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A Novel Perspective On Cultural And Natural Heritage; Innovative Alterations To The Existing System And Thoughtful Addendums For Future

Abstract

Nowe spojrzenie na Dziedzictwo Kulturowe i Naturalne: innowacyjne zmiany w istniejącym systemie ochrony oraz przemyślenia na przyszłość

Kulturę można uznać za zbiorowy, kolektywny wynik tendencyjnego „zaprogramowania" umysłu, z jego wzorami i założeniami, takimi jak język, tradycja, i działania. Różnice w tym zaprogramowaniu dały początek rożnym wyjątkowym kulturom. Dziedzictwo jest czymś przekazywanym z pokolenia na pokolenie, przebijającym się przez upływający czas, przezwyciężając przeszkodę dezaktualizacji. Co ciekawe, wciąż jednak brakuje definicji dziedzictwa kulturowego i naturalnego, która w pełni obejmowałaby materialne i niematerialne dziedzictwo oraz ich wpływ na społeczeństwo.

Celem artykułu jest zbadanie "szarej strefy" prawa ochrony dziedzictwa kulturowego i naturalnego, powstałej między Konwencjami UNESCO z 1972 i z 2003, a rzeczywistymi niebezpieczeństwami grożącymi szeroko pojętemu Dziedzictwu, poprzez przeanalizowanie raportów środowiskowych i prawnych, prac ekspertów oraz aktów prawnych wybranych państw, a także przedstawienie sugestii zmian w międzynarodowym prawie ochrony dziedzictwa kulturowego i naturalnego. Do proponowanych zmian należą zmiana przepisów prawych, zwiększenie subsydiarności w ochronie Dziedzictwa, monitorowanie turystyki w miejscach uznawanych za należące do Dziedzictwa, a także otwarcie na digitalizację Dziedzictwa najbardziej zagrożonego zniszczeniem.

Culture

Overlooking the calm waves, embracing the soothing breeze, the Gate Way of India, a monument to commemorate the visit of His Majesty King George Five and Queen Mary's arrival in India, is a majestic icon at the tip of Appollo Bunder in South Mumbai, India. This monument witnessed the symbolic departure of the last British troops from an Independent India in 1948, as well as the Mumbai terror attacks in 2008 that took more than hundreds of lives in the famous Taj Hotel opposite to the monument. Constructed in 1924, it is not a very old structure when compared to other monuments or sites in India that date back to thousands of years.

Over the years, a way of conduct or life has developed around this Gateway, making it an attraction for the tourists that come here from around the Globe as well as the people in Mumbai, to whom this monument has become part of their identity. Mr. Rajesh Parekh, aged 52, has been a professional photographer who has been earning a living for more than two decades, through clicking photographs for the tourists who visit the Gateway.

Asking him about the **Culture** that sustains around the Gateway, Rajesh told that the day starts pretty early, around 7 am, with the local patrons coming there for a morning walk that culminates in different gatherings of a cluster of people having their morning talks over a tea from the local vendors. There will be scores of tourists who visit the Gateway, upon whom many like Rajesh has been thriving upon for years. The proliferation of the number of Selfies (and the smartphone) is a threat to these photographers. The bustling boulevard towards the Gateway is filled with Paan (Tobacco) vendors, Snack sellers, and people who sell souvenirs. It is a regular thing to see the street musicians commencing their performance close to the sunset evening when the sky is a canvas painted vividly with shades of orange.

What is Culture?

An analyzed disintegration of the entire happenings of a day at the Gateway will provide an insight as to what can be seen as Culture. Is it just the tangible aspects or are there elements of culture that cannot be seen but still felt? The age-old tea vendors in their bicycles, the souvenir shacks, the snack shops with indigenous delicacies are all a part of the **tangible elements** of the culture that exist around Gateway, whereas the morning talks or evening gatherings, the old rhythmic Bollywood beats in the air from the street musicians, the innumerable number of selfies taken by people of all age groups are also a part of the Culture that exist around the Gateway, the **intangible elements.**

For the residents, the morning talk is not complete without the tea, for Mr. Rajesh Parekh the evening vibrancy of the Gateway will be incomplete with the absence of the street musicians and the awe struck tourists and their constant bargaining with the various shop owners. He said that the area around Gateway is not just a work place for him but it is a feeling that cannot be put into discernable words or sentences. The emotional attachment of Rajesh, as well as many others like him towards the Gateway, also constitutes a part of the intangible element. The line of distinction of the tangible and intangible elements is blurred by the subtle and prominent interconnection between these elements, which altogether gives meaning and sense to the multifaceted phenomenon called **Culture.**

Culture is a collective programming of mind with its preconceived pattern with elements, such as language, traditions, articles and practices. These elements can be broadly put into tangible and intangible elements. The interaction of these elements form a pattern that is unique, and this pattern is deeply embedded in the psyche of the people around, hence collectively programmed.

For a better understanding, it is to be kept in mind that there is no finite limit to include what all can fall within the parameter of culture. It is open for alterations that slowly creep in, reflecting the change of times. Selfies were not a part of the culture that persisted from time all along, but something that can be seen as an addendum to the existing pattern and its elements.

The activities around the Gateway as described, the commercial and the non-commercial ones, have been in existence for close to a hundred

years, this continuation of 'a way of conduct' of any activity, of any type can be linked to what is being passed on from predecessor to successor. This line of thought introduces us to **Heritage**.

Quick understanding of heritage

Keris (now commonly called Kris) is a spiritually valued, hand crafted weapon indigenous to Indonesia. It is an asymmetrical dagger made with different layers of metals, crafted with utmost attention to detail, forming the *Pamor* (design variants) of the blade and the sheath of the dagger is made of wooden base or even ivory. It is made by an *Empu* (traditional blade smith), who is a well-respected craftsman in the society for his knowledge in solidification of Alloys for the dagger. The Keris is known to be made as early as the 14th Century, though the production of Keris has gone down significantly in the recent decades. It is considered as one of the most important heirlooms (Pusaka) for the Indonesian people, passed on from one generation of the family to the next.

The story of the dagger, mainly made in the island of Jawa in Indonesia, conveys the story of an article which has an attached value of tradition and culture intrinsically weaved to the beliefs and customs of the native people. Here, the dagger is passed on from the forefathers to their offspring as a part of the family asset. In the case of an *Empu,* he not only passes the Dagger but also the skillset of making an artful Keris for the future generations.

This is a perfect example of **Heritage**; something that is passed on from one generation to another generation, cutting through the passage of time to persevere the obstacle of obsoleteness. It can be an object or even a skill set, which implies that tangible and intangible things can be passed on under the ambit of Heritage.

Natural and cultural heritage

The Salisbury Plain in Wiltshire, Southern England is a host to one of the significant icons of pre-historic period, the Stonehenge. Built in a span of more than thousand years starting from 3000 B.C, the three-phase construction of the Stonehenge is an architectural brilliance of neo-lithic

men, which is still not deciphered properly with regard to techniques of construction. The Stone monument is made with local sand stones called Sarsen, which form the huge 20 feet slabs that weigh more than 45 tones crowned by Lintels and the well-arranged Blue stones (brought all the way from Wales), is inside a large circular ditch dug, enclosing a bank that is surrounded by 56 holes called Aubrey holes that were ancient burial holes.

The mid-summer sunrise and the mid-winter sun set is aligned in consonance with the principal axis of the Stonehenge monument. The enormity of the wide spread landscape, which is home to a wide variety of flora and fauna, provides a silver lining of hope to understand more about the ceremonial and cultural practices of men in neo-lithic age in England and other European territories. The nature adds to the beauty and magnificence of the whole place with sprawling green fields of more than 2000 acres mainly under the care and preservation of the National Trust for Places of Historic Interest or Natural Beauty, which is a conservation Trust in England.

According to article 1 of the Convention concerning the Protection of the World Cultural and Natural Heritage by the UNESCO in 1972, defines 'Cultural Heritage' as

> Monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;
>
> Groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
>
> Sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

Article 2 of the same convention defines 'Natural Heritage' as

> Natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;

Geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;

Natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

Stonehenge is a delightful harmony of both the Natural and Cultural Heritage definitions. The attributes of Nature and the man-made stone marvel together constitutes the mesmerizing scenery of the Stonehenge in the surrounding Landscape. As mentioned in the third paragraph of Article 1 and first of Article 2, this is a combined effort or work of men and nature, with archeological and aesthetic importance. In specific scenarios, such as that of Stonehenge, it is difficult to draw a line of distinction to clearly demarcate the 'Natural Heritage' and 'Cultural Heritage' since the contributions of nature and man is heavily intertwined and the amalgamation of both results in 'areas' or 'places' that are outputs from the combination of man-made and natural elements.

UNESCO Conventions of 1972 and 2003

The protection of the natural and cultural heritage in the wake of realization due to the aftermath of World War 2 led the League of Nations to take a concrete effort for the conservation and protection of heritage. The United Nations took over this responsibility and included it in its agenda. The Government of Netherlands took initiative to organize 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, a convention that had broad principles which were later included in 1972 UNESCO convention. The United Nations Educational, Scientific and Cultural Organization's General Conference Meeting in Paris, 1972 adopted the Convention for the Protection of the World Cultural and Natural Heritage.

After recognizing a dire need for protection of the Intangible Cultural Heritage due to the process of globalization and social transformation, along with other forces that lead to deterioration, disappearance and destruction of intangible cultural heritage, the 2003 Convention was

drafted. The concern over this area was partly addressed in the UNESCO Recommendation on the Safeguarding of Traditional Culture and Folklore in 1989 and in the UNESCO Universal Declaration on Cultural Diversity in 2001. The Convention for the Safeguarding of The Intangible Cultural Heritage was adopted in 2003, Paris; during the General Conference of The United Nations Educational, Scientific and Cultural Organization.

Structure of Conventions

The 1972 as well as 2003 Conventions share a lot of similarity in the way they have been drafted, though 2003 Convention can be seen as an addendum to the existing measures taken by the United Nations to protect all aspects of cultural heritage, including the Intangible ones. Both the conventions provide definitions for the subject matter like 'Natural', 'Cultural' and 'Intangible Cultural Heritage'. Definitions of the first two are mentioned earlier; the 'Intangible Cultural Heritage' is defined in Article 2 (1) of the 2003 Conventions as follows:

> The "intangible cultural heritage" means the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity.

As given in Article 2 (2) of the 2003 convention, it includes the following:
1. Oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;
2. Performing Arts;
3. Social practices, rituals and festive events;
4. Knowledge and practices concerning nature and the universe;
5. Traditional craftsmanship

One of the main targets for the State Parties (members to the convention) of these conventions are to identify, protect and conserve the natural, cultural and intangible heritages around the world as enumerated in Article 4 and Article 12 (1) of the 1972 and 2003 Conventions respectively. After the identification of these specific heritages that face imminent threat of destruction or defacement, the State Parties with the support of UNESCO should set up the infrastructure base for scientific, technical, aesthetical and legal research and studies for achieving the objectives set out in the conventions, as given in Article 5 and Article 13 of 1972 and 2003 conventions respectively.

In both the conventions, there are provisions for formation of an official 'Committee' that is constituted by the member parties on the basis of equitable representation. It is this Committee that decide the criteria and manner of selection for: places in the case of Natural and Cultural Heritage List under the 1972 Convention provided under Article 11 and Intangible Heritage in the case of the 2003 convention, provided under Article 16 and 17.

A 'World Heritage Fund' and 'Intangible Cultural Heritage Fund' were formed on the basis of Articles 15 and 25 of the 1972 and 2003 conventions respectively. These are mainly formed by the contributions of the State Parties along with other wide options of raising the funds. International Co-operation and assistance are also available for the members of the convention.

Impact in the Current Scenario

The World Heritage list has 1052 properties as of 2016, with a selection of sites from 165 State Parties. There is a huge disparity in the constitution of the World Heritage List with close to 10 Countries with more than 30 sites, each and more than 30 countries with one site each. The influence of international Politics in this growing disparity is an indicator to the fact that, being in the World Heritage site is becoming more of a Tag Value. The lax evaluation policy for acceptance of nominations is resulting in an ever-burgeoning Heritage List.[1]

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[1] World Heritage List, UNESCO, http://whc.unesco.org/en/list/ [accessed: 26 August 2016].

The motive was to include those sites that are in imminent threat of destruction or defacement, and to provide financial, technical, legal and scientific resources. Is it possible to have an effective resurrection of these sites? Taking into consideration the huge number in the Heritage List, the next question is regarding the adequacy of the Resources available.

There is an annual budget of 4 Million US Dollars with the World Heritage Fund for supporting the International Assistance requested since 1978, of which 2040 have been accepted, with an average of 100 requests being accepted from the period of 1995–2005.[2] International Assistance under the World Heritage Convention is granted to the States Parties to the World Heritage Convention, in order to help them protect the World Cultural or Natural Heritage located on their territories and inscribed on the World Heritage List, the List of World Heritage in Danger or on their Tentative List. There is a glaring insufficiency of funds in relation to the accepted projects again marking a question about achieving the very objective of forming the List.

Causes of threat to natural, cultural and intangible heritage

The struggle to preserve culture is real and this threat of depleting culture can be channeled into two main reasons. **Firstly**, loss of culture and heritage because of man's own doings, and **secondly** due to factors that are out of man's control. The scope and nature of manmade reasons is extremely wide, so for the purpose of better understanding and analysis, the two broad heads of threats to preservation of the rich culture and heritage under manmade reasons are: 1) Loss due to general evolution and advancement of technology and change in the cultural paradigm 2) Loss due to human activities in conflict zones, war zones or any intentional activities done by man that pose a threat to cultural heritage. So, to sum up, the threats towards preservation of heritage are:

    A) Manmade causes
        1) General evolution and advancement of technology and change in the cultural paradigm.

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2 World Heritage Fund, UNESCO, http://whc.unesco.org/en/intassistance/ [accessed: 26 August 2016].

2) Human activities in conflict zones, war zones or any intentional activities done by man that pose a threat to cultural heritage.

B) Natural wear and tear due to passage of time and natural forces of nature.

A1: General evolution and advancement of technology and change in the cultural paradigm

There will always be a constant conflict between preservation of culture and development and urbanization. **The Taj Mahal**, in Agra is one of the 7 wonders in the world. The Taj Mahal is a huge mausoleum built between 1631 and 1648 by Emperor Shah Jahan for his beloved wife at her demise, in the Mughal architectural style, combining elements of Turkish, Indian, Persian, and Islamic design. This tomb is a sign of love and an integral part of the Indian culture, in a way that India is often identified with the Taj around the world.

Agra being a growing city located a prime location in north India is surrounded by several factories, refineries and *karkhanas* that emit several pollutants like Sulphur Dioxide and Ferric Chloride in the air that pollute the air. These factories are of great economic importance. Further, owing to the river Yamuna flowing where the monument of love is located, more factories are made in the surrounding of the Taj Trapezium Zone (TTZ; 50 km radius around Taj Mahal). The emission of pollutants started causing the white marble of the Taj to corrode and turn yellow with growing black spots, but the problem was fairly dealt with the Apex Indian court in 1996, which banned and shut down these factories or imposed heavy fines on them. The expected result was that the pollution would significantly reduce and the de-colorization and yellowing would finally stop. This general conception and bubble was burst again recently in 2015 after realizing the air pollution level had not budged even after all the fines and bans. Further study showed that this time the air pollution was not caused by the factories but by the petrol and diesel cars instead. While sulphur and nitrogen emissions in Agra may be under control, the level of PM10 (Particle pollution) is still more than double the prescribed limit. This may be because of rising number of vehicles. According to the regional transport authority data, the number of vehicles (two wheelers, cars, buses and heavy vehicles) in Agra district has nearly tripled from about 326,000 in 2002 to over 915,000 this year. Add to this the few thousand trucks that pass through the city every day via the National Highway-2, the tourist buses

and cars that bring in 20,000-odd visitors to Taj Mahal and the vehicular emissions would work out much higher. NEERI'S 2013 report mentions that over 48,000 diesel generators also contribute to the city's pollution.[3] As a resort to this issue the Apex court passed an order to allow only CNG based commercial vehicles to drive in the TTZ.

Now, the point to note here is that rise of vehicles or factories that cause pollution will always exist. Development and evolution causing a hindrance to preservation of heritage is inevitable because in practicality public good and development in any developing nation will have an upper hand over preservation of culture. This is the first threat to preservation to cultural and national heritage. The fact that Agra is a growing city and vehicles in the city will grow in number is something that is a part of "general evolution and advancement of technology," which takes an upper hand over the preservation of the monument.

A2: Human activities in conflict zones, war zones or any intentional activities done by man that pose a threat to cultural heritage

The destruction and bombing of **Bamiyan Buddhas** showed us how cultural heritage can be destroyed due to conflict and war like situations. These Buddhas were built in the 6th century before Islam had traveled to the central Afghanistan region. The two Buddhas of Bamiyan were famous for their beauty, craftsmanship and of course, size. The taller of the two Buddhas stood at more than 170 feet high, with the second statue at nearly 115 feet. They were once the world's largest standing Buddhas.[4] The extremist group, the Taliban, had tried to destroy the two statues with anti-aircraft and tank fire but when they failed they brought a lorry load of dynamite from Kabul. Other "moveable statues" – including more than a dozen smaller Buddha statues in the Kabul Museum – had also been destroyed. This is a clear act of intentionally destroying culture and heritage. But a success story of a great attempt to restore this piece of culture is the fact that these statues are now 3D light projected. Yes, though it does not

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3 Aruna P. Sharma, Sunita Narain, Jyotsna Singh, *A Daunting Journey*, 15 May 2016, http://www.downtoearth.org.in/coverage/daunting-journey-49613 [accessed: 26 August 2016].

4 Steven Davy, *They were destroyed by the Taliban. But now the giant Buddha statues of Bamiyan have returned with 3-D light projection*, 11 June 2015, http://www.pri.org/stories/2015-06-11/they-were-destroyed-taliban-now-giant-buddha-statues-bamiyan-have-returned-3-d [accessed: 26 August 2016].

replace the original monument to its fullest it is definitely a great and probably the closest try preserve the culture. Another example would be in the sad situation in Syria where **all the six UNESCO Heritage sites** in Syria have been majorly damaged or destroyed due to the Civil war.[5] ISIS carried out cultural cleansing in Palmyra with the destruction of the Triumphal Arch and other monuments in Syria, making it yet another example of how the culture of is being stripped off by violence.

The examples given above are mainly activities carried out by extremist groups and terrorists, but it is not just them who pose a threat to preserving the culture. Simple acts of normal tourists also over the time damage our culture. This can be seen in simple acts like tourists engraving their names on the monuments. A recent example of this would be when a young boy visited the **5,000-year-old famous** carving at the Norwegian historical site on the island of Tro off Nordland, northern Norway.[6] The site provided the earliest evidence of skiing by Stone Age man. The young boy in "good faith" scratched along the lines of the carving using a sharp object, intending to make them clearer for other visitors. The archeologists believe that the damage to the carving is irreversible.

An interesting take is how these activities may make preserving culture difficult, but also create new culture as in the case of the graffiti overdose on the walls and building in Rome. This is nothing but the new culture of a new age but at the expense of the other. It is interesting to consider this aspect of cultural preservation. These examples in addition to many more can explain how man himself by his own activities makes preservation of culture and heritage a difficult task

B: Natural wear and tear due to passage of time and natural forces of nature

Natural wear and tear over time is inevitable. And preservation of our culture against time is just something that is difficult and impossible to

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5   Emma Henderson, *Syria's six Unesco World Heritage Sites all damaged or destroyed during civil war*, 16 March 2016, http://www.independent.co.uk/news/world/middle-east/syrias-six-unesco-world-heritage-sites-all-damaged-or-destroyed-during-civil-war-a6934026.html [accessed: 26 August 2016].

6   *Norway youth 'improves' 5,000-year-old skier carving*, 29 July 2016, http://www.thelocal.no/20160729/youth-vandalises-norwegian-rock-carving [accessed: 26 August 2016].

a certain extent. Nothing is built to last forever. Nothing can be in the same state as it is today 100 years from today. Society is dynamic and so is culture. Today's culture come from the past and tomorrow's culture will come from today. A very good example as to how it is very difficult to preserve our culture, both tangible and intangible, from the evils of time is **restoration of the various painting of Leonardo Da Vinci** in the famous French museum of Louvre. Restoration of the paintings such as "Saint John the Baptist (1513)" or, "The Virgin and Child with Saint Anne (1503)" has been criticized because they have adversely affected the paintings such that they have started to look different from the way they are intended to look like.[7] What does this mean? The best of techniques have been used to maintain and preserve these painting, but these tangible heritages are being altered. Hence making the race against time extremely difficult.

Furthermore, a striking example we see in front of our eyes is that of **The Colosseum in Rome, Italy**. The monument was built from 70 to 80 AD. This magnificent architectural marvel is facing the test of time and how is that? A very simple but extremely difficult problem to tackle is arising here. Every time it snows and the snow settles on the monument, the water of this snow on melting enters the *nooks and crannies* of the monument, which subsequently thaws and becomes ice when temperature falls again. This is causing weak building to become weaker and so lose its strength.

These are all examples of how time is washing away and taking a toll on the tangible cultural and heritage aspects. The intangible aspects like rituals in marriages or religious chants and traditional songs are also being forgotten and lost slowly as time passes and the lifestyle of people change. It is important to preserve these and fight against the time and odds as these are deeply rooted in the identity of people who belong to these cultures.

Inspirations from around the globe

With the apparent existence of numerous statutory authorities or bodies supported by International conventions as mentioned and discussed

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7 Inti Landauro, *Louvre to Restore Da Vinci's 'St. John the Baptist'*, "Wall Street Journal", 13 January 2016, http://www.wsj.com/articles/louvre-to-restore-da-vincis-st-john-the-baptist-1452726060 [accessed: 26 August 2016].

earlier, along with National legislations and national level authorities, there has been a wide implementation of a plan on how the 'Ideal' scenario should be. But, are these safeguards effective or enough in preservation and conservation of natural and cultural heritage?

There is a need to understand that culture and the elements that constitute culture are constantly affected by its surroundings making Culture a phenomenon that is 'ever changing'. In such a situation, it is important to have a constant re-evaluation of how to 'conserve' or 'protect'. When environmental factors influence the elements of Cultural Constitution, it is imperative to understand and acknowledge the need of change in the strategies or techniques implemented.

Judicial intervention

Judicial intervention is and will always be a major catalyst in supporting any kind of positive social movements. The social movement can very well be about protection of Culture. The recent truck attack by Islamic State in the French town of Nice that killed more than eighty people as well as the slaying of a Catholic priest in Normandy again claimed to be by the same militant group, both in the month of June 2016, resulted or fastened 'Burkini Ban.' The Burkini is swimwear that is made for the Muslim women, as an alternative to wear the traditional swim wear, Bikinis. The Burkini covers all parts of the body and is having a design similar to Burqa. It was banned by close to twenty city Mayors in France citing that it is against the Secular ideologies of France.[8]

All the advocates against this Ban were aggravated with the recent images of French Police officials asking a woman to take off her Burkini, at a beach near Nice. The activists against the ban feel that the order by the Mayor is against religious freedom of the Muslim people.

At this juncture, it is important to understand how the 'Burqa' is an integral part of the Muslim Culture and how 'Islamophobia' is playing a major role in developing prejudice against the clothing tradition that is against the Muslim Culture. The Burqa is a part of the culture and the Burkini is a clothing line that developed from Burqa. A ban on the

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8 *France burkini: Highest court suspends ban*, 26 August 2016, BBC World News, http://www.bbc.co.uk/news/world-europe-37198479 [accessed: 26 August 2016].

Burkini is in fact a symbolic ban on a specific aspect of culture, of people who believe in Islam.

The Conseil d'État (Council of States), the country's highest administrative court ruled against the ban on Burkinis and upheld the religious freedom at the same time protecting a part of Muslim culture by judicially intervening and passing a verdict that stops sprouting of a social stigma against Muslims in general. Other countries can take inspiration from forward judgments like these and evaluate their own legal framework with respect to the same and its impact.

Local community stake holders

Any specific tangible or intangible aspects of a particular Culture is given the highest reverence by the Community in which the specific culture formed its shape and base roots. Local Stakeholders, in this context, are people who are interested in the well-being of the Natural, Cultural or Intangible heritage in and around their vicinity concerned.

There is a general tendency to overlook the potential of a mobilized contribution by the stakeholders in the community when legislative measures are drafted for the protection and conservation of Natural, Cultural or Intangible heritage. The significant role played by professionals like Archeologists, scientists, financial managers and other technicians are definitely valuable, but again the potential of tapping a community with a united mind needs to be understood. The government should take measures to integrate the ideas and opinions of these stakeholders as well.

As it is rightly said that man and culture are inseparable and considered being two sides of the same kind. Man creates a way of life based on beliefs, traditions, values and norms which forms the part of intangible culture. Intangible culture represents the diverse attitudes portrayed by varied communities residing in a particular nation. In fact, intangible culture is the soul of tangible culture. To preserve and promote the sentimental values attached with it in the form of festivals, processions, rituals or music and dance is equally important.

Each community has developed its own ways of life in a specific or a unique manner through a process of interacting with the external environment. Formation of such a manner in the eventuality of a culture provides the communities with a sense of continuity with the previous

generations. An example of preservation of a dance form in Nepal which had lost its cultural significance due to various reasons helps us get an insight into role of local communities.

The Newar community residing in the Pokhara, a central seat of Western Development region of Nepal, have retained many traditional festivals, among them is Bhairav (essentially means 'a vigorous and dangerous form,' also one of the incarnations of Lord Shiva performing a furious dance known as 'Tandava nritya' to protect the mankind from disasters or natural hazards) Dance. It is a costly and a complicated dance form as it requires as many as sixty people to complete the act. It is believed that the traditional songs of Bhairav Dance are preserved from the time of Ranjit Malla, the last king of Bhaktapur of Medieval Nepal. The said dance form is on the verge of extinction mainly due to lack of financial resources and the influence of modern lifestyles over the younger generations. To keep the traditional dance form alive, two main objectives were framed for the project to be implemented by the government along with the major involvement of a local community trust known as 'Bhairab Guthi' led by an influential member of the Newar Community. The first being; providing financial assistance to the artists in a manner which allows to earn income out of it. And the second one said about including and exposing the young generation to a traditional dance form.

The Ministry of Federal Affairs, Constituent Assembly, Parliamentry Affairs and Culture of the Government of Nepal first initiated an interaction program with the members of 'Bhairav Guthi' in Pokhara.[9] The official authorities discussed the different opinions put forward and after being satisfied with the same, initiated a financial support by depositing amount in the name of 'Bhairav Guthi'. A workshop was also started on yearly basis to shed light upon the age-old traditions amongst the interested people and to attempt an increment in awareness. On the other hand, the duty of community trust is to use the financial support aptly in the organization of the events showcasing the dance form. This includes all the expenses for proper execution of the event. In this manner 'Bhairav Guthi' plays an observational role and maintains efficient execution for the continuity of the tradition. This way the government and a local

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9   Manju Singh Bhandari, *Preserving Intangible Cultural Heritage – A case study from Nepal*, http://www.irci.jp/assets/files/ParticipantsReports/Nepal_Report.PDF [accessed: 26 August 2016].

community came together for the perpetuation of a dance form which was an intangible aspect of culture in the given area.

With the financial support of the government and the sincere work done by the community trust the continuity of the dance form is secured. The revival of the dance form has also had a socio-economic impact in the town of Pokhara. The Newar Community realized the positive economic implication of urbanization due to increased income generated. Participation by the local community encouraged the local people to appreciate and value the remarkable legacy of the past. Such initiative by the government increases the awareness about the importance of preserving intangible cultural heritage.

Incorporation of technological advancements on a periodic basis

The constant evaluation of technologies that can effectively and efficiently protect and conserve the heritage should be carried out in a global scale, so that the best scientific methods are implemented. Hunting for the best method and technique to protect heritage requires a very critical scan of available options from around the world.

The State Parties to the 1972 and 2003 Conventions can make arrangements within the framework of the boundary set by UNESCO to search for advanced technologies available in fellow members to the Convention, and request for 'International Assistance' through implementation of the foreign technology for required Domestic heritage protection. The essence of this process is, Time. It is about how frequent a 'Scan for better Methods' are conducted on a global scale.

Mr. Ben Kacyra, the CEO and Co-founder of Cyra Technologies (an American company based in San Francisco Bay Area) is the head of Project CyArk. The main object behind this global project is Digitized Heritage Preservation. Ben found an incredible method to tackle the issue of preservation of Natural and Cultural Heritage which was first of its kind.

He has made a device that is a 3-D Laser scanning system which can scan a monument with the laser beams and record accurate data about the x, y, z co-ordinates in the monument. This collection of points are later converted and recorded into a 3-D Visualization program. Millions of co-ordinate points can be collected through these devices with very high accuracy and very high resolution in matter of seconds. This can help in

creation of digitally stored data which can be further used for 3-D print-
ed models with precision in relation to proportion of measurements.[10]

The journal of the American Institute of Architects[11] dated March 2nd
2015, explained about the "Scottish 10", an initiative of CyArk in association
with the national heritage entity Historic Scotland and the Glasgow School
of Art's Digital Design Studio. It was funded by the Scottish Government. It
covered five World Heritage Sites in Scotland and five in the rest of the world.
The ten sites include Mount Rushmore in U.S.A, Rani Ki Vav in India, Syd-
ney Opera House in Australia and St. Kilda site in Scotland to name a few.

The group has covered dozens of sites under the 3-D Scanning pro-
gram and made the information available in the public platform for Con-
servators, Researchers and Educationalists. Official website of CyArk[12]
directly provides the 3-D Scanned images of some of its projects for any
person to access.

Here CyArk set an example of a stand-out method of digitized preserva-
tion, whereas the Scottish Government set an example of how all Nation-
al Governments should take initiative to identify and use such innovative
methods from around the world. The scanned data obtained by CyArk
from the Kasubi Royal Tombs in Uganda, turned out to be of immense
help for reconstruction activities of the site, subsequent to a fire disaster
due to a political scuffle in the region.[13] An example from Uganda is the
ultimate evidence of the true value of the digitally preserved data, antici-
pating the discussed set of causes of dame or destruction to Heritage sites.

Conclusion is the perennial upgradation

The inevitable passage of time and all the peripheral developments related to
this, gifts us the 'ever changing' culture. Whether the change is for the good

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10 Ben Kacyra, *Ancient wonders captured in 3D*, TED Global 2011, http://www.ted.
com/talks/ben_kacyra_ancient_wonders_captured_in_3d#t-515201 [accessed: 26
August 2016].

11 Alison Gregor, *CyArk is Bringing Historical Architecture Back to Life in Digital*,
2 March 2015, http://www.architectmagazine.com/technology/cyark-is-bring-
ing-historical-architecture-back-to-life-in-digital_o [accessed: 26 August 2016].

12 *CyArk Projects*, http://www.cyark.org/projects/ [accessed: 26 August 2016].

13 *Tombs of Bugnada Kings at Kasubi*, UNESCO, http://whc.unesco.org/en/list/1022
[accessed: 26 August 2016].

or bad is a question to be answered in respect to the context. Racial discrimination was also a part of the 'Culture', though not fondly remembered or cherished, so the criterion for deciding whether to protect a culture or discourage it, must depend upon the role played by the culture in the society.

'What to protect' is a question to be answered after understanding what culture is and what its constituents and further impact in the society constitute. 'How to protect' is an even harder question. Evaluating the man-made and natural causes of threat, helps us understand that, even though broadly put, the threats have always been the same, the kinds of ways in which they emerge under the broad classification of Man-Made and Natural causes are innumerable. This holds true especially for the former cause. Sometimes the problem remains the same, but the solutions should change.

The problems remaining the same, the ways in which these problems take shape differ. There is no intention to undermine the value or work that has been done by the international covenants or national legislations or machinery to find a solution to the problem of heritage preservation and conservation. That being said, it is humbly pointed out that, these are simply not enough.

To cope with the problem, the standards of innovation and open mindedness to brilliant ideas should elevate. It can be the simplest idea that change the ball game, but for this the pre-condition is to **look** for those ideas and **keep looking** for them**.** It is a never-ending quest since the problem is also never ending, villain being Time and Man himself.

The examples of inspirations provided are not exemplary or completely novel, but what is special about Judicial Intervention, Local Community Stake Holders and Incorporation of Technological advancements is that, the scenarios explained are torch bearers of redefining a system within it, with gravity to the first to examples. It is the novelty in the exercise of the available tool rather than the novelty of the tool that is being focused. Hence, perineal upgradation of existing solution system, is the permanent solution to the problem.

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