From Local to World Heritage: a Comparative Analysis

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Abstract

This paper aims to assess the implementation of the 1972 Convention in ten countries (Australia, China, France, Germany, Italy, Japan, Spain, Switzerland, the United Kingdom and the United States) which were part of a research network funded by the UK's Arts and Humanities Research Council in 2012-15 by examining the selection process of cultural properties at the national level through a survey. The survey consisted of a questionnaire that aimed to identify national practices regarding the identification and nomination of sites for submission on the state's Tentative List and then onto the World Heritage List. It highlighted that despite the efforts of the World Heritage Committee to unify the submission process through long and detailed Operational Guidelines, there are important differences at a national level that lead to the List's lack of representativity and an heterogeneous implementation of the Convention.

Keywords: 1972 UNESCO Convention, cultural heritage, identification, local heritage, World Heritage List

The 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage is widely known as the Convention that created the Word Heritage List (hereafter the List) that counts 1031 properties (January 2016) and whose emblem has become a brand widely recognised all over the world. It is often described as the most successful of the UNESCO Conventions since 191 out of 196 countries in the world have ratified it (January 2016). One of the reasons of this success is that the Convention acknowledges that some sites 'are of outstanding interest and therefore need to be preserved as part of the world heritage of mankind as a whole' (preamble, para. 5) while at the same time respecting the sovereignty of State parties that have the duty to protect World Heritage properties on their territories. Indeed, the Convention's 'soft character' is part of its success as it gives rights and advantages rather than legal obligations to state parties: the advantages from inscription on the List are significant whereas the duty to protect the natural and cultural heritage is very general.[1]

This research focuses on the selection process of cultural properties at the national level and aims to assess the implementation of the 1972 Convention in ten countries that were chosen because of their representativeness of two of the five regions defined by UNESCO (Europe and North America: France, Germany, Italy, Spain, Switzerland, the United Kingdom (UK) and the United States (US); Asia and Pacific: Australia, China and Japan).[2] The survey

consisted of a questionnaire that aimed to identify national practices regarding the identification and nomination of sites to submission on the List.[3] The analysis of the different answers is presented in this article. It highlights that despite the efforts of the World Heritage Committee to unify the submission process through long and detailed Operational Guidelines,[4] there are still differences at a national level that lead to the lack of representativity of the List and the heterogeneous implementation of the Convention. The first section analyses the Convention's success in the participating countries that cumulate one third of all cultural properties on the List. The second section focuses on the submission process and the final section explores the different problems that have been identified by the research.

SETTING THE SCENE: THE SUCCESS OF THE CONVENTION

As of January 2016, the 10 state parties from the sample have 325 cultural properties listed on the World Heritage List (List) and 148 cultural properties on their Tentative Lists (TL). If success is to be judged by the number of properties on either the List or the countries' TLs, the survey shows that the Convention has been more successful in some countries (China, France, Germany, Italy, Japan, Spain and the UK) than others (Australia, Switzerland and the US).

THE WORLD HERITAGE LIST

The List is defined in article 11(2) of the Convention as 'a list of properties forming part of the cultural heritage and natural heritage, as defined in Articles 1 and 2 of this Convention, which it [The Committee] considers as having outstanding universal value in terms of such criteria as it shall have established.' The identification of the criteria of Outstanding Universal Value, Authenticity and Integrity, as well as the nomination process, were left at the appreciation of the Committee that has instituted the framework of the Convention and its Operational Guidelines (OG) (2015) since the entry into force of the Convention in 1975.

There are currently, 1031 properties on the List. This ever growing number was already identified as a problem in the mid-1980s but it was only in 2000 when the number of nominations per country was limited initially to one and subsequently to two per year (one cultural, one natural property). That same year, the total number of nominations reviewed annually by the Committee was set at 45, inclusive of nominations deferred, while underrepresented countries would be favoured if they had less than three nominated properties on the List (OG para 61).[5] Well represented countries were encouraged to submit properties in under-represented categories and to link their nominations with other countries whose heritage was under-represented (OG para 59).[6] This call has not been heard by State parties, not least the ones from the sample; as of January 2016, the 10 participating countries have 325 properties inscribed on the List with 254 cultural, 58 natural and 13 mixed properties. With the exception of the US and Australia, countries have submitted far more cultural than natural sites. The first nominations were made in 1978 (Germany and the US) and the most recent ones in 2015 (China, France, Germany, Italy, Japan, the UK and the US) (see Figure 1). All of the following countries have properties nominated as cultural heritage

properties, in decreasing order: Italy (47), Spain (39), France (37), Germany (37), China (34), the UK (24), Japan (15), the US (10), Switzerland (8), and Australia (3). By contrast, the highest number of natural World Heritage Properties is in Australia and the US (12 each), closely followed by China (10), then Japan, the UK, and Italy (4 each), France, Germany, Spain and Switzerland (3 each). There are few mixed properties, Australia and Japan (4 each), Spain (2), France and the UK (1 each) and none in Germany, Italy, Spain and Switzerland.

Seven of the ten countries (China, France, Germany, Italy, Japan, Spain and the UK) have had cultural properties nominated at the rate of approximately one to three per year from the time they ratified the Convention either at its beginning in the 1970s (France, Germany, Italy), or through the 1980s (China, Spain, the UK) and 1990s (Japan) (see Figure 1); Italy had 10 properties nominated in 1997, the year it hosted the Committee meeting at Naples. This high number was later invoked in support of the policy that led to the restriction of properties that could be submitted every year.[7] There was a decrease in nominations between 2000-2004 which can be explained by considering how the Global Strategy and the creation of new categories (industrial heritage) encouraged States Parties (particularly in Western Europe) to focus on these for new nominations. For example, Italy has only one industrial site (Crespi d'Adda in 1995) whereas eight of the UK's 24 cultural properties are linked to the Industrial Revolution of the 19th century (six of which were nominated between 2000 and 2015).[8] Similarly, the Global Strategy has influenced Japan to include more cultural landscapes and industrial heritage even though it is still lacking in ancient archaeological sites, modern heritage, and forms of worship unique to Japan.[9]

By contrast, Australia, Switzerland and the US have had a lower rate of submission for different reasons. Australia has submitted natural properties at the rate of one every two to three years since 1981. It submitted its first cultural property in 2004 following the widening criteria of Outstanding Universal Value defined in the Operational Guidelines.[10] This lower rate is linked to a constitutional division of power between the Commonwealth and States. Switzerland was amongst the first countries to ratify the Convention in 1975 and submitted three properties in 1983 and then none until 2000; it then had five successful nominations between 2000 and 2011 but has not submitted new properties since 2011 as it aims to empty its current TL.[11] The US submitted eight properties between 1978, the year of its first submission, and 1992. It then submitted neither cultural (after 1992) nor natural (after 1995) properties with the exception of a mixed property in 2010 (Hawaii). In 2014, the US nominated one cultural property, the Monumental Earthworks of Poverty Point, followed by the San Antonio missions in 2015. This gap was caused by a lack of political support from the mid-1990s to 2010 and the recognition that the United States had an adequate number of inscribed properties.[12]

THE TENTATIVE LISTS

A TL is an inventory of properties suitable for inscription on the List as defined by article 11(1) of the Convention and paragraph 15(e) of the OG. TLs were first required by the Committee in 1977 as a comparative and planning instrument that became compulsory in

1984.[13] As of January 2016, there were 1634 properties on all TLs submitted by the state parties. The analysis of the current TLs and the submission policies of the sample countries highlights that this number is unlikely to decrease as attitudes towards submission are very diverse, from very active (China) to almost inactive (Switzerland and Australia).

The Tentative Lists of the sample countries

The number of cultural properties included in the TLs of the sample varies greatly, with China, Italy and Spain counting for half of all properties (78 out of 148) while they also represent the countries with the highest number of cultural properties on the List (see Figure 1 and 2). China has also more than 100 cultural properties waiting to be included on its TL, which means that at the current rate of one nomination per year, this would take more than a century.[14] At the other end of the spectrum is Switzerland with one cultural site on its TL, and Australia, with two natural properties on its TL.

The high number of properties (148 from the sample) is due to an accumulation of properties added over time because of regional and local pressures on national authorities that encourage ad hoc decisions rather than a thought through policy on nomination, which shows that systematic reviews are lacking and ad-hoc revisions are too common; for example, France, Spain and China have had properties on their TL since 1996, and Japan since 1992.[15] Furthermore, state parties, in particular federal states, have not heard the Committee's request to redraft TLs in order to include underrepresented categories (cultural landscape, vernacular heritage, modern heritage, industrial heritage), and to harmonise TLs at a national level (OG paras 65, 73). The UK and Germany are the only exceptions in the sample that have revaluated all properties on their TLs in 2012 and 2014/15 respectively.[16]

The representation of properties varies greatly: the majority of properties are either religious (France, Germany and Spain) or urban settlements/historic towns and villages. Very few countries have properties that represent vernacular architecture. For example Italy, Japan, and the US have one and China has two. This does not come as a surprise as a number of studies have already demonstrated the problems of the overrepresentation of European and Christian religious properties linked to the historical definition of heritage preservation that concentrated on monumental and single entities.[17] It can, however, be noted that there is an attempt by State parties represented in the survey to vary the types of cultural properties that are submitted, which shows an attempt to fill in the gaps, and to follow the Global Strategy recommendations in the redefinition and implementation of the criteria of Outstanding Universal Value and Authenticity.[18] For example, there has been an increase of industrial sites (in the UK, Germany), cultural landscapes (France, Italy), overseas territories (France: New Caledonia and Island Reunion, albeit both are natural properties rather than cultural, and Bermuda in the UK, which is cultural), different historic period and modernisation (Japan[19]), and nationwide representation (the Centre and the North of Italy have 30 out of 46 properties as opposed to the South that is underrepresented).[20] However, those changes were made by adding new properties to TLs rather than redrafting existing ones.

Policies for future nomination

From the sample, policies for future nominations fall into three categories: nomination every year, every other year or no policies at all, which does not depend on the number and/or category of properties already listed. Firstly, some countries like China, Japan and Spain, nominate two properties every year (one cultural and one natural), even though they are well represented on the List.[21] Secondly, some countries wish to nominate properties which have a real chance of success every other year (the UK and the US) until their current TLs are exhausted (Australia and Switzerland[22]). Indeed, the Australian TL only includes properties that have been nominated for inclusion on the List or whose nomination has been deferred. This position is the consequences of a High Court decision that has led to a broad interpretation of the powers of the Commonwealth over states and explains why Australia has only two properties on its TL. [23] Finally, there seems to be no national policies on submissions in Germany, as decisions are made in an annual meeting by ministers from different states.

MOTIVATION FOR NOMINATION

According to the reports, the advantages of world heritage listing outweigh the constraints for all but Australia and the US, as evidenced by the small number of properties on both the List and their respective TLs (see fig. 1 and 2).

ADVANTAGES OF NOMINATION

The advantages are for most countries, conservation in the first place, followed by honour/prestige, and then economic impact.[24] For example, an Australian case found that the federal state could consider the economic interest or otherwise (meaning political, social, administrative and cultural interests) when determining the suitability of a site. [25] A World Heritage paper also underlines the tangible (sustainable development) and intangible advantages of nomination (identity, sense of belonging) that can result from better heritage protection as required by article 5 of the Convention.[26]

According to the sample answers, one of the advantages of nomination is the perception that properties will be better protected if they are nominated, i.e. that the nomination itself will improve the conservation of the site (UK, Japan, Germany). It has also been found in a report by UNESCO that 50 per cent of State parties in Europe considered enhanced conservation as a key motivation, and the number was even higher for Western European countries (8 of the 10).[27] This is misleading because conservation plans must be in place at the stage of the nomination, before the site is nominated on the List, although this may lead to better management. Furthermore, a site on the List does not have an added level of protection in the ten countries examined because of two reasons. On the one hand, there is no extra level of protection for Word Heritage Site at a national level because article 5 of the Convention and paragraph 98 OG require countries to use national protection mechanisms, whereas other countries outside of this research have specific laws that protect the property's OUV, such as Hungary or the WH property of Ohrid in the FYR of Macedonia. On the other hand, at the international level, the protection usually takes place under the monitoring process. However,

if the property is under threat, its listing should be given more weight, the balance between public interest and heritage protection ideally being in favour of heritage (see paper by R. Pickard in this special edition).[28]

The second main reason for nomination is honour/prestige (China), which has also been recognised as the key motivation for six out of 10 Western European countries. [29] The prestige attached to the World Heritage label is raising public awareness, which then might lead to an increase in tourism (Italy).

The third reason is economic benefit, which is mainly understood as the development of tourism[30] (China, Italy, France, Germany, Japan and Spain but not the US[31]), and rarely in relation to increased funding (except in Germany, where there is a federal programme for funding World Heritage Properties, and Italy).[32] In the case of China, economic growth is a major motivation for nomination because the promotion of local officials depends on the increase of the locality's gross domestic product, which will be boosted by the income from tourism. As a consequence, local officials are keen to apply for nomination to the List, but according to the rapporteur, the nomination rarely protects the site afterwards.[33] In the case of Spain, economic and social developments (OG para. 119) are specifically mentioned in an internal document detailing the different steps for submission to the TL.

Finally, according to the answers, a nomination is rarely motivated by political reasons except for Germany's Berlin nomination (extension of the boundaries of the Palaces and Parks of Potsdam and Berlin in 1992 and 1999 after its nomination in 1990). However, this statement should be nuanced as the mere fact of putting forward a site for nomination is an exercise in showing the importance of the property to the world. As noted by Labadi in her study of comparative analyses of nomination documents, there is a widespread 'use of superlatives to describe the site, and by extension the nation'.[34] Furthermore, the success of the Convention has led to an awareness of the advantages of nominations and a political pressure to nominate properties on the List.[35]

DISADVANTAGES OF NOMINATION

The questionnaire responses identified several disadvantages to nomination. One of the main reasons against listing a property is pressure for development (Australia, Italy, China, and Germany, the UK and the US). This reason is acute since the Dresden Elbe Valley was put on the list of danger in 2006 and delisted in 2009.[36] In this case, the Committee decided that the construction of a four-lane bridge over the Valley would negatively impact on the Outstanding Universal Value of the cultural landscape that stretched over 18 kilometers along the Elbe River.

Other disadvantages include the cost of nomination that comprises the improvement and restoration work necessary to preserve buildings as well as a lengthy and costly process, which is often borne by local authorities sometimes with the help of private donors (Japan, UK).[37] Other problems include environmental degradation due to the increased number of tourists (Japan),[38] the possible gentrification of the site after its renovation, in particular in cities (e.g. Bath) and industrial sites such as Ironbridge Gorge (see R. White's paper in this

special edition).[39] Finally, other reasons were more idiosyncratic: for some time there was a strong opposition against nomination in the US because of a lack of political support and a misconception that the nomination meant a loss of sovereignty (particularly between 1994-2000); the latter was caused by the inscription of the Yellowstone National Park on the List of World Heritage in Danger in 1995 (removed in 2003) and the misperception that the Committee could control land use in the United States.[40]

In conclusion, advantages greatly outweigh the disadvantages for most of the sample countries as evidenced by the number of sites on their List and TLs. However, the impact of restrictions on land use and planning should not be underestimated. Two recent cases in England (Liverpool and Westminster) illustrate the difficulties in finding a balance between heritage protection and pressure for economic development, as well as housing in urban areas (see Robert Pickard's paper in this special issue).

THE SUBMISSION PROCESS

A property can be nominated to the List if it meets one or several criteria of Outstanding Universal Value, fulfils the conditions of Authenticity and Integrity (conditions added by the Committee in the Operational Guidelines) and has a management system in place (for this latter condition see R. Pickard's paper).[41] Those criteria are specific to the Convention and are not usually found in national legislation with the consequence that they are often 'misunderstood, misinterpreted or altogether ignored', [42] even though they have been further developed and defined by the OG and the Committee.[43] The study found that few countries explained the discourse of the OG into a 'national' understanding of heritage with the consequence that the concepts of the Convention are not familiar to local stakeholders. This is due to the fact that the Convention is a self-standing instrument that has developed its own concepts and mechanisms. Indeed, in Australia, China, Germany, Japan, there are no further criteria to explain the appreciation of international importance, only reference to the OG. By contrast, in Spain and England, there are specific national and/or technical guidance to explain and illustrate those criteria and further describe what the process requires.[44]

PREPARATION OF NOMINATION

Paragraph 130 of the OG states that the nomination dossier must include the following sections: identification of the property, its description, justification for inscription, state of conservation and factors affecting it, protection and management, monitoring, documentation, contact information of responsible, and signature on behalf of the state party(ies). Details of what is needed for a nomination to be 'complete' are specified in paragraph 132 and annex 5. This section does not develop the evolution of the documents required for a nomination dossier nor focuses on the different criteria as interpreted by the Committee or the Advisory Bodies; it aims, rather, to assess the national selection process from local heritage to the TL.

The site's value

It is beyond the scope of this study to compare in detail the criteria used by each of the sample countries to assess the heritage value of a site and/or monument, however, this survey identified four non-cumulative criteria that are mainly based on quality and representativeness but can also include ownership. For example, the Italian Heritage Code creates a presumption for cultural heritage importance of all buildings that are in public ownership or charitable ownership whereas those in private ownership must be listed as having a particular interest.[45] The first criterion is that the property has an interest value that belongs to an identified category: historical, artistic and or scientific values are the most common (China, France, Italy, UK) but also urban development, folklore and technology (Germany), social, cultural or spiritual association with a community, association with a person, indigenous tradition (Australia). The second criterion is that the property is rare, original (similar to authenticity) or integral (completeness). This was not required by all systems but it was also mentioned that if the structure had changed, it would have lost its historical importance and therefore would not be listed. The third criterion is age (in Italy, only buildings that are more than 70 years old are protected) but this criterion is not present in all countries, as in the case of Japan, where parts of traditional wooded buildings are routinely rehabilitated like for like.[46] Finally and most importantly, the value must be of a high threshold. In Australian law, for example, the property must be of outstanding heritage value to the nation or of significant heritage value for the federal/commonwealth heritage[47]; in Spain, the site must be of universal value for the highest category of protection.[48]

Another common feature from the sample is that a property must be inventoried before it can be nominated on a TL. Inventories are required for the implementation of articles 3, 4 and 11 of the Convention and the OG,[49] and they are also used as a basis for selecting World Heritage properties.[50] Amongst the sample, inventories have been carried out in all countries either at national, regional or local level and in some cases have existed since the 19th century (Japan). They are often maintained or coordinated at national level, either by a governmental body (such as the Ministry responsible for Culture and/or Cultural Heritage) or a non-governmental body (e.g. Historic England).[51] Only properties on national inventories are normally selected to the TL (Japan, China). However, not all buildings within a World Heritage Property have to be on an inventory of national or exceptional significance as long as the ensemble is of Outstanding Universal Value. This might be the case for historic towns and settlements. For example, in the old city of Bath, some of the buildings within the boundaries of the property are scheduled monuments (national importance), listed buildings (national importance), conservative areas and locally listed buildings (local importance) whereas others are not protected (post war reconstructed buildings). Finally, Australia is the only country in the sample to have a special inventory for World Heritage Properties (World Heritage Value List).

Differences between national criteria and WH criteria

There are differences between national criteria and WH criteria with the consequence that not all sites listed nationally can be selected as properties of Outstanding Universal Value.

Firstly, the Convention lists places of Outstanding Universal Values that can be associated with events, living traditions, ideas or beliefs, artistic or literary works (see criteria vi) but not people,[52] whereas national listings celebrate national heroes. Hence, in many countries, a site can be listed because of its close association with an individual, but it is not a sufficient ground for World Heritage nomination. For example, Monticello and the University of Virginia in Charlottesville in the US were listed under the criteria (i) (iv) and (vi) in 1987 because of their architectural importance and design by Thomas Jefferson as an architect rather than the president of the US.[53] Indeed, the neo-classical style of his plantation home and of his 'academic village' symbolizes the aspirations of the new American republic as both the inheritor of European tradition and the initiator of a new country. Secondly, a site cannot be nominated on the List for its 'potential' archaeological content or 'potential' information whereas it can be listed nationally.[54] This statement should be nuanced as the List includes archaeological sites that have enough visible remains and/or where enough excavations were carried out to evidence their Outstanding Universal Value.[55]

Finally, amongst the studied sample, the US and Spain have additional conditions for nomination. In the US, the owner of the site must consent to its nomination;[56] with the consequence that properties on the List belong to either the federal state or states but rarely to private entities unless they consented to the nomination. The main impact of this condition is that towns and villages cannot be nominated as it would require that the owner of each house within the property's boundary consented to the nomination. Hence, Independence Hall in Philadelphia is listed but none of the houses nearby that form part of the historic centre are included. Regarding the technical guidelines that explain the Operational Guidelines, Spain also includes specific questions that reflect the state's concern for social appropriation of the proposed sites and its effort to improve cultural diversity.[57]

The national selection process

The sample countries show a greater involvement of regional and local authorities which reflects the situation identified by Rössler at the European level.[58] It also reflects a move from a top to bottom approach to a bottom up approach (Japan, UK). For example in England, English Heritage (now Historic England) initially selected sites and prepared the nomination dossier but this process was abandoned for a bottom up approach at the initiative of the government in 2008. The application process can be initiated by central authorities that send a call for submission (China, Japan, UK) or local authorities (Australia, Germany) or in the case of the US by the owner. For example, in China, the process is initiated by the State Administration for cultural heritage that sends notices to local authorities which, if interested, prepare a submission. Then, the preparation in most cases is a bottom up approach, led by local authorities, civil organisations and/or the owner(s).

Central authorities usually represented by the Ministers responsible for culture and/or for environment (Italy, France, England, Japan: World Heritage Interdepartmental conference composed of Ministry of Foreign Affairs, Agency for Cultural Affairs, Ministry for Environment, and Ministry of Land), or a conference of the federal states' representative (the Kultusministerkonferenz in Germany), or both (Australia: the Commonwealth in agreement

with any person with an interest in the property and with the state or territory where it is located, Switzerland, the US) will then make a choice amongst the submissions received, often in consultation with specialised bodies (China, Italy, France, UK). For example, when the UK updated its TL in 2012, it received thirty eight applications to its call for submission, of which eleven were selected for the new TL by an independent expert panel created for the occasion. In Germany, a meeting of the cultural Ministers of the different federal states (Kultusministerkonferenz) selects the properties for submission to the TL. In Australia, the Minister decides to include a site on the TL after consultation with Australian Heritage Council. In France, minister decides to include a site after consultation with the Comité national des biens français du patrimoine mondial.

The final responsibility for nomination to the World Heritage Committee is on the central government, usually the Minister responsible for Foreign Affairs (Germany), or in the US the Department of State, but also the Culture minister (UK).[59]

CONSULTATION PROCESS

According to paragraph 64 of the OG, 'States Parties are encouraged to prepare their TLs with the participation of a wide variety of stakeholders, including site managers, local and regional governments, local communities, NGOs and other interested parties and partners'. Since the Convention came into force, consultation and community participation have become an essential requirement in the nomination process.[60]

Expert groups

Article 8(3) of the Convention instituted the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN), as advisors to the Committee. Their role has considerably grown over the years and is now found in paragraphs 30 to 37 of the Operational Guidelines 2015. The three Advisory Bodies and UNESCO have antennas in each of the selected countries. They can be consulted by state parties for upstream advice but there is no obligation to do so and nationally there might be no formal requirement to consult with them (for example in Australia[61]).

The survey showed that countries have created specialist societies/agencies to advise central/local authorities on the protection of World Heritage properties which might also advise on the submission process of a new property on the TL. For example, in Italy, the Permanent interdepartmental work group of the UNESCO World Heritage was created in 1995 and formally recognised in 1997 which includes representatives of the different ministries responsible for agriculture, environment, education, foreign affairs, heritage; the UNESCO World heritage list bureau was later created in 2004. In France, the Comité national des biens français du patrimone mondial was created in 2004 by the minister for culture and the minister for the environment. It has experts from several disciplines and it has a dual role: advise the minister on the selection process for nomination (choosing properties) and on the implementation of the 1972 Convention. In Japan, a division for world cultural

heritage and intangible cultural heritage was established within the Agency for Cultural Affairs (a non-governmental organisation created by the Minister responsible for culture) including a special section on world cultural heritage in 2012. The division includes members of ICOMOS as well as international experts and its role is to enable the implementation of the Convention, including the selection of properties for submission.[62] The UK created a specialist panel with independent technical experts to assess the applicants' nomination dossier before resubmitting its TL in 2012.[63] There are also two non-governmental bodies that participate in the protection of World Heritage Properties: English Heritage is the owner and/or manager of properties and Historic England is the advisory body on planning applications to the Department of Culture, Media and Sport and the Department for Communities and Local Government. Finally, in China, the experts are neither stakeholders nor from non-governmental organisations; they are state established research institutions such as universities or professional organisation specialised in heritage preservation, most of them are historians or archaeologists.[64]

Non-expert groups

Non-expert groups include civil society defined as local communities, indigenous groups, NGOs and other interested parties such as purposefully formed charitable societies (e.g. Association des biens français du patrimoine mondial in France) as well as owners and managers of heritage sites that are not experts in heritage management such as local and regional governments. The Convention itself does not assign a statutory role to civil society in contrast to the state parties, the Advisory Bodies and the World Heritage Committee.[65] However, since its adoption in 1972, participation from civil society has grown exponentially and is encouraged by the Committee as one of the five strategic objectives in the implementation of the Convention (known as the 5Cs).[66] This is also found in the resource manual on preparing World Heritage nominations[67] and several paragraphs of the Operational Guidelines 2015, in particular in paragraph 123, which encourages state parties to 'prepare nominations with the widest possible participation of stakeholders and to demonstrate, as appropriate, that the free, prior and informed consent of indigenous peoples has been obtained, through, inter alia making the nominations publicly available in appropriate languages and public consultations and hearings'.

The different countries give an interesting picture of what is happening at the national level. The survey shows that there has been a greater consultation process in the preparation of nomination dossier, where consultation of citizens' groups takes place (Australia, China, Germany, Japan, Spain, Switzerland, UK and US, no information was available for France and Italy). However, there are many differences. For example, in China, the consultation process takes place before the final submission to the TL and local authorities must have a statement showing local support but there is no unified process to record such statement. Similarly, in England, there is no official method by which different institutions and the public in general intervene in the process of identification of World Heritage properties. In Germany, those groups are very important because of the bottom up approach for the nomination process. Similarly, in Spain, the participation of citizens' groups is very

important and is part of the submission process as the applicant must show how civil society supports the proposal, how it will affect the population and whether there has been social appropriation of the sites by local communities.

PROBLEMS

There are several problems in the preparation of the nomination dossier at a national level, the most common are lack of funding, lack of national, local or regional cooperation, inadequate staffing, and development pressure.[68] Some problems are country specific, for example, in the US, the submission is led by the owner which means that historic cities/centres cannot be nominated unless each individual land owner agrees to it and funds the nomination. It also means that it is difficult to nominate properties that would represent a living culture.[69] The survey specifically highlighted the following issues: resources, poor cooperation among public entities and between public entities and civil society.

RESOURCES

In most countries, there are problems for funding the preparation of the nomination dossier as the costs include amongst other activities: preparatory work (collection of information on the property, studies of the property's potential Outstanding Universal Value, integrity or authenticity, comparative study of the property in its wider global or regional context including the Gap Studies produced by the Advisory Bodies, para. 122 OG), sending representatives to the World Heritage Committee meeting, creating a team to work on the nomination, consulting expert groups, holding national/international expert meetings, raising awareness among the public, establishing conservation and management plans.[70] It is a lengthy and expensive process which takes a minimum of two years, but might be much longer if the relevant protective measures are not in place, or if the research on Outstanding Universal Value needs to be carried out.[71] A 2007 survey by the accountancy firm PricewaterhouseCooper estimated the total cost for a nomination dossier, taking on average 4.7 years, to be between £356,000 - £387.000 in the United Kingdom. [72] As the process is usually a bottom up approach, it is often local authorities or the site's owner who bear the burden of financing the application, sometimes with the support of external funding (national funding, private donations). Hence, in Japan, the rapporteur noted that several local authorities abandoned the project because of costs whereas in the UK, the expert panel advised local authorities to consider deferring their application because of the high cost involved in a period of economic crisis. In China, local authorities might get bank loans in the hope to repay them after a successful application and following the transformation of the place into a tourist attraction.[73] It was also found that national governments usually paid the agencies in charge of advising applicants in the nomination process. There is also funding for preparation offered by UNESCO that can relate to the success of submission (China),[74] although funding does not usually lead to nomination success.[75]

POOR COOPERATION AND CONSULTATION

The reports of the countries that have a federal structure (Australia, Germany, Spain, Switzerland the US) highlighted several problems: coordination at the federal level;

conflicting priories between the federal state and states (Australia); finding a balance between the different states, e.g. one site per region even if not the best site (Spain, Germany), the federal government's lack of competence in the area of cultural heritage which means that states are keen to show and use this autonomous power (Germany, Spain). A problem specific to Australia is that the listing of a property on the List and the TL means that the Commonwealth/Federal state has powers over states, which explains why there are so few sites on the Australian TL.[76] Another difficulty is the lack of coordination caused by the autonomy of each state, the lack of unified processes at the federal level. For example, in Germany, each state prepares its own nomination dossier and then, might look for the advice of curators, heritage specialists but this depends on how each state deals with the issue. Some states might use experts from different states but there is no unified process.[77]

However, lack of cooperation was also mentioned by the rapporteurs of the countries that have a unitary structure. This is the case in the UK in that, although not a federal state, it has devolved powers to Scotland, Northern Ireland and Wales. For example, one of the problems of the bottom up approach in the UK, which led to 'overlap and confusion', was that individual applicants could not coordinate or communicate with each other as they were unaware of other applications and there had been no oversight by either English Heritage or DCMS.[78] Furthermore, the lack of cooperation can be linked to the State's complex administrative structure to protect the heritage (China); or the lack of cooperation of the different stakeholders. This lack of cooperation and joint application at a national level defeats the objective of having fewer nominations per state party.

CONCLUDING REMARKS

The World Heritage Committee has set up the nomination process to identify and nominate properties of Outstanding Universal Value for the heritage of mankind to the World Heritage List. However, the 191 state parties (as of January 2016) to the Convention have each their own way of implementing it and the survey of 10 countries has shown that the apparent unified process still allows for wide discretionary powers to each state party regarding the different steps of the process.

Firstly, several rapporteurs underlined that although there is a need to consult, there is neither formal nor unified process to consult and/or record statements received by the public (China, Spain, Switzerland, the UK) which can lead to narrowing avenues for public information and consultation with stakeholders and the general public (Australia). This lack of consultation also represents what Labadi describes as

> 'a commonly held view that communities are not supposed to be concerned with or consulted about the identification, nomination and management of the property. It also reflects the dichotomy between access to and preservation of the property. These stand in opposition to the discourse of the Word Heritage Committee, which has increasingly stressed the importance of involving and empowering local communities.'[79]

The survey showed that the goal for more consultation and communities' involvement is, in practice, rarely achieved.

Secondly, the survey highlighted that the selection of properties to the national TL does not address the question of the List's representativity because the submission process represents the view of the majority and as such it is difficult to have properties representing minority cultures. [80] Furthermore, the bottom up approach at a national level does not encourage underrepresented categories to apply for World Heritage nomination when local authorities also have to shoulder the cost of the process. It also raises the question of the representativity of the whole List and whether State parties that already have a significant number of properties should be required to suspend all nominations.[81]

Thirdly, a high level of technical knowledge is required to submit a dossier: the vocabulary and style required to fill in the application make them difficult to comprehend as underlined by the Chinese rapporteur. The Convention has created specialist criteria that require specialist knowledge that are not easily translated in lay concepts.[82] This is further illustrated by the fact that State parties that were active in the first years of implementation of the Convention acquired sufficient technical knowledge and practice to prepare successful nomination every other year.[83] It was also noted in the periodic report for Europe that 'lack of understanding of terminologies and linguistic differences [were] a common cause for inconsistences in responses provided',[84] which illustrates that the specialisation continues with the management of the property.

Fourthly, the nomination process takes several years from initial preparation to nomination to the List and is very expensive to conduct. That is the reason why there is a need for early advice from the Committee on the likelihood of the process in the upstream process (see para. 122 OG) as well as the completeness check.[85] The independent expert panel in the UK also suggested a feasibility stage which has been adopted by the Department for Culture, Media and Sport. It consists of a Technical Evaluation that must be submitted before a site is allowed to go forward with preparing the nomination.

The World Heritage List of properties of Outstanding Universal Value represents the best heritage of humankind; it includes properties that are at the same time rooted in a local heritage and an irreplaceable value for the World's people. However, the construction of the World Heritage List is dependent on State party's willingness to adopt and adapt the Convention's and the Committee's processes of identification of heritage and this paper has shown that this process is far from being homogenous.

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http://www.kent.ac.uk/law/research/projects/heritage/index.html (28/08/2015)

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Figure 1: Number and year of nomination of properties (up to July 2015)

A (Australia), C (China), F (France), G (Germany), I (Italy), J (Japan), Sp (Spain), Sw (Switzerland), UK (United Kingdom), US (United States of America)

	Rat.	First sub.	cultural properties		natural properties		mixed properties		Total
			Total	Year	Total	Year	Total	year	
A	1974	1981	**3**	2004, 2007, 2010	12	1981, 1982, 1986, 1988, 1991, 1992, 1994, 1997, 2000, 2003, 2011	4	1981, 1982, 1987	19
C	1985	1987	**34**	1987, 1994, 1996, 1997, 1998, 1999, 2000, 2001, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015	10	1992, 2003, 2006, 2007, 2008, 2010, 2012, 2013	4	1987, 1990, 1996, 1999,	48
F	1978	1979	**37**	1979, 1981, 1982, 1983, 1985, 1988, 1991, 1992, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2005, 2007, 2008, 2010, 2011, 2012, 2014, 2015	3	1983, 2008, 2010	1	1997	41
G	1992	1990	**37**	1978, 1981, 1983, 1984, 1985, 1986, 1987, 1990, 1991, 1992, 1993, 1994, 1996, 1998, 1999, 2000, 2001, 2002, 2004, 2006, 2008, 2011, 2012, 2013, 2014, 2015	3	1995, 2007, 2009	0	-	40
I	1975	1980	**47**	1979, 1980, 1982, 1987, 1990, 1993, 1994, 1995, 1996, 1997, 1996, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2008, 2011, 2013, 2014, 2015	4	2000, 2003, 2009, 2013	0	-	51
J	1976	1992	**15**	1993, 1994, 1996, 1998, 1999, 2000, 2004, 2007, 2011, 2013, 2014, 2015	4	1993, 2005, 2011	0	-	19
Sp	1982	1984	**39**	1984, 1985, 1986, 1987, 1988, 1991, 1993, 1996, 1997, 1998, 1999, 2000, 2001, 2003, 2006, 2009, 2011, 2012	3	1986, 1994, 2007	2	1997, 1999	44
Sw	1975	1983	**8**	1983, 2000, 2007, 2008, 2009, 2011	3	2001, 2003, 2008	0	-	11
UK	1984	1986	**24**	1986, 1987, 1988, 1995, 1997, 1999, 2000, 2001, 2003, 2004, 2006, 2009, 2015	4	1986, 1988, 1995, 2001	1	1986	29
US	1973	1978	**10**	1978, 1979, 1982, 1983, 1984, 1987, 1992, 2014, 2015	12	1978, 1979, 1980, 1981, 1983, 1984, 1987, 1995	1	2010	23
Total	-	-	**254**	-	**58**	-	**13**	-	**325**

Figure 2: Submission and revisions of tentative lists

Properties that are currently on the Tentative List up to date 10/07/2015

	Ratification	First submission	Number of properties on TL	year of submission of properties on TL	Last revisions of T
Australia	1974	1981	2	2010	2010
China	1985	1987	54	1996, 2001, 2008, 2010, 2013, 2015	2015
France	1978	1979	37	1996, 2000, 2002, 2006, 2010, 2011, 2012, 2013, 2014, 2015	2015
Germany	1992	1990	18	1999, 2007, 2011, 2012, 2014, 2015	2015
Italy	1975	1980	40	2006, 2008, 2010, 2012, 2013, 2014, 2015	2015
Japan	1976	1992	10	1992, 2007, 2009, 2010, 2012	2012
Spain	1982	1984	30	1996, 1998, 2001, 2002,2004, 2007, 2009, 2012, 2013, 2014, 2015	2015
Switzerland	1975	1983	1	2004	2005
United Kingdom	1984	1986	13	2012, 2014	2014
United States	1973	1978	11	2008	2008

[1] Francioni, F. and Lenzerini, F. 2008. 'The future of the World Heritage Convention: problems and prospects' in Francioni, F. The 1972 World Heritage Convention, A Commentary (Oxford: Oxford University Press) 402.
[2] UNESCO has defined five regions, Arab States, Africa, Asia and Pacific, Latin America and Caribbean, European and North America.
[3] The rapporteurs were Professor Vrdoljak (Australia), Professor Wang (China), Dr Cornu and Dr Fromageau (France), Professor Frigo (Italy), Professor Kono and Ms Fujioka (Japan), Professor Galera and Dr Barreiro (Spain), Professor Renold and Mr Contel (Switzerland), Professor Pickard and Dr Vigneron (UK), Professor Gerstenblith and Ms Rhoda (US).
[4] World Heritage Committee 2015. Operational Guidelines for the Implementation of the World Heritage Convention (Paris: UNESCO)
[5] Cameron, C., and Rössler, M., 2013 Many Voices, One Vision: the Early Years of the World Heritage Convention (Farnham: Ashgate); Scovazzi, T. 2008. 'Articles 8 - 11 World Heritage Committee and World Heritage List' in Francioni, F. The 1972 World Heritage Convention, A Commentary (Oxford: Oxford University Press) 167.
[6] Cameron and Rössler 100.
[7] ibid.

[8] Rössler, M. and Menétrey-Monchau, C. 2007. Periodic Report and Action Plan, Europe 2005-2006 (Paris: UNESCO)

[9] Kono, T. and Fujioka, M. 2013 Japan (Questionnaire 1), unpublished. section 2.2.1

[10] Vrdoljak, A. F. 2013 Australia (Questionnaire 1), unpublished. section 2.2

[11] Renold, M. and Contel, R. 2013 Switzerland (Questionnaire 1), unpublished. section 2.2

[12] Gerstenblith, P. and Rhoda, M. 2013 United States of America (Questionnaire 1), unpublished. section 123

[13] Cameron and Rössler 74.; Labadi, S. 2013 UNESCO, cultural heritage, and outstanding universal value : value-based analyses of the World Heritage and Intangible Cultural Heritage Conventions (Lanham, Md.: AltaMira Press)

[14] Wang, Y. 2013 China (Questionnaire 1), unpublished. section 2.8

[15] Rössler and Menétrey-Monchau 34, 47.

[16] ibid.

[17] ibid.

[18] Cameron and Rössler 90.; Rodwell, D. 2012 'The Unesco World Heritage Convention, 1972–2012: Reflections and Directions' Historic Environment 3:1 73; UNESCO Expert meeting on the global strategy and thematic studies for a representative World Heritage List, Paris; UNESCO Nara document on authenticity, experts meeting, Paris; ICOMOS 2005. The world Heritage List: Filling the Gaps - An Action Plan for the Future; World Heritage Committee 55 and f.

[19] Kono and Fujioka section 2.1.1, 2.2.1.

[20] Frigo, M. 2013 Italy (Questionnaire 1), unpublished.

[21] Galera, S. and Barreiro Carril, B. 2013 Spain (Questionnaire 1), unpublished.; Kono and Fujioka section 2.2.3.; Wang section 2.5.3.

[22] Renold and Contel section 2.2.

[23] Richardson v Forestry Commission 164 CLR 261, Vrdoljak section 2.5.3.

[24] PricewaterhouseCoopers Ltd 2007. The Costs and Benefits of World Heritage Status in the UK

[25] Vrdoljak section 2.3.

[26] Kawakami, K. 2012. Understanding World Heritage in Asia and Pacific. The Second Cycle of Periodic Reporting 2010-2012 (Paris: UNESCO)

[27] Rössler and Menétrey-Monchau 48. Those countries are Austria, Germany, Switzerland, Belgium, France, Ireland, Luxembourg, the Netherland, Monaco and the UK.

[28] Renold and Contel section 2.3.

[29] Rössler and Menétrey-Monchau 48 110.

[30] Labadi 95.; UK National Commission for UNESCO 2013. Wider value of UNESCO to the UK 2012-2013; Rössler and Menétrey-Monchau 68.; Cameron and Rössler 235.

[31] Gerstenblith and Rhoda section 2.3.

[32] Rössler and Menétrey-Monchau 48.

[33] Wang section 2.3.

[34] Labadi 60, 71.

[35] World Heritage Committee 2006. Presentations of Sections I and II of the Periodic Report for Europe (30th Session, Vilnius, Lithuania 8-16 July 2006) (Paris: UNESCO); Fejérdy, T. 2014 'Commentary on Greg Terrill's Article' Heritage & Society 7:1 83-88

[36] Decision 30 COM 7B.77 and Decision 33 COM 7A.26

[37] Armbrüster, C. 2013 Germany (Questionnaire 1), unpublished.

[38] Cameron and Rössler 234, 235.

[39] Labadi 89.

[40] Gerstenblith and Rhoda section 2.1 and 2.2.

[41] Cameron and Rössler 39, 42.; Marshall, D. 2011 Preparing World Heritage Nominations (Paris: UNESCO)

[42] Rössler and Menétrey-Monchau 56.

[43] Labadi 19.; Cameron and Rössler 32.

[44] Galera and Barreiro Carril section 2.2 and 2.4.2.

[45] Frigo section 1.4.1.
[46] ICOMOS. 1994 The NARA document on authenticity; Kono and Fujioka section 2.4.1.2.
[47] Vrdoljak section 2.4.1. section 2.4.1
[48] Galera and Barreiro Carril section 2.4.2.
[49] World Heritage Committee section I.2 (i).
[50] Kawakami 28.; Rössler and Menétrey-Monchau 46.
[51] English Heritage was divided into two independent bodies on 1st April 2015. The English Heritage Trust that manages approximately 400 state-owned historic sites and monuments in England and Historic England that identifies the heritage, provides expertise at a local level and advises the government on heritage policies,
[52] Marshall 34.; Cameron and Rössler 225.
[53] http://whc.unesco.org/en/list/442
[54] Gerstenblith and Rhoda section 2.4.1.; Vrdoljak section 2.4.1.
[55] James, L. and Winter, Tim 2015 'Expertise and the making of World Heritage policy' International Journal of Cultural Policy 9
[56] Gerstenblith and Rhoda 113.
[57] Galera and Barreiro Carril section 2.2.
[58] Rössler and Menétrey-Monchau 47.; Cameron and Rössler 216.
[59] Rössler and Menétrey-Monchau 47.
[60] Marshall 54.
[61] Kawakami 29, 37.
[62] Kono and Fujioka section 2.5.4.; Kawakami 37.
[63] Vigneron, S. 2013 United Kingdom (Questionnaire 1), unpublished.
[64] Wang section 2.4.2, 2.5.2, 2.5.4.
[65] Cameron and Rössler 216.
[66] Decision 31 COM 13B, adopted in Christchurch (New Zealand) in 2007.
[67] Marshall 54., p 54
[68] Rössler and Menétrey-Monchau 110.
[69] Gerstenblith and Rhoda section 2.2.
[70] Marshall 14, 52-53, 68-69.; Kono and Fujioka section 2.6.
[71] Marshall 10, 90.
[72] PricewaterhouseCoopers Ltd pp 2, 3.
[73] Wang section 2.6.
[74] Kawakami 19, 40.
[75] Terrill, G. 2014 '"Surprise!" Is Not Good System Design: The Upstream Process for Nominations to the World Heritage List' Heritage & Society 7:1 61
[76] Vrdoljak section 2.5.3.; Boer, B. 2008. 'Article 3 - Identification and delineation of world heritage properties' in Francioni, F. The 1972 World Heritage Convention, A Commentary (Oxford: Oxford University Press) 85-102.
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[78] Davies, S. and Young, C. 2011. The United Kingdom's World Heritage, Review of the Tentative List of the United Kingdom, Independent Expert Panel Report to the Department of Culture, Media and Sport, March 2011
[79] Labadi 89.
[80] Bell, J. S. 2013 'The Politics of Preservation: Privileging One Heritage over Another' IJCP 20:04 431-450; Cameron and Rössler 232.; Labadi 68.
[81] Renold and Contel section 2.2.
[82] James and Winter 1-16.
[83] Rössler and Menétrey-Monchau 31.; Francioni and Lenzerini 408.
[84] Rössler and Menétrey-Monchau 47.
[85] Kawakami 30.; Terrill 59-71.