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## **THE HUMAN RIGHTS-BASED APPROACH IN CULTURAL HERITAGE POLICY: COMPARING INTERNATIONAL AND LOCAL STANDARDS IN JALISCO, MEXICO**

International agencies have been influential in defining what is understood by cultural heritage and how governments or, more generally, states, should approach it. In particular, the two mainstream heritage conventions sponsored by UNESCO, namely the Convention Concerning the Protection of the World Cultural and Natural Heritage and the Convention on the Safeguarding of the Intangible Cultural Heritage, have established a series of international structures and operative paradigms that constitute an effective global heritage regime (Bendix et al. 2013), significantly impacting domestic heritage policies. However, the *translation* of these frameworks is never a mechanical importing process, for standards are often altered according to local realities.

Recently, this standard-setting activity is increasingly using the human rights language not only for referring to the fundamental prerogatives as recognised in the so called international bill of rights, but also as a framework for informing heritage policy and management, and for (re)orienting it towards a more responsible practice. While this is being welcome rather optimistically, it might also have some of ‘the next bit of fashionable jargon’ (Nyamu-Musembi and Cornwall 2004: 14) to be wearing in the field.

Albeit it still appears to be the dawn of rights-based approaches to cultural heritage, this work intends, first, to identify their elemental traits in the light of the more experienced field of development, which has been implementing them for nearly two decades. Subsequently, the analysis moves to the local sphere of Jalisco, Mexico, where the indigenous sacred site of Xapawiyemeta was recently the object of cultural heritage policy, with the aim to consider how the rights-based approach is performed, if at all.

## Cultural heritage policy

The 2005 Council of Europe's Convention on the Value of Cultural Heritage for Society officially defines cultural heritage as

[...] a group of resources inherited from the past which people identify, independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions. (Council of Europe 2005: Article 2.a)

Not in vain has heritage been called 'the present past' (Basu and Modest 2015; Butler 2006): what confers something the cultural heritage label is precisely its present capacity to connect people throughout time, via an inheritance from the past that is to be carried out to the future (Blake 2015: 7; Harrison 2013: 14; Smith 2006: 84). This definition is notably broader and certainly less specific than the frequent understanding of heritage associating it with different forms of cultural property, e.g. monuments, buildings, sites and museum objects. At least within UNESCO, this was until recently the more widespread notion of cultural heritage; however, a more anthropological idea of culture as a 'way of life' (Stavenhagen 1998) underpinning cultural identity (Smith 2006: 108) was gradually incorporated to the international heritage discourse, effectively amending it. While the first conception was most remarkably expressed in the 1972 World Heritage Convention (WHC); the second one was the object of the 2003 Intangible Heritage Convention (ICH Convention).

Even in the face of different understandings of what heritage entails, from a cultural policy perspective heritage is regarded as a component of or a specific field for governmental action in the realm of culture, along with –generally speaking– the arts and communications (Paquette and Beauregard 2017: 25). To identify the governmental activities comprised within cultural heritage policy, it is useful to have a view of what the international community has deemed as pertaining to the states in this realm, as provided for in the relevant heritage treaties<sup>1</sup>. From this perspective, cultural heritage policy consists overall in the state-driven action dealing with the identification, protection, conservation, presentation, transmission, management and safeguarding<sup>2</sup> of an increasing range of domains as diverse as archaeological remains, outstanding architecture, cultural landscapes, works of art, oral traditions, craftsmanship or rituals, among others (for treaty definitions of 'heritage domains' see UNESCO 1954: Article 1; UNESCO 1972: Article 1; UNESCO 2003: Article 2.2).

The former picture gives an idea of the wide range of situations and agents converging in heritage policy, and suggests some of its inherent complexities. Interestingly,

while the state's action is the subject of recurring analysis in heritage studies, it is rarely referred to as cultural policy. Instead, the activities previously referred have been described as official heritage-making (Harrison 2013), institutionalisation of heritage (Alivizatou 2011), heritage regimes (Bendix *et al.* 2013), 'technologies of heritage governmentality' (Coombe and Weiss 2015: 45-47) or more generally, as heritage governance.

### **Defining a human rights-based approach to heritage policy**

Although cultural heritage is commonly associated with positive attributes, it can also become a problematic scenario in which policy goals are pursued at the expense of grassroots communities. Scholars like Smith (2006) and Harrison (2013) have identified a distinctive, contemporary way of dealing with heritage, in which value and meaning are officially assigned and objectified, which is largely motivated by nostalgia and fear of loss, hence significantly focused on technical preservation, and chiefly entrusted to experts. In short, a vertical practice that is very much detached from its closest constituencies, who are frequently excluded in the name of high values and ambitious purposes. It is well documented, for instance, how world heritage sites have often been listed, developed and managed with macro-economic interests and international prestige repeatedly taking precedence over pressing local needs, precluding communities from substantive benefits, sometimes even triggering or aggravating conflict (see, for instance, Gfeller and Einsenberg 2016; Silverman and Fairchild Ruggles 2008).

Locating heritage practice in its broader context and acknowledging its social impact have been the subject of growing reflection and concern among scholars and international organisations, who are identifying some of the problems of state-driven heritage work as having human rights implications (for a succinct summary see Shaheed 2011: 9-12), and are hence advocating for a human rights-based approach (HRBA) to heritage practice as a way to prevent abuses and promote an authentic people-centred practice (Ekern *et al.* 2012; Larsen 2018; Logan 2008; Logan 2012; Oviedo and Puschkarsky 2012; Sinding-Larsen and Larsen 2017). The motion comes in a global climate in which, after two decades of internationally mainstreaming human rights, the long disregarded category of cultural rights (Niec 1998) appears to be acquiring relevance (Blake 2015: 288-291), and in which the interrelations between culture and development seem to be increasingly accredited (Basu & Modest 2015; Vlassis 2018).

The HRBA has been advanced since the 1990s by international agencies working with children and women –UNICEF was a notable pioneer-, but it is probably in the development sector where it has been more widely discussed (Frankovits 2006: 5; Kirkemann and Sano:

2010). Incorporating a HRBA to this arena was very much related to comprehending development itself as a right, and represented a departure from the previous needs-based approach that posed a preponderantly economic understanding of development (Nyamu-Musembi and Cornwall 2004: 2-3; Uvin 2004: 123). The post-Cold War integral view of human rights within the United Nations, the increasing involvement of international NGOs in rights issues, and the interest of major aid donors in improving recipient institutions' governance, were crucial enabling factors towards this *new* development (Molyneux and Lazar 2003: 20-25; Nyamu-Musembi and Cornwall: 6-12). Also, the idea of participatory approaches attributed to Robert Chambers and Amartya Sen's redefinition of development as intrinsically related to freedom, have been deemed key prefigurations of this shift (Uvin 2004: 123-125).

The Office of the High Commissioner for Human Rights (OHCHR) has defined the HRBA to development as:

A conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress.

To this rather general definition it must be added that the HRBA's formulation and emphasis vary depending on who is wielding it (see, for instance, Nyamu-Musembi and Cornwall 2004: 13), albeit some common traits can be identified. In this sense, Kirkemann Boesen and Sano point out 'three possible criteria' to define a HRBA to development:

- a. [it] will **redefine** development **objectives** according to human rights obligations [...]
- b. [it] is characterised by efforts to **integrate human rights principles** such as non-discrimination and equality, participation and inclusion **into the processes** of implementing development objectives.
- c. [it] **empowers people to claim their rights** [through] measures of strengthening **advocacy** [and duty-bearers'] **accountability** as regards claims made or as regards objectives of realizing human rights. (2010: 52, emphasis added)

In brief, the HRBA to development may be summarised as both a normative and operational framework that is effectively based on human rights and oriented to their realisation as the more significant transformation development should pursue. Perhaps its most distinguishing feature is its characterisation of subjects involved in development processes as rights-holders and duty-bearers, instead of as mere beneficiaries and providers, which in turn considers aid a right that can be claimed, as opposed to charity that is voluntarily given out of good will. These considerations impact the whole development process, for it should enable and actively involve rights-holders, while strengthening duty-

bearers to be accountable to them. In such a process, those who have been usually on the weaker side of the relationship should become empowered, and structural imbalances would be thus challenged and addressed. (Batliwala, no date; Frankovits 2006: 5; Nyamu-Musembi and Cornwall 2004; Kirkemann and Sano 2010; Molyneux & Lazar 2003: 5-7; Uvin 2004: 122-166).

In the cultural heritage arena, the HRBA has been addressed quite inconsistently and remains still to be developed beyond mere references to human rights and participation in official instruments (Coombe and Weiss 2015: 48). In the case of intangible heritage, there appears to be a presumption in favour of human rights implementation, because initial references to rights and a leading move towards community participation in heritage were introduced at treaty level precisely with the ICH Convention (UNESCO 2003: ¶ 1, Article 15), and a participatory approach is included in its operational directives (UNESCO 2016: ¶ 1-3, 32, 79-89, 101-2, 109, 157, 170-1, 179, 197). In contrast, the advocacy towards bringing a HRBA to the field has focused on the World Heritage *branch*, where the absence of rights-talk is noteworthy (Ekern, *et al.* 2012; Larsen 2017: 5-8), along with ‘the need to respect and support communities involved in World Heritage processes [...], and to repair earlier mistakes or oversights’ (Sinding-Larsen and Larsen 2017: 3). While there have been previous efforts with similar intentions<sup>3</sup>, an explicit HRBA to World Heritage is being only recently advanced, chiefly through UNESCO’s Policy for Sustainable Development (2015: ¶ 20-23), and by the 2011-2016 ‘Our Common Dignity Initiative’, aimed at developing HRBAs in World Heritage and heritage management (Sinding-Larsen and Larsen 2017).

In this incipient scenario, the question about the content and primary implications of a human rights-based approach to cultural heritage policy does not seem to have yet a reliable answer. However, an initial characterisation may be attempted based on the two main approaches that have been previously referred: on one hand, the HRBA as understood in the development field, which is useful because it has been more explored there, and also because culture and development are interacting more substantially (Vlassis 2018); and on the other, the recurring relevant notions in the directive guidelines of the ICH Convention, as well as in academic sources, and in the findings of ‘Our Common Dignity Initiative’. This considered, a HRBA for heritage policy and management appears to comprehend, in principle, the following basic features:

- a. A substantive framework in which fundamental rights should help acknowledging and understanding heritage’s human and social context and implications, with people, especially those linked with that heritage, at the centre of the policy (Ekern *et al.* 2012; Larsen 2018; Logan 2012; Sinding-Larsen and Larsen 2018).

- b. A procedural framework in which the meaningful participation of individuals, communities and stakeholders should be promoted by appropriate and effective means, in all policy's phases and beyond its short-term effects (Sinding-Larsen and Larsen 2017; UNESCO 2018).
- c. A preventive and restorative framework that avoids potential abuses and conflicts, also helping to acknowledge, stop and amend wrongs (Ekern *et al.* 2012; Oviedo and Puschkarsky 2012; Sinding-Larsen and Larsen 2018).
- d. A capacitating framework that recognises and enables individuals and communities' stewardship over their heritage (Oviedo and Puschkarsky 2012; Logan 2012; Sinding-Larsen and Larsen 2018).<sup>4</sup>

Although other features may also be present and very likely will be further developed, these are the most emphasised, even in the absence of a concrete enunciation of the HRBA to international heritage policy. Having painted this general image and acknowledging the influence of international standards, I now move to examine if this framework operates at the local level in the context of Jalisco's heritage policy.

### **A brief word on Mexican heritage policy**

Much in the way of the French model, Mexican cultural heritage policy has been chiefly organised on the basis of legislation (Woynard 2011: 146). It is the Mexican Constitution (Articles 73.XXV and 124) that allows for the three levels of government, i.e. federal, local and municipal, to intervene in the cultural realm, and which determines the cultural domains that are exclusively reserved to national powers. It is also the legal order that defines, in an intricate system of instruments, what is heritage and how to manage it. At the national level, the relevant legal heritage framework is fundamentally contained in the 1972 Federal Law on Archaeological, Artistic and Historical Monuments and Zones (LFMZ) –which was significantly influenced by the same year's World Heritage Convention–, conferring to the central authorities the identification and technical regulation of a vast array of objects and places that are considered of national interest, to which local authorities can but abide.

A couple of specific features of the Law are particularly interesting. First, the Spanish Conquest is, legally, the point of reference for determining heritage categories, and hence patrimony is either pre or post-Hispanic, which the law respectively denominates 'archaeological' or 'historical and artistic' (Cámara de Diputados: Articles 28, 33 and 35). Likewise, it is very telling that, while post-Hispanic monuments may be indistinctly subjected to different property regimes –federal, local, municipal or private–, all pre-Hispanic heritage is deemed 'property of the Nation', hence inalienable and imprescriptible

(Cámara de Diputados 1974: Article 27). These provisions clearly reflect the strongly post-colonial cultural heritage policy that was developed after the Mexican Revolution: one fundamentally focused on the country's indigenous past as the unifying national symbol to overpower any foreign, colonial remnants (Mulcahy 2017: 241), with the federal state as the indisputable steward of such past.

Considering the system established by the 1972 Law, Mexican heritage policy may seem deeply state-centred, centralised and top-down –which again, it could be argued, resembles some features of its coetaneous WHC–. Nevertheless, heritage is too wide a field and, paraphrasing Coombe and Weiss (2015: 50), heritage regimes are not limited to national auspices; on the contrary, the diverse Mexican culture and specific regional circumstances reveal ‘multiple overlapping and intersecting heritage regimes, related to different scales and the actors that nurture and champion them’ (De Cesari 2013: 403). Indeed, by reserving specific heritage slots to the federal authorities, the law implicitly confers *the rest* to the local levels of government, which can activate their own forms of identification, protection, conservation, presentation, transmission, management and safeguarding in the heritage domains that are not deemed federal. This is, for instance, the case of intangible heritage, or of *less monumental* historic and artistic patrimony that is owned by local authorities or even just located within their territories. In fact, this heritage is probably subjected to less rigid regimes, and hence more dynamic and approachable.

For local levels of government in Mexico, however, doing heritage policy is not only a prerogative, but effectively a duty that goes beyond a desirable *federalist* activity, for it deals with social needs and, some would say, human rights. Indeed, one of the fundamental aims of incorporating rights into heritage practice is precisely to acknowledge, recover and foster the role of local communities (Blake 2015: 1-22, Shaheed 2011 ¶ 77-8,80). This, in turn, requires to address more thoroughly the way local authorities deploy their governmental resources in this field, for their position would ostensibly allow them to work more closely with those communities, and to consider or better appreciate (perhaps even share) their particular circumstances. In this respect, the Mexican state of Jalisco provides a recent case study in which policy is engaging with more localised forms of patrimony, which may be useful for understanding the way heritage as cultural policy ‘provokes rights-based practices’ and for considering ‘their social consequence’ (Coombe and Weiss 2015: 54).

## **Rights informing local cultural policy: the declaration of the sacred indigenous site of Xapawiyemeta**

Located in central-west Mexico, Jalisco represents 4% of the national territory and has a population of 7.8 million (INEGI 2015). Its capital city, Guadalajara, is the second biggest metropolitan area of the country, with about 4.5 million residents (INEGI 2014). The state is home to two World Heritage Sites (the Cabañas Cultural Institute and the Agave Landscape) and two entries in UNESCO's intangible heritage list (Mariachi and Charrería).

In Jalisco, heritage policy is also largely based on law. In fact, cultural heritage is the content of a specific mandate of significant statutory rank, as Article 15.V of the local Constitution provides that

The organs of the State's public powers shall promote the conditions so the individuals and groups of society fully exercise their liberty, and shall **foster their participation in social, economic, political and cultural life**. To that end:

[...]

V. The local legislation shall **protect the environmental and cultural heritage of Jalisco's people**. The authorities, with the **co-responsible participation of society**, shall **promote the conservation and promotion** of the culture of Jalisco's people, and the respect and preservation of the environment. (Congreso de Jalisco 2018, emphasis added)

In 2014, the local Congress enacted the Cultural Heritage Law for the State of Jalisco and its Municipalities (JCHL). This new framework replaced a 2007 law that was never fully applied due to the provision of an oddly conformed and very hard to operate committee that was in charge of nothing less than heritage identification, a situation that in practice favoured a questionable, less restricted urban development. In this sense, the 2014 responded mainly to a concern for a more effective framework towards the protection of patrimonial buildings against real-estate pressure. Another fundamental motivation was to expand the legal scope of heritage to include and recognise intangible manifestations, an aim much in tune with the international scheme, but which was genuinely and repeatedly expressed by the more anthropology-oriented promoters of the law (G Arredondo 2017 pers. comm. June).

The JCHL thus comprises a complex general framework for both material (built and movable) and intangible heritage, along with the more elastic figure of protected zones, which are deemed to encompass the former two more evidently. This framework is effectively operated through the local Ministry of Culture and constitutes the mandate of one of its four major departments (Poder Ejecutivo de Jalisco 2017b: Article 23). This framework's departing point is the identification of heritage, which is officialised via two

main mechanisms that are entrusted to the Ministry. The first is a public inventory that was initially designed for buildings, but was extended to movable property, intangible heritage and protected zones (Congreso de Jalisco 2014: Articles 6.IV, 26). The second one is the declaration, an extraordinary procedure aiming to provide ‘additional recognition’ to heritage that is deemed of particular relevance (Congreso de Jalisco 2014: Articles 6.11, 69). While the inventory is little more than an extensive list with basic characteristics for officially pinpointing certain objects, expressions and places, the declaration entails a more detailed description and the devising of *ad hoc* safeguarding measures, and resembles the nomination process of the main UNESCO Conventions. These mechanisms constitute a policy in themselves, entailing a constant and articulated governmental effort in which public resources are invested and social outcomes pursued and produced.

In January 2016, traditional and agrarian authorities representing the Wixarika people publicly requested to Jalisco’s Ministry of Culture the declaration of the sacred site of Xapawiyemeta as cultural heritage under the state law (Poder Ejecutivo de Jalisco 2017a: VII). This request was particularly relevant for a number of reasons pertaining both to the Wixaritari (plural for Wixarika) and for Jalisco.

The Wixaritari or Huicholes are an indigenous people mainly settled in the mountainous Sierra Madre Occidental region of the Mexican states of Jalisco and Nayarit, although some communities are found also in Zacatecas and Durango (fig. 1). The National Commission for the Development of Indigenous Peoples (CDI 2016) registers a population of about 60,000, albeit those still living in their homeland are much less (Negrín 2003: 7). They are recognised to be particularly ‘resilient to outside influences’ (Negrín 2003: 1), and have maintained a unique, vibrant culture throughout centuries. As a fundamental ritual activity, they conduct long, periodic peregrinations to five different sacred sites that are associated with significant events in their cosmovision, where they perform ceremonials and present offerings (CDI 2010; Negrín 2003). These places, however, are subjected to several pressures and threats, such as insensitive tourism, environmental pollution, looting of sacred offerings and the misuse of the peyote (CDI 2010: 14). One of these sacred points, Xapawiyemeta, is located in the Scorpions’ Island on Chapala Lake, in Jalisco –about 350 miles away from the Wixarika core communities-, and is the site in which one of their deities ‘touched the land after the great flood’ (CDI 2010: 12).

The Huicholes’ request for the declaration of Xapawiyemeta was part of a longer journey of demanding recognition and respect of their identity and their historical and cultural bond with the lands they inhabit and consider sacred. Albeit framed in general terms, the 2008 Hauxa Manaka Pact for the Preservation of the Wixarika Culture, signed by

the governors of the four states in which they are settled, was a paramount milestone in this crusade and provided a momentum for advancing defined strategies before local governments (CDI 2010: 139-150). In Jalisco, the Wixaritari (plural for Wixarika) had since then recurrently urged the local Congress and Ministry of Culture for the protection of Xapawiyemeta as cultural heritage (Secretaría de Cultura 2016: 6-7), but the previous legal framework constituted at the time an insurmountable obstacle, so when the 2014 JCHL was announced, they mobilised once again. In May 2017, the declaration was finally formalised and two months later, a solemn act was celebrated on the site, in which the state governor and other civil authorities officially presented a bilingual version of the document to the Wixarika leadership and a plaque was fixed there (G Arredondo 2017 pers. comm. June).

The case study provides several elements for analysing the presence and operation of a rights-based framework, even when the legislation does not provide for it explicitly and when this was not articulated as such during the declaration process. First, cultural heritage as a *substantive* constitutional right and duty in the local legal order. In the present case, this right was effectively and collectively claimed by the Wixaritari, through a long, constant effort that both the corresponding dossier and the declaration take account of. It is interestingly, however, how the persistent nature of this demand echoed beyond the site's protection, even before the actual declaration, as the Wixarika insistence actively helped pushing the 2014 JCHL forward (G Arredondo 2017 pers. comm. June), which in turn resonated in many different directions.

The forms of *participation* that the process unpacked are also worth mentioning because they evidence a bilateral dialogue. Not only the declaration was activated by the Wixaritari in a manner that evidences a sound organisation on their behalf, but they positively harnessed the process to influence the government's response. Indeed, some of the Ministry's officials and other experts involved in *producing* the declaration actually travelled to the major three core communities in the Wixarika region to present the draft before the traditional authorities, and to discuss it and collect their insights, aiming to include their concerns in the final text (Secretaría de Cultura 2016: 8). Pursuant to prepare the declaration more accurately, in August 2016 government officials were allowed to attend the ceremony in Xapawiyemeta (Secretaría de Cultura 2016: 9). The translation of the final document was a way of guaranteeing that these interactions had effectively informed the Ministry's work (G Arredondo 2017, pers. comm. June). Although none of these efforts were legally mandated, they were deemed necessary to grasp the site's complex significance and 'broader context'.

Analysing the different articulations at hand in the course of this brief study, the emphasis on participation emerges as the most consistent and recurring element in internationally-developed rights-based approaches to heritage, and is presented as a means to empower people, but it is also highly influenced by neoliberal rationality aiming to decentralise control and exploiting social engagement to diverse ends (Coombe and Weiss 2015: 55). The two-way involvement deployed in the Xapawiyemeta's declaration process seems to be a more authentic and mutually enriching kind of *participation*, in which government/society dichotomies are blurred in favour of better understanding, albeit without confusing each actor's role.

As for the *preventive* and *restorative* aspect of the HRBA to heritage, it must be said that, from a legal stance, the declaration may be deemed toothless, for its sole juridical effect (Poder Ejecutivo 2017a: Articles third and fourth) is that it assigns the following duties to the Ministry of Culture:

- a. to further develop a document with specific guidelines for the site's management –which does not appear to have yet been produced–, and
- b. to promote the coordination between government and society towards the implementation of safeguarding measures, such as controlling the activities developed on the site, preserving and protecting the associated natural resources, conserving intangible heritage, and raising awareness about safeguarding intangible heritage, among others'.

The fact that the fulfilment of these obligations is not determined within a specific time, may be considered as a lack of will on behalf of the government to engage more decidedly in the safeguarding of the site. From a different point of view, however, this also means that the process has not ended, and therefore rights and duties are still to be discussed and negotiated.

In this sense, the declaration should not be considered an arriving point, especially considering other possible uses it could serve. In particular, the solemn act in which the declaration was made official –on the island, in the presence of the indigenous leaders, is quite telling, and composes an image a politician can certainly capitalise for very different purposes. In a short footage of the event available in his official Facebook page, the state governor appears surrounded by the Wixarika leaders, all dressed in their traditional garments. He refers to them as '*our Wixaritari community*', speaking of '*doing justice to history*', of '*delivering to them* a space of protection that [they] requested for many years now' and of them being '*sensibly listened to*'. Referring to the broader audience, he says '*we invite you to come, but above all, that our identity, our origin, our history of this Wixarika culture continues to be preserved*' (emphasis added). While the discourse intends

to be roughly about justice and cultural protection, the repeated use of the pronoun 'we' and the possessive 'our' may disclose a misconception of indigenous peoples that is very much rooted in the Mexican behaviour and that links to the narratives that Mexican cultural policy has fed from, reappraising them in current circumstances. Of course it could be argued that this is a big conclusion to draw from such brief material, but this may not be an isolated example.

In contrast to the highly symbolic pre-Historic Indian that was deliberately promoted as a central constituent of Mexican identity (Mulcahy 2017), the living, present indigenous peoples in Mexico have been marginalised from the national cultural project. According to Stavenhagen (1979), a *de-indigenising* cultural policy has long been implemented, in which the only avenue for their integration is their assimilation to the dominant culture, at the expense of their indigenous identity. With this in mind, Xapawiyemeta declaration acquires an additional significance, beyond the very limited protection that it provides, because the Wixaritari wielded it as another milestone in the constant defence of their dignity, an endeavour in which living cultural heritage become a way of resistance. In the words of Coombe and Weiss (2015: 56) 'heritage has assumed enhanced value in advancing [their] political agenda', and perhaps that is the more significant contribution of incorporating human rights elements to governmental practice, even if implicitly. In the present case, it is even more significant that these human rights elements appear to be brought precisely by those the HRBA tries to empower and enable, which is enough ground to start reconsidering it.

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## NOTES

- (1) In addition to the World Heritage Convention and the Intangible Heritage Convention, the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict is to be considered
- (2) According to article 2.3 of the ICH Convention, safeguarding comprises a wide variety of 'measures aimed at ensuring the viability of intangible cultural heritage, including [...] documentation, research, preservation, protection, promotion, enhancement, transmission [...] and] revitalisation.
- (3) The 2007 addition of a 'fifth C' for 'communities' to the strategies for implementing the WHC, for instance, has nonetheless 'remained vague' (Larsen 2018: 9).
- (4) In this sense, the rights-based approach to heritage appears significantly less focused on the dichotomy rights-holder/duty-bearer that the approach adopted in the development field.

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