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Chapter I

Intersecting concepts and practices

William Logan, Michele Langfield and Máiréad Nic Craith

This volume in the Key Issues in Cultural Heritage series investigates the linkages between conserving cultural heritage, maintaining cultural diversity and enforcing human rights. The three concepts of cultural diversity, heritage and human rights have been researched widely over the past 60 years since the United Nations Organization (1945) and the United Nations Educational Scientific and Cultural Organization (UNESCO 1946) were formed and the Universal Declaration of Human Rights (UDHR) was adopted (1948). In the scholarly world, however, the concepts have tended to be studied separately, with the various disciplines focusing more on one concept than the others, whereas, in fact, the concepts developed alongside each other and are inextricably linked. Recognition of these linkages influences the way in which the purpose of heritage conservation is seen and heritage protection work is carried out.

These linkages are enshrined today in much of the agenda and discourse of the UN and its associated global bodies, such as UNESCO, as well as in some nation states and local governments and their agencies. The linkages appear to be well understood in the international committees and secretariats of the global heritage bodies. In 2008 the International Council on Monuments and Sites (ICOMOS), for instance, ranked human rights issues associated with heritage, both natural and cultural, as one of seven 'new and complex global pressures' impacting negatively on conservation outcomes (ICOMOS 2008: 5). But the linkages remain poorly understood by the heritage conservation profession in many countries, where too often heritage work is seen as merely technical. It is essential for those engaged in heritage conservation projects to understand the broader economic, political and social context of their work and to recognize that official heritage interventions can have many motives, be used to achieve political aims, and, at their worst, can undermine rather than strengthen community identity, cultural diversity and human rights.
Setting agendas

Globalization is a buzz word of our time and, driven by electronic information technologies and reflected in global movements of capital, resources and workers, its impact on the heritage field is proving to be enormous. Indeed, another volume in the Key Issues in Cultural Heritage series—Heritage and Globalization (Labadi and Long, in press) has been devoted to this specifically. But the trend towards uniting all parts of the globe and all of the world’s people into a single economic system has a long history going back at least to the great explorations of the fifteenth century and including the subsequent formation of colonial empires. In the mid-twentieth century, during the last stage of the Second World War, another significant chapter in the history of globalization flowed from a series of meetings held in the Bretton Woods in the United States. At these meetings representatives of nations fighting on the Allied side of the war strove to find ways to prevent another such global catastrophe and to facilitate post-war recovery and development. Out of these meetings grew the United Nations and the ‘specialized agencies’ associated with but independent of it, such as the World Health Organization, Food and Agricultural Organization, UNICEF and International Labour Organization, as well as the International Monetary Fund, the World Bank and, in the heritage field, UNESCO.

Many commentators see these organizations as key agencies of both economic and cultural globalization. Their various resolutions and charters seek to enforce on the member states a common set of principles governing political, economic, social and cultural attitudes and behaviour. The formation of these organizations reflected the spirit of goodwill and optimism that infused twentieth-century modernism (Logan 2002). The goals reflected the key interlocking elements in the modernist outlook—universalism, utopianism and belief in humanity’s steady progress towards better things, usually defined in terms of the material conditions of life. It was an optimistic and idealistic outlook that led architects, planners, economists, sociologists, development workers and others to cut away from tradition and to embrace new ‘modern’ ideas and practices that could be applied around the world regardless of differences in local cultures. This immediately set up an ongoing global/national tension within the efforts to achieve one of the chief purposes of the United Nations Organization, which was to encourage cooperation between nation states in solving international economic, social, cultural and humanitarian problems.

Development of the cultural aspects was relatively slow on the whole but, although the UN does not play a direct role in cultural heritage conservation, some of its activities have come to have an effect on heritage, especially through the promotion of cultural diversity and human rights. The concept and discourse of human rights has been described as a unique product of modernity, a new invention of modern times, with so-called ‘first generation’
human rights – civil and political rights – emerging in the Age of Enlighten-
ment of the seventeenth and eighteenth centuries in 'response to the might of
the modern state in which immense power of coercion and violence had been
concentrated' (Chen 2006: 487, 506). It was only after the Holocaust, accord-
ing to Geoffrey Robertson (1999: xiv), that individual agents of the state were
deemed to be answerable before the law for 'crimes against humanity', which
led to new attempts to create universal standards such as the UN's 1948
UDHR. However, when Article 22 of the UDHR insists that '[e]veryone ... is
entitled to the realization, through national efforts and international co-opera-
tion..., of the economic, social and cultural rights indispensable for his dignity
and the free development of his personality', the emphasis on individual rather
than group or community rights is clear, and the tension between collective
and individual rights continues to haunt theory and practice today, a point
returned to later in this chapter and in the case study chapters that follow.

Indeed, 'second generation' human rights – that is social and economic
rights, especially directed towards the group – did not emerge until later, in
the 1960s, in response to the new forms of social and economic inequality
produced by capitalism and industrialization (Chen 2006: 506) and in the
context of the Cold War and decolonization (Yusuf 2005). The UN's Interna-
tional Covenant on Civil and Political Rights 1966 (ICCPR) and the Interna-
tional Covenant on Economic, Social and Cultural Rights 1966 are increasingly
recognized to have relevance to the management of cultural heritage. While
not specifically mentioning cultural heritage, Article 15 of the latter instru-
ment affirms that States party to the Covenant 'recognize the right of every-
one ... to take part in cultural life'. In the same year, 1966, UNESCO's
General Conference went further, adopting a Declaration on the Principles of
International Cultural Cooperation that asserted more clearly the link between
human rights, human dignity and culture: 'Each culture has a dignity and
value which must be respected and preserved', 'Every people has the right
and duty to develop its culture' and 'In their rich variety and diversity, ... all
cultures form part of the common heritage belonging to all mankind.'

It was during the immediate post-Second World War years and in the
optimistic, modernist spirit that UNESCO and the other global organizations
specifically focused on cultural heritage – the International Council on
Museums (ICOM), the International Centre for the Study of the Preservation
and Restoration of Cultural Property (ICCROM) and ICOMOS – were estab-
lished. While official programmes of heritage protection had been around
since at least the fifth century AD (Jokilehto 1999: 6), the distinctive new
chapter that the twentieth century brought to cultural heritage protection
was the establishment of a globalized effort over and above although still very
much dependent on the work of nation states (Logan 2002). This led to a new
cultural heritage bureaucracy at the international level, the development of
new sets of standards for the world to follow, and a new set of places deemed
to be of world heritage significance.
UNESCO was founded in 1946 with its headquarters in Paris, the result of a French recommendation at the first UN conference in 1945 that the governments should meet at another conference to draw up the statute of an international organization focusing on cultural cooperation (Valderrama 1995: 21). UNESCO's Constitution makes clear the organization's ambitions and clearly connects the trilogy of concepts which this volume is exploring. Adopted in London in November 1945, it starts with the key sentence 'That since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed.' These words have remained even though the Constitution has been amended at least 17 times. They reflect the Second World War context but hold a greater socio-psychological truth: that when meeting peoples with cultures strange to us, we react too easily with hostility, rather than seeking to understand, accommodate, negotiate and compromise. Cultural diversity is, therefore, often the cause of conflict – or at least the excuse for it. International normative statements insist, however, that humans have the right to maintain their diversity, their own or their group's identity, their cultural heritage. This is a process essentially of intercultural dialogue and understanding, a process that the UNESCO Constitution from 1946 onwards has seen as being fundamental if greater tolerance and, ultimately, peace are to be achieved.

UNESCO's operations were initially divided into the three sectors signalled in its name, although today the natural sciences and the social and human sciences are dealt with in separate sectors and a fifth sector has been added to focus on communications and information technology. The remit of the Culture Sector has grown over 60 years and especially since the World Conference on Cultural Policies, Mexico City, 1982 when the notion of 'culture' was broadened from a narrow, high art definition to be seen in its widest sense, as the whole complex of distinctive spiritual, material, intellectual and emotional features that characterize a society and social group. It includes not only the arts and letters, but also modes of life, the fundamental rights of the human being, value systems, traditions and beliefs (Mexico Declaration on Cultural Policies 1982).

It was this shift that ultimately made possible the expansion of UNESCO's heritage conservation activities from the tangible – heritage places under the World Heritage Convention 1972 and heritage artefacts through its work relating to collections management, libraries, archives and museums – to intangible cultural heritage (practices, representations, expressions, knowledge, skills, such as language, oral history, song, dance, music, as well as intellectual property) under the 2003 Convention for the Safeguarding of Intangible Heritage. Again, another volume in this Key Issues series focuses specifically on intangible heritage, its emergence as a global concern and the efforts to safeguard it (see Smith and Akagawa 2009).

It was during the 1990s that the diversity theme, and especially the protection of diversity, began to emerge as a major focus of UNESCO activities,
in large part due to fears that globalization was threatening the survival of
the world’s cultural diversity (Logan 2007a: 36). The UN’s ‘Decade for Cul-
tural Development’ (1988–1997), which had cultural diversity as a key
theme, ended with the World Commission on Culture and Development
presenting its final report under the title *Our Creative Diversity* (UN 1995).
By 2000, the UNESCO Director-General, Koïchiro Matsuura, had put in
place a scheme called ‘Proclamation of Master Pieces of the Oral and Intan-
gible Heritage of Humanity’, which was to be the advance guard of the 2003
*Convention for the Safeguarding of Intangible Heritage*. The intention was to
recognize and protect embodied cultural heritage in societies where perhaps
the built heritage was less significant. The push to protect intangible as well
as tangible heritage can be seen, therefore, as a further step in recognizing
cultural diversity, and the 2003 *Intangible CH Convention* and the 2005 *Inter-
national Convention on the Protection of the Diversity of Cultural Contents and
Artistic Expressions* seek to engage states in binding legal instruments repre-
senting a commitment to cultural diversity.

In October 2000, UNESCO’s Executive Board invited the Director-
General to prepare a declaration aimed at ‘promoting cultural diversity in the
context of globalization’. The resulting instrument was the *Universal Declara-
The UNESCO web site refers to it as the founding act of a new ethic for the
twenty-first century, providing the international community, for the first
time, with a ‘wide-ranging standard-setting instrument to underpin its con-
viction that respect for cultural diversity and intercultural dialogue is one of
the surest guarantees of development and peace’. This was followed by the
Johannesburg World Summit on Sustainable Development in September
2002, which adopted a Declaration that recognizes cultural diversity as a col-
lective force that must be promoted to ensure sustainable development.

Meanwhile, indeed since the 1960s, human rights have come to include
specifically the maintenance of one’s culture within the concept of ‘cultural
rights’. Even though many human rights scholars have argued that cultural
rights are a particularly neglected category of human rights (O’Keefe 1999:
187; Logan 2007a, 2008), the position taken in the *ICCPR* of 1966 is now
well accepted in international discourse and the programmes of global
organizations; that is,

> In those States in which ethnic, religious or linguistic minorities exist
> persons belonging to such minorities shall not be denied the right, in
> community with other members of their group, to enjoy their own
> culture, to profess their own religion, or to use their own language.

It was this agenda set by the *ICCPR* that UNESCO sought to extend with
its own normative statements, notably the 2001 *Universal Declaration on Cul-
tural Diversity*, which declares in Article 5 that:
Cultural rights are an integral part of human rights, which are universal, indivisible and interdependent. The flourishing of creative diversity requires the full implementation of cultural rights. All persons have therefore the right to express themselves and to create and disseminate their work in the language of their choice, and particularly in their mother tongue; all persons are entitled to quality education and training that fully respect their cultural identity; and all persons have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms.

**Gaps, inconsistencies and lack of commitment**

In this volume, Hilary Charlesworth outlines the linkage between human rights and one of the UNESCO programmes that receives relatively little attention in the heritage literature – the Memory of the World Programme. She argues that, while the areas of cultural heritage and human rights have developed in quite separate ways and with different emphases and purposes, there is room for much more engagement and dialogue between these two fields. Indeed, they have much to learn from each other. She also suggests that human rights should itself be understood as heritage.

Looking at the extensive UNESCO’s flagship programme, World Heritage, on the other hand, it is also true that human rights has not assumed as great a presence as it might have done; indeed, it is perhaps even surprising that human rights features so little as a key universal value and reason for the inscription of historic sites. Certainly Robben Island is inscribed for its link with Nelson Mandela, leader of the South African democracy movement, and the fight against apartheid. But where are sites reminding the world of the democratic and/or independence struggles of racial and ethnic groups elsewhere? Some groups, like the Kurds, are split between several states and exist as ethnic minorities in each, whereas together they have more people than the majority of states in the UN. Denied statehood, their culture is under challenge in often hostile ‘host states’. Goree in Senegal is inscribed for its link to the infamous New World slave trade that ended in the nineteenth century, but what about sites to commemorate the end of colonialism? Auschwitz-Birkenau and Hiroshima’s Genbaku Dome are symbols of technological warfare and provide moral lessons to us all, but what about other genocides and massacres?

Much of the difficulty lies in the nature of UNESCO as an intergovernmental organization. How can difficult sites become listed if this is likely to offend or be opposed by a Member State? Olwen Beazley (in press) reveals the intense international politics that were played out behind the nomination and inscription of the Genbaku Dome and attempts by the US to derail the process. How would France react to a Vietnamese nomination of the cultural landscape of Dien Bien Phu, the site of one of the greatest
battles in history (Stanley Karnow, quoted in Simpson 1994: xi) where not only the French troops were routed but European colonialism in Asia effectively came to an end?

Clearly the implementation of conservation programmes based on the interlocking concepts of cultural diversity, heritage and human rights is far from simple or easy. Part of the problem lies in the contradictions and inconsistencies in the way the concepts themselves are conceived and used. Paradoxically, some attempts to protect cultural diversity represent threats to other human rights. While cultural heritage can be a unifying force, emphasizing a nation's shared identity, non-democratic governments, especially in multi-ethnic states, can also use it in negative ways to encourage community involvement in wars, for ethnic cleansing or even genocide. Often this means forcing groups to adopt the dominant culture and can lead to the destruction of cultural identity.

However, Albro and Bauer, editors of a 2005 issue of Human Rights Dialogue focusing on ‘cultural rights’, note that while cultural rights claims are being recognized as an ‘important means for the recuperation of identity and as an essential basis for advancing social justice, there is still weak political commitment to cultural rights by national governments’ (2005: 2–3). Indeed, it is lack of action by governments that is probably the largest threat to cultural diversity, cultural heritage and cultural rights. In some countries with neo-liberal governments the focus of ‘human rights’ has been shifted towards protection of individual property rights. In the wake of the 11 September 2001 destruction of the New York Trade Center, there has also been a focus on ‘national security’ and the ‘war on terror’. In Australia, for instance, critics argue that there has been a reduction in civil liberties in the pursuit of ‘national security’ on the one hand, but, on the other hand, an emphasis on the ‘human right’ of individuals to do what one wants with property (Logan 2007b: 218). In some other countries, regimes seem to support cultural heritage but this is part of a strategy of legitimizing their own position of power.

The global heritage organizations quietly resist the misuse of heritage at the national government level where they can, through the development of policy statements and the promotion of professional practice. It has also moved to engage the local communities in heritage identification and management. The notion of ‘World Heritage’ is based on the idea of ‘outstanding universal value’ but may not always coincide with local ideals. UNESCO used the ‘Linking Universal and Local Values’ conference held in Amsterdam in 2003 (published in 2004 as World Heritage Papers 13) to promote the view that heritage protection does not depend alone on top-down interventions by governments or the expert actions of heritage industry professionals, but must involve local communities.

This is especially important where indigenous minorities and cultures are concerned. Jérémie Gilbert's chapter in this volume argues that for
indigenous communities a particular way of life – their culture – is normally associated intimately with the use of their lands. Even though the notion of heritage encompasses traditional practices in a broad sense, including for example language, art, music, dance, song, sacred sites and ancestral human remains, in the case of indigenous peoples, the preservation of heritage is deeply embedded in and linked to the protection of traditional territories. Gilbert notes that, although the notion of cultural heritage does not appear as such in the UDHR, the ICCPR protects the right of minorities to enjoy their own culture and that, under such protection, the Human Rights Committee has developed a specific protection for indigenous peoples’ land rights. Gilbert’s chapter shows the complexities involved when this jurisprudence establishes a ‘cultural test’ that examines the connection between tradition and modernity in its effort to establish a link between cultural rights and land rights for indigenous peoples.

In her chapter, Mairead Nic Craith considers the concept of indigeneity within contemporary Europe and political-legal frameworks that imbue it with significance as a pre-requisite for ethnic minority recognition and identity maintenance. By exploring in particular the notion of ‘linguistic human rights’, she reveals the precarious position of migrant linguistic heritage in the region because states, for a variety of conceptual and practical reasons, are reluctant to afford official recognition to intangible cultural heritages of migrants. The debates on the management of linguistic diversity are evolving, however, and with specific reference to the European Charter for Regional and Minority Languages, the chapter charts the gradual emergence of migrant linguistic heritage onto the European agenda.

**National versus local heritage**

The first part of this volume focuses on agenda setting at the global and, in the case of Nic Craith’s chapter, regional levels and highlights the tensions at play between global institutions and nation states in terms of, first, notions of cultural identity, heritage and human rights and, second, responsibility for managing these aspects of the life of communities and individuals. In Part II of the volume, the chapters focus primarily on tensions between national and local values and the conflicts that arise where an official version of heritage is promoted by nation states, usually as part of a strategy to achieve social cohesion and political unity, to the exclusion of minority group views.

From a state perspective, heritage has been an important tool in engendering a homogeneous ‘national’ identity (Crooke 2000; Nic Craith 2008). Heritage is a way ‘in which the nation slowly constructs for itself a sort of collective social memory’. The emergence of nationalism coincided with a particular representation of the past which was designated as ‘national heritage’ (Graham et al. 2004: 27). States began selectively ‘binding their chosen high points and memorable achievements into an unfolding “national story”’. 

(Hall 2005: 25). Nation states developed a concept of a particular national heritage to consolidate a sense of national identity and to assimilate or dispense with competing regional or minority groups. Many nations established museums and folklore societies, which played a formative role in the nation-building process (Crooke 2000; Nic Craith 2008; Shannan Peckham 2003). Museums became a tool whereby nation states represented themselves at local, national and international levels. Moreover, these national institutions endorsed and served to legitimize the state version of heritage. Museums anchored official memory. 'Ironically the process involves both remembering and forgetting, inclusion and exclusion' (Davidson 2004: 186).

In the past 50 years, many of the international charters have reinforced the value of a national heritage (Ahmad 2006: 296). The Venice Charter of 1964 highlighted the need to formulate specific national principles (Congress of Architects and Technicians of Historic Monuments 1964). It advocated that principles for the preservation and restoration of ancient buildings should be agreed on an international basis, 'with each country being responsible for applying the plan within the framework of its own culture and traditions'. On the European continent, the Council of Europe designed and adopted many charters that dealt specifically with the national context of European countries. Consider, for example, the Council's European Cultural Convention (1954) which encouraged contracting parties to 'take appropriate measures to safeguard and to encourage the development of its national contribution to the common cultural heritage of Europe'.

Graham et al. (2004) suggest that the flexibility of the concept of heritage has made it a very adaptable tool for nation-building. 'We create the heritage that we require and manage it for a range of purposes defined by the needs and demands of our present societies' (Graham 2002: 1004). The flexibility of the concept is both a strength and a weakness. Loulanski (2006: 210) suggests that its most typical features are 'dynamism and elasticity'. 'The definition of what makes up heritage is said to be “elastic” at its broadest, including “anything inherited from the past,” and at its narrowest comprised of items of historic or cultural significance, as judged by heritage experts and professionals.’ In this volume, Judith Nagata argues that the elastic banner of heritage has become increasingly aligned with other non-governmental and activist causes and has stretched to include human rights issues. In her case study of Malaysia, she indicates that the notion of human rights has been merged with unique local interpretations of ‘Asian values’. The final outcome is highly dependent on economic interests and political will at a national level.

The concept of nation state as it emerged in eighteenth- and nineteenth-century Europe in particular, moulded notions of shared heritage in order to emphasize a common political destiny for a 'national family'. The 'family members' shared a mutual ethnicity, a unique history and a particular heritage. Moreover, this 'national family' had its attachment to particular locales within state territories. Specific forms of heritage were anchored to
particular territories or cultural landscapes. In Europe, for example, the true spirit of the Irish nation was located primarily in the Irish-speaking regions on the west coast. In Finland, the spiritual home was in Karelia. In Austria, it was located in the mountains of Tyrol (Nic Craith 2008). However, the promotion of national heritages did not include the full range of cultural diversity within state boundaries and the notion of family unity did not augur well for minorities. Ana Vrodljak’s contribution, for example, illustrates the centrifugal and centripetal forces at work within Iraq. On the one hand, there is a range of ethnic, religious and linguistic minorities within the territorial boundaries. On the other, the concept of a rich cultural, national heritage has been emphasized to give a sense of unity and nationality to these disparate groups.

The process of identification of ‘national heritage’ did not necessarily involve negotiation and consent from all family members. In the past, dominant strands of society claimed ownership of the national heritage. The elite determined which elements of heritage were worthy of affirmation or preservation in the public space at the national level. Frequently, the more powerful groups ignored diversity in favour of a one-dimensional narrative. They had the authority and the means to locate fixed representations of heritage in specific sites (Arkinson 2005). This can be aligned with the notion of ‘cultural capital’ as developed by Pierre Bourdieu (1977). Bourdieu pointed to the capacity of the ruling elite to exercise power in the process of selecting and determining dominant ideologies. In her case study, Janette Philp highlights the politicization of Burma’s cultural heritage under the military rule of the State Peace and Development Council. In order to assimilate Burma’s diverse ethnic and religious cultures into a national identity that is ethnically Burman and Buddhist, the State promoted ‘Myanmar’ traditional cultural values that are historically connected with the monarchy, thereby legitimizing its own political authority. This process of selection has ignored the cultural heritage of other ethnic and religious minority groups. As a result, the ‘national’ cultural heritage hardly reflects the community’s own sense of identity and history.

In the late twentieth and early twenty-first centuries, there has been a radical change in the conceptualization of nation states as homogeneous units. The acknowledgement of cultural diversity within state boundaries has served as the catalyst for a more inclusive review of ‘national’ heritages in some instances. In Britain, for example, Black History Month is held every October with the aim of promoting knowledge of Black History and experience (Nic Craith 2007). It also endeavours to ‘disseminate information on positive Black contributions to British society and heighten the confidence and awareness of Black people in their cultural history’. Ultimately, the Black History Month aims to restore some inclusivity to British history and to challenge conventional national narratives (Constantine-Simms 2005: 12).

One of the big questions is the extent to which societies are required to accommodate and recognize all cultural differences and languages – or
whether any such recognition should be confined to indigenous groups (Nic Craith 2006: 159). It is reasonable for a state to suggest that it would be impossible to give parity of esteem to each and every potential group claiming distinctiveness. Moreover, issues of recognition appear to rely on the categorization of some cultural groups as 'more entitled' to recognition than others. A typology of minorities has been constructed by several sociologists (cf. Eriksen 1993; Kymlicka 1995; Fenton 1999; May 2001). Such taxonomies usually prioritize indigenous rather than migrant groups in a state. This principle is reflected in the Council of Europe’s Framework Convention for the Protection of National Minorities which was opened for signature in February 1995. Although there is no definition of ‘national minorities’ in this Convention, the very title suggests priority is given to natives.

Several chapters in this volume focus on the recognition of indigenous peoples (or lack of it) shown by various national governments. Michele Langfield argues that the rights of indigenous peoples in Australia do not have adequate safeguards. Her chapter explores the heritage rights of different cultural groups in the British Commonwealth, before presenting a case for a different framework of human rights for indigenous Australians, who clearly distinguish themselves from other minorities. Fiona Magowan focuses on the intangible cultural heritage of Australian Aboriginal groups and the pressures on them to share their cultural knowledge with outsiders in arenas such as cultural tourism and government development projects.

These chapters explore tensions between indigenous groups and settler groups in the development of a national narrative. While settled groups may encourage minorities to co-exist, they generally do not support the agenda of self-determination. The national heritage is greater than any local — even indigenous — narrative. Settler groups reject the notion of differentiated citizenship, favouring instead the principle of universal individual rights — which runs counter to the indigenous people’s aspiration for shared sovereignty and collective rights (Havemann 1999: 332). Settler groups may endeavour to rewrite the indigenous culture to fit the ‘national story’. In doing so, they create what Magowan suggests is an external politics of authorization that does not always converge with indigenous expectations.

Tensions between indigenous peoples and settler groups also spill into the arena of tradition versus modernity. To what extent must traditional ways be sacrificed in order to achieve progress? In a case study of urban planning and human rights in Bangkok, Graeme Bristol explores the Rattanakosin Master Plan designed to beautify the royal and monumental Rattanakosin district. Here, city planners, rushing to modernize the region and desperate to gain some economic benefits from tourism, are rendering local, vibrant, vernacular histories invisible. Different visions of the city, of the past, and of human rights are colliding in the struggle to modernize and capitalize.

Ian Fairweather’s contribution points to a more successful reconciliation of the traditional and the modern in heritage performances in Namibia.
He explores the extent to which indigenous groups are expected to remain ‘traditional’ for the economic benefit of the nation. To what extent are such groups expected to pander to the expectations of tourists who come in search of an authentic, traditional past. Although heritage is performed in a traditional way by the locals, such performances can actually subvert or even contest expectations. Performers combine the traditional and the modern by locating themselves in modern cosmopolitan collectivities, while remaining distinctively local.

Rights in conflict

Human rights are often evoked when claims in favour of cultural diversity and heritage (particularly intangible) are at stake, but such claims are fraught with contradictions and inconsistencies. For instance, often groups claim a cultural practice as a human right, even though others may claim that the practice contravenes laws and/or human rights instruments. Also some forms of heritage contravene the individual’s right to take an independent line and to choose his or her own lifestyle. Indeed, as the Academy of European Law (2005) has noted:

Cultural rights are torn between two different but linked meanings: first, as a sub-category of human rights, cultural rights are endowed with universal character, which is a major characteristic and postulate of human rights as a whole; second, cultural rights are clearly related to cultural diversity and cultural diversity is an obvious challenge to the very idea of universal human rights.

Although recognized as human rights since the 1948 UDHR, the understanding and application of the notion of cultural rights has been complicated by ongoing international debates over the principle of universalism, over whose rights should be given precedence in cases of contestation, and over the primacy of individual or collective/group rights, the latter often involving claims of self-determination.

A major issue that has arisen as a result of recent UNESCO Declarations (for example, its Universal Declaration on Cultural Diversity 2001) and Conventions (specifically the Convention for the Safeguarding of the Intangible Cultural Heritage 2003, and the International Convention on the Protection of the Diversity of Cultural Contents and Artistic Expressions 2005) is that, in practice, some cultural rights and values still practised in religious or ethnic minority groups contravene individual human rights, particularly in relation to the less powerful in society, such as women and children, stateless persons and the weak or destitute. Cultural practices such as child sacrifice, arranged marriages and genital mutilation are cases in point. The 2003 Convention, which came into force in 2006, has led to major concerns over such human
rights abuses (Kurin 2004; Logan 2007a: 37, 43; Logan 2008: 446; Smith and Akagawa 2009: 2). Those who framed the Convention sought to minimize such abuses with the statement in Article 2 that:

For the purposes of this Convention, consideration will be given solely to such intangible cultural heritage as is compatible with existing human rights instruments, as well as with the requirements of mutual respect among communities, groups and individuals, and of sustainable development.

For many, however, the concern remains. Valentine Moghadam and Manilee Bagheritari, for instance, look at the cultural rights of women in their 2007 article in UNESCO's journal, *Museum International*. They argue that under the Intangible Cultural Heritage Convention women could be 'vulnerable to manipulation or dismissal of women's participation and rights' because of its gender-neutral language and because it fails to refer to the UN's 1979 *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) and other women's rights instruments. Their fundamental point is that "culture" is not a valid justification for gender inequality' (p. 11). It follows that cultural forms that represent and perpetuate gender inequality should not be safeguarded.

Taking a case study approach, the chapters in Part III of this volume examine various claims for cultural recognition made by diverse groups of people in areas of the world where conflict between different interests has occurred. In two earlier publications, William Logan (2007a, 2008) foreshadowed some of the global issues of debate mentioned above, setting an agenda for further research at both the national and local levels. Here, Logan uses the example of the Tay Nguyen hill tribes of central Vietnam and recent political and social turbulence involving state-initiated population migrations into the central uplands, land tenure and land use changes, and the intervention of Christian sects notably from the United States and of anti-communist overseas Vietnamese, again mostly based in the United States. He argues that in this case claims to the community's right to protect traditional culture, including local religious practices, conflict with the right to religious freedom, especially at the individual level.

Focusing on the inscription of the Tay Nguyen peoples' gong-playing skills onto the UNESCO 'Masterpieces of the Oral and Intangible Heritage of Humanity', Logan canvasses a series of key dilemmas critical to cultural heritage theory and practice. How are the cultural rights of ethnic minority groups best protected? Is the commodification of their cultures through cultural tourism a problem that requires a policy response? How do we deal with situations where local communities prefer to achieve higher standards of living by rejecting tradition and modernizing their cultures? How do we deal in practice with situations where cultural heritage is used by powerful
actors, both domestic and external, to obtain political goals that are essentially unrelated to heritage conservation? How do we respond as professionals to instances where various claims to cultural practices based on human rights are in conflict with each other?

These issues spill over into other contributions in this volume. Yuuki Hasegawa outlines the rights movement and cultural revitalization of her own people, the Ainu, one of the indigenous peoples of Japan. From the mid-nineteenth century, Ainu cultural practices were forbidden through a forced assimilation policy, and their land and natural resources removed by the Japanese government through dispossession and annexation. These policies caused the Ainu to experience radical cultural, social and economical change, which almost led to the loss of their entire culture. Despite discrimination and marginalization over a long period, the 1960s marked the rise of the Ainu rights movement with the specific aim of regaining collective rights as indigenous peoples, rather than simply the rights of an ethnic minority. Over the next three decades, the rights movement improved the overall situation of Ainu within Japanese society and contributed to the revival of their cultural heritage and identity. Eventually, in June 2008 the Japanese Diet unanimously passed a resolution recognizing Ainu as an indigenous people of Japan who have their own language, culture and religion (*Japan Times*, 7 June 2008). Despite this, the Ainu still face significant social and economic hardship with a high proportion of the population living in situations of extreme poverty. The continued reinvigoration of their culture will depend on securing the most basic of human rights – their daily survival needs.

As well as conflicts between local ethnic and indigenous groups and their unsympathetic governments or diasporic populations with different political agendas, ethnic or religious groups in multicultural societies frequently conflict with each other in terms of ownership of heritage spaces and lack respect for each others’ cultural identities. Susan Balderstone in her chapter describes the separation of the ethnic communities of Cyprus after the Greece-inspired coup against the Greek Cypriot President of Cyprus in 1974 and the Turkish invasion. Greek Cypriots fled to the south while Turkish Cypriots moved to the north. Both left heritage places and cultural connections in the zones they had vacated. The Turkish military continues to occupy the northern third of the island, creating human rights issues related to missing persons, property rights and access. Continuing efforts to solve the Cyprus problem have yet to deal with the underlying difficulties of cultural and ethnic identities and how they could combine in a culturally diverse, reunified Cyprus Republic. The failure of each community to recognize the sensibilities of the other in relation to cultural heritage conservation does not assist the process.

Bi-communal, cultural heritage conservation projects funded by the European Union have, however, begun to highlight issues of identity and human rights in relation to social and intangible heritage, particularly religion. The projects require cooperation between mutually distrustful, fearful and dis-
Intersecting concepts and practices

dainful communities for the sake of common objectives – social and eco-
nomic well-being. Cyprus has apparently opted for conflict management
rather than resolution, with both sides focused on achieving prosperity. But
there is an opportunity for participants in cultural heritage projects to con-
tribute to reunification by developing a genuine understanding and respect
in relation to each community’s cultural identity, and demonstrating this in
the way the cultural heritage of Cyprus is conserved and presented.

In unstable parts of the world, where fighting occurs over a protracted
period, the destruction of cultural heritage can be both deliberate and devas-
tating. The repair and rebuilding of physical heritage, as well as the recovery
of less tangible heritage such as community beliefs and traditions is some-
times difficult to achieve. There is, however, a growing acceptance amongst
practitioners that cultural heritage policies in post-conflict zones cannot
proceed in isolation but must be incorporated within the broader objectives
of redevelopment and recovery, including the accommodation of cultural
diversity and human rights. The contribution by Tim Winter and Shalini
Panjabi investigates these issues in the context of Srinagar, the capital city of
Indian-administered Kashmir and a city well known for its pre-modern
urban landscapes but one which has suffered over 15 years of conflict and
extensive damage. At the same time, politically and culturally, it remains
the centre of a wider collective identity within the Kashmir Valley. A holis-
tic approach, as suggested above, to the restoration of the built environment
and the socio-cultural and economic needs of the population can only be
achieved when wider goals of cultural sovereignty, multiculturalism and
security are also addressed.

Heritage conservation as cultural practice

It is now 60 years since the Universal Declaration of Human Rights was
adopted by the United Nations as a key instrument in its programme to
reduce conflicts between peoples of different cultures. Despite this, human
rights issues feature little in the literature of the interdisciplinary field of
cultural heritage studies. This is no doubt part of a more general problem
referred to by the Smithsonian Institute (2005) as the field’s under-theorized
state. Conferences, workshops and their associated reports and proceedings
sometimes see the need to protect minority cultures as part of a more inclu-
sive, even democratic approach to heritage conservation but do not refer
directly to the link with cultural rights or human rights, even where such
events flag cultural diversity as a key component of their overall theme.

Heritage industry professionals in the past have commonly seen cultural
heritage protection as either a technical or a management matter – a
matter of applying the best or latest scientific solution or the appropriate
management strategy to preserve or restore an artefact, monument or site
(Logan 2008: 439; Garcia Canclini 1995: 108). This was never true: heritage
protection has always been about resource management and resource allocation, and therefore always had a powerful political dimension. With the focus shifting towards intangible forms of heritage – 'living heritage embodied in people' – efforts to protect heritage are more likely to run up against what many people consider to be infringements of human rights. The paradigm has shifted so that cultural heritage in both its formation and protection is now best seen as cultural practice.

As heritage professionals we engage in seemingly innocuous heritage conservation projects but we need to be aware of the wider socio-political context and consider the likely impact of our work. We need to find ways – as practitioners, policy-makers, researchers and educators – to learn to work within this new paradigm, to deal with the many disjunctures between conservation and human rights principles, and to engage more fully with the public whose cultural heritage we are seeking to conserve.

Bibliography


William Logan is UNESCO Professor of Heritage and Urbanism, and Director, Cultural Heritage Centre for Asia and the Pacific, Deakin University. His research interests include world heritage, Asian heritage, heritage and human rights, and heritage theory. His books include: Hanoi: Biography of a City (2000), The Disappearing Asian City (2003), Vientiane: Transformation of a Lao Landscape (2007, co-author) and Places of Pain and Shame (2009, co-author).