Striking a balance between local and global interests: communities and cultural heritage protection in public international law

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Propositions relating to the dissertation

STRIKING A BALANCE BETWEEN LOCAL AND GLOBAL INTERESTS
Communities and cultural heritage protection in public international law

by Sophie Starrenburg

1. While the use of universalist rhetoric in cultural heritage law appears to challenge the central role of the state in the international legal order, it actually reinforces it.
2. An evolutionary reading of UNESCO's cultural heritage conventions establishes the notion of 'living heritage value' as a core element of their underlying object and purpose.
3. Despite the perceived normative softness of cultural heritage law, it is more powerful than usually assumed when viewed from the perspective of individuals and local communities.
4. While most heritage practitioners fear that cultural heritage will receive too little care, in practice it is equally important to guard against the potentially detrimental effects of too much care.
5. The consultation of local communities by state actors cannot be deemed genuine if the desired outcome of this consultation has already been established in a decision by an international body such as the World Heritage Committee, even if this decision is not formally binding on the State Party concerned.
6. When balancing competing interests with respect to the management of heritage within the domestic legal sphere, decision-makers should not give weight to the fact that the heritage has been included on an international list – unless there are mechanisms through which affected individuals and communities can participate in decision-making concerning the heritage in question.
7. Although many obligations established by cultural heritage treaties might be considered as applying *erga omnes partes*, this status does not help to circumvent the issues cultural heritage law faces with respect to enforcement.
8. Human rights are relevant regardless of the forum in which international legal decisions are made. Therefore, the infamous assertion in 2015 by a state representative that human rights are irrelevant to the decision-making of UNESCO because it is not in Geneva is false.
9. A critical flaw in the logic of participatory cultural heritage law is its inability to account for other forms of legal authority beyond those derived from the laws of the state or public international law.
10. Cultural heritage laws are entwined with broader histories of imperialism and colonialism, yet these historical connections often go unexplored in contemporary legal histories of the field.
11. The nature of contemporary international legal research prevents scholars from obtaining a view of the field as a whole, let alone the connections between international and domestic law. This is to the detriment of the discipline.
12. Works in translation should be judged on their own merit, rather than solely on the basis of their perceived fidelity to the original poetry or prose.