

EDITORIAL

Introduction to the special issue “Bridging epistemic divides in cultural heritage protection: An exercise in confrontation and conversation”

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This special cluster was first conceived in May 2023 during a workshop entitled “Bridging epistemic divides in cultural heritage protection: An exercise in confrontation and conversation” at the European University Institute (EUI), Florence. The workshop aimed to bring together individuals involved in cultural heritage lawmaking and policy across different geographic and intellectual spaces. As researchers in cultural heritage policy, we have often felt both perplexed and frustrated by the ways in which notions of expertise create divisions between people and their knowledge. What we found even more puzzling was that only certain disciplines seem interested in examining these barriers. For instance, critical heritage studies frequently address absences and biases in norm-making, whereas fields like international law and history are often reluctant to recognize their roles in maintaining epistemic inequalities. Our workshop sought to break down these disciplinary silos as a step toward overcoming epistemic exclusions.

In the two years that have passed since the workshop, the everyday social and political ramifications of this siloization have become dangerously overt. The ongoing genocide in Palestine has rightly prompted many indictments of international humanitarian and criminal law. Yet what has often gone unnoticed is how ostensibly peripheral regimes such as property law undergird these larger systems of exclusion and carcerality. Heritage law, in particular, perhaps because of the veneer of normative benevolence under which it operates, forms a very important part of this carceral fabric. However, the siloization of legal inquiry has enabled this to go unscrutinised. In our view, this makes endeavours to facilitate dialogue between those who situate themselves within and those who operate outside of the discipline of heritage law even more pressing.

In this spirit, we designed the workshop as a space where diverse epistemological perspectives could flourish. Inspired by Mbembe’s calls for epistemic pluriversity, we aimed to decenter the hegemony of knowledge production and instead embrace a “horizontal strategy of openness to dialogue among different epistemic traditions.”¹ Together with our participants, we reflected on our own epistemic privileges and complicities, the colonial legacies of the institutions we collaborate with, the epistemic implications of the languages we produce legal scholarship in, and the way in which academic formats and access

¹ Mbembe 2015.

restrictions continue to structurally exclude certain knowledge producers. In grappling with these realities, we were all compelled to sit with the discomforts they laid bare. The unsettling reality is that heritage law is intimately entangled and woven into a web of power, violence, and exclusion. This prompted discussions that were often emotional and at times even heated. Conversations moved across geographies and histories, tracing the role heritage has played in the decades-long oppression of the Palestinian people and how it continues to echo the logics of colonialism across Africa and Asia. Participants explored the quiet dominance of local hegemonies among religious minorities in the Middle East and the subtle ways these dynamics embed themselves within heritage policy. Reflections also turned to the imprint of caste in the recognition and erasure of heritage in South Asia and the unenviable task of renegotiating the past in post-Soviet spaces, where memory politics remain contested and unresolved.

We treated the workshop as the start of a reflexive, rooted conversation rather than an isolated academic opportunity. Participants were invited to continue this conversation by tapping into their key takeaways from the workshop and channelling these takeaways back into their heritage work. In May 2024, we published a blog symposium on *Völkerrechtsblog*. The symposium featured five contributions that zoomed into different locations of critique within heritage themes such as custodianship, epistemic authority in heritage management, and the normative role of law in heritage protection. This special cluster represents the next step of this conversation.

One of the realities we had to contend with was how these choices of outputs (such as a blog symposium or a special cluster within an academic journal) inevitably, and for multiple reasons, excluded some of our workshop participants. Indeed, out of the 40 participants who joined the workshop, only a few identified as academics, and that naturally made them more conversant in academic speak and academic formats such as this. For others, this exclusion was a factor of a lack of training and support for writing and critique. In some cases, the political stakes of publishing critical heritage pieces were simply too high.

Conscious of these limitations, we see this special cluster as a well-intentioned but limited part of the larger conversation we hope for the workshop to trigger. This issue brings together four excellent pieces of scholarship—pieces in which authors have bravely embraced our invitation to critically reflect on pedigreed doctrinal claims made in heritage law and policy, steered methodological innovations, and channelled their discomfort with their own positionality and even with the exercise of producing critique. The four pieces by early career researchers provide a new voice and engage with heritage law through different angles.

Matilde Dani's piece explores the role of decolonization in museums, asking whether it is possible to create a set of shared standards that can help bring about this goal. Dani begins with an acknowledgment of the inherent political nature of museums, drawing attention to the role they played, and continue to play, in establishing hegemonic colonial epistemologies which produce/d highly problematic readings of different cultures. Setting her work within the broader efforts at decolonization that have occurred since the mid-1990s within museum studies, Dani's piece hinges on a key question: In attempting to decolonize ethnographic museums, might the production of a set of common and shared standards and practices be a useful tool? As the author notes, on the face of it this is a somewhat unusual question. Indeed, one of the key critiques of much decolonization work centers on the epistemic silencing that emerges from the imposition of ostensibly universal notions of heritage, protection, and appropriate practice. Through an analysis of five major European ethnographic institutes (the *Ilaria Alpi Italo-African Museum* in Rome, the *Weltmuseum* in Vienna, the *Royal Museum of Central Africa* in Tervuren, the *Linden Museum* in Stuttgart, and the *Quai Branly* in Paris), the author offers a critique of the various decolonizing efforts that have been offered in each context. Drawing on the work of Ariese and Wróblewska, in which five “objective parameters” are proposed as useful tools for assessing the extent of decolonization (visibility, inclusivity, decentering, education, and transparency), and

through qualitative interviews with staff at the museums, Dani highlights the various successes and failures of each museum's attempt to decolonize their institutions. Drawing on this analysis, Dani proposes her own set of five minimum standards, which she suggests could be applicable in almost all museum contexts, and through which museums can engage in a reflexive assessment of the extent to which they are truly engaging in decolonization.

Alesia Koush's piece also considers the ways in which various actors engage with the material culture of others, yet with a focus on the illicit paths through which such objects are acquired. To explore this issue, Koush assesses the extent to which the illicit trafficking of cultural property can be understood as a human rights issue. She focuses on the context of Iraq and highlights how Iraqi heritage and legal experts played a crucial role in bringing this issue to the attention of the international community. She highlights Iraq's long-standing practice of submitting legal opinions on the drafts of relevant international documents, which dates back at least to the 1930s, as well as their more recent work of sponsoring the raft of UN Security Council resolutions on the issue that have emerged since the 1990s. Through an analysis of the process by which illicit trafficking has risen to become a top-tier issue on the international stage, she demonstrates how Iraqi actors have been crucial legal entrepreneurs who have successfully reframed the issue of trafficking as a rights issue.

Anaïs Mattez's piece shifts focus to the World Heritage Convention. Responding to Third World Approaches to International Law ('TWAIL') and critical heritage studies literature criticizing the statist implementation of the convention, the piece draws on contemporary practice to argue that the compliance mechanisms within the convention can and do offer opportunities for Indigenous communities to negotiate their rights. Mattez first maps the contents of the statist critique, noting how the listing and delisting procedures under the convention do not account for Indigenous peoples' participation or consultation. In other cases, the convention imposes an artificial distinction between cultural and natural landscapes, often also associating essentialized readings of the relationship Indigenous peoples share with heritage sites recognized as cultural landscapes. Acknowledging these flaws in the implementation of the convention, Mattez offers a more optimistic take on the compliance mechanisms created under the convention. The convention prescribes a range of compliance mechanisms in case of poor implementation of state obligations, including placing sites in the List of World Heritage in Danger or instituting reactive monitoring missions. The piece examines three case studies—of Kakadu National Park in Australia, Wood Buffalo National Park in Canada, and Uluru Kata Tjuta National Park in Australia—and compares how the Mirarr community, the Miskewewin First Nation, and the Anangu community, respectively, petitioned the World Heritage Committee to leverage their claims as traditional owners and bargain for better implementation by state parties.

Andreas Giorgallis studies the concept of future generations in international cultural heritage law. The first section traces how following World War II, heritage law instruments such as the 1972 World Heritage Convention started recognizing the stakes of future generations in the preservation of tangible and intangible heritage. Since the turn of the millennium, intergenerationality is far more frequently and comfortably invoked in soft law heritage instruments, national legislations, and hard law instruments too. The piece then starts to identify the different kinds of ways in which future generations' interests are accounted for in case law of international courts: first, as a group impacted by poor protection of cultural heritage, and second, as a group to whom states owe obligations. The final section offers interesting and practical suggestions for the creation of new paradigms to safeguard intergenerational rights—paradigms anchored on guardianship, public interest, representation, participation, and impact assessment.

While the four articles are distinct in their substantive contributions, they emerge from a shared commitment to moving beyond traditional analyses of heritage spaces and regimes. Whether it is in juxtaposing a doctrinal analysis of trafficking claims with a more

sociological study of how people on the ground react to trafficking regimes or finding opportunities for anti-state resistance within otherwise statist heritage regimes such as the World Heritage Convention or envisioning frameworks to recognize intergenerationality within cultural heritage law, the four pieces identify new questions to be posed within heritage conversations and make significant inroads to developing new answers to these questions.

We recognise that it is far from easy for radical calls like these to be realized, given how hard-baked our epistemic training tends to be. So we urge readers to view these contributions as the first step in what we hope will be a long, complicated, and yet fruitful process of deworlding and reworlding. We are especially grateful to Sophie Vigneron, whose vision and editorial insights were instrumental in shaping this special cluster. We also thank the journal's editorial board for their steadfast support of this project.

This publication coincides with our larger plan to create a cross-disciplinary, global network wherein the international heritage law can be subject to a richer critique than it currently enjoys. The aim of this network—the Critical Approaches to Heritage Law and Policy Network (CAHLPN)—would be to bring a wide array of heritage actors—scholars, lawyers (both those from heritage law and those in other related areas), policymakers, frontline workers, and other on-the-ground stakeholders—from a broad range of disciplines, with experience in a wide array of contexts, into conversation with one another. In doing so, we hope both to destabilize the highly problematic assumptions upon which the current legal regime is built and to generate more innovative, creative, and epistemically just approaches to protecting heritage. In bringing legal specialists together with non-legal specialists, we also hope to enhance the legal literacy of non-legal specialists, for whom the law can often appear intimidatingly impenetrable. Our network is rooted in the conviction that while interdisciplinary engagement is essential for meeting the global challenges around heritage and its protection, the infrastructure of heritage policymaking often makes it all but impossible to create spaces for such engagement. It is our hope that the CAHLPN will go some way to overcoming this obstacle and in doing so result in a richer, more nuanced, and more just approach to cultural heritage, both for law and policymakers and for those who live around, work with, and care about cultural heritage on an everyday basis. We welcome any readers of this special cluster who feel their work resonates with the goals of this network to join forces with us.

Reference

- Mbembe, Achille. 2015. "Decolonizing Knowledge and the Question of the Archive." Presented at the Wits Institute for Social and Economic Research, University of the Witwatersrand.

Cite this article: Viswanath, Raghavi, Jessica Wiseman and Jadé Botha. 2025. "Introduction to the special issue 'Bridging epistemic divides in cultural heritage protection: An exercise in confrontation and conversation'." *International Journal of Cultural Property* 32, no. 1: 1–4. <https://doi.org/10.1017/S0940739125100052>