval Christian Armenian art) in the carved stone Armenian cemetery in Djulfa in the Nakhichevan exclave.[54] As Serafim Seppälä notes, after the end of the second Nagorno-Karabakh war, "there is no reason to assume that their fate in the long run will be any better than the hundreds of already demolished Armenian churches and monasteries in Azerbaijan".[55] In ostensibly post-conflict Iraq, Shi'a militias have been accused of looting and damaging Christian homes as part of a process to intimidate and prevent the return of minority communities to their traditional homelands after having fled earlier Islamic State attacks.[56] In Mali, Muslim architecture has become a proxy in contests *within* Islam and *between* Islam and more secular forces, again spurring violent contestation even after Ansar Dine's challenge to shrines in Timbuktu passed.[57]

There are more mundane risks to heritage that also need to be guarded against in the aftermath of war. Development, be it urban, residential, touristic, agricultural, or commercial, is obviously a risk to heritage insofar as it alters land use, shifts communities, and prioritizes resource extraction over cultural practice.[58] The risk man-made climate change poses to tangible heritage also cannot be gainsaid. While these developments and climatic dangers are perpetual and not dependent on conflict, war-time legacies can exacerbate them. Opportunistic or survival looting in Syria's civil war paved the way for future plundering as local people lost their sense of ownership and connection to property.[59] It is difficult to divorce conflict legacies from the decision of Kosovar authorities in Dečani (with the support of national authorities in Pristina) to build a road to Montenegro through the Visoki Dečani Special Protective Zone, where the medieval Orthodox Visoki Dečani Monastery is found.[60] Restoration of heritage in divided Cyprus has foundered on the rocks of mutual mistrust, disdain, and a failure to appreciate the sensitivity of the other community's material culture.[61]

Of course, the best response to these proven dangers is to emphasize the plural nature of heritage and to reveal the abusive ways in which heritage is manipulated

[54] S. Seppälä, *The Struggle for Memory: The Khachkar Field of Julfa and Other Armenian Sacred Spaces in Azerbaijan*, "Ecumenical Review Sibiu/Revista Ecumenica Sibiu" 2021, Vol. 13(2), pp. 185-213.

[55] Ibidem [abstract].

[56] B. Isakhan, A. Akbar, op. cit., p. 12.

[57] C. Joy, *"UNESCO Is What?" World Heritage, Militant Islam and the Search for a Common Humanity in Mali*, in: C. Brumann, D. Berliner (eds.), op. cit., p. 67.

[58] Indeed the World Heritage Convention acknowledges that cultural and natural heritage are "increasingly threatened with destruction not only by traditional causes of decay, but also by changing social and economic conditions which aggravate the situation with even more formidable phenomena of damage or destruction".

[59] A. Al-Azm, op. cit., p. 94.

[60] M. Defreese, *Kosovo: Cultural Heritage in Conflict*, "Journal of Conflict Archaeology" 2009, Vol. 5(1), pp. 257-269.

[61] W. Logan, M. Langfield, *Intersecting Concepts and Practices*, in: M. Langfield, W. Logan, M. Nic Craith (eds.), *Cultural Diversity, Heritage and Human Rights*, Routledge, New York 2010, pp. 16-17.

by conflict entrepreneurs.[62] However, in parallel (and *perhaps* prior) to this educational and expressive work, more prosaic issues of preservation and management need to be emphasized given the state's past failure to mitigate against, if not actually cause, heritage damage. Many of the risks posed by post-conflict antagonisms, to say nothing of environmental catastrophe and development, could be mitigated by a national agenda for the effective governance of heritage. Agencies or departments are usually entrusted with reconciling conflicting interests between communities (as Harriet Deacon and Rieks Smeets note, many of these disputes are as much about the appropriate stewardship of heritage as they are about its value)[63] or between the interests of heritage and development. However, the post-conflict dispensation tends to exacerbate the usual problems countries in the developing world have in relation to heritage protection, namely: (i) inadequate resources on account of poverty or underdevelopment; (ii) suboptimal political control in areas of limited statehood; and (iii) paltry technical knowledge caused by out-migration. The situation of transitional Libya is symptomatic of the difficulties faced by states that want to protect sensitive and/or at-risk heritage:

> The great difficulty the Department [of Archaeology] has in carrying out its duties as curator and guardian of Libyan Heritage is a general ignorance of heritage, a lack of knowledge of the value of archaeological remains for future revenue-earning and employment, and of the long-term benefits of maintaining the historic landscape and bio-diversity for quality of life.[64]

Post-conflict Syria was faced with significant sectarian division, while the bodies responsible for care and management of heritage, namely the Department of Antiquities and Museums and the Department of Tourism, were absent in an institutional sense – their staff had not been paid, and there was an (understandable) lack of expertise in confronting the distinctive preservation and documentation problems occasioned by the war there.[65] Regime fragmentation in post-Mubarak Egypt led to an increase in looting, illegal digs, and cultural management problems.[66]

In states like those described above, domestic and international frameworks are seldom applied or enforced at a national level, while some applicable laws and regimes may pre-date key international treaties (e.g. Syria's 1963 Antiquities Law does not include natural and intangible heritage that would today be covered by various conventions) and may not even be understood by those heritage profes-

---

62 D. Viejo-Rose, M.L. Stig Sørensen, *Cultural Heritage and Armed Conflict: New Questions for an Old Relationship*, in: E. Waterton, S. Watson (eds.), *The Palgrave Handbook of Contemporary Heritage Research*, Palgrave Macmillan, London 2015, p. 292.

63 H. Deacon, R. Smeets, op. cit., p. 138.

64 A. Abdulkariem, P. Bennett, op. cit., p. 158.

65 A. Al-Azm, op. cit., pp. 101, 102.

66 S. Barakat, op. cit., p. 442.

sionals that are left.[67] It may also be the case that "where religion or ethnicity has played a part in conflict, protection of the heritage of minorities and/or the defeated may not be a priority with the majority and/or the victors".[68] There is a need for regulatory schema and administrative structures with the general goal of encouraging the preservation of *all* the tangible cultural riches of the state and/or communities from the lingering threats that the politics of power might again be played out over heritage. GNRs offer both an ethos and a framework in which to prioritize and think through this work of protection, conservation, and safeguarding.

Guarantees of Non-Recurrence: Reparation to Risk-Management

As the Special Rapporteur for Transitional Justice makes clear, GNR is an objective sought to be achieved via a wide range of measures, and an entitlement of previously victimized individuals and communities for whom the state and its institutions are duty bearers. Past individual abuses (such as cultural destruction) are the catalyst for such guarantees, but the remedy is systemic. GNRs are not a principled commitment or moral assurance, but rather "an object of rational policymaking", on a spectrum from the actionable to the ambitious.[69] GNRs start from the assumption that potentially recurrent abuses reflect a threshold level of deficiency in the organization and co-ordination of public power. Failing institutions that perpetuate discrimination, exclusion, or violence are targeted for reform or dismantled; new institutions can be developed and new legal frameworks introduced.[70] The focus is therefore policy-based in nature, prioritizing institutional design and behaviour:

> Guarantees of non-recurrence should be developed in response to the context in which the violations occurred. Before adopting any measure, a careful analysis needs to establish what violations took place, why they occurred, how they were implemented, what effects they had, and how they can be best prevented in future.[71]

GNRs represent, perhaps more than any other pillar of TJ, what Christopher Colvin notes as the field's dependence on technique, premised on the notion that with sufficient assistance and reliable systems, various goals can be accomplished competently via careful planning and bureaucratic rationality.[72]

[67] As argued in E. Cunliffe et al., *The Destruction of Cultural Property in the Syrian Conflict: Legal Implications and Obligations*, "International Journal of Cultural Property" 2016, Vol. 23(1), p. 2.

[68] P. Newson, R. Young, op. cit., pp. 8-9.

[69] UN Human Rights Council, *Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, Pablo de Greiff*, 7 September 2015, UN Doc. A/HRC/30/42, paras. 22, 37.

[70] R. Duthie, *Transitional Justice and Prevention: Summary Findings from Five Case Studies*, International Center for Transitional Justice, New York 2021, pp. 2, 22.

[71] A. Mayer-Rieckh, *Guarantees of Non-Recurrence: An Approximation*, "Human Rights Quarterly" 2017, Vol. 32(2), p. 434.

[72] C. Colvin, *Purity and Planning: Shared Logics of Transitional Justice and Development*, "International Journal of Transitional Justice" 2008, Vol. 2(3), p. 413.

Many types of legislative or organizational reform can offer opportunities to alleviate proven risks, provided they (a) reflect normative international human rights frameworks, and (b) connect the underlying view of the violation with the proposed guarantee. Initially, GNRs were manifested in three ways: demobilization and disarmament, vetting, and institutional reform of the security sector. However, there developed a growing acceptance that the focus on security and bureaucratic institutions was too narrow, and that GNRs should be expanded beyond these measures to become a more open-ended panoply of actions to respond to different forms of violation through any number of modalities and in a range of different contexts.[73] For example, GNRs have been proposed in relation to sexual and gender-based violence against women in Cambodia;[74] corporate land rights abuses in Nepal;[75] and archival accountability in Northern Ireland.[76]

There is an emerging sense that GNRs can and should be applied to matters of culture. Most notably, the Special Rapporteur for TJ explicitly called for GNR interventions in the hitherto ignored sphere of culture.[77] Furthermore, there is a sense that interventions in the cultural sphere are "politically less charged and may be easier to initiate than interventions in the institutional sphere".[78] However, when the Special Rapporteur talks about culture in the context of GNRs, he speaks of *using* cultural interventions (i.e. museums, exhibitions, monuments, and theatre performances) to foster empathy and new victim identities,[79] as opposed to protecting culture from renewed abuse. While these initiatives may prove worthwhile, it is submitted that GNRs are more suited to reshaping national infrastructures and policies than they are to altering attitudes, relationships, and psyches.[80] As Paige Arthur argues, TJ tends to work better in the realm of legal-institutional reforms than in the sphere of social relationships, which are multifarious, idiosyncratic, and often insusceptible to policy-making.[81] The real value of GNRs is found in effective

73 A. Mayer-Rieckh, op. cit., p. 426.

74 S. You, *Guarantees of Non-Recurrence of Sexual and Gender-Based Violence against Women after the Khmer Rouge*, "Swiss Peace Cambodia Working Paper Series", 6/2019, https://genderandsecurity.org/projects-resources/research/guarantees-non-recurrence-sexual-and-gender-based-violence-against-women [accessed: 08.02.2023].

75 D. Aguirre, I. Pietropaoli, *Institutional Reform in Myanmar: Preventing Corporate Land Rights Abuses*, "International Journal of Transitional Justice" 2021, Vol. 15(1), p. 150.

76 E. Kinder, *Non-Recurrence, Reconciliation, and Transitional Justice: Situating Accountability in Northern Ireland's Oral History Archive*, "International Journal of Human Rights" 2021, Vol. 25(3), pp. 509-528.

77 UN Human Rights Council, *Report of the Special Rapporteur…*, p. 1.

78 A. Mayer-Rieckh, H. Varney, *Recommending Change: Truth Commission Recommendations on Institutional Reforms: An Overview*, DCAF Centre for Security Sector Governance, Geneva 2019, p. 15.

79 UN Human Rights Council, *Report of the Special Rapporteur…*, para. 95.

80 To draw on language in C. Colvin, op. cit., p. 416.

81 P. Arthur, *Introduction: Identities in Transition*, in: eadem (ed.), *Identities in Transition: Challenges for Transitional Justice in Divided Societies*, Cambridge University Press, Cambridge 2011, p. 11.

regulation tailored to state and non-state capacities for policy-making, implementing, and monitoring of preventive activities.[82]

It is for this reason that the World Heritage Convention could and should guide GNRs in relation to heritage destruction. The WHC is not the only international institution that (a) generates state duties to protect heritage[83] or (b) provides guidance for designating heritage as meriting protected status.[84] It is, however, the one with the highest status and the one with the greatest potential to substantiate the aforementioned "never again" ethos of TJ. In particular, Article 5 on the "effective and active measures [which] are taken for the protection, conservation and presentation of the cultural and natural heritage" replicates the ethos of GNRs with its references to "general policy" and "comprehensive planning programmes";[85] "services for the protection, conservation and presentation of the cultural and natural heritage";[86] "mak[ing] the State capable of counteracting the dangers that threaten its cultural or natural heritage";[87] and "national or regional centres for training in the protection".[88] In fact, to the extent that the WHC makes no specific reference to human rights and the difficulties in balancing protection of heritage against the rights of peoples living in its midst,[89] GNRs might consciously improve on the Article 5 framework to foster human rights objectives that are missing in WHC or domestic management plans. Good heritage management, like GNRs, should be "integrated by a set of successive and linked phases: planning, study, preservation, presentation, promotion, sustainability" and take inspiration from international standards.[90] Heritage management, like GNRs, give expression to what Michael Brown calls the "administrative mind" –

[82] Of course, specific provisions in peace agreements (e.g. the Dayton Accords) and constitutional reform (e.g. Article 9 of the Kosovar Constitution) may or may not effect similar or greater change.

[83] In particular, the UNESCO Declaration concerning the International Destruction of Cultural Heritage from 2003 (https://en.unesco.org/about-us/legal-affairs/unesco-declaration-concerning-intentional-destruction-cultural-heritage [accessed: 05.02.2023]), though not binding, provides that a state that "intentionally destroys or intentionally fails to take appropriate measures to prohibit, prevent, stop and punish any intentional [...] bears responsibility for such destruction to the extent provided for by international law" (at VI).

[84] In 2019, Ataa Alsalloum and Andre Brown identified 37 international cultural heritage documents (A. Alsalloum, A. Brown, *Towards a Heritage-Led Sustainable Post-Conflict Reconciliation: A Policy-Led Perspective*, "Sustainability" 2019, Vol. 11(6), pp. 6-9), while ICOMOS and UNESCO have gone furthest in translating international norms into practical recommendations.

[85] Article 5(a) WHC.

[86] Article 5(b) WHC.

[87] Article 5(c) WHC.

[88] Article 5(e) WHC.

[89] As argued in J. Gillespie, op. cit., p. 167.

[90] A. Higueras, *Cultural Heritage Management in Peru: Current and Future Challenges*, in: H. and W. Isbell (eds.), *Handbook of South American Archaeology*, Springer Science & Business Media, Berlin 2008, pp. 1069, 1071.

one where bureaucratic administration, fixed rules, and delegated expertise manage complex systems predictably and efficiently.[91]

Of course, heritage politics in any context (whether in peace or war) "is never neutral: It is all about choice where different and often oppositional interest groups concurrently select and promote their symbols".[92] Indeed, GNRs may be needed post-conflict *precisely because* prior heritage regimes were culturally biased, thus facilitating or motivating past destruction or harm. Past harm and proven vulnerability, therefore, should guide what is prioritized in heritage protection. There is no need for a domestic analogue of the WHC's criterion of "outstanding universal value" and the related concepts of exceptional significance, much less ICOMOS's recommended post-conflict WHC standards of commonality (the idea that protected heritage "should be of interest beyond the parties affected by the specific conflict") and neutrality (the idea that heritage should not be "an instrument for celebrating the winners of recent conflicts and their version of history").[93] All that should matter for a GNR is that material culture has been attacked or threatened in the past and/or is clearly or potentially vulnerable in the present or future. In this sense GNRs are narrow – they aim to put in place policies and institutions to prevent damage, but do not resolve underlying threats. They aim for change at the level of institutions, but cannot guarantee changes in personal dispositions. While some suggest heritage policy can "guide sustainable reconciliation"[94] or serve as a "vehicle for identity creation, community outreach and cohesion", no such claim is made here.[95] It would be unduly ambitious, per Rosemary Coombe, if people could "be remade or revitalized so as to feel attached to the site as a recuperation of their heritage".[96] Simply put, GNRs cannot do this. All they can do in a transitional period is provide a credible formal assurance that material culture is valued and protected in instances where damage or sustained neglect previously reigned. In short, and to draw on Lixinski's formulation, I am more interested in conservation as a technical act (to underpin a message and serve as a praxis of non-repetition), but draw no conclusions as to specific narratives or specific objectives that might extend beyond it or be attached to it.[97] There is, however, good reason to believe that GNRs

91 M. Brown, *The Possibilities and Perils of Heritage Management*, in: C. Seils (ed.), *Cultural Heritage Ethics: Between Theory and Practice*, Open Book Publishers, Cambridge 2014, p. 172.

92 K. Kuutma, *Between Arbitration and Engineering: Concepts and Contingencies in the Shaping of Heritage Regimes*, in: R. Bendix, A. Eggert, A. Peselmann (eds.), op. cit., p. 27.

93 ICOMOS, *Evaluations of Word Heritage Nominations related to Sites Associated with Memories of Recent Conflicts*, 2018, p. 6, https://www.icomos.org/images/DOCUMENTS/World_Heritage/ICOMOS_Discussion_paper_Sites_associated_with_Memories_of_Recent_Conflicts.pdf [accessed: 08.02.2023].

94 A. Alsalloum, A. Brown, op. cit., [abstract].

95 A. Al-Azm, op. cit., p. 104.

96 R. Coombe, *Managing Cultural Heritage as Neoliberal Governmentality*, in: R. Bendix, A. Eggert, A. Peselmann (eds.), op. cit., p. 380.

97 L. Lixinski, op. cit., p. 46.

can serve as a form of "thin recognition" for previously marginalized cultural communities, in the sense that a formal commitment can constitute a threshold acknowledgement of past failures. The continuity of heritage arising from a successful GNR can build resilience over time beyond the artifacts or sites themselves.[98]

Higueras argues that there are three key pillars to post-conflict heritage management, namely: (i) a process of social reconciliation; (ii) a register of damaged or at-risk heritage in need of restoration/reconstruction/consolidation/protection; and (iii) strong political will to underpin and support heritage management strategies.[99] As explained above, the first cannot be conjured into existence, and it is the very lack of it that compels GNRs. The second can be developed, for reasons explained below. The third is indispensable for GNRs, which are destined to fail without a threshold level of governmental support. It is generally understood that "the decision as to what is deemed worthy of protection and preservation is generally made by State authorities on the national level".[100] We usually associate this idea with proactive political management of culture, but GNRs are, by their nature, reactive responses to past harm, where heritage was disdained or where distinct communities were the mere objects of heritage management. GNRs are only possible with a genuine commitment by a post-conflict government (with the support of the international community, if necessary, and guided by international concepts of heritage like participation) to the protection of the human right to culture and the prohibition of any damage to surviving heritage. GNRs are impossible where a victor's peace or a fragile settlement imposes either a chauvinistic approach or a tentative "wait-and-see" attitude toward heritage status. Meaningful guarantees must transcend narrow state interests in order to genuinely address minority or local needs through culturally-sensitive mechanisms of safeguarding. It is accepted that post-conflict GNRs in relation to tangible cultural heritage should not proceed in isolation, but must be incorporated within the broader processes of peacebuilding, statebuilding, and development, without of course privileging universalist ambitions over local or national ones.

The World Heritage Convention as a Source of GNRs

The WHC, with its list of protected heritage, is widely recognized as "the most effective international legal instrument for the protection of cultural and natural heritage".[101] It establishes – in the interests of humanity as a whole – the duties

[98] R. Khalaf, *Cultural Heritage Reconstruction after Armed Conflict: Continuity, Change, and Sustainability*, "The Historic Environment: Policy & Practice" 2020, Vol. 11(1), pp. 6-7.

[99] A. Higueras, *A Post-Conflict Scenario…*, p. 141.

[100] J. Blake, *On Defining the Cultural Heritage*, "International & Comparative Law Quarterly" 2000, Vol. 49(1), p. 68.

[101] P. Strasser, *Putting Reform Into Action – Thirty Years of the World Heritage Convention: How to Reform a Convention Without Changing Its Regulations*, "International Journal of Cultural Property" 2002, Vol. 11(2), p. 215.

and rights on the part of states towards heritage of outstanding universal value on the World Heritage List and List of World Heritage in Danger, and does so through post-Listing monitoring/inspection, expressions of concern, international co-operation (Articles 7 and 13), and the provision of expertise and subsidies via the World Heritage Fund. The World Heritage Committee is the final decision-making body responsible for both the Lists and the Fund, meeting once a year.

As noted earlier, the heritage that the Convention valorizes (that which is of such *universal* importance that the international community as a whole is called upon to co-operate so as to ensure its conservation) is not necessarily that which is most in danger post-conflict, or that which is of most concern to local/national populations. A GNR that applied only to listed heritage would protect only a minority of the most vulnerable material culture, if even that – a site's World Heritage status depends on outstanding universal value, and not on the quality of the surrounding protection and management plan, so inscription does not guarantee resources, expertise, or political will. Furthermore, lest the argument be accused of undue optimism about the WHC, it is worth noting pre-existing weaknesses like the WHC's Eurocentric bias towards monumentalism, the "manifest deficiencies in the management and funding" of much listed heritage, and the often weak and indirect influence of the Committee and UNESCO on recalcitrant states who do not honour promises made before inscription.[102] International heritage law has distinct limitations – the conservation paradigm is not always responsive to the needs of the populations who use heritage, and minority groups have on occasion been alienated from their culture by the listing system.[103] I do not argue that states should nominate at-risk heritage for the World Heritage List or the Endangered List, nor do I argue these Lists should widen their criteria to accommodate them. Indeed, an over-emphasis on sites on the World Heritage List tends to lead to neglect of other sites in terms of attention – it is for this reason that many prefer national and regional lists.[104] There is no need for recourse to evaluation by international advisory bodies or approval by the Committee.

Notwithstanding these limitations, insofar as the WHC stipulates ideal state duties in relation to heritage protection, it can and should inspire GNRs for two reasons. Firstly, its ethos is directly relevant – as Dennis Rodwell observes, it evolved directly as a strategy to protect individual cultural and natural sites from identified threats[105] and, as noted in the Introduction, its mission extends beyond the civiliza-

[102] G.J. Ashworth, B. van der Aa, *Strategy and Policy for the World Heritage Convention: Goals, Practices and Future Solutions*, in: A. Leask, A. Fyall (eds.), *Managing World Heritage Sites*, Routledge, London 2006, pp. 149-151, 153.

[103] L. Lixinski, op. cit., p. 47.

[104] A. Peacock, I. Rizzo, *The Heritage Game: Economics, Policy, and Practice*, Oxford University Press, Oxford 2008, p. 147.

[105] D. Rodwell, *The UNESCO World Heritage Convention, 1972-2012: Reflections and Directions*, "The Historic Environment: Policy & Practice" 2012, Vol. 3(1), p. 83.

tional achievements and unique masterpieces on the List. All heritage protection, be it global or national, "is a meta-cultural intervention – it sets out a framework which posits value, a threat to this value, and a moral obligation to address it".[106] However, as Elizabeth Jelin notes, the risk in all TJ is that while transitional governments may adopt programmes and make good faith attempts to institutionalize them, they may prove unstable and subject to "policy reversals according to the whims of changing political circumstances".[107]

This brings us to the second reason why the WHC should inspire GNRs; namely its stature. Much of the attraction lies in the fact that the WHC and its Operational Guidelines are authoritative, well-publicized, and supplemented with practical guidance to such an extent that it becomes easier to build a fragile consensus. The WHC's prestige, therefore, is such as can compel attention, energy, and normative persuasion in states where economic priorities and past histories of cultural chauvinism might militate against making heritage a top priority. This is not conformity for conformity's sake, but stems from a sense that international heritage discursive frames can persuasively catalyse protective reform, providing normative clarity and consensus that otherwise might not be generated or sustained endogenously. The impetus provided by international heritage law has a "trailblazer" effect outside the Global North – while in Europe, valorized heritage status merely augments pre-existing domestic conservation frameworks, heritage discourse (as well as practice and policy) "unfolds its greatest effects" in places where these values are disseminated, translated, and revived for the first time.[108] While international heritage law provides a universalized protection in a global regulatory regime, it has "generally been incorporated into public laws of nations or has acted as an overarching influence which has been gradually adopted", even by initially reluctant nations.[109] In particular, as Andrzej Jakubowski has shown, the WHC regime has been recalled or adopted to guide the conservation and management of contested cultural heritage sites that fall outside the OUV categorization.[110] Potential applicability to GNRs is obvious if we accept that building on the existing consensus contained in international law makes more practical sense than formulating bespoke laws *ab initio* to respond to past violations. As Lixinski notes:

> Transitional justice has long been seen as a primarily legalistic enterprise, so it is amenable to the influence of legal fields […] once heritage is understood as a set of authorizing rules, processes, and laws, it is in a much stronger position to exert its influ-

106 H. Deacon, R. Smeets, op. cit., p. 132.

107 E. Jelin, *Memory and Democracy: Toward a Transformative Relationship*, in: P. Gready, S. Robins (eds.), *From Transitional to Transformative Justice*, Cambridge University Press, Cambridge 2019, p. 187.

108 C. Brumann, D. Berliner, op. cit., p. 12.

109 B. Boer, S. Gruber, op. cit., pp. 375-376.

110 A. Jakubowski, *World Heritage, Cultural Conflicts and Political Reconciliation*, in: A. Durbach, L. Lixinski (eds.), op. cit., p. 253.

> ence on TJ. Heritage law regulates: how heritage is selected; for what purposes; what its narrative is or what it means to society; how it is funded; who gets to speak on its behalf; where, when, and how it is displayed, engaged, and celebrated.[111]

I argue that the WHC can be the source for implementable GNRs in relation to heritage, given that the State Parties commit in Article 3 to identifying and delineating cultural heritage, and must ensure the identification, protection, conservation, presentation, and transmission to future generations under Article 4. If we accept that 194 countries have ratified the Convention, some degree of acceptance probably exists in any given post-conflict state – a GNR merely provides an impetus for an already-accepted obligation. It is worth noting that the Convention does not define the procedures that state authorities must follow in adopting decisions in relation to heritage. However, if states consciously recommit to the "active measures" outlined in Article 5 (and canvassed above), predictable consequences follow, as states endow state-level, regional, and local actors with duties towards heritage that may heretofore have attracted little official attention. This is so even if we accept that much "is 'lost in translation' or invariably transformed, as heritage conventions enter the level of state governance".[112]

The domestic regulatory regime envisaged by the Convention demands the protection of heritage by national legislation. Of course most post-conflict states will have domestic laws (e.g. El Salvador introduced A Special Law for Cultural Heritage Protection in 1993) and bodies (e.g. Mali's *Missions Culturelles* at its heritage sites) in place to ensure the conservation and protection of national cultural patrimony, and some may have bespoke international heritage regimes built into peacebuilding activities (e.g. Annex 8 of the Dayton Accords establishing in Bosnia a Commission to Preserve National Monuments or the "supervised independence" and subsequent international scrutiny of Kosovo's heritage). In many instances, the problem therefore is less the absence of a legal framework than the lack of "a guiding methodology for effective implementation of conservation practice".[113] In post-conflict states like Sierra Leone, it is often the case that heritage legislation needs fundamental revision and new sites or monuments need to be brought within its ambit.[114] A concerted effort to give effect to the WHC (and to ratify it in cases where this has not been done) may remedy this lack of methodology and inform fundamental revision.

---

111 L. Lixinski, op. cit., pp. 187-188.

112 R. Bendix, A. Eggert, A. Peselmann (eds.), op. cit., p. 14.

113 K. Taylor, *Cultural Heritage Management: A Possible Role for Charters and Principles in Asia*, "International Journal of Heritage Studies" 2004, Vol. 10(5), p. 424, citing ICOMOS China, *Principles for the Conservation of Heritage Sites in China*, 2015, https://www.getty.edu/conservation/publications_resources/pdf_publications/pdf/china_prin_heritage_sites_2015.pdf [accessed: 08.02.2023].

114 P. Basu, op. cit., p. 237.

At the core of the WHC process is a novel or revised bureaucratization of the heritage process, a sufficient but unavoidably top-down system of decision-making mechanisms and administrative bodies, with institutions at the centre. These regimes inevitably discipline actors and cultural practices via an array of regulatory processes and institutions that transform material culture into certified heritage.[115] However, the revision of national heritage policy to foster professionalism and alignment with international standards can also be consistent with the decentralization and depoliticization of heritage – what matters is a close fit between past and present vulnerabilities and proposed revisions.

The main added-value of the WHC is its emphasis on listing heritage for protection and conservation in inventories through formal methodologies of inscription and vigilance. Vulnerable sites/objects can be listed on the basis of stated principles, responsibilities, and procedures. Without the existence of even a bare register of material culture after conflict, the task of securing heritage resources becomes immeasurably harder.[116] State, non-state, and even international bodies can enjoy a post-listing right to inspection and regular monitoring under a GNR. Once properties and objects are inscribed on a domestic heritage list by virtue of their vulnerability, attempts to compromise, interfere with, develop, or destroy such sites can attract a much stronger domestic (and potentially international) response and increase political pressure, which should in theory contribute to discouraging unjustifiable interference.[117] Depending on the nature of the threat, this can be a highly state-driven enterprise or a more participatory one. As Greg Ashworth and Bart van der Aa point out, "the more decentralized the nominations, the more dominant become local considerations over national ones".[118]

The listing process envisaged in the WHC is complemented by a strict preference for management strategies. These strategies essentially imply an integrated planning and implementation framework to determine the goals and measures required to realize the protection, maintenance, use, and development of heritage of the type found in UNESCO's *Operational Guidelines for the Implementation of the World Heritage Convention*. These Guidelines were outlined in February 2001 and have been regularly updated since.[119] Pursuant to them, management plans became binding for inscribed World Heritage properties, but the instructions they

[115] R. Bendix, A. Eggert, A. Peselmann, *Introduction: Heritage Regimes and the State*, in: eidem (eds.), op. cit., p. 11.

[116] A. Higueras, *A Post-Conflict Scenario*..., p. 142.

[117] Extrapolating (or intrapolating!) from Ben Boer and Stefan Gruber's theory on how World Heritage Listing works, B. Boer, S. Gruber, op. cit., p. 378.

[118] G.J. Ashworth, B. van der Aa, op. cit., p. 153.

[119] The most recent version from 2021 is available here: https://whc.unesco.org/document/190976 [accessed: 08.02.2023].

set out should be generally applicable for all national heritage protection *tout court*. The Guidelines provide as follows:

> All properties inscribed on the World Heritage List must have adequate long-term legislative, regulatory, institutional and/or traditional protection and management to ensure their safeguarding. This protection should include adequately delineated boundaries. Similarly States Parties should demonstrate adequate protection at the national, regional, municipal, and/or traditional level for the nominated property. They should append appropriate texts to the nomination with a clear explanation of the way this protection operates to protect the property.[120]

Paragraphs 96-119 of the Guidelines elaborate, *inter alia*, standard regulatory measures for protection; the delineation of boundaries and buffer zones; management systems; and ecologically/culturally sustainable uses. Insofar as they reflect UNESCO's policy evolution through updates to knowledge, experiences, and science, the Guidelines provide an authoritative handbook for what should be done in terms of designating, monitoring, and supporting heritage at a time when (a) the risk to heritage is highest; and (b) consensus needs to be built quickly. The Guidelines' stipulations can be augmented, where desirable and/or possible, by other interventions. Indeed, the very act of implementing international law to protect material culture often "brings forth a profusion of additional heritage regimes".[121] The WHC framework could thus be augmented by early warning systems and threat monitoring through satellite technology and imagery analysis;[122] plans for "first aid" endeavours to store heritage or find safe havens for it when conflict re-erupts;[123] education and cultural awareness programmes in schools; or dispute-resolution processes for proposed activities concerning heritage.[124] Though some legitimately worry that these requirements place "a heavy burden" on countries adopting the rigours of the Listing regime (particularly given the probability that at-risk heritage may greatly outnumber "outstanding universal value" heritage),[125] others argue that "[i]nvestment in the protection and preservation of heritage sites has proven to be one of the most scalable, effective, and targeted means of helping developing

120 Ibidem, para. 97.

121 R. Bendix, A. Eggert, A. Peselmann (eds.), op. cit., p. 14.

122 As recommended by Global Heritage Fund, *Saving Our Vanishing Heritage: Safeguarding Endangered Cultural Heritage Sites in the Developing World*, 2010, p. 9, http://globalheritagefund.org/images/uploads/docs/GHFSavingOurVanishingHeritagev1.0singlepageview.pdf [accessed: 08.02.2023].

123 S. Lambert, C. Rockwell (eds.), *Protecting Cultural Heritage in Times of Conflict*, ICCROM, Rome 2012, https://www.iccrom.org/sites/default/files/ICCROM_18_ProtectingHeritageConflict_en_0.pdf [accessed: 08.02.2023].

124 See for example the specialized committees at the central and local level in Arts. 4(1)(1) and 4(1)(2) of the Status Proposal for Kosovo.

125 B. Frey, L. Steiner, *World Heritage List: Does it Make Sense?*, "International Journal of Cultural Policy" 2011, Vol. 17(5), p. 561.

nations".[126] GNRs are generally calibrated to the institutional strength of the state in question, avoiding the mismatch between aspirations and administrative capacity that blights TJ more generally in weakly institutionalized states.[127]

Problems of Expertise and Internationalization

It is to be hoped that drawing on the World Heritage Convention to inspire GNRs would catalyse greater international assistance. The WHC "has served as a tool for internationalising the protection of cultural sites in contested or post-conflict territories" on a number of occasions,[128] though given the non-universal appeal of much of the heritage, this can only be suggested, not assumed. However, for the most part GNRs in this area involve "seeing like a state" insofar as heritage is inventoried and made legible through documentation and inscription at a national level, which is a regular source of critique in critical heritage studies and TJ.[129] It is reasonable to point out the risk that heritage work like this might replicate the familiar objection that TJ is framed in technicist terms as "a set of policy choices aimed at certain outcomes" like reconciliation, stability, democracy, or (it might be added) cultural protection,[130] because this elevates technical and mobile forms of expertise that border on what Brian Kagoro labels "knowledge imperialism".[131] To draw on the WHC to inform transitional justice risks re-inscribing the "hegemonic quality of the law", that in addition to being unhelpfully universalist can also "disenfranchise" national or local perspectives on how to respond to past injustices.[132] However, the binary division into national/international "experts" and local "knowledge" actually creates a spectrum of potential international involvement, leadership, or mere participation, something that is apparent in how the WHC has evolved.

While the WHC (or its use to inspire national frameworks) undoubtedly "privileges state agency", and while the Operational Guidelines have no systematic requirement to demonstrate meaningful community involvement in the iden-

126 Global Heritage Fund, op. cit., p. 9.

127 P. McAuliffe, *Transitional Justice, Institutions and Temporality: Towards a Dynamic Understanding*, "International Criminal Law Review" 2021, Vol. 21(5), pp. 817-847.

128 A. Jakubowski, op. cit., p. 268.

129 See for example R. Coombe, op. cit. and K. McEvoy, *Beyond Legalism: Towards a Thicker Understanding of Transitional Justice*, "Journal of Law and Society" 2007, Vol. 34(4), pp. 411-440.

130 To adopt the presentation of this argument in B. Jones, *The Performance and Persistence of Transitional Justice and Its Ways of Knowing Atrocity*, "Cooperation and Conflict" 2021, Vol. 56(2), p. 165.

131 B. Kagoro, *The Paradox of Alien Knowledge, Narrative and Praxis: Transitional Justice and the Politics of Agenda Setting in Africa*, in: M.C. Okello et al. (eds.), *Where Law Meets Reality: Forging African Transitional Justice*, Pambazuka Press, Cape Town 2012, p. 20, cited ibidem.

132 C. Campbell, C. Turner, *Utopia and the Doubters: Truth, Transition and the Law*, "Legal Studies" 2008, Vol. 28(1), pp. 378-381.

tification or management of heritage,[133] this should not be overstated. There is always the risk that heritage is institutionalized in the conservation paradigm as "an expert-driven, state endorsing narrative",[134] but the historically-informed, consciously reactive, and protective ethos underpinning GNRs should guard against this. A government that can point to proven jeopardy can insulate itself against allegations that the inscription of heritage is being used to shore up the claims of dominant groups. It is legitimate to warn that state-centricity can operate to marginalize communities on the ground,[135] but the ethos of GNRs implies sensitivity to the types of chauvinism or exclusion that catalysed past abuse.

Likewise, GNRs for cultural heritage create the spectre of employing rationalized and universalized knowledge as expertise to make social and cultural problems "'tamable' and 'thinkable' within bureaucratic frameworks", a critique levelled at both heritage management[136] and TJ's ostensible reduction of its goals to a depoliticized "technocratic equation" of practices drawing on internationally legible models, expected costs, and anticipated outcomes.[137] However, the roots of GNR in reparative theory and TJ's more recent impetus towards broader ownership and participation of those who have been most deeply affected by conflict[138] make the familiar binaries of "expert versus community" inapt when authenticating heritage or implementing TJ. Expertise is a necessary component if heritage safeguards are to be (re)institutionalized, but they should not monopolize it. Human rights standards involving greater participation by minorities and Indigenous groups have been *de rigeur* in the WHC regime (including the Operational Guidelines) for nearly two decades.[139] Undoubtedly, formalizing localized responsibility for heritage identification and/or inscription will present difficulties if it has formerly been jealously guarded by the state. Obvious risks attend uncoordinated measures at the local level if the state does not have a residual power to pre-empt certain divisive usages or transfers. The "continued mismatch between the practical reality and the administrative ideal regarding the role of local communities and well-being in heritage conservation" is something that must be guarded against.[140]

133 H. Deacon, R. Smeets, op. cit., pp. 131, 132.

134 L. Lixinski, op. cit., p. 34.

135 Ibidem, pp. 24, 46.

136 L. Smith, op. cit., p. 393 from which the quote is taken.

137 P. Akhavan, *Remarks by Payam Akhavan*, "Proceedings of the Annual Meeting (American Society of International Law)" 2013, Vol. 107 (International Law in a Multipolar World), pp. 90, 92. The parallels between critiques of heritage and TJ are noted in detail in L. Lixinski, op. cit., pp. 16-24, 187.

138 Elaborated in most chapters of M. Evans (ed.), *Beyond Transitional Justice: Transformative Justice and the State of the Field (or Non-Field)*, Routledge, London 2022.

139 UNESCO World Heritage Centre, *Linking Universal and Local Values: Managing a Sustainable Future for Heritage*, UNESCO, Paris 2004.

140 H. Jang, J. Mennis, *The Role of Local Communities and Well-Being in UNESCO World Heritage Site Conservation: An Analysis of the Operational Guidelines, 1994-2019*, "Sustainability" 2021, Vol. 13(13), p. 7154.

Where deference to local views goes beyond lip service, embedding the practices of inscription, monitoring, and technical assistance we see in the WHC at state level is not so much "a move towards technique *at the expense of* politics"[141] as a form of technique *in the service of* a politics that consciously responds to past abuses. Put another way, it replaces forms of cultural nation-building characterized by indifference or symbolic domination with one premised on protection and consultation. Paternalism is a near-constant feature of most heritage work, serving to exclude key actors or to filter their views through alternative actors.[142] Familiar concerns about the state as an apparatus of power for cultural governmentality may never be fully assuaged, but this makes the guardrails that GNRs provide more, not less, valuable. A traditional conservation model focused on the legal enforcement of preservative policies can complement the modern "values-based" cultural heritage management that emphasizes how heritage knowledge and expertise can be co-created between state and community for the benefit of both. Conservation in this sense interacts with the risks from growth, environment, and tourism – the paradigm is as much the management of change (e.g. harmonizing land use restrictions with local expectations) as it is about protection, potentially reassuring communities of good faith and lowering the temperature where difficult decisions must be made.

Conclusions

As Helaine Silverman and D. Fairchild Ruggles argue, "It is precisely because cultural heritage is a significant aspect of identity that it is the arena where conflict occurs".[143] While the danger may diminish with peace or transition, it does not evaporate – for the reasons outlined in above, communities fear for the ongoing safety of their heritage, either because conflict might recur or because past patterns of cultural chauvinism or neglect might be repeated. Heritage, for this reason, is inherently contentious *post bellum*:

> In the aftermath, cultural heritage can therefore be used to serve a number of functions acting simultaneously as receptor, container, and reflector of intention, meaning, and emotion. Whether it is rebuilt, restored, ignored, or preserved in a ruined state, each action will be presented and interpreted as part of the construction of the new, post-conflict, society.[144]

141 L. Lixinski, op. cit., p. 189.

142 International Law Association, *Committee on Participation in Global Cultural Heritage Governance: Final Report*, 2022, para. 131.

143 H. Silverman, D.F. Ruggles, *Cultural Heritage and Human Rights*, in: eidem (eds.), *Cultural Heritage and Human Rights*, Springer, New York 2007, pp. 5-6.

144 M.L. Stig Sørensen, D. Viejo-Rose, *Introduction: The Impact of Conflict on Cultural Heritage. A Biographical Lens*, in: eidem (eds.), *War and Cultural Heritage*, Cambridge University Press, Cambridge 2015, p. 9.

The material integrity of heritage has gradually become a matter of concern for TJ.[145] Guarantees of non-recurrence are one area where TJ can address past heritage destruction by developing institutional and human capacities for its resilience and protection. Cultural heritage law, insofar as it provides authoritative guidelines for promoting conservation and preventing abuses, "mediates this process by enabling and embedding choices about what heritage is, why it should be protected, and for whose benefit".[146] However, in the past existing domestic laws have proven ineffective in conflicts, and may prove ineffective as well in the present in cases where disagreement ensues about the meaning or ownership of cultural property, and where enforcement mechanisms for heritage protection are weakened or politically-biased. This article thus argues that the World Heritage Convention – notwithstanding its circumscribed emphasis on material and places of outstanding universal value – is both applicable to all heritage to which a GNR might attach and provides an achievable "good enough" practice model provided there is a threshold level of domestic political will. It circumvents time-consuming debates about best models at a time of maximum jeopardy by providing a plan of action, and enjoys sufficient status and authority to galvanize policy. I do not argue that safeguarding heritage conduces the restoration of peace, builds reconciliation, or resolves conflicts. It is surely enough that the state works with communities on heritage identification, inscription, management, and monitoring its form to preserve what remains, in keeping with Bell's recent plea for "more modest and realistic approaches to" what TJ can achieve.[147]

References

Abdulkariem A., Bennett P., *Libyan Heritage under Threat: The Case of Cyrene*, "Libyan Studies" 2014, Vol. 45(1).

Aguirre D., Pietropaoli I., *Institutional Reform in Myanmar: Preventing Corporate Land Rights Abuses*, "International Journal of Transitional Justice" 2021, Vol. 15(1).

Akhavan P., *Remarks by Payam Akhavan*, "Proceedings of the Annual Meeting (American Society of International Law)" 2013, Vol. 107 (International Law in a Multipolar World).

Al-Azm A., *The Importance of Cultural Heritage in Enhancing a Syrian National Identity and the Role of Local Non-State Actors in Preserving It*, in: P.G. Newsome, R. Young (eds.), *Post-Conflict Archaeology and Cultural Heritage*, Routledge, London 2017.

Alsalloum A., Brown A., *Towards a Heritage-Led Sustainable Post-Conflict Reconciliation: A Policy-Led Perspective*, "Sustainability" 2019, Vol. 11(6).

Arthur P., *Introduction: Identities in Transition*, in: P. Arthur (ed.), *Identities in Transition: Challenges for Transitional Justice in Divided Societies*, Cambridge University Press, Cambridge 2011.

145 S. Coakley, P. McAuliffe, *Picking Up the Pieces: Post-Conflict Responses to Destruction of Tangible Cultural Heritage*, "Netherlands Quarterly of Human Rights" 2022, Vol. 40(3), pp. 311-332.

146 L. Lixinski, op. cit., p. 4.

147 C. Bell, *Transitional Justice: Understanding the Field*, in: M. Evans (ed.), op. cit., p. 97.

Ashworth G.J., Tunbridge J.E., *Dissonant Heritage: The Management of the Past as a Resource in Conflict*, Wiley, Chichester 1996.

Ashworth G.J., van der Aa B., *Strategy and Policy for the World Heritage Convention: Goals, Practices and Future Solutions*, in: A. Leask, A. Fyall (eds.), *Managing World Heritage Sites*, Routledge, London 2006.

Assi E., *World Heritage Sites, Human Rights and Cultural Heritage in Palestine*, "International Journal of Heritage Studies" 2012, Vol. 18(3).

Barakat S., *Necessary Conditions for Integrated Approaches to the Post-Conflict Recovery of Cultural Heritage in the Arab World*, "International Journal of Heritage Studies" 2021, Vol. 27(5).

Basu P., *Confronting the Past? Negotiating a Heritage of Conflict in Sierra Leone*, "Journal of Material Culture" 2008, Vol. 13(2).

Battini S., *The Procedural Side of Legal Globalization: The Case of the World Heritage Convention*, "International Journal of Constitutional Law" 2011, Vol. 9(2).

Bell C., *Transitional Justice: Understanding the Field*, in: M. Evans (ed.), *Beyond Transitional Justice: Transformative Justice and the State of the Field (or Non-Field)*, Routledge, London 2022.

Bell C., Pospisil J., *Navigating Inclusion in Transitions from Conflict: The Formalised Political Unsettlement*, "Journal of International Development" 2017, Vol. 29(5).

Bendix R., Eggert A., Peselmann A., *Introduction: Heritage Regimes and the State*, in: R. Bendix, A. Eggert, A. Peselmann (eds.), *Heritage Regimes and the State*, Universitätsverlag Göttingen, Göttingen 2013.

Björkdahl A., Mannergren Selimovic J., *A Tale of Three Bridges: Agency and Agonism in Peace Building*, "Third World Quarterly" 2016, Vol. 37(2).

Blake J., *On Defining the Cultural Heritage*, "International & Comparative Law Quarterly" 2000, Vol. 49(1).

Boer B., Gruber S., *Heritage Discourses*, in: B. Jessup, K. Rubenstein (eds.), *Environmental Discourses in Public and International Law*, Cambridge University Press, Cambridge 2012.

Brosché J. et al., *Heritage under Attack: Motives for Targeting Cultural Property during Armed Conflict*, "International Journal of Heritage Studies" 2017, Vol. 23(3).

Brown M., *The Possibilities and Perils of Heritage Management*, in: C. Seils (ed.), *Cultural Heritage Ethics: Between Theory and Practice*, Open Book Publishers, Cambridge 2014.

Brumann C., Berliner D., *Introduction: UNESCO World Heritage-Grounded?*, in: C. Brumann, D. Berliner (eds.), *World Heritage on the Ground: Ethnographic Perspectives*, Berghahn Books, New York 2016.

Campbell C., Turner C., *Utopia and the Doubters: Truth, Transition and the Law*, "Legal Studies" 2008, Vol. 28(1).

Cavallaro J., *Looking Backward to Address the Future: Transitional Justice, Rising Crime, and Nationbuilding*, "Maine Law Review" 2008, Vol. 60(2).

Coakley S., McAuliffe P., *Picking Up the Pieces: Post-Conflict Responses to Destruction of Tangible Cultural Heritage*, "Netherlands Quarterly of Human Rights" 2022, Vol. 40(3).

Colvin C., *Purity and Planning: Shared Logics of Transitional Justice and Development*, "International Journal of Transitional Justice" 2008, Vol. 2(3).

Coombe R., *Managing Cultural Heritage as Neoliberal Governmentality*, in: R. Bendix, A. Eggert, A. Peselmann (eds.), *Heritage Regimes and the State*, Universitätsverlag Göttingen, Göttingen 2013.

Cunliffe E. et al., *The Destruction of Cultural Property in the Syrian Conflict: Legal Implications and Obligations*, "International Journal of Cultural Property" 2016, Vol. 23(1).

Deacon H., Smeets R., *Authenticity, Value and Community Involvement in Heritage Management under the World Heritage and Intangible Heritage Conventions*, "Heritage & Society" 2013, Vol. 6(2).

Defreese M., *Kosovo: Cultural Heritage in Conflict*, "Journal of Conflict Archaeology" 2009, Vol. 5(1).

Demeter L., *Regime Change and Cultural Heritage Protection: A Matter of State Security*, "International Journal of Heritage Studies" 2019, Vol. 25(5).

Dupree N.H., *Cultural Heritage and National Identity in Afghanistan*, "Third World Quarterly" 2002, Vol. 23(5).

Duthie R., *Transitional Justice and Prevention: Summary Findings from Five Case Studies*, International Center for Transitional Justice, New York 2021.

Ejdus F., *Abjection, Materiality and Ontological Security: A Study of the Unfinished Church of Christ the Saviour in Pristina*, "Cooperation and Conflict" 2021, Vol. 56(3).

Evans M. (ed.), *Beyond Transitional Justice: Transformative Justice and the State of the Field (or Non-Field)*, Routledge, London 2022.

Ferstman C., *Do Guarantees of Non-Recurrence Actually Help to Prevent Systemic Violations? Reflections on Measures Taken to Prevent Domestic Violence*, "Netherlands International Law Review" 2021, Vol. 68(3).

Francioni F., *Culture, Heritage and Human Rights: An Introduction*, in: F. Francioni, M. Scheinin (eds.), *Cultural Human Rights*, Brill Nijhoff, Leiden 2008.

Frey B., Steiner L., *World Heritage List: Does it Make Sense?*, "International Journal of Cultural Policy" 2011, Vol. 17(5).

Gillespie J., *Heritage and Human Rights: Reframing the Conservation Ethic*, in: A. Durbach, L. Lixinski (eds.), *Heritage, Culture and Rights: Challenging Legal Discourses*, Bloomsbury Publishing, London 2019.

Global Heritage Fund, *Saving Our Vanishing Heritage: Safeguarding Endangered Cultural Heritage Sites in the Developing World*, 2010, http://globalheritagefund.org/images/uploads/docs/GHFSavingOurVanishingHeritagev1.0singlepageview.pdf [accessed: 08.02.2023].

Higueras A., *A Post-Conflict Scenario in the Caucasus Region: A Documentation Drive to Assess Monumental Heritage*, in: P. Newson, R. Young (eds.), *Post-Conflict Archaeology and Cultural Heritage: Rebuilding Knowledge, Memory and Community from War-Damaged Material Culture*, Routledge, New York 2018.

Higueras A., *Cultural Heritage Management in Peru: Current and Future Challenges*, in: H. and W. Isbell (eds.), *Handbook of South American Archaeology*, Springer Science & Business Media, Berlin 2008.

Hill C., *Killing a Culture: The Intentional Destruction of Cultural Heritage in Iraq and Syria under International Law*, "Georgia Journal of International and Comparative Law" 2016, Vol. 45(1).

ICOMOS, *Evaluations of Word Heritage Nominations related to Sites Associated with Memories of Recent Conflicts*, 2018, https://www.icomos.org/images/DOCUMENTS/World_

Heritage/ICOMOS_Discussion_paper_Sites_associated_with_Memories_of_Recent_Conflicts.pdf [accessed: 08.02.2023].

ICOMOS China, *Principles for the Conservation of Heritage Sites in China*, 2015, https://www.getty.edu/conservation/publications_resources/pdf_publications/pdf/china_prin_heritage_sites_2015.pdf [accessed: 08.02.2023].

International Law Association, *Committee on Participation in Global Cultural Heritage Governance: Final Report*, 2022.

Isakhan B., Akbar A., *Problematizing Norms of Heritage and Peace: Militia Mobilization and Violence in Iraq*, "Cooperation and Conflict" 2022, Vol. 57(4).

Jakubowski A., *The Human Dimension of State Succession to Cultural Property: The Balkan Lesson*, in: S. Borelli, F. Lenzerini (eds.), *Cultural Heritage, Cultural Rights, Cultural Diversity*, Brill Nijhoff, Leiden 2012.

Jakubowski A., *World Heritage, Cultural Conflicts and Political Reconciliation*, in: A. Durbach, L. Lixinski (eds.), *Heritage, Culture and Rights: Challenging Legal Discourses*, Bloomsbury Publishing, London 2019.

Jang H., Mennis J., *The Role of Local Communities and Well-Being in UNESCO World Heritage Site Conservation: An Analysis of the Operational Guidelines, 1994-2019*, "Sustainability" 2021, Vol. 13(13).

Jansen M.E., *War and Cultural Heritage: Cyprus after the 1974 Invasion*, University of Minnesota, Minneapolis, MN 2005.

Jelin E., *Memory and Democracy: Toward a Transformative Relationship*, in: P. Gready, S. Robins (eds.), *From Transitional to Transformative Justice*, Cambridge University Press, Cambridge 2019.

Jones B., *The Performance and Persistence of Transitional Justice and Its Ways of Knowing Atrocity*, "Cooperation and Conflict" 2021, Vol. 56(2).

Joy C., *"UNESCO Is What?" World Heritage, Militant Islam and the Search for a Common Humanity in Mali*, in: C. Brumann, D. Berliner (eds.), *World Heritage on the Ground: Ethnographic Perspectives*, Berghahn Books, New York 2016.

Kagoro B., *The Paradox of Alien Knowledge, Narrative and Praxis: Transitional Justice and the Politics of Agenda Setting in Africa*, in: M.C. Okello et al. (eds.), *Where Law Meets Reality: Forging African Transitional Justice*, Pambazuka Press, Cape Town 2012.

Khalaf R., *Cultural Heritage Reconstruction after Armed Conflict: Continuity, Change, and Sustainability*, "The Historic Environment: Policy & Practice" 2020, Vol. 11(1).

Kinder E., *Non-Recurrence, Reconciliation, and Transitional Justice: Situating Accountability in Northern Ireland's Oral History Archive*, "International Journal of Human Rights" 2021, Vol. 25(3).

Kuutma K., *Between Arbitration and Engineering: Concepts and Contingencies in the Shaping of Heritage Regimes*, in: R. Bendix, A. Eggert, A. Peselmann (eds.), *Heritage Regimes and the State*, Universitätsverlag Göttingen, Göttingen 2013.

Lambert S., Rockwell C. (eds.), *Protecting Cultural Heritage in Times of Conflict*, ICCROM, Rome 2012, https://www.iccrom.org/sites/default/files/ICCROM_18_ProtectingHeritageConflict_en_0.pdf [accessed: 08.02.2023].

Libseqal Y., *Eritrea*, in: International Council on Monuments and Sites (ICOMOS), *World Report 2001–02 on Monuments and Sites in Danger*, 2002, https://web.archive.org/web/20220307175958/https://www.icomos.org/risk/2001/erit2001.htm [accessed: 08.02.2023].

Lixinski L., *Legalized Identities: Cultural Heritage Law and the Shaping of Transitional Justice*, Cambridge University Press, Cambridge 2021.

Logan W., *Cultural Diversity, Cultural Heritage and Human Rights: Towards Heritage Management as Human Rights-Based Cultural Practice*, "International Journal of Heritage Studies" 2012, Vol. 18(3).

Logan W., *Heritage, Sustainable Development and the Achievement of Peace and Security in Our World: Ambitions and Constraints*, in: P.B. Larsen, W. Logan (eds.), *World Heritage and Sustainable Development*, Routledge, London 2018.

Logan W., Langfield M., *Intersecting Concepts and Practices*, in: M. Langfield, W. Logan, M. Nic Craith (eds.), *Cultural Diversity, Heritage and Human Rights*, Routledge, New York 2010.

Matthews R. et al., *Heritage and Cultural Healing: Iraq in a Post-Daesh Era*, "International Journal of Heritage Studies" 2020, Vol. 26(2).

Mayer-Rieckh A., *Guarantees of Non-Recurrence: An Approximation*, "Human Rights Quarterly" 2017, Vol. 32(2).

Mayer-Rieckh A., Varney H., *Recommending Change: Truth Commission Recommendations on Institutional Reforms: An Overview*, DCAF Centre for Security Sector Governance, Geneva 2019.

McAuliffe P., *Transitional Justice, Institutions and Temporality: Towards a Dynamic Understanding*, "International Criminal Law Review" 2021, Vol. 21(5).

McAuliffe P., *Two Logics of Non-Recurrence After Civil War*, "International Human Rights Law Review" 2023, Vol. 12(2).

McEvoy K., *Beyond Legalism: Towards a Thicker Understanding of Transitional Justice*, "Journal of Law and Society" 2007, Vol. 34(4).

Newson P., Young R., *Conflict: People, Heritage and Archaeology*, in: P. Newson, R. Young (eds.), *Post-Conflict Archaeology and Cultural Heritage: Rebuilding Knowledge, Memory and Community from War-Damaged Material Culture*, Routledge, New York 2018.

Peacock A., Rizzo I., *The Heritage Game: Economics, Policy, and Practice*, Oxford University Press, Oxford 2008.

Rodwell D., *The Historic Urban Landscape and the Geography of Urban Heritage*, "The Historic Environment: Policy & Practice" 2018, Vol. 9(3-4).

Rodwell D., *The UNESCO World Heritage Convention, 1972-2012: Reflections and Directions*, "The Historic Environment: Policy & Practice" 2012, Vol. 3(1).

Rodwell D., *The World Heritage Convention and the Exemplary Management of Complex Heritage Sites*, "Journal of Architectural Conservation" 2002, Vol. 8(3).

Seppälä S., *The Struggle for Memory: The Khachkar Field of Julfa and Other Armenian Sacred Spaces in Azerbaijan*, "Ecumenical Review Sibiu/Revista Ecumenica Sibiu" 2021, Vol. 13(2).

Silverman H., Ruggles D.F., *Cultural Heritage and Human Rights*, in: H. Silverman, D.F. Ruggles (eds.), *Cultural Heritage and Human Rights*, Springer, New York 2007.

Smith L., *Discussion*, in: R. Bendix, A. Eggert, A. Peselmann (eds.), *Heritage Regimes and the State*, Universitätsverlag Göttingen, Göttingen 2013.

Stig Sørensen M.L., Viejo-Rose D., *Introduction: The Impact of Conflict on Cultural Heritage. A Biographical Lens*, in: M.L. Stig Sørensen, D. Viejo-Rose (eds.), *War and Cultural Heritage*, Cambridge University Press, Cambridge 2015.

Strasser P., *Putting Reform Into Action – Thirty Years of the World Heritage Convention: How to Reform a Convention Without Changing Its Regulations*, "International Journal of Cultural Property" 2002, Vol. 11(2).

Taylor K., *Cultural Heritage Management: A Possible Role for Charters and Principles in Asia*, "International Journal of Heritage Studies" 2004, Vol. 10(5).

UN Human Rights Council, *Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, Pablo de Greiff*, 7 September 2015, UN Doc. A/HRC/30/42.

UN Human Rights Council, *Resolution 33/20: Cultural Rights and the Protection of Cultural Heritage*, 6 October 2016, UN Doc. A/HRC/RES/33/20.

UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage, 16 November 1972, 1037 UNTS 151.

UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, 17 October 2003, 2368 UNTS 3.

UNESCO Declaration concerning the International Destruction of Cultural Heritage, 17 October 2003, https://en.unesco.org/about-us/legal-affairs/unesco-declaration-concerning-intentional-destruction-cultural-heritage [accessed: 05.02.2023].

UNESCO, *Operational Guidelines for the Implementation of the World Heritage Convention*, 31 July 2021, https://whc.unesco.org/document/190976 [accessed: 08.02.2023].

UNESCO World Heritage Centre, *Linking Universal and Local Values: Managing a Sustainable Future for Heritage*, UNESCO, Paris 2004.

United Nations Security Council, *Resolution 1244 (1999)*, 10 June 1999, UN Doc. S/RES/1244.

Viejo-Rose D., *Reconstructing Heritage in the Aftermath of Civil War: Re-visioning the Nation and the Implications of International Involvement*, "Journal of Intervention and Statebuilding" 2013, Vol. 7(2).

Viejo-Rose D., Stig Sørensen M.L., *Cultural Heritage and Armed Conflict: New Questions for an Old Relationship*, in: E. Waterton, S. Watson (eds.), *The Palgrave Handbook of Contemporary Heritage Research*, Palgrave Macmillan, London 2015.

Vrdoljak A.F., *Cultural Heritage, Human Rights and the Privatisation of War*, in: A. Durbach, L. Lixinski (eds.), *Heritage, Culture and Rights: Challenging Legal Discourses*, Bloomsbury Publishing, London 2019.

Walasek H., *Cultural Heritage and Memory after Ethnic Cleansing in Post-Conflict Bosnia-Herzegovina*, "International Review of the Red Cross" 2019, Vol. 101(1).

You S., *Guarantees of Non-Recurrence of Sexual and Gender-Based Violence against Women after the Khmer Rouge*, "Swiss Peace Cambodia Working Paper Series", 6/2019, https://genderandsecurity.org/projects-resources/research/guarantees-non-recurrence-sexual-and-gender-based-violence-against-women [accessed: 08.02.2023].