

Equality in heritage protection: an impossible goal?

Abstract

In this article, the concept of 'equality' is used to critique the current system of heritage protection in England. It is argued that the current canon of 'nationally significant' heritage is not representative of the English population, but only of an elite section, which excludes and marginalises others. The current legal criteria for heritage selection are identified as a source of this exclusivity, as they prioritise an expert-led and restrictive definition of heritage. A more balanced system to permit communities to identify the heritage which is of value to them and contribute to decision-making regarding its future is suggested.

Introduction

'Heritage' is a political concept: it refers to those aspects of the past that are considered to have significance in the present, but different communities will assign different levels of significance to different cultural assets. Which parts of the past are selected for curation and memorialisation is a choice laden with social and political implications. 'Equality', in heritage terms, would permit people to have the heritage which is meaningful to them recognised and given protection which would prevent it being destroyed or significantly altered without the consent of those for whom it has meaning. This is not currently the case; some forms of heritage are given protection because they have value for conservation experts, archaeologists and architects, but the embodiments of heritage which have most meaning for communities are not necessarily recognised as heritage at all.

Since emotional investment in a common heritage is a key way to create a sense of belonging within a community, inclusivity and the representation of formerly marginalised stories has become a central theme for heritage management in recent years, but there are political and practical considerations which make it difficult to create national management systems which protect the heritages of multiple communities. This article will question whether it is possible to create a system within an unequal society in which multiple forms of heritage can be recognised and protected, allowing people from a variety of backgrounds to feel that their heritage is represented within the national pantheon of celebrated pasts. Using examples of legal systems and heritage management projects which have attempted to create greater quality within heritage by including a wider variety of heritage, this article asks: is equality in heritage protection a reachable goal?

Re-constructing 'heritage'

Over recent decades a body of critical theory has grown around heritage, which has questioned how heritage is defined and which types of heritage are recognised and protected. Theorists now reject the traditional idea that 'heritage' is a collection of sites and artefacts, stately homes and archaeological relics; instead, it is argued that 'heritage is not a thing' (Schofield, 2014, p.3), but rather a quality attributed to places, items, or traditions by communities, who classify them as part of a shared past which has meaning in the present (Harrison & Linkman, 2010; Graham et al., 2005). This means that heritage is not a fixed or measurable trait that is inherent within certain places or things, but a fluid construct which is associated with physical assets only within peoples' minds. These assets, imbued with the quality of heritage-ness, then do identity work for individuals in the present, who are able to perceive themselves as the inheritors of the values embodied within the asset, and for communities, who use shared heritage to create and define their own imagined boundaries of inclusion/exclusion (Smith, 2006; Anderson, 2006). It changes as communities and society change: what was once mundane is now valued as heritage, and what was once valued

becomes meaningless as its significance is forgotten or becomes obsolete (Taylor, 2015; Harvey, 2001).

Equality and heritage law

How does this new constructivist concept of heritage compare with the systems set up for its management and protection? Although heritage is affected by a number of different areas of legislation (including copyright protection for unique cultural traditions, international trading laws which deal with the repatriation of looted or stolen artefacts, and the creation of funding pools for institutions like museums and archives) the centre of nationalised heritage protection is the legislation which defines how an asset can qualify as 'heritage' and how it will thereafter be protected. In England, there are two key pieces of legislation which fill this role: the 1979 Ancient Monuments and Archaeological Areas Act (AMAAA) and the 1990 Planning (Listed Buildings and Conservation Areas) Act. These Acts required the creation of lists of archaeological sites, buildings, urban areas, parks, and shipwrecks, and thereafter enforces their maintenance and makes it a punishable offence to damage them. There are two key criticisms of this system: firstly, the categories used to judge whether or not a heritage site is worthy of protection are based in material or expert-led qualities such as age, historical, architectural, archaeological or aesthetic significance, or rarity. There is no protection for assets which are valued by communities but which do not meet a professional's definition of 'significance'. Secondly, these Acts treat heritage as physical – tangible – and permanent, a fixed point in the landscape which should be preserved in its material form because the fabric of the site or buildings is believed to be the sole source of the heritage values associated with the site (Smith & Waterton, 2008). Waterton, following Smith (2006), criticised this European, materialist, expert-led approach, which she characterises thus:

'Enshrined within its core are a series of assumptions regarding expertise, authenticity, integrity and value, all of which are cemented within a technical process of management that aims to safeguard and render 'permanent' a very specific set of cultural symbols ... based on selective understandings of a good, grand and monumental past 'owned' and monopolized by the white upper- and middle-classes' (2010, pp.70–2).

If only the most architecturally, aesthetically or historically significant aspects of the material past are to be considered worthy of national heritage protection, they will be the legacies of the rich and privileged. And consequently, the body of national heritage that is celebrated, that is used to bolster a sense of national identity and inclusion, will in fact exclude those who did not leave material legacies. Within the current climate of political polarisation it becomes particularly undesirable to encourage the idea that England past was a land of peace and prosperity, a white and elite landscape; this misconception fosters a sense of nostalgia for a past that was somehow simpler and more desirable than the present and imposes false boundaries between those who feel themselves the inheritors of this bucolic idyll and those who are not reflected in this image and are therefore perceived to be 'outsiders' (Smith & Campbell, 2017; Watson, 2013).

Heritage legislation in England clearly does not equal representation within the canon of nationally significant heritage. People from economically deprived backgrounds, people of colour, and women are all underrepresented because the focus is on the conservation of the material of heritage assets, not on the reasons why we value one kind of heritage over another. The perception that one's own heritage, the heritage which is meaningful because it reflects or reinforces an aspect of one's identity, is represented in the collection of sites and artefacts which make up the 'national' heritage, there are there are clearly some groups of society which have an advantage over others;

our presentation of history is not fair or balanced. This has the effect of making the underrepresented feel excluded from the national 'community' and its history.

This inequality persists within the system to make decisions over the future of these nationally recognised heritage assets. Heritage management – the choices made over whether and how to preserve, repair, change or even choose to not conserve heritage assets – is a complex business, but as with the identification of 'nationally significant' heritage, it is often an expert-led and inscrutable process. While members of the public can comment on planning applications which affect heritage sites, such as for example the demolition of a historic building to make way for a new one, this requires the time, resources and personal investment to go through the process of objecting, which means that comments often do not come from a representative sample of the local community (Lixinski, 2013; Fischer, 2009; Innes & Booher, 2004). Similarly, once sites or objects are in the care of heritage trusts, museums, or charitable bodies, they are managed within the framework of conservation, by professionals whose primary aim is the study and preservation of the physical fabric, in accordance with their own laudable interests and training; access and interventions by the public and local community are often strictly controlled within parameters that limit the agency of these 'outsiders' (Taylor & Gibson, 2017; Fredheim, 2017). Although economic necessity and the ethics of heritage management as a profession both demand that the public are allowed to 'consume' these heritage sites for the purposes of education and leisure, this consumption is frequently limited to passive viewing; interaction with sites is often discouraged in the interests of preservation. In effect, people can be consumers of heritage, but cannot be 'producers' of their own narratives or values.

This can cause conflict between heritage managers and what one might call heritage 'creators' – those whose interactions with a physical space transform it into a place of significance. A recent high-profile case of this conflict centred around the Skate Park underneath the Southbank Centre in London, which was threatened with closure by planned development of the site. After a sustained public outreach campaign which highlighted the social value of the space and its generations of graffiti art, it was agreed that the site would remain. The skate park was listed locally as an 'Asset of Community Value' (a new measure introduced to allow local councils to recognise spaces which have social or communal value but do not match the legal criteria for national protection), but this is a temporary five-year designation and does not offer statutory protection from demolition (Madgin et al., 2018). This case highlighted the difference between the constructed, designed space of the Southbank Centre, which is the subject of legislation and expert valuation, and the inhabited, used space of the Undercroft which is the locus of social activity and personal attachments. One kind of valuation claims to be objective despite being based around constructed ideals of beauty and artistry; the other is ephemeral but based in a universal emotional experience (Smith & Campbell, 2015).

[Image 1 about here]



Caption: IMAGE 1: Skateboarders in the Southbank Undercroft, by CJ. Image from heritagecalling.com/2018/01/30/reclamation-the-new-heritage/

Inclusion or equality?

These criticisms of the current system should not be taken to mean that heritage management in England has not moved on since the 1990 Planning Act. Although the legislation has not been updated, there have been moves to make heritage more inclusive, to better reflect the variety of stories in England's history. Policy makers, heritage managers, and communities have all been developing ways to bridge the gap between how heritage is created and how it is recognised in the law.

One particularly relevant piece of heritage advice was published by Historic England¹ (the government's statutory advisory body on heritage) in 2008, in the form of the *Conservation Principles*. Although not an official piece of government policy, the *Principles* nevertheless offered expert guidance in how to judge whether or not alterations to heritage assets should be permitted or not, and they have since become widely used in planning contexts. The key innovation is in their list of the 'values' which make a heritage asset significant, which has an addition to the usual conservationist attributes:

- Evidential value: the potential of a place to yield evidence about past human activity.

¹ At the time the document was published under the name English Heritage. In 2015 English Heritage split into Historic England, which retained the role of statutory advisory body, and English Heritage, which became an independent charity running the organisation's historic properties. For the sake of consistency, documents published in the organisation's role as advisory body prior to 2015 will still be attributed to Historic England.

- Historical value: the ways in which past people, events and aspects of life can be connected through a place to the present – it tends to be illustrative or associative.
- Aesthetic value: the ways in which people draw sensory and intellectual stimulation from a place.
- Communal value: the meanings of a place for the people who relate to it, or for whom it figures in their collective experience or memory' (2008, p.7).

Communal value is a way to acknowledge that heritage is created and maintained by the emotional attachments of its community, and that their opinions are relevant to its management. In the *Conservation Principles*, Historic England recommended that this group attachment be taken into consideration when deciding whether to prioritise heritage conservation over other planning interests (such as the creation of new housing or the upgrading of infrastructure).

Historic England also maintains and updates the lists of protected sites mandated by legislation. In recent years it has used a number of strategies to make them more inclusive and less selectively representative. During a 2018 project, Historic England sought out architecturally and historically significant mosques in Britain to add to the national list of protected buildings, to deliberately counterbalance an absence of Islamic heritage within the official national record (Historic England, 2018). There has also been an attempt to introduce variety into the list entries themselves (which are mainly rather dry descriptions of architectural features) by allowing members of the public to 'Enrich the List', uploading their photos and memories of listed sites to the database for inclusion in Historic England's record. This effectively crowdsources information on the state of repair and use of a number of sites, as well as allowing communities to tell the organisation which aspects of a listed site they most value. However, the actual extent of this gesture towards participatory heritage management is limited: the public that use the feature are naturally a self-selecting group, and moreover they can only add to the details of sites which have already been selected for listing based on purely tangible, conservationist features, as Historic England are constrained by the current legislation. While members of the public can suggest sites for inclusion on the lists of statutorily protected assets, they cannot be included unless they meet the original criteria.

The trend for inclusivity goes wider; museums and heritage charities across the UK are reaching out to new audiences and broadening their narratives to highlight the histories of those often marginalised within mainstream heritage discourse. The National Trust 'Challenging Histories' programme has used consecutive centenaries to commemorate LGBTQ histories, the women's suffrage movement, and political and social rights campaigns (National Trust, 2019). The Pitt Rivers museum created an exhibition in 2019 based around the experiences of migrants in Calais, using objects belonging to this marginalised community placed in a museum setting to disrupt ideas about who and what we as a society value (Pitt Rivers Museum, 2019). Other museums are using their outreach potential to attempt to raise awareness of a number of social issues. There is not only a professional acknowledgement of those who have not been represented by heritage in the past, but an attempt to rectify this exclusion in the present. However, the questions remains: can these add-on exhibitions really make up for the restrictions on how heritage is defined and protected nationally? The next section will look internationally to find systems which (purportedly at least) allow people a more equal voice when it comes to selecting heritage and deciding how it should be managed.

Social value: a pathway to equality?

Internationally, many countries which have been colonised have already had to grapple urgently with how to promote equality among heritage. Indigenous populations do not necessarily have heritage assets that conform to a Western ideal of age, tangibility, or monumentality; their heritage may be based in sacred landscapes, in traditional ways of life and skills or in sites that appear ordinary to outsiders who are unaware of their history. The later twentieth century saw a number of legal mechanisms developed which aimed to allow indigenous people to define their own heritage, to prevent further damage by settler populations which did not recognise or value it. In the USA the Native American Graves and Repatriation Act (NAGPRA) was passed as federal law in 1990, and gave Native Americans the right to request the return of items of their cultural heritage, including human remains which had been taken for study or exhibition in anthropological museums (Kryder-Reid, 2018). Although not perfect – issues arose over objects which could not be assigned to a particular tribe, or when claimants could not prove their descent, and it is far from reparative justice for the theft of the artefacts in the first place (Graham & Murphy, 2010) – it nevertheless moved closer to allowing Native Americans an equal say over how their heritage should be managed.

Australia took a more broad-brush approach, and one which has been replicated in many countries. Beginning with the 1979 Charter for Places of Cultural Significance by the Australian branch of the International Council for Monuments and Sites (ICOMOS), known as the ‘Burra Charter’, Australia has judged its heritage sites not only on their physical properties, but also on their ‘cultural significance’, on the basis that Aboriginal Australians might attribute significance to places which bear little evidence of having significance when judged on Western conservationist terms (Jones, 2017). It introduced concepts which are now central to the heritage discourse which sees the quality of heritage as something which is socially-constructed rather than inherent, including ‘cultural significance’ and ‘social value’ (Waterton, 2010, p.47).

Internationally, in 2003 the United Nations Educational, Scientific and Cultural Organisation (UNESCO) *CITATION* created a counterpart to its longstanding and world-famous 1972 World Heritage Convention: an Intangible Heritage Convention, which aimed to afford a level of recognition and protection to forms of culture which do not correspond with a monumentalist, Western conception of ‘heritage’, such as folklore, dances, cuisine, and other ephemeral but fundamental aspects of different cultures (Bortolotto, 2007; UNESCO, 2003, 1972). This is response to criticisms of the World Heritage List which pointed out that the sites given the accolade of ‘universal significance’ were disproportionately located in European countries, due to a bias towards Western architectural and aesthetic forms and conservation standards (James & Winter, 2017; Smith & Waterton, 2008).

Equality: an impossible dream?

There is a kind of irony in how colonised countries have made steps towards inclusivity and equality when it comes to defining what counts as ‘heritage’, while Britain, the colonial power, has not yet found a formal mechanism by which its own people can define and celebrate their own culture in a broad and democratic way. In the absence of a politically active indigenous people with a specific approach to cultural heritage which contrasts directly with the mainstream, top-down concept, there has not so far been the imperative to recognise legally that one person’s heritage may not be everyone’s; that the value placed in a site or object by a community is what gives it the quality of heritage regardless of whether it matches up to a conservationist idea of merit which makes it worthy of preservation; and that heritage need not be a ‘thing’ at all, but could be a song, a tradition, or a skill. If equality in heritage means letting people decide for themselves what should qualify to be heritage, and therefore should be protected from unauthorised destruction, then

England is lagging behind countries like Australia which recognise that 'communal' or 'social' value is central to the very existence of heritage.

And yet, what would the ideal of equality look like in heritage? If everyone is allowed to nominate places or things that have value as heritage for them for protection, there would be an impossible proliferation of objects retained without obvious purpose or the resources to preserve and interpret them (Holtorf, 2015; DeSilvey, 2006). Moreover, emotional attachments are fluid, based on the needs and cultural norms of present society: what we value now may not necessarily be valued in the future, so why should heritage be retained for future generations if there is no guarantee that they will thank us for it (Harrison, 2013; Holtorf, 2012)? Yet if nothing at all is protected or preserved, we all would lose valuable educational and cultural resources in an act of cultural vandalism for which our descendants surely would not thank us.

An intermediary balance would require a change in the legislation to allow heritage to be protected on the basis of social value as well as its physical properties – a difficult ask in itself, requiring significant time and resources allocated to debate heritage in Parliament, which is not a high priority at present. It would also, more fundamentally, require a shift from a system in which heritage is defined and policed by experts in physical conservation towards a participatory model in which communities identify the heritage which is of highest value to them and contribute to decisions about its future, which conservationists then facilitate. Is it possible? Perhaps – but the change will no doubt be slow and contested, as all moves towards a more equal society are.

Conclusion

Heritage is an unequally recognised attribute for one simple reason: what we value as heritage is a reflection of our values in society, and we live in an unequal society. The legacies of white, rich males are most likely to be celebrated because they represent a mainstream narrative which is seen as of 'national' significance and relevance. The heritage narratives which challenge this – those of other genders, skin colours, and economic backgrounds – have not always been considered of equal value. This bias in heritage is being questioned and disrupted, by heritage theorists, heritage professionals, and communities who value their heritage and wish to see it afforded the same level of respect and protection as more traditionally recognised forms. However, in order to change the way we view heritage – not as a static, intrinsic aspect of old, rare, and expensive places and objects, but as a fluid construct which is created and maintained by people who value their own heritages – we must first change the legal system around heritage. By prioritising heritage assets which conform to a conservationist's ideals of what is significant in heritage, the heritage protection system in the UK legitimises an elite and unbalanced picture of the past. Not until people are able to contribute meaningfully to the decision process which selects and protects heritage assets will heritage protection in England be a more equal process.

(Word count: 3761)

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