

Cultural Heritage & Resilience in International Law

Prof. Valentina Vadi
Associate Professor - University of
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Outline

- Cultural Heritage
- Global cultural governance
- What role for resilience?
- Case studies
- Preliminary Conclusions

Cultural Heritage



UNESCO (2025)

Defining Heritage

- Legacy

- 5 types



Why Heritage Matters

- Individual human rights
 - Cultural diversity
 - Human flourishing
- Public interest
 - Common interest of humankind
 - International peace and security
 - Prosperity
 - At the heart of international law

Global Cultural Governance

- Multilevel governance
 - international, regional, national
- Fragmented legal framework
 - different legal objects of protection
 - UNESCO instruments
 - soft character
- Substantive overreach, procedural underachievement

'Soft' Character

- Lack of supremacy
- Obligations of means rather than results
- Wide margin of appreciation as to how to implement obligations
- Lack of dedicated courts and tribunals

Eurocentric Bias?



1248 properties;

972 cultural; 235 natural; 41 mixed

(Source: UNESCO 2025)

'Heritagization'

- Respect of HRs is built in UNESCO treaties
- Yet, community engagement remains scarce
 - Indigenous communities evicted from their lands
 - Top-down approaches
- Risk of overemphasizing heritage
 - Why do we protect heritage?
 - Heritage as heritage or the heritage people wants?

Utopian Approach?



The sinking of the San José,
National Maritime Museum

What Role for Resilience?

Resilience

- Resilience = the ability to adapt well in the face of adversity
- Capacity of a material to return to its original shape after being deformed
- Not only bouncing back but also bouncing forward



Why does it matter?



The Great Wave off
Kanagawa, Katsushika
Hokusai, 1831-1833

- Resilience thinking is particularly appropriate in times of crisis
- Cultural heritage is facing existential threats such as climate change, overtourism, development, armed conflict



European Union: Copernicus Sentinel-2 imagery of Venice

Resilience thinking help address key questions about what heritage deserves protection, by whom, why, when, and how it should be protected.



Climate Change

- Sea level rise threatens Venice and other coastal world heritage sites and communities
- Arctic heritage disappears
- Acidification damages coral reefs
- Forests face megafires
- Entire regions face desertification

Overtourism



- World heritage inscription dramatically increases tourism
- Overuse
- Infrastructure pressure
- Commodification
- Overcrowding

Development Pressure



- Listed in 2004
- Planned development and construction of a new stadium
- Cultural vandalism or cultural investment?

Liverpool Maritime Mercantile City
©UNESCO 2025

Armed Conflict



Timbuktu, Mali,
© El-Boukhari
Ben Essayouti



© UNESCO
Author: Graciela
Gonzalez Brigas

CH & Resilience

- ❖ CH as a source of resilience, strengthening the individual and community's capacity to recover from diverse threats



CH & Resilience

- ❖ CH as a repertoire of adaptive knowledge systems



Cultural Governance & Resilience

- Reciprocity
- Cultural governance as a resilient system
- Making cultural heritage more resilient



Preservation Paradigms

■ OLD

- Heritage as static &
- Separate from living communities
- Top down
- Fragmentation
- Defensive

NEW

- Heritage as a dynamic source of strength subject to evolution
- Protecting heritage with local communities
- Polycentric governance
- Interdisciplinary
- Proactive approach

Digital Resilience



3D projection of the
Buddhas (BBC News)

Digital resilience: Promises

- Digital documentation can ensure the virtual resilience of CH
- Information survives even if the physical site is destroyed
- It can enhance public accessibility and epistemic resilience



Digital Resilience: Pitfalls

- Can it replace living heritage or monuments?
- Is it real success?
- It can introduce new vulnerabilities:
- It can become a new barrier due to a technological gap
- Problem of technological obsolescence

Case Studies

Le Morne



Legal Resilience

- 'the inscription of Le Morne as a UNESCO World Heritage Site was in the public interest of Mauritius and its people, ... it was a noble goal consistent with the objective of preserving the history of the place, honoring the dignity of the slaves who lived and died there, creating a symbol of freedom and human dignity, and – last but not least – preserving the physical beauty of Le Morne. In sum, [the] [r]espondent was fully entitled to prohibit any development at Le Morne ... in the interests of the people of Mauritius – and it did so.' Professor Stanimir Alexandrov, Dissenting Opinion, 14 February 2020

Against Resilience?

Risk of co-option:

Shifting the burden of adaptation
on vulnerable communities rather than
addressing structural inequities

Triple Jeopardy

1. Those who did not contribute to climate change suffer the most because of its effects
2. They also risk losing their traditional land and lifestyle so that other societies can decarbonize and power their high-consumption lifestyles
3. They also do not get the clean energy!

Indigenous Resilience

- Indigenous peoples have survived colonization, cultural genocide, forced displacement and environmental destruction
- Across the Americas, Australia, New Zealand, Scandinavia, and elsewhere
- Their resilience deserves recognition and support
Their legal entitlements should be respected and fulfilled;
- Heritage loss should not be framed as an adaptation issue; rather, it is a justice issue

Policy Options

Policy Options

- Treaty Interpretation
- Treaty Drafting

Policy Option I: Interpretation

- Treaties are interpreted as living instruments that evolve over time.-
- Recent interpretations highlight the importance of community participation.
 - Operational Guidelines
 - OUV?

Treaty Interpretation

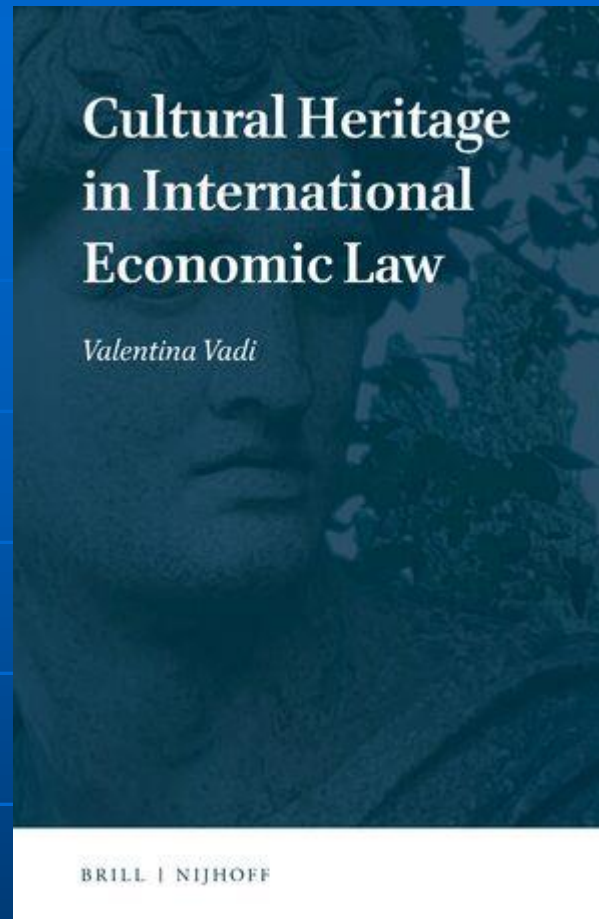
- Article 31.3 (c) VCLT:
‘There shall be taken into account, together with the context, ... any relevant rule of international law applicable in the relations between the parties’.
- International cultural heritage law as part of international law
⇒ **Holistic Approach**

Policy Option II: Treaty Drafting

- 2003 Convention on Intangible Cultural Heritage
- 1992 introduction of cultural landscapes as a World Heritage category

Conclusions

- Complex interplay between heritage, resilience, and international law
- Tensions between:
 - conservation and adaptation,
 - cultural sovereignty and international law,
 - resilience and accountability,
 - technical interventions and root causes of vulnerability
- Mutual supportiveness, but human rights must be respected -> legal resilience and rule of law



Thank you!