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A Moral Analysis of the Challenges of
Heritage Protection

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Front cover: A boy stands at the entrance of a destroyed building in Mosul, Iraq, March 14, 2018. Photo: Ahmad Al-Rubaye / Getty Images

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FOREWORD

On April 21, 2019, three churches were attacked in Sri Lanka in a series of coordinated terrorist suicide bombings. ISIS, which was said to have been “totally defeated” just two months earlier, claimed credit for the bombings and released a video of its leader, Abu Bakr al-Baghdadi, calling on his jihadist followers to rally around his vision for ISIS. “Our battle today,” he said, “is a battle of attrition, and we will prolong it for the enemy, and they must know that the jihad will continue until Judgment Day.”

The Sri Lankan Islamist group, Jammiyathul Millathu Ibrahim, recruited for ISIS and joined forces with the Islamist preacher Zahran Hashim, the alleged organizer of the Easter Sunday attacks. Days before, he is said to have organized attacks on Buddhist sculptures. As a result of those earlier attacks, police in Mawanella arrested thirteen people.

The question many journalists have asked is what relationship there might be between attacks on cultural heritage and attacks on the lives of those who profess a cultural identity with them and what they represent. The prime minister of Sri Lanka, Ranil Wickremesinghe, noted a few days after the suicide bombings, “We know that before the Buddhist images there were attacks on Sufi mosques. So they seem to be going step by step. First their own Muslims [Sufis], then the Buddhists, and there was something in a small church near Kandy [Kandekurru], information that they wanted to damage the church.”

It is a thesis of the previous two J. Paul Getty Trust Occasional Papers in Cultural Heritage Policy that there is a direct connection between brutal attacks on cultural heritage and human lives. Not everyone agrees, of course. Helen Frowe and Derek Matravers, authors of this Occasional Paper, for example, argue, “At the time our newspapers were filled with the destruction of Palmyra, there were also thousands of refugees fleeing the war in Syria. There is, undeniably, something morally uncomfortable about stressing the need to protect heritage in the face of such widespread human suffering.” Do they mean to argue that it is never moral to protect heritage in the face of widespread human suffering? Of course not. Their thesis, instead, is that attacks on cultural heritage do not necessarily precede attacks on human beings, and that protecting cultural heritage can sometimes conflict with protecting people. Frowe and Matravers

force us to clarify our arguments. It is in this spirit that we publish this issue of our Occasional Papers.

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James Cuno
President and CEO
J. Paul Getty Trust

INTRODUCTION

The destruction of cultural heritage is nothing new. But our connected world means that today scenes of the destruction of heritage sites fill our newspapers and television screens like never before. These scenes are met with widespread public outcry, with many prominent figures insisting that something must be done to prevent, for example, the destruction of ancient monuments by ISIS in the Middle East. But what, precisely, is the appropriate response to the intentional destruction of tangible heritage, that is, attacks on buildings, tombs, and other physical sites and objects?

One recent suggestion is that the protection of tangible cultural heritage is a just cause for military intervention. Writing in this Occasional Papers series, Thomas G. Weiss and Nina Connelly offer the most developed and explicit work on this topic to date.¹ They argue that the combination of the generally objectionable nature of a group like ISIS and the wide publicity generated by their attacks on heritage has created an opportunity for action.² Saving cultural heritage has come to be regarded as part of the fight against terrorism; the question now, they suggest, “is how best to take advantage of what appears a propitious moment.”³ Drawing heavily on the doctrine of responsibility to protect (R2P)—the political framework intended to protect against genocide, ethnic cleansing, and crimes against humanity—they propose a parallel framework for understanding the international community’s obligations to heritage. They argue that the three “pillars” of the R2P framework can be modified for or extended to cultural heritage protection. These modified pillars would stipulate (i) that it is the primary responsibility of states to protect heritage in their territory, (ii) that others ought to assist in building this protective capacity, and (iii) that there is an international responsibility to respond to protect heritage should the first two pillars fail. This third pillar, they argue, includes military intervention.

Weiss and Connelly’s proposal is distinctive in that it clearly argues for the use of military force to defend tangible heritage. While military force can, of course, be used to deter and detain, it also typically involves inflicting serious physical harms, including death, on both putative wrongdoers and innocent bystanders. Despite the calls that something must be done to prevent the destruction of heritage, few prominent figures have explicitly called for those who are destroying cultural heritage to be killed, even

though it is clear that in many cases heritage could not be protected without the use of lethal force.⁴ Indeed, that such force is warranted seems to be the natural upshot of some of the arguments put forward by prominent figures in the heritage sector, even though they do not articulate it.

Although Weiss and Connelly call for the forceful defense of heritage for its own sake—that is, the use of force when heritage alone is threatened—their discussion draws on various other justifications for the use of force, such as the role of heritage protection in preempting genocide. As we shall argue, this conflation of multiple justifications makes their proposal—that we simply adopt parallel R2P doctrines for people and heritage—look more plausible than it is. Disentangled from these other justifications, it is hard to make a plausible case for the forceful defense of heritage in its own right.

We distinguish between what we call *extrinsic* and *intrinsic* justifications for the use of force to defend cultural heritage. Extrinsic justifications hold that protecting heritage is a means to achieve some other valuable goal, where it is achieving that goal that provides the justification for force. For example, it is widely argued that preventing the destruction of heritage is a means to prevent genocide. If preventing genocide warrants the use of force and if preventing the destruction of heritage achieves these goals, we have an extrinsic justification for forcefully protecting heritage.

Extrinsic justifications do not attribute heritage any particular value in its own right. Of course, proponents may believe that heritage is also intrinsically valuable. But they do not invoke this value as a justification for the use of force. Rather, the justification of force is grounded in the capacity of heritage protection to prevent the physical harms to humans that occur in genocide. Weiss and Connelly draw on this connection between heritage protection and genocide prevention to support their call for military action.

In contrast to extrinsic justifications for heritage protection, intrinsic justifications cite the value of heritage as the basis for using force. Such justifications might invoke the role of heritage in creating and preserving people's communities, providing connections to the past, and so on. These justifications are thus importantly different in character from the extrinsic justifications described above. Intrinsic justifications focus specifically on the value of heritage in people's lives (broadly construed) and present this as a reason to forcefully defend heritage even if doing so is not a means of achieving other valuable goals.

In addition to calling for military intervention on extrinsic grounds, Weiss and Connelly argue for military intervention to defend heritage for its own sake, that is, because of the intrinsic value of heritage in people's lives rather than because protecting heritage achieves other valuable ends. Intrinsic justifications for force, of the sort on which Weiss and Connelly's proposal partly relies, are much harder to defend than extrinsic justifications. It is much less obvious that the goods that might be facilitated or provided by heritage warrant lethal defense. As we explain, a call for military intervention aiming at protecting heritage for its own sake must be underpinned by

compelling arguments for the claims that we may (a) intentionally harm persons to prevent them from damaging heritage and (b) foreseeably harm persons as a side effect of preventing damage to heritage. Supporting either of these claims requires © an account of how to compare harms to people to damage to heritage, which itself demands (d) some way of assessing the value of (particular examples of) heritage. None of these requirements is acknowledged, let alone satisfied, by Weiss and Connelly.

In chapter 1, we explore some of the difficulties with supporting extrinsic justifications for the forceful defense of heritage. In chapter 4, we consider the claim that it is permissible to intentionally harm persons to prevent them from damaging heritage. In chapter 5, we argue that since military intervention inevitably imposes a high risk of collaterally harming innocent people, it can be permissible only if this risk is undertaken for the sake of heritage. Weiss and Connelly neither recognize the moral significance of collateral harms nor offer an explanation of how such harms could be justified.

We should note that Weiss and Connelly present their paper as a starting point, not a fully developed proposal. However, our core suggestion is that their starting point is already too advanced, since it omits all the important moral features of a justification for using force. Weiss and Connelly's proposal—like much of the work in this field—thus belies the genuine and complex moral challenges to the protection of cultural heritage that must inform, and thus come prior to, discussion of policy.⁵ It is striking that Edward C. Luck's paper in this series considers six "lenses," or frameworks, through which we might approach the protection of cultural heritage—law, accountability, security, counterterrorism, atrocity prevention, and cultural genocide—yet omits a distinctively *moral* framework. We hope to show that any serious attempt to tackle the protection of cultural heritage must first engage with the fundamental moral questions that we identify. We are not claiming to offer a comprehensive account of permissible heritage protection. But being clear about the issues one needs to address is an important first step in developing such an account.

1

EXTRINSIC JUSTIFICATIONS FOR HARMING

Examples of Extrinsic Justifications

Various extrinsic justifications have been put forward for the protection of heritage. Some proponents of heritage protection argue that preventing the looting of heritage sites will eliminate an important source of funding to terrorist organizations and thereby thwart terrorist attacks and disrupt terrorist networks.⁶ Much of the work by the Committee of the Blue Shield, perhaps the most well-known nongovernmental organization (NGO) in the field of heritage protection, emphasizes the strategic and military value of respecting cultural sites.⁷ With so many recent and ongoing conflicts taking place in urban environments, the cooperation of local people—“winning hearts and minds”—can be a pivotal factor in the success of a military operation. Destroying sites of cultural significance, whether through ignorance or disregard, can seriously hamper the prospects of military success. Proponents of heritage protection have thus channeled a fair amount of energy into demonstrating the military advantages of heritage protection (of course, this is not to say that they are themselves motivated by these advantages).⁸ Preventing the destruction of cultural sites can also facilitate postconflict reconciliation and sustain important sources of income for local people by protecting the tourism industry.⁹

Perhaps the most common, and important, extrinsic justification for heritage protection is grounded in an alleged connection between threats to heritage and threats of genocide. Many people argue that threats to cultural heritage are a precursor to violence against people and that if one reacts to or preempts attacks on cultural heritage one can thereby preempt that violence. This claim is most famously articulated by Raphael Lemkin, who, echoing Heinrich Heine, argued that “burning books is not the same as burning bodies, but when one intervenes in time against mass destruction of churches and books one arrives just in time to prevent the burning of bodies.”¹⁰ Weiss and Connelly

describe the destruction of heritage as an “alarm bell” for harms to people, citing the infamous Kristallnacht attacks in Nazi Germany.¹¹

These reasons for protecting heritage do not attribute to heritage any particular intrinsic value. Of course, their proponents may also believe that heritage is intrinsically valuable. But they do not invoke this value as a justification for protecting heritage. Rather, it is the capacity of heritage protection to prevent, for example, physical harms to humans of the sort involved in genocide and terrorism, or the harms of poverty, that explains why heritage ought to be protected.

Heritage and Genocide

It seems plausible that at least some of the ends specified by extrinsic justifications for protecting heritage—such as curtailing terrorist attacks and halting or preventing genocide—warrant the use of lethal force. Lethal defense is a proportionate response to the threat of death and other serious physical harms.

That there exists such a connection between, say, attacks on heritage and genocide is of course an empirical claim. If true, it would help justify the use of force in cases in which heritage is threatened. But if our concern is the protection of heritage for the purposes of preventing atrocities, it is not clear why the current R2P doctrine does not adequately enshrine such protection in law. The current R2P doctrine stipulates that “actual *or* apprehended” large-scale loss of life is a cause for intervention.¹² If there is indeed a robust predictive connection between the widespread destruction of heritage and genocide, then international law seems to already sanction the use of force to protect against the destruction of heritage. Insofar as Weiss and Connelly’s proposal relies on the role of protecting heritage in preventing genocide, then, it looks redundant. The efforts of those who are concerned to save heritage would be best directed toward producing solid empirical evidence of this connection rather than drafting new norms or legislation. As Luck points out, “It would make little sense for practitioners to downgrade the status of cultural genocide if it is, in fact, the most reliable sign of coming physical and biological genocide.”¹³

An important part of this empirical work would be to establish the precise relationship between the destruction of heritage and harms to people. To do the necessary justificatory work, this relationship must have two features. First, the destruction of heritage must reliably indicate the threat of genocide. Second, preventing the destruction of heritage must reliably avert the threatened genocide. Of course, “reliably” is a somewhat vague term: given the grave harm at stake in genocide, one might think that a fairly low probability that attacks on heritage will be followed by genocide suffices to make lethal force permissible. But, as with any military intervention, one must remember that grave harms are also at stake when one uses military force. Any intervention aimed at protecting heritage faces the same concerns regarding escalation and collateral harm as besets other types of intervention. Given this, one cannot set the bar too low.

Heritage Destruction as Indicative of Genocide

Note that the first feature of the relationship between attacks on heritage and genocide would not be established by showing that attacks on people are always preceded by attacks on heritage. Luck, in his discussion of Lemkin, makes this faulty inference. Even if it is true that genocide is always preceded by attacks on heritage, it does not follow that attacks on heritage are “the most reliable sign of coming physical and biological genocide.” By way of comparison: it may be true that Amy’s eating at her favorite out-of-town restaurant is always preceded by Amy’s driving her car, but Amy’s driving her car is not a reliable sign that she is going to her favorite restaurant. To justify harmfully protecting heritage on these grounds, one must show not that genocide is always or usually preceded by attacks on heritage but rather that attacks on heritage always or usually precede at least an attempt at genocide. And yet this latter claim seems implausible given the many examples of damage to heritage that are not part of or precursors to genocidal campaigns. Protesters have recently defaced many statues of Cecil Rhodes in South Africa, for example, but there has been no attempted genocide of or widespread violence against white South Africans, nor does any such violence seem likely. Heritage might also be destroyed as a means of coercion but without genocidal intent (the bombing of Dresden by British forces in World War II is an example of this). And, of course, a great deal of heritage is damaged or removed in the course of looting, but it seems unlikely that, in general, the looters also have genocidal intent.

An analysis of whether the destruction of heritage is a reliable predictor of genocide should also have a comparative dimension. One needs to know not only how reliably the destruction of heritage precedes threats to persons but also whether it does so more reliably than other factors. This will matter for whether one should treat attacks on heritage as sufficient evidence of genocidal intent or merely as one (more or less reliable) defeasible indicator of genocidal intent among others. For example, there is evidence that the extent of a population’s access to mass media is the most important determinant of whether unrest will turn into violence against persons.¹⁴ This evidence shows that wider access to mass media decreases the chances of violence. In his analysis of this evidence, T. Camber Warren recognizes that this result may seem surprising given the widely reported role of social media in mobilizing resistance movements. But, in a similar vein to the foregoing remarks, he notes that the reason mass media has seemed to lead to violence is that “studies of the relationship between mass media and mass violence observe mass communication behavior only in those countries that are experiencing the outbreak of large-scale civil conflict. It should hardly be surprising that in the midst of brutal civil wars the mass media have frequently been observed to transmit inflammatory messages. However, this observation does not constitute evidence that mass media systems are generally inclined to the promotion of collective violence, nor does it provide any insight into the factors that allow some countries to avoid the outbreak of such conflict in the first place.”¹⁵ Likewise, even a very strong correlation between the destruction of heritage and

genocide *in countries in which genocide has occurred* cannot tell us how reliably destruction of heritage leads to genocide. We also need to take into account the myriad cases in which heritage is damaged and no genocide occurs or is credibly threatened.

Heritage Protection as Averting Genocide

The second part of the relationship—that preventing the destruction of heritage also prevents genocide—is no less important if it is the connection to genocide that is to justify the use of force. Weiss and Connelly tell us that “curators and archivists, recognizing the warning signals [of genocide], have died while attempting to save heritage in the face of early violent attacks.”¹⁶ This description (along with their wider proposal) implies that the successful protection of heritage might somehow prevent a genocide that would otherwise have taken place. But, given both its role in their proposal and its moral significance, we need a much clearer explication of this claim than Weiss and Connelly offer.

One way to defend this claim is to draw on the role of dehumanization in creating the conditions for genocide. The attitude that members of the target group are in some way inferior or deserving of harm might, in some cases, first manifest as attacks on the group’s heritage. But in such cases the belief in the target group’s inferiority or lack of desert must be at least partly inculcated in the perpetrators prior to the attacks: they must already believe that the target group’s monuments, manuscripts, and sacred sites are legitimate targets. It is thus hard to see how in these cases merely defeating attacks of heritage could be an effective means of ridding the perpetrators of those beliefs. One does not stop one’s genocidal campaign because one failed to take the library.

Alternatively, leaders might order or encourage attacks on heritage as a first step toward genocide, knowing that it is easier to persuade people to attack buildings than to kill other people. In these cases, attacks on heritage will form part of the process of dehumanizing the target group rather than the outcome of the attackers having already inculcated those beliefs. But again, it is not clear that forcibly preventing these attacks would prevent the perpetrators from going on to inculcate the belief that members of the target group are legitimate targets. It seems equally likely that being met with forceful resistance might engender further animosity, and a desire for revenge. Here, too, the causal relationship between preventing attacks on heritage and preventing genocide is unclear.

Of course, if one kills (a sufficient number of) the people attacking the heritage and those people would have gone on to commit genocide, then one will have prevented genocide in the course of defending heritage.¹⁷ This relationship, at least, is clear. Something similar is true in cases in which the attacks on heritage are intended to demoralize and intimidate the target group in order to make them easier to defeat militarily.¹⁸ When attacks on heritage are a straightforward means of trying to achieve the goal of genocide, thwarting this means will at least decrease the probability of genocide. Since preventing genocide (and comparable harms, such as mass enslavement, rape, or

forced displacement) warrants lethal force, lethal force could be a permissible response in these cases. It is better to preempt genocide than to respond once it is under way. But this simply reinforces the need to clearly establish the first part of the causal relationship, that is, to show, to a high degree of certainty, that the particular people whom we will intentionally kill while defending heritage are indeed bent on genocide. If our evidence about the connection between attacks on heritage and genocide is more mixed—that is, if there is a significant number of cases in which attacks on heritage are not followed by genocide—then we are unlikely to meet the standard of proof required for killing.¹⁹

None of what we say here should be taken as skepticism that the destruction of heritage is often connected to, and may be an indicator of, genocide. But if one relies on this connection to justify killing people, the nature of the connection must be clearly established, showing both that attacks on heritage are a reliable predictor of genocide and that thwarting those attacks reliably prevents genocide. The importance of demonstrating these claims is easily overlooked in the contexts of the recent conflicts in Iraq and Syria, where members of ISIS were killing people and destroying heritage at the same time. We can agree that members of ISIS were legitimate targets in virtue of the threat they posed to people's lives. But this does not establish a general causal connection between defending heritage and preventing threats to people's lives. And one cannot infer the permissibility of lethally defending heritage from the permissibility of lethally preventing unjust killing.

2

INTRINSIC JUSTIFICATIONS FOR HARMING

Weiss and Connelly, in addition to endorsing various extrinsic justifications, propose a wider scope for the defense of heritage, which includes the defense of heritage for its own sake. These intrinsic justifications for the use of force focus on the value of heritage rather than the value of other goals that might be achieved by protecting heritage.

There are two types of intrinsic justifications, underpinned by different conceptions of the value of heritage. The stronger conception holds that heritage is valuable for its own sake, independently of its importance to human beings. On this view, cultural sites and artifacts would be valuable even if no human cared about them, or if humans ceased to exist.

The more moderate, and most common, conception holds that heritage has *derivative* value.²⁰ Objects of derivative value derive their value from their contribution to something with intrinsic value, in this case, the well-being of human beings. A great deal of cultural heritage—perhaps all heritage that is not part of the natural environment—is plausibly valuable only if and because it contributes to how well people’s lives go. One way in which heritage contributes to well-being is by providing what Janna Thompson calls “opportunities for enrichment.” Thompson argues that the constraints on the fighting of a war are motivated “by the moral importance of limiting war, of making it possible for important values to survive armed conflict. Above all, it should be possible for the opportunities intrinsic to civilized life to survive and be enjoyed by future generations—and this includes being able to appreciate its greatest products.”²¹ Such views are widely echoed in the heritage sector, although they raise difficult questions about the ownership and control of heritage sites. It is not only members of the group that has produced an artifact who might be enriched by interaction with it: as Weiss and Connelly put it, many people “view culture as a shared endeavor across peoples and time”

and regard the destruction of heritage in general as a cost to “humanity as a whole” rather than (merely) to the specific group that produced the heritage in question.²²

Less controversially, heritage contributes to the well-being of those groups that regularly interact with it or that identify with the original producers. Heritage can facilitate the forming and sustaining of communities, allow those communities to express certain values, and create intergenerational ties that bind the community together. This contribution to well-being is the focus of many accounts of the value of heritage. As Thompson argues, “A community is bound together through the places where people live and work, and its public buildings provide the infrastructure for their social relationships. Schools and places of worship or public assembly are the focus of the lives of many individuals, and provide resources that help to make their lives worth living.”²³ Weiss and Connelly argue that “the destruction of cultural heritage is ruinous for cultural identity and social cohesion. The buildings, museums, libraries, and infrastructure around which societies organize themselves in part help define a people.”²⁴

This entwining of people and heritage is one way in which proponents of protecting heritage seek to defuse the objection that they are prioritizing stones over lives. This objection holds that proponents of heritage protection demonstrate an inappropriate degree of concern about old buildings and artifacts, compared to that which they evince toward human beings. At the time our newspapers were filled with the destruction of Palmyra, there were also thousands of refugees fleeing the war in Syria. There is, undeniably, something morally uncomfortable about stressing the need to protect heritage in the face of such widespread human suffering.

But according to one form of this type of intrinsic justification for defending heritage, heritage and people are all of a piece. And by equating saving heritage with saving people, we can deny that saving heritage can conflict with saving lives. For example, Weiss and Connelly argue, “The protection of people and the protection of heritage are inseparable... . [T]here is no need for a hierarchy of protection because the choice between the two is false, just as a choice between people and the natural environment is false. Air, water, and culture are essential for life.”²⁵ In a recent public debate on protecting cultural heritage, the artist Issam Kourbaj suggested that “heritage without people means nothing; people without heritage means nothing.”²⁶ At the same event, Vernon Rapley, director of Cultural Heritage Protection and Security at the Victoria & Albert Museum in London, claimed that “people without culture is like a tree without roots. There’s no point [in the] military going in to protect a country unless they protect the *country*, not just save the lives of people. [Heritage] makes the difference between living and life.”²⁷ The UK Committee of the Blue Shield maintains that the Hague Convention on Cultural Property Protection does not “place cultural property above people, as it exists within a wider framework of laws designed to protect civilians and their property in a conflict situation.”²⁸ The art historian Nausikaä El-Mecky suggests that heritage and people are sometimes “one and the same thing.”²⁹ Irina Bokova, former director-general of UNESCO, claims that “there is no need to

choose between saving lives and preserving cultural heritage: the two are inseparable.”³⁰ She has also claimed that to destroy Syrian heritage is “to kill the Syrian people a second time.”³¹

What the foregoing arguments have in common is a claim about the constitutive role of heritage in people’s lives going well (or, indeed, their having lives at all). Rather than suggesting that attacks on heritage are worrying primarily insofar as they are indicative of worse harms to come, the claim here is that people and heritage are bound up in such a way that one cannot distinguish between them and, by implication, one therefore need not choose between them. On this view, attacks on heritage *are* attacks on people and, perhaps, people’s lives are not worth living (or saving) in the absence of heritage.

It can be hard to pin down these arguments, since they often rely on unhelpful metaphors and trade on ambiguity between the meaning of words such as *life* or *people*. It is clearly not the case, for example, that air and culture are on a par in terms of what people need to survive, and such claims do little to help us understand the moral status of heritage. Rather, this claim equivocates between what *people*—that is, persons—need to survive and what a *people*—that is, a cultural group of some sort—needs to survive. But one cannot infer the moral importance of the survival of “peoples” from the moral importance of the survival of persons. One certainly cannot infer the permissibility of killing to defend peoples from the permissibility of killing to defend persons.

Similarly, the fact that the legal protection of heritage is packaged as part of a “wider framework of laws” regarding civilians is no reason at all to think that saving heritage cannot conflict with the interests of persons. Indeed, it seems inevitable that such conflicts will arise, not least because civilians are not the only persons at risk of harm in war. Conflicts between heritage and persons arise whenever, for example, a combatant is asked to incur an increased risk of harm in order to avoid damaging a cultural site. With respect to sites that have been granted enhanced protection by UNESCO, Article 12 of the Second Protocol to the 1954 Hague Convention requires combatants to refrain “from any use of the property or its immediate surroundings in support of military action.”³² Insofar as combatants might have otherwise used such a site, they presumably would have done so because it was militarily advantageous: because the site provides the most protected position, the best vantage point, and so on. Demanding that combatants refrain from using the site—that they occupy a more exposed position or use a worse vantage point—is to demand that they operate at increased risk, for the sake of heritage.

Similarly, Article 12 implies that combatants can be required to impose greater risks on civilians in order to avoid damaging heritage. If making use of, or endangering, a cultural site would draw the battle away from civilians, prohibiting such use or endangering will increase the risk to civilians. We can remain neutral on the permissibility of demanding that combatants incur or impose these increased risks. The important point is that incurring or imposing these risks *does* put heritage above people in a very concrete way. The claim that heritage cannot conflict with lives is simply false. People may have an

interest in their continued heritage, but they also have other interests, such as interests in not being killed and maimed. Actions that promote their interests in their heritage may set back their other interests. The failure or refusal to recognize this plurality of interests undermines the credibility of these types of intrinsic justifications for heritage protection.

3

CONFLATING EXTRINSIC AND INTRINSIC JUSTIFICATIONS

Again, none of this is to deny that heritage is valuable and contributes to human well-being. But one must be cautious about the normative conclusions that one draws from the role of heritage in people's lives. In particular, one must avoid illicitly trading on the connection between attacks on heritage and genocide, moving from the claim that defending heritage sometimes preempts attacks on people to the claim that defense of heritage is, in general, the defense of people, whether those people face genocide or not.

For example, Weiss and Connelly argue that, as with the original R2P doctrine, a doctrine for protecting heritage should incorporate the possibility of military intervention. The stipulated threshold for just cause for humanitarian intervention in the R2P doctrine is the "large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation."³³ Weiss and Connelly suggest that this formulation "maps onto" the protection of heritage: one should use military force to protect heritage when one faces "large-scale loss of cultural heritage, actual or apprehended, with genocidal intent or not, which is the product of deliberate action by a state or a nonstate actor, or of neglect or inability to act, or of a failed-state situation; or large-scale cultural cleansing, actual or apprehended."³⁴ They also suggest that "military force should be deployed only in cases of profound humanitarian distress and, by extension, serious attacks on cultural heritage—for itself and as a precursor for the mass atrocities that almost certainly will follow."³⁵

This way of reasoning about the permissibility of using force is mistaken, wrongly implying that whatever is warranted for the protection of people must also be warranted for the protection of heritage. It conflates extrinsic and intrinsic justifications for the use of force, with its inclusion of attacks on heritage "with genocidal intent *or not,*"³⁶ and stipulation that heritage should be defended "for itself," immediately followed by the

claim that this will prevent “the mass atrocities that will almost certainly follow.”³⁷ And despite calling for defense of heritage even in the absence of any threat of wider atrocities, they conclude their paper with the claim that “cultural cleansing and mass atrocities are intertwined.”³⁸ Weiss and Connelly first treat forcefully defending heritage as a natural extension of forcefully defending people and then implicitly draw on the moral force of the reasons we have to prevent genocide to support forcefully defending heritage. They offer no independent justification for forcefully defending heritage, even though this is a central, distinctive aspect of their proposal. To be clear, and as we discuss below, our claim is not that only physical threats to persons can warrant forceful defense. Other goods, such as the right to self-determination, also plausibly warrant forceful defense.³⁹ It is possible that the goods that are threatened by attacks on tangible heritage also warrant forceful defense. Our claim is that one cannot infer this permissibility from the permissibility of killing to save lives.

Weiss and Connelly do in fact note that waging a justified war requires us to weigh the expected harms and benefits of that war. In the case of wars for heritage, this must mean weighing the harms of war against the protection of heritage. But they misinterpret familiar just war constraints, claiming that “proportional means [call] for the minimal scale, duration, and intensity of military force required to accomplish the goal” and that “reasonable prospects ... [require] that the negative consequences do not outweigh the benefits.”⁴⁰ The requirement that force be of the minimum scale, duration, and intensity—in other words, the least harmful means of achieving the goal—is not the proportionality constraint but rather the necessity constraint.⁴¹ We can see this by noting that one might employ the minimum amount of force required to accomplish one’s goal without thereby acting proportionally. For example, killing Zara might be the only—and thus the least harmful—way of stopping her from breaking Amir’s finger. But killing Zara is not proportionate to saving Amir’s finger. What Weiss and Connelly call the requirement of “reasonable prospects” is what just war theorists call the proportionality constraint. Proportionality weighs the expected harms and benefits of force. Killing Zara is disproportionate because the benefit of saving Amir’s finger does not outweigh the harm of Zara’s death. The requirement of reasonable prospects is, to give it its full title, the requirement of a reasonable prospect of success. This is usually taken to be distinct from proportionality: killing Zara is disproportionate no matter how likely it is to save Amir’s finger.⁴²

Despite noting the importance of weighing benefits and harms for judging the justness of war, Weiss and Connelly do not offer any explanation of how one might go about comparing damage to cultural heritage to harms to people.⁴³ Instead, they make two contradictory moves. First, they assume that we can simply extend whatever account of proportionality we use to judge forcefully preventing harms to human beings to judge forcefully preventing harm to heritage. This is the basic structure of their proposal, which simply adopts the language of R2P for the defense of heritage. Second, they assert that

establishing “a hierarchy for protecting people and property is counterproductive.”⁴⁴ At the very least, these claims cannot both be true. One cannot do proportionality calculations without some way of ranking the relevant goods. And both are plausibly false.

The first claim is clearly mistaken: human beings and heritage are very different types of goods, and the moral significance of harming humans does not typically attach to damaging objects. Thus the permissibility of killing a person who will otherwise wrongfully kill someone else does not entail the permissibility of killing to defend heritage. One cannot simply help oneself to the language of R2P. Nor does the permissibility of lethally defending persons indicate how much harm, if any, one may inflict for the sake of defending a particular instance of heritage. It cannot tell us, for example, how many people it would have been permissible to kill to save the Temple of Bel in Palmyra.

Without at least a rough basis for comparing tangible heritage and lives, it is unclear how one might proceed with Weiss and Connelly’s proposal. And, in addition to knowing when we may intentionally harm those trying to destroy heritage, we need to know how much risk we may impose on combatants and civilians for the sake of heritage. We described above how implementing the Hague Convention increases both the risks that combatants must take upon themselves and the risks they may impose on civilians. Deploying troops to protect heritage—the goal of Weiss and Connelly’s proposal—also clearly endangers combatants’ lives for the sake of heritage, along with the lives of nearby civilians.

In the face of these essential comparisons, the idea that one could develop a framework for the permissible use of force to defend heritage without any means of comparing physical harms to people and damage to heritage looks clearly mistaken. If one is to permissibly use force, one must engage in a proportionality calculation. To do this, one must compare the harms at stake. Unless defending heritage is at least sometimes more important than refraining from killing or seriously harming people, it cannot be proportionate to kill to defend heritage. If heritage is never more important than refraining from killing and seriously harming, Weiss and Connelly’s proposal to employ military force to defend heritage does not even get off the ground. To get their proposal off the ground, they must (contra their declaration) not only develop a model of comparing of harms to heritage and human beings that enables one to make the necessary proportionality calculations. They must also believe that sometimes defending heritage is more important than refraining from killing and seriously injuring humans.

4

INTENTIONALLY KILLING FOR THE SAKE OF HERITAGE

Liability to Harm

The beginnings of a case for justifying the forceful defense of heritage plausibly lie in showing that an individual can become *morally liable to harm* in defense of heritage—that, for example, threatening to damage or destroy a valuable artifact can cause one to forfeit one's usual right not to be harmed. As above, this requires showing that the value of heritage can weigh against harm to human beings, since permissible harming rests in part on considerations of proportionality.

That the perpetrators of attacks on heritage may be intentionally killed is simply taken for granted by Weiss and Connelly. It is worth emphasizing here that one cannot use self-sacrifice as a guide to the proportionality of harming. There are well-known examples of individuals risking and sacrificing their lives in defense of heritage. One might think that this provides examples of heritage that can weigh against human life. But the fact that someone is willing to risk their life for the sake of some particular instance of heritage does not show that that heritage has value that can count in a justification for harming. That someone is prepared to die for a cause does not show even that the cause is valuable; on the contrary, people often kill themselves or let themselves be killed for the sake of morally bankrupt causes. And even when something is genuinely morally valuable, the fact that one may sacrifice oneself for its sake doesn't show that one may harm anyone else for its sake. Being willing to risk one's life for one's child, for example, does not make it permissible to kill other people for the sake of one's child. Likewise, even if one thinks that the Monuments Men's willingness to risk their lives to recover stolen art was admirable, that willingness did not itself confer on them permission to kill other people.

Clearly, not everything that is valuable to human beings, or that makes our lives go well, warrants forceful defense, let alone lethal defense. This is true of even some morally significant goods, such as relationships, promises, and jobs. Imagine that Colin is about to

be unfairly dismissed from his job. It seems impermissible for Colin to physically attack his boss (much less kill her) even if this is the only way he can prevent this undeserved harm (imagine that he has no evidence of the unfairness that he could take to an employment tribunal). This isn't a simple question of proportionality: we can imagine that redundancy will be extremely harmful for Colin, cause him great distress, threaten his identity and self-worth, bring financial hardship, and so on. It is rather a question of the *type* of good at stake.

It is revealing that recent philosophical work on the ethics of war often focuses on straightforward comparisons of physical harms when discussing proportionality, for example, how many combatants or civilians will be killed in an offensive, compared to how many lives we might thereby save.⁴⁵ This is of course important and useful. War involves a lot of killing and maiming, and we have at least some idea of how to weigh these things against each other. But it is much harder to judge the number of people whom one may kill to, say, defend political rights or territory. Even granting that citizens have rights to self-determination, it is hard to know how many people one may kill and injure to secure those rights.⁴⁶

The difficulty of comparing the value of heritage to the disvalue of death and injury is not unique, then: wars are fought over other values that do not reduce to physical harms to people. But, at the very least, the permissibility of lethally defending artifacts is considerably less well supported by our intuitive judgments than the permissibility of lethally defending our lives and liberty. The intuition that an innocent person may kill in defense of her life enjoys near-universal support. It is similarly intuitive that a kidnap victim may kill to escape her abductor even if she believes that he will merely imprison her for a significant period of time rather than kill her. Intuitions about the permissibility of killing in defense of one's home vary, but this variation tends to track whether there is a duty to retreat from one's home, on the assumption that one could safely reclaim the home later. In cases of unjust forced occupation—that is, a threat of long-term or permanent displacement from one's home—the permissibility of lethal defense seems to enjoy widespread intuitive support.⁴⁷

One of the difficulties with intrinsic justifications for force is that their proponents tend to invoke the harm that would follow from *eradicating* the heritage of a given group to support forcefully preventing its partial destruction. Consider, for example, the above claims by Kourbaj and Rapley, both of which defend the protection of heritage by citing the harm that would befall a people without any heritage at all. But the harms of eradication and partial destruction seem to differ not merely in degree but also in kind. It's plausible that the eradication of a group's tangible heritage often has a seriously detrimental effect on its members' identity, flourishing, and so on. The degree to which it does so might depend on the group in question: many people draw on multiple sources of identity (religion, ethnicity, nationality, profession, familial status), which plausibly increases their resilience in the face of a threat to any one particular source.

But it is considerably harder to make general claims about the effect of the partial loss of heritage on a group's members. Communities that suffer even widespread losses of their cultural sites through natural disasters, for example, are undoubtedly harmed. But it is not clear that such losses threaten their members' sense of identity and community in the way that the eradication of heritage plausibly does. Thus, even if preventing the eradication of an entire body of tangible heritage warrants the use of lethal force, it does not follow that preventing the destruction of even a substantial subset of that heritage also warrants lethal force.

Moreover, the eradication of an entire heritage, rather than just its tangible manifestations, requires more than attacks on heritage sites. Eradicating stories, songs, language, cuisines, and so on typically requires direct harmful interference (or threats of such interference) with persons. But (threats of) these types of interference with persons—physical harms or unjust imprisonment, for example—fall under the more familiar scope of rights to defensive force. Lethal prevention of the eradication of heritage may thus be justified on grounds that do not obtain in cases of partial destruction. Again, one cannot straightforwardly extrapolate from the permissibility of forcefully preventing these types of harms to the permissibility of forcefully defending tangible heritage.

The permissibility of killing in defense of important works of art or buildings also enjoys less intuitive support than killing in defense of our interests in life and liberty. Of course, many actions that threaten cultural artifacts will also threaten people: it would clearly be permissible to kill someone to prevent her from blowing up a mosque with people inside or nearby, even if the people were not her target. One must be careful, then, not to wrongly infer that protecting the building, rather than protecting people, justifies killing. Put another way, one cannot infer from the fact that one has a justification for forcefully protecting a valuable building that it is the value of the building that justifies forcefully protecting it.

One must also be sure not to conflate what we can call *law and order* justifications for harming with harming for the sake of heritage. For example, we might agree that if someone were going around a museum or gallery methodically destroying every piece of art, it could be permissible to kill her if this were the only way to stop her. Even if one may not kill to save one or two paintings, perhaps the wrongs could aggregate to make lethal defense proportionate.⁴⁸ But this permissibility could be explained by our interest in maintaining law and order rather than the value of cultural artifacts. After all, it seems similarly permissible to prevent the destruction of other types of property. It would be impermissible to kill someone to prevent her from destroying one's car, but it could be permissible to kill her if she is destroying every car she comes across and there is no other way to stop her. In simple terms, we do not let people commit gratuitous acts of violence against property, and in the absence of nonlethal means of prevention, these acts of violence could aggregate to make lethal force proportionate. If so, the fact that it might be permissible to kill a person to stop her from destroying everything in the Tate does not

show that cultural artifacts warrant lethal defense. It might show only that one may sometimes lethally enforce law and order. Nor, of course, does the fact that one might have law-and-order justifications for harming show that one may not also lethally defend cultural artifacts in their own right. Our point is simply that one needs some argument for permissibility of doing so if one is proposing the defense of heritage as a just cause for war.

None of this is to deny the distress that the destruction of cultural property might cause to humans. That distress is morally significant, because human suffering is always morally significant. But, as above, one should be cautious about assuming that this kind of suffering could justify harming. Lots of things cause distress—the desertion of a spouse or the loss of a job, for example—but preventing them does not ground permission to do physical harm. This is true even if, as in the case of Colin’s unfair dismissal, the harm is unjust and significant. And in cases in which one may use force to protect heritage sites, one must show that this permissibility is not grounded in some other feature, like sustaining law and order, that might not obtain in other cases.

The claim that one may kill to defend heritage is not, then, a minor addition to, or natural extension of, the claim that one may kill to prevent genocide. Rather, the claim that defense of heritage is a cause for military intervention in its own right demands an account of the permissibility of harming for the sake of defending heritage in its own right. This requires substantial theoretical work that is absent from Weiss and Connelly’s proposal.

5

PROVING TOO MUCH? COLLATERAL DAMAGE AND HERITAGE

If one were to show that harms to heritage can weigh against harms to people, one would thereby lay the justificatory groundwork not only for intentionally harming someone who is destroying heritage but also for collaterally harming innocent people in the course of protecting heritage. Indeed, it's hard to see how one could make a case for military intervention without showing the permissibility of collaterally harming innocent people, since wars inevitably inflict collateral damage. Of course, such harms are constrained by the requirements of proportionality and necessity. And since harms to innocent bystanders are harder to justify than harms to culpable attackers, one would need to be protecting more, or more valuable, heritage to be permitted to collaterally kill an innocent person, compared to the amount of heritage one would need to be protecting to justify killing a culpable attacker. (Here, too, then, one needs an account of the value of heritage that enables one to make these comparisons.) But once one grants the general claim that protecting heritage warrants harming people, there is no principled way to restrict this to harming those intent on destroying heritage.

We know of no explicit defense of the claim that it might be permissible to collaterally kill innocent civilians for the sake of defending heritage, despite the calls for military intervention from some quarters. Certainly, no such account is forthcoming in Weiss and Connelly's proposal. This absence might be explained by contingent features of recent cases of heritage destruction. If a site is geographically isolated or uninhabited, there might be no innocent bystanders, and thus the question of permissible collateral killings for the sake of protecting heritage will not arise. Hence, making the moral case for such killings may not have been considered pressing.

But one cannot generalize from these particular examples to simply ignore the prospect of collateral harms: as proponents of heritage protection point out, many modern conflicts take place in urban, populated areas. This is precisely why so much heritage is at

risk. One cannot plausibly protect these sites with military force without imposing at least a high risk of lethal collateral harms on bystanders. Again, the plausibility of Weiss and Connelly's proposal rests on their being able to show the permissibility of imposing such risks, yet they offer no argument for this claim.

Part of the difficulty here is that one will need to justify, in each case, why defending *this* instance of heritage warrants imposing significant (risks of) harm on *these* innocent bystanders. In some cases, people living in proximity to a site might welcome—that is, consent to—an intervention that aims at protecting that site, because the site is valuable to them. Consenting to bear risks can make the otherwise impermissible imposition of risk permissible. But we should note that there is unlikely to be universal consent in such cases and that consent to (risks of) serious harm is not a “majority rules” game. Sometimes, the refusal of consent by one member of a group is decisive. There will also be children in communities who cannot consent to such risks.

These concerns are familiar from debates regarding humanitarian intervention. But they press even more strongly here.⁴⁹ Human life is impersonally valuable. It can thus be permissible to nonconsensually impose significant risks of harm on a bystander in order to prevent greater physical harm to others. One does not need the bystander to agree that the lives of others are valuable before one may impose such risks on her. One can also be required to incur quite significant harms for the sake of defending or saving other people's lives. We have duties to rescue people, where these duties are grounded in the impersonal value of persons rather than in consent on the part of the rescuer.

Heritage, as we have seen, plausibly has only derivative, rather than impersonal, value. On this view, a given heritage site derives its value from its contribution to the well-being and flourishing of a certain cultural group. The claims that this type of value makes on us are much less clear. A cultural site may be very valuable to some people—it might, for example, be of great significance to a Christian community, or of considerable scientific interest—but of little or no value to those living nearby who would be endangered by its forceful protection. Their failure to value the site is not morally objectionable in the way that failing to value the life of a person would be: we cannot obviously insist that they *ought* to value it and unilaterally impose risks on them for its sake. Their failure to value it might not be morally objectionable at all. Given this, it is not clear that even substantial value attributed to a site by others can weigh against harms to innocent bystanders who do not themselves attach particular value to the site. As above, the fact that some people may be prepared to incur serious risks for the sake of rescuing art, in light of the value that *they* attach to it, does not confer on them permission to impose substantial risks of great harm to others. We should be mindful, then, that the degree of international concern regarding a site might not correlate with the degree of risk that it is permissible to impose on bystanders. It is not the international community that shoulders the collateral risks of military intervention.

In sum, there are at least three key claims that Weiss and Connelly need to defend in order to support their proposal. First, they must persuade us that damage to heritage can weigh against serious harms to humans. Second, they must persuade us that it can be proportionate to intentionally kill a person who is responsibly threatening heritage. Third, they must persuade us that it can be proportionate to foreseeably, but unintentionally, kill (or impose a high risk of killing) an innocent person in the course of defending heritage. These claims are, in their general form, the backbone of any case for military force. In more familiar parlance, they constitute just cause (i.e., the presence of a wrong that justifies a forceful response), liability to intentional defensive harms (i.e., the permissibility of targeting perpetrators of that wrong), and proportionality of collateral harms (i.e., the permissibility of foreseeably killing innocent bystanders). Their absence from Weiss and Connelly's account is thus remarkable.

CONCLUSION

The primary conclusion of our argument is that the issues surrounding the forceful protection of heritage are far more morally complex than Weiss and Connelly, and those working on heritage more widely, acknowledge. In particular, one cannot simply apply a framework designed to prevent physical harms to people and their private property to the protection of heritage. The protection of heritage raises difficult philosophical questions about value, proportionality, individual liability to harm, and collateral damage with which any proposal for heritage protection must seriously engage.

Part of our aim has been to disentangle two types of justification for heritage protection. Extrinsic justifications hold that protecting heritage is a means of achieving some other valuable goal, such as preventing genocide or terrorism. Intrinsic justifications focus instead on the value of heritage itself, citing the role of heritage in making people's lives go well. We noted that Weiss and Connelly conflate these justifications. Their proposal is that one might intervene militarily to protect heritage for its own sake, even in the absence of threats of genocide, yet they offer no account of the permissibility of harming people for the sake of heritage.

A further goal, then, has been to identify the kinds of moral claims such an account would need to defend. Foremost among these is the claim that a person can be liable to harm for the sake of heritage, the truth of which requires showing that one can meaningfully compare damage to heritage to harms to people. We noted that if one can indeed make such comparisons, they plausibly also permit the harming of innocent people for the sake of heritage—and, indeed, that Weiss and Connelly's proposal requires that it is permissible to inflict such harms. One cannot wage military interventions without imposing substantial risks of serious harm on bystanders. But one must then show not that defense of heritage in general permits the imposing of substantial risks of serious harm. Rather, one must show that defending this site *in particular* justifies imposing such risks on those living in proximity to it. The degree of permissible collateral harms will not obviously correlate with the value attributed to a site by the international community.

NOTES

1. Thomas G. Weiss and Nina Connelly, "Cultural Cleansing and Mass Atrocities: Protecting Cultural Heritage in Armed Conflict Zones," J. Paul Getty Trust Occasional Papers in Cultural Heritage Policy, No. 1 (2017), 13, http://www.getty.edu/publications/pdfs/CulturalCleansing_Weiss_Connelly.pdf.
2. Ibid., 16.
3. Ibid., 17, 42.
4. Although see Hugh Eakin, "Use Force to Stop ISIS' Destruction of Art and History," *New York Times*, April 3, 2015. The UN did sanction the use of lethal force in defense of heritage in Mali, although such force was not used.
5. Insofar as the archaeological community engages with ethical issues connected with war, its members seem largely preoccupied with the permissibility of their working with the military.
6. For example, Irina Bokova, "Culture on the Front Line of New Wars," *Brown Journal of World Affairs* 22, no. 1 (2015): 289–96, at 292. For discussion, see Pierre Losson, "Does the International Trafficking of Cultural Heritage Really Fuel Military Conflicts?," *Studies in Conflict and Terrorism* 40, no. 6 (2017): 484–95.
7. See, for example, Peter Stone (chair, UK Blue Shield), "The Blue Shield: Trying to Prevent Cultural Property Becoming a Victim of Armed Conflict," Keynote Address, Conference on Digital Preservation of Cultural Heritage, November 19, 2013, available at www.youtube.com/watch?v=mOk25ZnzR-U.
8. See, for example, Laurie Rush, ed., *Archaeology, Cultural Property and the Military* (Woodbridge: Boydell Press, 2010); Joras D. Kila and Christopher V. Herndon, "Military Involvement in Cultural Property Protection: An Overview," *Joint Forces Quarterly* 74, no. 3 (2016): 116–23, at 118.
9. Several such arguments are deployed in Yvette Foliant, "Cultural Property Protection Makes Sense: A Way to Improve Your Mission," Civil-Military Cooperation Centre of Excellence, 2015, <https://www.cimic-coe.org/wp-content/uploads/2015/11/CPP-Makes-Sense-final-version-29-10-15.pdf>. Weiss and Connelly make the claims about economic costs and reconciliation; see "Cultural Cleansing and Mass Atrocities," 13.
10. Raphael Lemkin, "Letter to James Rosenberg, 31 Sept 1948," American Jewish Historical Society, Raphael Lemkin Collection, Call P154, box 1, folder 19, "Correspondence 1948."
11. Weiss and Connelly, "Cultural Cleansing and Mass Atrocities," 13.
12. ICISS, "The Responsibility to Protect: Report of the International Committee on Intervention and State Sovereignty," December 2001, 12; emphasis added; available at <http://responsibilitytoprotect.org/ICISS%20Report.pdf>.
13. Edward C. Luck, "Cultural Genocide and the Protection of Cultural Heritage," J. Paul Getty Trust Occasional Papers in Cultural Heritage Policy, No. 2 (2018), 20, [_www.getty.edu/publications/pdfs/CulturalGenocideLuck.pdf](http://www.getty.edu/publications/pdfs/CulturalGenocideLuck.pdf).

14. See, for example, T. Camber Warren, "Explosive Connections? Mass Media, Social Media, and the Geography of Collective Violence in African States," *Journal of Peace Research* 52, no. 3 (2015): 297–311; T. Camber Warren, "Not By the Sword Alone: Soft Power, Mass Media and the Production of State Sovereignty," *International Organization* 68, no. 1 (2014): 111–41; David Yanagizawa-Drott, "Propaganda and Conflict: Theory and Evidence from the Rwandan Genocide," *Quarterly Journal of Economics* 129, no. 4 (2014): 1947–94.
15. Warren, "Not By the Sword Alone," 123.
16. Weiss and Connelly, "Cultural Cleansing and Mass Atrocities," 13.
17. Some people claim that attacks on heritage are part of genocide. On this view, of course, to defend heritage is to prevent genocide. But this semantic move—broadening the definition of *genocide*—doesn't show that one can use force to defend heritage. It simply makes it an open question whether one may use force to prevent genocide.
18. Bokova's account of cultural genocide partly draws on this idea; see "Culture on the Front Line of New Wars," 290.
19. The justificatory standard for detention is of course somewhat lower, but it would, we think, be naive to think that military interventions would involve merely detaining perpetrators rather than physically harming them.
20. Here we follow Joseph Raz's influential taxonomy of value, as defended in *The Morality of Freedom* (Oxford: Oxford University Press, 1986), 178.
21. Janna Thompson, "War and the Protection of Property," in *Civilian Immunity in War*, ed. Igor Primoratz (Oxford: Oxford University Press, 2007), 239–56, at 253. See also Janna Thompson, "Art, Property Rights and the Interests of Humanity," *Journal of Value Inquiry* 38 (2004): 545–60.
22. Weiss and Connelly, "Cultural Cleansing and Mass Atrocities," 13. Bokova shares this view. See also James Henry Merryman, "Two Ways of Thinking about Cultural Property," *American Journal of International Law* 80 (1986): 831–53; James Cuno, *Who Owns Antiquity?* (Princeton, NJ: Princeton University Press, 2008).
23. Thompson, "War and the Protection of Property," 246.
24. Weiss and Connelly, "Cultural Cleansing and Mass Atrocities," 13.
25. *Ibid.*, 6.
26. "Culture under Fire," Forum for European Philosophy, London School of Economics, January 17, 2018, audio at www.lse.ac.uk/website-archive/newsAndMedia/videoAndAudio/channels/publicLecturesAndEvents/player.aspx?id=3967, at 38 minutes.
27. *Ibid.*, at 39 minutes.
28. <https://ukblueshield.org.uk/>, last accessed April 1, 2019.
29. <https://www.apollo-magazine.com/inside-the-unesco-conference-to-save-syrias-heritage/>.
30. Bokova, "Culture on the Front Line of New Wars," 294.
31. "UNESCO reports on extensive damage in first emergency assessment mission to Aleppo," available at <http://whc.unesco.org/en/news/1619/>.
32. Second Protocol (1999) to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, Art. 12.
33. ICISS, "The Responsibility to Protect," 12.
34. Weiss and Connelly, "Cultural Cleansing and Mass Atrocities," 38.
35. *Ibid.*, 34.
36. *Ibid.*, 38; emphasis added.
37. *Ibid.*, 34.
38. *Ibid.*, 45.
39. See, for example, Helen Frowe, *Defensive Killing* (Oxford: Oxford University Press, 2014); Massimo Renzo, "Political Self-Determination and Wars of National Defense," *Journal of Moral*

- Philosophy* 15, no. 6 (2018): 706–30; Helen Frowe, “Defending Defensive Killing,” *Journal of Moral Philosophy* 15, no. 6 (2018): 750–66.
40. Weiss and Connelly, “Cultural Cleansing and Mass Atrocities,” 35.
 41. See, for example, Helen Frowe, *The Ethics of War and Peace: An Introduction*, 2nd ed. (London: Routledge, 2015), 56–59.
 42. Proportionality is thought by some writers to subsume the requirement that force have a reasonable prospect of success. See, for example, Thomas Hurka, “Proportionality in the Morality of War,” *Philosophy and Public Affairs* 33, no. 1 (2005): 34–66; Jeff McMahan, “Just Cause for War,” *Ethics and International Affairs* 19, no. 3 (2005): 1–21, at 5. For criticism, see Frowe, *Defensive Killing*, 148–53. The relationship between proportionality and necessity is complex (see, for example, Seth Lazar, “Necessity in Self-Defense and War,” *Philosophy and Public Affairs* 40, no. 1 [2012]: 3–44), but our characterization here is that standardly employed by just war theorists.
 43. As evidenced by the Hague Convention, the lack of clarity concerning necessity and proportionality also plagues attempts to regulate the destruction and protection of heritage during war.
 44. Weiss and Connelly, “Cultural Cleansing and Mass Atrocities,” 45.
 45. See, for example, Jeff McMahan, *Killing in War* (Oxford: Oxford University Press, 2009); Adil Ahmad Haque, *Law and Morality at War* (New York: Oxford University Press, 2017).
 46. For discussion of defense against political threats (i.e., threats to sovereignty), see David Rodin, “The Myth of National Self-Defence,” in *The Morality of Defensive War*, ed. Cécile Fabre and Seth Lazar (Oxford: Oxford University Press, 2014), 69–89; Jeff McMahan, “What Rights May Be Defended by Means of War?,” in Fabre and Lazar, *The Morality of Defensive War*, 115–56; Helen Frowe, “Can Reductive Individualists Allow Defence against Political Aggression?,” in *Oxford Studies in Political Philosophy: Volume 1*, ed. David Sobel, Peter Vallentyne, and David Wall (Oxford: Oxford University Press, 2015), 173–93; Renzo, “Political Self-Determination and Wars of National Defence.”
 47. For discussion of defense against unjust occupation of one’s home (and comparisons with defensive war), see Rodin, “The Myth of National Self-Defence,” 84–85; Frowe, “Can Reductive Individualists Allow Defence against Political Aggression?,” 183–86.
 48. Philosophers disagree about whether (some) harms that do not themselves warrant lethal defense can warrant such defense when aggregated. See McMahan, “What Rights May Be Defended by Means of War?”; Rodin, “The Myth of National Self-Defence”; Frowe, *Defensive Killing*, 125–29.
 49. For discussion of the concern regarding children, see Jeff McMahan, “Humanitarian Intervention, Consent, and Proportionality,” in *Ethics and Humanity: Themes from the Philosophy of Jonathan Glover*, ed. N. Ann Davis, Richard Keshen, and Jeff McMahan (Oxford: Oxford University Press, 2010), 53; Helen Frowe, “Judging Armed Humanitarian Intervention,” in *The Ethics of Armed Humanitarian Intervention*, ed. Don E. Scheid (Cambridge: Cambridge University Press, 2014), 95–112, at 108–9.

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