The Significance of Cultural Heritage for State Stability and its Protection by Public International Law

Kerstin Odendahl & Mayte Peters

The destruction of the Buddha statues of Bamijan by soldiers of the Taliban Regime in March 2001 and, two years later, the looting of the National Museum in Baghdad during the Second Gulf War were met with widespread disbelief and shock. In both cases, the pieces of art that had been destroyed or stolen were important historic objects forming part of the cultural heritage of Afghanistan and Iraq respectively. Yet the question remains – why exactly was the loss of this heritage such a disaster?

Cultural heritage does not only consist of “old stones”. It is a much wider concept, entailing both tangible and intangible elements, and gaining its relevance for society through political implications stemming from its function for collective memory and identity. Considering that state stability depends on the social acceptability of stable state institutions, cultural heritage has a significant role with regard to state stability.

I. The significance of cultural heritage for state stability

From a political science viewpoint, states can be defined “as multidimensional arenas in which different groups compete for resources by using all kinds of means – technological, organisational, ideological – to occupy strategic nodes in the distribution of power.” In a stable state, political and legal institutions will be able to effectively implement a set of rights and obligations governing the distribution of resources in an efficient, predictable manner that is able to

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stabilise expectations. Cultural heritage is in turn essential for the social accept-
ability of state institutions.

The significance of cultural heritage for state stability stems from its funda-
mental role for the communication of a specific collective memory, which forms
the basis of collective identity. Cultural heritage may have implications for state
stability in two major respects. First, the state itself needs to be based on a certain
cultural heritage in order to gain legitimacy with state-actors. Secondly, the state
needs to provide for stability by averting de-stabilising opposition from culturally
heterogeneous non-state actors, who may exploit cultural heritage for political
purposes by tying cultural heritage to certain identity markers.

1. Cultural heritage, collective memory and collective identity

In every society, culture serves as the central provider of meaning and identity.
It shapes and preserves a society’s collective memory, based on which a social
order is established and maintained. Collective memory comprises communi-
cative and cultural memory. While the communicative memory of a society
essentially consists of the life-memory of its living members and disappears
with their death, cultural memory is based on ceremonial communication and
gains its validity in the long-term. It is specific for each community and entails
a particular inventory of tangible and intangible cultural heritage, in the care
of which it stabilises and communicates its self-perception.

Cultural heritage can act as a carrier of collective memory in many ways.
Both tangible and intangible cultural heritage are relevant in this respect. The
past is transmitted into the present through old buildings, libraries and historical
landmarks as well as through myths, fables, language, music, systems of value
and political or legal traditions. The list of cultural heritage is practically endless
as every society has different means of transmitting knowledge across time.

In this context the term heritage describes the relationship between remem-
bering and identity. Identity is never punctual but rather the result of unique
processes that have culminated, through gradual development, in the status
quo. According to Manuel Castells, identity is “the process of construction of
meaning on the basis of cultural attribute, or related sets of cultural attributes,

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2 Jan Assmann, Das kulturelle Gedächtnis: Schrift, Erinnerung und politische Identität
3 Jan Assmann, Kollektives Gedächtnis und kulturelle Identität, in Kultur und Gedächtnis 9, 15
(Jan Assmann & Tonio Tölscher eds., 1988).
4 Peter Wagner, From Monuments to Human Rights: Redefining “Heritage” in the Work of the
Council of Europe, in Council of Europe, Forward Planning: The Function of Cultural
heritage/resources/ECC-PAT(2001)161.pdf>. See also Pierre Nora, Zwischen Geschichte