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PRESERVING HISTORY IN CHAOS: STRATEGIES FOR SAFEGUARDING CULTURAL HERITAGE DURING ARMED CONFLICTS

Abstract

Preserving cultural heritage during armed conflicts is a crucial worldwide issue due to the substantial risks historical locations, artefacts, and traditions encounter, such as destruction, looting, and damage. Several tactics and activities, frequently directed by international law and organisations like UNESCO, strive to protect cultural artefacts during times of war. The initiatives include using protective measures, legal frameworks, and diplomatic interventions to reduce the impact of armed conflicts on heritage sites and artefacts. Despite the obstacles, continuous endeavours persist in highlighting the significance of safeguarding our shared cultural legacy for future generations.

Keywords: *cultural heritage, armed conflicts, preservation, protection, conservation, international law, conventions, heritage sites*

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Xaos içində tarixin qorunması: silahlı münaqişələr zamanı mədəni irslərin qorunması üçün strategiyalar

Xülasə

Silahlı münaqişələr zamanı mədəni irsin qorunması tarixi yerlərin, artefaktların və adət-ənənələrin dağıdılması, talan edilməsi və zədələnməsi kimi ciddi risklərlə üzləşdiyinə görə dünya miqyasında mühüm məsələdir. Beynəlxalq hüquq və YUNESKO kimi təşkilatlar tərəfindən tez-tez yönləndirilən bir sıra taktika və fəaliyyətlər müharibə zamanı mədəni artefaktları qorumağa çalışır. Təşəbbüslərə silahlı münaqişələrin irs obyektlərinə və artefaktlara təsirini azaltmaq üçün qoruyucu tədbirlərdən, hüquqi çərçivələrdən və diplomatik müdaxilələrdən istifadə daxildir. Mənaələrə baxmayaraq, birgə mədəni irsimizin gələcək nəsillər üçün qorunmasının əhəmiyyətini vurğulamaq üçün davamlı səylər davam edir.

Açar sözlər: *mədəni irs, silahlı münaqişələr, qorunma, mühafizə, konservasiya, beynəlxalq hüquq, konvensiyalar, irs mənbələri*

Giriş

Cultural heritage is more and more being targeted for systematic exploitation, attacks, and destruction linked to violent conflicts. These activities are now seen as both a cultural tragedy and a worldwide security concern. UNESCO has classified cultural heritage as artefacts, monuments, buildings, and museums that offer diverse cultural advantages. This encompasses items of symbolic, historical, artistic, aesthetic, ethnological, anthropological, scientific, and/or social importance. He also mentioned that a cultural legacy might encompass both physical and non-physical aspects. The latter encompasses the customs, beliefs, expressions, and expertise that communities, groups, and individuals acknowledge as integral to their cultural legacy, together with the tools, items, artefacts, and cultural locations linked to them.

Conflict has historically had an impact on various forms of cultural legacy. Buildings and monuments were unintentionally damaged, while valuable artworks and artefacts were stolen. Cultural artefacts were intentionally targeted and destroyed in several instances. One prominent instance of purposeful loss of cultural heritage is the Nazi regime's organised theft and devastation of art and cultural locations across Europe in WWII (1). Targeting cultural heritage continues to be a prevalent aspect of numerous modern wars, not only a historical issue. Sabine von Schorlemer, who holds the position of chair in international law, EU law, and international relations at the Technical University of Dresden and previously served as a state minister for Saxony in Germany, stated that deliberate and organised attacks on cultural heritage have increased notably since the Taliban destroyed the Bamiyan Buddha statues in Afghanistan in March 2001. He asserted. Noelle Higgins, an Associate Professor of Law at Maynooth University in Ireland, discusses the intentional destruction of cultural heritage in recent conflicts in the Middle East and North Africa, citing examples from Iraq, Syria, Libya, Yemen, and Mali in her book "Safeguarding Cultural Heritage in Armed Conflict: Changing Paradigms" (2020). He argued that he had undergone a conversion.

Deliberate destruction of cultural assets occurred in Syria and Iraq by ISIS as part of their efforts to build a caliphate. In 2015, the organisation used bulldozers and explosives to obliterate the Syrian city of Palmyra, known for its extensive history before being incorporated into the Roman Empire. Reports indicate that ISIS has been plundering libraries and colleges in Mosul, Iraq, taking centuries-old manuscripts and numerous volumes from the city to sell them on the global art market. The terrorists set fire to Mosul's university library and detonated the major public library. Furthermore, the recordings depicted terrorists using hammers to demolish artefacts in the Mosul museum (2). Russia is accused of intentionally attacking the cultural legacy of Ukraine. A dossier released by the European Parliament in September 2022 claimed that the Russian military has harmed or ruined numerous cultural, artistic, scientific, educational, and religious institutions, items, and works since the invasion of Crimea in 2014. He stated that following Russia's invasion of Ukraine on February 24, 2022, the Russian military has deliberately attacked cultural property in a systematic effort to erase culture, which he referred to as a "targeted campaign of cultural cleansing."

The Minister of Culture of Ukraine reported that Russian soldiers pillaged thousands of artefacts from around 40 museums in Ukraine and vandalised numerous cultural items. Author Robert Bevan, writing for the Art Newspaper, questioned if Russia intentionally targeted cultural sites. He contended that some of the harm might have occurred as collateral damage. Russia refuted allegations of targeting cultural treasures and stated that it was implementing efforts to avoid harm to such sites. Some observers suggest that targeting cultural heritage is meant to be an assault on communities that value heritage as a crucial aspect of their distinct cultural identity. Irina Bokova, the ex-director general of UNESCO, asserted that ISIS wanted to achieve this objective by targeting Palmyra. He labelled these efforts as "cultural cleansing" with the intention of stripping the Syrian people of their knowledge, identity, and history. Former US Secretary of State John Kerry described the destruction of the cultural legacy in Syria as a deliberate and ultimate act of disrespect. He stated that ISIS not only takes lives in the country but also "robs the souls of millions."

Italian scholars Paolo Foradori, Serena Giusti, and Alessandro Giovanni Lamonica have contended that ISIS employs the destruction of cultural assets as a method of exerting control. Sabine von Schorlemer has contended that financial incentives can influence the targeting of cultural heritage. He stressed that numerous cultural artefacts hold significant commercial worth in global marketplaces and recommended that non-governmental bodies could utilise them to raise funding. He saw that ISIS's antiquities branch generated revenue through licencing archaeological excavations and collecting taxes from trading artefacts. The organisation is said to have generated millions of dollars from their illicit trade in antiquities.

International law safeguards cultural heritage. The 1954 Hague Convention was the inaugural international convention focused exclusively on safeguarding cultural heritage during armed conflicts. The member states of the Convention agreed to uphold and safeguard property during times of conflict. Additional safeguards for cultural heritage consist of two protocols that

complement the 1954 Hague Convention and the 1970 UNESCO Convention on the Prohibition of and Means of Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

Sabine von Schorlemer stated that the character of conflicts evolved following the Second World War. He contended that numerous contemporary wars involve non-state actors who are not bound by international humanitarian law, such as the 1954 Hague Convention (3, p.286).

It has been proposed that there is inadequate protection for cultural heritage and insufficient measures to safeguard it. Federico Lenzerini, a law professor at the University of Siena, stated that although attacks on cultural heritage are widely condemned, there has been limited concrete action taken to prevent or respond to such crimes. Edward C. Luck, a professor at Columbia University in New York and a former UN consultant, stated that the international community views the threat to cultural assets as a secondary or tertiary policy issue. He contended that without narrowing this gap, attempts to save cultural assets from increasing dangers will be insufficient.

Noelle Higgins examines contemporary initiatives by scholars and institutions to suggest innovative strategies for safeguarding cultural assets during periods of conflict in her book. He mentioned that the UN's actions to safeguard cultural heritage have resulted in the development of cultural peacekeeping and a heightened focus on cultural heritage in peacekeeping efforts. Ms. Higgins discussed her legal action against Prosecutor Al Mehdi at the International Criminal Court (ICC). The International Criminal Court was established by the Rome Statute, granting it authority over four primary offences: genocide, crimes against humanity, war crimes (severe breaches of the Geneva Conventions), and crimes of aggression. War crimes encompass deliberate assaults on hospitals, historical monuments, or buildings devoted to religious, educational, artistic, scientific, or charitable causes. In September 2016, Mr. Al Mehdi was found guilty of war crimes for orchestrating attacks on historic religious buildings and monuments in Mali.

Ms. Higgins contended that the case demonstrated the ICC's focus on individual criminal accountability for recent assaults on cultural heritage. He contended that addressing the widespread loss of cultural assets required a reaction that went beyond the specific circumstances of individual cases. Ms. Higgins emphasised the need to reevaluate the existing international legal framework when addressing the targeting of cultural resources.

The post-conflict heritage restoration efforts in Bosnia-Herzegovina are significant due to the extensive destruction of heritage, leading to various restoration projects. The events in Bosnia-Herzegovina are distant enough to enable thorough analysis. The Commission to Preserve National Monuments in Bosnia-Herzegovina was responsible for heritage issues at the national level, according to Annex 8 of the Dayton Accords. One crucial assignment for the group was to establish priorities for reconstruction (4). The Annex 8 Commission exemplifies the successful integration of heritage into peace agreements and its role in a nation's rebuilding process. It can also be viewed as a beneficial advancement in motivating post-conflict authorities to tackle the matter of heritage. Former Commission president Hadzimuhamedovic criticises the politicisation and ethnically divided approach to heritage inside the Commission, which can diminish the significance of such projects.

The highly ethnicized composition of the commission posed challenges akin to those encountered by various government levels in Bosnia-Herzegovina, as it maintained the dominance of the three main ethnic groups, marginalised minorities and non-nationals from political participation, and weakened the government's efforts in nation-building. There is no text. Heritage became integrated into this dynamic. The rehabilitation campaign in Bosnia-Herzegovina included the repair of the old bridge "Stari Most" by UNESCO and the World Bank, as documented by Bouchenaki and Hadzimuhamedovic in 2018. The project reconstructed the Ottoman-era bridge in Mostar that was burned down in June 1993 and connected the two sides of the city. This project was effective in terms of heritage restoration.

UNESCO describes the reconstruction as a representation of peace, international collaboration, and the coexistence of diverse cultural, ethnic, and religious groups. However, scholars analysing the social effects of the reconstruction are more sceptical, contending that while the project restored heritage, it did not effectively reconcile the Mostar community (Forde, 2016). Studies indicate that

the ethnic importance of the bridge is emphasised in a narrative that emerged after the conflict, while during the conflict it was primarily viewed as a strategically significant military asset, as confirmed by the 2017 ruling of the International Criminal Tribunal for the Former Yugoslavia (ICTY). In cases where the conflict is not mainly based on ethnicity, the significance of heritage can be intricate, as not all legacy is singled out solely because it belongs to a different group. These instances highlight the significance of autonomous supervision during conflicts and a thorough conflict analysis prior to commencing post-conflict restoration, such as utilising the PATH Assessment Tool created by ICCROM.

The restoration of the Ferhadija Mosque in Banja Luka, Bosnia-Herzegovina, completed in 2016, exemplifies the delicate nature of such repair projects. Ferhadiya, a prominent mosque in Banja Luka, was demolished in 1993. Banja Luka is currently the de facto capital of Republika Srpska. Subsequent to the Human Rights Chamber's decision in 1999, the authorities continued to deny approval for the reconstruction petitions. After the renovation commenced, it faced significant opposition. Violence erupted during the restoration ceremony when the first stone was laid, resulting in buses carrying Bosnian Muslims being set on fire. Protests against Muslims persisted even after the reconstructed mosque was opened (Bayrakli and Hafiz, 2017; 5). This act of violence could be interpreted as an initial sign that the initiative may not support the "welcoming returnees" goal but rather exacerbate existing tensions. Reconstruction is too recent to make definitive statements regarding its societal consequences. The mufti of Banja Luka stated that the mosque is well-attended and provides a conducive environment for Muslims in Banja Luka to feel comfortable; however, there are still many challenges hindering their complete reintegration.

The mufti mentioned that the local authorities are not yet prepared to provide financial assistance to the mosque; therefore, it depends on alternative funding sources like the embassies of Turkey and Iran. The renovation of the mosque is perceived as obligatory, indicating a lack of a shift in mindset.

Aside from the multinational efforts, there were also smaller projects focused on restoring local landmarks. Helen Walasek has shown that heritage reconstruction is crucial for sustainable return and reintegration, especially in situations where displaced individuals are returning to areas where their heritage has been destroyed by the community. Reconstructing mosques frequently faced strong resistance, particularly from the community level. Despite facing resistance, successful programmes frequently achieve favourable outcomes. Despite facing great opposition, the case of Stolac hamlet in Bosnia-Herzegovina demonstrated the feasibility of working on ethnic issues, including engaging the diaspora and displaced individuals. The participation of civil society organisations or local history organisations was crucial for the success of these projects. Engaging many segments of society extensively is more suitable when initiatives are carried out by local actors on the ground rather than by external entities like international agencies, foreign specialists, or contractors from distant regions. Although successful at a mass level, it remains uncertain if these methods are applicable to larger structures like the Mostar Bridge or the Farhadiya Mosque. One significant distinction is that the restoration of significant landmarks necessitates expert supervision, which is viewed as separate from the local community. When utilising cultural legacy to foster peace in post-conflict environments, it is crucial to recognise the prevalence of "appropriation of the past"

Heritage is frequently used to promote the prevailing storyline of a previous war in this scenario. Amra Hadzimuhamedovic, the head of the Commission for the Preservation of National Monuments in Bosnia-Herzegovina, stated that determined nationalists obstructed the restitution effort. In addition to threats to the safety of returnees, they also began plans to reconfigure the sites of the most important destroyed monuments by applying new exclusive meanings to them." In July 2021, the Office of the High Representative (OHR) amended Bosnia's criminal code to counter this by introducing prison terms for erecting memorials and naming streets, schools, or other public institutions after war criminals or genocide deniers. Following his first fact-finding mission to Serbia and Kosovo in 2016, the former UN Special Rapporteur on Cultural Rights also expressed his concern that the high level of politicisation of cultural heritage issues instruments cultural

heritage, undermines its protection and risks, creates monolithic discourses that are inappropriate for diverse societies, and hinders the realisation of a wide range of human and cultural rights for all. Thus, when dealing with heritage projects in conflict- or post-conflict regions, it is extremely important to be aware of heritage policy.

Outside of Bosnia and Herzegovina, post-conflict heritage rehabilitation projects often take similar approaches, either as large-scale international projects or as small community-level efforts. In Kosovo, large-scale destruction of cultural heritage occurred in the 1990s and again in 2004 (Herscher and Riedlmayer, 2000; 6). Although the destruction, especially in the 1990s, disproportionately affected Kosovo-Albanian heritage, the Comprehensive Proposal for the Settlement of the Status of Kosovo (Ahtisaari Plan), adopted in 2007, created "Special Protection Zones" around a number of Serbian Orthodox heritage sites. These zones were a follow-up to a wartime decision by NATO's Kosovo Force to protect certain religious sites as part of efforts to protect areas that could potentially fuel intercommunal violence. According to Ahtisaari's plan, these zones were to protect the Serbian Orthodox heritage from potential reprisals following Kosovo's declaration of independence, thus contributing to the preservation of cultural diversity in Kosovo. It is positive that, like the Dayton agreement in Bosnia-Herzegovina, the peace talks are considering cultural heritage and trying to find solutions for the role it can play in the country's future. However, over time, Kosovo's Special Protection Zones have isolated cultural heritage from the wider public-sometimes through barbed-wire perimeters, military or police checkpoints, and sometimes by giving the impression that Kosovo's laws do not apply there, allowing authorities to implement heritage protection measures as necessary (Kappler and Mannergren Selimovic, 2021).

It is now clear that these measures, designed to protect a diverse heritage, accentuate ethnic divisions and, according to the Organisation for Security and Cooperation in Europe (OSCE), also hinder the realisation of the human right to culture. In addition, the OSCE notes that these zones have not stopped various forms of vandalism and destruction and may even increase negative attitudes towards cultural heritage by creating the impression that people are not welcome in these places (7). There can be various reasons why special protection zones do not produce the desired results. The main thing is that they were interpreted in a monoethnic way, and the preservation of diversity is limited by the preservation of Serbian-Orthodox heritage. Moreover, zones have been approached only from a security point of view, assuming that the military, police, and razor wire will keep heritage safe, while "soft" measures, which require working with different communities, have received little attention, even though they may ultimately have a greater impact. Heritage rehabilitation in the Middle East and Africa Efforts to stimulate economic empowerment through heritage have long been part of UNESCO's approaches to post-conflict heritage rehabilitation (for example, in Cambodia in the 1990s). Often, this is linked to the stimulation of cultural tourism and related industries, which can be difficult in post-conflict countries as tourism takes a long time to fully recover.

In Yemen, UNESCO, with support from the EU, implemented the first pay-for-work project to restore conflict-affected heritage. The project, which has been operating since 2018, is currently in the second stage. The Yemeni model is particularly well suited to a protracted crisis context where recovery efforts such as tourism are not a viable option. It has also been particularly successful in urban environments such as the historic cities of Sana'a and Shibam (Yemen), where many of the affected heritage sites are private buildings. The project engages young people in the repair of roofs, walls, windows, and facades of private houses, providing them with education, employment, and income while at the same time ensuring that the city's historic houses are restored and ready to live in again. In addition to private houses, public places and a number of monuments are being restored as part of the project.

Similarly, ALIPH's Protecting Cultural Heritage at Risk in Yemen project offers small grants to local cultural heritage operators. In addition to working on documenting and securing their most at-risk collections, grantees are trained to apply for funding and manage their projects. Thus, this project aims to increase the capacity of local heritage professionals with a specific project while at the same time strengthening their long-term capacity to access and successfully complete future

projects. Another project working to rebuild the historic city structure is the UNESCO project "Reviving the Soul of Mosul" (Iraq), funded by the EU and the United Arab Emirates. The project is making great progress in rebuilding Mosul's main monuments, and efforts to rebuild private residences are ongoing. However, there is no shortage of criticism, including the prioritisation of some monuments. The main thing was that many local people were not satisfied with the international nature of the design competition, and people in Mosul were only given the role of workers.

A recent report by Chatham House highlighted criticisms of an international UNESCO-led competition for reconstructing a mosque complex in Iraq. The competition was faulted for using designs not in line with Iraq's architectural history and for not involving Iraqi expertise adequately. The report suggested that such projects could offer Iraqi professionals a chance to lead cultural heritage restoration efforts.

However, Iraqi institutions like the State Council of Antiquities and Heritage were Furthermore, as an intergovernmental agency, UNESCO has traditionally worked through governments, which have been particularly constrained in post-conflict settings. Operational principles have been developed for intangible heritage that emphasise the importance of communities in emergencies, but no such mechanism exists for tangible heritage. Unlike the situation in Iraq, the Assad regime in Syria is subject to international sanctions, making it more difficult to attract international organisations and donors. Given the sheer scale of the damage to Syrian heritage, this is an interesting case for prioritization (8).

The destruction of the Palmyra archaeological site has attracted much attention, but questions have been raised about whether Palmyra should also be a priority for rehabilitation. After all, Palmyra is a well-documented archaeological site, and once stabilised, it can be restored at any time in the future. Given the urgency of rebuilding people's lives and livelihoods, the historic centre of Aleppo (Syria), including the bazaar and the famous Umayyad Mosque, requires more urgent attention (9). As a result, despite restrictive international sanctions, more organisations are participating in the process. UNESCO, together with UNITAR/UNOSAT, carried out a detailed assessment of the damage in 2018, but since then the organisation has not been significantly involved in reconstruction efforts.

Religious communities and the Aga Khan Cultural Foundation participated in rebuilding churches and houses in the historic city. Local projects faced challenges such as sanctions affecting the import of construction materials. In Aleppo, criticisms of reconstruction being too centralised and top-down, limiting the involvement of local actors, were similar to those in Mosul. The situation highlights the importance of recognising cultural heritage monitoring (independent and impartial) and providing access to conflict zones in ways similar to the activities of human rights monitoring.

During the Bosnian-Herzegovinian war, this role was assumed by the CE to some extent. Currently, and increasingly due to the increased interest of courts in prosecuting crimes against heritage (e.g., ICC Cultural Heritage Policy 2021), monitoring is generally limited to damage to certain types of heritage without systematically gathering evidence for accountability purposes. An independent or international body should be able to coordinate such efforts. This can be done as part of human rights monitoring or separately by the heritage sector. Leading organisations such as UNESCO and ICCROM are working to improve data collection, although the focus remains on damage to certain heritage types. In practice, as in the case of the Mosul museum (Iraq), data collection is often carried out by heritage organizations affiliated with a single state, which may not have the required level of neutrality (10).

And despite increased efforts by Human Rights Watch to assume such a neutral role in recent years, cultural heritage is still rarely or barely included in human rights reports. An additional advantage of international monitoring as part of the human rights system is the creation of a forum where such independent reports can be presented.

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