J. PAUL GETTY TRUST OCCASIONAL PAPERS
IN CULTURAL HERITAGE POLICY

NUMBER 4
2020

# Cultural Heritage under Siege

## Laying the Foundation for a Legal and Political Framework to Protect Cultural Heritage at Risk in Zones of Armed Conflict

EDITED BY JAMES CUNO AND THOMAS G. WEISS

Los Angeles
Getty Publications

This publication has been funded by the President's International Council, J. Paul Getty Trust.



**Published by Getty Publications**
1200 Getty Center Drive, Suite 500
Los Angeles, California 90049-1682
www.getty.edu/publications

ISBN 978-1-60606-681-2 (online)
ISBN 978-1-60606-682-9 (ebook)

Also in the series:

"Cultural Cleansing and Mass Atrocities: Protecting Cultural Heritage in Armed Conflict Zones"
Thomas G. Weiss and Nina Connelly

"Cultural Genocide and the Protection of Cultural Heritage"
Edward C. Luck

"Conflict and Cultural Heritage: A Moral Analysis of the Challenges of Heritage Protection"
Helen Frowe and Derek Matravers

---

Cover: Engineers from the National Authority for the Conservation of Historic Towns work during the reconstruction of buildings destroyed by an air strike in the old quarter of Yemen's capital, Sanaa, November 7, 2015. Photo: REUTERS / Mohamed al-Sayaghi

Ancient Worlds Now

*Ancient Worlds Now: A Future for the Past* is a multifaceted Getty initiative to promote a greater understanding of the world's cultural heritage and its value to global society.

# CONTENTS

# FOREWORD

Over three days, May 8–10, 2019, Thomas G. Weiss, Presidential Professor of Political Science at the CUNY Graduate Center, and I convened at the Getty Center nineteen scholars and practitioners of different specialties and experience to discuss the topic "Cultural Heritage under Siege." In one way or another, we had been discussing this topic for three years. The purpose of the convening was to begin to finalize the shape and substance of the book we decided needed to be written, *Cultural Heritage and Mass Atrocities: Human and Security Costs*, to be published by Getty Publications in 2022.

Although many of the participants in the convening are contributing to the book as authors, all of the participants contributed to its shape and substance in some way. Tom and I are deeply grateful to everyone who attended the convening. The presentations, discussions, and debates were inspiring, and the warmth of friendship was gratifying.

In this, the fourth publication in the series J. Paul Getty Trust Occasional Papers in Cultural Heritage Policy, we are presenting an edited version of the papers and discussion at the convening, which was organized in five sections, in addition to Opening and Concluding Remarks:

- Populations at Risk
- Cultural Heritage at Risk
- Military Perspectives and Costs: War, Occupation, and Intervention
- International Law: Problems and Prospects
- Social and Cultural Costs

Before the opening dinner, Irina Bokova, former director-general of UNESCO (2009–17), set the stage of our convening with poignant and illuminating remarks. We thank her for her many contributions to our meetings, just as we thank all those who generously participated with their formal and informal papers and commentary.

**James Cuno, co-convenor**
President and CEO
J. Paul Getty Trust

# INTRODUCTION

**JAMES CUNO** We are meeting less than three weeks after the Easter Sunday suicide bombings in Sri Lanka, which claimed more than three hundred lives. ISIS, which was said to have been totally defeated just two months before, claimed credit for the bombings and released a video of its leader, Abū Bakr al-Baghdadi, seen for the first time in five years, 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." One of the Sri Lankan bombers, Jameel Mohamed Abdul Lathief, traveled to Raqqa, Syria, in 2014. There he trained with ISIS for three to six months, before returning to recruit others and to carry out the attacks. The Sri Lankan Islamist group Jamiyyathul Millatu 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 Manawela arrested thirteen people.

The question many journalists have asked is, what relationship might there be between those two kinds of violent attacks, on cultural heritage and 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, Kandukuri, information that they wanted to damage the church."

For the better part of three years, the Getty has organized meetings with a wide range of experts to help shed light on the meaning and consequences of and interrelations between attacks on cultural objects, structures, and monuments and attacks on civilian populations. To this end, we have published two Occasional Papers. The coauthor of the first Occasional Paper, Tom Weiss, is my co-convener of this meeting; the author of the second, Edward Luck is participating in this meeting. The authors of the third Occasional Paper, Helen Frowe and Derek Matravers, are also here with us today.

Together, these three papers and our many meetings have convinced us that there is a profound connection between attacks on cultural heritage and attacks on civilian

populations, a connection Heinrich Heine first identified in 1835 when he famously said, "First they burn the books, then they burn the bodies." Such connections vary. They may be iconoclastic, like the ISIS attacks on Palmyra and the Islamist attacks on the mausoleums and tombs of Sufi saints in Mali; or they may be the result of targeted military attacks, like damage to the Umayyad Great Mosque of Aleppo, of which a local resident, Muhammed Marsi, standing with his son in front of it, said, shaking his head and sighing, "The destruction for the whole country is undescribable [*sic*], just like what happened to the mosque. If you knew the mosque before the damage and saw it now, it is like someone who lost a child or a part of his body."

Such connections between attacks on cultural heritage and attacks on civilian populations caused the Polish Jewish lawyer Raphael Lemkin to write of genocide, a term he coined in 1944, as not necessarily meaning the immediate destruction of a nation but rather as signifying a coordinated plan of different actions aimed at the destruction of essential foundations of the life of national groups, with the ultimate goal of annihilating the groups themselves. The objectives of such a plan would be disintegration of the political and social institutions, of culture, of language, national feelings, religion, and the economic existence of national groups and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups. This, in all but name, is cultural genocide.

Over the next day and a half, we are going to explore connections between violence perpetrated against objects, monuments, and institutions of culture and the people who identify themselves with or against them, whether in Iraq, Syria, Mali, Sri Lanka, or elsewhere. Our intention is to produce, with inputs from this meeting, a book that details, contextualizes, and provides research resources for the development of a legal and political framework for the protection of cultural heritage in zones of armed conflict. To that end, we encourage you to participate in this book, to make recommendations of other authors and suggest the most useful, important, and practical resources to advance the adoption and implementation of this crucial framework. Thank you very much for joining us.

**THOMAS G. WEISS** I think we should begin with first principles. And the very first principle is that of the International Committee of the Red Cross (ICRC), namely, humanity or the sacred quality of human life. I want to pick up on Jim's point that we see these issues, the protection of people and the protection of heritage, as intimately intertwined. The problem is going to arise, of course, that some humanitarians do not agree with us. They see a priority, and we can do one thing rather than the other. So part of the assignment will be to look at the question as to whether there are tradeoffs between protecting people and protecting heritage. Do you have to do one or the other, or can you, and must you, do both?

I begin with a puzzle: the onslaught against the heritage is overwhelmingly and universally condemned and thus is different from virtually every other issue that I study, in which there is always contestation, significant contestation, both in the public and in the private sphere. But that disparity does not exist for this issue. And moreover, there is no significant fault line between the politics of the North and the Global South, to the extent that you think those categories make sense.

So there is no sympathy, and yet there is little or no action. Non-state actors use the destruction to undermine governments and their authority, as well as the values, norms, principles, and institutions that constitute international society. We are hoping, at the end of the book, to come up with some policy solutions that may actually lead to more action. So I thought that I would give a quick reading of what I think the literature tells us to date. And I will start with the bad news, then move on to what I think is a little better news. What is driving the onslaught, the attacks, the onslaught against cultural heritage?

It seems to me that we are talking about six challenges. First, of course, we live with growth in the numbers, kinds, and level of arms of non-state actors. Second, picking up the pieces from civil wars is now *the* business of politicians, militaries, and humanitarians worldwide. This includes even NATO but also, obviously, the institutions and the international law we have built for interstate conflicts. The operational and legal challenges are totally different in Afghanistan or Yemen or Syria. Third, we suffer from the rise of toxic identity politics. The most recent issue of *Foreign Affairs* has referred to "the new nationalisms." This is not a Western oligopoly. Tribalism is everywhere. And in war zones, mass atrocities and cultural destruction occur almost everywhere. Fourth, armed belligerents and governments are slugging away in urban areas. This creates certain problems, because there are legitimate military targets in places like Baghdad or Aleppo, but the same sites are also surrounded by civilians. So this is not an easy assignment, to figure out whether to protect the civilians or the sites and go after legitimate military targets. Fifth, we are confronting the prevalence of asymmetric warfare. Sixth, there is the ubiquity of media, in particular social media, that does the kind of made-for-TV or -YouTube destruction of symbols and decapitations. Irina Bokova mentioned last night keeping track of what was going on in Mosul from her office and not being able to watch the end of it.

There is a label, "new wars," that is often applied to contemporary conflicts, so that in addition to the attacks on cultural heritage, our preoccupation, there are high civilian casualties, taxes on humanitarians, and illegal trafficking. This label is contested for a number of reasons, not least of which is that none of those factors, or the destruction of cultural heritage, is new. But I personally think that the fusion, the intensity of all these factors, presents a kind of quantitative change in the nature of war that effectively amounts to a qualitatively new challenge. So that's the bad news.

What's the good news? I hope that some of these elements encourage us to struggle in the course of this research project to find a better framework for thinking about better

policies and norms and, we hope someday, action. The good news is, I think, relevant for someone like me and others who live and breathe in intergovernmental organizations like the UN or UNESCO. It is important that for immovable cultural heritage there is no clash between what I see as the cultural nationalists, who are pursuing a postcolonial agenda, and cultural internationalists or cosmopolitans, who are looking at the universal value of cultural heritage. This issue is really quite distinct from the vitriolic negotiations that surround movable cultural heritage, which is where the bulk of most previous analytical work on heritage has taken place. I do not see that sovereignty or the lack of consent from governments is the issue. The lack of consent from insurgents, yes; but from governments, no, it is not the main problem. It is the lack of political will or decision-making apathy.

So wanton non-state destruction facilitates, it seems to me, or *should* facilitate, conversations in intergovernmental fora, including those about counterterrorism, which is what has motivated the Security Council. There are other indications of international receptivity, however: the International Criminal Court (ICC) decision on al-Mahdi after Timbuktu; the insertion of a protection mandate in the Mali operation for the UN. So, the second piece of good news, I think, is the increased attention to protecting heritage, which I believe resembles the seismic shift that occurred in the 1990s with regard to protecting civilians. That was always an aspiration, but it suddenly became the central item in many conversations, intergovernmental and nongovernmental. At the outset of the decade, one looked at northern Iraq and Somalia as somehow exceptional, as aberrations. The first effort after the first UN operation since Korea, followed by the intervention in northern Iraq, was in Somalia. That was supposed to be sui generis; the resolution used the word *humanitarian*, the "H" word, eighteen times to suggest that we were not setting any precedents anywhere. The Commission on Global Governance actually made a recommendation that there should be a Charter amendment to permit the Security Council to act if there were humanitarian emergencies. Well, by the time their report was published, not only had those two exceptions taken place but also Rwanda and Haiti and, subsequently, Kosovo, the Balkans, and East Timor. Their recommendation was moot.

While the destruction of cultural heritage certainly is not new, as everybody around this table knows, I think we can apply the adjective *new* to the possibilities for perhaps reframing this issue for noninternational conflicts. We can take advantage of what I think is a changing political landscape. The question, at the end of the day or the end of tomorrow, will be, is there a way to take advantage of what I think is a propitious moment? Moreover, the destruction of heritage is associated in virtually everyone's mind with reviled terrorist groups. So it seems to me that the association with high politics gives us leverage that did not exist prior to the global war on terrorism, which draws the ire of UN officials, government officials, nongovernmental organizations, and individuals watching the evening news. I think the advantages of securitization far outweigh the disadvantages. These three bits of good news are the backdrop for trying to contextualize the feasibility of rethinking and finding something new to look at in what Irina Bokova

calls “cultural cleansing” and Edward Luck calls “cultural genocide.” Can political, military, and normative entrepreneurs take advantage of this moment?

In closing, I want to revert to R2P, the Responsibility to Protect, for two reasons. The work of the original commission came up with a framework—prevent, react, rebuild—which is exactly the vocabulary—or at least my reading of the vocabulary—that is used by museum curators everywhere to think about protecting cultural heritage. And when prevention fails, which is almost always the case, and sites are attacked and people are attacked, the next question is, how do you react? And almost inevitably, one also has to think about what comes next and pick up the pieces afterward. But I return to the commission for a second reason, which is that my own experience indicates that reframing an issue in a creative way represents a normative advance and also, in this case, a practical value: reports and the volume of research alter the way that states, organizations, and individuals think about, and occasionally actually act on, an issue.

# 1
# POPULATIONS AT RISK

**SIMON ADAMS** Let me start by saying that I think the fundamental challenge of our times is this: there are currently 68.5 million people in the world who are displaced by persecution, conflict, and/or mass atrocities, the largest number of people displaced since World War II. Confronting this crisis is an international system that is worn and fraying at the edges. Essentially, we have a twentieth-century United Nations trying to deal with twenty-first-century problems, or, as I think it was once put in an editorial in the *Washington Post*, a Remington typewriter UN trying to deal with an iPhone world. There has been a general decline in interstate conflicts since the end of the Cold War. But the number of high-intensity conflicts within states has increased since 2007. And over the past few years, we have seen a particular rise of non-state armed groups, such as the Islamic State or Boko Haram, that are also fueling mass atrocity crimes in conflicts around the world. Meanwhile, when we look at the preeminent body of international politics, the UN Security Council and it is bitterly divided and struggling to cope in a climate of noncompliance with its resolutions and almost routine violations of the foundations of international law. So the issue we are discussing today is important. I believe it is deeply important, and I know many of the people in this room believe that the norms that protect our fundamental human rights and bind our international community do not live and die in isolation from one another. They are interlocking, and they are mutually reinforcing.

So to rewind, if I could. The Responsibility to Protect was unanimously adopted at the UN's World Summit in 2005, which was the largest single gathering of heads of state and government in human history. At its heart, R2P is very simple. It concerns four crimes and three pillars. The core idea is that all governments have an obligation to protect their citizens from the four mass atrocity crimes: genocide, war crimes, crimes against humanity, and ethnic cleansing. First, the responsibility to protect people from these crimes falls first and foremost on the sovereign government. That is pillar 1. Second, the international community has an obligation to assist any state that is struggling to uphold its protective responsibilities. That is pillar 2. And third, if a government is manifestly

unable or unwilling to exercise its responsibility to protect, then the international community is obligated to act. That is pillar 3. I think the underlying premise, as one of our friends, Ramesh Thakur, once put it, is a fundamental rejection of both unilateral interference and institutionalized indifference when it comes to mass atrocities in the world today. And I think in that sense R2P is a demand-driven norm. What I mean by that is, as long as mass atrocities exist in the world, the UN Security Council and the international community, will have to figure out a way to respond. And despite the progress that has been made, it is always going to be a delicate and imperfect and probably contentious enterprise. I think that is in part because the ideas surrounding R2P are inherently disruptive.

So where are we with regard to R2P? Fourteen years after it was adopted, what does the balance sheet say? On one level, we have made extraordinary progress, in terms of the proliferation of scholarship, of the ideas seeping into different parts of the global system. Institutionally, more than a quarter of all UN member states have now appointed a national R2P focal point and joined the Global Network of R2P Focal Points. This is the largest governmental network dedicated to preventing mass atrocities, with a focus on what can be done domestically, regionally, and internationally. The UN Security Council has adopted more than eighty resolutions that reference R2P. And because of these resolutions, R2P and the protection of civilians features in the mandates of eight of the fourteen current UN peacekeeping operations. Those operations involve 95 percent of the one hundred thousand peacekeepers currently on active duty. The Human Rights Council has invoked R2P in more than forty-two resolutions and in the findings of several of its important commissions of inquiry on mass atrocities. This reflects that R2P is not just an idea, but a guide to early warning and timely action. It has made a real difference in places like the Democratic Republic of Congo, the Central African Republic, and South Sudan and in other situations. So those are the positives.

But there have also been setbacks and controversies. To the extent that there is divisiveness around R2P today, it is rooted in differing perspectives on what to do when prevention fails and it becomes necessary to act. The record of R2P, like all living international norms, is not unblemished.

So how does cultural heritage fit into all of this? Jim Cuno already alluded to the fact that Raphael Lemkin, who was personally responsible for the creation of the term "genocide," was acutely aware of the relationship between culture and atrocities. Not least of all because, as a Polish Jew, he understood, in a very direct and immediate way, the way in which the Nazis had demolished the cultural underpinnings of Jewish life in Eastern Europe. So his conception of genocide included "the desecration and destruction of cultural symbols, destruction of cultural leadership, destruction of cultural centers, and the prohibition of cultural activities." But opposition from some UN member states saw Lemkin's ideas regarding the connection between culture and genocide excluded from the final version of the genocide convention that was adopted in 1948. I work for the Global

Centre for the Responsibility to Protect, in New York. We do advocacy with the UN Security Council and with the Human Rights Council in Geneva, and we work on country situations in which people are facing the threat of mass atrocities. We started to take this issue a lot more seriously after the rise of ISIS in 2014, when it became impossible not to see the connections between these different sorts of things. In all of the lands that were occupied by ISIS between 2014 and 2017, the armed group systematically set out to destroy what it considered deviant aspects of Syria's and Iraq's cultural heritage. Notoriously, of course, in the Mosul Museum, ISIS used sledgehammers to deface, topple, and destroy statues from pre-Islamic Mesopotamia. At Nimrud, they blew up and then bulldozed the ruins of an ancient Assyrian city. At Palmyra, they famously destroyed the Roman theater and killed and beheaded Khaled al-Asaad, the archaeologist who had spent most of his life protecting those ruins. They also burned books in Mosul's library and engaged in the illegal trafficking of antiquities for profit. Of course, those acts seem to many people to pale in comparison to some of ISIS's other atrocities. In addition, we worked very closely with the Yazidi community in northern Iraq, so I know the stories of people who survived what ISIS did. ISIS's policy represented a systematic attempt to scrub away the identity, the history, and the memory of entire peoples in Iraq and the Middle East.

Far from hiding these acts of vandalism, ISIS celebrated them. And I'm really glad that Irina Bokova is with us today, because she deserves an enormous amount of credit within the UN system for emphasizing cultural cleansing. Of course, as many people here know, cultural heritage is already protected under the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. It is also considered part of customary international law by the International Committee for the Red Cross. War crimes also, according to article 8 of the Rome Statute of the ICC, include "intentionally directing attacks against buildings dedicated to religion, art, education, science, and charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected." In September 2016, Ahmad al-Mahdi, a member of an armed extremist group from northern Mali, was found guilty at the ICC of committing a war crime for his role in the deliberate partial destruction of the UNESCO World Heritage Site of Timbuktu. It was in response to this, in March 2017, that the UN Security Council adopted Resolution 2347, deploring the destruction of humanity's shared cultural heritage and noting the ICC verdict.

Not long after that, the Global Centre for the Responsibility to Protect cohosted an event with the governments of France and Italy, on the margins of the UN General Assembly, at which Irina Bokova spoke and at which the ICC chief prosecutor also spoke on how to protect cultural heritage from terrorism and mass atrocities. Jim Cuno and Tom Weiss were there, too, and spoke from the floor and circulated a draft of the first Getty Occasional Paper, for which Tom was the lead author. All of the speakers emphasized that defending cultural heritage was not just about preserving statues but also about protecting people. Many people also emphasized that there was a disturbing convergence between

ISIS's acts of cultural vandalism and its effort to exterminate entire peoples. Here I quote Irina Bokova: "In today's new conflicts, these two dimensions cannot be separated. There is no need to choose between saving lives and preserving cultural heritage. The two are inseparable." I think she was absolutely right to say that, because in my own work with my own organization we have seen very similar dynamics, in Myanmar, for example, with the Rohingya, and in other places in the world where atrocities are occurring today.

I want to make one final point. Very recently, we published a policy brief on the Uyghur situation in China. It was not an easy road to publish that policy brief. First, we had to find somebody who would write it. The author had to be anonymous and was taking a risk, writing that for us. Further, the author had to be a Mandarin speaker. We jointly published with some colleagues at the Asia Pacific Center for the Responsibility to Protect. We also met with the World Uyghur Congress, the main diaspora body of Uyghurs. But the main point of that policy brief was to talk about the systematic discrimination against Uyghurs, the laws that are directed against them, and the fact that more than a million Uyghurs and other Turkic Muslims in China, are currently in so-called reeducation camps. But there is a less well known fact. The Chinese government has started to systematically demolish many historic mosques. Of ninety-one major Uyghur historical and cultural sites identified by the Uyghur community itself, thirty-three have been destroyed since 2016, including the Yutian Aitika Mosque near Hotan, which dates to the year 1200 and which was destroyed—bulldozed, in fact—in March of this year. So when we talk about protecting cultural heritage, we are talking about defending what makes us human. I come from an Irish family, and we have a saying in the Irish language that all people, all human beings, live in the shadow of one another. This always reminded me of another saying, one that comes from Zulu culture in South Africa, the spirit of *ubuntu,* which means that humans are humans through other humans. I think the Responsibility to Protect is fundamentally about understanding the connection between vulnerable people and culture and defending both. It is about upholding what makes us human.

**EDWARD C. LUCK** I want to talk about a couple things that build on some comments that Simon just made. It seems to me that we have to find a new way of working at this. The content of the Responsibility to Protect has changed a great deal over time. It had to morph in a number of ways. And it seems to me that we need a similar overall conception for the protection of cultural heritage. But if we think of the conceptual piece, we have to tie it to a strategic framework and, eventually, a political-legal framework that works. Making these connections, I think, is going to be more difficult than perhaps we initially realize. I think the need is tremendous. The fact that it is difficult does not mean that we should not make the effort. But we should not be too sanguine about how the pieces are going to come together.

When Jim Cuno asked me to write a paper, I thought that looking at a very different way of framing would be a way to bring a new perspective, new ways of thinking about

this. I do not think we can apply cultural genocide as such to R2P, for a number of reasons. Obviously, it has never been accepted by the international community. And the politics are every bit as difficult today as they were in the years 1946 to 1948. But I do think we should go back to Raphael Lemkin's original conception of genocide as having a number of elements, a number of ways of going about it. He was, of course, looking at the Nazi experience in eastern Germany, of occupation. And therefore, the number of tools and the way they used to go about it—in terms of administrative, economic, sociological, all sorts of different ways—was a sort of totalitarian concept of genocide. And of course, it does not always work out that way. But it does seem to me that the goal was to destroy other, inferior cultures. It is crucial, I think, to recognize that cultural identity is fundamental to all of this. And I think we see that the cultural piece is fundamental, whether this is in the debates about immigration or movements of people or about identity and the politics of identity. And the rejection of other cultures and the danger one sees in foreign cultures are fundamental to much of this. Cultural destruction did not play a big role in the 2001 concept of R2P. It played almost no role in the 2005 outcome document of the member states. This is not a surprise. We put a little bit about cultural destruction in the 2009 report of the Secretary-General, and I think Jennifer [Welsh] and others have added to that since; but it still has been treated as a rather minor piece of what R2P is all about. I think we need to recognize that in the protection of populations, the protection of cultural heritage should be seen as very much interconnected and interdependent in many ways.

Now, let me say a word or two about why I am not quite so sanguine about all of this. It is not that I am saying it is not important; I think it is extraordinarily important. Kofi Annan failed for several years to get the member states to see a connection between legality, on the one hand, and morality, on another. But it takes iterations to get to something that works. I think we can see many elements in R2P that would be related. But we cannot just extend R2P to cultural heritage. You know, we told the member states a thousand times that this was only about the four crimes and their incitement, and we would not go an inch beyond that. We told them that the approach was narrow but deep, and that we would only stick with those four crimes. The only way that R2P was accepted in 2005 was this understanding that the member states said they needed to know exactly which crimes this applied to. Because the great suspicion remains today that powerful states would take something like R2P and apply it to all sorts of different things in different ways. And you can't tell them a thousand times that it is only these things, that is all they have agreed to, but we are going to, willy-nilly, apply it to other areas because the other areas are important. So I think it would be political suicide to simply say we are going to extend R2P. R2P remains very contentious. Just working it out vis-à-vis the four crimes and their incitement is proving to be a generational effort. And it should be, because of its importance. It is not going to happen overnight. But then you cannot just extend it. There are many elements of R2P, which I think will come out today and tomorrow, that tell us a lot, including the idea of setting up a commission and getting

independent ideas, because member states are not going to come up with this kind of thing. So that is not one way to go about it.

Now, the concept of cultural genocide has lots of problems. One of them is, *whose* cultural genocide? Whose cultural heritage are we talking about? It is not just a question of counterterrorism. It is not just a question of armed groups. It is not just the question of groups that we call "terrorists."" And I am glad to finally mention the Uyghur issue. I think it applies very well to what is happening to the Rohingya in Burma. So it would be nice to say it is only about counterterrorism. It would be nice to say it is only about nasty groups that everyone disagrees with. But I do not think that is the case. I think the truth is that governments do this as well. Historically, our government has done it, the Soviet government has done it, the Chinese government has done it, the Australian government has done it, the Canadian government has done it; many governments have done it. As part of the settler mentality and as part of the nation-building enterprise, the destruction of other cultures, unfortunately, has been a part of history. There is nothing new about this. I think Barbara Harff put it well when she called this "politicide."

But it does seem to me that what we read about in the period 1946–48 was that many governments, including Western governments, were extremely uncomfortable with the notion of including cultural genocide under the genocide convention. The French, the Americans, the Danes, the British, the Canadians, the Australians—you name it—all said, "Oh, no, no, we'll put that under human rights. We'll get around to it under human rights." Of course, they did not get around to it under human rights. But it does seem to me that those same countries resisted when indigenous people raised the question of cultural genocide in the 1990s. The same countries were against including that language in the 1990s that were against it in the 1940s. And many of those are the same countries that would love to say this is only about counterterrorism, who would love to say this is only about non-state actors. But unfortunately, it is not just about non-state actors, and it is not just about terrorism. It is about a political project, whoever is carrying it out, that wants to identify certain cultures as inferior to others, as getting in the way in the larger nation-building project. So if we fool ourselves into thinking this is going to be politically easy or everyone is coming together on the same page, I just do not think that is true. There is going to be resistance, and I think we have to recognize that.

And that, to me, is why building the conceptual umbrella or conceptual framework is especially important. This may be adding difficulty or obstacles to this project, but I do this because I think the project is extremely important. We have to be very careful that we do not take the path of least resistance.

**JENNIFER WELSH** It is always difficult to speak after Simon and Ed and say anything fresh. But I want to start with a different example from the one discussed over the last day. And that is the specter of the burning of Notre-Dame Cathedral. Of course, it is not an example of destruction during armed conflict, but it is an example of an important global

monument falling before our very eyes. Now, I think that is important to keep in the background, because, of course, it is easy for all of us, particularly those of us who are academics, to tell you how ambitious and complicated this initiative is going to be. And I think others, over the next day and a half, are going to speak about how any such program needs to consider what it means to have it led by Western states and about the various strands of effort required. I just want to talk about two contextual elements that I think will shape the efforts: the changing character of conflict and the contemporary geopolitical and normative environment.

The first—and this is obvious but important to state—is that R2P was designed as a political and not a legal principle. It was not designed to create new law but to enhance compliance with existing law. Kofi Annan once said, "We have all the law we need. That's not our problem. Our problem is compliance with existing law." So, as a political principle, I think how you feel about R2P to a certain extent has to do with how much you think political principles matter. If you do not think they matter, then you do not think it is particularly powerful. But if you do, I think you can isolate at least three rules of a political principle. The first is mobilizing the will to act, the second is raising the political cost of inaction, and the third concerns political principles that can build institutional capacity. The R2P agenda, among other things, has built incredible institutional capacity at the local, national, regional, and international levels and in academia. So that may be something to think about if this framework is partly political: how to expressly think about those three roles of a political principle or framework.

Second, the shape and the meaning of R2P have evolved over time. It is a living and breathing principle. And partly because it is quite open-ended, it is about bringing about a state of affairs; it is not about prescribing particular actions. That has always been a criticism. So it has been contested. And again, one can see that as a weakness or a strength.

Let me just elaborate a bit on the context for thinking about this effort in contemporary international relations. First I want to talk about the changing nature of armed conflict. The first point I want to make, from the perspective of the protection of human beings, is that armed conflict is not the primary source of violent death and destruction globally for human beings. The majority of states most affected by lethal violence today are not formally at war. And the levels of lethal violence in some conflict settings are higher than in war zones. So if you look at the Global Burden of Armed Violence Study of 2015, it shows that, on average, just over half a million people die annually in violent circumstances. Only 15 percent of those die in formal armed conflict settings. The remainder die in non-war settings, what the ICRC sometimes calls situations other than war. So while *some* of the most violent countries in the world—Syria, Yemen, Afghanistan, South Sudan, Pakistan—are war zones, some Latin American and Caribbean countries that are not at war are more dangerous places to live. Other countries with high levels of lethal violence—Brazil and Mexico—are not in a state of formal armed conflict. Yet it is also true that much of this violence is not random; it is organized and, in some cases, political.

The second point is that committing crimes against humanity, or genocide, does not require the context of an armed conflict. Many of you know this, but I think it is important to reiterate. Think of the genocide in Cambodia and the ethnic cleansing in Myanmar. These were and are not instances of formal armed conflict. So in a sense, that was the strength of the Responsibility to Protect: it covered issues of protection, both when you have a formal armed conflict and when you do not. And this changes the institutional framework, the legal framework we think in. Although the vast majority of countries in the world live in a zone of peace, the remaining 20 percent are experiencing lethal, predominantly civil, conflict, where there are indiscriminate attacks on civilians, annihilation of minorities, starvation of populations. And these are part of the strategic repertoire of belligerence. They are not something that happens in the fog of war; they are deliberate.

What are the key changes with respect to the conduct of war? Let me briefly spell out four. As has been mentioned, the rise of intrastate or civil war. I think it is also worth noting that civil wars, on average, are lasting longer, many of them for more than twenty years, and many of them very hard to bring to resolution through some of our traditional tools, whether we are thinking of mediation or peacekeeping forces, as the Democratic Republic of Congo shows. The urbanization of warfare has been mentioned, even the return to the old military strategy of the siege, as we saw with Aleppo. And again, just think, international humanitarian law (IHL) does not, in and of itself, prohibit sieges. It tries to make them less lethal for civilians, but it does not prohibit them outright. So we are seeing a return to that mode of warfare, as well as aerial bombardment of urban centers, both as a strategic tool and as a tactical tool. Third—and I think this is important—is the internationalization of civil wars and the use of local proxies by outside powers. At least a third of all civil wars are now internationalized. Sometimes you see those proxy relationships acting as a force of restraint, but at other times they can fuel and enhance the capabilities of local proxies. It can be very difficult to locate responsibility in that dynamic relationship. Some analysts are now talking about the phenomenon of hybrid wars—Yemen, Iraq, Ukraine—which involve irregular forces on the ground backed by the sophisticated capabilities of regional or global partners. And, again, that hybridization makes it harder to ensure accountability.

Concerning changes in the nature of combatants, I want to come back to Ed's point about non-state armed groups not being the only culprits. I found this assumption something we need to challenge. Over and over again when I worked in the UN system, I was told that the problem with respect to atrocity crimes was the nasty non-state armed groups. But as my ICRC friends always reminded me, states are still the biggest perpetrators of atrocity crimes against populations. And of course, we have seen a real proliferation in the number of groups. The ICRC has noted that more non-state armed groups have arisen in the past six or seven years than in the past six or seven decades. So when we think about non-state armed groups and how this initiative might come to grips

with those, it is really important to unpack this category and acknowledge the wide array of actors that we are talking about, because the differences among them affect not only how they behave but also how one might counteract their threats to populations and infrastructure and cultural heritage.

I think we could broadly conceive of five axes of differentiation. The first is objectives. Those can range from pushing for government reform (the FARC in Colombia or the old LTTE in Sri Lanka) to regime overthrow (the Houthis in Yemen) to the creation of a new territorial and political order, in the case of Da'esh. The more concrete the political objective, the more likely the group is to engage with the process of negotiation if that will help them achieve their goal. Conversely, the lack of that political objective can frustrate engagement and often change the nature of the violence used.

The second axis is organizational type. Some of these non-state armed groups have statelike features, clear chains of command, and a leadership that exercises control. And many of the anticolonial and secessionist movements organized themselves in a hierarchical fashion precisely to show that they were like sovereign states and had those attributes. But many non-state armed groups are divided into competing factions with very ambiguous lines of command. And in fact, some of them consciously embrace fragmentation as a strategy for survival, relying on loosely allied, self-managing units.

The presence and strength of ideology is a third differentiating factor. Ideologies both inform agendas and justify the ways these groups operate. Now, interestingly, some ideologies do not justify or support attacks on civilian populations or infrastructure and might even serve to restrain these groups. But for violent extremists, ideologies construct threats, they attribute guilt, they serve as a justification for targeting and extermination. Some of the literature on R2P calls this an atrocity-justifying ideology, which provides a very powerful resource for recruitment, let alone for engagement in violence.

Turning to the fourth axis, the strategies and tactics of non-state armed groups also vary widely. Some consciously attempt to adhere to principles of IHL, for example, those that have signed deeds of commitment with Geneva Call, the NGO that works with non-state armed groups. At the other extreme, ISIS actually takes pleasure in flouting international legal obligations.

The fifth and final axis along which these groups are distributed is the nature of the relationship to territory and the civilian population. For those who are engaged in self-determination struggles, the claim to particular territory and international recognition of that claim are really important. Others draw their support from a particular sector of the community and try to deepen that support by providing social services and other governance functions. By contrast, groups like the Lord's Resistance Army do not attempt to hold territory or provide services to civilians, making them less susceptible to traditional forms of pressure. And of course, ISIS is even harder to categorize, as at one point it had territorial control but now is much more diffuse.

So the conclusion to be drawn from this very brief survey is that "non-state armed group" is a very broad umbrella term. This project needs to engage very directly with that reality and think through the different contexts in which we are talking about those who destroy not just communities of people, but cultural heritage. And we also need to pay attention to their patterns of violence.

But the other point I want to make is that non-state armed groups do not operate in a legal vacuum. They are bound by a considerable range of relevant obligations under international humanitarian law, and individual members of those groups can be subject to international criminal law. So that is important for us to keep in mind. In addition, while international human rights law is relatively limited with respect to non-state armed groups, given that it is focused on obligations of states, developments in international criminal law, particularly the broadening of the scope of crimes against humanity and war crimes, have created possibilities for establishing responsibility for members of non-state armed groups. That is another important contextual factor. But if we think less about law and more about political imperatives, I think there is also the potential to think more expansively about the responsibilities of non-state armed groups. States generally retain the primary responsibility to protect populations, but to protect cultural heritage, non-state actors that exert effective control can also be said to have political responsibilities if not legal ones.

Now of course, skeptics of this approach will probably argue that if you attribute responsibilities to them, then you are legitimizing them, you are giving them statelike attributes, and you need to be concerned about that. But I do not think that that is necessarily so. We can see that through the work of Geneva Call, which strikes a very delicate balance between engaging with non-state armed groups and not claiming that this legitimizes them.

As my last point here before I turn to the geopolitical context, I want to reiterate that the culprits in the erosion of respect for international humanitarian law are not only non-state armed groups. Nation-states themselves, either directly or through their support for allies, are contributing to the erosion of the international humanitarian order. Warring parties have driven a bulldozer through the openings in IHL, in order to roll back their obligations to protect civilians. And this is not only the case with actors such as the president of Syria, Bashar al-Assad, but also some liberal democracies when they are at war. I think it is very important to keep this in mind as we go forward with this initiative.

Now, all of these cases of violations of the laws of war are creating a gap between the public's knowledge and expectation of IHL, which is at an all-time high, and the reality of compliance. One of the legal advisers to the ICRC, Helen Durham, has warned that we need to ensure that this gap does not develop into a vicious cycle in which not respecting the law becomes the new normal. And perhaps this can be part of what we do in this initiative, in terms of thinking about the law that protects cultural property.

So, second and finally, let me make some comments about the geopolitical context in which we are working. Both Ed Luck and Simon Adams have talked about competition between major powers, which is very different from the context in which the Responsibility to Protect arose. We had continuing forms of competition at that time, but today that competition is strategic. As we hear every day in the trade war between the United States and China, it is economic, and increasingly, it is becoming political. There are still those, like Francis Fukuyama, who claim that there is no alternative to the liberal democratic ideology in the world today; but we are seeing competition over ways of life at a Great Power level that I think is important. There is lack of political space within the UN Security Council for a thematic agenda generally. Let me give you one example. One of the outputs of the normative steps that were taken in the early 1990s was a Protection of Civilians report by the Secretary-General. Every twelve to eighteen months, the Security Council would read a report. Three or four years ago, the Office for the Coordination of Humanitarian Affairs (OCHA) could not find a state to table that report. The Western states on the council said, "We simply do not have the political capital to spend on thematic issues. All we can do is try to reach agreement on particular country situations." And for me, that was an incredibly powerful demonstration of where we are.

There has also been an infection of all issues with this geopolitical dynamic. I don't know if Simon would agree with me, but whereas four or five years ago you could insulate the Central African Republic and Burundi, to separate these cases from the broader geopolitical dynamic, today it is becoming harder and harder to do that. And I think the conversations on Venezuela that have happened in the Security Council reveal just how every place on the globe is now being seen as a place for these struggles.

Two last points. First, peacekeeping missions themselves are under enormous strain. So I read with interest Simon's focus on adding to the mandate of the mission in Mali an element of respect for cultural property. But there are huge demands on peacekeeping operations today. And their mandates are often not implemented, despite what the Security Council will say. So despite the fact we have had a mandate to protect civilians, including through the use of force by peacekeeping missions, that mandate has often not been fulfilled. The missions on the ground do not fulfill it, for various reasons. And so when you think about adding more tasks to the agenda of peacekeeping operations, we have to think through the realities of implementation, which often lie with troop-contributing countries.

Second, I think there has been a problematic focus, at least within Western states, on upholding what they call the "liberal international order." That multilateralism today is under attack, they say, and how we must respond is by buttressing the liberal international order, which, it is claimed, IHL and other instruments are part of. I think this is a very dangerous strategy in the world that we live in. I think the future is about talking to a variety of states about *a* rules-based international order, not the liberal international order, not *the* rules-based order, because we are moving into a world in which we have to

be open to the reform of that system. As I saw continuously when I was working in my mandate on R2P, you cannot separate states' positions on issues like protection from their views on the legitimacy of the multilateral order, of the composition of the Security Council, of the way that our rules-based system works. We may say, "Well, they shouldn't bring those political concerns into this discussion," but they do. And so I think that is an important backdrop, also, for the work that you are doing.

**PAUL H. WISE** I work in what has been called "human security,"" a humanitarian response to violent conflict—protection of civilians and response to their needs when protection fails. I was part of a small group evaluating civilian casualties and response in the Battle of Mosul, and I have been working in the Northern Triangle of Central America, which, after Syria, has the highest violent death rates in the world. One of the striking things I have learned about the issue of protecting cultural heritage is that the claim to legitimacy for cultural heritage protection is based on the inseparability of the protection for cultural heritage and human security. That comes up in virtually every comment that has been made. It also is central to the writings that try to elevate the requirements for protecting cultural heritage in a more general political environment. I believe in the inseparability. However, I just finished a paper months in the works, with Jennifer, for which I reviewed hundreds of articles and reports on humanitarian response to violent conflict, and almost none said anything about the protection of cultural heritage. The ones that did approached cultural heritage strictly within a counterterrorism framework: financing of insurgency and using illicit economies as financing tools. So I am confronted by a very stark contradiction, or paradox: the central claim to legitimacy coming out of the cultural heritage world and the complete ignoring of that claim by the humanitarian or human security world, which seems essential to the position and the hope of protecting cultural heritage.

My question is, would it be useful to confront this dilemma, this contradiction, this paradox, head-on, in a way that could help bridge these two arenas of concern, which I believe are clearly linked? But certainly in the humanitarian world, that is not a central concern. The way that the issue is often posed is saving lives *versus* saving stones. And of course, that is a condescending way that physicians and humanitarian medical types, humanitarians, view the issue. It may be linked at some level, but this linkage is elastic. It is deformed by a hierarchy of atrocities that elevates bombing civilians and bombing cultural heritage, objects of cultural importance. Let's look at what is inseparable, what is elastic, and what is not.

First is the issue of destruction of cultural heritage as prelude to the destruction of people—that it is a foreshadowing. It is the Heine quote that there is a connection that is central. We all know and have heard examples of this foreshadowing of this connection. However, it is an empirical question. It is not theoretical. What portion of all the atrocities against people or organized violent attacks on people are foreshadowed by attacks on

cultural objects? That is an empirical question. There are databases where we could look at that. Now, again, we have enough evidence, going back to *Kristallnacht*, that shows us that there is a connection. But for humanitarians, it is not only that there is a connection, but there is the condition of frequency of those connections that is important. It may be that every time you damage or destroy a synagogue or a cultural object, it will lead to threatening, hurting, or killing people. But what portion of attacks on humans are foreshadowed by going after objects? It may be 5 percent of the time. And for humanitarians who are totally preoccupied by saving lives and going out and avoiding bombs and bullets to do surgery, it makes a big difference that these conditional frequencies are critical in a very pragmatic way.

It also comes up with the discussion of Lemkin and the integration of cultural considerations into notions of genocide. I buy it. I think everybody would buy it. But the vast majority of violent attacks and organized violence on people are not genocidal in nature, by anybody's definition. And therefore, you get these disconnects between the reality of what people are facing in the humanitarian world and what is being discussed for a genocide framing that certainly, tragically, does occur but may not characterize the majority of conflicts where humanitarians are active. Counterterrorism has been mentioned. But it is the singular thing that does come up in the humanitarian world because of the finance and the illicit economy support, if not for the origins of these insurgencies, then for the maintenance of them, where criminal activity is blended with ideology in ways that the traditional dichotomy between grievance and greed is completely eradicated; these are really one and the same. The issue of coming back to the security lens becomes the area that I feel is the most compelling linkage, bringing the issue of cultural heritage more directly into the center of humanitarian theory, humanitarian response in the real world. It comes out as a form of destabilizing local security. It breaks the social fabric of communities. But this is not well developed in the humanitarian world, or precisely *for* the humanitarian world. It is also necessary to understand that mental health questions, questions of the impact of war on the mental health of individuals and the collective mental health of communities, has been traditionally undervalued in the humanitarian world. Only recently have mental health issues been elevated to be almost as important as surgery to deal with trauma associated with blast injury—that the psychological trauma becomes critically important in the claims to legitimacy of cultural heritage. And yet it begins to erode by the time it is translated into a humanitarian arena. In some ways, in the humanitarian world, people are talking about resilience, individual resilience, in terms of the long-term effect of violent conflict, and community resilience. By destroying cultural heritage, in many ways we are destroying the fabric of resilience in these communities or for these individuals in ways that have not been adequately addressed. I focus a lot on what is called the indirect effects of war. I do worry about the direct effects—being exposed to bombs and bullets. I am a clinician and work on those issues. But when you destroy the essentials of life—food, water, shelter—you have these

reverberating effects that go on for years and almost always far surpass the direct effects from bombs and bullets in terms of mortality. And this arena becomes very important for understanding the impact of cultural heritage. It is underdeveloped, in the cultural heritage world but also in the humanitarian world, and has, I think, enormous promise as a way to begin to integrate the two fields.

Humanitarian types like to think of themselves as risk-takers, going out and avoiding roadblocks and risking our lives to save people, while the cultural heritage people are in museums and sitting around seminar tables. Now, this is terribly unfair, particularly when you look at what happened in Palmyra, with curators who are giving their lives to protect cultural heritage. But there is a kind of cultural bias that also creates obstacles. And these are barriers that should not be there and will need to be overcome at some level: it is not a question of saving stones; it is a question of saving touchstones to the human psyche. They are touchstones to, in some ways, the human heart. That speaks to the humanitarian world and what humanitarians care about, what doctors care about; but it has not been addressed with that kind of language, that kind of power, that kind of empirical evidence that I think could be useful.

I am not willing to disassociate yet between the humanitarians and the cultural heritage people. It may be that we need multiple strategies working in parallel. But I have seen the impact of the destruction of cultural objects and heritage on people's ability to persist in a very contentious world, and people's well-being, so that I am convinced that this may, in fact, be a very efficient way of addressing, ultimately, mortality and well-being, if we can explore those things.

I work a lot with Mayan communities in Guatemala. And their whole history has been one of cultural destruction. Yet they still hold on and value that in ways that provide a social fabric that is essential to their well-being and willingness to continue to struggle against remarkable obstacles and oppression. So I welcome the comment, because it focuses, perhaps, attention on what we will need to do, and perhaps what I will need to do in my contribution here, to address these issues in a more focused way.

# 2
# CULTURAL HERITAGE AT RISK

**LUIS MONREAL** I am going to talk about urban heritage at risk in zones of armed conflict. As you know, in our institution, the Aga Khan Trust for Culture (AKTC), we have some experience working in postwar situations. So what I am going to tell you is based on experience, institutional experience. We started working in Afghanistan three weeks after the fall of the Taliban regime. And we know that in the urban context, the most important thing when you want to restore the urban and social context is to respond to the people's need. We have worked in Afghanistan, in Kabul and Herat, and I have four hundred people still working there. But in this region we are considering, we have some of the longest-inhabited cities, like Aleppo, which claims to be the longest continuously inhabited city in the world. It is also a very high-risk situation. We cannot predict, in the next twenty-five years, what is going to happen from the Middle East to the Maghreb al-Aqsa and places where there are some of the most important cities for certain civilizations.

Urban cultural heritage conservation is important because it is socially relevant. It is no longer an exercise in preserving the social fabric as if it comprised museum pieces. Rather, it is a living context, an economic asset for future generations. Because all of these cities, by maintaining a living culture, are assets for future generations. The reconstruction of these cities, in our experience, is important because it is the basis for restoring economic production, it is the basis for restoring commerce, and it is the framework for life, for quality of life. I think this is extremely important. In a postwar situation, you need to rehabilitate with the aspiration to create better conditions than those that existed before.

Since 2001, we have been working in one large area of Cairo, the [al-]Darb al-Ahmar area. The people there now have bathrooms with running water, something they did not have before. Urban rehabilitation is based on responding to the basic needs of people. And it demonstrates, as I said before, how futile, how absurd, it is to discuss what comes first. Nothing comes first. These people constitute the living context.

We decided two years ago that we were going to go into Syria and start working in Aleppo. We are a Swiss entity, legally, so we went to Bern to discuss our ambitions with the Swiss authorities, the Ministry of Foreign Affairs. We wanted to know if we would fall under sanctions if we went to work in Syria. The director-general was very surprised. "Why did you come here? Obviously, you are doing humanitarian work. You don't need to consult with us," he said. "But beware of the banks. The banks are not going to consider you as a humanitarian organization, and you are going to have all sorts of problems."

Working in historic cities is about more than restoring monuments. It requires us to deal with the urban fabric, with infrastructure, with facilities and services. And, of course, we cannot work, necessarily, with all the punctilious principles of certain conventions. Let me find a metaphor. It is like operating in a war hospital. You need to do things quickly, save lives if you can. You cannot work as a private entity. You need to work on the basis of public-private partnership agreements. So you need to make agreements with the national authorities and with the local authorities. And to be successful, you need to bring in the local population. Even in these postwar situations, local populations never think that an entity, a foreign entity, arrives with good intentions. You need to prove your good intentions. We developed a very simple system. The first things you need to rebuild are the toilets and the sanitation infrastructure. Then it is essential exhaustively to document the condition of the city. This will give us a sense of the destruction. It will also allow us to rather precisely estimate the total reconstruction of the city, at current cost. You know that the World Bank has made some estimates of how much it will cost to reconstruct Aleppo, but our estimates are completely different from those of the World Bank because they are based on real knowledge of the situation. For instance, inflation is going to be a very important factor in Syria in the next couple of years; but at the moment, with less than $100 million, you could do significant work to restore three areas of the old city, which are the priorities that we have established for this rehabilitation project. As you will see, the first thing, of course, is how you create competence. So the first thing was to create, with Irina Bokova's support—at the time she was with UNESCO—a training course for stone masons. In fact, there were two courses. We did that at the citadel. This on-site training allows us to rebuild the things that were destroyed at the citadel.

We chose to start with the Souq al-Saqatiya, which is the area in this zone. We chose the Souq al-Saqatiya in this condition because there were 11,000 families that depend on its economy. If you translate that into individuals, the number is between 60,000 and 70,000 people who depend on the economy that takes place in the souq. We have calculated that the reconstruction of the souq will bring annually a new influx of approximately $35 million to the economy of the city. You need to keep these operations very simple because you are going to work not only with your own people; you are going to engage contractors, as we have done. We will have to work with the government, the people from the public services, to deal with utilities, water, electricity.

Then, of course, you need to work with the community to explain what the final result will be. They are the stakeholders. And it is also important because part of the deal is that the merchants themselves will pay for or work on the rehabilitation of the inside of their shops. This is not free coffee for everybody. In some areas, we found significant structural damage. But I must confess that because of the need to show quick results, we chose a segment of the souq in which the structural damage was not too severe. So immediately we can provide an image of hope and things rebuilt. Some of the areas already have been paved, painted, and cleaned. And finally, of course, work started on the roofs. I invite all of you to come to the opening ceremony on July 15.

# 3

# MILITARY PERSPECTIVES AND COSTS: WAR, OCCUPATION, AND INTERVENTION

**SCOTT SAGAN** I was pleased to hear mention of the work of two of my former students, Jake Shapiro and Joseph Felter. Joe now is the deputy assistant secretary of defense; he was drafted into that position by Jim Mattis. And Jake is now a tenured professor at Princeton. What they studied, both in a book project and then in a chapter in a volume of *Daedalus* that I edited, was the idea of courageous restraint. Courageous restraint was the idea of Gen. Stanley McChrystal, who said that we are killing too many civilians in Afghanistan. And that is understandable, because a soldier comes under duress. Soldiers are facing fire from somewhere, and they will call in air support as quickly as possible. Or they will call for an artillery barrage. And yet, ultimately, if we are killing a lot of civilians, we are going to lose this war. So he hired a young Stanford PhD, Joe Felter, to study what could happen if you reduce collateral damage. He had this idea that we could actually incentivize soldiers to take some personal risk in order to avoid killing civilians. This was a very controversial decision. He actually gave, not medals, but little certificates to soldiers if they personally took risks. Because the Geneva Convention, in article 57 of the Additional Protocol, calls for taking all feasible precautions to avoid civilian death as collateral damage. We have been mostly talking about cultural heritage damage as a deliberate act by people, but it is also often collateral damage. How can we discourage people from engaging in acts that cause damage, say, if there is a sniper in a mosque? This idea of courageous restraint could do so. What was so brilliant about the article cited in our paper was the argument that you should limit civilian casualties not just because it is the right thing to do ethically, not just because it is the law, but because it will help you win.

I want to report very quickly on a study that Ben Valentino at Dartmouth and I did that tried to get at the question, would the public support U.S. troops taking risks to avoid killing foreign civilians? We had a representative sample of the American public read a story that argues that the United States has a very strong incentive to attack a chemical storage site in an Afghan village and could use Special Forces to go door to door until they found out exactly where it is. In this experiment there will be no Afghan civilian fatalities, but there will be five American soldiers estimated to be killed. The alternative is to have an artillery strike that will not kill any Americans but will kill two hundred Afghans. And then we polled a representative sample of the public on what they would prefer.

We varied the number of Americans killed to find out if people would support a Special Forces operation if 5, 50, or 200, or even more American lives were lost to save that number of civilian lives. Here are the results. What was interesting in this finding, which was published in *International Studies Quarterly* last year, what we called the "due care" experiment after one of the references to the principle of precaution, is that just half, just over 50 percent, of Americans said that they would be willing to risk 5 lives in order to avoid killing 200 Afghan civilians. They would be willing to protect civilians but only at limited cost to Americans. When asked, "Was this ethical?," a significant number of people said, "Well, I would do it, but I don't think it's really ethical." So they had a sense that it was wrong to kill 200 people to save 5 Americans, but they would be willing to do it anyway. Could you do this kind of experiment with a sniper-in-a-mosque scenario and have people try to figure out if it is worth risking troops to avoid killing and destroying cultural heritage? I think you could. I do not know what the answer would be, and I do not know if it would be different in different countries. But what I do believe is that you could change the conversation to saying, "You're taking this risk to produce a better peace when this is all over, because cultural heritage is really important after wars, not just before wars or during wars." If so, you would get a positive response.

**HELEN FROWE** I am a philosopher, and I specialize in the ethics of self-defense and harming. At the moment, Derek [Matravers] and I are running a project called Heritage in War, which is funded by the British government. One of the central goals of the project is to try to understand how the value of cultural heritage compares to the other values that are at stake in war. In particular, we are interested in how the harm to the heritage should be weighed against harms to life and limb. Unless we can weigh these harms, it seems like we cannot really have any principled way of resolving conflicts between them. And in our view, these kinds of conflicts between heritage and people are common.

It is quite common in the heritage field for people to deny that you can have these kinds of conflicts between people and heritage and also to deny that you can compare these kinds of values. For example, Tom Weiss and Nina Connelly write in their Occasional Paper, "People and culture are inseparable. There is no need for a hierarchy of protection because the choice between the two is false, just as the choice between people and the

natural environment is false. Air, water, and culture are essential for life." This is a quote from the website of the U.K. Committee of the Blue Shield: "The Hague Convention 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." This is from Irina Bokova: "There is no need to choose between saving lives and preserving cultural heritage. The two are inseparable." And this is a quote we had in our funding application for the project, from an anonymous reviewer: "These research issues have not been addressed within just war theories in part because weighing the value of human life against cultural property is not deemed an appropriate question within this area of research. The suggested comparison of the value of cultural property with the value of human life as something to be investigated strikes me as deeply problematic." So this should have given us some warning about what we were in for.

Here are some conflicts that seem to challenge the inseparability thesis. If we just start with the Hague Convention, it requires combatants to refrain from any use of cultural property or its immediate surroundings in support of military action. Now, insofar as combatants would have otherwise used a site, presumably they would have done so because it afforded them some kind of military advantage. So to prohibit their use of the site and tell them to use another site that otherwise they would not have chosen is to require combatants to operate at increased risk to themselves for the sake of heritage. The Hague Convention, for example, demands that combatants do, that they take on risks—that is, risks to their lives—for the sake of protecting heritage. Article 12 also implies that combatants can be required to impose greater risks on civilians in order to avoid damaging heritage. So, again, even if making use of a cultural site would, for example, draw fire away from a civilian population, it requires that they not use the site. The alternative imposes comparatively increased risks on civilians. So the question here is not whether we think it is permissible to ask combatants to do these things. This is just a conceptual point about the fact that protecting heritage can come at the cost of increased risk to people. It is a separate question from what we ought to do. It simply shows that it is not the case that protecting heritage cannot conflict with protecting people.

Finally, an obvious way in which we have a conflict between people and heritage is, as Tom and Nina propose in their paper, if we deployed combatants in order to protect heritage. This would clearly be a case of imposing risks on our combatants or asking them to incur risks in order to defend heritage. And yet Tom and Nina say that attempting to establish a hierarchy for protecting people and heritage is counterproductive. What I want to suggest, actually, is that it is essential.

I want to look a bit more closely at this proposal that Tom and Nina have made—that we ought to consider having heritage as a just cause for force. And this is the view that they develop in the paper for the Getty series, in which they suggest that we need to develop a framework that parallels the R2P doctrine. They explicitly say that this includes the use of military force to defend heritage. This is heritage for its own sake. This is not a

claim that you can only use force in order, say, to prevent genocide, that you should intervene to defend heritage when it will prevent genocide or other very serious harms to people. It is a claim that is distinctive, namely that it is permissible to use force to defend heritage for itself.

Military intervention typically involves imposing serious harms or serious risks of harm such as death. And so the question that is really before us, if we are going to take this kind of proposal seriously, is whether it is permissible to kill or impose high risks of killing people for the sake of defending heritage. Now, Tom and Nina think that we can answer this question without needing to compare harms to humans with harms to heritage. Heritage and people are the same thing. Heritage and people are inseparable. Heritage or people is a false dichotomy. One implication of this is that whatever is justified to defend people's lives is, therefore, justified to defend heritage because they are the same thing.

This is clearly a mistaken way of reasoning. The fact that defending heritage sometimes protects life, and that we can use lethal force in those cases, does not mean that heritage itself warrants lethal defense. Nor, I think, does it mean that defending heritage always saves lives.

The proposal that we might use force to defend heritage requires showing that defending heritage is sometimes more important than not killing people. That is just what the proposal is. So I do not see how you could show this without having some kind of ranking of harms to humans and harms to heritage. I just want to sketch very briefly here a kind of very basic case you would need to make in order to justify the use of military force. You need to show specifically that it is permissible to intentionally harm somebody to prevent them from damaging heritage. We need to show that it is permissible to foreseeably harm somebody as a side effect of preventing damage to heritage. Essentially, what you need to show is that the intentional harms that you would impose during the intervention would be permissible but also that your collateral damage is permissible as well, because it is pretty much impossible to wage a military campaign without risking collateral damage to civilians.

Now, supporting either of these claims requires an account of how to compare harms to people to damage to heritage. And this is just for the straightforward reason that force is only ever permissible if it is proportionate. This is the standard constraint on the use of force. It must be necessary and proportionate. And proportionality just *is* a comparison of the harms at stake. Now, proportionality, in turn, demands that we have some way, therefore, of assessing the value of heritage sites, because we need to know what is going into the calculation that we then weigh against the other goods that are at stake.

So unless you can show, by way of comparing harms, that protecting heritage warrants both killing wrongdoers—people who are targeting heritage—and imposing significant risks of killing bystanders, I do not see how one could support the permissibility of forcefully intervening for the sake of heritage.

**BENJAMIN ISAKHAN** I have been doing a pilot study, the very first, I think, of this precise problem. How do the people in these conflict contexts view what is going on? I am going to present some very preliminary observations that come out of this set of data. We have done fifty in-depth, semistructured interviews. They represent a broad geographic spread from across both Iraq and Syria and, of course, different ethnic and religious groups, as well as gender. We strived for gender balance, but in the end we did not manage, so far at least in the interviews, to get complete balance; but we have some representation of both genders. So, obviously, with these kinds of qualitative interviews, we have gotten an enormous amount of data that I simply do not have time to go into. Much of the data deal with their experiences of the Islamic State, of having been eyewitnesses to moments of heritage destruction, their own very personal stories of trauma, their memories, and so on. But what I want to focus on is the small portion that comes out of that data set in which they talk about how they perceive what the international community ought to do in response to this heritage destruction.

So let me run through a handful of quotes. Again, I have just plucked them out of a very, very broad data set.

> The international community just shouldn't get involved in our heritage. We don't want you here. Iraqis can do it. We have the money, we have the knowledge, we have the experience. We don't need any help. We don't want anyone reconstructing anything.

> The international community didn't do anything for people or for heritage.

> The international community, unfortunately, failed in really fulfilling its responsibility toward the whole of humanity and history. The international community failed to safeguard the culture in Yemen, failed to preserve culture in Palmyra, failed in protecting the heritage in Afghanistan.

> This will return really negative outcomes and impacts for the international society, because people who have lost everything have nothing to live for, and therefore, they are not going to work toward social cohesion into the future.

And I think that this is a very interesting quote:

> As long as there's conflict, there's going to be destruction of sites, unless you deploy UN forces just to those sites. But then what are you saying to the people? People can die. That's okay, as long as you don't destroy heritage? That's awful. The message that you're sending is that these heritage sites are much more important than lives or hospitals or schools that are being destroyed.

So again, I think in engaging in the region, in terms of heritage protection, we have to be really cognizant, really sensitive, about where we are engaging, who we are engaging,

and the fact that we are not perceived to be privileging heritage over human life, because that will only create resentment. And arguably, it might create more threats to the heritage sites because you have a population that resents things being rebuilt.

Another point that sometimes flies in the face of consensus in the West, which came out quite strongly, was that some people really wanted religious sites to be restored, their own local religious sites, over archaeological ruins. One person said, "I don't think we can rebuild the archaeological sites like Hatra or Nimrud. Perhaps we can gather the pieces destroyed and build a museum at each site, telling the stories of these sites and the way they were destroyed. This can be done through cooperation between international organizations and the local communities." But then this person goes on to say, "But all heritage sites of Yazidis and Christians, they should be rebuilt. They should be the focus. All mosques should be rebuilt. We need to build a society where each ethnic and religious community's heritage sites and traditions are respected and embraced." So people thought that that was much more important than the overwhelming emphasis on archaeology and ancient archaeological sites.

Another thing that came up was the politics of who pays for the reconstruction of heritage sites. This was a very sensitive issue. Specifically, people talked about the UAE and backing the UNESCO Revive the Spirit of Mosul project. So I refer to one quote that reflects on that:

> The reconstruction of al-Nuri Mosque is just politics. The UAE wants to fund it because some of them are Wahabis, and they funded Da'esh to do all of this terrible destruction. It is Wahabi ideology to kill Christians or Yazidis, and to destroy historical sites and cultural sites. But now the Gulf countries are embarrassed by what Da'esh did. So now the Gulf wants to pay some money to fix up the mess they made. I don't want their dirty money. I want them to leave us alone to live in peace.

So I think that is also very important when we are talking about the ethics of who funds reconstruction projects.

This brings us to the final quote that I want to discuss today. And that is the idea that for some people heritage just simply is not a priority and that they are very concerned about the global effort and the global concern and the global outrage over heritage when there are so many other priorities in their lives and in their own day-to-day existence.

> I think it's a strange idea to reconstruct places, for example the Mosque of al-Nuri and the minaret. Perhaps in a few years, when Mosul is being rebuilt and people have returned. But what about other cities? I'm from Kirkuk, and there is a huge need there. We have tensions with Kurds and Arabs, we have sectarian violence, we have people starving, we have ladies who have been raped, we have kids with no school. All they have seen is violence and terror. Children raised on death and destruction. They need help. Hospitals, schools, roads, psychology, jobs, food, water, electricity, education. We

> need hygiene and security and work. We don't need an old minaret. It was useless anyway. Heritage is just not a priority for us.

Again, I just want to be clear that I am not putting all these ideas out there because I agree explicitly with all of them. But to have a meaningful impact in the region, we need to be really cognizant of the diversity of opinions, even when these opinions are very difficult, when they are divergent. Perhaps the only way that international efforts to protect and restore heritage can have a meaningful long-term impact in the region is if we engage with these different ideas, even when we do not like them. Failing to listen and to heed these opinions ultimately undermines the broader mission to foster stability and promote peace in the region.

**THOMAS G. WEISS** Before I open the floor to what is going to be, I'm sure, a spirited discussion, I just want to pick up on a couple of things that I think link back to the project. We have all been talking about the local populations, so Ben is forcing us to try to figure out how to get our hands on that information. But from a macro point of view, I think we have spent perhaps too much time thinking about heritage sites, World Heritage Sites. And we clearly have in mind, also, cemeteries, churches, mosques, and so on, at a much more mundane level. It is not just the most famous sites. One of the reasons that one organizes such a meeting as this is to rethink some of the things that we have started with. And this session certainly does that for me. I think what is perhaps the most beneficial way to approach this topic is that both this morning and this afternoon, we are being asked to specify the difference between the inherent value of heritage, however you want to measure that, and the destruction of heritage as a trigger, a threshold, for something worse, the destruction of life. And so there have been lots of suggestions, which I think we will come back to tomorrow, about the intrinsic value to people as they move ahead and try to rebuild their lives. Paul [Wise] talked about resilience. If you are going to turn a page on a conflict, and you really care about the lives of the people there, there is a resilience factor. And this is essential. Scott [Sagan] mentioned the rather consequentialist notion that protecting heritage in Mali or elsewhere can be useful for militaries because, in fact, it helps them pursue their tactical aims. And we have not really mentioned it, except briefly this morning, Luis [Monreal], in terms of an investment down the line, after one moves beyond conflict, as a way to generate employment and income. So there are a whole series of things that need to have costs and benefits associated with them.

We also said this morning that the extrinsic value of heritage destruction is important, as this is the best indicator, always, of worse things to come. And that, too, I think we need to look at very closely. And the kind of number crunching you were pointing to this morning, Paul, as to our intuitive notion that virtually in all the contemporary conflicts this has been an integral part of what is going on in every conflict that we have mentioned here today. But we need to put some numbers on that as well.

**ISMAIL SERAGELDIN** I want to say, first of all, I really appreciate your presentation. But it is inherent in something that we have always done in cost-benefit analysis. There is an enormous resistance—political, cultural, otherwise—to put a dollar value on human life. People don't want to do it, although it exists in everything that we do, and we can calculate this. I can sit down and calculate it for you and tell you that you value this life at a million dollars, this one at $50,000, this one at $30,000. There is no consistency whatsoever. Legislation is undertaken without ever looking at the question of the dollar value that you are putting on a human life. For example, if you have an airplane and you say, "I can't have the single system; I want a redundant system," what if the redundant system fails? Do I put in place a third one? Well, why not a fourth one? Somewhere when you stop you can calculate the implicit cost by the probability functions of human life. And then you can compare it to other values as well, in cost-benefit calculations or value calculations. But there is a cultural resistance, a political resistance, for people to say, "I am going to assign a value." So that is almost never discussed. But it does not mean that it is not right, just that it is not discussed. But there are alternative ways of doing these calculations. And tomorrow I will present some of that. Because we can calculate the intrinsic value of heritage to people, both locally and outside of the country and internationally. We have done that for the environment. And believe it or not, the methodology that we have done has stood up in American courts, even when it took a billion dollars from Exxon. And I can cite that as well.

**JENNIFER WELSH** I want to make two sets of comments that I hope will be helpful for thinking about the project. One is on the use of military force for the protection of heritage, as one very specific thing that Helen [Frowe] spoke about. And the other is the notion of cultural heritage as part of peace building. So, on the first, the very specific point about whether this project would want to continue to speak so directly about the use of force for the protection of heritage, I think what was challenging about Helen's presentation is that so much of the discussion about the use of force in this realm is about harm to civilians. And what Helen puts on the table is that we cannot think about cost solely in terms of civilian cost. We also have to think about the cost we are placing on combatants. That has been the big move in thinking about the ethics of war. But it was also part of the debate on humanitarian intervention. Could you ask soldiers to intervene for a humanitarian cause that was not a direct threat to the national security of their own state? I think by elevating this notion of whether we need to be thinking about the lives of combatants, it is a very challenging but important issue.

The other piece that comes out—and it is probably something that philosophers do not like, but it is something that political scientists have to live with—is that it is one thing to debate the rightness of whether or not you should do something; the second question is, who does it? If I think back to the evolution of the Responsibility to Protect as a debate, the initial stage was not so much about whether military force is legitimate. It was addressing

the question of who would be the legitimate ones to use force. The debate that came out of at least two presentations is that who acts to protect cultural heritage is an absolutely critical question— the legitimacy of different actors. And philosophers, I think, would not necessarily accept that that affects the intrinsic quality of an action itself, but it does in the real world, in the political world. Maybe Helen and I would debate this, this question of who acts. It is seen as more legitimate if one actor does it versus another actor—a Western versus a non-Western actor—which I think is just a reality. It is something that has come through really strongly from the discussion this afternoon.

Moreover, increasingly as we go through the day, I think this question of protection of cultural heritage is also a forward way of thinking about what is required to sustain peace. This is super important. And I say that partly pragmatically, in that if we look at the direction of the United Nations system right now, the big theme that has wind behind it is "sustaining peace." How is it, in a world that will have armed conflict, that will have destruction, that we can actually make peace more sustainable? And it has a prevention function. So how do you get societies ready to be more cohesive and resilient? But it is also a matter of afterward. And so increasingly, I am thinking that Paul [Wise]'s discussion this morning, but also things that have come out already this afternoon, the association with cultural heritage and peace building, is going to be positive. My bets are on that as a potentially promising frame.

**FROWE** So I was not suggesting that anyone was saying that we ought to intentionally kill civilians. My point was just, I think, the fairly uncontroversial point that you cannot wage military intervention using force without thereby increasing the risk of collateral harm to civilians. And as I also said, whatever you think we ought to do when there are these conflicts between civilians' lives and heritage, that is a separate question. My point is simply that there can be these clashes. Jennifer, I think we disagree about what philosophers think about authority.

**WELSH** I was painting it in too purist a way, perhaps.

**FROWE** I do think that there is a difference between what private actors and individuals can do for the sake of heritage and what states can do. So I think this comes down to a question. I actually think that states have more restrictive permissions in these cases. I think that individuals and private organizations have greater latitude with what they do with their resources, compared to states.

**SAGAN** I will just make one basic point, which is that it is important to consider very carefully how you think about the principle of proportionality in the context of heritage. I disagree with something that Helen said: "Well, proportionality is a way of different harms." Because I think of proportionality as a measure of the benefit, the military advantage, of taking out a target compared to the negative quality of collateral damage. And that is what you're trying to weigh, right? And it cannot be disproportionate. The

collateral damage cannot be more than the military benefit. So when you are talking about, say, shooting a sniper in a mosque, in a minaret, then the question is, how important is that sniper? How much damage is that sniper going to do versus the collateral damage to the minaret? So that is one thing. But the second, if you are talking about the act of protecting it, then I think you have to say, "Well, the protection is a military advantage in itself." And that is the interesting, novel way of thinking about this, which is that it is important to protect the minaret or mosque because of its contributions to postwar reconstruction or sustainability of peace afterward. And that is a different way of doing it. You still have to take into account if protecting it will create a lot of collateral damage. But that would be a different way of putting this goal in a different context, a different framework.

**MOUNIR BOUCHENAKI** I was very much interested in the presentation of the philosopher Benjamin Isakhan about the comparison of the value between cultural heritage and human beings. My only fear is that in the middle of battle, when you are into the wars, I do not think people have the time to make proper evaluations and the right decisions. And this is how we see many of the crises in our life now, how many casualties were inflicted on the population and, at the same time, on the cultural heritage.

One example during the first Gulf War was a bombing of a telecommunications position near the Iraqi Museum. It had an effect on the museum because it stopped the entire air-conditioning system. Even we, as UNESCO, were not allowed to go to Iraq because it was embargoed and the UN in New York was telling us, "No. We receive only humanitarian missions." When finally I insisted that I should go to Baghdad, in September 1998, I saw termites eating the walls of the museum, not only the objects. So my only fear is that, of course, we need to have proper education of the military—and we started doing it with the Americans before the U.S. ratified the 1954 Convention—because I think it is up to the military, who are engaged in what we can call classical war, not the terrorist attacks or the bombings, to know what the military obligations are and also what constitutes respect for the population and cultural heritage. This is my first point.

The second point is about the very interesting presentation by Benjamin Isakhan, because I was in Mosul last week. I spent the whole day in this martyrized city. I talked with local people. I entered the houses near the mosque, accompanied by both the Muslims and the Christians, as well as the head of the Christian community of Mosul. And then I spent two hours with Father Najeeb, who is now archbishop of the Mosul church. I think that we have to be careful about the so-called negative reactions and see also the positive ones. I know that Father Najeeb is having a very important influence in asking the international community to help Christians to return in their city. Not only with UNESCO, but he is in contact with the Vatican and with a number of churches. He saved thousands of manuscripts that were deposited in monasteries and the churches in Mosul.

And finally, I want to talk about a very positive experience we had in Cambodia. I was in Cambodia with the UN troops in 1992, when we were not able to enter the temples because they were full of mines. We were visiting the Angkor sites with Buddhist monks and with the local communities. The rehabilitation and restoration projects are now in their twenty-fifth year. We have an international coordination committee working in Cambodia, in Angkor Archaeological Park. I can say that thanks to this project, which is an international one with public and private entities like the World Monuments Fund, for example, the economy of the small village, Siem Reap, near Angkor now has about 150 hotels. And I saw how the well-being of the population is visible because of this project. They have no oil, they have no gas; they have only cultural heritage in this area of Cambodia. And the village now is becoming a town. Another difficulty we encounter is too much tourism, so we have to find a plan for diverting people, as the Louvre does in directing traffic around the Mona Lisa. All visitors want to go to Angkor Wat, and they ignore, more or less, all the other temples.

**ISAKHAN** Thank you for these comments. They are very useful. I did want to be deliberately provocative and to emphasize the side of the story that is not told, because overwhelmingly, when we talk about the international community, particularly in heritage sites, or the international community reconstructing sites out of conflict, it is purely the positive side of the story that is told. I think that we very rarely hear the other side of the story—that people are critical of these efforts, that people have concerns about these efforts, that people have other, very deep-seated problems and reservations about these efforts. I think that if these efforts are to be successful, we have to get better at listening to those criticisms, even when we do not like them, even when they are not the majority, even if we could statistically show that that is not the majority opinion. Because ultimately, rebuilding heritage sites, for example, or reconstructing places without broad consensus or without broad engagement from stakeholders only brings the opportunity for those sites to come under threat again, and it only brings the opportunity for local populations to come under threat again. That has happened before. It certainly happened in Mali, where sites are being targeted and populations are being targeted again in the wake of these things, in part because there is a resistance, a pushback, to some of this stuff. So I think we need to be open to these different things. And we need to recognize that there really are no data on this; we do have this kind of consensus that it is a good thing, and only always a good thing, if we go in and do this stuff. It is very rare—I do not think I have ever seen anything really credible—that we have actually gone in and done a heap of interviews and a heap of surveys about how people feel about and engage with their heritage, about how they feel about international engagement.

# 4

# INTERNATIONAL LAW: PROBLEMS AND PROSPECTS

**IRINA BOKOVA** We have come to the issue of what exists as an international law, an international framework. If you will allow me to enlarge it a bit, I want to speak briefly about the conventions and about the language of these conventions. We have mentioned many of them. And I would like first to commend you, Tom [Weiss], because in your coauthored first Getty Occasional Paper you outlined some of these conventions and some of the work that is being done. If you will allow me to start with a request. I think we should stop saying that it has always been like that in history: somebody comes and destroys heritage. Because if we say this, we eliminate all the efforts that we have made in the twentieth century to create a rules-based mechanism or platform to ensure that this does not happen or at least that from the point of view of international law and our understanding, this should not be done. I have heard this argument many times, of course: Why do you say this? You know, it happens. This is the history of humanity. It means that we have not evolved in our understanding about heritage, about its importance, and then about the way we treat it and the way we communicate as humanity among ourselves and also with the heritage. So this is my first point.

The second is, I just want briefly to mention that UNESCO is the guardian of the six major conventions in the area of culture, and it is the norm-setting organization. Of these six conventions, three, I think, have a very direct impact on the topic that we are discussing, but the others are also very relevant. Of course, the first one is the 1954 Convention. And it is the two protocols on the protection of cultural property in the event of armed conflict. Mounir [Bouchenaki] will speak more on this and on how the Second Protocol has been adopted and evolved. This is one of the Hague humanitarian law conventions. And I would say that nowadays we have 133 countries, as of September 2018, that have ratified this convention. I would say that because of what happened in Syria and Iraq—Da'esh and everything—we have made an enormous effort to have more countries

ratify it. The last one of the big countries that ratified it was the United Kingdom, in December 2017, which meant that all of the five permanent members of the Security Council, for the first time, ratified this convention. I think this was a very important moment. And France, in 2015, pledged; in 2016, they ratified the Second Protocol. So I think the framework of the member states that have ratified the convention is there. This is very important in order, on that basis, to continue working. But the situation that evolved around the destruction of heritage made us also very cognizant that a big effort was needed for the widest possible ratification of the cultural conventions. We have made an enormous effort, and I think we have succeeded.

The other convention, of course, is the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property. This is the prohibition on the illicit trafficking of cultural property. Now, a few words about it. Many countries are working to restitute stolen property or illicit trafficked property. The problem with this convention was that there was no monitoring mechanism. And in 2012 I convened a meeting of the state parties. You know how difficult it is to amend international law. So the general conference of the state parties decided to establish a committee—now there is a committee and even subcommittees—and require also that state parties present periodic reports. And this was very important. We did that before this big crisis in the Middle East. I come from Eastern Europe. I know the Balkans have been looted, and I was very sensitive to these issues. But it was good that we started this work before, because it helped us a lot later to create platforms and to work on the basis of this convention. So this convention has been ratified by 137 countries. And this was also a problem, because this is a convention very much linked to the illicit trafficking, without conflict, of objects of art. Some of the big art markets were not very enthusiastic about joining this convention. But many now have. So I think we are on a good track of having more countries aligned around this international law.

The most important is the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage. I am not going to elaborate further because you know this convention. I would just say that this convention has been ratified by more member states than any other international legal document; 193 member states have ratified it. This means that there is a lot of political commitment regarding world heritage. It is also important because it contains monitoring mechanisms, as well as prevention mechanisms, in terms of threatened heritage. Of course, we are not speaking only about armed conflict, but other threats to world heritage. And here I would like to pick up once again the issue of rebuilding, because we have to be very careful when speaking about heritage protection. I am referring, of course, to the World Heritage List but not only that. I am speaking broadly about rebuilding heritage. In the history of the World Heritage Convention, there are only two instances when destroyed heritage has been rebuilt and then included on the World Heritage List, and both of them are very emblematic for conflict and war. The first instance is the old city of Warsaw, Stare Miasto, which was

totally destroyed during World War II, rebuilt, and then included on the World Heritage List—because it is a symbol of resilience, it is a symbol of, I would say, resistance to the war, and a strong message, once again, against destruction in war. The second instance, once again emblematic, is the Old Bridge of Mostar, which was not on the World Heritage List when it was destroyed. It was destroyed for no strategic reasons. It was destroyed as a symbol of eliminating and destroying the links between communities. And that is why it was rebuilt, under the auspices of UNESCO, and named a World Heritage Site. It is one of the unique cases precisely because of the message that it carries. And that is why I think it is very important to be very careful when we speak about destruction of heritage and then rebuilding it.

Now, let me turn to international law. As I said, I think we have quite a developed framework of international law. As Tom writes in his paper, all the issues about inconsistency in some of the terminology are right. This exists. Maybe there is also incoherence in terms of the monitoring mechanisms for implementation. And I also agree with this. But what I think is probably more realistic to do, because we know how difficult it is with international law and such conventions, is to amend, to adopt. From my own experience, I would say that there is no appetite among member states to adopt additional, new laws. I know this because we adopted this recommendation on restoring urban landscapes. We wanted to make a convention, and we wanted to move on other issues, but member states were very resistant. So if we want to be realistic, I think, we have to develop a different approach, one that is much closer to what is needed today. Of course, the first thing is ratification. I think it is very important for us to continue our very strong effort, so that more countries ratify these conventions. The second is implementation. We may have a wonderful international law, but what if it is not implemented? Where do we go? In this particular case, I think we need to link it with some of the other policies that we want, to link it to the efforts to involve local communities in many of these cases, and to link it to the work broadly of the United Nations, even the Responsibility to Protect. And as I mentioned, when we were thinking of how to move forward in this very complex environment on the basis of the Responsibility to Protect, we actually signed an agreement with the International Committee of the Red Cross, Geneva Call, and many, many others.

The work of the International Criminal Court, I think, is also very important. Actually, it was our idea, UNESCO's idea, to reach out to the ICC and say, "Well, if we say it's a war crime, and even the ICC also says it is a war crime, let's try to do it." What we did was encourage Mali to ratify ICC, the Rome Statute. Before we did so, we told them, "Ratify it, so that you have another means to prosecute the possible perpetrators of this destruction." They did ratify it. We went to the ICC, and you know the history. My deputy—your successor, Mounir—Francesco Bandarin, went to testify to the court. We put legal teams together, our legal team and their legal team, working together to make a case, because it was not obvious that it would be successful. And I am very proud that we did that and that it happened this way. As a consequence, the ICC now is working on a policy paper on the

destruction of heritage. I spoke with Fatou Bensouda, the chief prosecutor, a couple of months ago, for another reason. I spoke on the phone with her and asked whether they had finalized it. Not yet, she told me, but they are working on it. And I think this will be a next step that will also make a strong legal case for the protection of heritage and the penal code. I think it is very important. Bensouda said probably by summer they will finish their report and publish it, as they did with sexual violence during the war. I think it is an important next step.

Then, of course, there is the work that we have been doing with the Security Council on the adoption of several resolutions. Because, once again, this is the broader international framework, setting the standard for such work. I will just mention a few cases. Resolution 2199 was important from our perspective not only because it included three paragraphs about the importance of heritage protection and against the looting of sites, linking it with terrorism and the financing of extremism, but it was important because it allowed us to create a large platform of cooperation with Interpol, the United Nations Office on Drugs and Crime (UNODC), and the al-Qaida Committee in the Security Council in New York, which were not the usual kind of partners we had. But on that basis, we created not just platforms; every second month, we had video conferences that I organized with my colleagues. For the first time, all these entities put together their synergies. They exchanged data with the International Organization of Customs, with the UNODC, or with us. I had not realized that there was no data sharing before that. But also, because this helps us push strongly, we said member states should take decisive measures.

Now, when we started this work, it emerged that even in the European Union there was no harmonized directive on an object coming from Syria, Iraq, or somewhere moving around the European Union. You cannot trace it, because there is no established route. There is no one single regulation that lets you harmonize the way it crosses borders and where it is and how it goes. So this helped us also push the European Union, which even adopted a new cultural policy. But at that time when I was still at UNESCO, more than fifty countries changed their national registration in some way. The United States also introduced a very important piece of legislation in Congress. They adopted this also. But what I am speaking about in the United States is the same in the European Union. Europe was very strict on the export mechanism but very loose on the import mechanism. So they tightened their control also, and they harmonized their legislation. And I think this was extremely important.

And then, of course, further resolutions were adopted by the Security Council, the last one being 2347. I think it was an important framework of cooperation, because this allowed peacekeepers to train peacekeepers on heritage protection. And by the way, very many armed forces nowadays have introduced protection of heritage for their peacekeepers. Somebody said, “Can we work without even having heritage protection strictly in the peacekeepers’ mandate?” We can. Even just last month, in Italy, they had a training of their armed forces, and they introduced heritage protection. So I will stop here.

Just one word. We launched campaigns about UNESCO heritage, but it was not just a social network. Particularly with Italy, it was to trade the synergy between the military, the expert community, the cultural people, and academics in order to work together in similar situations, in order to see how they can leverage their different expertise, in order either to stop illicit trafficking or to do the peacebuilding after a heritage conflict.

**LYNN MESKELL** Thank you very much for having me here as a rather unorthodox scholar. The first of the two things that I want to outline involves communities. One of the first things I thought when I looked at this lineup of speakers was, why were there no Syrians or Iraqis represented? Or Yemenis? I am very interested in Yemen. And I would just say that going forward, if one—and particularly sitting in the United States—does not want to be charged with a new form of cultural imperialism, it would have to include those actors. As a legal scholar, a colleague, reminded me, in the 1954 Hague Convention, in article 5 on occupation, it actually says that as far as possible any high contracting party has to have the support of competent national authorities of that occupied country in safeguarding and preserving its cultural property. The second point in that article is that in occupied territory, anything damaged by a military operation should be within the purview of competent national authorities; if they are unable to take such measures, we should work closely with them—in cooperation with such authorities—to take the most necessary measures for preservation. So in 1954 it was already sort of established that we would have that community partnership. I think that on anything going forward, even though we have heard great examples of on-the-ground working with people—and there really are terrific case studies that are being presented—those key players really have to be at the table also.

Of course, today heritage is not just about bilateral negotiations between governments, as many people have pointed out. And we all know how predatory states work, even our own. It is also about the protection of minorities. We really have to work at the local level. And one of the most impressive examples that I have seen is the Aga Khan Trust for Culture, in India, specifically Delhi. I also work there on heritage and humanitarianism, looking at things like water, sanitation, issues of caste and class, violence, and gender violence and how that all connects to heritage sites. And I think AKTC provides an on-the-ground model of how it can be done. So it is not a theoretical model, but it is also a research model but also in terms of lines of influence and creating positive change. Of all the different organizations I have looked at, AKTC, I think, is the one to follow.

I fear that we are already on the cusp of being a little late to try to find out what people's primary needs are, what sort of heritage sites, and not simply reify or further support the monuments that the international community sees as important. I remember one of your colleagues, Nada Al Hassan, talking about how the French media all wanted to talk about Palmyra. She represented the Arab Desk at the World Heritage Center and wanted to talk about all of these other sites. But there was a sense that Europe was

claiming Palmyra for itself. So this is something to avoid, going forward. And I also remember, at UNESCO committee meetings, say, parties like Turkey asking why the focus is on sites and not people—again echoing some of the data that Ben [Isakhan] has retrieved. So that is a very educated Turkish ambassador asking why the focus is on classical sites all the time. This comes across as a fairly anti-Islamic sentiment. It was once said of UNESCO that the book of the organization was the Bible. So there is a history there that needs to also be overcome.

It is fair to say, although uncomfortable to accept, that this is a time we need research and reflection because the older approaches, developed in the context of World Wars I and II, do not work anymore and do not serve us. I have to bring up certain levels of hypocrisy, I guess. The United States only recently signed the 1954 Hague Convention, and it has not signed Protocols 1 and 2. Nor is the United States a signatory to the Rome Statute. There is the U.S. withdrawal from UNESCO. So this is another reason to include cultural heritage legal scholars but also to broaden the international feeling, because we start from behind, I think, in this particular setting.

As I mentioned, there has been a focus on Iraq and Syria, but much, much less on Yemen, Libya, and the Crimea. Many people are hamstrung from saying or doing anything because of how some predatory states operate. Yemen—and I am glad Simon mentioned this—is one of the worst humanitarian disasters and also has suffered the destruction of cultural property. In Saudi Arabia, backed by the United States and the United Kingdom, there has been the use of cluster bombs, which are illegal according to the Geneva Convention; there are no consequences. Yemen could not even take the floor, because no one could afford to be sent to speak at various UNESCO meetings. So there is not just implementation; it is even visibility, traction, the countries that count, the countries that do not. I am glad also that people mentioned the Uyghurs. China is fairly untouchable in most UN settings, because it's the Gulf and China that pay for almost everything, I think, going at UNESCO. The United States could write a check; that might help. And there are real constraints.

I came across documentation from the Iraqi delegation complaining that the United States and its allied forces had also damaged archaeological sites. But this was never addressed. And I do not think it has been addressed yet. So there are other forms of damage. Arab countries, of course, are questioning the intent and the long-term benefits of things that we mentioned earlier today, like safe havens. The idea of giving anything to Switzerland is almost laughable. They see this as a sort of proxy colonialism. And in a sense, because we are vested, I think, archaeologists are probably the worst people to talk about this because we are all— We love this stuff, it's our job, we get paid to do it. Yes, we are too committed in a sense.

This takes me to a recent British study on the exploitation of local researchers used for British-funded research projects in Iraq and Syria. That is also money for archaeology and training that is being used as a kind of *partage* for permits. And it is the outsourcing of

research by these exploited and alienated people on the ground. As somebody said, conflict creates opportunities.

**MESKELL** I want to answer the question about contractors. I think it was last year that some architects and NGOs—I think it was in Mosul—circulated a series of emails, with photographs showing, as the destruction was raging on, that contractors were coming in and bulldozing partly damaged buildings and buildings that were not damaged at all to make way for commercial enterprise. So in the middle of fighting, people were obviously seeing economic advantages. And I'm not sure, but I think the hint was that these were international contractors too. So it is business as usual. And I guess on a more ethnographic or anecdotal note, some consultants I know who were working under UNESCO auspices in Iraq, who have done very good work in the Middle East, were also seeing, through this international network of consultants that we were talking about, a European flavor, that business was being done as well. And relatives of people who were also employed and had connections to very big European companies and banks were also getting a foot in the door. So my concern would be always turning the gaze on ourselves, too, that we as elites and professionals and people who have contacts or may be in business or something, it is all getting mixed in together. One man's gentrification is another's destruction. But it is happening. I guess the disgusting element is that it is happening while bombs are dropping and people are dying.

**JENNIFER WELSH** Just two points. First, I think it is very useful to have the reminder that this can be instrumentalized. But instrumentalization is very common, right? So if we think about the anti-impunity norm of the ICC, it has been instrumentalized by a number of states that have actually referred themselves to the ICC—Uganda and others. It has been instrumentalized. So the question is not whether there will be instrumentalization. It will be there. It is there with every norm. The question is, what does it look like in this field, and how do you think about it? So it is important, but we need to put it in perspective. Instrumentalization exists for every single normative project you will have. Second, this question of bilateralism and multilateralism—I think in your project, it depends on what you are trying to do. So if you are trying to set a norm, it has to be multilateral because you have to build consensus. And you are also trying to dilute Great Power interests. That is why we have multilateralism. But if you are trying to do something else, then it might be both, bilateralism as well. But we should also recognize that we have to accept the effects of bilateralism, if applied universally. So if China is engaged in the Belt and Road Initiative in Africa, that is what bilateralism looks like. So we just have to be happy with the fact that if we say we want to act bilaterally, we have to recognize what that looks like when everyone is doing it. I think it is very much dependent on what your objective in the project is, which piece of this you are engaged in. Multilateralism will be important. I think the one piece of this that is more difficult today is that it is even difficult multilaterally to set norms. So some states are looking at—there is a new word for this,

and I can barely say it, *pluri-lateralism*—getting like-minded groups to try to set norms simply because you cannot get a multilateral agreement. But it is rarely an either/or. It depends very much on the objective that you have, right?

**BOKOVA** I think it depends on the expectations. All this debate about multilateralism and bilateralism, I think, to some extent is probably very important, but they have different purposes. I will continue to think that multilateralism is very important. Not least because it is, indeed, where this kind of setting is. It is where small and big ones are. Otherwise it will just be North-South. It is where everybody shares practices. Sometimes UNESCO or other UN agencies go to places where bilateral organizations cannot go, because they are considered to be neutral, to be about everybody. And I think this should be very much emphasized. It is because it is technical; it is just engaged. And I think this is important. Now, speaking about bilateralism, of course, we should not be naive. Everybody has their own interest. It is like all the development efforts. Tell me how big the proportion of nonearmarked projects or funds in the UN is. We know Nordic countries give more nonearmarked projects. But always there is some kind of an interest. And this is where the multilateral platform made the coherent approach and coordinated all this. It may be for very concrete economic purposes, because it is a former colonial power that wants to tarnish the image in some places, in Africa or Asia or somewhere else. So there is always some kind of an interest. I am not saying it is very negative all the time; not at all. It is just that we have to know that there is something behind this.

But I think the more important part is feeling inclusive. We are living in a world that is fragmented, where there are tendencies to break apart platforms, institutions, and otherwise. It is not ideal. And I know it is very hard. Those of you who have worked in the UN context know how difficult it sometimes is. Sometimes diplomacy is hard work. It is hard work to get a document everybody agrees on. It is work morning and evening and night. But at the end of the day when it is there, you feel rewarded that everybody is united around it. I think this is important.

Now, speaking concretely about UNESCO, of course, things have changed immensely. Because of our financial crisis when the United States stopped paying its dues in 2011, I read everything and looked at the history of UNESCO, including from that point of view. In the 1980s, UNESCO's staff was three times larger. There were 3,500 UNESCO staff and probably the same number of experts. Now the number is 1,300. I myself cut 30 percent or more of the staff because of the financial crisis. And everything changed. It is much more political; there is more of a tendency to use it for very narrow purposes. And also because today, I think after the 1990s, we see what is happening in the world: conflicts, mostly of a historical and cultural nature. We need only look at Asia, the controversies between Korea and China and Japan and some other countries that were swept under the carpet for decades but now are coming up. And some others. Also, there is the changing geopolitics. All this, of course, affects UNESCO and the other international organizations. So I think

you should not expect UNESCO to do everything, like the UN. It cannot do everything. It is about partnerships. It is about leveraging all the different mandates and capacities to do things. If UNESCO and the UN can help build good partnerships, I think this will be a very good cause. This is the only way forward. The other is just simply not possible, and it should not be expected from them.

# 5
# SOCIAL AND CULTURAL COSTS

**ISMAIL SERAGELDIN** My presentation considers the economic assessment of the value of cultural heritage. Generally speaking, we have two approaches. If something is considered a must-do no matter what, then we are looking at cost-effectiveness—different techniques for achieving the same result, the most cost-effective way. I mean, if you are fixing the Sphinx or you are fixing Abu Simbel, it fits in this category. All other cases really tend to be not a matter of cost-effectiveness but cost-benefits. And if you are doing cost-benefits, you need to estimate the costs, direct and indirect, and the benefits, tangible and intangible. And then you have to have a discount rate, because money in the future is not worth the same as it is right now. Generally stated, you have to discount the money in the future. And the formula for net present value is simply the discounted benefit stream minus the discounted cost stream. And that is the net present value for a project that is worth doing or not worth doing. We sometimes do a benefit-cost ratio, divide one by the other. Or because we are so dependent on the discount rate, some people say, "No, we want to solve for the discount rate," and find out what we call the internal rate of return and compare that to, for example, what you would get from treasury bills or some other opportunity cost of capital.

So these are the rules generally followed. Estimating cost-benefits is fairly straightforward. But the benefits become tricky because they include tourism revenues but cannot be limited to tourism revenues, because if you do that, then you miss the intrinsic value of heritage. And it leads you immediately to three wrong conclusions. The first is that if foreigners are not interested in paying, it is not worth saving and protecting. That is the logic of the argument. So if you want to keep something or some different types of landscapes pristine but they are not seen, they have no value in the benefit-cost calculation if tourism is the only benefit stream.

The second mistake is to try to maximize the tourist revenues, which denatures what you value. So you go to the American wilderness, and then you find Sidi Bou Said with too many tourists and the Great Wall of China, where you are looking at the back of the

person in front of you. I mean, surely this is not what we want. Then there is Barcelona. Pushing the logic of tourism as being the only real value for cultural heritage leads to all these aberrations that we cannot live with. And then worst of all, if building a new facility like a casino gets more tourist revenues than protecting, let's say, Fes in Morocco, then you should build the casino. That is what the logic of using this type of calculation says. Forget about trying to maintain beautiful things like that.

Now, it is essential, therefore, to recognize the intrinsic value of cultural heritage and not just limit it, as they do. That was how I found it at the World Bank when I fought my battles on these issues back in the 1990s. So how do we calculate the economic value of cultural assets? We need a conceptual framework. And here it is. There is a total economic value, and there are use values and non–use values. And there are direct use values and indirect use values; and among the non–use values, there are existence values and others, bequest values, for example. And in between the two, there is a third category, which economists are very good at, which is option values. It is to say, what do I need to invest now in order to maintain my options for the future? So we do this. These are very straightforward. But the ones that are a little less straightforward, these are the ones that cause the most arguments. Direct benefit includes things like, for example, in historic cities, built space, circulation space, tourism, economic activity. Indirect benefit includes community image, environmental quality, social interaction, aesthetics, and, of course, options to maintain your options for the future. And then there is existence value: identity, uniqueness, significance of the event or the piece of heritage or artifact itself. And the bequest value is something that we would like to give to future generations. For example, we do not want to see the whales or the pandas go extinct, because we think future generations should have them, not because they are of economic use to us. We donate money for that.

On tangible and intangible cultural heritage, beyond individual buildings, there is protecting something like the urban character. In many of the historic cities, you really are not protecting individual buildings. You look at the layout of the historic buildings and look at the buildings that are in the infill. Bukhara is an example. You can see immediately that you cannot just destroy that overall character, even though every individual part of it is not particularly worth protecting. The urban character, the whole, is more than the sum of the parts. And here we have to think in terms of how to value that entirety through scale, volumetric patterns, street alignment, mix of land use, different ages of buildings, street activity. So then there is existence value. The easiest argument to make is to see how people are actually willing to donate funds, governments as well as people, for the protection of endangered species. Why? Not because of their commercial value, but because of their existence value. And the economics of reuse, of reusing buildings, are going to be important.

So how do we deal with intangible benefits? These were primarily developed for environmental benefits, but they are very easy to adapt to cultural heritage benefits. We

have traded and nontraded goods and services. Traded goods are easy: it is how much goods and services. How much would you be willing to pay to listen to music, see a play, get a massage, go to a movie, whatever? It is traded. You pay for it, so there is a clearance mechanism. And its valuation is equal to the amount you are willing to pay.

But nontraded goods are more difficult. We are trying to measure the value, for example, of enjoying the view of a mountain. There are two general approaches. We have revealed preference through price-based models, for example two houses that are pretty similar to each other, except that one has a beautiful view and the other one does not. How much is the difference in price for the two? Or one is next to a dump and one isn't. How much is the difference between the two? That is called a revealed preference based on price. Then we have stated preference. This is, of course, where most of it becomes quite complicated. In price-based preference, we use travel cost, hedonic pricing. I will not go into detail about how to do it, but trust me, we do it. And contingent valuation is *the* important model because it has been supported at the highest levels of the courts.

Now, economists generally prefer revealed preference, as it involves real money that people are actually paying, as opposed to simply asking someone, "How much is it worth to you to have this beautiful view?" Of course they say, "Oh, a million dollars." "Well, would you be willing to pay Y?" "I haven't got a million dollars." So you want to get something much more precise, and it is a different way of doing it. So let's look at these examples. There is the travel-cost method: simply, how far do people travel to go to this historic site? That is a way of saying, then, I can imagine the valuation of that site because people go all the way there. And demand varies with the cost incurred. If you start charging for tickets, will the number of people diminish? Where do they come from? Where do they go? All these calculations are considered. We can actually construct a demand curve like that. In this case, we do not have a producer surplus but a consumer surplus, which is the sum under this curve. And we can calculate that as being the worthwhile investment that should be made to improve the condition of this cultural heritage site, this particular site, based on a regression of the number of people who actually visit the site. So, in several zones, if the costs are greater than this, the staff would have to do something else.

Contingent valuation really is a survey-based technique for the valuation of nonmarket resources, such as environmental preservation or the impact of contamination or the preservation of cultural heritage. Existence values cannot be assessed through market pricing, so contingent valuation surveys were suggested to assess them. The value of cultural heritage is not physically used, such as a restaurant or a hotel or whatever; it is a value, an intrinsic, intangible value of its own.

So we can see that these methods exist. We have succeeded, in the case of the environment, in generating the Global Environment Facility. I was telling Irina [Bokova] that my dream was to establish as well a global cultural facility. But we did that. So the problem is that something else comes up when you have to make choices. And the choices

are not always that easy to make, and they are not just mathematical. Why? Well, here is an example, a very beautiful story, because we need social choice to give purpose to social action nationally and internationally. So, let me describe a small parable, the story of the flute and the children.

It comes from my friend Amartya Sen. You see three children, and they have a flute in front of them. The first kid, the one on the left, says, "I'm very poor. I don't have any toys. This is the only thing I will have. The other two kids are very rich. They have tons of toys. Why should they get it? So I should get it." Well, the information is not contested, and you think it is a fair statement, so you give it to him. Rewind. Same three kids, same flute. The one in the middle says, "Wait a minute. I'm a musician. I play the flute. These two guys just blow on it like a whistle. They love listening to me play the flute; I love playing the flute. So give me the flute, and I will play, and they will listen and everybody will be happy." Not contested again; facts. It makes sense. But let's take the third scenario. Same three kids, same flute. The third kid says, "He is poor, she is talented, but I made the flute. I cut the reed and then put holes in it. I made the flute, so how could you give it to anybody else?" Now, what you have here, in more technical parlance, is a preference for equity or utility or entitlement. What happens is that most of the time, choices, whether about cultural heritage or about other investments, involve all of these. And they usually are in conflict, which people do not like to think. "Well, you know, everybody wants to be fair, so it'll be X." No. Fairness does not fall so cleanly. We frequently will have to consciously say that we will value one over the others, at least for a period of time. For example, when we say we want to have a quota for minority groups or for women in particular programs, and so on, we will revisit it in five years or ten years. But for the time being, yes, we recognize that it is not, in terms of equality or justice, the best; but this is needed now. So if we do this, then I think we have other criteria we can discuss in social choice. But fundamentally, designing appropriate actions, I think, requires agreement on the criteria of social choice and what should be favored at a particular point in time and for a certain period. Unfortunately, arguments tend to be very unstructured, not at all like Helen [Frowe]'s presentation, where it is very clear argumentation.

So I conclude with the following: We need to evaluate possibilities using the best techniques and giving new weight to intangible aspects, and we need to mobilize clear-eyed approaches to social choice for making decisions.

**KAVITA SINGH** We are going to move from the telescope to the microscope; the very broad view is not something I can offer. I am going to be talking about very small-scale observations. I tried to engage with the theme of our workshop, but as an academic art historian who spends all her time in an armchair, my position was a little different; my experience was a little different. It has been a fantastic experience for me to be in the same room as people from these amazingly diverse disciplines. But I felt all I can do is think about what it would mean to get people to engage with active conflict situations and

try to save heritage over there but to try and look at remedial action that has been taken after conflict. And I could only come up with three observations that I thought I would share with you, which are grounded in three very quick case studies.

Not far from where I live in Delhi, there is the historic neighborhood of Nizamuddin, which Luis [Monreal] knows so well. This neighborhood used to be next to a river, before the river changed its course. And this must have made it a very good place to catch cooling breezes. And therefore, you have a structure like this, with airy pavilions, which seems to be designed just to catch the evening breeze. This structure was built in AD 1240. And I have made it the oldest Islamic palace building—not a mosque, but a palace—that survived into the twentieth century. But it did not survive into the twenty-first. In 2008, it was razed to the ground. And apparently, because it was on private property, the state was powerless to prevent the destruction of this building when the owner decided that he would rather build an apartment block in its place. So something irreplaceable was lost in Nizamuddin ten years ago. But this loss was something that was felt by just a few people. The destruction of the Isla Mahal disturbed some conservationists in Delhi. It occasioned a few articles in the city pages of some Delhi newspapers. But the owner took the building down. The government wrung its hands, and the journalists moved on to other stories.

This loss was rather different from the other acts of monumental losses that we have been focusing on in the past few days, like the Bamiyan Buddhas, the structures at Palmyra, the shrines of Timbuktu, which all caused an international outcry. So I began to wonder, why do some things capture our attention and others not? The fact is that we are losing a tremendous amount of heritage material every day. And dare I say that it is not what is lost. It is not really the intrinsic value of the monument or the site that actually raises our temperatures around the loss, but rather it is why it is lost, in what way it is lost. Because the losses that are caused by the banalities of economic development can be tremendous, but they do not cause the same sort of indignation in all of us. We do not feel wounded in the same way. So this makes me feel that what is crucial is not what we lose but how we lose it. And from Bamiyan to Timbuktu to Mosul and Palmyra, I feel that we have all been executing moves that are kind of a slow dance. And like every dance, it grips both partners in a series of predictable moves. Those who set out to destroy these monuments are enacting for us our specters of Islamophobia. And then we become a collectivity that forms in and through our opposition to them, and we make the reciprocal move. We unite to denounce these senseless acts of deliberate and gratuitous damage. We assert the value of the objects and the sites that are destroyed. We reiterate the deep and profound significance to all of humanity. And isn't it kind of ironic that so many of us feel the loss of these obscure sites and become keenly aware of them only in the moment of, only because of, their destruction? And it is only by experiencing the spectacle of loss that we actually become united in claiming them as part of our heritage.

I want to ask now, what happens in the aftermath, when it is time to turn our attention to these places after peace returns to them? Because the site is no longer the site that it

was before. And this is not just because something was destroyed over there but also because it has been transformed, retrospectively and prospectively, by the broadening circle of those who have become concerned about it and have come to have a stake in it. And when the world community becomes seized about the value of a damaged heritage site, then it is the world that turns attention to it, offers its expertise and its funds and its advice. And it will do this through international organizations, which will bring their professional standards, their established methods or best practice. When this happens, then the site turns into another kind of site. It becomes placed within a different paradigm, and different kinds of protocols start to apply for it.

How does the arrival of a world heritage paradigm start affecting the local culture that had subsisted, that had attached local meanings to the monuments that were part of their environment? There is no better place to understand this than Bamiyan, I think, whose culture, landscape, and archaeological remains were given the status of a World Heritage Site and a World Heritage Site *in danger*, both in 2003, after the destruction. Most analyses that have been written about what motivated the Taliban to target these sculptures in 2001 speak of it as a deliberate provocation that was aimed at the international community. There are fewer sources that actually discuss the meaning that the destruction of these sculptures would have had for the inhabitants of the Bamiyan Valley. The Bamiyan Valley is home to a community of Hazaras, who are a Shi'a minority. They are religiously, ethnically, and linguistically distinct from the Afghan majority, which is Sunni and Pashtun. It is this minority of Hazaras who have suffered a very long history of persecution in Afghanistan. And predictably, under the Taliban, this persecution was particularly fierce. The destruction of the Buddhas took place in March 2001. It actually followed on the heels of several massacres, in particular one that wiped out a couple of entire Hazara villages in January 2001.

In Hazara folklore, the figures that were destroyed were not two sixth-century Buddhas. Centuries ago, actually, the Hazaras had already incorporated these Buddha figures into a local epic, which was about two doomed lovers. There was Salzal, a hero, who had been commanded to slay a dragon to win the hand of Princess Shamama. And although Salzal managed to kill the dragon, in the combat he got pierced by one of the spines of the dragon, the poison entered his body, and he died on the eve of the wedding. When the bride saw his body, she also died. Both the dead lovers turned to stone, so the two sculptures are their petrified bodies. The larger one is the hero Salzal, and the smaller one is the princess Shamama. The story of Salzal and Shamama, the Bamiyan colossi as the physical remains, is central to Hazara identity. You can see this in the number of times that the Hazaras in Bamiyan and in the Hazara diaspora actually evoke the names of Salzal and Shamama in the organizations that they have set up. There are various Facebook groups and other such organizations. There are lots of art projects as well that I could talk about.

Now, in the years since, some kind of peace has returned to the Bamiyan Valley. And since 2005 Bamiyan's governor has actually been a woman, which is another indication of how different Bamiyan is from the other provinces of Afghanistan. As a visible symbol of the new era that they should be in now, the Hazaras of the valley have longed to see the statues of Salzal and Shamama rebuilt. They want to see it as a kind of undoing of the erasure, of the Taliban's erasure, of their heritage. They want to affirm their right to repopulate the landscape with symbols of their culture. But Bamiyan is a World Heritage Site now, and work on the site has to be governed by certain standards and protocols. And although the shattered fragments have been gathered, and they have been kept in shelter, experts are of the view that a new construction would not be possible. It would be a kind of "Disneyfication" of the site. Clumsy rebuilding would actually lead to a withdrawal of the World Heritage status. And so here the desires of the local community have actually run up against a wall of professional standards. So when you had a sympathetic German restorer tasked with consolidating the base of one of these sculptures, starting to build these two cylinders that began to look suspiciously like legs, the central Afghanistan government immediately sent a team to halt the work and take it down. Although the government from Kabul said that it is only trying to protect Bamiyan's World Heritage status, which will be helpful for the local economy in the long run, the Hazaras of Bamiyan are not convinced. They point out that the Mostar Bridge in Bosnia that was completely destroyed was rebuilt; it was given World Heritage status. And so in the view from Bamiyan, it seems as though there is not quite a level playing field in the world. The authorities in Paris and in Kabul are using the "World Heritage" label to take something away from the Hazaras, not to give it back to them. So the question that the Hazaras may well be asking is this: If it belongs to the world, does it still belong to me?

I think we need to look into the complications that happen on the ground, what happens when a wider circle of different kinds of people come to have a stake in the same site of the monument and bring their different regimes of value to the place, their different sense of what ought to be done and how. That is the third and final issue that I want to raise today. It is a kind of caution about how to think about the meaning of peace in a postconflict society. And it is a question I could have raised from the grounds of Bamiyan. But let me ask it even more directly, through the example of a place that has been very much on our minds over the past few weeks. Since Easter Sunday, many of us have been thinking about Sri Lanka. And we have been thinking about it with grief about what happened and with a sense of foreboding about what is yet to come. Along with the churches, we know that the bombs went off in a number of luxury hotels. The Shangri-La Hotel was a relatively recent addition to the tourism landscape of the capital of Sri Lanka, Colombo. It was inaugurated only in 2017. But when the ground was being dug and cleared to build this hotel, human bones were discovered. Is this something that could be related to the fact that this was the very site that had been the army headquarters during

the bitter civil war that had convulsed Sri Lanka for thirty years? There is a history that is buried here.

The history is being buried even more energetically in the far north of Sri Lanka, where the Hindu Tamil majority regions were the ones that had bitterly and very bloodily tried to separate from the Buddhist Sinhala south. The civil war between Tamils in the north and Sinhalas in the south ended with a most emphatic victory for the Sinhala side, and the peace is very aggressively celebrated with triumphalist statues, which even celebrate the army's role in bringing peace, being built near sites where forty thousand Tamil civilians were killed by army forces in the last push of the campaign. In the north now, trenches and bunkers and remains of villages and the burned hulks of cars are part of a war tourism circuit, whose audience becomes obvious when you see that all the labels are just in Sinhala and English, not in Tamil. And so southerners are now coming up to travel a circuit of Tamil humiliations. Meanwhile, Buddhist sculptures are being built upon the temples where the Tamils used to worship.

So, then I have to ask, what does peace look like when a conflict ends with a winner on one side and a loser on the other? Those on the losing side are always reminded that they are lucky to have survived so far. If they want to carry on, it has to be on someone else's terms. And in situations like these, the national government will be in the hands of the winning side. When an international community, with the best intentions, offers help for reconstruction, will it be able to see the granularity on the ground? And will it be able to do anything about this granularity, given that they need the permissions and the cooperation of the national government? So we have to be alert to questions of who in this era of peace and reconstruction is allowed to be visible, whose presence is kept hidden and suppressed, what is remembered, what is forgotten, what is allowed to occupy space, what has to be buried, what has to be swept away, whose heritage is reconstructed or constructed in the name of reconstruction, for whom, and on what terms. And being aware of all this, I think we have to ask, what can we do about the fact that in a postconflict period what looks like peace to one group looks very much like subjugation to another?

**DEREK MATRAVERS** I am a philosopher. We might disagree with the economists about whether we are measuring value with economic measures or whether we are probably reconstructing value. And basically, the kind of thing that Ismail [Serageldin] has talked about is the kind of thing that philosophers discuss, the kind of thing that we think we are very good at. So we have a lot to contribute for each of those projects.

Just some preliminaries. I have been talking to various people, soldiers included, over the past eighteen months. And it is possible, I think, that there are at least two sorts of cases. This has come up repeatedly in the past day or two. The first is cultural property protections as a force multiplier, which is a phrase in my mind. And this is one of the UNESCO handbooks on cultural property protection, called *Cultural Property Protection as*

*a Force Multiplier*. When you talk to soldiers, this is often just what they mean. To the extent that not damaging X is an efficient way for you to achieve minimal loss of life, you should not damage X. That is just a standard bit of military thinking. And then X could be the water supply, the railway system, and so on; it could also be cultural property. So inasmuch as damaging cultural property is going to damage your mission or is going to lead to loss of life in the long run, you should not damage cultural property. But the same can be said for pretty much anything else. There is nothing specific about cultural property. One of the most interesting things, for me at least, that has come up in the past day or two is how enormously complicated that calculation is going to have to be, with indirect effects, and so on. But it is basically an empirical matter.

This is just to talk about the instrumental value of not destroying cultural property. The second set of cases are those that draw on the value of cultural property, in particular. So it is not just something that for instrumental reasons you should not damage. The 1954 Convention asks warring parties to avoid damaging items of cultural property; this has been made into an objective, and there is no feasible alternative available to obtain military advantage to that offered by a direct act of hostility against that object. So the upshot is that, faced with a certain situation on the battlefield, a commander needs to decide between alternatives. The first will lead to the destruction of some cultural property, and the second will not. Now, unless he or she is very fortunate, adopting the second alternative will not be cost-free. Why would it be? And such a cost will sometimes or often be borne by costs to human welfare. So there is increased risk to combatants or increased risk to civilians. In this kind of case, when we are talking about stuff that is not simply a force multiplier, it does seem inevitable that there are going to be choices that you need to make between damaging cultural property or imposing costs on human welfare.

Then in the many meetings we have had over the past eighteen months, and talking to many heritage professionals, this claim often comes up. Cultural heritage is important to people in a particular culture. This is clearly right, and this is the truth in the inseparability thesis, or it is part of the truth in the inseparability thesis, so I am just going to call this the general claim. The problem is that the general claim provides no guidance about what to do in particular cases. We can say the general claim is true, but it is actually not useful. Why doesn't it provide any guidance in particular cases? Well, it is simply a matter of a kind of logic, if you like. So take the dieter. It is true that in general eating is good for human welfare. There is a connection between eating and general human welfare. That gives you no guidance at all about what and whether you should eat in a particular case. A better example is the philanderer. There is a general value connection between sex and human welfare, we can certainly say. If that gave you a justification for sex in a particular case, then being a philanderer would be a lot easier than in fact it is, a lot more justifiable. There is no route from the truth of the general case to the truth of a

particular case. But the problem is, the general case does not give you any guidance about what to do.

So what we need is a claim like this. In particular cases, the value of an item of heritage should have weight sufficient to stack up against other goods. This is the kind of thing that Ismail was talking about. We need some account of the intrinsic value, in such a way that in the particular case we can say, "Okay, here's the cost, and the benefit is preserving the cultural property. And that's a good thing, because the cultural property has this value." However, as I said, you cannot get from the general claim to the particular claim. But I think there is another danger, which is that if we cannot substantiate the particular claim, we are in danger of undermining the general claim. Because if in each particular case you cannot justify preserving the cultural value, then the general claim dies a death by a thousand cuts. Because if in each particular case the cultural property goes down, then in the end the general link between value and cultural property is going to be eroded. So this is very brief. I'm going to just sketch three possible solutions to this, three possible ways out.

The first is to talk to people like Ismail and what he means by intrinsic value of the cultural property. It is an age-old debate between philosophers and economists as to whether there is such a value, which is not simply exchange value. So can we establish a notion of heritage value, the value of the stuff, sufficient to stack up against moral values? Because if cultural property does have a value, then maybe that stacks up against damage to human welfare and we are quite right to prioritize it. There are such accounts. Carolyn Korsmeyer has published a book called *Things: In Touch with the Past* [2018], which I think is the most sophisticated defense of the value of cultural property in philosophy so far. She does not attribute to cultural property the kind of value that is going to stack up against things like risk to human life. Then there is my favorite philosopher, Richard Wollheim, who is quite happy to let people just go down the tubes in order to prevent any damage to works of art. So he has the strong view, which would help us out here; but his view is unacceptable for other reasons. So there are such accounts. I do not think this approach should be ruled out. Maybe we can come up with a notion of intrinsic value that will stack up against moral value, the welfare for human beings. But it has not been done yet. So I do not think we should rule out that if one wanted to go down this road there is work that would really need to be done.

A second possible solution is aggregation. This is a nice technical bit of philosophy. Let me give you an example. Say you have fifty villagers, each with fifty beans, and fifty hungry soldiers are coming to the village. Now, you might think that if one of the soldiers takes one of the beans from the villager, they are not doing that villager any harm, because they are leaving that villager with forty-nine beans. So no harm is done by taking just one bean. So then you get each of the fifty soldiers to take just one bean from each of the fifty villagers. The soldiers end up with fifty beans each, and the villagers end up with no beans; but no harm has been done because no soldier has taken more than one bean

from every villager. Now, that is clearly an unacceptable result. So what we do is, we say that you have to aggregate harms. Taking one bean from one villager is not no harm at all; it is a small harm. And then you aggregate the small harms, and they add up to a big harm. So on that kind of principle, what you would do is say the value of an item of cultural heritage contributes to future millennia, so that maybe people are going to look at it, people are learning from it, all these little values are going to happen for the next few hundred years. You stack all those up, you aggregate them, and maybe you end up with something big enough to outweigh the disvalue to human value in preserving it, in a particular instance on the battlefield. But this relies on us having some kind of notion of the value of cultural property. And unless we are working with a substantial notion of the value of heritage, then simply piling up the numbers does not help. Unless you have a fairly substantial notion of what the value of cultural heritage is, then just adding it together is probably not going to stack up against damage to human welfare. Again, I do think aggregation is going to have to get into the picture somewhere. But without some notion of the value of cultural property, then this isn't it. This does not yet help.

The third solution says, "Let's fix some conception of a flourishing, worthwhile life." Call that K. I just picked a letter out of the alphabet. So there is some conception of a worthwhile life. K will include access to basics. This is a flourishing, worthwhile life for some reasonably affluent Western person, let's say. Include access to basics but also to health services—hospitals, education; schools, universities, and culture, books and museums. So K is what it is to have a worthwhile life. Then the claim is that individuals can reasonably be expected to make sacrifices. If they are not making sacrifices, it would degrade K. So you cannot call on people to not make sacrifices if they are not doing so to K. So the very sick have no call on our resources if expending those resources on them would degrade, say, general access to education. So we do not have to give up our humanities departments and funnel the money into medical research, which, if you are a consequentialist, you might think you have to do. Why not? Well, existence of humanities departments is part of what it is to live a flourishing, worthwhile life. So you cannot take away what is part of a flourishing, worthwhile life in order to meet even urgent needs. So if you can find something in K that will give us the particular claim—that is, that in each and every instance, there is something to be said for preserving cultural property; it stacks up against welfare—then we're home and dry.

Okay, we might say that it is part of a flourishing, worthwhile life that people have access to cultural heritage. That is not going to be strong enough, because all you need is some cultural heritage around. That just gives you the general claim; it does not give you the particular claim. That just says people need to have access to cultural heritage, but that is not going to help the commander on the ground to decide whether or not to destroy the Roman fort or risk his helicopter crews. So try this one. It is part of K to live in a community that values each and every person having access to cultural heritage. Maybe that is plausibly part of what it is to live a flourishing, worthwhile life. But again, that is

not strong enough to give us the particular claim; that probably just gives us the general claim. Or again, we need some cultural heritage and to make sure that people, each and every person, have some kind of access to it. Again, that is not strong enough, so let's try another one. We could say, "Well, part of living a flourishing, worthwhile life is living in a community that values heritage to the extent that it will value each and every instance of heritage." And this will certainly give us the particular claim. So now the commander on the hill says, "Okay, I am part of the community that values heritage to the extent that it values each and every instance of cultural heritage. This is an instance of cultural heritage; hence, my destroying it will degrade what it is to live a flourishing and worthwhile life." The trouble is, that gives us a particular claim, but it is difficult to show why *that* should be part of what it is to live a flourishing and worthwhile life. So we are stuck in a kind of dilemma. It just seems plausible that some kind of relation to cultural heritage is going to be part of what it is to live a flourishing and worthwhile life. The trouble is, the more plausible we make that claim, the less it gives us the particular claim. It only gives us the general claim. I think, basically, this is another route to roughly the same conclusion that Helen [Frowe] came to yesterday, which is that it is difficult to see how we can make concrete and enlightened progress in this area without having a more substantial account of what the intrinsic value—the value of cultural property—is that stacks up against other values.

**TIMOTHY POTTS** I want to suggest the example of Isaiah Berlin and his thoughts about reconciling incompatible goods, which he said you cannot always do. It does seem to me that that is important, because I think we all, in our bones, know that there is no perfect magical solution that will maximally protect every human being and maximally protect every worthwhile cultural site or property or whatever. So it does come around to some sort of compromise between the two. And it just struck me in your third solution, and that is, of course, what we have been struggling with. What is that? How does that compromise, and how do those individual judgments, how are they taken in individual cases, as you are setting it up here? But it does seem to me in this third solution, the one dimension that you have not brought into play is the level of importance of the cultural heritage targets, as it were, here. You talk about whether it is just access to one or access to many. But, in practice, it comes down to decisions about which are the most important sites to be protected. And of course, there are World Heritage monument listings and other measures of the importance of individual sites. Surely that comes into play in the judgment, if you want this field commander or whoever you are imagining is making these decisions, if there are those reference lists of which are deeply important sites. In the Iraq War, there were consultations with archaeologists about what were the most important sites in Iraq. So that information was there. It was not always followed. It seems not to have been taken into account to the extent that it should have been. But surely that is the way to get some sort of third solution compromise between people and sites that gets the sites back into the

picture in a way that can be quantified and where that evaluation of their importance comes into play.

**MATRAVERS** I'm concerned that that is kind of an externally driven decision about what "K" is. So the World Heritage List, for example, is essentially technocrats and experts making a decision that Palmyra is more important than this local mosque. And if you feed that into the operational realities of a military on the ground, it is going to undermine what K means to the local people. So my thing on all of this is, if you are going to go around looking at K, the question about K is to ask people, "What does K say to you?" And that answers this question of which heritage site is most important to the value that you place on it as a local community, rather than we are going to make these sorts of aggregate decisions that cultural heritage is part of K. And we are also then going to make a decision about which cultural heritage site is part of K. So again, clearly, in the UNESCO World Heritage List there would be particular sites. But do those have any local currency to a civilian population that is much more concerned about protecting a Shi'a mosque, for example, that may have no aesthetic, no historical, no monetary value? No, you could not calculate it by any economic index because it is just built out of cinderblocks. But in terms of the religious and political currency for that local population, it is very high on their K ranking. I mean, they may not even know that they live next to an archaeological site. They may not be at all interested. So there is a whole heap of problems about this idea that we can make decisions about what K is for other people.

**SERAGELDIN** I have one observation and a question. When you [Matravers] spoke earlier on aggregation, and you said the loss of one heritage site after the other would undermine in a thousand cuts and so on, why is that so? Again, let's just go back to the environment for a few moments. The loss of an individual whale does not diminish but in fact increases the desire to protect the remaining whales. So in no way does that reduce the value of cultural heritage. It just makes it more important. And second, on the question of valuation, which as Tim [Potts] just said—I happen to agree with you fully that what we have now is better than nothing. Wherever people can criticize it, it is better than nothing. But there is something else, which is the issue of unique exemplars. So I remember, for example, a very tiny godforsaken hammam in Old Cairo, which my mother used to show me. It was the only Ayyubid hammam. And it was destroyed by the local population. Not in any act of vandalism. It was kind of a rundown little place, so somebody would take a lintel, somebody would take a piece of wood, and somebody would take something else. The people are building their shacks out of bits and pieces, and pretty soon the hammam disappeared. It was not a monument, especially when you compare it to the monuments in Cairo—the Mamluk monuments, the Fatimid monuments, and so on. It was not that. But it was unique. It was the only exemplar that we had from this period. And that adds a special quality that we also need to think about: Do we want to have a continuity, like putting beads on a string, a continuity of various periods of our past existence represented

in various exemplars small and big, even though individually it may not say much? Even if the local community does not care. I mean, today, let's say their children have gone to university and these guys have come from the villages, and they are just agglomerated in Cairo. In the university, they will learn about Salahudin Ayyubi and the Ayyubid dynasty and so on. And don't I wish that we had one thing to show you? So I think that, therefore, the criteria that we are using have to be also, as I think Kavita [Singh] mentioned, partially local. But "local" in a broader sense that would say not just what the local guys today want but that in essence, potentially, their children will. For sure, their children will change attitudes. So I find that part of how to bring in the locals or the local view with a perspective of the specialists and the historians particularly complex in how to put these things together.

**MATRAVERS** Just on the first point on the whales, I was not factoring in human psychology. The thought was just this: If we say, look, we value whales being around, but we do not have an account of the value of the whales such that whenever an individual whale comes up to be killed or not, we cannot say it should not be killed, then every time it is up for a whale to be killed and it gets killed, sooner or later there won't be any whales. And we can have our general claim that we value whales but without whales.

**LUIS MONREAL** The general claim then translates into don't kill any whales. That is the tricky bit. But that is why in practice there are certain types of regulations. I mean, we have gone through this again with the environment, on fishing and sustainable fishing and whatnot. There are regulations that put some boundaries on what you can do. But there are others that say this is completely forbidden.

**MATRAVERS** As an economist or a lawyer, you can rely on existing law to say, "Look, the justification for not doing this is that the law says you shouldn't." But you have to ask the further question as to what is the justification. It is not just that it is a sentence written in a certain book.

**HELEN FROWE** Tim, on your thought about the ranking, the problem is that— I mean, I agree with you. You could factor that into how you rank internally within the group. The problem with commensurability is that you have to rank across types. And knowing that we can choose, from best to worst, does not tell us anything about how the shoes compare to the hats. And what we are after is an account of value that we can factor into comparisons. So an internal ranking within the group is not very useful without what Derek's pointing to. It is a sort of value that stacks up against other values. So just knowing the internal ordering of a group does not give you an ability to compare across groups.

So if what we are after is something like, what should you do in these cases where you have to say that if you damage the site, then you face other costs? Just pointing to the fact that we have a list that ranks the sites does not help.

The answer to the question as to whether we should try harder if a site has a very high ranking is "not necessarily,"" because it might be that none of the shoes are worth one of these. Even the least good hat is worth more than all of the shoes, right? That could be true. So, no, it does not follow that you try harder. It is that you have to have some way of comparing the goods where there is some unit of common currency, which is whether you can translate them into something that can be traded, which we talked about yesterday. What are the currencies that could be on the table? But the mere fact that within the group this is number 1 does not show that you sacrifice more of some other good for number 1 of that group.

**MATRAVERS** No, but surely in the humanitarian case, if there is one life at risk there and a thousand lives at risk there, that is a basis for protecting a thousand lives with one. So in the same way, if there is a monument of extreme importance quality-wise versus one of minor importance, you try harder to preserve the one of more importance. So in the real world, I think, even though the perfect calculus says how many lives are worth this listed building, there is never going to be a calculus that delivers a clear answer. But in terms of relativities, then the more important monuments are taken into consideration more, in the same way that more lives are taken into consideration.

**FROWE** Lives are commensurable, but heritage is not. What we are trying to articulate is the feeling, right? What does that consist in that justifies that kind of way? Why is it appropriate in the heritage? I agree with you that it is. But we need to know why it is. So what we are contesting is not that people care about this stuff. It is just saying, "Well, it's woolly and it's difficult, you can't." The complaint is not that we do not have a precise number; the complaint is that it is really hard to go about making any kind of comparisons at all. And ranking internally in groups does not help.

**SINGH** I think this argument actually links back to what I was trying to say from the Bamiyan example, because if we went around asking people what actually constitutes K for them, who we ask changes the answer. So if you ask what you consider a local community with other people who are living right around a monument, or you ask a very far-flung set of people who will make pilgrimages to that place but do not live physically contiguous to it, or you ask archaeologists, as you start asking different sets of people, you will have different kinds of answers and different reasons for valuing certain things, and it keeps skewing the answer and the valuation that you make. So here I just want to point to the danger—I'm calling it danger; you may not call it danger. But just the change or the shift that happens as something starts meaning something to a very large group of people, what it means can be in complete opposition to what it meant, you know? And therefore skewing can happen. We have to be aware of that.

**SCOTT SAGAN** I want to point out that when philosophers use the term "true," they mean it in a very distinct way, which is that I can think of some logical problem that makes it so

that it is not true in all cases, and therefore it is not true. I would side with Tim that in the real world we ask soldiers all the time to make proportionality judgments about how to trade off human lives, collateral damage, against the value of a military target. It would be disproportionate if in order to kill one enemy soldier, which is a legitimate military target, you have lots and lots of collateral damage. But we definitely restrain ourselves from having a strict definition, because we want that commander to use his or her judgment about how important this target is in this particular case. And we cannot figure out an abstract law that will be useful, because it would end up being quite artificial. I think it is the same here. We have to have some judgment about how important that cultural heritage is, and why. It could be important for many different reasons. And then we have to make judgments about two different things. One is the value of collateral damage: What other harm is being done? But the other is the value of the soldiers. And I would object to calling them all the same value because those are very different values. We want our soldiers to take some risks, whether to protect our cultural heritage or somebody else's cultural heritage. So I think we have laws that are built in order to preserve some human judgment about these issues but take into account the difficult-to-measure value of cultural heritage but also of military advantage.

**SERAGELDIN** I agree with Scott on this point. But I think the key point that I find is that people do not want to put a number on life, simply stated. We know how to do it, we can do it, there are many techniques, and so on. But the fact is, you make an implicit judgment. I will give an example. How many redundant systems do you put in? At some point, you say, "Enough." When you say, "Enough," I can tell you, given probabilities and so on, what that means in terms of what value you have put on a human life in a future accident, as opposed to putting in a third or a fourth redundant system, for example. There are a lot of calculations that were involved in the early parts of the space program when the redundant systems were being put into the International Space Station and things of that nature. So we also do not want to say that I will value my soldier's life as twenty-five collateral damage lives. Nobody wants to say that. It can be done, but nobody wants to do that. So that is a taboo area where nobody goes. And therefore you are never going to get into a situation that says, "My God, this is so great, we should be willing to sacrifice 125 lives for it." That is never going to happen. And therefore we are going to have to live with this. I think in many ways that is the best of all possible worlds. Because you will never get agreement even among those who legislate, much less among those who will actually implement, on points like that. "My soldier's life is worth twenty or twelve or five collateral damage lives or whatever." So you are going to end up with situations where we just have to accept a blurred boundary rather than a clean boundary, in the sense of being able to say quantitatively what needs to be done. And I think that that is just part of the reality of the problem we are dealing with and the manifestation that cultural heritage is not an absolute measure, because we among ourselves could even disagree on the

individual ranking of particular monuments. But as I said, I agree with you that what we have is better than anything else, so let's start with it. But if you sat down, you could say, "No, I think this one should be number 34 and this one should be number 42 rather than the other way around." So if you have that mushiness, we should not try to take it too far toward the very precise calculation, because we will not get there. And then we will have to accept that it is very difficult to justify losing human lives for the protection of cultural heritage.

**MATRAVERS** I think that's right. I do not think the argument is about exactitude. I think the argument is this: You are quite right, soldiers are used to making decisions about collateral damage and loss of human life among troops and so on. There is never going to be exactness. But now we just shove something else in, and we say, "Oh, and by the way, another calculation you have to make is that there is a lot of cultural property out there, and you have to make a judgment about destroying the cultural property or losing soldiers' lives. But we are not going to tell you anything about the value of the cultural property. We are not even going to justify that cultural property has a value. We are just going to leave you to hang out to dry." And that is the tricky bit—not to do with exact values or anything, just to do with we do not say anything.

**SAGAN** Well, that is what I wanted to say. I feel we have a responsibility. It does not matter whether it is in peace or in war. It is about decision-making, which is what you are saying. And unless we can give the people who are making the decisions, whoever they are, the information and the evidence—and this is what I was saying yesterday—I think we have a responsibility, as cultural heritage specialists, to actually say, "This is what we think in terms of the priorities." There may be other priorities if we have the time to discuss it with the local community. But given that we are at war, we probably won't. And in peacetime, we probably would have the time, but we never actually make the time. And we should.

**MATRAVERS** A commander has to have as much evidence as possible, so that he or she can say, "If I let go the artillery, what's going to happen? Do I save many more lives but lose something that actually most people say is not very important?" But the local community might say, "Whatever you do, don't touch that building." And that is where you get a dilemma. I feel that we do have that responsibility to give as much information as possible, in whatever wording we might use, in a prioritized way. It is not so much ranking, because we are not ranking oranges and pears or whatever; we are saying that in terms of our expertise as cultural heritage specialists, we think this has cultural value that will be of benefit in the future. And it does not matter whether it is Stonehenge or just one bit of stone; it is important. But we need to have that so that the commander has that communicated on a map or somewhere.

I mean, the opposite happens. I have not mentioned this, but there is evidence that in the war in Yemen many of the cultural heritage targets were not hit, and then a no-strike list was sent. And I think they didn't see the "no" bit, and it became a strike list. Of the ten sites that were given, within a day five had been hit. And suddenly a message was then sent, saying, "That was a no-strike list." Because if you are a bored Saudi pilot flying an F-16 and you don't know what to do, and you have a list in front of you, you might say, "Oh, we'll go here." So they press the coordinates and go. And they were bombing stuff that was in the middle of nowhere, and there were no Houthis around. So you have to be careful with the evidence you give.

**MARY MILLER** I want to return to one of the questions that Kavita [Singh] asked us and think about this question of the banality of most cultural heritage destruction. It is this question of how things are lost, not how they are destroyed. But actually, Kavita, you said, "If it belongs to the world, does it still belong to me? But does it *only* belong to the world when it is destroyed?" So to ask the question that way, and to ask particularly of Derek [Matravers] as well, that all of these are addressed to what has been determined to be part of cultural heritage only under the conditions of war. The banality of the rest of destruction, is there some way to address that in your framework? And have I created a kind of corollary that it only belongs to the world under the conditions of destruction, and otherwise no one seems to pay attention?

**SINGH** That is not true, but it is one of the ironies of what has unfolded in recent years. We have become aware of things that were not part of the canon of things that people were concerned about. We have become extremely concerned by them because of the very dramatic and highly televised and reproduced images of destruction. And that caused some sense of urgency about cultural heritage, which is why even a meeting like this takes place. Without that, without those particular enactments, you would not have had a number of international endeavors; you would not have had a number of meetings, concerns, NGOs being formed, whatever has happened in the international arena. And it still does actually try to stave off these kinds of deliberate and symbolic acts or the collateral damage that we are all now seeing. It is exactly a tradeoff between human lives and heritage, because the nature of warfare is changing, where the wealthier countries want to spare the lives of their soldiers by not putting troops on the ground. They are doing more aerial bombing and drone bombing, and that is leading to more grand-scale destruction on the ground, which then has the effect of heritage destruction as a corollary. So I think an acceleration of a certain process in which—I do not know whether it is a kind of deliberate provocation on the part of some people or it is an "Oops, I did that" on the part of some other people—there is an awareness of this unnecessary destruction that is happening. And the same moral outrage does not apply to what is seen as necessary destruction for development.

**IRINA BOKOVA** This is a very interesting discussion, but I want to make just a few remarks. We all know that it is very messy when it comes to this type of conflict. It is very messy. It is not a structured kind of approach—you know, we first speak to the community, then the community takes a decision, then we have priority and all this. I do not know now of a case where there was an intervention that is totally justified only to liberate a World Heritage Site, let's say. Or not a World Heritage Site but a heritage site. Of course, in some cases it was used for the justification of an intervention. I am speaking about Mali once again. It is not what was in the mind only of the French troops and others, but it was also part of the justification of an intervention that was having a military purpose, ousting the extremists. But it was a very strong case to say that on top of that, we are also acting here in order to rescue the manuscripts and the mausoleums and to rebuild. In other cases—Palmyra, the Russians—there was the same type of rationale, more or less. But I tend to think, as Tim [Potts] said, that in terms of this type of ranking, my experience in UNESCO was that whenever we had such cases we always tried to give the justification or to tell the intervening power, "Hey, watch it, because here there are World Heritage Sites or some other sites of importance." I am speaking about Libya. When the Libyan operation started, we immediately sent all the maps and the lists of the World Heritage Sites in Libya to say, "Be careful, because this is something really important. We don't know how you're going to proceed, what your military operation is, what you are going to do, but you have to be careful." The same with Mali. Again, we prepared this famous Passport of World Heritage, eight thousand pieces, and we wanted to put it in every single pocket of the soldiers there—the maps, a small passport with the World Heritage Sites—so that they would know its value. We explained, "This is important for this and this value," in order to educate them. And then it was included in the peacekeeping training.

So my point is that it is indeed a messy kind of situation. It is difficult unless you are prepared. In many cases, like Yemen, we know the story because I also issued some statements. But in the end, we tried to intervene from the UN, from New York once again, with the Saudis and the others, in order to prevent destruction. But the argument that was given after the bombing and destruction of the old town of Sana'a was that rebels were there, the Houthis were there. So it was part of the military conflict, and it was difficult, of course, for us to to make a judgment. My point is that it is very difficult, in my view, in real life, to quantify. It is difficult to make a strict hierarchy, and it is difficult to make a very specific sequence of actions that we have to take. We just have a few elements that we know from practice, from real work. And I think this way of ranking the value side of it, if we can do it before a conflict, although we do not know where it will be, is important.

The distribution of information helped, as I said, in Yemen. It helped immensely. And the fact that now we have all kinds of peacekeepers training, even this is already a step forward. Because they will go to different places. We do not know where exactly they will

go, but they will be cognizant of something that is important, that is of value. So I think that opinion is shifting. And this is already something positive, in my view.

**BENJAMIN ISAKHAN** I think with these interesting conversations about trading off between human life and heritage a calculation that can be considered is whether you are trying to win the war or whether you are trying to win the peace. So if the immediate calculation is between human life and heritage, and all you're imagining is the kind of operational situation that you are in, then you have a fairly small view of the role that heritage could play into the future. What if heritage protection could be reframed to mean winning the peace and hearts and minds, about creating a counternarrative to ISIS? Let's just take that as a really crucial example. If ISIS has been so oppressive and done all these horrible things and destroyed heritage, yet you are making calculations in the moment only about whether heritage is more important than one of our soldiers' lives, it does not point to the power of the counternarrative of protecting heritage when you are trying to defeat the ideology. Because ISIS is much more about defeating the ideology than it is about the practical military gains you can make on the ground. So if you are thinking about winning the peace, this calculation, this kind of way of trading human life versus heritage, you cannot just be basing it on the strategic operational gain in the moment. That clearly might be a whole different set of situations and decisions from the strategic long-term gain of winning the peace, where you might actually save thousands or tens of thousands or even hundreds of thousands of lives by making decisions in the moment that affect the long-term consequences of the war and stop it from dragging out or degenerating into civil war and so on. So I think we have to be really careful that the moment represents an important point at which these military operatives have to make clear decisions, and we are putting them under very stringent ethical guidelines and all kinds of pressure. But we also need to be cognizant of the fact that those decisions have much more consequence in the long term than perhaps just one life versus one heritage site indicates here.

**SERAGELDIN** I have two points that I think we need to raise. I mentioned one before, and I really want to repeat it again, because I do not think we are giving it enough attention. But I have been encouraged by what Irina just said. I think that one area that is not going to be as controversial is to argue for a significant and expanded disaster-risk reduction by training people, by building additional facilities, by improving conditions in heritage sites, by preparing little maps, maybe, to have them available to storage facilities, transport systems. I think that we can probably use the specter of war as an added factor to encourage people to support a program of expanded preparation and disaster-risk reduction rather than focus on how we intervene when the war is there.

The second point, which has not been mentioned at all, is that there are significantly in the United States, but probably elsewhere as well, a number of people who are working on programming weapons of war. And so far the logic has been—and I had discussions with

one or two of them—that they still insist on keeping a human person in the loop. They have not yet crossed the Rubicon of saying we shall delegate the authority to a drone or artificial intelligence, or whatever. And the very logic of being able to do that has now forced them to articulate the parameters of human choice. The computers will make calculations and tell you there is a chance of X collateral damage at such a distance. Based on what we know, the likelihood is Y collateral damage. Now, it is, I think, interesting and relevant to be able to talk to the people who are doing this kind of analysis and this kind of programming and at least for us to understand better what they are doing. Also, maybe we can suggest to them that one of the additional things they should put into their algorithms is cultural heritage sites. I mean, not just how many villagers would be killed by this drone or if it is fired right now within X meters, but they should also factor in cultural heritage sites, and that may slow the decision-making. This is real stuff going on right now. I am not inventing it.

**PAUL H. WISE** This is a really interesting conversation. But it seems like there is a taxonomy of considerations being developed. I just want to point out that the decision to put soldiers in harm's way is a political decision. And we have not talked enough about the politics of warfare, the politics of destroying a cultural heritage site. There are cultural heritage sites that will cost lives in the end. The destruction of a mosque that sets off sectarian fighting for five years costs thousands of lives. There will be other types of attacks that we know will cost lives, and there is a high political cost in allowing those heritage sites to be destroyed. There will be other political costs that can be identified, not perhaps analytically, but merely by elevating case studies where over and over and over again the political cost of allowing a heritage site to be destroyed has been substantial, so that you begin to create political sensitivity to types of heritage sites that may not directly cost lives or indirectly cost lives but that would have a political cost in ways that are going to elevate their protection. There is a component of the taxonomy that is intensely local. And there, it may be that the reliance on local sensitivities is part of the calculations made by local commanders about local support for their occupation or their military activities. But any good commander is going to identify what is important to the local population. And that is the arena where it takes place. So it is a training aspect; it is a military concern. It could be counterinsurgency, and it could be other kinds of fighting. But that is going to fall into a local commander's smart fighting capability; it is never going to rise to the attention of a group that is going to be able to identify fifty thousand individual sites that are local. But it would be too bad if we allow this conversation to end up that everything is blurred. But rather we can create a taxonomy—I think there is one being created—in which you have five categories of significance. And virtually all will have political significance. And those political considerations, in the end, are going to be far more important than any ranking or cultural value, unless that cultural ranking is somehow

transformed into political considerations. We have the ability to do that. But it will take some type of taxonomy or some type of strategic organization to make this clear.

**JAMES CUNO** How many parallels are there to this? In other words, probably there is a parallel between the decisions made about putting medical workers in harm's way or journalists in harm's way and the kind of conversations that they have as they make those kinds of calculations and decisions.

**WISE** There are. And there are rules, and there are laws, and there are conventions. But in the end, it's political. And it will be a political consideration. Anybody who is going to put a humanitarian potentially in harm's way needs to understand the political situation, the political context, because Russians bombed hospitals. The Saudis are bombing water infrastructure and clinics. Nothing has happened to protect them. So your decision about sending me into Yemen, for example, has to be based on a fundamental understanding of the political war-fighting context in that setting. And that is why I am not in Yemen. But I went to Mosul, because there was a different kind of political military security consideration. And I am suggesting that we can create a taxonomy for decision-making that would help political and military security decision-makers understand the utility, the incentives, and the disincentives around cultural heritage protection. I think the elements have been discussed, coming from different disciplines; but it may be useful to now begin to identify those four categories of concern in which decision-makers, war fighters, and security people, as well as those inherently focused on protecting cultural heritage, can have some disciplined conversation about decision-making and not leave it to a commander to figure out without any type of guidance. But that is pretty unusual. These are political considerations about putting people in harm's way, about what is going to be bombed and what is not going to be bombed. And we can, I think, do better in trying to inform those political considerations based on the experience and expertise sitting in this room.

This has been really fascinating to me as a specialist on the security side, to hear this conversation. I can see some analogies, and I want to make just two of them. One is that there is debate in the just war doctrine literature and the laws of our own conflict literature about how much you value your own compatriot combatant versus a foreign civilian, an adversary or a neutral civilian. One Israeli philosopher argues that a soldier is a civilian in uniform and that we should value his or her life the same way that we value a foreign noncombatant. And others, like the eminent philosopher Margalit and the political theorist Walter, argue, no, on the contrary, all civilians are of equal value, and you should value an adversary civilian just the way you value your own, and a military soldier should take the same risk to protect a civilian in another country as he or she should take to protect civilians at home. It seems to me that we could have similar kinds of debates about the protection of cultural heritage. Not just the question about which is more valuable, but ours or theirs? Ours or someone else's? I would say we should view these all the same. So

think about some of you who have offices near St. Paul's. There is a statue to the firefighters, some of whom lost their lives saving cultural heritage in London. There are probably tradeoffs. They could have worked on a house nearby as well, but they prioritized protecting cultural heritage. And we value that. We honor them because of that. Shouldn't we also, then, honor the soldier who decides to protect cultural heritage somewhere else, even at some risk to his unit or at some risk to winning the war, the soldier who says, "I'll fight another day rather than shoot at that sniper"? Now the dilemma here is that the more that is known, the more incentive you give an adversary to do these things. I think it is great that you gave the forces in a bombing campaign in Libya a list of sites, but that should have been classified information, because all that information would lead people to move to those sites so that they could fight more effectively. So in warfare you have this other dilemma that we have to be addressing.

The second point I want to make is about the role of technology here. It would be useful to think about what kinds of technologies could be more useful and could be developed that would protect cultural heritage with less cost to military advantage. So, to give an example in terms of collateral damage, the *Wall Street Journal* has just leaked information that the U.S. military has developed a new version of the Hellfire missile, which is commonly used on drones [May 9, 2019]. Instead of having an explosion—the question always has been how much ordnance to use—this new version, according to the paper, penetrates with just an inert warhead and then opens up like a trident. So there is no explosion at all. If you can pinpoint the person you are going after, you can execute him without blowing up anything around him. Now, that creates a lot of questions about moral hazard and how often you use it, and so on. But it is an example of an expensive military technology developed in order to avoid collateral damage. Has anyone thought through what kinds of, not target maps, not prioritization lists, but what kinds of technologies you could use, in terms of nonlethal weapons, to protect an area?

**SIMON ADAMS** I want to try to shift the discussion a bit, because I think we are in danger of focusing too much on the military dimension to all of this, and life versus statue, rocks versus troops' lives. It seems to me that these are obviously the most extreme situations, and they are very, very important for that reason. And I think there are efforts being made. Irina mentioned what happened in relation to Mali and Libya and so forth. But, for example, if you look at what I would consider one of the most dangerous programs of, to use that term, "cultural cleansing" that is going on right now, something I mentioned yesterday, the case of the Uyghurs, this is not a military question at all. In fact, looking at it from a military point of view is completely unhelpful. No one is going to invade China and come to the defense of the Uyghurs. It is really just a question of whether the international community has the political will to confront the Chinese about this question. And to the question of whether it is a value discussion at all, are you willing to risk your trade relationship with China in order to raise the question of the Uyghurs and the fact that the

Chinese government is systematically destroying mosques and other places of cultural significance? I think in the work that my organization does, that is actually the way in which it comes up most often: not in a military context, but in a nonmilitary situation. So even somewhere like Myanmar, where there has been this horrible genocide that happened from August 2017 on, with 720,000 people being forced to flee the country between then and December 30, and now with almost a million Rohingya refugees across the border in Bangladesh, the real question that keeps coming up is that the government of Myanmar, which is going out there every day and courting international investment, is trying to get investment in the Rakhine state, which is where the Rohingya come from. So then it becomes a question of on whose land they are going to be building and on what sites. And we know of the bulldozed and burned mosques and places that have other historical and cultural significance to the Rohingya. How are states that are interested in investing, or even—and I have to be very careful of what I say—

States that we have been talking to that are coming from the point of view of development assistance and trying to do the right things, because this is a very poor part of Myanmar. But our pushback with them is to say, "But who is this development assistance going to benefit in Myanmar? You're not consulting the Rohingya, who have been cleansed out of that land, who are now sitting in Bangladesh. It's only the remaining people who are there that you're talking to about investment and development." So that is actually a way in which for us the issue of culture comes up.

I want to give one other example. In many places that we deal with where there is identity-based conflict, the most common way that this comes out is about appropriation of cultural sites and changing them and trying to deny the previous existence of other groups of people. And that is overwhelmingly a state-led process. That is where it happens. They say, "This group of people didn't exist here." "Well, what do you mean, they didn't exist here?" There's, "No, no, no, that's not there anymore, or it's been removed, or it's been eradicated." It's a case of, "That mosque is a church or that church is now a mosque," or "It's a Buddhist shrine," or it's something else other than what it was. "Oh, really? Because there used to be a minaret there." "No, never. There was never a . . . fill in the blank." It's that kind of stuff. I am kind of making light of it, but that is the way in which it comes up. It is about appropriation of culture and attempts to eradicate culture, not so much through cruise missiles or tanks or people coming in and physically smashing stuff down, but more through a kind of organized campaign by either state or non-state actors to change, to alter, and to deny the presence of other people.

**MONREAL** I think this conversation is very interesting, although a bit speculative. But I would also like to remind you that today, in the current conflicts we are discussing, regular troops are not causing the majority of the damage but rather irregular troops. So all these considerations are fine but not applicable. And the destruction is then, in most cases, outside of armed actions, done for ideological reasons. The destruction in Palmyra

was done completely outside the battle context, and so on. So what I am missing here is consideration of the role of the local populations. We have not discussed that. We have been seeing the conflicts from outside, and we thought perhaps that the people on the ground, those who really own Bamiyan or Aleppo, have nothing to do. And we have not discussed what the means of empowering them are. The best protection is close range. It is the people who live there and who really have a sense of ownership of those places. We have not discussed that; we have not touched on that. There are some ideas about it that have been discussed in other fora. And that should be preventive; it should be within the local populations' notions, support, capacity to document, capacity to know, like in civil emergencies. And we have not discussed that. And that, I think, if you want to have future meetings of this kind, is the missing agenda of these two days.

# NEXT STEPS AND CONCLUDING REMARKS

**THOMAS G. WEISS** Let me try to summarize, however inadequately, two things from what I have heard. This effort is to either reduce destruction or improve protection. But I suddenly realized, throughout the course of the conversation, that in our title we wrote "in Zones of Armed Conflict." And listening to many of the places that people are worried about, lots of them are armed conflicts, but there is often a dispute about what is a war, what is really a declared war or an undeclared war. So there are three things that almost everyone would agree on, I think. ISIS contributes to our problems. And is the global war on terror really a war or not? Yet we need to look at those. The slow-motion attack on Uyghurs, or the rapid attack on the Rohingya—we want those in our project as well. But are those wars? No, not declared, although the impact on civilians is the equivalent. So I think we are back, actually, to where we started this whole effort. Namely, we are not going to call our focus "the responsibility to protect" but "mass atrocities." So, this project is really about cultural heritage and mass atrocities, because that gives us more room on the margins. But it also allows us to focus, I think, on what has brought us together. What I am proposing is an adaptation of the 1954 Convention's title. We are not going to create any international law but seek "the protection of cultural heritage in the event of mass atrocities," to paraphrase the convention's title.

So, if I understand that convention, I count four kinds of destruction. Again, it is incidental destruction and purposeful or intentional destruction. We are actually not looking at the incidental. We are not going to contribute any original research or insights on collateral damage. We are not really going to contribute anything new on forced neglect. We are going to focus our research efforts on the protection and care of heritage in light of atrocities. What we are looking at is the intentional destruction of heritage that has no military significance. The purpose of such attacks is to destroy people's lives and destroy their futures. So there are two kinds of destruction to erase history: looting—we've talked about that—and strategic targeting. And it seems to me that that is where our comparative advantage lies.

The second big takeaway—and we have spent a lot of time on this—is the lack of data, the lack of evidence, the lack of knowledge on any topic that we should address. At best, we have poor data. Many of us stated this, I think, by saying it is hard or impossible to separate heritage and people. I think what we have come around to saying is that they are intertwined. It may be operationally, legally, and conceptually difficult to pull them apart; but for certain purposes, we are going to have to try to get a better handle on tradeoffs, contradictions, and priorities. Jim [Cuno] and I are going to have to do more than refer to Heine and Lemkin and say that heritage and people are linked. We have to see when and where they are linked. I believe that the attacks on immovable heritage would be a good trigger for R2P thinking. But is that always the case, or usually, or mostly a good indicator? Is it always a precursor? Is it always reliable or not? And that is, as you said, Paul [Wise], an empirical question. How can we quantify our concerns? It is not going to be easy, but there have to be ways we can attach numbers to them.

In a related way, if we are going to do consequentialist ethics, we actually have to have far more empirical data if policy makers or we ourselves are going to say "yes" or "no" or "maybe." But I think we have overly simplified the argument by trying to say that it is going to be binary: either/or. There really are multiple reasons—and we have emphasized that over the past two days—to appreciate cultural heritage, why different people want to protect it or destroy it. We cannot sweep all that away. There are really multiple reasons. So whether something feels right or true, I think we have relied too much on anecdotes, or at least intuition, which is not the best way to push forward new policies. So even if there were sufficient political will to do something—and there certainly is not to routinely protect people or heritage—I think at least the social scientists in the room should appreciate why it is tough for states or international organizations to act without a more precise notion of what is worth doing versus not worth doing.

**HARTWIG FISCHER** Many cases that we have discussed over the past two days show how difficult it is to impose rules to protect cultural heritage and how difficult it is to make people abide by these rules, despite all the work that has been done to strengthen the awareness of what is at risk, which actions can be sanctioned, and what can be punished. If we adapt a strategy of de-investment to curb damage to the environment, the challenge we are facing becomes this: can we convince businesses to de-invest where cultural heritage is put at risk, damaged, or destroyed? Can we establish a system to sanction—financially, not just through naming and shaming—those who damage or destroy cultural heritage, in order to impose awareness that putting cultural heritage at risk, damaging or destroying it, does not happen without consequences? Yesterday, Tim [Potts] discussed investing in or profiting financially from the destruction of cultural heritage because it offers building opportunities. Follow the money. The war on drugs and the war on trafficking in arms seem related. So can we use these methods to intensify pressure to keep people from causing damage to cultural heritage?

In view of the many cases of damage that were presented during the last two days, I cannot tell if I'm depressed or inspired by our conversation. I must acknowledge a certain ambivalence. But the people and expertise you have brought together are truly inspiring. I have learned a lot, and I am grateful for that.

For me personally, three areas of thought and action seem particularly relevant. The first is the importance of communities, on local, national, and global levels, that identify with cultural heritage and thus have a natural propensity to take care of it. The second is norms and sanctions. And the third is the inherent tension, or discrepancy, between policy making on the one hand and the reality of power politics on the other. To better protect cultural heritage, we will have to remain aware of these three interrelated considerations.

Irina [Bokova] reminded us yesterday that setting norms does have a long-term, sustainable impact. We reflected on the major change in people's concept of environment and wildlife. Or go back and consider for a moment the immense struggle in the nineteenth century to get people to recognize that slavery is unacceptable: it required an enormous effort, but the change of norms ultimately did change people's perception and understanding. The struggle, as we all know, isn't over.

There are many opportunities to change norms at all three of the nested levels of community, but it requires proactive measures of training and capacity building. We have to work on people's norms at as many of those levels as we can. We are impeded in that, however, by the fact that nation-states stand between the international community and local communities. And we can only change norms and educate and train at the level of the local communities if we have the agreement of the states that have theoretical sovereignty over those areas. That is a very hard thing to do, but we still have to do it. So I would say that one of the basic principles would be—getting back to the discussion yesterday about UNESCO—to stress the "E" in UNESCO and really focus on education, training, and these proactive measures to get people to think about heritage in a different way. We need soft power, training, and systems of incentives in long-term projects to make people understand that they have something to lose, to educate them and have them internalize changed norms.

The other thing that really struck me in our conversation today is that imposing recipes or rules from the top down simply does not work. There are no one-size-fits-all solutions. We should, instead of focusing on rules, focus on developing an agreed-upon set of variables to consider as part of a process. And the particular mix of how you assign value to different things, how you prioritize those things, that is all going to be dictated by the particulars of the specific situation and at the same time influenced by politics and power. It's hard to control these dynamics.

Deploying soft power, meaning incentivizing people and focusing on education, will eventually have an impact on nation-state politics. We have to integrate heritage and economics into a framework that makes it attractive for nation-state governments to protect their own heritage and at the same time to not run roughshod over local

communities. We can apply these principles to develop smaller-scale, pragmatically focused projects that in the end will have a long-term cumulative effect.

**LUIS MONREAL** We are in a crisis situation. And crisis generates emotion. Somebody around this table wrote a book called *Art and Emotion*. So we need to use the emotional power of cultural heritage. This is what speaks to people. Of course, it is relevant to society. It has to appeal to the emotional intelligence. I think the people in the environment field have done that. They do not talk about the science of the environment; they talk about emotions. That is the point. And in these situations of crisis, the context is even more emotional.

The second thing—I think you said it—is that we need to work with local people. And this is part of the agenda. We have to empower, through training, through planning, first the professionals on the ground, our colleagues on the ground on all levels, from craftsmen to museum directors, curators, and so on. And we have to mobilize civil society organizations. That is fundamental. But we have to anticipate that we are entering postwar situations. Postwar situations are equally very dangerous for cultural heritage. Building becomes a priority, and these people need to work quickly. So you see the example of Afghanistan, what is happening to Herat. I think this is also an agenda you should put on the table.

**IRINA BOKOVA** Thank you very much for inviting me to join this group and this, I would say, very exciting and sometimes unexpected discussion—because I think in looking at heritage, I am used to an environment where there are experts and we are all like-minded people. Here we enlarged the space, and I think it is the right approach. I think with the future work, the publication, if there are events or activities around it, I think it is a great opportunity, on one side, to focus on advocacy once again, to keep the political momentum. Keeping the political momentum is very important after this period of a very high level of interest from political communities and from global leaders. I am afraid that changing geopolitics will shift attention from this issue. It is not a priority anymore. There are no longer these kinds of threats. And I think it is very dangerous. So with this publication, if we could keep the political momentum within the UN environment and widely, I think it will be very good.

The legal framework: I think I said yesterday that adopting a new law or changing a law is complicated. There is not much appetite on the part of member states. I mentioned the historic urban landscapes for which we wanted to make a convention but ended up with a recommendation. Still, it is a step forward. But I think there is a lot of need, and maybe the publication can recommend something that exists in some of the papers, to look actually at the armed non-state actors and what their responsibility is and how to approach them. The work that the NGO Geneva Call is doing on humanitarian protection, enlarging it now with work on the protection of cultural heritage, is very interesting. It is pioneering work in terms of enlarging the space for international law where it does not

exist. I could maybe compare it very briefly with the refugee law and internally displaced people. We know, all the UN people working in the humanitarian system, that internally displaced people were not included in the refugee convention of 1951. And that is why it was difficult to work with them. But they were a reality. Finally in 2016, the General Assembly adopted the declaration and made this possible. So we have to be creative also in looking at how we deal with them—they call them actors—those who are in most cases destroying heritage. And we have to think about the place for the international law or some kind of another arrangement in order for them to work.

Two last remarks. Local communities. What about communities where the heritage they have is not from their culture? I have confronted this. I mentioned an exchange I had in a school in Tunisia. I was coming from the Bardo Museum. I went to a school, and I said, "Oh, you have fantastic Roman mosaics, and it's so incredible. You have to feel very proud." And a girl came up and said, "Why should I be proud of something that does not belong to my culture?" So this comes down to education. This type of work is tedious, but it is important; we have to do it. And this is exactly the soft power, both of culture and of education, if we want to protect and preserve cultural heritage

My last point. I think our discussion would benefit immensely from some really good empirical data or empirical examples that can demonstrate what we want to achieve. We spoke about how Borobudur was cleaned after the eruption of the volcano, and the Muslim community was caring about cleaning a Buddhist temple. This is a small thing, but there are many more that are good examples of this type of caring about cultural heritage that is not exactly ours. Or it is ours but much neglected. There are other points, but these are some of the ideas that came to my mind just today.

**ISMAIL SERAGELDIN** I would like to thank you and thank everybody for this. It has been a very, very stimulating couple of days. But I still have two more things that I would like to emphasize. One is the fact that there is a case, a very special case, of historic cities or historic districts where, in fact, as I tried to say, the individual buildings are not very significant. But it is the whole—the character, the urban character, that intangible quality—that makes this particular sense of place meaningful and attractive. We need to also include that. When we talk about Aleppo, there is the souq, and there is a citadel, and so on. There are some important monuments per se; but beyond the monuments, there is the overall quality. And that frequently is under attack on a day-to-day basis, by local people, like the story of the parking lot that was turned into apartment buildings, and so on, which results in loss of cultural heritage over a longer period. It is like a slow, creeping disease, as opposed to war—fog of war and destruction of war. But we have to recognize that cities are living organisms, and different generations have different views about what is important, and local communities have their own perspective about what they need. I think that part—the historic cities part or the historic districts part—was not, perhaps, sufficiently captured in our discussion.

And finally, I would return again to the suggestion that I think we can do something short of intervention during or immediately after wars and conflicts. And that would be to take the approach of disaster-risk reduction. We want this to be not just for protection against a tsunami or a nuclear meltdown; we want it to be also to protect cultural heritage against the ravages of time or the ravages of the insensitivity of particular people. And there again, like Irina said, you have education and culture and so on.

**SCOTT SAGAN** I have learned a lot, so thank you. Three points. First, on the laws of armed conflict, there are often differences between what people will call standards and rules. And the metaphor that I have been using is driving. The rule is you cannot drive above seventy miles an hour. The standard is that you cannot drive recklessly. And when you design international rules, you have to choose which of those, and how much emphasis, how much specificity, you want, versus how much judgment you want. Most of what we have been talking about is standards. "Proportionality" does not tell you how you actually measure; it just tells you that you have to think about making a measure. "Feasible precautions" does not say what feasible is; it says that you have to take some risk or make an assessment. There are two standards, however; I mean, two cases where there are rules. That is, you do not deliberately kill civilians. The principle of distinction is strict. And I think we just need to have such. You do not deliberately destroy cultural heritage. That is a rule. That is not a standard. That is not one that you have to make judgments about. So viewing this in that straightforward way is important. And what I think some of the dangers are is that when somebody starts violating a rule, it may soften your views about the standards. We have to be very cautious that as we are combating people who are breaking rules, we do not, as we did with torture in the United States, say, "Well, it's okay to torture these guys because of what they've done." We should not change our views about how we evaluate standards because of that. And therefore, I think that is a cautionary note.

Second, I still think that it would be very valuable to try to figure out whether you should think about cultural heritage as a part of collateral damage that you are trying to avoid, measuring it against military advantage, or whether you should think about cultural heritage as part of military advantage broadly conceived to include peace and reconciliation contributions afterward. That is a very different conceptual framework; it could lead to different areas.

**PAUL H. WISE** My suggestion is that we recognize that we need to enhance the political costs and enhance the political benefits of protecting cultural sites. And to do that will require technical guidance, new norms, education, empirical analysis. But it will ultimately depend on doing things differently than we have done them in the past. The challenges that we are facing are different in nature and intensity, and the status quo approaches need to be rethought, in my view. And I think the crucial issue will be to create linkages with disciplines and arenas of activity that are equally committed to social well-

being and the protection of lives and to craft our analyses and create a kind of approach that we have discussed here for the past two days but make it accessible and compelling to other groups that are essential to creating, if you will, solidarity across different dimensions within a broad commitment to human life and social well-being. It will include enhanced voices from the victim communities. I think that is clear for local communities; that it is as increasingly essential to the protection of humanitarian workers as it is for cultural sites. But I would also suggest—and this is peculiar, as a pediatrician sitting in the Getty—that we look at other disciplines and forms that provide deeper insight into the power of cultural heritage to shape social well-being. I am talking about artists, musicians, poets, and novelists, because they can capture in different ways the importance of some of the cultural, not only objects, but intangible cultural concerns that academics and anthropologists, archaeologists, and a pediatrician could never do. As this initiative moves forward, whichever direction it takes, it should be very purposeful in thinking about how to build these bridges, how to make these analyses and concerns accessible and also compelling to the other essential voices that will ultimately prove highly beneficial to raise the political cost so that there is enforcement and enhance the political benefits that could shape a greater state or non-state commitment to the protection of sites. Non-state actors respond to political costs and benefits like anybody else. And questions of legitimacy and the use of coercion are essential. But others are worried about this, too, and struggling with the same landscapes. My hope is that we can broaden this conversation and ultimately make it accessible and powerful to those essential groups.

# ABOUT THE PARTICIPANTS

**James Cuno, co-convenor**
President and CEO
J. Paul Getty Trust

**Thomas G. Weiss, co-convenor**
Presidential Professor of Political Science
CUNY Graduate Center

✦ ✦ ✦

**Simon Adams**
Executive Director
Global Centre for the Responsibility to Protect

**Irina Bokova**
Director-General
UNESCO (2009–17)

**Mounir Bouchenaki**
Adviser, UNESCO
Adviser, Bahrain Authority for Culture and Antiquities

**Hartwig Fischer**
Director
British Museum

**Helen Frowe**
Professor of Practical Philosophy
Wallenberg Academy Fellow, Stockholm University
Director, Stockholm Centre for the Ethics of War and Peace, Stockholm University

**Benjamin Isakhan**
Associate Professor of Politics and Policy Studies
Deakin University

**Paul H. Wise**
Richard F. Behrman Professor of Child Health and Safety
Professor of Pediatrics and Health Policy
Senior Fellow, Center on Democracy, Development, and the Rule of Law, and the Center for International Security and Cooperation
Freeman-Spogli Institute for International Studies
Stanford University