

## KC 1.2: Rights-Based Approaches in Rural Heritage - Principles and Practice

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Mathisen, Bente; Paulus, Ave; Shaffrey, Grainne; Rai, Gurmeet Sangha; and Alatalu, Riin, "KC 1.2: Rights-Based Approaches in Rural Heritage - Principles and Practice" (2019). *Rural Heritage - Landscapes and Beyond / PATRIMOINE RURAL: Paysages et au-delà*. 3.

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## **Rights-Based Approaches in Rural Heritage - Principles and Practice**

### **ICOMOS Our Common Dignity Working Group**

**Ave Paulus, Grainne Shaffrey, Gurmeet Shangha Rai, Bente Mathisen, Riin Alatalu**

#### **Introduction**

The „Our Common Dignity Initiative“ working group (OCD- RBA WG) started as an ICOMOS initiative in 2007 and expanded in 2011 as cooperation for the Advisory Bodies to the World Heritage Convention (ICCROM, ICOMOS, IUCN) under the coordination by ICOMOS Norway. It deals with the Rights-Based Approaches (RBA) in World Heritage management. ICOMOS has taken important initiatives over the last decade to respect, protect and fulfil the rights to culture for individuals and communities by including RBA in its work, through its Ethical Principles and the Our Common Dignity Initiative.

In celebration of the 70th anniversary of the Universal Declaration of Human Rights, ICOMOS adopted the Buenos Aires Declaration (2018) entrenching Human Rights into cultural heritage activities. OCDI-RBA WG contributed to the revision of the Operational Guidelines during the 43rd World Heritage Congress in Baku 2019. The revised OG encourage State Parties to adopt a human rights-based approach.

OCDI-RBA WG is currently exploring the principles of RBA and collecting data on community involvement in heritage management. In 2019 a training was held in Estonia, which covered cooperation between duty bearers and rights holders, represented by the state, community and individual in the governance and management of heritage.

The main aim of this knowledge cafe is to strengthen human rights issues in heritage, which we hope to achieve by OCDI-RBA WG sharing and discussing some general principles of RBA and Community Rights. We also want to share and collect information from all over the world on communities rights problems and best practice cases, concentrating on rural regions and cultural landscapes.

Session starts with the presentation of general RBA principles, which will be followed by some cases of their application in Heritage Governance and Management in Rural Areas. Speakers are Ave Paulus, Gurmeet Rai, Grainne Shaffrey. The RBA is precisely one of those bottom-up ways to protect and retain rural land uses and related heritage via active management of heritage sites by local communities themselves. Some practical cases and related issues will be presented from Estonia, Ireland and India. We invite to a lively discussion on general principles, specific problems and local solutions for community participation in Heritage Management.

The OCDI-RBA WG would like to cooperate with National Committees in building capacity and empowering heritage practitioners and hope the workshop will contribute to the OCD HRBA-network.

## **1 The Our Common Dignity Initiative**

Rights-Based-Approach in World Heritage has been on the agenda ICOMOS Norway since 2008, thanks to an initiative by Dr Amund Sinding-Larsen. Since 2011 rights issues in World Heritage has been explored through the ‘Our-Common-Dignity Initiative’ by IUCN, ICCROM and ICOMOS in cooperation with the World Heritage Centre and an international network of heritage experts.

Project activities during the first decade were wrapped up in the 2017 report “The Advisory Body ‘Our common Dignity Initiative’ on Rights-based approaches in World Heritage Taking stock and looking forward”.

One of the findings of the *OCD* was how we often deal with rights issues but call it something else. Through case studies, we’ve identified how Heritage works have significant rights implications, which are often not adequately solved by a “single-issue” approach. For a way forward, we consider the involvement of ICOMOS National Committees as an essential success factor. Securing outcomes depends on furthering cross-cultural collaboration, awareness-raising and mutual knowledge-building on the topic of rights in heritage management, continuing the “Our Common Dignity Initiative” with shared global and geo-cultural diversity.

## **2 Rights-Based Approaches – General Principles**

The Universal Declaration on Human Rights (UDHR) adopted by the United Nations General Assembly in 1948 remains the first pillar of international human rights law and practice. The UDHR proclaims 2 fundamental cultural rights: „Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits“ (UDHR 27.1) and „Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author“ (UDHR 27.2).

Further human rights covenants, conventions and other standards such as declarations concluded since 1948 have complemented and expanded the body of international human rights documents. Today, the majority of States Parties to the World Heritage Convention (Convention Concerning the Protection of the World Cultural and Natural Heritage, here known as the 1972 Convention) include human rights provisions in constitutions or legislation.

The new World Heritage Sustainable Development Policy (2015) sets an overarching rights framework. To support this, the report emphasises the need to build an effective and equitable approach to implementation in terms of international human rights standards. **This should consider and include procedural and substantive rights, and the adoption of a set of working principles.**

In keeping with its mandate, and as also stated in the 1972 World Heritage Convention, ICOMOS has taken important initiatives over the last decade to respect, protect and fulfil the rights to culture for individuals and communities by including Rights-Based approaches in its work, as in the current Our Common Dignity Initiative.

Human Rights-Based Approaches (HRBA) offer:

- **Standards** for processes, for example, consultations
- Definition of **duty-bearers** and **right-holders**, different from stakeholders
- **Entitlements** and **responsibility** – based approach
- Coverage of **individual** and **collective rights**
- Coverage of **substantial** and **procedural rights**
- A central role to **marginalised** and vulnerable groups in heritage actions

OCD WG has worked on these themes and concrete applications throughout the years, making seminars, workshops, publications. Latest ICOMOS workshop was held in Estonia, Tallinn and Lahemaa NP.

During 2018-2019 OCD WG has worked on several documents highlighting RB general principles: ICOMOS Buenos Aires Declaration (adopted 13.12.2018), UNESCO Operational Guidelines (adopted 10.07.2019) and ICOMOS Ethical Principles.

### **3 Buenos Aires Declaration**

In celebration of the 70th anniversary of the Universal Declaration of Human Rights, ICOMOS adopted the Buenos Aires Declaration (2018) entrenching Human Rights into cultural heritage activities. According to the Buenos Aires Declaration ICOMOS members, Committees and groups are therefore encouraged to:

- 1) Build strong relationships with communities and peoples in their work.
- 2) Embrace the principle of free, prior and informed consent of source communities before adopting measures concerning their specific cultural heritage.
- 3) Offer all possible assistance so that communities and right holders are consulted and invited to participate in the whole process of identification actively, selection, classification, interpretation, preservation and safeguarding of, as well as the stewardship of and development of cultural heritage.

#### 4 UNESCO Operational Guidelines

OCDI-RBA WG contributed to the revision of the Operational Guidelines during the 43rd World Heritage Congress in Baku 2019. The revised OG encourage State Parties to adopt a human rights-based approach. In the revised OG some general **principles of participation of local communities and other rights-holders, as well as duties of stake-holders, are explicitly mentioned:**

*Participation in the nomination process of **local communities** /.../ is essential to enable them to have a shared responsibility with the State Party in the maintenance of the property. States Parties are encouraged /.../ **to demonstrate**, as appropriate, that the **free, prior and informed consent of indigenous peoples has been obtained** (Annex 1, Part A, 123)*

*States Parties to the Convention are encouraged to ensure full respect and gender-balanced the participation of a wide variety of stakeholders and **rights-holders**, including /.../ **local communities** /.../ in the identification, nomination and protection of World Heritage properties. (Annex 1, Part B, 12)*

*Biological diversity and cultural diversity can be closely linked and interdependent and human activities, including those of **traditional societies, and local communities** and indigenous peoples, often occur in protected natural areas. (Annex 1, Part B , 90)*

*In recognising the diversity mentioned above, common elements of an effective management system could include:*

*a) a thorough shared understanding of the property and its /.../ socio-ecological context by all stakeholders, **including local communities** and indigenous peoples, as well as respect for diversity, equity, gender equality and **human rights and the use of inclusive and participatory planning and stakeholder consultation processes**; (Annex 1, Part B , 111)*

*States Parties are responsible for implementing effective management activities for a World Heritage property. State Parties should do so in close collaboration with /.../ **local***

*communities, rights-holders and stakeholders in property management by developing equitable governance arrangements, collaborative management systems and, when appropriate, redress mechanisms.* (Annex 1, Part B, 117)

*Legislations, policies and strategies /.../ should promote and encourage the active effective, inclusive and equitable participation of the communities, indigenous peoples /../concerned with the property as necessary conditions to its sustainable protection, conservation, management and presentation. .* (Annex 1, Part B , 119)

## **5 ICOMOS Ethical Principles**

Currently, OCD WG is discussing ICMOS ethical principles. Is there a need to amend the ICOMOS Ethical Principles to strengthen its references to Human Rights, heritage communities and sustainable development?

According to article 3 of the ICOMOS Ethical Principles, adopted by the General Assembly in 2014:

- a) ICOMOS members acknowledge that they have a general moral obligation to conserve cultural heritage and to transmit it to present and future generation, and they have a specific obligation for activities conducted under their authority.
- b) ICOMOS members use their best endeavours **to ensure that the public interest is taken into account in decisions relating to cultural heritage.**
- c) **ICOMOS members acknowledge the value of community involvement in cultural heritage conservation.** They collaborate with people and communities associated with cultural heritage.
- d) ICOMOS members recognise the co-existence of cultural values provided that these do not infringe human rights and fundamental freedoms as enshrined in the Universal Declaration of Human Rights or other **international instruments.**
- e) **ICOMOS members support the promotion of public awareness, including appreciation of, access to and support for cultural heritage, at the local and global level.**

## **6 Concrete Case Studies of the knowledge cafe are following the general introduction:**

6.1. From Estonia: Ave Paulus, Aleksei Kelli. Community Rights and Rural Landscape Protection: Lahemaa National Park

6.2 From India: Gurmeet S Rai. Conservation of the Krishna Temple in village Kishnkot, Punjab, India

6.3 From Ireland: Grainne Shaffrey. Other Stories - Cultural Heritage and Society. ICOMOS Ireland Research and Advocacy Project

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2011 and 2016), *An Advisory Body Report*, Oslo: ICOMOS Norway.

## **Community Rights and Rural Landscape Protection: the Experience of Lahemaa National Park in Estonia**

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### **Introduction**

The system of contemporary cultural heritage protection cannot function without taking into account the rights of heritage communities and heritage creators. The case study aims to address the interaction of rural heritage protection and local community rights. The authors propose a preliminary conceptual framework of rights of local communities in cultural heritage and rural landscapes specifically. The model is exemplified via the specific case of Estonian Lahemaa national park (Lahemaa NP), where cultural and natural heritage are under state protection since 1971. Heritage is embodied there by 72 village communities. Lahemaa National Park Protection rules from 2015 *inter alia* specify that conservation objective is to protect cultural heritage characteristic of the Northern Estonia, traditional cultural landscapes, sustainable use of environment, agricultural land use and traditional coastal fishing, balanced use of the environment, region-specific settlement structure, farm architecture and folk culture (§ 1 (1)1). It covers the tangible and intangible heritage and cultural landscape protection.<sup>1</sup>

One reason to use Lahemaa as an example is that the leading author has participated in the development of the framework of cooperation for all stakeholders in Lahemaa and therefore she has practical insights and experience which can be shared. Lahemaa NP was a pioneer in

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<sup>1</sup> Lahemaa NP Protection Rules explanatory memorandum (2015) defines cultural heritage and landscapes in the following way: „Cultural heritage – an environment formed by the interaction of man and nature, characteristic and distinctive tangible and intangible cultural heritage of the region, traditional human activities related to the environment and its expressions in the material heritage and folk culture. Cultural landscape - the landscapes formed by the interaction of man and nature with the natural and cultural values and processes that preserve them“.



Estonia, and five other national parks followed the same pattern of governing, cultural heritage inventories and management of the parks. Lahemaa experience is presented through the proposed legal model. It aims to offer a potential framework for the conceptualisation of community rights.

The following figure visualises the model:

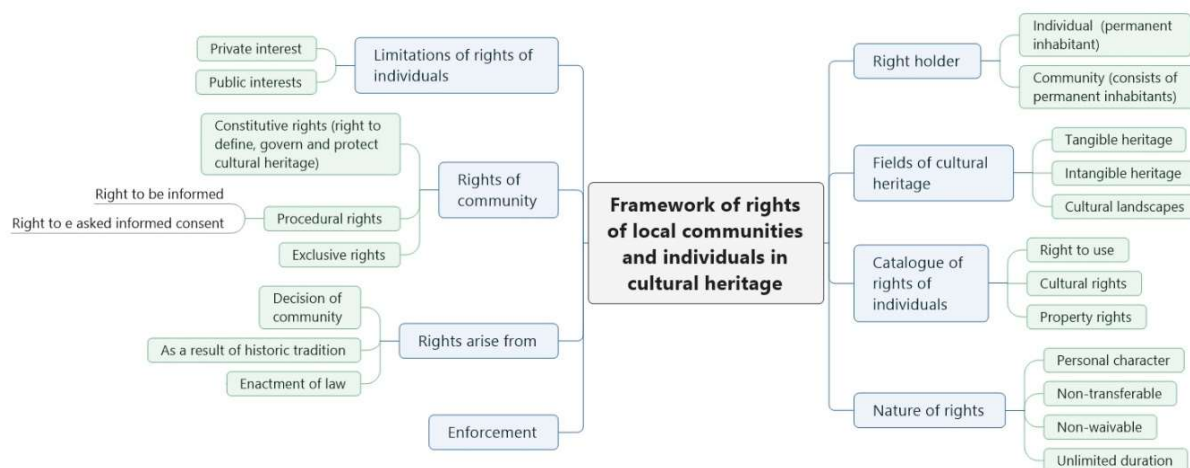


Figure 1. Rights of local community and individuals in cultural heritage protection

The authors demonstrate the procedural and substantive rights of local communities in the cases of protection of rural landscapes of Lahemaa in the field of material heritage (private *versus* public interests), cultural landscapes (for example nature use rights) and intangible heritage (exclusive rights).

## 1 Right-holders and nature of rights

The starting point for the creation of the model is the identification of the right-holder. It is also relevant and practical for everyday cooperation as well. On the one hand, we have an individual as the right-holder; on the other hand, we have a community as a collective right-holder. The local community consists of individuals (community members). A crucial issue is how to define community members who have the rights. An approach used in Lahemaa NP case is to identify community member via permanent and actual residency (and/or land ownership) to a specific area, as described in the statutes of Lahemaa NP Cooperation Council (2011).<sup>2</sup> Community representatives are village elders and other persons elected by the local community members.

Rights of community and individuals have a similar character. By their nature, they are

<sup>2</sup> The council is a management body.

personal, non-waivable, non-transferable and of unlimited duration. This means they are connected to specific individuals (residents and local communities) and these rights cannot be transferred to third parties. To have these rights, one needs to be a resident or own property in the area in case of Lahemaa. Residents and local communities do not necessarily need to exercise their rights, but they cannot waive them as well. The rights do not have time limits. Both types of rights arise from the enactment of laws and regulations (law says that local community can decide or do certain things), historical tradition (e.g. certain activities such as fishing has been the privilege of local fishermen) and community decision. Rights of locals and community are limited by public and private interests.

## **2 Rights of the community**

The community has a different set of rights. Firstly, the community defines, governs and protects cultural heritage. Secondly, the community has the right to be asked prior to informed consent. The exercise of the right pre requires the existence of several other rights, such as the right to be informed and involved. Thirdly, the community has the exclusive rights to their cultural heritage and intangible heritage.

The Lahemaa community acts through the Lahemaa NP Cooperation Council, which consists of all rights-holders and duty-bearers, as well as voluntary stakeholders and experts. The local community of Lahemaa NP (approx. 10000 landowners and local inhabitants) is represented there via regional groups and village elders. It factually governs and manages Lahemaa NP cultural landscapes.

**Different rights of the community are exercised the following way:**

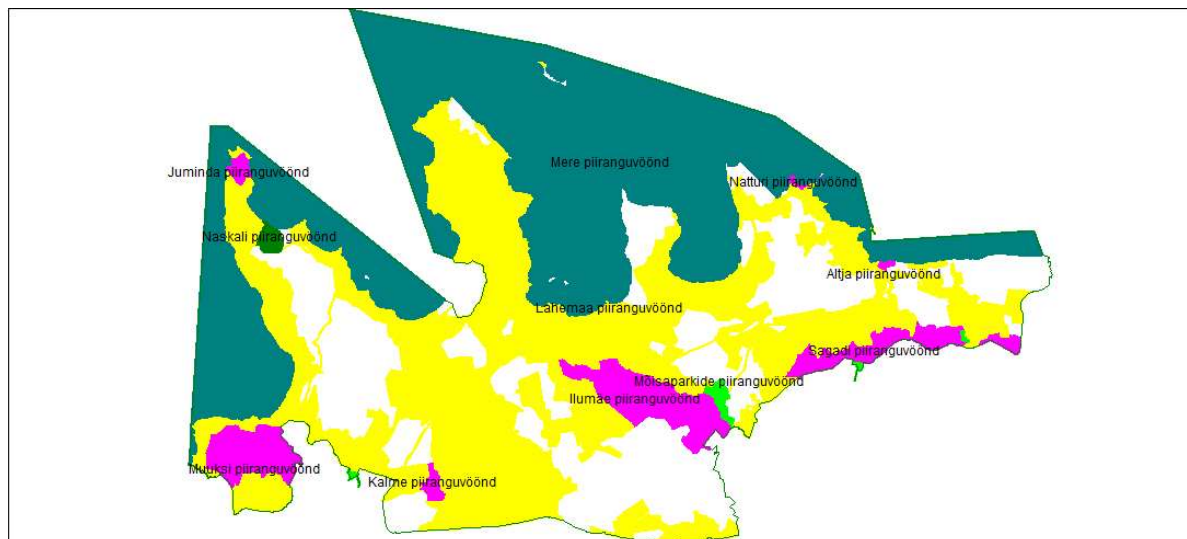
### **(1) constitutive rights: the right to define and preserve the heritage**

Participation in different inventories can be used as an example of the exercise of constitutive rights by local communities. During the last decade, there were more than 15000 participants in cultural heritage public activities, workshops, seminars, restoration and educational deeds by members of Lahemaa NP community. More than 100 cultural heritage objects and landscapes were preserved, information boards, routes, books, web-pages were developed.

The following inventories where locals participated can be named on Lahemaa NP cultural heritage (2008-2021): sacred natural sites (2007-2009), architecture (Välja 2010, Hiob 2012), settlement structure (Välja 2010, Hiob 2012), historical land cover (Sepp 2010), architectural contest “21st Century Lahemaa” (2012). The following Lahemaa NP cultural heritage inventories are underway: Memoryscapes (Memoryscapes 2008-2021), traditional agriculture

(Sepp 2019), traditional fishing (Kelli et al. 2019-2020). These inventories were pilot projects in Lahemaa. All other Estonian national parks followed the same pattern.

Lahemaa NP Rules on zoning (Lahemaa National Park Protection Rules 2015) were changed due to local community demand via Cooperation Council meetings and decisions and based on scientific studies (Figure 2), Lahemaa NP Management Plan 2016-2025 as well (2016).



*Figure 2. Lahemaa NP Zoning according to Lahemaa NP Rule 2015. Yellow, pink and green - cultural landscapes in different limited management zones where the interaction of man and nature is the primary objective. White – special management zones with natural succession as the primary objective, red – reserves with no access to humans.*

## **(2) procedural rights: the right to be informed and the right to be asked free prior informed consent**

The right to be informed and asked informed consent are prerequisites for the exercise of constitutive rights.

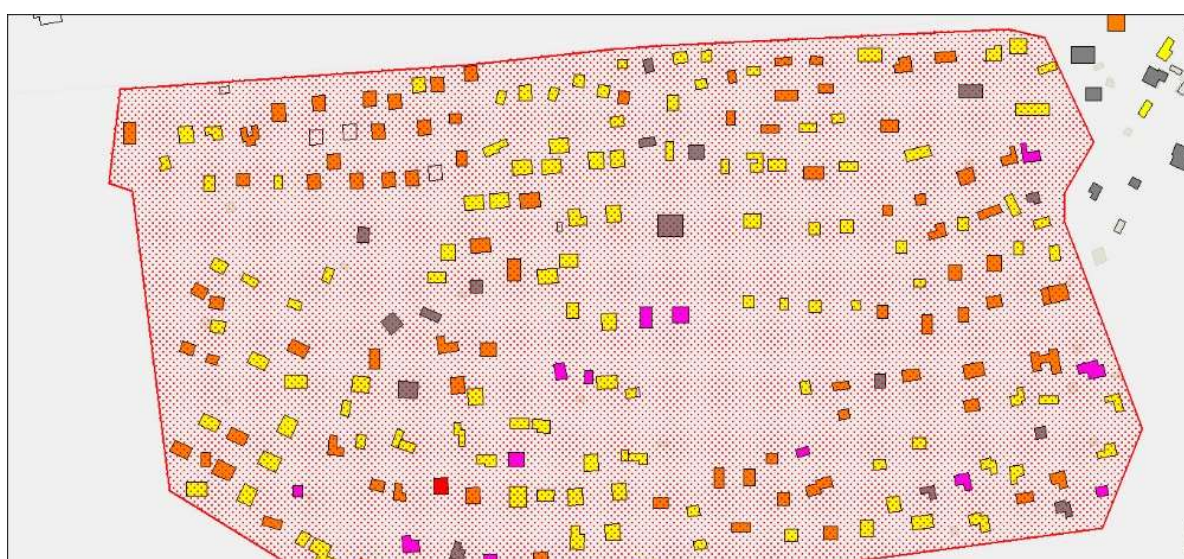
The right to be asked a prior free informed consent concerning heritage preservation is the core right held by the community. The exercise of this right requires that the right holder has all the necessary information. If there is not sufficient information needed for decision making, then there can be no informed consent. The consent has to be given freely without any pressure. The model of how to define informed consent can be taken from other fields. For instance, the General Data Protection Regulation (GDPR) defines consent as “any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data

relating to him or her” (Art. 4 (11)). The burden of proof of the acquisition of consent should be on the duty bearer similarly to data protection law (see GDPR Art. 7 (1)).

Here again, we can rely on the Lahemaa example to explain the involvement of local communities and the right to be asked consent.

The Lahemaa NP Protection Rules (2015) and Management Plan 2016-2025 were drafted together with local communities (5 years, more than 50 meetings, approximately 600 proposals). Due to the involvement of Lahemaa community, the Rules of Lahemaa NP and Management Plan have been changed and have a strong acceptance among local communities as for cultural heritage protection.

Protection of Lahemaa NP settlement structure and architecture were the main themes under discussion in this process. A concise analysis of the state of architecture values was done during the period 2010-2012. Altogether more than 10000 buildings were analysed, 2500 valuable vernacular architecture items listed (e.g., valuable buildings of Soviet period shown in Figure 3). Architectural contest on new building ideas in historical settlements was carried out in 2012-2013 together with the Union of Estonian Architects, universities and locals. During the contest 30 different works were submitted from top architects. Discussions on building regulations took place to cover every single village. Regulations for buildings, made in cooperation with and accepted by the local communities, are stipulated in Lahemaa NP Protection Rules and Management Plan. Lahemaa Architectural Council was formed to deal with more significant architectural issues.



*Figure 3. Zoning of Lahemaa NP architecture and settlement structure. Võsu Soviet modernist values – very valuable buildings (red and orange), buildings of milieu value (yellow), destructive reconstructions (purple).*

In 2016-2019, there was a legal case Lahemaa landowner *versus* State (Environmental Board of Estonia) concerning construction requirements. Lahemaa NP Protection rules and Management Plan giving specific protection to Lahemaa village structure were upheld in all court instances up to the Supreme Court of Estonia.

### **(3) exclusive rights: the rights concerning intangible heritage**

The concept of an exclusive right is well known in the field of intellectual property (IP). For instance, according to the Estonian Copyright Act, “an author shall enjoy the exclusive right to use the author’s work in any manner, to authorise or prohibit the use of the work in a similar manner by other persons” (§ 13 (1)). The concept of an exclusive right is slightly different here from IP rights. When economic IP rights are usually transferrable (they can be sold), then exclusive rights in this context are connected to a specific community.

The idea behind the exclusive right is that there could be valuable intangible cultural heritage held by the community of a specific location. Lahemaa NP Protection rules declare that intangible heritage and folk culture<sup>3</sup> of the area are under state protection (§ 1.(1)1). The issue here is the question of who should benefit from it. The authors are aware that the community’s exclusive rights cannot ignore intellectual property laws. However, the existing intangible heritage is often digitised or materialised, relying on public finances. The financing body can foresee specific licensing schemes giving preference to local community.

We can use the pioneering project titled „**Lahemaa memory scapes**” as an example (Lahemaa memory scapes 2007-2021). It is a large scale inventory of traditional folklore and culture of 72 villages. During the project thousands of written stories and photos were collected, hundreds of movies with locals made, web maps on national parks memory spaces was made, local folklore and books and brochures on the cultural heritage of villages were published, information boards were made. In the period 2008-2012 the Environmental Board and Estonian Literary Museum were leading the process, from 2014 onwards local communities organise and

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<sup>3</sup> Lahemaa NP Protection Rules explanatory memorandum defines folk culture as “a comprehensive set of intangible heritage based on traditions, including expressions such as language, folklore, music, dance, folk art, ethnographic crafts and other types of traditional culture, as well as community activities, rituals and festive events. Folk culture is made up of cultural phenomena that are unique to the area, as well as cultural phenomena that have arisen and have been despised for three generations”.

direct the process. The scientific institutions and experts are involved only as partners. Local communities were given exclusive rights to use these materials.<sup>4</sup> The inventory is very popular among locals – web-page, maps, books, information boards, and so forth are made during the process as well as workshops and maintenance works for keeping “their own” heritage. In all other national parks of Estonia, the same inventory has been done, and the results are seen in the national parks’ memory scapes web map.

Another and more complex issue concerns the introduction of a specific right protecting traditional knowledge, which is being targeted in the process of rights of heritage communities. This issue is not dealt within the framework of this article.

### **3 Rights of the individual community members**

Local individuals have the right to participate in cultural life, the right to enjoy the property and the right to resource use (land and nature). Due to the general nature of cultural and property rights, reasons of space and focus of the paper, the authors do not address them here.

The authors’ focus is on the right to use of specific natural resources. The idea behind these rights is that local community members should have priority to use local resources. The objects of these rights are outlined as follows:

**Traditional fishing.** One possible approach to support traditional coastal fishing in Lahemaa is to introduce traditional fishing rights for permanent residents of traditional fishing villages. The legal mechanism to protect traditional fishing tradition is to adopt the regulation in Lahemaa NP protection rules. Currently, an analysis is underway. The first results are expected at the beginning of 2020. The analysis concerns the definition of traditional fishing, its values and protection measures, local fishers as right holders, legal implementation of the fishing rights. The research relies on comparative examples (models in other countries) of fishing or from other fields. The aim is to propose and test potential solutions for Lahemaa NP which can later be extended to other Estonian national parks.

**Traditional land use and pasture lands.** The main protection aims of cultural landscapes in the limited management zone (see Figure 2) is the protection of the traditional interaction of nature and man. The Environmental Board of Estonia has commissioned an analysis of historical land use and cover of Lahemaa NP (see Sepp et al., 2010). The analysis period covers

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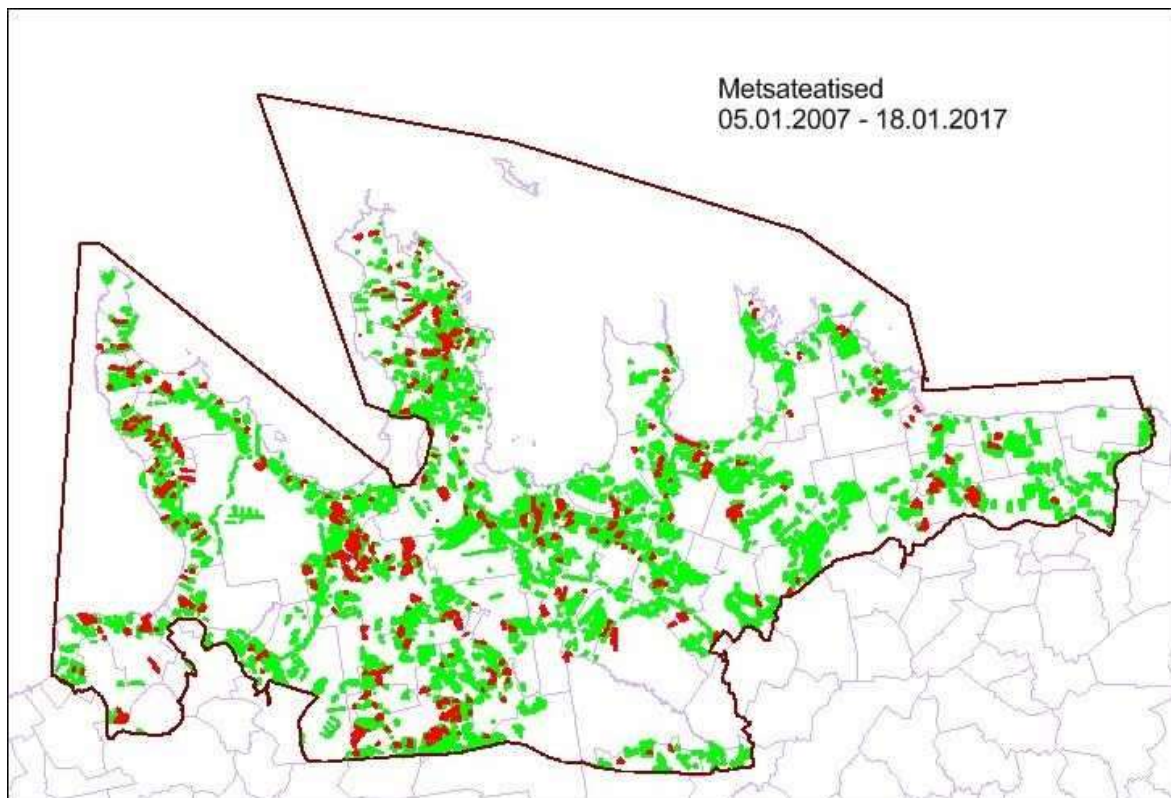
<sup>4</sup> There are myriad of issues here which need to be addressed. For instance, when the right to use intangible heritage is given to the community then the question arises who exactly is entitled to exercise the right. However, due to reasons of space they are not addressed here.



150-200 years. Measures of protection proposed by the inventory suggest that open landscapes should be kept open, but former agricultural landscapes not in use anymore should not be restored. It is about 9000 hectares of former traditional pasture lands (see Figure 3) now in covered with forest mainly for political reasons (Figure 3). During the work of Lahemaa NP Cooperation Council on the management plan, locals made a strong stand to have a possibility to restore traditional agricultural landscapes, where there are no specific natural values and is the will of the owners/locals. It was discussed, and the outcome of the discussion is written in the management plan: previous open landscapes that are overgrown can be restored by the initiative of locals based on the inventory of natural values. There are financial mechanisms and EU subsidies for restoring seminatural habitats (traditional pasture lands). Currently, another analysis of the protection measures of traditional agriculture is underway.

Figure 4. Lahemaa land cover analysis. Yellow - open traditional pasture lands in 1971 and 2010

<sup>5</sup> There are relating to equal treatment in public procurement law and so forth which are not discussed here.



*Figure 5. Forest cuts in Lahemaa NP, period 2007-2017 (in green and red colours)*

#### **4 Conclusions**

The authors present a preliminary model for the conceptualisation of community rights of cultural heritage protection. The model provides a theoretical framework to systematically map and develop further the system of cultural heritage protection. The case of Lahemaa is used to provide concrete examples and test the model. Lahemaa NP rural landscapes management process throughout the last decade is an excellent example to show the procedural and substantive rights of local communities in the cases of protection of material heritage, cultural landscapes and intangible heritage. Lahemaa NP is pioneering in taking into account local community rights, analogous rights and procedures are now implemented in all Estonian national parks via same mechanisms: cooperation councils, legislation, management plans and scientific inventories.



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## **Conservation of the Krishna Temple in village Kishnkot, Punjab, India**

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### **Introduction**

Conservation of Krishna temple was undertaken in the year 2000 as part of a larger program supported by UNESCO in Punjab of India. The program was titled '*Conservation of Cultural heritage towards Enhancement of Peace*'. The year 2000 had been declared by UNESCO as the International year for Culture of Peace.

The project program recognised cultural heritage as 'commons' and 'caretakers as rights holders' of cultural heritage. Through the process a framework was developed based on shared principles of equitable engagement of the community members- men and women, young and the old, the empowered and the marginalised; and a work ethic for cultural heritage conservation. This enabled a shared responsibility of the rights holders and duty bearers. The interdisciplinary team of the conservation professionals, the government bodies and the funding agencies (both national and multilateral) are recognised as duty bearers.

Quote from the project team: *"Restoration is a science for the future. It has three aspects: recovery, preservation and conservation. The first aspect concerns the memories of the past and healing injuries from them. The second aspect concerns the preservation of the "recovered selves" of the people. It requires measures that prevent the dissipation of skills and cultural reserves that are associated with memories. The third concerns sustainability."*



## 1 Context

Located in the village of Kishankot, in the northern Indian state of Punjab, the Krishan mandir (Krishna's temple) is a Hindu shrine housing fine wall paintings depicting both Hindu and Sikh themes from the Kangra tradition and the Sikh school of art. The community of Kishankot is a multicultural one, including Sikhs, *Mahashas* (Arya Samajist Hindus) and Christians. The village in 2000 had around 109 households and a population of approximately 650. The village was fragmented as a result of the social and political unrest in Punjab in the late 1970s and 1980s. Most households were landless and therefore relied on several jobs as sources of income. However, due to high unemployment in the region most of the male segment of the population had to leave the area to find work. The men were able to earn relatively high wages during the harvest season, but many ended up frittering away the income on alcohol and gambling, neglecting the nutritional and educational needs of their families.

Two pieces of legislation serve to protect historic sites and buildings in India, one at the national level and the other at the regional level/s (at the state level, which in the case of Krishna Temple would be in the state of Punjab). The Ancient Monuments and Archaeological Sites and Remains Act (1958, Amended and Validated in 2010) at the national level and the Ancient Monument and Archaeological Sites and Remains Act, 1964 at the state level, in Punjab. It is evident in the content of these legal tools that the rights of community over historic buildings and sites are not articulated in the legislation, more specifically over those sites which are 'owned' by the state. The *duty bearers*, who is the agency of the government to 'protect and

preserve' sites of national and regional significance are found to guard cultural heritage sites against any claim by the communities to engage with heritage buildings and sites through 'active' means. These engagements can also be understood as 'encroachment' against which the protected buildings and sites are robustly guarded. There have been cases in the history of protection of heritage sites and buildings in India that communities have demonstrated their resistance to any 'protection' by the state. This relationship requires to be carefully understood in the context of the colonial legacy of protection of heritage buildings and sites in India in the early part of the 20<sup>th</sup> century and later the evolving legal framework in Independent India.

## **2 History of Krishan temple**

The temple was built in the 1830s by the grandson of Chaju Mal, a general who settled the village of Kishankot. The temple is a rectangular single-storey building with a central courtyard and is composed of burnt bricks laid in lime mortar, covered with a fine coat of lime plaster. The courtyard walls have foliated arches and the interior is decorated with elaborate frescoes. In contrast, the external façade is simple and not decorated. The temple is flat roofed but has an elaborate brick and masonry *shikhara* (spire) built over the *garbha griha* (inner sanctum). A number of alterations were made to the temple over its history. For example, the mud and brick floors had been provided with cement based materials and the external walls had been painted with a green limewash which were inappropriate to the historic building

Significantly, a drain had been laid along the northern external façade, which was causing rising damp in the walls. Before restoration work began on the temple, the structure was in a serious state of deterioration. The temple's roof was on the verge of collapse, vegetation in the walls was causing structural cracks and the external plaster was being eaten away by extensive algal growth. This state of affairs was of great concern to many people in the community.

The temple had belonged to a *thakur* (land-owning, feudal class) family which sold their land and left Kishankot in 1984. The temple was then used inappropriately during the 1980s as a police post. Later a rich local landlord, who had purchased the land from the *thakur* family, announced plans to demolish the temple. In response, members of the local community set up an organization, the Krishan Mandir Temple Trust (KMTT), to protect the building. Conflict between the landlord and the KMTT divided the community significantly in the 1990s. A community-initiated court case eventually led to the prevention of the demolition.

### **3 Project history**

The project began with the recognition that the only way to ensure the protection of the temple was through a skilled and unified community. Conservation work on the Krishan temple was seen as a means of building capacity, enabling community members to address their social problems and ultimately enhance collective unity. In this way, conservation of the villagers' shared heritage was viewed as a social process, as a means of bringing the multicultural community together.

The conservation project was also seen as a way of reviving interest and pride in the community's history and culture. Furthermore, the project aimed to restore the social functions of the temple rather than to simply preserve the building as an artefact. In contrast to conventional conservation methodology in India, where the emphasis is placed on the preservation of the physical fabric, this project opted for an *interpretative and social methodology*.

That is, the project aimed to recover and restore the role of the building in its social context and emphasized the pivotal role of the community's participation in the process. In the absence of funds and government conservation programmes, Cultural Resource Conservation Initiative (CRCI) selected Krishan temple as one of three religious historic sites to be restored as part of a project to highlight the tradition of exchange and understanding between different communities of Punjab. While it is a Hindu shrine, it was found to be valuable to the resident Sikh community also. Supported by the Archaeological Survey of India, UNESCO and the UN Development Programme– UN Volunteers programme, the Krishan temple restoration project commenced in October 1999 and was completed almost one year later, in September 2000.

### **4 Conservation of the physical fabric**

The guiding philosophy in the conservation process was that interventions were to be made only in order to strengthen the fragile structure of the building and only if they did not cause damage to the valuable wall paintings. The project aimed to repair water damage and prevent further damage from occurring, restore the roof and the original flooring, and protect and preserve the wall paintings. Physical restoration works were carefully planned. Before work commenced on the temple, the building, and particularly the wall paintings, were extensively documented by conservation architects and art conservators through measured drawings,

photographs and condition assessments. In addition, the materials were tested for their chemical composition.

As with most historic buildings in the region, one of the main threats to the structure was water damage. The first item of work therefore was the relocation of the village drain away from the external façade of the building. A rainwater drainage system was introduced which would carry water from the roof down into the courtyard and then into the village drains. Vegetation was carefully removed from the structure, including trees growing out of the walls and algae covering the floor.



*Relocation of the village drain away from the face of the temple wall.*



### *Conservation of the terrace of the temple*

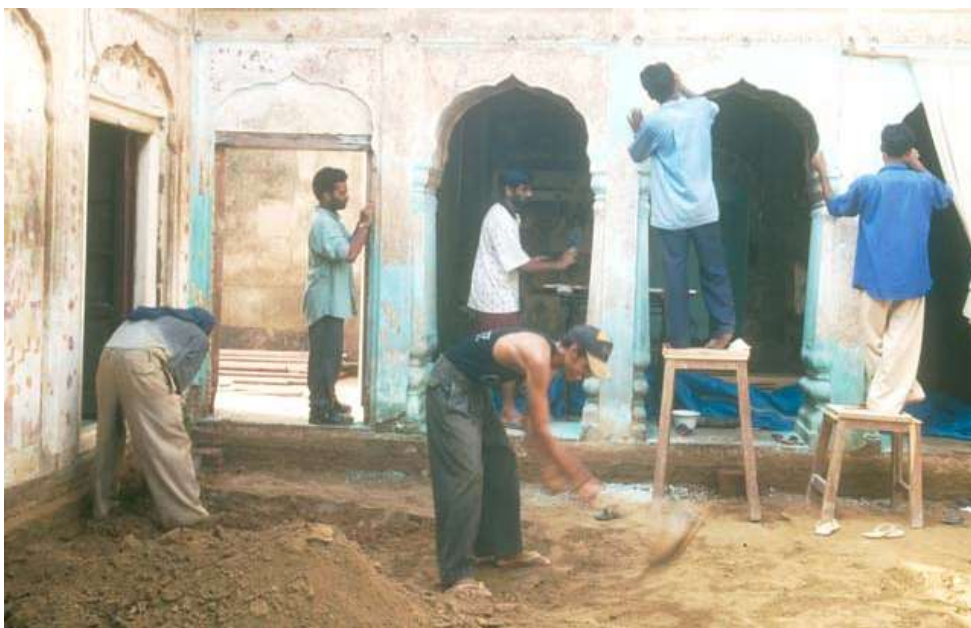
Inappropriate modern additions to the building were also removed. The concrete floor of the central courtyard, for example, was replaced with the original brick-on-edge type of flooring, laid in lime mortar. The roof was reconstructed in the traditional manner, with timber purlins laid with planks and covered with two layers of brick tiles. The roof tiles were laid in lime mortar and finished with traditional lime plaster, which was vital for waterproofing. Lime plaster was also applied to all the external walls, both in the courtyard and the street façades. The lime mortar used on the walls was stronger in composition (1 part lime to 4 parts aggregate) than that used in the flooring (1 part to 6 parts) so that moisture on the ground would evaporate at the floor level and not rise into the walls. Conservation of the wall paintings was undertaken by experienced art conservators. At the same time, these experts trained some of the young men in the village in the technique of removing the later applied layers of lime wash from the wall paintings.





*Conservation of the wall paintings by the team of trained art conservators*

In keeping with the project's social goals, project managers decided that all restoration work would be carried out by local residents, with the exception of repair work to the wall paintings, which would be undertaken by experts. The project plans stipulated that materials would be sourced locally wherever possible in order to ensure the community would be able to access the appropriate materials in the future. A work yard was established beside the temple using traditional materials and machinery such as *khaka* (ash), *surkhi* (burnt brick dust), river sand, lime kilns, a slaking pit and a lime mortar machine to make slaked lime.



### *Training of the village youth in conservation works in the temple*

Limestone is one of the key traditional building materials not available in Punjab. It was historically obtained from the Himalayas or Rajasthan. Because cement is relatively cheap compared to limestone, use of lime plaster had become rare in Kishankot and the skills of making lime and lime plaster had been lost. In order to revive these skills, various workshops taught lime making and lime plaster application to members of the local community who were involved as builders.

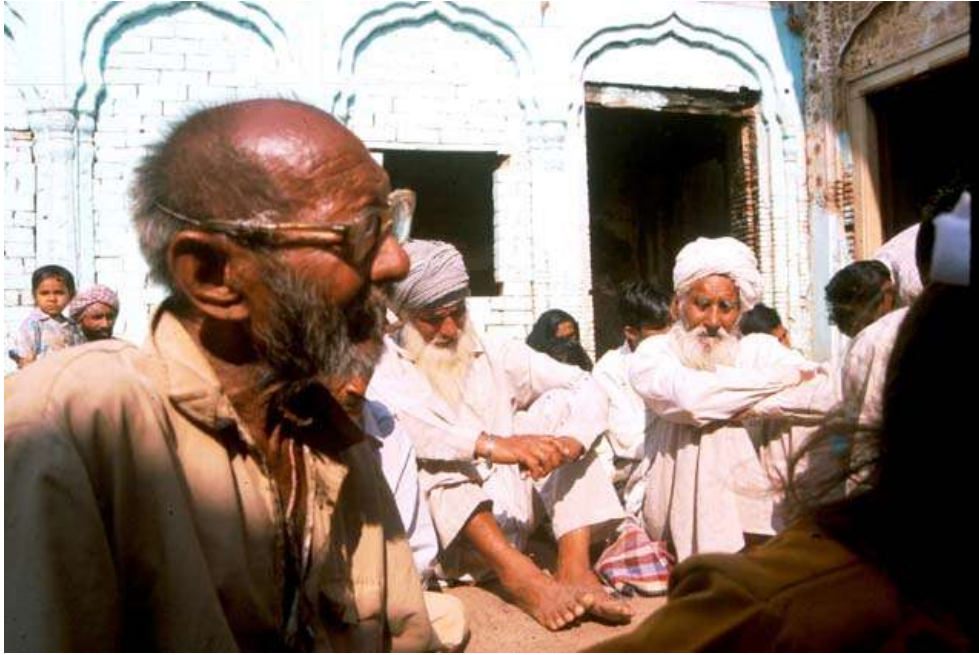
## **5 Project framework**

Active participation of community members in the restoration led to a strong sense of ownership and stewardship of the Krishan temple by the community who assumed responsibility for the building. The fact that the villagers were not simply used as a source of labour increased community pride. By obliging them to work together, the project led to a sense of unity and greater social cohesiveness.

Beyond the positive support for the restoration project by the Kishankot residents, the KMTT members felt it was necessary to encourage practical and hands-on community participation in the project. The local community provided input not only in the form of *seva* (service without payment) and waged labour, but also, very importantly, in the form of ideas and feedback.

While the restoration works were being undertaken, community development programmes were developed in the areas of health, education and horticulture, with the aim of providing the residents with valuable knowledge and enhancing cooperation in other aspects of village life.

The project was a mutual learning exercise for both the visiting professionals and the local community. The architects and other experts learned about local architecture while the community gained an understanding of the technical problems in caring for the temple. They re-established the skills in traditional building techniques needed for on-going maintenance of the building and other heritage structures. The workshops held during the project were especially effective in raising capacity among marginalized members of society. Youth, for example, acquired useful skills which improved their prospects for employment in the future.



*Consultation meeting in the temple courtyard*



*Consultation meetings with the women in the village*

Since the projects' completion, an institutional framework has been developed to sustain common spaces and group activities, and to draw upon and renew the cultural capital of the historic building for the overall development of the village.

## **6 Conclusions. Learnings from the community in village Kishankot: Cultural heritage conservation is a social process**

Conservation was perceived by the community as *seva*. Literally, this term means service without a monetary return. It is an offering of the 'self'. It is an act of faith. As an act of faith, conservation is a social process that facilitated a search for elements from the past and the present. These elements together make up the 'social and the cultural reserves' that ensures the survival of the community in times of crisis. This search and the process of bringing together the 'reserves' entail a partnership between the experts and the community, the duty bearers and the rights holders. It requires the partners to be prepared to listen to each other and be willing to see, to recognise, to follow the rhythms of social life, and to recover the common social spaces as important dimension of everyday life.

In the absence of this community mobilisation, the conservation of Krishan temple would not have extended beyond the material realm. Lone conservation of the material fabric would have destroyed the cultural and social significance of the scared space and would have adversely impacted people's faith in act of conservation of cultural heritage by conservation experts who can be called in this situation as the agency of the duty bearers.

Accordingly, the community had to be equipped with appropriate skills that strengthened their understanding of the materiality of their heritage and prepare them to become an integral part of the process of conservation. These together, provided the basis for the continued existence of common social spaces while recognising the value of the material fabric of cultural heritage.

To facilitate the community's participation and to ensure appropriate maintenance (in line with principles of preventive conservation) by the community after the restoration work was over, the project team had to create appropriate social conditions. The emphasis was to empower the people and build their capacities. The conservation architects and art restorers worked in collaboration with social scientists as an interdisciplinary team to achieve the end outcome.

Welfare and 'developmental activities' were linked with the restoration of Krishan temple. Health, education, and horticulture were selected as the three fields of activities. Accordingly, restoration activities were concerned with the waste disposal system, the learning process and the care of gardens. Each of these has an aspect of the 'culture of peace', namely, of caregiving. Together, these defined the commons, which is part of the sacred geography. The project components and the processes therein enabled engagement of women, children and the elderly members of the community. They were recognised as the most vulnerable groups of a society



and important for building a future based on the values peace. Participation of the community was to be in both material and symbolic terms, that is, in cash and in kind. Through these activities, every household was given an opportunity to contribute to the conservation of the temple.



Village youth engagement with desilting activity of village water tank, a property of the Krishan temple

The link between temple conservation and sustainable community development emerged in time. If the community flourishes, only then will the temple flourish, and not vice versa.

## **Other Stories - Cultural Heritage and Society. ICOMOS Ireland Research and Advocacy Project**

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### **Introduction**

The case study described here – Battles, Bricks and Bridges - is part of a larger research and advocacy project which ICOMOS Ireland commissioned and carried out as part of European Year of Cultural Heritage in 2018. While not explicitly setting out to foreground Rights based approaches to cultural heritage as the primary driver, or framework for the identified case studies, access to and empowerment of the rights bearers, has been an identifiable outcome.

### **1 Context**

‘Other Stories, Cultural Heritage and Society’, the publication arising from this project, had aimed to highlight the spirit and principles of The Faro Convention<sup>6</sup> as expressed in an Irish context. The convention provides a frame of reference for heritage policy that recognises the following:

- The right of all citizens to benefit from and contribute to cultural heritage and to have their cultural heritage respected.
- The responsibility of all citizens to respect the cultural heritage of others.
- The value of cultural heritage in improving quality of life for all citizens.
- The contribution that heritage can make towards building a peaceful, democratic and sustainable society.

The Faro Convention takes an expansive view of cultural heritage, defining it as: “a group of resources inherited from the past with which people identify, independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions”. It is a definition that encompasses tangible, intangible and digital aspects of heritage, but which goes beyond those terms to focus primarily on the values that connect

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<sup>6</sup> The Faro Convention - officially called the ‘Council of Europe Framework Convention on the Value of Cultural Heritage for Society’ - was originally developed out of the work of the Council of Europe on ‘Heritage, Identity and Diversity’ after the Yugoslav Wars of the 1990s.

people and heritage. Faro also introduces the concept of "heritage communities" - which may, for example, be a community of place (linked by a shared geographic location) or of interest (connected by a shared interest in any given aspect of heritage) and can transcend spatial territories.

With thirteen case studies and voices included, the publication documents how each project started, what sustains them, and what their broader impact is. In determining the projects for inclusion, key factors were taken into account including the geographical spread of the projects (encompassing the island of Ireland) as well as their scale and ambition - from short to long-term. Many of the projects combine rural and community development, archaeology, the arts, planning, recreation and biodiversity and have been able to sustain their initiatives by developing modest support over time across multi-agency funding partners and collaboration with other stakeholders. The study understands cultural heritage as an open resource with value in people's everyday lives. It acknowledges the unevenness and hesitancy of how people may engage with cultural heritage.

Particular objectives for ICOMOS Ireland in undertaking this project have been:

- Advocate for good practice approaches which will influence existing and future cultural heritage initiatives, policies, programmes, projects
- Inform and influence the cultural heritage sector on the principles and practices promoted by the 'Faro' convention and by extension, rights based approaches
- Place ICOMOS at the heart of good participatory practices

The case studies have been considered under three themes; under 'Story: People and Place' we examined projects that focus on the relationship between people and place through storytelling. 'Living Skills' looks at the positive potential of utilising craft skills and knowledge to provide opportunities for learning and collective making. 'Land Use: Shared Space' learns from projects that have negotiated complex processes to provide broader public access and understanding to our shared landscapes and bio-diversity.

## **2 The Case Studies and their Location**

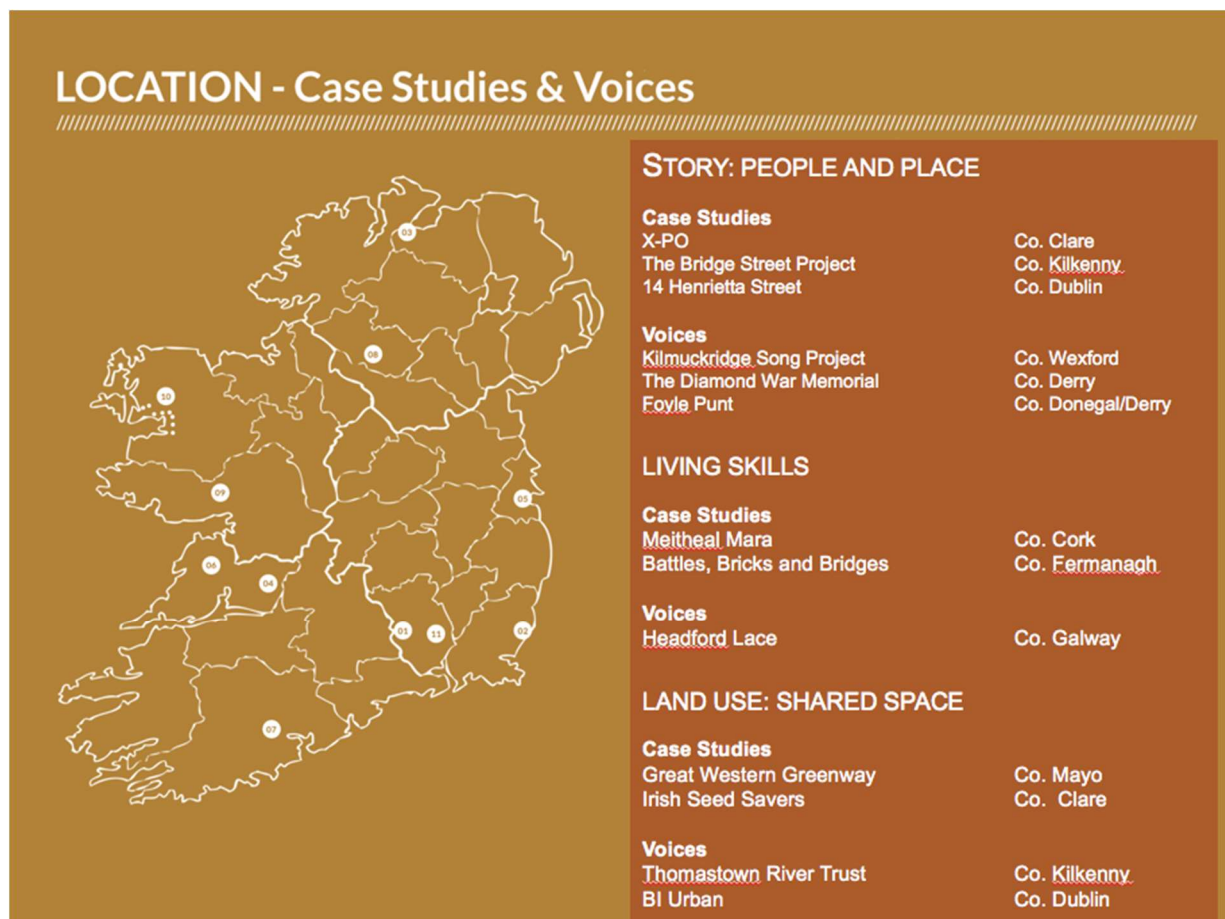


Figure 1. Living Skills, Battles, Bricks and Bridges, Arney, Co. Fermanagh

Battles, Bricks and Bridges started as a year-long community-led archaeology project designed to connect three aspects of local heritage ‘battles, bricks and bridges’ in the townlands of Killesher and Cleenish in County Fermanagh.

*History is not the past; it is an artful assembly of materials from the past, designed for usefulness in the future. In this way, history verges upon that idea of tradition in which it is identified with the resource out of which people create.<sup>7</sup>*

Killesher Community Development Association and Cleenish Community Association joined forces to explore the rich archaeology, customs, and heritage of their local area within rural Fermanagh - a Northern Ireland border county of lakes and waterways. The project surveyed the disputed site of the Battle of the Ford of the Biscuits<sup>8</sup>, revived traditional brick-making skills

<sup>7</sup> Glassie, Henry, Tradition, The Journal of American Folklore, Vol. 108, No. 430, Common Ground: Keywords for the Study of Expressive Culture (Autumn, 1995), pp. 395-412, American Folklore Society American Folklore Society Stable URL: <http://www.jstor.org/stable/541653>

<sup>8</sup> In 1594, soldiers loyal to Queen Elizabeth I, sent to relieve a garrison besieged by Irish chieftain Hugh Maguire in Enniskillen Castle, were ambushed as they crossed the Arney River. The troops were massacred and their



and oversaw the restoration and recognition of the Arney Bridge. With a proactive project manager working closely with the two community organisations initial heritage funding was secured through close active partnership with Queen's University Belfast and the Historic Environment Division of the Department for Communities Northern Ireland. A key inspiration behind the initiative was the work of American ethnographer and anthropologist Henry Glassie<sup>9</sup>. Glassie wrote five books about the cluster of townlands found at the mouth of the Arney Estuary in the 1970s where he lived on and off for seven years. The project took shape around Glassie's theoretical findings and the folklore and local knowledge he recorded. The project began through conversations and by calling interested people together in Arney Hall in 2013. The two communities gathered to offer their ideas and opinions and the project programme evolved to include archaeological excavation and traditional skills training. Meetings continued throughout the project and often led to talks, storytelling and reminiscences. They proved an important communication tool in reporting the project findings back to the community. The award-winning project secured funding through multiple sources including the Heritage Lottery Fund in Northern Ireland, The NI Department of the Environment, The Fermanagh Trust, Fermanagh District Council and the Northern Ireland Environment Agency.

### **3 Project development and sustainability**

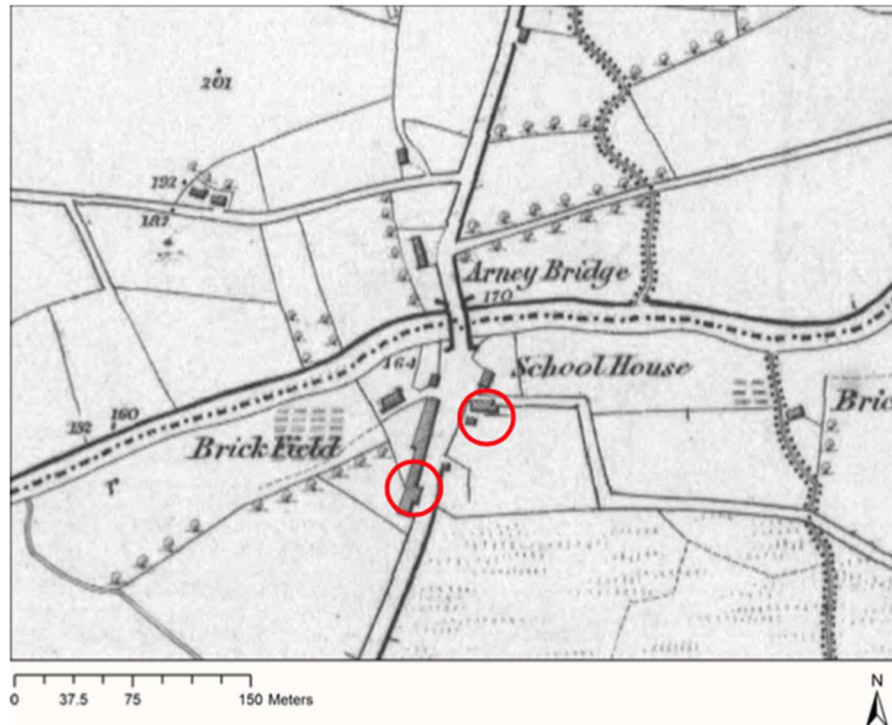
Over 2013 and 2014 the three distinct elements of the project unfolded. The first aspect of the project focused on the sites around Arney Bridge which became a hive of activity - including fieldwork and excavation to locate and excavate a 19th-century schoolhouse, brickmaking kilns and brickmakers cottages. A series of intergenerational workshops, with hundreds of participants, focused on reviving the craft of slap brick-making. The fields on the banks of the River Arney had been used for outdoor brick-making with the last brick kiln operating in the area until 1939. The distinctive red-bricks travelled down the river to Enniskillen town on flat-bottomed river 'cots'. The brick making workshops added a creative side to the wider archaeological excavations with workshops led by Tony Mugridge, the last travelling brick

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supplies (including biscuits) were thrown into the river. It became known as the Battle of the Ford of the Biscuits.

<sup>9</sup> Henry Glassie's book was called *Passing the Time in Ballymenone: Culture and History of an Ulster Community* (1982).

builder in Britain and Ireland. A key aspect of discovery was in the particular local tradition of turf fired kilns which was expanded with technical knowledge of local materials.



Excerpt of the 1<sup>st</sup> edition 6 inch OS map dated to 1835. The schoolhouse and cottages are circled red<sup>10</sup>.

The second layer of the project focused on the restoration of the 17<sup>th</sup>-century Arney Bridge. The driving ambition was to have the bridge registered as a listed structure so that it would receive support for ongoing maintenance. The 17<sup>th</sup>-century bridge was refurbished and is now recognised as one of the oldest plantation bridges still intact in Northern Ireland.

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<sup>10</sup> Brian Sloan, Dermot Redmond, Centre for Archaeological Fieldwork, Queens University Belfast, Excavations at Arney, Co. Fermanagh (H 20725 37002) AE/14/01E



The final layer of the project looked to local knowledge to establish the exact site of the Battle of the Ford of the Biscuits in 1594, the start of the Nine Years War. The local community had long held that the battle site was a mile and a half off from where the experts claimed it had taken place. Dr Paul Logue, archaeologist at the Historic Environment Division, Department for Communities NI, worked together with the community to test folk memory. It yielded information that has helped to better understand the events of that period of history, including confirming that the local memory proved reliable. Archaeological excavation also led to the rediscovery of a route way and river ford dating back to the Bronze Age as well as the find of a late Bronze Age sword from 800 BC.

#### **4 Influence and Impact**

To capture the project's varied activities and approaches a documentary film was commissioned. Battles, Bricks and Bridges has been recognised as an innovative model of community participation in archaeology and won the prestigious several awards including Best Community Engagement Archaeological Project at the British Archaeological Awards 2016. It has also won various awards for its curriculum-based materials. Following their success the community is now developing several expanded projects and initiatives. The community went on to receive a further funding for a Community Battlefield Trail starting at Arney Hall and will create a wider series of walking and cycle trails across the geographical area with local partners to incorporate key heritage assets. The destination for walks and links to local heritage

will again be developed by local people with further future plans already in development. One of the more lasting effect of the project is the bond of respect and friendship it forged across various parts of Northern Ireland. Now, new local champions for heritage have been encouraged in the next generation. And, through its own taking hold and, through being empowered through partnership and support, the local communities have enacted their rights to citizen determination of their heritage – the bridge at Arney is now a listed structure, protected for the long term.



### Acknowledgements

The above is an edited extract from Other Stories, Culture Heritage and Society, a research and advocacy project carried out by Workhouse Union (<https://workhouseunion.com>) and commissioned by ICOMOS Ireland

ICOMOS Ireland and Workhouse Union, Other Stories (2018) due for publication December 2019