ISIS and the Threat to Our Cultural Heritage: What Can the World Do? A Five-Point Proposal

Cover illustration

Image made from a video posted on a militant social media account on Saturday, April 11, 2015

The Eighteenth Horst Gerson Lecture
held in memory of Horst Gerson (1907-1978)
in the aula of the University of Groningen
on the 8th of October 2015

James Cuno

ISIS and the Threat to Our Cultural Heritage: What Can the World Do? A Five-Point Proposal

Groningen
The Gerson Lectures Foundation
2015

Militants destroy a statue in the Mosul Museum
Video still from a video released by ISIS

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Word came on February 26, 2015 that ISIS (the Islamic State in Iraq and al-Sham [greater Syria]; or ISIL, the Islamic State in Iraq and the Levant) had released a video showing some of its followers using hammers and power drills to attack ancient Assyrian sculptures in the museum in Mosul (Iraq). The images were repugnant: the men hitting the sculptures, knocking them to the floor and hitting them again and again, then taking drills to the surviving fragments as if to "pulverize" them, as later ISIS would promise to do to sculptures in Palmyra (Syria).[1]

The sculptures were artifacts of a distant past, beautiful and commanding examples of an ancient aesthetic and technology reminding us that the world has been settled, sophisticated, and interrelated for more than five thousand years, and that for many years people have been curious about the world these objects represent and have carefully examined them, written their histories, and preserved and exhibited them in museums expecting them to be safe and on view for generations to come.

Why did ISIS do this? The video of the attack began with a Qur'anic verse on idol worship and continued with a condemnation of ancient Assyrians and Akkadians as polytheists. It gave this reason for the sculpture's destruction: "These statues and idols," which had been put on display by "devil worshippers" (a term ISIS uses to refer to the Yazidi minority it is subjecting to a forced "conversion campaign" of murder, abduction, forced sex slavery, and live burials[2]), "these artifacts, if God has ordered its [sic] removal, they became worthless to us even if they are worth billions of dollars."[3] And then, in a related video, an ISIS spokesman justified the group's attack on the eighth-century-BC citadel of the Assyrian king, Sargon II at Khorsabad, ten miles northwest of Mosul in these terms: "We're ridding the world of polytheism and spreading monotheism across the planet."[4]

Writing in the *Financial Times*, the historian Simon Schama described ISIS as acting from an "instinct of cultural panic that the supreme works of the past will lead people astray from blind, absolute obedience."[5] And on the *New York Review of Book*s blog, the eminent classicist Glen Bowersock described the rich, historic legacy of Palmyra as an

oasis on the ancient trading routes connecting the Mediterranean with Mesopotamia and as far away as China, as a testament to cosmopolitan nature of Palmyra, the desert city where the third century AD queen of the city, Zenobia, brought together a salon of leading intellectuals and challenged the power of the Roman emperor.[6]

It is evidence of such cosmopolitanism and polytheism that ISIS opposes and seeks to destroy. Theirs is a campaign of violent iconoclasm, reminiscent of Nazi book burning and, as Schama points out, the state iconoclasm in mid-sixteenth century England under Edward VI, when England lost as much as ninety percent of its Christian art to iconoclasts. ISIS is not alone in history. Many powers preceded them. And all of them ultimately failed.

The reaction to ISIS's destruction of the sculptures was high pitched and emotional. UN Deputy Secretary-General Jan Eliasson, described ISIS's actions in these terms: "destruction of cultural heritage bears witness to a form of violent extremism that seeks to destroy the present, past and future of human existence."[7] UNESCO Director-General Irina Bokova called upon the world to see ISIS's destruction of cultural heritage as acts of "cultural cleansing," of a kind with deliberate attacks against civilians and ethnic and cultural minorities ("Murder and destruction of culture are inherently linked."[8]) Helen Sader, an archaeologist at the American University of Beirut, described ISIS's actions as a kind of "ethnic cleansing. You throw people out, erase their history, and you can claim they were never there." Zainab Bahrani, a US-based professor of Ancient Near Eastern Art and Archaeology at Columbia University claimed that "It's never about the artifacts. It's about people's right to exist, their right to live in their homeland. You destroy people's history by destroying their monuments and artifacts…This is our historical identity."[9] And Mardean Isaac, an Assyrian writer and member of A Demand for Action, an organization dedicated to protecting the rights of the Assyrians and other minorities in Syria and Iraq, declared, "When you watch the footage, you feel visceral pain and outrage, like you do when you see human beings hurt," and that "while the Islamic State is ethnically cleansing the contemporary Assyrian populations of Iraq and Syria, they are also conducting a simultaneous war on their ancient history and the right of future generations of all ethnicities and religions to the material memory of their ancestors."[10]

Over the course of this lecture, I will consider ISIS's campaign against the region's cultural heritage and explore the conceptual framework and limitations of the

United Nations' response to it. A word of caution: my conclusions must be tentative. Developments in the region are changing rapidly and what we conclude today will likely have to be rethought tomorrow.

* * *

What is ISIS? ISIS originated in 1999 as a Sunni insurgency force allied with the Jordanian radical leader Abu Musab al-Zarqawi under the group name "The Organization of Monotheism and Jihad." In October 2004 Zarqawi swore a loyalty to Osama bin Laden and changed the group's name to "The Organization of Jihad's Base in Mesopotamia," commonly called al-Qaeda in Iraq (AQI). In January 2006 AQI joined with others to form the Mujahideen Shura Council, which nine months later changed its name to the Islamic State of Iraq. (Zarqawi was killed in June 2006 and Osama bin Laden five years later.) With the outbreak of the Syrian Civil War in 2011, the Islamic State expanded into Syria and changed its name to the Islamic State of Iraq and Syria (ISIS; the preferred Arabic name is the acronym Da'esh). And in 2014 ISIS declared itself a caliphate with Abu Bakr al-Baghdadi its leader, or caliph.[11]

Baghdadi was born Ibrahim bin Awwad bin Ibrahim al-Badri al-Quraysh in the Iraqi city of Samarra, once the seat of the ruling Abassid caliphs (750-1258). The Bobardi tribe to which he belongs includes within its lineage the Prophet Muhammad's tribe of Qurayshin. (In the classical Sunni tradition, the caliph is required to be a Qurayshite.)[12] By assuming the name Abu Bakr, Baghdadi is aligning himself with the first caliph and son-in-law of the prophet of the same name, who launched attacks against the Sassanid and Byzantine Empires, setting in motion the historical trajectory that led to the formation of one of the largest empires in history.

This is Baghdadi's ambition. And he has been astonishingly successful in pursuit of it. Within only twelve months, the restored caliphate has become "the most powerful and effective jihadist group in the world." It controls an area larger than Great Britain; is inhabited by some six million people; has eleven affiliates from Nigeria and Algeria in the west to Pakistan and Russia in the east; and attracts a large, international following.[13] In addition, more than 20,000 foreigners have joined ISIS, many of them from Europe and North America, and many of them, the Economist writes, have returned or will return home "bringing with them the ideology, networks and know-how of murderous terrorism."[14]

It is common in the west to hear or read of ISIS described as a terrorist group (US President Barack Obama called it a "terrorist organization, pure and simple"). The term most often used is jihadist, a word of recent coinage deriving from jihad meaning "struggle," as in a personal, spiritual struggle to remain pure in one's adherence to the teachings of Islam, or a physical struggle against the domestic and foreign enemies of Islam. A fighter engaged in jihad is called a mujahid, the plural of which is mujahideen, often used in the West to mean guerrilla-type military fighters, as in Afghanistan, first against the British in the nineteenth century and then more recently against the Soviets and the US-led coalition.

Audrey Kurth Cronin, a professor and specialist in international security at Washington's George Mason University, disagrees.[15] "Although it uses terrorism as a tactic," she wrote in a March 2015 article in *Foreign Affairs*, "[ISIS] is not really a terrorist organization at all. Terrorist networks, such as al-Qaeda, generally have only dozens or hundreds of members, attack civilians, do not hold territory, and cannot directly confront military forces." ISIS, on the other hand, boasts some 30,000 fighters, holds territory in both Iraq and Syria, maintains extensive military capabilities, controls lines of communication, commands infrastructure, funds itself, and engages in sophisticated military operations. "If ISIS is purely and simply anything, it is a pseudo-state led by a conventional army" with a sophisticated finance model comprising "a wide-ranging extortion racket that targets owners and producers in ISIS territory, taxing everything from small family farms to large enterprises such as cell-phone service providers, water delivery companies, and electric utilities. The enterprise," Cronin concludes, "is so complex that the US Treasury has declined to estimate ISIS's total assets and revenues, but ISIS is clearly a highly diversified enterprise whose wealth dwarfs that of any terrorist organization."

In July 2015, the *New York Times* described ISIS as "transforming into a functioning state that uses extreme violence – terror - as a tool…[and] while no one is predicting the Islamic State will become steward of an accountable, functioning state anytime soon, the group is putting in place the kinds of measures associated with governance: issuing identification cards for residents, promulgating fishing guidelines to preserve stocks, requiring that cars carry tool kits for emergencies."[16] And Stephen M. Walt, professor of government at the John F. Kennedy School of Government at Harvard, has argued that "there is no question that the way to look at [ISIS] is as a revolutionary state-building organization."[17]

Abdel Bari Atwan, editor-in-chief of *Rai al-Youm*, the Arab world's first digital news and opinion website and former editor-in-chief of the London-based, pan-Arab newspaper *Al Quds Al Arabi*, goes even further. In his recent book, *Islamic State: The Digital Caliphate*, he outlines ISIS's sophisticated governance structure as a "highly centralized and disciplined organization with a sophisticated security apparatus and capacity for delegating power."[18] Baghdadi and his advisors set ISIS's overall objectives, which are then passed down the chain of command through commanders and administrators. Among Baghdadi's cabinet are the leaders of the Sharia Council, which enforces religious observance; the Education Council, which oversees a curriculum adopted in its entirety from ultra-orthodox Saudi schools; [19] and the Economic Council, which manages ISIS's budget with revenues deriving from taxes, bank robberies, kidnap ransoms, and black-market economic transactions from the sale of oil (some of it sold directly to the Assad regime in Syria) and looted cultural property. In January 2015 the Economic Council's annual report listed overall receipts close to $2 billion with a surplus of $250 million.[20]

This is ISIS: in appearance and structure a state just when, as Yaroslav Trofimov wrote in the Wall Street Journal, "Syria and Iraq have effectively ceased to function as states. [And when] large parts of both countries lie beyond central government control, and the very meaning of Syrian and Iraqi nationhood has been hollowed out by the dominance of sectarian and ethnic identities."[21]

* * *

ISIS may look and be structured like a state but ideologically it is an anti-state, "where the Arab and non-Arab, the white man and black man, the easterner and westerner are all brothers…Syria is not for Syrians, and Iraq is not for the Iraqis. The earth is Allah's."[22] It harkens back to a time before the Sykes-Picot Agreement and the formation of the modern nation-states of Iraq and Syria under British and French mandates. Then the Ottoman Empire was at once a trans-national empire and a caliphate. But after defeat in World War I, the Iraqi provinces of Basra, Baghdad, and Mosul, Shiite centers of Kerbela and Najaf, and Kurdish areas in the north called for independence.[23] British authorities, which had mandate control over the region, ignored the separatist demands and created a common administrative structure. In 1921 Emir Faysal, from the Hashemite family of the sharifs of Mecca, was installed as king of Iraq and in 1932 Iraq joined the

League of Nations. (When he declared the restored caliphate, the ISIS leader Baghdadi vowed to erase the name of the "Sykes-Picot conspiracy" and promised to destroy the old borders of Iraq and Syria; last year his fighters blew up the customs checkpoints between the two countries."[24])

For much of the next forty years, the Ba'athist Party, of predominantly Sunni Arab nationalist ideology, dominated Iraqi politics, although Shiites made up the majority of the population. In 1979 Saddam Hussein became President and tightened the reigns of nationalism around a Sunni image of continuous culture from ancient Mesopotamia until the modern era. He led Iraq into almost continuous warfare from 1988 until the US-led coalition invasion of 2003. In 2006 Saddam was put to death by the Iraqi Special Tribunal (established by the Coalition Provision Authority, the transitional Iraqi government that ruled from 2003 to 2004) for crimes against humanity for the killing of 148 Shiites (the Shiites considered the Ba'athist party a Sunni institution). The Coalition government then embarked on a de-Ba'athification program to remove the Ba'ath Party's influence in the government by declaring all public sector employees associated with the Party removed from their positions and banned from any future employment in the Iraqi government. This released thousands of former soldiers into the general population, many of whom, known as the Naqshbandi Army (JRTN), ultimately allied with ISIS and helped it win some of its most important early victories.[25]

The situation is no better in Syria. Like Iraq, Syria was established after World War I as a European mandate (although French not British) and received its independence as a parliamentary republic only later, in 1945. Its population was largely Sunni, although the French had supported the Alawite minority, followers of a branch of Shia Islam. In 1963 a Ba'athist coup d'état imposed emergency rule and thirteen years later Syria began a thirty-year military campaign against Israel in southern Lebanon. In 2010, with the start of the Arab Spring, demonstrations broke out across Syria in opposition to the harsh, autocratic power of President Bashar al-Assad, who had succeeded his father in an uncontested election in 2000 (his father served from 1971). In 2011 the demonstration became a full-scale civil-war. In all, more than 210,000 people are said to have died in the Syrian civil war with almost four million more surviving as refugees, many living in neighboring countries in wretched conditions with desperate shortages of food, water, and, in winter, sufficient clothing.[26]

It is difficult to know what the nation-state means with regard to Iraq and Syria, both of which are member states of the United Nations. As with much of the modern world, they are artificial political constructions that have been in near continuous external and internal conflict since their creation, with non-state actors controlling much of their territory and economic resources. As recent journalists have reported, control over Syria's "sovereign" territory is now shared with the Islamic State, which in land area controls more territory than even the government, Jabhat al-Nusra, the Kurds, and over fifty rebel groups, and "Syria is falling apart, as warring groups carve it into de facto fiefs, and it is increasingly hard to see how its disintegration can be reserved."[27]

As Husain Haqqani, author and former Pakistani ambassador to the US, wrote, "Much of the conflict in the Middle East is the result of insecurity of contrived states. Contrived states need state ideologies to make up for lack of history and often flex muscles against their own people or against neighbors to consolidate their identity."[28]

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The concept of the modern nation-state is European and is generally taken to stem from the Peace of Westphalia of 1648, which gave each nation sovereignty over its own territory and domestic affairs, however historically determined. It is the founding principle on which the United Nations Charter is founded: "The Organization [United Nations] is based on the principle of the sovereign equality of its Members" *Article 2 (1)* and "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations" *Article 2 (4)*.[29] It also limits the ability of the UN to respond to crisis situations. As Paul Kennedy, the preeminent historian of the UN, has written:

> The United Nations could never escape the central paradox of all international bodies. The paradox is this: Since the world organization was created by its member states, which acted like shareholders in a corporation, it can function effectively only when it received the support of national governments, especially those of the larger powers. Nations can ignore the world body…[and] the organization cannot pursue proposed actions if a Great Power – that is, one of the five countries possessing the veto – is opposed. This tension between sovereignty and internationalism is inherent, persistent, and unavoidable.[30]

How then does the state-based UN respond to the threats and actions of a non-state actor like the self-proclaimed caliphate, ISIS? By issuing statements and seeking broad coalition-based political and military actions.

From June 17, 2014 to February 12, 2015, the UN Security Council adopted eight resolutions affirming the sovereignty and territorial integrity of Syria and Iraq and condemning ISIS and its destruction of cultural heritage, and on May 28, 2015, the UN General Assembly unanimously adopted a resolution which, in the words of the *New York Times*, amounted "to the broadest international condemnation of the cultural destruction and vandalism wrought by the fighters of the Islamic State…who have videotaped themselves using bulldozers, explosives and sledgehammers on some of the most prized archaeological sites in the world."[31] The language of the resolutions is important.

UN Security Council Resolution 2165 (July 14, 2014) reaffirmed the UN's "strong commitment to the sovereignty, independence, unity and territorial integrity of Syria, and to the purposes and principles of the Charter of the United Nations."[32]

UN Security Council Resolution 2170 (August 15, 2014) reaffirmed the independence, sovereignty, unity, and territorial integrity of Iraq and strongly condemned "the indiscriminate killing and deliberate targeting of civilians, numerous atrocities, mass executions and extrajudicial killings, including of soldiers, persecution of individuals and entire communities on the basis of their religion or belief, kidnapping of civilians, forced displacement of members of minority groups, killing and maiming of children, recruitment and use of children, rape and other forms of sexual violence, arbitrary detention, attacks on schools and hospitals, destruction of cultural and religious sites and obstructing the exercise of economic, social and cultural rights, including the right to education…"[33]

UN Security Council Resolution 2195 (December 19, 2014) expressed concern that "terrorists benefit from transnational organized crime in some regions, including from the trafficking of arms, persons, drugs, and artefacts and from the illicit trade in natural resources including gold and other precious metals and stones…" and that "terrorist groups benefitting from transnational organized crime may contribute to undermining affected States, specifically their security, stability, governance, social and economic development…"[34]

UN Security Council Resolution 2199 (February 12, 2015) condemned "the destruction of cultural heritage in Iraq and Syria particularly by ISIL and ANF, whether such destruction is incidental or deliberate, including targeted destruction of religious sites and objects," and noted that ISIS and others are "generating income from engaging directly or indirectly in the looting and smuggling of cultural heritage items from archaeological sites, museums, libraries, archives, and other sites in Iraq and Syria, which is being used to support [ISIS, ISIL, and ANF's] recruitment efforts and strengthen their operational capability to organize and carry out terrorist attacks…" And it called on UNESCO and Interpol to assist in this effort.[35]

And *UN General Assembly Resolution 2199* (May 28, 2015) unanimously called for "an immediate halt to the wanton destruction of the cultural heritage of Iraq, including religious sites or objects," emphasized that "no such acts committed by ISIL or other individuals, groups, undertakings and entities associated with al-Qaeda will be tolerated," urged the preservation of the cultural heritage of Iraq by protecting cultural and religious properties and sites consistent with international humanitarian law," and stressed that the "perpetrators of attacks intentionally directed against buildings dedicated to religion, education, art, science or charitable purposes, or historic monuments" will be held accountable.[36]

To date, this is the UN's response to ISIS's terrorist attacks on individuals and categories of people and cultural heritage sites, monuments, and artifacts, which it holds as contrary to the teachings of the Prophet and the role of Islam in the world: eight resolutions that (1) respect the sovereignty, independence, unity, and territorial integrity of the nation-state; (2) condemn ISIS for its destruction of Iraqi and Syrian cultural heritage; (3) prohibit the use of funds to directly or indirectly benefit ISIS; (4) hold all parties accountable to the relevant provisions of international law; (5) demand that all UN member states take appropriate steps to prevent trade in Iraqi and Syrian cultural heritage; (6) call on UNESCO and Interpol to assist in this effort; and (7) counter extremism and intolerance within the countries through education and the strengthening of civil society.[37]

That it took the UN more than a year from the passage of its first Security Council resolution condemning ISIS to its unanimous General Assembly resolution calling for a halt to the destruction of cultural heritage in the region is an indication of just how

difficult it is to get consensus among its member states on major, international political issues.

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In the meantime, UNESCO, the UN's "soft power" arm, held meetings, convened conferences, and issued statements. Director-General Bokova is an eloquent and impassioned spokesperson for UNESCO, the ideals of which are inscribed in its Constitution:

> The purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.[38]

With the outbreak of the fighting in Iraq and Syria, and especially with the emergence of ISIS in 2014, these ideals were put to the test.

On June 17, 2014, coincident with the passing of UN Security Resolution 2161, Bokova called "on all Iraqis to stand united for the protection of their country's cultural heritage," which she also declared to be a "unique testimony of humanity, of the origins of our civilization, and of our inter-ethnic and inter-religious coexistence. It is also a key to resilience for building a better future."[39] On September 22, 2014 at New York's Metropolitan Museum of Art, she called the destruction of cultural heritage "cultural cleansing," "cultural eradication," and "cultural looting;" and emphasized that "protecting heritage must be an integral part of all peace building," that "saving the past of Iraq and Syria is essential to saving our collective future," that "to build peace tomorrow, we need to safeguard today their [Iraq's and Syria's] heritage of diversity and tolerance – to prepare the ground for reconciliation," and that the "destruction of cultural heritage is a crime against humanity."[40]

Six months later, on March 7, 2015, she called the deliberate destruction of heritage a war crime equivalent to acts of "cultural cleansing." "Murder and destruction of culture," she declared, "are linked."[41] On April 2, 2015, she called on all Syrians to

"unite for the protection of their shared cultural heritage. This heritage belongs to all Syrians and to all humanity. I call on all parties to refrain from using cultural heritage sites for military purposes and to protect them against any possibly (sic) destruction resulting from fighting."[42] And eleven days later she stated without qualification that "the deliberate destruction of heritage is a war crime," and she appealed to the world to support Iraqi youth and mobilize young people around the world to protect cultural heritage:

> We must respond by showing that exchange and dialogue between cultures is the driving force for all. We must respond by showing that diversity has always been and remains today a strength for all societies. We must respond by standing up against forces of fragmentation, by refusing to be divided into 'us' and 'them.' We must respond by claiming our cultural heritage as the commonwealth of all humanity.[43]

These are complicated ideas. To whom does the cultural heritage in Iraq and Syria belong, the nation or humanity? If the former, is there a difference between claims of identity made on cultural heritage produced during historical eras (the eras of Sumer, Babylonia, Assyria, the Achaemenid Empire, the Seleucids, Parthians and Sasanians) and that produced by living cultures (Sunni, Shia, and Alawite Islam; Protestant, Roman, and Orthodox Christianity; and stateless ethnic groups, such as the Kurds)? What does it mean to claim a *national* culture for Iraq and Syria, when, as we've seen, the very concept of the nation in those countries is under so much stress? Is national identity even the right measure of identity at all when talking about the Middle East?

Bokova's statements do not address these questions. And UNESCO's policies and conventions, with few exceptions (I will cite one), cling fast to the European ideal of the coherent nation-state coincident in territory with a singular ethnic or historical culture.

Take UNESCO's "Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, 1970," for example. It holds cultural property, or cultural heritage (the terms are synonymous: according to the state-based ideology of the UN, cultural heritage is by nature state property), to be one of the basic elements of civilization and national culture, although it gives responsibility for safeguarding the cultural elements of "civilization" to individual nation-states: "it is incumbent upon every State to protect the cultural property existing within its

territory against the dangers of theft, clandestine excavation, and illicit export," and "the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close cooperation."[44] (Iraq and Syria are both Member State signatories to the Convention.)

A second UNESCO Convention - Concerning the Protection of the World's Cultural and Natural Heritage (1972) - similarly gives nation-states, including Iraq and Syria, both of which are signatories to the convention, "the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State."[45]

How can Iraq and Syria protect the cultural heritage within their national borders when the extent of their borders doesn't correspond with the areas over which they have effective control? On December 3, 2014, UNESCO held an international conference on "Heritage and Cultural Diversity at Risk in Iraq and Syria."[46] It called for the implementation of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, which among other things, obligates its nation-state signatories to (1) prevent the exportation of cultural property from a territory occupied by them during an armed conflict, (2) take into its custody cultural property imported into its territory either directly or indirectly from any occupied territory, (3) return such cultural property at the close of hostilities to the competent authorities of the territory previously occupied, and, (4) pay an indemnity to the holders in good faith of any cultural property which has to be returned in accordance.[47]

Like the UN and UNESCO, Hague 1954 was conceived in the aftermath of World War II. It is not clear how it applies in the case of Iraq and Syria with so many non-state parties active and controlling substantial areas within national borders. The same is true of the Second Protocol to the Convention, signed in 1999.[48] It calls upon State Parties to the Convention (i.e., the nation-states who have signed it; Syria has; Iraq has not) to take measures in times of peace for safeguarding cultural property. It allows waivers on the basis of "imperative military necessity" when "no choice is possible between such use of the cultural property and another feasible method for obtaining a similar military advantage" (we should note that the decision to "invoke military necessity" can be made only by "an officer commanding a force equivalent of a battalion in size or larger, or a force smaller in size where circumstances do not permit otherwise (Article 6);

distinctions hardly relevant in the fight against ISIS). And it forbids any "illicit export, other removal or transfer of ownership of cultural property" (Article 9).

It also defines the terms for placing cultural property under *enhanced* protection (Article 10): (a.) because it is cultural heritage of the greatest importance to humanity; (b.) it is protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring the highest level of protection; (c.) and it is not used for military purposes or to shield military sites and a declaration has been made by the Party which has control over the cultural property, confirming that it will not be so used.

To receive such enhanced protection, the Party that has jurisdiction or control over the property must request it by submitting to the Committee (undefined) a list of cultural properties for which it intends to request the granting of enhanced protection; but then other parties, such as the International Committee of the Blue Shield and other non-governmental organizations with "relevant" expertise, may recommend specific cultural property to the Committee for enhanced protection, too.

However well intentioned, given the chaos and existential threats the two nations currently face, it is difficult to imagine Iraq and Syria filling out the forms and making the case for enhanced protection of the many cultural heritage sites and monuments within their jurisdiction. It is equally difficult to imagine ISIS intimidated or rebuffed by such enhanced protection if it were provided to Iraq and Syria.

The UNESCO Conference also referenced the 1998 Rome Statute of the International Criminal Court which in its Preamble makes clear that "all peoples are united by common bonds, their cultures pieced together in a shared heritage;" that "it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes;" reaffirms the Purposes and Principles of the Charter of the United Nations, "in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations;" and emphasizes that "nothing in this Statute shall be taken as authorizing any State Party to intervene in an armed conflict or in the internal affairs of any State."[49] It then includes among its definitions of a war crime (Article 8, b, v), "attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are

not military objectives" and (Article 8, b, ix) "intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives." Iraq is a signatory to the Statute, but Syria is not.

Director-General Bokova has referred explicitly to Article 8 of the Rome Statute as the basis for her claim that attacks on cultural heritage in Iraq and Syria are war crimes for which their perpetrators will be held accountable. By this means she hopes to discourage those inclined to contravene the law and punish those who do. Given the difficulty of bringing alleged perpetrators to justice, especially those like ISIS with a millennial view of the world whose followers prefer martyrdom to any form of conventional justice, threats like these are meaningless. ISIS holds itself responsible to only its interpretation of Islamic law. And that interpretation allows for the destruction of cultural heritage sites, monuments, and artifacts made by and for, or in any way associated with, other faith believers, non-believers, or apostates living or long dead. And it does not recognize the authority of the nation-state.

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The UN, UNESCO and the international community have focused attention on the illicit trade in portable cultural heritage artifacts from Iraq and Syria. To this end, on March 6, 2015, UNESCO Director-General Bokova sent a letter to "Directors of Museums and Cultural Institutions," calling their attention to the UN Security Council Resolution 2199, "extending to Syria the prohibition of trade of cultural objects already in place for Iraq since 2003 (Resolution 1483)." It invites their cooperation "by verifying systematically the provenance and title of cultural objects entering your art market or your collections, especially those of an archaeological nature…" It "notes, with concern, that the looting and trafficking of cultural objects is one of the sources of financing for the Islamic State in Iraq and in the Levant (ISIL), al-Nusra Front (ANF), and other individuals, groups and entities associated with al-Qaida." And it declares that "such funding is being used to support recruitment efforts and to strengthen operational capability and carry out terrorist attacks."

Let's be clear, illicitly traded cultural heritage from Iraq and Syria is unlikely to make its way to museums, at least not to those in the US, UK and Europe. The Association of Art Museum Directors, the professional body of the largest North American art

museum directors, recently strengthened its 2008 guidelines on the acquisition of archaeological material and ancient art and now, with very few and well-publicized exceptions, no member museum will even consider archaeological materials without provenance and legal export papers documenting that an object in question has been out of its likely country of origin (i.e., Iraq or Syria) before 1970.[50] The same is true in the United Kingdom and Europe.[51]

Customs and other security officials in the US, UK and Europe are equally vigilant in carrying out their duties to prevent the importation into their jurisdictions of illicit cultural heritage artifacts. On March 16, 2015, for example, the US government returned to the Iraqi government dozens of artifacts that had been looted from Iraq and smuggled into the United States.[52] The most impressive, the head of a limestone statue said to represent the Assyrian King Sargon II similar to one seen in the video of ISIS fighters destroying sculptures in the Mosul Museum, was recovered by special agents from the US Homeland Security Immigration and Customs Enforcement after a tip received in June 2008, six years prior to the rise of ISIS.

Through its police operation, US Homeland Security claimed to have identified a broad transnational criminal organization dealing in illicit cultural property, some of which, the director of its operation claimed, "were directly linked to major museums, galleries, and art houses in New York City," although she provided no evidence or particulars.[53] A Special Agent of US Immigration and Custom Enforcement said that such looted items often stay in the Middle East until things cool off. "That material wouldn't necessarily hit the open market for five to ten years…because the dealers are smart enough to know that they don't want to actively and openly be participating in something that's illegal," Agent Brenton Easter said.[54] Just why "five to ten years" would make a difference in the marketability of such objects, Easter didn't say. They would still have to be imported into the US, or the UK or Europe with legal documentation testifying to their having been out of their likely country of origin prior not only to 1990, in keeping with the US's emergency import restriction, which went into effect in 2008,[55] but to 1936 with regard to Iraq (Law No. 59; enhanced by Ordinance No. 40 in 1958, Amendments to the Law in 1974 and 1975 and superseded by an entirely new Law No. 55 in 2002) and 1963 with regard to Syria (Decree No. 222, with amendments in 1969, 1974, 1977 and 1999), when their national cultural property laws first went into effect.[56] No museum in these countries would acquire such objects without appropriate due diligence and documentation.

But what about individual, private collectors? Would they acquire illicitly traded cultural heritage artifacts? The same export and import laws that prohibit US, UK and European museums from acquiring such materials apply to individuals. And, again, customs officials are vigilant. On June 29, 2015, James McAndrew, a veteran of US Customs and Department of Homeland Security, was quoted in Bloomberg as saying "the challenge is monitoring private sales, which are driving the global antiquities market. I'm pretty confident those pieces from Iraq and Syria are being sold to locals in the region - wealthy Saudis, Emiratis, Iranians."[57] While he didn't cite evidence to substantiate his "confident" view, it is a commonly held assumption among knowledgeable museum officials and customs agents that illicitly traded Iraqi and Syrian heritage artifacts are staying within the broader Middle Eastern region.

But what is the extent and value of this dark trade? Determining this is important, as it is said to contribute funds in support of ISIS's military activity and is a pillar of the UN's response to the destruction of cultural heritage within the region. (It has also garnered a lot of press attention, giving the false impression that this is the gravest threat to cultural heritage artifacts in the region.)

The accuracy of the reports about the level and value of this activity is difficult to determine. But it all seems to have begun with a June 15, 2014 article in *The Guardian*, which reported that an ISIS courier named Abu Hajjar had been captured and interrogated, and that in the process Iraqi intelligence agents had recovered 160 computer flash drives with information about ISIS and how it operates, including "full accounts of the group's finances." In the same article it was said that ISIS "was known to have reaped windfalls from smuggling all manner of raw materials pillaged from the crumbling state, as well as priceless antiquities from archaeological digs." And the article's author, Martin Chulov, cited a foreign intelligence official as saying "They had taken $36m from al-Nabek alone [an area in the Qalamoun mountains west of Damascus]."[58]

That day, various bloggers and websites repeated this news, a few in some detail. *Conflictantiquities.wordpress.com*, a website written by Dr. Samuel Hardy, identified on the site as a free-lance journalist and an adjunct faculty member at the American University in Rome, wrote that "There is now secure (if imprecise) evidence that, like the other parties to the Syrian civil war, the Islamic State of Iraq and al-Sham/the Levant (ISIS/ISIL) is using the looting and trafficking of antiquities to fund its fighting."[59] But he wondered about the accuracy of the $36 million figure, explaining that "normally,

looters earn less than 1% or 2%, and a chain of middlemen take more than 98% or 99% of the final sale price... So either ISIL alone are shifting unimaginable quantities of material - antiquities with a market value of up to $1.44b - $3.6b, or at least $81m - $800m from al-Nabek alone – or they are late middlemen (and the $36m is a larger proportion of the final sale price), or more mundane criminal activities form a larger proportion of the paramilitary group's income."

Two days later, Kathleen Caulderwood, a reporter for the *International Business Times*, a digital global news publication, repeated Chulov's claim ($36m from al-Nabek alone) and quoted Hardy, whom she identified as a research associate at the UCL Institute of Archaeology in London, about the secure (if imprecise) evidence that ISIS is using the looting and trafficking of antiquities to fund its fighting. She defined "conflict antiquities" as "artifacts that are looted, smuggled and sold to illicit dealers around the world, with the proceeds going to fund military or paramilitary activity," and cited UNESCO as the source for "estimates that global trade in conflict antiquities could be worth more than $2.2 billion and growing criminal groups recognize the value in very, very old things."[60]

She also claimed that smuggled Iraqi antiquities have made their way to France, Italy, and Switzerland, as well as Jordan, Saudi Arabia, Iran and Turkey, and as evidence, cited the FBI seizure in 2010 of "a handful of smuggled Iraqi cuneiform tablets from an antiquities dealer in California." (The FBI's website says only, "In July of this year [2010], the United States Attorney's Office, the FBI Wilmington Resident Agency, and the FBI Art Crime Team seized a multitude of ancient artifacts originating in Mesopotamia, in present day southern Iraq." The dealer relinquished rights of ownership of these artifacts and, it appears, no charges were filed.)[61] Nevertheless, Caulderwood stated that "trafficked items go to rich private collectors in the end. While it's unlikely they show up in museums right away, collectors tend to wait a few years for suspicion to die down before donating or selling their finds to museums." She provided no evidence in support for these statements.

On September 2, 2014 *Al-Monitor* reported looted artifacts passing through Turkey and cited *The Guardian's* account of ISIS getting $36 million from the sale of looted antiquities and repeated UNESCO's estimate that "war antiquities" account for a $2.2 billion illicit market annually.[62] Then it quoted Amr Al-Azm, an associate professor of anthropology and Middle Eastern History at Shawnee State University in Ohio, from an interview posted on the website *Chasing Aphrodite*. There Al-Azm was quoted as saying that "my

sources tell me a lot of this stuff ends up crossing the Turkish border. Some international dealers, non-Turks, started to come into Syria but it quickly got too dangerous for them. Now the dealers all hang out across the border in Turkey. Only Turkish dealers come into Syria to meet with locals. They buy and take it back. One of the main centers of smuggling is Tell Abyad, on the Syrian side, across the border from Urfa. There is also lots of smuggling in Kilis, some of it archaeology. From there I don't know where it goes." He also claimed that there is "evidence of some looting to order by wealthy private collectors." As an example, he says he'd "heard" that a famous Roman tomb in Palmyra called the Brothers Tomb, has been looted and "sold off." "My suspicion," he said, "is that it's looting to order for a collector. Something that well known and important won't show up on the market."[63] (As of June 30, 2015, the destruction of the tomb could not be confirmed and may be confused with Jonah's Tomb, also known as the Yunus Mosque, in Mosul, which was reportedly destroyed by ISIS and reported on July 25, 2014.)[64]

On the same day, the *New York Times* published an opinion piece co-written by Al-Azm in which he reported on conversations he had had "with those working and living in areas currently under ISIS control," and where he learned "that ISIS is indeed involved in the illicit antiquities trade, but in a way that is more complex and insidious than we expected."[65] ISIS doesn't itself do the looting, he explained, but "permits local inhabitants to dig at these sites in exchange for a percentage of the monetary value of any finds," justified by the principle of an Islamic Khums tax.[66] He didn't say how the value of the objects was determined.

In November, Matthew Levitt, Fromer-Wexler fellow and Stein director of the program on counterterrorism and intelligence at the Washington Institute for Near East Policy, and formerly an intelligence analyst for the US Treasury Department, testified before US House of Representatives Financial Services Committee hearings that looted archaeological artifacts from Iraq are smuggled into Europe via Turkey, Iran, and Syria and "while it is nearly impossible to estimate the total profits of selling [Syrian] artifacts, it is known that one lion sculpture from the region sold for more than $50 million in New York in 2007. Most of ISIS's captured gems have not been publicized, but could fetch similarly hefty sums."[67]

Then, on June 12, 2015, Matthew Bogdanos, an Assistant District Attorney in Manhattan and colonel in the US Marine Corps Reserve, was quoted in a report by the Canadian

Broadcasting Corporation, saying that "You see very slickly produced videos of ISIS publicly destroying the Assyrian reliefs, the human-headed winged bulls, destroying Nimrud, destroying Hatra. What you don't see is that ISIS is selling far more pieces than they are destroying." The report also cited an article in the *New York Review of Books* which claimed that an unnamed Iraqi government advisor estimated that ISIS "may have already earned hundreds of millions of dollars from the sale of Assyrian remains." The same advisor described ISIS as "the world's best financed terrorist organization, worth an estimated $8 billion." But with the US bombing its oil installations, ISIS, he said, "is anxious to diversify revenues." The author of the article did acknowledge that these figures can't be confirmed "but," he wrote, "they are widely believed by the informed Iraqis I talked to."[68]

There is no doubt that catastrophic looting of archaeological sites and destruction of cultural monuments is occurring in Iraq and Syria.[69] But what its financial value is and to what extent it is being traded, to whom and how important it is to the funding of ISIS remains speculation and hearsay. And while stopping, or more likely and at best inhibiting, the trade at the point of its first international transaction may discourage the supply of new illicit objects – Boston University professor of archaeology Michael Danti has said that "If we can hold the material inside Syria and Iraq, ISIL can't get the money for it and it will make it easier for the world to repatriate the antiquities when the conflict ends"[70] - it is not likely to prevent the looting of archaeological sites or cultural monuments or theft of museums and libraries; it hasn't for the forty-five years UNESCO's 1970 Convention has been in place. We should also note that ISIS's destruction of Palmyran reliefs said to have been seized from a smuggler trying to take them to trade on the black market is evidence that nothing is safe in ISIS-held territory; the smuggler was prosecuted by a Sharia court in Manbij and punished with a public flogging and the reliefs were destroyed.[71]

Still, after all of this, the extent of the contribution of all of this illicit activity to the funding of ISIS remain uncertain. As Glen Bowersock has written, "the sale of Palmyrene antiquities would never bring in enough cash for what ISIS aims to do in establishing the Islamic Caliphate, as anyone familiar with auction catalogues will know. Antiquities generally fetch sums in five figures, sometimes more and sometimes less, but certainly not enough for funding the weapons, explosives, and vehicles necessary for invasion and conquest. The sums are not even comparable to ransoms that have been demanded and sometimes paid for hostages of the Islamic State. The sale of oil has

been and probably will be the most effective source of funding for ISIS. But this does not diminish the grave threat to those antiquities that may be separated from their sites and museums where they had been kept, either by looting at the hands of thieves who may or may not be connected with ISIS, or by clandestine negotiators on the part of disreputable dealers."[72] Similarly, counterterrorist expert, Matthew Levitt, admitted in testimony before the US House of Representatives House Financial Services Committee that "on its own criminal enterprise is an insufficient source for funding for a group committed not just to terrorist and insurgent activity but to capturing, holding and administering territory, which involved significant expenditures and therefore requires more significant revenue streams."[73]

* * *

Since 2004, five of the six UNESCO World Heritage sites in Syria have been heavily damaged, four have been requisitioned for military purposes in direct violation of international protocols, bombs have devastated Aleppo's old city, medieval forts have been damaged, and Parthian and Hellenistic sites have been pillaged.[74] In addition, 1,800 of Iraq's 12,000 registered archaeological sites, among them the ancient cities of Ninevah, Dur Sharrukin, Ashur, Hatra, Nimrud, and Mosul, including the Mosul Museum (where the destruction of the ancient sculptures was video-taped) and the Mosul libraries (looting as many as 2,000 non-Islamic books and burning hundreds of books on science and culture) have been damaged or looted.[75]

Despite this tragic tale of damage and destruction, few political or cultural leaders have called for military intervention. At a conference in December 2014, UNESCO Director-General Bokova proposed the creation of "protected cultural zones" around heritage sites in Syria and Iraq. Then she immediately qualified her remark by emphasizing that "there can be no purely military solution to this crisis. To fight fanaticism, we also need to reinforce education, a defense against hatred, and protect heritage, which helps forge collective identity."[76]

As I write, the coalition of forces conducting air strikes against ISIS in Syria comprises the United States, Bahrain, Canada, Jordan, Saudi Arabia and the United Arab Emirates; the US, Australia, Belgium, Canada, Denmark, France, Jordan, the Netherlands and the UK are conducting air strikes against ISIS in Iraq (the combined operation is called "Operation Inherent Resolve"). Collectively, they have struck more than 7,650 targets,

including vehicles, bunkers, fighting positions, and structures.[77] But none has "boots on the ground" protecting the large number of heritage sites in Iraq and Syria.[78] What will it take for the UN to reinforce its rhetoric with military action?[79]

In April 2012, during a brief cessation in hostilities in Syria, the UN established a "blue helmet" Supervision Mission to Syria (UNSMIS) "to monitor a cessation of armed violence in all forms by all parties" for a ninety-day period.[80] The mission was promptly suspended on July 20 due to "escalating violence." UN Security Council Resolution 2059 (July 20, 2012) then allowed for the reintroduction of the mission for thirty days only if "the cessation of the use of heavy weapons and a reduction in the level of violence" is sufficient to allow for the Supervision Mission to implement its mandate. The Mission's mandate came to an end within those thirty days, on August 19, 2012, seventeen months before ISIS's attacks on the sculptures in the Mosul Museum.[81]

UN blue helmets comprise military forces contributed to UN operations by national armies. (They remain "first and foremost members of their own national armies" and are only seconded to work with the UN, in keeping with the state-based foundation of UN policy.)[82] They monitor disputed borders, observe peace processes in post-conflict areas, provide security across a conflict zone, assist in-country military personnel with training and support, assist ex-combatants in implementing peace agreements, and are deployed by the authority of the UN Security Council.[83] If the Security Council approves deployment, it then adopts a resolution setting out the operation's mandate and size and details the tasks for which the force will be responsible. The Secretary-General then provides regular reports to the Security Council on the implementation of the mission's mandate, which the Security Council reviews and renews or adjusts the mission mandate as required until the mission is completed.[84] No resolution supporting the deployment of blue helmets in Iraq and Syria for the protection of cultural heritage in Iraq has been approved, although such protection has been called for by the Italian Cultural Minister Dario Franceschini.[85]

In place of a UN Security Council resolution directing blue helmets to protect cultural heritage in Iraq and Syria, UNESCO launched a "Unite for Heritage" campaign on June 29, 2015, citing the threat to cultural heritage as a global matter and not only the concern of a particular region of the world.[86] "Our main challenge," Director-General Bokova proclaimed, "is to succeed in getting all the players involved in this struggle to work together: police, customs officials, museums, governments, actors from

the cultural, humanitarian and security sectors, civil society and the media. We need to create new alliances to meet the challenges of violent extremism." This produced the Bonn Declaration on World Heritage which condemned "the barbaric assaults, violence and crimes committed in recent times by the so-called Islamic State of Iraq and the Levant (ISIL), also known as Da'esh, against the cultural heritage of Iraq, including the World Heritage site at Hatra, which recalls mindless destructions in Bamiyan, Timbuktu and elsewhere." But still no action has been taken by the UN Security Council to actively protect cultural sites at risk in Iraq and Syria! And if the last time the UN blue helmets went into civil war-torn Syria (April 2012) is any measure, there is little likelihood the UN will deploy them to protect cultural heritage sites and monuments against ISIS.

* * *

A Five-Point Proposal for the Protection of Cultural Heritage in Iraq and Syria. Any nation convinced that the threat to cultural heritage is a global rather than a local matter has got to press forward on five fronts: (1) embrace and participate in a military option; (2) support the vigilant policing of the region's political borders to discourage the illicit export and import of cultural heritage artifacts; (3) encourage "safe harbor" protection of heritage artifacts in circulation outside their likely modern country of origin; (4) restore *partage* to promote the scientific excavation of ancient sites, share the resulting finds with a global community, and broadly distribute the risk to their physical integrity through accident or intentional theft or destruction; and (5) promote greater trans-national cultural understanding of cultural identity. I have already raised the first two points. I will close by raising the final three.

Safe-Harbor. We are told that heritage artifacts from Iraq and Syria are being looted on the order of ISIS, sold to middle men, taken across Iraq's and Syria's borders and sold to international figures who then sell them on to private collectors or disreputable museums. To the limited extent that such artifacts have surfaced outside Iraq and Syria, they have been returned to the political jurisdiction from which they had been taken.

Why should they be sent back into hostile and unstable situations? In the case of the artifacts returned by US officials to the Iraqi government on March 13, 2015, it may have been because the US has no choice. Under emergency import restrictions announced by the US government on April 30, 2008, and in recognition of and alignment with UN Security Council Resolution 1483 (May 23, 2003), the US is obligated to "assist in the

protection of Iraq's cultural heritage" by taking "appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraqi National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 6 August 1990…"[87]

Evidence of the recent destruction and illicit trading of cultural heritage artifacts in Iraq and Syria moved the US House of Representatives to approve bill (HR 1493, June 1, 2015), which declared that "it shall be the policy of the United States to protect and preserve international cultural property at risk of looting, trafficking, and destruction due to political instability, armed conflict, or natural or other disasters…[and] prevent, in accordance with existing laws, importation of cultural property pillaged, looted, stolen, or trafficked at all times, including during political instability, armed conflict, or natural or other disasters," by, in part, giving the US President the right to waive said import restrictions if (a) "the foreign owner or custodian of the specified cultural property has requested such property be temporarily located in the United States for protection purposes," (b) "such property shall be returned to the foreign owner or custodian when requested by such foreign owner or custodian," and (c) "granting a waiver under this subsection will not contribute to illegal trafficking in cultural property or financing of criminal or terrorist activities." [88] If the President grants such a waiver, "the specified cultural property that is the subject of such waiver shall be placed in the temporary custody of the United States Government or in the temporary custody of a cultural or educational institution within the United States for the purpose of protection, restoration, conservation, study, or exhibition, without profit."

This is an entirely reasonable and timely proposal. After due deliberation by the nation's chief executive, and at the request of the foreign owner of the heritage artifacts in question, the artifacts may be given safe harbor in a US public institution for their safekeeping and the enjoyment and education of a broad public. Whether or not it becomes law is uncertain, however. It must first be introduced into and approved by the US Senate and then signed by the President and, as I write, it has not.[89] Neither has a similar legislative bill been introduced that would address such damage to cultural heritage in Iraq. Neither has the UN endorsed or adopted similar legislation.[90] To my knowledge, only Iran, in a proposal to Iraqi officials and Director-General Bokova from Mohammad Hassan Talebian, a senior official at Iran's Cultural Heritage Organization, has offered to "host Iraqi ancient artifacts as long as they are at risk."[91]

That the UN hasn't done this is particularly troubling, since a "safe-harbor" proposal would be consistent with the UN's long-standing commitment to the protection of refugees, which the UN High Commissioner on Refugees acknowledges are often in a very vulnerable situation. They have no protection from their own state – indeed it is often their own government that is threatening to persecute them. If other countries do not let them in, and do not protect and help them once they are in, then they may be condemning them to an intolerable situation where their basic rights, security, and, in some cases their lives, are in danger."[92]

Further, the UNHCR pledges to protect refugees by ensuring them that they will "not be returned involuntarily to a country where they could face persecution. Longer term, the organization helps refugees find appropriate durable solutions to their plight, by repatriating them voluntarily to their homeland, integrating in countries of asylum, or resettling in third countries." If this is the right thing to do for refugees, why is it not also the right thing to do for threatened and looted moveable cultural heritage? Didn't UNESCO Director-General Bokova link acts of "cultural cleansing" (the destruction of cultural heritage) with attacks on ethnic and cultural minorities ("Murder and destruction of culture are inherently linked")?

Partage. For many decades in the late nineteenth and twentieth centuries, archaeological finds were shared between the foreign excavating party and the local host country. Called *partage*, this practice provided the founding collections for new, national museums and those of foreign museums in Europe and North America. The distribution of these collections not only provoked new interest in the artifacts they comprised, and the histories of the cultures and eras in which they were made, but it reduced the risk of damage by distributing them among multiple venues instead of concentrating them in one. With the rise of nationalism over the course of the twentieth century, the practice of *partage* was restricted and then almost entirely forbidden. Iraq is a case in point.

Under the British Mandate from 1921 to 1932, Iraqi archaeology was directed by British teams and regulated by British authorities.[93] The 1924 law governing excavations in Iraq allowed for:

> Article 22: At the close of excavations, the Director shall choose such objects from among those found as are in his opinion needed for scientific completeness of the Iraq Museum. After separating these objects, the Director will assign [to the

> excavator]…such objects as will reward him adequately aiming as far as possible at giving such a person a representative share of the whole result of excavations made by him.
> Article 24: Any antiquities received by a person as his share of the proceeds of excavations under the preceding article may be exported by him and he shall be given an export permit free of charge in respect thereof.[94]

This policy provided the impetus for the founding of the Iraq Museum in Baghdad. (The museum's website still acknowledges the British administrator, Gertrude Bell, whose many contributions to Iraqi archaeology include the establishment of the museum and the writing of Iraq's early *partage* regulations.)[95] It also allowed for the founding of important study and public collections in museums in London, Paris, New York, and the Universities of Pennsylvania and Chicago.

In 1934, however, two years after gaining independence, Iraq tightened local control over archaeological excavations. Two years later, new legislation made all antiquities found by excavators property of the government, with the exception, and "as a reward for his labors," of half of the "duplicate antiquities and certain antiquities already in the possession of the Iraqi government or included among the articles discovered by an archaeological expedition which the Iraq government can dispense with in view of the existence in the Iraq Museum of other articles sufficiently similar in respect to kind, type, material, workmanship, historical significance and artistic value."[96] Decades later, Saddam Hussein further tightened restrictions on *partage* in order to "restore the treasures which are the symbol of the first and greatest civilizations in human history" (and of which, he held, Iraq was the modern heir and equivalent). He also announced a plan to build archaeological museums in every Iraqi province and at every archaeological site of importance, including the museum in Mosul attacked by ISIS fighters in February 2015.

In April 2003, with Iraq at war with the US-led coalition forces, the Iraq Museum was attacked and partially destroyed, and thousands of its objects were damaged and/or stolen. A month later the UN Security Council passed Resolution 1483, of which Section 7 reads:

> [The Council] decides that all Member States shall take appropriate steps to facilitate the safe return to Iraqi institutions, of Iraqi cultural property and other

> items of archaeological, historical, cultural, rare, scientific, religious importance illegally removed from the Iraqi Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 2 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed, and calls upon the United Nations Educational, Scientific, and Cultural Organization, Interpol and other international organizations, as appropriate, to assist in the implementation of this paragraph.[97]

Twelve years later, Iraq is again a battleground and many of its cultural heritage artifacts in its museums are at risk of damage, destruction, and theft. But because of the early practice of *partage*, the artifacts shared with the world are safe (for now) in multiple museums in a number of countries. And, because generations of students and museum visitors in multiple countries have had the chance to study and appreciate them, the international community better understands and appreciates the early city cultures of Iraq and their role in the development of human history.

I have argued the benefits of *partage* before.[98] And at times my argument has been labeled "imperialist," arguing for the transfer of cultural heritage from weaker political jurisdictions to stronger ones. That is not my argument. I am arguing instead for the sharing of heritage artifacts among all political jurisdictions, north, south, east, and west, everywhere and anywhere there are museums and universities prepared to take responsibility for the preservation and interpretation of humanity's heritage artifacts, and are willing in return to provide archaeological, museological, and conservation expertise, and gifts or long-term loans of heritage artifacts from their respective institutions to the originating museums in the source countries. Only then will Director-General Bokova's statement - that the heritage artifacts in Iraq are "a unique testimony of humanity, of the origins of our civilization, and of our inter-ethnic and inter-religious coexistence" - have real meaning.[99] And only then too will it be clear that we all have a stake in the preservation not only of one nation's cultural heritage but in that of the world's.

* * *

Promote Greater Trans-national Cultural Understanding. At an international conference in December 2014, UN Secretary-General Ban Ki-Moon and his Special Envoys for Syria, Staffan de Mistura, and Iraq, Nikolay Mladenov, stressed that the region's heritage belongs to humanity as a whole, while the First Speaker of the Parliament

of Iraq, H.E. Sheikh Humam Hamoudi called on nations to help "safeguard the soul of Iraq; the heritage of its successive and diverse cultures that stands for the region's tremendous contribution to humanity for over six thousand years."[100]

Claims of national identity are often emotional. As we have seen, Mardean Isaac declared ISIS's attacks on heritage artifacts as "a war on [Iraq's and Syria's] ancient history and the right of future generations of all ethnicities and religions to the material memory of their ancestors," and that "when you watch the footage (of the destruction in Mosul), you feel visceral pain and outrage, like you do when you see human beings hurt."[101]

UNESCO is caught in a difficult situation. On the one hand, it recognizes that "no culture is a hermetically sealed entity. All cultures are influenced by and in turn influence other cultures. Nor is any culture changeless, invariant, or static. All cultures are in a state of constant flux, driven by both internal and external forces."[102] And on the other, it holds that cultural heritage is "one of the basic elements of civilization and national culture" and that "the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close cooperation."[103]

UNESCO must resolve the inherent conflict between seeing culture as national (an integral building block of national identity) and global (belonging both to all nationals and to all humanity, a part of "humanity's moral and intellectual solidarity"). National identity is as artificial as nations themselves. It is not natural, rooted in the soil of a particular place or born of a common ethnic, linguistic, or religious origin. It is made and evolves and changes, often dramatically, over the course of history. It is also not what it seems to be, or what nationalist ideology claims that it is, or what nationalists believe. It is neither natural nor inevitable. It is not compelled by ethnic or linguistic purity, and it does not derive from below but from above, from the ambitions of the politically, socially and intellectually elite power-holders. Nationalism engenders nations, not the other way around. In Benedict Anderson's formulation, nationalism imagines a community – a nation – precisely because none exists naturally.[104] Or, as Ernst Gellner put it, as a political principle, nationalism is the creation of the elite. It is not "the awakening of an old, latent, dormant force…It is in reality the consequence of a new form of social organization, based on deeply internalized, education-dependent high cultures, each protected by its own state."[105]

UNESCO must promote greater understanding of culture as trans-national, rooted in the truth that, as the sociologist Arjun Appadurai has argued, "We need to think ourselves beyond. This is not to suggest that thought alone will carry us beyond the nation or that the nation is largely a thought or an imagined thing. Rather, it is to suggest that the role of intellectual practices is to identify the current crisis of the nation and, in identifying it, to provide part of the apparatus of recognition for postnational social forms."[106] This is the challenge before UNESCO in the face of ISIS: how to promote solidarity and commonality among disparate groups of people when state-based identities - Iraqi and Syrian - are in violent conflict or as in the case of ISIS, irrelevant.

* * *

The situation in Iraq and Syria and the role of ISIS in it is complex. Some, such as the anonymous author of a recent article in the *New York Review of Books*, claim simply that we don't yet know enough about ISIS to understand its motivations and organizational imperative:

> None of our analysts, soldiers, diplomats, intelligence officers, politicians, or journalists has yet produced an explanation rich enough - even in hindsight - to have predicted the movement's rise. We hide this from ourselves with theories and concepts that do not bear deep examination. And we will not remedy this simply through the accumulation of more facts. It is not clear whether our culture can ever develop sufficient knowledge, rigor, imagination, and humility to grasp the phenomenon of ISIS. But for now we should admit that we are not only horrified but baffled.[107]

Nevertheless, we must insist that the tenacity, complexity, and sophistication of ISIS requires a multilateral response from the international community. I have offered a five-point proposal. It matches hard power ("boots on the ground") with soft and short-term responses with long-term commitments. There are other proposals and no easy answers. But one thing is clear: continuing to keep cultural heritage in harm's way and exploiting it for modern nation building is failing and resulting in only one thing - the damage and destruction of much of the world's cultural heritage at the hands of a large, growing, sophisticated, and fanatical army of fighters with no regard for the state-based arguments of the UN's resolutions and UNESCO's statements. And that is something the international community must rally to oppose, now.

I acknowledge with gratitude the careful reading and helpful suggestions of Getty colleagues Lizzie Udwin, Timothy Potts, and Stephen Clark.

NOTES

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For example, the "Emergency Safeguarding of the Syrian Cultural Heritage" initiative, launched on March 1, 2014 and funded for three years by the European Union with the support of the Flemish government, and in collaboration with UNESCO, seeks "to contribute to restoring social cohesion, stability and sustainable development through the protection and safeguarding of cultural heritage." The initiative is taking a three-pronged approach: (1) "Monitor and assess the cultural heritage in Syria through updates and continued knowledge and documentation of the establishment of an International Observatory of Syrian Cultural Heritage" (an online platform to provide information on damages and looting of sites and structures, and a database of experts and documentation on cultural heritage in Syria); (2) "Mitigate the destruction and loss of Syrian cultural heritage through national and international awareness-raising efforts" via national media and social networks, video clips, and an episode of "Patrimonito's World Heritage Adventures" in Syria; and (3) "Protect and safeguard Syrian cultural heritage through enhanced technical assistance and capacity building for national stakeholders and beneficiaries." The third effort includes providing technical support for the establishment of a police database of looted artifacts, training police forces and custom officers in Syria and adjacent countries to fight illicit trafficking of cultural property, and training "national stakeholders" to protect portable heritage and museums during and after the conflict, to protect and conserve built cultural heritage, and to create inventories of intangible cultural heritage. See www.unesco.org (retrieved June 27, 2015).

With the support of the US Department of State, the American Schools of Oriental Research is documenting, monitoring, and reporting on cultural heritage damage in Syria by building a comprehensive map and inventory of cultural heritage utilizing satellite imagery developed by the Getty Conservation Institute and World Monuments Fund to monitor and document sites remotely. See http://www.state.gov (retrieved June 27, 2015).

And the University of Pennsylvania Cultural Heritage Center's "Safeguarding the Heritage of Syria Initiative" is developing "specific interventions that enhance the ability to protect Syria 's cultural heritage, in large measure by

empowering the Syrians to preserve their own heritage." The Cultural Heritage Center is also working with Washington's Smithsonian Institution and Syria's Interim Government's Heritage Task Force to develop training projects on safeguarding museum, library, and archaeological site collections that are at "extreme risk." See http://www.pennchc.org (retrieved June 27, 2015). For additional projects dedicated to protecting cultural heritage in Syria, see Sandra Roorda, "Syria's Cultural Heritage in Danger: What Can We Do?," SAFE: Saving Antiquities for Everyone (October 21, 2013), http://savingantiquities.org (retrieved July 1, 2015).

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Syrian objects that are protected by national and international legislations… [and] are most likely to be illegally bought and sold." The categories of objects range from writing and sculpture (in low and high relief and in the round made of ivory, limestone, and bronze to clay and stone), vessels, architectural elements, jewelry, weapons and tools, and cylinder and stamp seals. And "categories" is the operative word here. The list does not include actual stolen objects, only the *kinds* of objects that might be traded illicitly. It is more of a "guide to" than a "list of" stolen objects, www.icom.museum (retrieved June 12, 2015).

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