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Destruction of Cultural Heritage in Peacetime and International Law

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Abstract: This chapter explores the international legal framework against the destruction of heritage in peacetime. It focuses particularly on two international standard-setting instruments: the 1972 World Heritage Convention (WHC), and the 2003 UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage (2003 Declaration). The WHC sets out basic legal obligations protecting heritage sites and monuments, and forbids states from taking action that would harm heritage in another state's territory. It left a glaring gap, however: whether states could willingly destroy heritage located in their own territory. The assumption that states would not want to destroy cultural heritage in their own territories was upended by the destruction of the Bamiyan Buddhas by the Taliban regime in Afghanistan in 2001, which triggered the adoption of the 2003 Declaration. This chapter examines the two instruments, and queries the assumption in international law that the destruction of heritage is always "wrong", and its impacts on communities living in, with, and around heritage. I argue that, while the legal presumption against destruction may be important to protect (vulnerable) communities' interests over their own heritage, it can also trap those same communities in a conservation paradigm that is antithetical to the idea of heritage as living culture.

1. Introduction

The intentional destruction of cultural heritage has received attention in international law through the standard-setting activities of UNESCO, but it has primarily focused on destruction that happens as a result of conflict. There is still an assumption that international law will only really be triggered in wartime (which is traditionally a domain of international law), whereas peacetime activity is shrouded behind the veil of state

sovereignty. However, international law does have a lot to say about destruction in peacetime as well.

The destruction in peacetime, while it does happen, has been seldom regulated, as UNESCO officers and diplomats have assumed that states would not want to destroy their own heritage, and at any rate would not agree to curtail their own sovereignty in this space. On the latter, however, acts under several instruments, like adding properties to the World Heritage List, create an opening for a legitimate international legal interest in avoiding the destruction of heritage outside of conflict. If something is protected by an international mechanism like the World Heritage List, it means that the international community has an interest in its protection, and not just the nominating and territorial state(s). Over time, therefore, exclusive sovereignty became porous, and more and more heritage became internationalized. As the heritage became internationalized, so did the interest in preventing or avoiding its destruction.

The culmination of international standard-setting in the field of intentional destruction of cultural heritage is UNESCO's 2003 *Declaration concerning the Intentional Destruction of Cultural Heritage* (2003 Declaration). This declaration responds to the destruction of the Bamiyan Buddhas in Afghanistan by the Taliban regime in 2001, and applies, in its own terms, to destruction both in wartime and in peacetime. In other words, international law has now arguably blurred the distinction between peacetime and wartime destruction, at least within international heritage law (Vrdoljak 2007). Besides the emergence of internationalized heritage and the curtailment of sovereignty, another factor that drove this blurring of destruction in peacetime and wartime is the lack of clarity about the threshold for a conflict under international law – in other words, what type of aggressive actions amount to a conflict, as opposed to just skirmishes and isolated incidents of use of force (Vrdoljak 2007).

This chapter examines the international legal regime applicable to the destruction of cultural heritage in peacetime. In particular, it focuses on the 1972 *World Heritage Convention* (WHC), and the 2003 Declaration. These two instruments help tease out key tensions including and beyond the issue of application of international law to conduct in peacetime. They also highlight the protectiveness of these rules, which assume that the

destruction of heritage is always fundamentally wrong and in violation of international law. This baseline is determined by what I call the conservation paradigm (Lixinski 2019), which is the expression in law of Laurajane Smith's Authorized Heritage Discourse (2006). Specifically, international legal regimes tend to act so as to prevent all forms of heritage destruction. While an important goal, taken to its extreme it can also exclude communities from controlling their own heritage, which may include the destruction of said heritage.

I argue therefore that, while the legal presumption against destruction may be important to protect (vulnerable) communities' interests over their own heritage, it can also trap those same communities in a conservation paradigm that is antithetical to the idea of heritage as living culture. In order to make this argument, the next section briefly examines the conservation paradigm and its origins in the legal protection of heritage in wartime. The following section examines the primary treaty protecting heritage in peacetime, the WHC. I next move to a detailed examination of the 2003 Declaration, before addressing the human right to cultural heritage protected within the scope of the right of access to cultural life, and what that human rights framework has to say about intentional destruction. The final section draws some conclusions about this legal framework and points at directions for future developments.

2. The Conservation Paradigm and Anti-Destruction

The conservation paradigm is the idea that the core purpose of legal protection or safeguarding of heritage is to ensure its continued existence. As such, once heritage has been protected under the law, there is little to no room for its modification, let alone destruction (Lixinski 2019). It follows from the Authorized Heritage Discourse (Smith 2006), which exposes a set of discursive practices that selects or authorizes what heritage is, what it means, and how it is used. The law, as an authorizing force, freezes heritage at a point in time, and therefore it seeks to protect that snapshot of heritage, including its uses and narratives, for the benefit of future generations. It is expert-driven, separating heritage from uses that go against a scientific desire to maintain heritage pristine and divorced from the commodifying forces of globalization.

To be sure, the conservation paradigm allows for the conservation and restoration of heritage, largely to maintain or recover the specific moment of legal protection. And intentional destruction in peacetime can be caused by poor conservation and restoration efforts (Morezzi, Romeo, and Rudiero, 2014). But this specific framework is largely reactive (as is much of law), meaning that it only interferes with heritage after damage has been suffered. Other peacetime frameworks, like those related to disasters, are more attuned to the need for preventative measures (Bartolini, 2020). The 1954 Hague Convention also includes brief measures on peacetime preparation for wartime (O'Keefe 2006), which has served as a model for the treatment of change to heritage in international law.

The 1954 Hague Convention, too, has generally set the yardstick for the conservation paradigm, assuming that all destruction of heritage is a violation of international law, because perpetrated in wartime (Lixinski, 2021). While this assumption makes perfect sense in a regime aimed at protecting cultural heritage during conflict, because it was the first treaty adopted by UNESCO in pursuance of its culture mandate, it set the tone for international cultural heritage law since. In other words, a wartime regime that assumed heritage to be the victim of hostile invading states set the basic premises within which regimes dealing with cultural heritage in peacetime operate, when there is no comparable crisis overtaking decision-making. This move effectively replicates a language of crisis in international cultural heritage law, which is a problem endemic to international law more broadly (Charlesworth, 2002). Other regimes have since perpetuated this assumption and crisis thinking, most notably for our purposes the WHC, the analysis of which is the object of the next section.

3. World Heritage Convention: Reinforcing the Paradigm

The WHC is the world's most widely ratified cultural heritage treaty, with near-universal participation. As such, it is a key point of reference for how heritage is regulated by both international and domestic law, and the most important legal instrument related to heritage in peacetime. In its text, there are only three references to destruction in WHC, two of which are in the same preamble clause, which notes destruction as a threat to heritage: "Noting that the cultural heritage and the natural heritage are increasingly threatened with

destruction not only by the 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" (emphasis added). Preambles to international treaties are important because they enunciate the treaty's object and purpose, and influence the interpretation of every provision in the treaty to ensure the object and purpose of the treaty is fulfilled. Therefore, with this preambular clause, the WHC confirms the idea of destruction as a threat and undesirable, pinning down potential drivers of destruction to traditional decay and social and economic change. Social and economic change gets charged with being a negative, and a wellspring of crises.

The only other reference to destruction is in the actual WHC text, in relation to the List of World Heritage in Danger (WHC, Article 11(4)). At the time of writing, this list includes 53 sites across 32 countries around the world (36 cultural and 17 natural). Article 11(4) of the WHC provision speaks of inclusion on the list of "threatened by serious and specific dangers, such as the […] **destruction caused by changes in the use or ownership of the land**" (emphasis added). While other causes of harm to heritage are identified, destruction is only connected specifically to land law and management. The same sentiment is echoed in the Operational Guidelines for the implementation of the WHC, which, even though not an integral part of the WHC, should be taken seriously into account in the interpretation of the treaty under international law rules as an independent body established specifically to supervise the application of the treaty. The current version at the time of writing of the Operational Guidelines (2019) only refers to destruction "following encroaching agriculture, forestry or grazing, or through poorly managed tourism or other uses" (UNESCO Doc. WHC.19/01, 2019, p. 103). This reference is included in a section that offers guidance on how to fill out nomination forms for the World Heritage Lists, in explanatory notes that are part of the template attached to the Operational Guidelines. This reference is largely directed at development pressures that affect the property, as part of the state of conservation item in the nomination form. What these rules do is focus on the issue of land use, and add a dimension about economic uses of heritage, which the practice of UNESCO, and international heritage law more generally, is to see as a threat to heritage seen through the conservation paradigm (Lixinski, 2019).

Further, the practice of the World Heritage Committee also suggests that modification or reconstruction of heritage at the local level can be seen as tantamount to destruction, and stand in tension with legal obligations under the WHC (Coster, 2019).

In other words, the WHC's references to destruction in the preamble announce an emphasis on destruction as a threat, which creates crisis thinking, but the practice of the World Heritage Committee has largely focused and still focuses on destruction only in fairly specific contexts (land title, land use, and development including tourism). International legal rules applicable during peacetime to heritage destruction seem to assume that destruction, while it should be in the back of everyone's minds as a threat, does not really happen outside of conflict. Other international rules instead, driven largely by this gap in the WHC system, tackle the issue of heritage destruction more directly, driven by the destruction of the Bamiyan Buddhas in Afghanistan in 2001. The UNESCO General Conference, in its reaction to this incident via a document titled "Acts Constituting 'A Crime Against the Common Heritage of Humanity'" (UNESCO Doc. 31 C/46, 2001), highlighted the centrality of the WHC, and the need to reinforce action under it, as part of "General principles of protection included in all UNESCO's existing heritage conventions [which] clearly reject such destructive acts" (Id., para. 6(c)). As the current version of the Operational Guidelines shows, however, action was not taken within the confines of the WHC. Instead, a new instrument was developed, which is the object, alongside the context that led to its adoption, of the next section.

4. The 2003 Declaration: High Threshold of Heritage Significance that Excludes the Community

The destruction of the Bamiyan Buddhas triggered UNESCO's Director-General to call for a new instrument to ensure the prevention and punishment of similar situations in the future (UNESCO Doc. 31 C/46, 2001, para. 1). The Bamiyan Valley was subsequently also added to the World Heritage List, but, it is worth noting, as a cultural landscape, and not as a cultural site, since the latter requires, under the conservation paradigm and WHC rules, "authenticity", which is impossible with the statues gone and in the process of being

reconstructed, whereas the category of cultural landscape only requires “integrity”. In other words, the conservation paradigm, seen through the lenses of the Bamiyan Valley World Heritage Site, limits action in relation to intentional destruction, effectively shifting the available legal categories for heritage protection.

Following up from this call by the Director-General, on 16 April 2002 the Permanent Delegate of Turkey, addressed a communication to the Director-General of UNESCO, emphasizing that “the intentional acts of destruction of cultural monuments in the last years had also indicated that the existing conventions and recommendations were not sufficient to preserve culturally important monuments and sites in times of peace” (UNESCO Doc. 164 EX/48, 2002, para. 3(c).). In other words, there is a clear sense of gap, despite the existing WHC frameworks, discussed above.

Development of what became the 2003 Declaration faced one important initial obstacle, from the perspective of international law: whether the instrument (particularly its language on peacetime, since wartime destruction was already well covered by the 1954 Hague Convention) was developing new law, or it was just a restatement of existing customary international law. Customary international law is law developed over time by the practice of states and their belief that their practice is required by the law (as opposed to just being an act of comity or diplomatic kindness), and it means law that all states need to comply with everywhere in the world. If the Declaration was merely declaratory of custom, it would be a much stronger set of rules; if not, the Declaration would be simply a list of aspirational principles which might one day become custom, but it would never be “hard law” in the same way as the WHC. This uncertainty was acknowledged by UNESCO in the drafting of the Declaration (UNESCO Doc. 32 C/25, 2003, para. 9), Drafters were adamant in suggesting that the declaration should not create new law or modify states’ existing international legal obligations (UNESCO Doc. 31 C/46, 2003). On the other hand, Francioni and Lenzerini (2003) argued that the Declaration was a declaration of customary international law (and Francioni was deeply involved in the negotiations), whereas O’Keefe (2004) suggested that the Declaration was not a crystallization of custom, but rather a commitment to its future development, suggesting that “cultural heritage is the proper concern of the international community as a whole but it is not yet, in peacetime, the object of obligations owed to that community” (O’Keefe, 2004, 207). This debate, thrashed out among academics, is still

untested by UNESCO, but even O'Keefe acknowledges that there is at least a customary obligation of diplomatic mobilization for the benefit of heritage threatened (Id., 209).

That the lowest common denominator on the question of customary status of the 2003 Declaration is in the realm of diplomatic mobilization is potentially problematic, inasmuch as there is a blurry line between diplomatic acts forming law and diplomatic acts done in the name of comity, as indicated above. However, the fact that there is a UNESCO Declaration behind those acts of diplomatic mobilization would suggest the legal weight necessary for the formation of proper international customary laws in this area since the adoption of the 2003 Declaration. One can therefore claim that the instrument, particularly its provisions on the protection of heritage in peacetime, has established customary international law.

One of the 2003 Declaration's clear objectives is to encourage states not only to not intentionally destroy cultural heritage, but also to become parties to UNESCO treaties (Hladik, 2004), drawing inspiration in particular from the WHC, the 1954 Hague Convention, and international criminal law norms (UNESCO Doc. 32 C/25, 2003, para. 5).

The 2003 Declaration includes heritage both in peacetime and wartime, language that was initially in Article II of the Declaration, on its scope of application. Nevertheless, Article II's lack of definition of heritage is meant to be broad, including both tangible and intangible heritage (Hladik, 2004), and the Declaration focuses instead on "particularly odious acts and not […] all acts of destruction of cultural heritage", meaning the Declaration "does not refer to the destruction of cultural heritage […] in peacetime when cultural heritage is destroyed during lawful activities (e.g. authorised public works)" (Hladik, 2004, 225). This narrowed scope is important, because it leaves out a range of actions in peacetime that do destroy heritage, but may not be "particularly odious", which presumably, from a legal standpoint, might require connection between heritage destruction and international crimes committed in peacetime, like crimes against humanity and genocide (explored further below).

Article III of the Declaration discusses the measures that are required to prevent, avoid, stop, and suppress intentional destruction of heritage. Importantly for the purposes of peacetime application, this provision may include extraterritorial effects (meaning that one state may have responsibility over destruction happening to heritage in the territory of another), with the view of facilitating international cooperation and "mutual legal

assistance" (UNESCO Doc. 32 C/25, 2003, para. 16.). Further, this extraterritorial effect might be useful in the context of destruction carried out by transnational corporations, even if the odiousness threshold might be difficult to meet in those circumstances.

The Declaration also contains a specific provision on its application to peacetime activities. Article IV requires states to take a "all appropriate measures", including compliance with the WHC and a range of other UNESCO Recommendations. It is also open to reference to the entirety of international cultural heritage law applicable in peacetime, and the only reason the 2001 Underwater Cultural Heritage Convention was not mentioned, for instance, is because it had not entered into force yet (UNESCO Doc. 32 C/25, 2003, para. 20). In other words, new UNESCO instruments are also clearly applicable to shed light on states' peacetime obligations with respect to heritage destruction. This provision was somewhat controversial, but it withstands scrutiny not only because of its role in developing customary international law, but also because it would be illogical to offer more protection to heritage during conflict than during peacetime (Vrdoljak, 2007).

Other important provisions in the 2003 Declaration for our purposes are Article VI on state responsibility, Article VII on criminal responsibility, and Article IX on the application of international human rights law. In relation to state responsibility (Article VI), it is worth noting that the original draft of the Declaration made explicit reference to "cultural heritage which is of special interest for the community directly affected by such destruction" (UNESCO Doc. 32 C/25, 2003, para. 23). This language was bracketed, but still considered as possible for inclusion, until 11 days before the adoption of the Declaration (UNESCO Doc. 32 C/INF.14, 2003, pages 4-5.). The exclusion of the language on community was partly to do with an imagined higher threshold for heritage that is the object of this Declaration (which includes, but is not limited to, properties on the World Heritage List) (UNESCO Doc. 32 C/25, 2003, para. 24; Hladik, 2004). In other words, only heritage of a particular international importance falls under the protection of the Declaration, and that is heritage that has been endorsed by states; the heritage of minority groups that may be destroyed by the territorial state (such as the heritage of Armenian communities in Turkey, or of Indigenous peoples in Australia) is excluded from this regime with respect to triggering international state responsibility.

In relation to individual criminal responsibility (Article VII), the drafters acknowledged that "acts of destruction taking place in peacetime are not included" in international legal frameworks authorizing prosecutions and punishment of wrongdoers, and the Declaration was to fill that void (UNESCO Doc. 31 C/46, 2001, para. 6.b). This provision was also meant to include heritage of particular importance to the community (UNESCO Doc. 32 C/25, 2003, para. 29), but, like with state responsibility, the language was excluded in the end. The provision, however, does create "universal jurisdiction" over the intentional destruction of heritage in peacetime, meaning that, for any act of destruction that falls within the scope of the declaration (odiousness, and being heritage of international importance) any state in the world, connected or not to that heritage or act of destruction, may prosecute individuals responsible for said destruction (Hladik, 2004).

Lastly, Article IX determines that international human rights law should be considered when applying the 2003 Declaration, particularly in relation to "gross violations of human rights". Once again, the odiousness criterion is included here.

In other words, the regime created by the 2003 Declaration applicable in peacetime has a few loopholes, and not just because of its uncertain customary status. Specifically, the exclusion of communities, as well as the thresholds of odiousness and international importance of heritage, can exclude communities from the conversation, which is particularly problematic when the state targets minority heritage at a smaller scale. Nonetheless, the Declaration does broaden the concept of heritage to include intangible or living culture, which is important from the point of view of connecting to living practices and moving away from the conservation paradigm. International human rights law provides some means of plugging the gaps left in the Declaration, as well as making it more effective, and the next section discusses the applicable rules in peacetime within that area of international law.

5. The Right to Access to Culture: From Victimhood to Control

The 2003 Declaration's reference to human rights is focused on criminalization and punishment, as discussed above. As such, it seeks to instrumentalize international human

rights mechanisms, which are more developed in international law (with their own courts, for instance) for the purposes of redressing the destruction itself. But there is more activity that places intentional destruction within a human rights framework with effects beyond enforcement, and deserves analysis.

The United Nations Special Rapporteur in the field of cultural rights has examined the issue of heritage destruction in two of her reports, even if primarily in relation to conflict (A/HRC/31/59, 2016). Nonetheless, the Special Rapporteur has made the issue of intentional destruction "an urgent priority" (Id., para. 45). Affirming "the importance of the 2003 UNESCO Declaration and calls for its full implementation" (Id., para. 60), the Special Rapporteur connected the intentional destruction of cultural heritage to a wide range of human rights, including freedom of expression, freedom of religion, participation in cultural life, and freedom from discrimination (A/71/317, 2016, para. 34).

This wide range of rights goes far beyond the right to participate in cultural life and its limitations, building stronger momentum for the recognition of intentional destruction as a human rights violation, and possibly also broadening the scope of available remedies. It is noteworthy, however, that many of these are rights from which derogations are admissible in the context of an emergency. One important exception is the right to freedom of religion, meaning that religious heritage can receive stronger protection than other forms of heritage in the context of an emergency. The effect of this connection to derogations is that, should crisis framings prevail around destruction in peacetime (a logic that can be expected given the high threshold of heritage importance placed by the 2003 Declaration), the incidence of these rights can be set aside by states, and the human rights framing can be rendered inapplicable.

Beyond declaring applicable human rights, though, the Special Rapporteur also brought to light important elements to operationalize a human rights framing on the regulation of intentional destruction. She suggested that the key foci of regulation should be on heritage defenders (A/HRC/31/59, 2016, para. 74); punishment and anti-impunity (Id., para. 78), particularly "for holding non-State actors to account and preventing their engaging in destruction" (Id., para. 62); and prevention (Id., para. 79). In doing so, the Rapporteur broadens the regulatory responses beyond punishment, thinking about the people for

whom heritage matters. This list of foci has subsequently been widened to include the need to go beyond object and focus on rights of cultural holders (UN Doc. A/71/317, 2016, para. 53); education, particularly teaching of history (Id., para. 55); holistic strategies (Id., para. 57); and community involvement (Id., para. 58).

In relation specifically to criminalization, a strategy aligned with the 2003 Declaration's reference to human rights, the Special Rapporteur stated the reasons for this focus as related to intentional destruction being a tool, in wartime and peacetime, for

> "attacking cultural diversity and cultural rights; erasing memory of current and past events, civilizations and peoples; erasing evidence of the presence of minorities, other peoples, philosophies, religions and beliefs; or deliberately targeting or terrorizing individuals and groups on the basis of their cultural, ethnic or religious affiliation, or their ways of life and beliefs. These acts may be of different magnitudes, may be carried out systematically or sporadically, and may be part of a wider scheme to forcibly assimilate or deliberately kill a group of people" (UN Doc. A/71/317, 2016, para. 33).

As to the implementation of the crime of intentional destruction in international law, she suggested that intentional destruction could be charged as crimes against humanity, or even as evidence of genocidal intent, thus pushing intentional destruction outside the domain of war crimes where these acts have been addressed in international practice (Vrdoljak, 2016; Gerstenblith, 2016) and towards international crimes that happen in peacetime as well (A/HRC/31/59, 2016, para. 64). Further, the Special Rapporteur affirmed that "destruction of property of cultural and religious significance is considered a significant indicator in the prevention of atrocity crimes" (Ibid.), since "Acts of deliberate destruction are often accompanied by other large-scale or grave assaults on human dignity and human rights" (Id., para. 82).

Key to the human rights approach is consideration of the needs of the community, which, as discussed above, was intentionally excluded from the 2003 Declaration. Specifically, "the human rights approach to cultural heritage obliges one to take into account the rights of individuals and communities in relation to such object or manifestation and, in particular, to

connect cultural heritage with its source of production" (A/HRC/17/38 and Corr.1, para. 2, quoted in A/HRC/31/59, 2016, para. 70). These include particularly Indigenous peoples and other groups in post-colonial societies, due to the enduring effects of colonialism and dispossession (A/71/317, 2016, para. 43). In her words, to include communities requires also

> "consulting the people who have particular connections with heritage, including for the purpose of understanding and incorporating the multiplicity of interpretations of that heritage, and determining whether (or not) they wish to rebuild, reconstruct and re-establish such a heritage and if so, how. Such consultations must include marginalized groups; further, women must be fully involved. Consultations must aim at obtaining free, prior and informed consent, in particular where the rights of indigenous peoples are at stake" (Id., para. 58).

The reference to community involvement and consent is a major contribution of the human rights approach not only to intentional destruction, but to cultural heritage governance more broadly (Lixinski, 2019). However, it can also be flawed, since human rights law often requires cultural heritage interests to be translated through the lenses of available human rights, meaning a risk that heritage-specific nuances will be lost in the process (Francioni and Lixinski, 2017). Despite this potential risk, the human rights approach also presents a very promising avenue for involving communities in conversations about the intentional destruction of their heritage, and for them to even have the agency to indicate their wish not to reconstruct the heritage. Note, however, that the assumption that destruction is a violation of rights is still present, but, in this case, this assumption can be justified on the basis that, if the destruction were led by the community themselves, there would be no victims of a human rights violation to speak of, and this body of law would never be triggered. In other words, the human rights approach can be interpreted as offering a pathway to break away from the conservation paradigm.

The human rights approach, while still very much reliant on criminalization that is a key aim of the 2003 Declaration, also offers other avenues. Particularly, to the victimization that is central to a criminal law approach it adds the possibility of a community controlling their

own heritage. The human rights framing also pushes heritage markedly into the domain of living (intangible) culture, because it connects communities and cultural creators and practitioners inexorably to heritage, pulling it away from the grip of the conservation paradigm. Therefore, human rights may present a viable alternative to the conservation paradigm that can liberate communities to control their own heritage and its destiny in peacetime, beyond the mentality of crises.

6. Concluding Remarks

The legal presumption against destruction, which follows from the conservation paradigm, does important work for international cultural heritage law. Specifically, it protects heritage, and vulnerable communities associated with it. However, these same communities can also be trapped by this paradigm, and not be allowed to control their own heritage, adapt it to their needs, transform it, and, yes, destroy it. Crisis thinking in international law leads to the conclusion that all destruction is bad and should be prevented and punished. However, in peacetime, rules can and should apply differently. A human rights framing of intentional destruction, while it still generally condemns it in line with the conservation paradigm, can also allow for a community's greater control over its heritage and said heritage's fate. It also allows heritage to be seen and treated as living (and therefore changing) culture, thanks in no small part to possibilities left open by the 2003 Declaration. Taken together, the 2003 Declaration and international human rights law can provide for a regulation of heritage destruction in peacetime that goes beyond, while still being ultimately subjected to, the language of crises. More work is needed to consider how living heritage challenges our assumptions about the conservation paradigm, and how heritage destruction can be treated as something that is not always (even if unfortunately often) a threat.

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