



EUROPEAN

POLICY BRIEF



CULTURAL MEMORY: HERITAGE RIGHTS AND CULTURE

This policy brief summarises the conceptual and policy context, identifies key issues and challenges, and raises open questions, with regard to the specific focus on heritage rights and culture within the Cultural memory axis.

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INTRODUCTION

Since the second half of the last century, culture has experienced a profound mutation, through which its position and role in social dynamics have been transformed to constitute an essential basis of today's society. Cultural digitization and globalization have radically altered the cultural ecosystem and intensified the relationship between cultural identity, cultural heritage and cultural expression. This transformation has occurred both within the professional cultural sector as well as in society as a whole.

The [CulturalBase. Social Platform on Cultural Heritage and European Identities](#) project, funded by the European Union's Horizon 2020 Research and Innovation programme, aims to identify and analyse the main current debates and controversies as regards culture, in particular in

relation to cultural heritage and European identities from a double standpoint, namely, an analytical as well as a public policy perspective. To carry out this work, three axes have been prioritised: cultural memory, cultural inclusion and cultural creativity.

This **policy brief** addresses the Cultural memory axis and, more specifically, **the issue of heritage rights and culture**. It summarises the conceptual and policy context, identifies key issues and challenges, and raises open questions, particularly with regard to the specific focus on heritage rights and culture within the Cultural memory axis. Finally, the brief offers a series of recommendations, which can contribute to the understanding of the different dimensions of recent memory theories and discourses as well as related policy strategies particularly in the cultural heritage sector in Europe.

EVIDENCE AND ANALYSIS

This brief has several policy implications since cultural heritage is concerned in particular with heritage rights “which carry with them many of the ambiguities of human rights”¹.

However, given recent societal developments as for example in post-conflict societies, a crucial question is what kind of challenges exist and which questions must be raised when a cultural rights approach, in general, and a heritage rights approach, in particular, become part of both heritage policies and practice.

In other words, can the heritage rights dimension open up the debate to other directions and conclusions? What are the most challenging questions to be answered?

The conceptual and policy context

The current debate on heritage rights is embedded in a specific conceptual and policy context. The past few decades have witnessed a variety of conceptual and policy developments at both European and international levels which have acknowledged the meaning that cultural heritage can bring to society as a whole²:

- In the 1970s there was a conceptual transformation as regards cultural heritage from a conservation-led to a value-led approach.
- During the 1990s, the principles of “sustainability” started to be included more prominently in policy documents on cultural heritage, increasingly combined with the objective of “development”³.
- More recently, a growing recognition, not only across Europe but also in the rest of the world, of the all-inclusive nature of the historic environment, where tangible and intangible assets are no longer perceived as separate from one another.
- The Council of Europe Faro Convention⁴, contributed to the policy shift towards people and human values in the centre of a renewed understanding of cultural heritage.

The greater recognition of the importance of cultural heritage and the policy shift at the EU level became evident through a series of conferences, events and of far-reaching strategic policy documents adopted by the EU Council of Ministers and the Council of the European Union⁵.

¹ Chalcraft, Jasper (2016): Negotiation Heritage Rights, Vision Document (cultural memory axis), p.2.

² CHCfE (2015): Cultural Heritage Counts for Europe, page 10/11.

³ Hangzhou Declaration (2013): Placing Culture at the Heart of Sustainable Development Policies. UNESCO International Conference.

⁴ Council of Europe (2005): [Framework Convention on the Value of Cultural Heritage for Society](#)

Faro Convention

The principles and spirit of the Faro Convention play a particular role for the issue discussed in this brief as the Convention has linked together heritage rights and human rights.

The Convention's Preamble states: "Recognising that every person has a right to engage with the cultural heritage of their choice, while respecting the rights and freedoms of others, as an aspect of the right freely to participate in cultural life enshrined in the United Nations Universal Declaration of Human Rights (1948) and guaranteed by the International Covenant on Economic, Social and Cultural Rights (1966)".

"The Parties ... agree to:

- a) recognise that rights relating to cultural heritage are inherent in the right to participate in cultural life, as defined in the Universal Declaration of Human Rights;
- b) recognise individual and collective responsibility towards cultural heritage;
- c) emphasise that the conservation of cultural heritage and its sustainable use have human development and quality of life as their goal.

Article 4, Rights and responsibilities relating to cultural heritage, states:

"The Parties recognise that:

- a) everyone, alone or collectively, has the right to benefit from the cultural heritage and to contribute towards its enrichment;
- b) everyone, alone or collectively, has the responsibility to respect the cultural heritage of others as much as their own heritage, and consequently the common heritage of Europe;
- c) exercise of the right to cultural heritage may be subject only to those restrictions which are necessary in a democratic society for the protection of the public interest and the rights and freedoms of others."

United Nations 2017 "Report of the Special Rapporteur in the field of cultural rights"

As to the right to a cultural life as a core part of human rights, a recent new report engages explicitly with these issues⁶. In March 2017, the United Nations' Human Rights Council published a "Report of the Special Rapporteur in the field of cultural rights"⁷.

On 3 March 2017, the UN Special Rapporteur in the field of cultural rights, Karima Bennoune, told the Human Rights Council in Geneva: "This is a wake-up call for our times. We face a global avalanche of hate in the form of rising fundamentalism and extremism around the world. This must be tackled with urgency, using a human rights approach. Culture and cultural rights are critical components of this response".

In the section "A human rights approach to fundamentalism and extremism" it is stressed that "Cultural rights are a critical component of the human rights approach and the defence of these rights today requires tackling fundamentalism and extremism. Policies that combat discrimination in the right to take part in cultural life or promote freedom of artistic expression, scientific freedom

⁵ Council of the European Union (2014a): Conclusions on Cultural Heritage as a Strategic Resource for a Sustainable Europe, adopted on 21 May 2014; Council of the European Union (2014b): Conclusions on Participatory Governance of Cultural Heritage, adopted on 25 November 2014); European Commission (2014): Communication Towards an Integrated Approach to Cultural Heritage for Europe, adopted on 22 July 2014.

⁶ This report follows a 2016 report and the work of Ms. Bennoune's predecessor Farida Shaheed, in particular her 2011 report Access to Cultural Heritage as a Human Right.

⁷ United Nations, Human Rights Council (2017): [Report of the Special Rapporteur in the field of cultural rights. Special Rapporteur: Karima Bennoune.](#)

and education in accordance with international human rights norms are core aspects of combating fundamentalism and extremism“. (Nr. 20, page 6.)

Furthermore, that “Arts, education, science and culture are among the best ways to fight fundamentalism and extremism. They are not luxuries, but critical to creating alternatives, making space for peaceful contestation, promoting inclusion and protecting youth from radicalization“. (Nr. 22page 6.)

The report concludes: “Cultural rights, understood as fully integrated within the human rights system, are critical counterweights to fundamentalism and extremism; they call for free self-determination of individuals, respect for cultural diversity, universality and equality“. (Nr. 95, page 20.)

Challenges and questions

Both the human rights as well as the cultural rights approach, particularly for their relevance as regards access to and participation in culture, are of crucial importance for all three axes of the CulturalBase project: Memory, Inclusion and Creativity.

The research undertaken within the Cultural memory axis has identified various dimensions of the current heritage practice: i.a. different uses of heritage, from reshaping local communities to branding strategies⁸; educational aspects of heritage as learning and entertaining resources⁹, or the overarching question of how heritage rights are negotiated¹⁰.

As regards a human rights approach to cultural heritage, this policy brief has identified the following four main challenges¹¹:

Challenge 1: Culture is increasingly “owned” by groups who use heritage to assert their identity.

Challenge 2: European institutions put human rights-based approaches at the core of how they manage, teach and represent heritages.

Challenge 3: Ideologically-motivated destruction of cultural heritage increases.

Challenge 4: Should Europe promote heritage sites linked to human rights issues?

One overarching questions still remains, namely if a focus on heritage rights can open discussion and foster a more ethical and empathetic heritage sector, and citizenship.

POLICY IMPLICATIONS AND RECOMMENDATIONS

Based on the analysis presented so far, a series of recommendations are provided aimed at a range of policy-makers at European, national, regional and local levels.

1. CulturalBase has demonstrated that “cultural memory“, in all of its diverse dimensions, is a critical factor in understanding the current Cultural Heritage (CH) discourse in Europe, and beyond. Memory must be treated as a fundamental part of Europe’s past and present and as an important factor in understanding, interpreting and communicating today’s cultural heritage. A promising direction for future research is to consider European cultural heritage as an entangled mosaic of

⁸ Dominique Poulot: “Uses of Heritage” (March 2016)

⁹ Isidora Stanković: “Valuing Heritage as Learning and Entertaining Resources” (March 2016)

¹⁰ Jasper Chalcraft: “Negotiating Heritage Rights” (March 2016)

¹¹ Jasper Chalcraft: “Negotiating Heritage Rights” (March 2016)

histories, to compare the ways in which different memories intersect with each other and to map such intersections spatially and temporally.

We recommend supporting projects that address and promote a broader historical understanding and greater knowledge of issues related to Cultural memory strategies and practices in different communities in Europe. Such projects should, whenever possible, include other world regions whose heritage is intertwined with that of Europe¹².

2. CulturalBase has discussed and supported a pluralised concept of European cultural heritage which can be seen as an expression of a more globally connected world. This actually raises the issue of the role of European cultural heritage in international relations (cultural diplomacy).

We recommend further research on the role of European cultural heritage in international relations. This research should analyse the openness of European heritage to decentralised and subaltern readings and the engagement of academic and policy communities into intercultural dialogue platforms for the elaboration of entangled, often painful and conflictual, memories and identities¹³.

3. In their current understanding and practice, “heritage rights” are concerned with different research disciplines which usually operate in single, hardly connected spheres. Questions raised in the CulturalBase Cultural memory axis substantiate that the issue of “heritage rights” should be addressed through interdisciplinary approaches rather than through single fields of research. Relevant research disciplines which should be brought together in interdisciplinary teams and projects include socio-economic science and humanities as well as technical and legal sciences.

We recommend to support interdisciplinary research that addresses both the technical-legal aspects of applying heritage rights as well as their broader social impacts¹⁴.

4. “Heritage rights” pose interesting but complex questions. The “rights” perspective sheds light on the conflicting aspects of heritage with regard to communities’ memories and the shaping of social identities. Although the “rights” paradigm is recognised as problematic by some (for example, issues of legal “ownership” and reinforcing ethnos-based identities), it increasingly orientates practice and is being written into legal instruments which shape heritage policies. The digital shift and intellectual property rights specifically challenge the heritage rights debate and practice.

We recommend to encourage projects and platforms that develop tools (such as handbooks, roadmaps, toolkits) so that individuals, communities and heritage activists can discuss “heritage rights” in relation with their social identities and use these in constructive ways¹⁵.

5. Community engagement is a relevant issue in current heritage practices in Europe. How communities co-operate and how they are incorporated or are excluded, is crucial to understanding the impacts of heritage-making on contemporary societies. This is particularly relevant where policy makers push heritage as a tool of development, income generation and a focal point for social cohesion.

5.1. We recommend more explorative research and mapping of heritage practices on how communities “participate” in heritage-making and on how various kinds of memory work in different kinds of communities are established, such as in the case of migrants and refugees, or, the heritage of slavery.

¹² Cultural Base (2016): “Rethinking Research and Policy Agendas on Cultural Heritage and European Identities”, p. 2.

¹³ Cultural Base (2016): “Rethinking Research and Policy Agendas on Cultural Heritage and European Identities”, p. 3.

¹⁴ Cultural Base (2016): “Rethinking Research and Policy Agendas on Cultural Heritage and European Identities”, p. 6.

¹⁵ Cultural Base (2016): “Rethinking Research and Policy Agendas on Cultural Heritage and European Identities”, p. 7.

5.2. We recommend focused research on what methods might actually strengthen community and grassroots organisation thus addressing the need for participatory approaches to cultural heritage from a different and complementary angle.

6. The digital challenge for cultural heritage practice in Europe is evident. Much of the promise of the digital as a phenomenon that can democratise and open access to heritage as a social resource has not been realised. Instead, the digital divide has amalgamated existing and new forms of exclusion. However, more explicit social uses of heritage through digital technologies do exist, and new communities of practice are emerging around these, as well as new kinds of solidarity. Not only do we need to know more about the factors that make such digital heritage resources useful, there is a need to support educational and non-commercial uses, helping to create a more diverse digital landscape oriented to social uses.

We recommend further research on the current use and exploitation of digital heritage resources and on how organisations, activists and networks working with digital heritage resources could be supported more effectively. Relevant research issues in this context include structural and process-oriented approaches facilitating the use of digital heritage resources, barriers to access to these resources as well as methods for safeguarding against various forms of commercial or ideological appropriation.¹⁶

RESEARCH PARAMETERS

[CulturalBase documents](#) used for this Policy brief include:

- Jasper Chalcraft: “Negotiating Heritage Rights” (March 2016)
- Dominique Poulot: “Uses of Heritage” (March 2016)
- Isidora Stanković: “Valuing Heritage as Learning and Entertaining Resources” (March 2016)
- CulturalBase Workshop Report “Which Museums for the (European) Heritage of the 21st Century” (Paris, 17 January 2017)
- Draft agenda proposal “Rethinking Research and Policy Agendas on Cultural Heritage and European Identities” (November 2016) during the workshop held in Florence in December 2016

Other documents:

United Nations, Human Rights Council (2017): [Report of the Special Rapporteur in the field of cultural rights](#). Special Rapporteur: Karima Bennouna.

Council of Europe (2005): [Council of Europe Framework Convention on the Value of Cultural Heritage for Society](#).

CHCFE Consortium (2015): [Cultural Heritage Counts for Europe](#). Published on behalf of the CHCFE Consortium by the International Cultural Centre, Krakow. June 2015.

PROJECT IDENTITY

PROJECT NAME CulturalBase. Social Platform on Cultural Heritage and European Identities.

¹⁶ Cultural Base (2016): “Rethinking Research and Policy Agendas on Cultural Heritage and European Identities”, pp. 5/6.

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WEBSITE

<http://culturalbase.eu>

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FURTHER READING

[CulturalBase documents](#) used for this Policy brief include:

- Jasper Chalcraft: “Negotiating Heritage Rights” (March 2016)
- Dominique Poulot: “Uses of Heritage” (March 2016)
- Isidora Stanković: “Valuing Heritage as Learning and Entertaining Resources” (March 2016)
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