"Fractured Resemblances": Contested Multinational Heritage and Soft Power

Abstract

Intangible cultural heritage elements are shared across state borders. In many instances, states join in multinational nominations to inscribe the heritage element in a way that reflects this. But at times, states are unwilling or unable to cooperate in a mutual nomination that reflects the shared nature of the heritage element. The consequence of this is that heritage elements can then be nominated by individual states without any reflection of the multinational or cross-border nature of the element; thus leaving the heritage elements shorn of this aspect of their nature. The current international heritage legal regime, through UNESCO, does not adequately acknowledge or address this problem. This article, through a case study of the successful nomination by Azerbaijan of the horse-back game of chovqan, examines the causes and consequences of these "fractured resemblances." It analyzes the links between cultural heritage, conflict, and the use of heritage as a form of soft power. It focuses on the use of single-state inscription as a soft power means of obtaining international prestige and support, and the resultant effects on shared cultural heritage elements. From this, suggestions for changes to international heritage laws for the inscription of cultural heritage are suggested to accommodate the reality of the connection between cultural heritage, conflict and power, and to avoid the occurrence of "fractured resemblances" of heritage shared across state lines.

 "…in creating certain kinds of relations similarity among people, ethnicity and nationalism also create their own underworlds of disguised resemblances, denied commonalities, and submerged identifications with the Others." [1]

Introduction

This article sets out a framework that provides a basis for a better understanding of the tensions that surround multinational claims to heritage, and the instances where, as well as why, a state

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[1] Harrison 2003.

may strongly prefer a single state inscription. While in some instances states are able to cooperate in combining efforts for the inscription of a shared heritage element, in others they are not. The framework provides a basis for understanding when states are likely to cooperate, and when and why they are not, as well as the consequences of the lack of cooperation and sharing. This understanding fills a lacuna in the present understanding of the relationship between heritage and conflict, as well as the need for a reform of the current UNESCO intangible heritage approaches to heritage shared by more than one state.

The potential for conflict between states over shared heritage is examined through a case study of the contested nomination and inscription of chovqan by Azerbaijan. Chovqan is a polo-like game played on horse-back that was successfully nominated in 2013 by Azerbaijan for inscription on the list of heritage in need of urgent safeguarding. Disagreements over this heritage element reflect a larger and long running ethnic and territorial dispute between Azerbaijan and Armenia as to claims over the Karabakh region.

The long-running conflict in the Karabakh region of Azerbaijan is also the location of a heritage element, a horse-back game called chovqan. It was nominated by Azerbaijan and approved for inscription on the UNESCO list of intangible heritage in need of urgent safeguarding in 2013. The link between this conflict and the nomination of chovqan was not explicit within the nomination and inscription process. It is, however, impossible to remove the heritage inscription from the conflict over the Karabakh region itself. The centrality of the Karabakh to this heritage is noted in the description of chovqan. It is described as a

> traditional horse-riding game played on a flat, grassy field by two competing teams of players mounted on Karabakh horses... People of all ages come to watch this traditional game and to support their teams. Chovqan strengthens feelings of identity rooted in nomadic culture and linked to the perception of the horse as an integral part of everyday life.[2]

Thus, chovqan forms an integral part of Azerbaijani identity, as does the use of a specific type of horse, the Karabakh horse.

The attractiveness of a single-state inscription extends beyond the ability to assert a contested territorial claim. This is a goal which Azerbaijan may have in relation to its claim of the Karabakh territory, Single-state inscription of a heritage element is also a potent asset in the

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[2] Decision of the ICH Intergovernmental Committee, 8.COM.7.A.1

exercise of soft power, with the aim of increasing the prestige and influence and support of a state in the international community. A state may use soft power as a means to create enhanced legitimacy for its policy objectives. Enhanced legitimacy will then translate into support from the international community. The single state inscription by Azerbaijan of chovquan can be seen as a move to maintain international support for its already established position on its claim to the Karabakh.

The disputed territory is claimed by Azerbaijan through the inscribed intangible cultural heritage element of chovqan which names the contested Karabakh region as a part of it. In 2017, Iran's nomination of chogon,[3] also a polo like horse-back game that is closely related to chovqan, was successfully approved for inscription, [4] thus creating the situation of "fractured resemblances"[5] that has been highlighted by Harrison. As discussed in this article, however, Azerbaijani claims to the Karabakh territory and culture may at this point simply be ephemeral, more real on paper than in reality.

Increasing international attention is being paid to the connection between cultural heritage and conflict. The destruction of heritage elements and a failure to respect cultural rights are now seen as early warning signs of potential conflict and social unrest. [6] In 2016, the United Nations Office of the High Commissioner for Human Rights prepared a report [7] on this for discussion at the Economic and Social Council. [8] This highlights the crucial importance of understanding not only which cultural heritage disputes are likely to be linked to conflict, but why. Single-state heritage inscription has developed into a potent expression of state soft power, even though heritage elements may in fact have a multinational dimension.

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[3] This article makes use of the name "chovqan" when discussing this heritage element, as this is the term used in the 2013 inscription; noting however, that Iran and other states do not regard this as the correct name. In referring to Iran's successful 2017 inscription, "chogan" will be used.

[4] Decision of the ICH Intergovernmental Committee, 12.COM.11.B.14.

[5] Harrison 2003.

[6] Early Warning and Economic, Social and Cultural Rights, Office of the High Commissioner for Human Rights, 2016, at https://www.ohchr.org/Documents/Issues/ESCR/EarlyWarning_ESCR_2016_en.pdf.

[7] Ibid.

[8] Early Warning and Economic, Social and Cultural Rights, United Nations Human Rights Office of the High Commissioner, at https://www.ohchr.org/en/issues/escr/pages/earlywarning.aspx.

The international heritage community increasingly has to confront disputes where more than one state exerts a claim to an element of intangible cultural heritage (ICH). There is a need to consider what effect these disputes among states have on heritage and heritage inscription in the international community, why they occur, as well as the way in which the Intangible Cultural Heritage Intergovernmental Committee (ICH Committee) has responded to claims by multiple states to the same heritage element.

The ICH Intergovernmental Committee has devised a procedure that encourages cooperation between states in order to address instances of shared heritage. What the Committee does not contemplate is a solution to a situation where states are incapable, or unwilling, to cooperate in a nomination and inscription process. There are many reasons why this might be. As Harrison explains, resistance to sharing heritage can be linked to conflicts over "the ownership of the territory, site or artefact itself, and struggles for the possession of these locations or objects are often fused with struggles for the control or possession of total cultural identities."[9] The act of *not sharing* is "an important demonstration of power." [10] States may have many reasons to *not* demonstrate the shared nature of heritage.

This article proceeds as follows. The first section discusses the safeguarding of intangible cultural heritage. It looks at not only the "logic" that underlies current regulation of international heritage at the international level, but also at the consequences of that for intangible heritage. It considers the reasons that states pursue nomination of a heritage element, including a claim a unique identity and as an assertion of soft power on the international stage.

The second section provides a case study on the relationship of shared heritage and state conflict. It discusses the successful nomination by Azerbaijan of the polo like game of chovqan. Iran also lays claim to a form of this game and has subsequently successfully nomination its own version in a single state listing. This section examines the nomination and inscription of chovqan within the context of an on-going armed conflict between Azerbaijan and Armenia over the Karabakh territory—an area of land that is central to the heritage listing of chovqan.

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[9] Harrison 1999.
[10] Ibid.

From these two sections, the third section develops a framework that addresses different instances shared heritage, conflict, and when states are likely to cooperate in a multinational nomination, and when and why they are not. This is used to examine the inscribed elements of chovqan and chogon, each as a single state listing, and the consequences of "fractured resemblances" where there is no acknowledgement of any connection between these heritage elements. The use of cultural heritage elements as a form of soft power, and the role that single state inscription plays within this is discussed. In light of this, proposed changes to the UNESCO heritage laws and procedures are suggested.

The Safeguarding of Intangible Cultural Heritage

The meaning of intangible cultural heritage is by now well-rehearsed within heritage literature. It has now been over ten years since the inception of the UNESCO Convention on the Safeguarding of Intangible Cultural Heritage. (ICH Convention). Intangible heritage is defined in Article 2 of the ICH Convention as

> 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.[11]

But there is far more to intangible cultural heritage than the definition found in the UNESCO ICH Convention. Article 1 sets out the aims of inscription which include "promoting respect for cultural diversity and human creativity." [12] These aims may not be shared by states pursuing inscription. Heritage inscription of a particular element can be used by a state to fulfil many aims—to establish an exclusive claim to that element that can used to boost the soft power of a state, as well as a means to express a unique national identity.

This linkage between heritage and state interests is a potentially problematic consequence of heritage nomination and inscription. Inscription at the international level may become part of

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[11] Article 2, UNESCO Convention for the Safeguarding of Intangible Cultural Heritage
[12] Article 1, UNESCO Convention for the Safeguarding of Intangible Cultural Heritage.

deliberate manoeuvres reflective of state claims within existing conflicts. Researcher Aykan has commented on state use of heritage inscription as a means of achieving political goals:

> A growing body of critical heritage literature has discussed how States Parties, which have a dominant role in its implementation and administration, often treat intangible heritage as a *strategic tool for nation-building* [13] (emphasis added).

The pursuit of heritage nomination and inscription by a state is then often a deliberate political choice, concerned with larger political aims, through which heritage inscription is a means to an end, rather than a goal in its own right.

There has been an effort by the ICH Intergovernmental Committee to recognise and address the occurrence of multinational, rather than single state, nominations where the heritage element warrants this. This is addressed in two ways—through Operational Directive 1.5 and an online resource for states to list their intention to nominate a heritage element.

Operational Directives

The Operational Directives are a supplement to the ICH Convention that aid in its implementation.[14] These were first developed in 2008. Even the first rendition of the Operational Directives considered the possibility of multi-national nominations of shared heritage.[15] The issue of shared heritage elements is addressed in Section 1.5 of the Operational Directives which permits more than one state to submit a nomination for inscription of a heritage element. Its most recent (2018) version has changed little, saying that:

> States Parties are encouraged to jointly submit multi-national nominations to the List of Intangible Cultural Heritage in Need of Urgent Safeguarding and the Representative List of the Intangible Cultural Heritage of Humanity when an element is found on the territory of more than one State Party.[16]

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[13] Aykan 2015.

[14] UNESCO Convention for the Safeguarding of Intangible Cultural Heritage. See also Operational Directives for the Implementation of the Convention for the Safeguarding of Intangible Cultural Heritage, at http://www.unesco.org/culture/ich/en/directives).

[15] Operational Directives for the Implementation of the Convention for the Safeguarding of Intangible Cultural Heritage, June 2008, paragraph 20 at http://www.unesco.org/culture/ich/doc/src/ICH-Operational_Directives-2.GA-EN.pdf). See also Aykan 2015.

[16] Operational Directives for the Implementation of the Convention for the Safeguarding of Intangible Cultural Heritage, (2018) para. 13 at http://www.unesco.org/culture/ich/en/directives).

Online Heritage Listing

A further development is the on-line listing of heritage elements that states intend to nominate to be inscribed in 2014. This is an additional tool to encourage states to cooperate in the nomination of multinational heritage elements. The decision to develop this was in 2014.[17]

This online facility aims to increase the profile of intended nominations and to limit the possibility of other states with a potential claim to the heritage element being unaware of the intended nomination. It might also serve to forestall claims of states not being aware of a proposed nomination.

By comparison, in a multinational nomination states join to nominate an element of shared heritage. This nomination process is useful where states are able to cooperate on the nomination of shared heritage, where similarity is not seen as a threat.

Heritage may be associated with deeper underlying causes of state conflict. Single state inscription may *itself* be a source of state conflict over heritage, as observed by Aykan:

> …single-nation inscriptions of shared cultural elements initiate controversies and heighten tensions among countries over the nationality and owner-ship of intangible heritage.[18]

The creation of a process for multinational inscription may diffuse some conflict. On the other hand, it may be difficult for states to join in a cooperative multinational nomination. This is because of the conflicts which arise around perceptions of too much similarity. As Harrison explains, conflicts between states over heritage can occur when there is a perception of too much similarity between groups, rather than too much difference Similarity can be seen as a challenge to the group's definition of itself and asserting differences critical to maintaining a unique identity:

> …similarities seem perpetually to threaten each group's sense of identity, and so each clings to some small distinguishing mark, investing them with disproportionate significance. [19]

This is further exacerbated where a state wishes to use a single-state inscription of heritage elements as a means of asserting its soft power. Therefore, an understanding of when states are

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[17]" Sharing Information to Encourage Multi-National Files", at
http://www.unesco.org/culture/ich/en/mechanism-to-encourage-multinational-files-00560
[18] Aykan 2015.
[19] Harrison 2003.

willing to participate in multinational nominations, and of what factors may cause them to opt for a single-state one when in fact a heritage element is shared is crucial.

Comments from the ICH Intergovernmental Committee reflect an awareness of these political uses of heritage inscription. The Committee cautions against the creation, for instance, of what could be deemed a fractured resemblance, in its Decision 9.COM.10.3 on the Armenian nomination of Lavash, a distinctive type of flatbread. While approving the inscription, the Committee decision nevertheless notes that Lavash is "shared by communities in the region and beyond, recalls that the inscription on the Representative List does not imply exclusivity and encourages the submitting State when implementing safeguarding measures to remain conscious of the element's larger cultural context in the region." [20] This is an effort to negate the sense of exclusive ownership associated with a single state nomination.   It is also an effort to address the potential problems of "fractured resemblances", in reminding states that cultural heritage elements may not be circumscribed by state boundary lines.

In its 2016 meeting, the ICH Intergovernmental Committee also address problems surrounding shared heritage. Firstly, the Committee cautions against the use of heritage inscription as a form of building national identity; stating that it

> [f]urther expresses its concern towards nominations emphasizing nation-building or even nationalistic purposes and reminds State Parties that nominations shall remain in accordance with the objectives of the Convention and contribute to the mutual respect among communities [21]

The Committee secondly comments on the occurrence of multinational nominations, issuing a reminder, however, that "such nominations must demonstrate the awareness of all stakeholders concerned regarding the shared nature, and, if applicable, extended nature of the proposed element…"[22]

In other words, the Committee warns against nominations that are not inclusive of all who share in the heritage. And yet, by limiting a nomination to an expression of the element to only that by a single state and without mention of a shared nature it is easy for a state to by-pass the Committee concerns and promote its heritage as its own—a move that, as discussed below, is

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[20] Decision of the ICH Intergovernmental Committee: 9 COM 10.3 paragraph 4.
[21] Convention for the Safeguarding of the Intangible Cultural Heritage, Intergovernmental Committee for the Safeguarding of Intangible Cultural Heritage, Eleventh Session, Addis Ababa, Ethiopia, 11 COM ITH/16/11.COM/Decisions, para 23.
[22] Convention for the Safeguarding of the Intangible Cultural Heritage, Intergovernmental Committee for the Safeguarding of Intangible Cultural Heritage, Eleventh Session, Addis Ababa, Ethiopia, 11 COM ITH/16/11.COM/Decisions, para 24

hard to divorce from the use of heritage as a tool of nationalism and national identity. Given what the AHD reveals about this as a deeply embedded use of heritage, the admonishment of the Committee is not enough to change this.

But despite the development of these processes by the Intergovernmental Committee and its concomitant warnings about the use of heritage for nation-building, much of the scholarly commentary on cultural heritage and its international legal regime bypasses this issue altogether.

As Bille notes, the very act of heritage nomination affects the contours of the heritage element itself. [23] An approved nomination that results in inscription serves to solidify the place of that heritage element in "national discourse and historicity." [24] This in turn raises questions about the nature of heritage itself. What qualities does "heritage" have that causes it to be utilized by states in this way?

The Nature of Heritage

Heritage is a complex concept, and involves many highly contested and emotional facets. It can be understood as and through discourse—that heritage is a narrative that involves national identity, memory, social cohesion or conflict, and can be an expression of an exercise of power, or a challenge to an existing status quo.[25] This is captured in the conception of "Authorized Heritage Discourse" (AHD) by Professor Laurajane Smith.[26] AHD embodies all of these notions, acknowledging the narrative of heritage contains a constant dialogue about these facets, out of which emerge acknowledged elements of heritage, and other elements which are seen as not legitimate as heritage through the discourse. [27]

This is in contrast to views of heritage as property. It is almost axiomatic to note that the conceptualization of heritage is something that is in constant flux, something that is continually evolving. Originally characterized from a propertarian point of view, the notion of "cultural property" has expanded to that of "heritage", which also widens its focus from the concerns of ownership to "the whole of mankind." [28]

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[23] Bille 2011.
[24] Ibid.
[25] Smith LJ 2006.
[26] Ibid.
[27] Ibid.
[28] Lixinski, *et al*, 2011.

Nevertheless, there are those who maintain that the international heritage system has not entirely shed the legacy of a propertarian view, where inscription is seen to be a stamp of "ownership" by a particular state.[29] Although inscription is not intended to bestow ownership to a state, it is often seen as doing just that in reality. This can lead to political uses of heritage inscription. The very process of recognizing state claims to heritage through UNESCO inscription can be the catalyst for inter-state conflict. For instance, Lixinski, *et al,* highlight that the inscription of the Temple of Preah Vihear by Cambodia on the UNESCO World Heritage list in 2008 caused conflict to flare between Cambodia and Thailand who also laid claim to the temple. [30]

The ICH Convention tries to shift the level of involvement regarding heritage elements from the state level to that of communities. It contemplates the active involvement of communities along with states in the safeguarding of heritage.[31] The nomination process requires evidence that the relevant community has given its consent to the nomination. Even so, the state is still seen to be in an influential and controlling position, with real power still vested with states and not with communities. [32] This focus on communities is not enough to dispel the use of heritage by states as a means of gaining or asserting soft power.

All of this points out the very political nature of heritage processes. A better understanding of the politicized nature of nomination and inscription is important for a more fully developed understanding of the issues surrounding shared heritage. Gillespie argues "that securing a better understanding of the people, places and locations subject to the heritage regulations *before* the laws regulating them are drafted and enacted, might avoid unnecessary conflict."[33] That is, understanding how states respond to heritage claims through the inscription process may help to avoid conflicts arising over the use of heritage—or of heritage elements being used in pursuit of other political aims.

A better understanding, as well, of the intense politicization of heritage nomination and inscription, and the role that conflict can play in this, is critical to understanding the influences

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[29] Bille 2011.
[30] Lixinski, *et al*, 2011.
[31] Articles 11 and 15, ICH Convention
[32] Lixinski and Ombre 2012.
[33] Gillespie 2017. Emphasis in the original.

and pressures on shared heritage. Meskell argues that the organization of UNESCO's processes and configuration "have only reinforced the interests of the state." [34] Meskell identifies a process that she calls "pacting" of states aligning together in strategic voting blocs to support each other's heritage nominations. [35] Thus, rather than approval for inscription being a decision based on the merits of a particular heritage element, it can be representative of political alignments.

This kind of political maneuvering is very deliberate and strategic. For instance, Meskell points out within the context of the UNESCO World Heritage Committee that "[o]ne of the primary incentives [of states] for serving on the Committee is the enhanced capacity to vigorously argue for, and thus ensure, a successful inscription for one's country." [36] The politicization of inscription across UNESCO heritage regimes is an unfortunate but perhaps inevitable consequence of the state-centric system.

Meskell notes that "[r]egionalism also tries to use the UN system to further its own ends and is particularly strong among nations with ideology or religion in common." [37] This regionalism is apparent in the opposition to Azerbaijan's inscription of chovqan. Yet the strength of political pacting might also be seen in the approval that the heritage element received, given that Azerbaijan was the host state in 2013 for the ICH Committee annual meeting.

Cultural Heritage and Soft Power

Nye is credited with coining the phrase "soft power" to conceptualize new forms of state power and prestige that operate alongside and in some instances replace more "traditional hard power, involving armies and economic might."[38]

There is little doubt that soft power is an effective choice for states seeking approval or support the international community, and that deliberate strategies are designed for its use. As Nye has described, the benefits of establishing a well-received power base in the international community are very far reaching. This is particularly so for those states who do not have a great deal of hard power and are thus more susceptible to the influence and demands of higher

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[34] Meskell 2014.
[35] Ibid.
[36] Meskell 2015.
[37] Meskell 2014.
[38] The Soft Power 30 Report 2017, at https://softpower30.com/wp-content/uploads/2018/07/The_Soft_Power_30_Report_2017-1.pdf

ranking hard power states, as Schreiber's research indicates.[39] Soft power is important for those states that lack a high-ranking hard power base. Inscription, as form of soft power currency, becomes vitally important for those states with low hard power rankings and lower soft power rankings. [40] Thus, the use of heritage as soft power is more appealing to those states who do not have hard power options.[41] States that do not have a great deal of soft power are particularly dependent upon inscription of heritage to garner soft power currency. As Schreiber explains:

> Cultural heritage, both tangible and intangible, is thus an important component of soft power for all countries, small and medium ones as well as 'global players.' However, only in the case of these powerful actors can their potential be developed outside of organisations such as UNESCO. In a situation where the soft power of a country is not great, ignoring this organization can have a negative long term impact on its image, especially countries of low and medium rank.[42]

The pursuit of a single state inscription is a vital source of soft power, especially for states that do not have a great deal of soft power. Cultural heritage may be one of the most visible and viable ways in which to assert or gain soft power. For an element of cultural heritage to be part of an effective soft power exercise or strategy, it needs to have a quality of attractiveness.[43] As Kovach explains soft power operates through "attraction or endearment rather than coercion."[44]

Researchers Luke and Kersel note that extensive use that the United States, a state with a great deal of both hard and soft power resources, has made of cultural heritage in soft power strategies in international relations, focusing on the role that archaeology can have as a soft power resource.[45] This points out the ubiquitous use of soft power within international relations.

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[39] Schreiber 2017
[40] Ibid.
[41] Ibid.
[42] Ibid.
[43] Melissen 2005. See also Nye 1990; and Keating and Kaczmarksa 2019.
[44] Kovach 2010.
[45] Luke and Kersel, 2013.

Despite these comments, and its apparent wide use, soft power is not a concept that has met with universal acceptance or agreement. Winkler notes for instance that it is a concept that is troubled by "vagueness, liberal bias and practical limitations."[46]

It is within this contemporary milieu that the heritage element of chovqan is used—both as a means of asserting claim over a crucial piece of Azerbaijani identity, and as well as facing inwardly, it faces outwardly, to generate an attraction that makes it a useful and useable tool as part of soft power.

Thus, for chovqan to be effective within the soft power strategy of Azerbaijan, it must have that quality of being attractive and in line with Azerbaijan's international relations aims@ support for its claims to the Karabakh. This has a consequence for the way in which a heritage element is described. Arguably then, the descriptions of inscribed heritage elements are presented in such a way throughout the process of nomination and inscription to provide it with the important soft power characteristics of attractiveness and legitimacy.

Chovqan, the Karabakh and Conflict

This section discusses the efforts of Azerbaijan to have the horseback game of chovqan approved for inscription as intangible cultural heritage in need of urgent safeguarding, and the link that has with the long-running armed conflict between Armenia and Azerbaijan over the Karabakh territory provides background information on the Karabakh conflict and the way in which that has become intertwined with cultural heritage inscription. The inscription of chovqan is not only emblematic of the conflict, it has become deeply intertwined as part of it. Given the apparent similarities between the heritage element claimed by both Azerbaijan and Iran as well as the intense territorial and ethnic conflict that surrounds it, this observation is useful in understanding what fuels the dispute about the inscription of chovqan, extending far beyond the UNESCO setting. It is as important to understand when and why states will cooperate in a multinational nomination and inscription as to when they will not. For instance, as further discussed in this article, Azerbaijan indicated a willingness to extend its single state inscription to a multinational one, and initially Iran was calling for such an inscription. Instead,

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[46]Winkler 2019.

Iran sought its own single state inscription of chogon—forgoing either the extension of the Azerbaijani inscription or of setting up its own effort for a multinational inscription.

The current situation in the Karabakh is a complicated one. Armenia is effectively in control of the Karabakh territory,[47] which in turn asserts itself as an independent republic.[48] Neither the Armenian claim nor the status of an independent republic is recognised by the international community, where the Karabakh is seen as within the borders of Azerbaijan.[49] International support for the Azerbaijani claim is critical—and thus, the single state inscription of chovqan is a set piece in the continuing strategy by Azerbaijan to maintain this support.

The conflict is a regional one that involves more than the two states of Armenia and Azerbaijan. The complex ethnic claims to the territory spill over into the neighbouring states and the region, making the disagreements about chovqan even more complicated and a part of geopolitical conflicts—and not simply about a contested claim about a heritage element. Stalinist policies that moved Azerbaijanis into the Armenian Karabakh region continue to resonate today in the unresolved conflict. With the Azerbaijanis as a Soviet era import into the region, the stage was set for the ethnic and cultural conflict over nationalism that plays out into the present day. Baumann explains:

> The Nargorno-Karabahk region, i.e., the land that Armenia and Azerbaijan fought over, is at least partly a relic of Stalin's "divide-and-rule" policy. Stalin intentionally placed large ethnic majorities (i.e. Azerbaijani people) inside regions containing a different ethnicity (i.e. Karabakh Armenians…) to ensure cooperation with the Soviet leadership...[50]

As a result of these policies there are ethnic populations with differing claims to the territory. While the conflicts about the Karabakh region are among others that remain in the Caucasus region after the breakup of the Soviet Union,[51]the immediate origins of the conflict over the region of the Karabakh was "[i]n 1990, just before the Soviet Union was about to be dissolved."[52]

Although there has been a cease-fire in place since 1994 , there have been breaches of this, with the most recent including a flare up of armed violence between Azerbaijan and Armenia

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[47] Cornell 2011.
[48] Baumann, *et al*, 2014.
[49] O'Loughlin, *et al,* 2014.
[50] Baumann, *et al*, 2014.
[51] Cornell 2011.
[52] Mooradian and Druckan 1999.

in March 2016 and again in late December 2016, with reports of Armenia "using 60 mm caliber mortars, grenade launchers and heavy machine guns."[53]

The current conflict is not limited to the countries of Azerbaijan and Armenia. It also resonates throughout the region, to Russia, Iran, and Turkey. Regional alliances are founded on both ethnic and political grounds. Reaction to a 1999 plan that would remove the Karabakh region from any Azerbaijani claims demonstrate the intense and complex regional and ethnic nature of the conflict. As Cornell explains:

> …Iran was incensed by the prospect of losing its land border with Armenia, because that would mean the realization of its greatest fear: the reconnection of the two halves of the Turanian world—heretofore wedged apart quite usefully by Armenia—since this development would tie Azerbaijan to Turkey and break the north-south axis consisting of Russia, Armenia, and Iran that was so wholeheartedly supported by Tehran. Moscow was equally worried, as it had no desire for either Turkic unity or any resolution of the Armenian-Azerbaijani conflict that was not arbitrated by Russia. [54]

This alignment of states mirrors those that have raised objections to the Azerbaijan inscription of chovqan, underscoring the very political and contested nature of that nomination and inscription. There are fears about ethnic strengths in the region, as well as geopolitical influences, as Cornell's explanation above reveals. Armenia's claims are supported by Iran and Russia, while the Azerbaijan position is supported by Turkey, as well as the United Nations international community.

The Karabakh region and its loss are a flashpoint for Azerbaijan because of the place this has in current Azerbaijani national identity. Cornell comments on this centrality:

> ..the Karabakh conflict has had a deeper implication for the collective identity and psyche of Azerbaijani society. Azerbaijani nationalism, demands for independence from the Soviet Union, and the very concept of Azerbaijani national identity that merged in the late 1980s developed in tandem with the Karabakh conflict and were deeply affected by it. [55]

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[53] "Armenia Breaks Ceasefire with Azerbaijan 41 Times in 24 Hours" December 28, 2016, at http://en.trend.az/azerbaijan/karabakh/2703536.html

[54] Cornell 2011.

[55] Ibid.

This points to the intense and complex geopolitical entanglements which are reflected in the objections that were raised to the Chovqan nomination. The Karabakh territory is the physical centre of the chovqan heritage element, a defining characteristic of the heritage element itself.

Thus, the Karabakh cannot be separated from the issue of Azerbaijani national identity—indeed, it is inextricably fused with it. This is illustrated by the views of Azeri women refugees who were displaced from the Karabakh, who express a "strong desire to return to their occupied homelands." [56] The Karabakh and its loss are woven into many cultural expressions such as "storytelling and poetry."[57]

What is perceived as a wrongful loss of the territory forms a strong part of the Azerbaijani identity narrative. Here the inscription is an effort to accomplish a figurative erasure of the reality of Armenia's control of the territory, as a way to try to lay claim to and counteract the actual loss and all that it means to the national identity and pride of Azerbaijan.

A 2018 study of cultural symbols and identity within the Karabakh itself demonstrate a solely Armenian outlook. In reality, nothing of the Azerbaijani cultural heritage alluded to in the inscription of chovqan appears to remain. [58] This makes the Azerbaijani inscription perhaps simply a reflection of wishful thinking and political ambition, rather than of an accurate reflection of the heritage element. In turn, this raises a question about the sufficiency of the ICH rules on shared heritage in curbing fractured resemblances.

The Politics of Chovqan Inscription

The approval of the chovqan nomination appears to be straightforward and without controversy. But this impression belies the objections that were made about the nomination and inscription approval. Even the term "Karabakh" to denote the region is in itself a site of contention. It is the Azerbaijan term to refer to the territory, [59] just as it is the Azerbaijani term used for the heritage which is inscribed.

The nomination highlighted and inflamed regional and cultural tensions between Azerbaijan and other states, over which had the genuine claim to the heritage element. There was a protest from Iran, calling for a multinational nomination, rather than a single state one by Azerbaijan.

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[56] Najafizadeh 2013.
[57] Ibid.
[58] O'Loughlin and Kolosov 2018.
[59] Najafizadeh 2013.

Iran itself has since successfully had its version of the game approved for inscription, in 2017.[60] It was following a letter of protest sent by Iran to the Secretariat, calling for a multinational, rather than single state, nomination,[61] that the name of the nomination was changed to include "in the Republic of Azerbaijan"[62] to forestall complaints that this was more appropriately a multinational rather than single state nomination. However, Azerbaijan signalled its willingness to change its single-state inscription to a multinational one with "Iran and other states in future cycles."[63] It noted that the Operational Directives permit an extension of a single state inscription to a multinational nomination.[64] Azerbaijan amended its nomination form from ""Chovqan, a traditional Karabakh horse-riding game,"[65] to ""Chovqan, a traditional Karabakh horse-riding game in the Republic of Azerbaijan""[66] following the objection raised by Iran. This highlights the game as occurring in the state of Azerbaijan and within the Karabakh territory. Thus, there is an implicit claim to the Karabakh region by Azerbaijan through this nomination. There is no hint that there are views that the game is part of the heritage of other states in the region, or that state claims to the Karabakh region are contested.

Iran's nomination for chogon was approved in 2017. This is a single state nomination and inscription, despite a reference in the nomination form that variations of the game are played "in several countries in the region.[67] It does not however list those countries and there is nothing that links it to the Azerbaijan inscription of chovqan.

The conflict has been the subject of a series of UN Security Council resolutions. All of these resolutions stress that the territorial integrity of Azerbaijan must be respected, and that Armenia is regarded as unlawfully invading the territories in Azerbaijan. This is a strong indicator of the international support for the Azerbaijani claims to the Karabakh. It is this support that the inscription of chovqan aims to maintain.

Resolution 822, passed by the Security Council on April 30, 1993, comments on the "alarm" it feels on "the latest invasion of the Kelbadjar district of the Republic of Azerbaijan by local

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[60] Ubertazzi 2015.
[61] Ibid.
[62] Information available at www.ich.unesco.org/en/7a-urgent-safeguarding-list.00635.
[63] Ubertazzi 2015.
[64] Ibid.
[65] The original nomination form with this name can be found at https://ich.unesco.org/en/7a-urgent-safeguarding-list-00635.
[66] Ibid.
[67] Ibid.

Armenian forces."[68] The Resolution further notes the "inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory," [69] leaving no doubt that Armenia is seen as the aggressor and is acting outside the permitted boundaries of international law, in seizing and occupying these territories.

Resolution 85, issued on July 29, 1993, reflects the ongoing conflict. It comments on the "escalation in armed hostilities and, in particular, the seizure of the district of Agdam in the Azerbaijani Republic." [70]

That the conflict remains ongoing is reflected in Resolution 874, of October 14, 1993, where the Security Council "expressing its serious concern that a continuation of the conflict in and around the Nargony-Karabakh region of the Azerbaijani Republic, and of the tensions between the Republic of Armenia and the Azerbaijani Republic, would endanger peace and security in the region." [71]

Resolution 884 "reaffirmed" its previous resolutions on the conflict. It makes note of the further deterioration of the situation, despite efforts to pursue a peace process, "noting with alarm the escalation in armed hostilities as a consequence of the violations of the cease-fire and excesses in the use of force in response to those violations, in particular the occupation of the Zangelan district and the city of Gordiz in the Azerbaijani Republic." [72] This Resolution also makes clear the Security Council position that Armenia's invasion and occupation of the Azerbaijan land was in violation of international law. [73]

Despite these pronouncements from the Security Council, the armed conflict has not been resolved. Time has passed, however, with the Armenian presence in the Karabakh territory taking on a more permanent status. The territory has asserted itself as self-governing state separate from either Azerbaijan or Armenia, having adopted its own constitution in 2006. [74] The lack of a resolution is seen to have created a precarious stalemate, with the Armenian presence making it increasingly unlikely that the occupied territories will be ceded willingly back to Azerbaijan. [75]

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[68] Security Council Resolution 822, April 30, 1993, S/RES/822 (1993).
[69] Security Council Resolution 822, April 30, 1993, S/RES/822 (1993).
[70] Security Council Resolution 853, July 29, 1993, S/RES/853(1993).
[71] Security Council Resolution 874, October 14, 1993, S/RES/874 (1993).
[72] Security Council Resolution 884, November 12, 1993 S/RES/884 (1993).
[73] Security Council Resolution 884, November 12, 1993 S/RES/884 (1993).
[74] Kucera 2018.
[75] Ibid.

Framework: Cultural Heritage, Conflict and National Identity

This section develops a framework that examines the relationship of cultural heritage to state conflicts and pursuit of soft power, further examining the inscription of chovqan in this context.

The starting point of the framework is an understanding of the nature of culture, in a way that includes the necessary elements Mezey points to of "contact, interaction and conflict" [76] as well as instances where heritage inscription can be seen as a form of soft power. It builds from a typology developed by Rogers on cultural appropriation, adding in elements from research by Harrison on the different kinds of conflicts that can occur within acts of specific cultural appropriation, as well as considerations of heritage inscription as a form of soft power. The framework thus creates a deeper understanding when and why states are likely to cooperate in a multinational nomination effort, and when and why they are not.

Thus it is the *control* over any particular heritage element that is of vital concern to a state. The use of heritage as a form of soft power.[77] With that control comes the benefits, identity, and prestige associated with that heritage element. Without control over the heritage element, all of those are at risk. Thus it is that the inscription of a heritage element is by a single state can be a compelling statement of control. Although inscription is not supposed to convey this idea of state ownership or control, in reality, it delivers just that.

Why is control such an important facet of cultural heritage expressions? The perceived state ownership and control is needed for using heritage as part of soft power. How cultural heritage is susceptible to this use requires an understanding of its relationship to conflict and power. Two typologies are discussed in the next section to further elaborate a framework for understanding these relationships, and their implications for multinational or shared heritage.

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[76] Mezey 2007.
[77] Smith LJ 2006.

A Typology of Cultural Appropriation

Not all cultural exchange is hostile and not all interaction is a matter of conflict or involuntary acquisition or loss of heritage elements. This section examines two typologies that have been developed to explain the occurrences of cultural exchange. Harrison focuses on the specific nature and reasons for conflicts that do arise in cultural exchange—as the matter of conflict is in itself complex and can arise in very different scenarios.

Embedded within both discussions is an implicit acknowledgement that groups do perceive and exercise "ownership" of heritage, independent of the provisions of any legal regime, whether domestic or international.

Rogers divides "appropriation" into four categories: "…exchange, dominance, exploitation and transculturation."[78] His typology develops is the sense of "cultural exchange, contact and conflict"[79] which Mezey has pointed out is missing from other debates on the nature of cultural heritage and its regulation.

Before examining his categories, it is important to understand how Rogers has defined the concept of "appropriation". He explains this as "…the use of one's culture's symbols, artifacts, genres, rituals, or technologies by members of another culture—regardless of intent, ethics, function or outcome."[80] He goes on to explain that "[t]he degree and scope of voluntariness (individually or culturally), the symmetry or asymmetry of power relations, the appropriation's role in domination and/or resistance, the nature of the cultural boundaries involved, and other factors shape, and are shaped by, acts of cultural appropriation."[81]

Rogers explains a constitutive relationship between appropriation and "social, economic, and political contexts"[82] such that "… [a]cts of appropriation and their implications are not determined by the intent or awareness of those engaged in such acts but are instead shaped by, and in turn shape, the social, economic and political contexts in which they occur."[83]

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[78] Rogers 2006.
[79] Mezey 2007.
[80] Rogers 2006.
[81] Ibid.
[82] Ibid.
[83] Ibid.

While Rogers does not conceive of *only* conflictual or hostile interaction between groups, he does stress that power has an important role in how cultural contacts and exchange occur, and cannot be left out of the consideration of heritage:

> …cultural domination as a condition nevertheless requires attention to how the targets of cultural imposition negotiate their relationship to the dominant culture through a variety of appropriative tactics.[84]

Rogers' first category is that of cultural exchange. He explains:

> Cultural exchange involves the reciprocal exchange of symbols, artifacts, genres, rituals, or technologies between cultures with symmetrical power…Appropriations of this kind are generally voluntary, with the "choices" involved being individual or cultural.[85]

In this category, the exchange of culture is a matter of free choice between both groups, interacting on an equal basis. Neither is dominant, and dominance or displays of power are not part of the relationship in which the culture is exchanged. This is in contrast to his second category of appropriation of cultural dominance, where the exchange is typified the differential power relationships between the sender and receiver of culture:

His second category of appropriation is that of cultural dominance:

> Cultural dominance refers to a condition characterized by the unidirectional imposition of elements of a dominant culture onto a subordinated (marginalized, colonized) culture….implies a relative lack of choice about whether or not to appropriate on the part of the "receiving" culture because of the "sending" culture's greater political, cultural, economic, and/or military power. [86]

In contrast to the first category, there is not a balanced relationship between the two groups. It is this lack of balance that influences the way in which heritage is exchanged. One group is more powerful or dominant than the other, and the weaker group has little choice about the

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[84] Ibid.
[85] Ibid.
[86] Ibid.

imposition of the culture of the stronger group to replace or displace its own. The cultural exchange becomes an expression of dominance of one group over the other.

His third category is that of cultural exploitation:

> Cultural exploitation commonly involves the appropriation of elements of a subordinated culture by a dominant culture in which the subordinated culture is treated as a resource to be "mined" and "shipped home" for consumption.[87]

The flow of culture here is the opposite of the second category, where the culture of the weaker group is displaced by that of the stronger group. The workings of an unequal power relationship are very clear within this category. Indeed, it is the defining core. A view of culture as property plays into the instances of cultural exploitation:

> The conceptualization of culture as a bounded essence, an entity analogous to an individual or state, feeds into the process by which a culture is reified and transformed into a commodity fetish. [88]

Rogers' final category is that of transculturation. According to Rogers,

> "[t]ransculturation involves cultural elements through appropriations from and by multiple cultures such that the identification of a single originating culture is difficult. Transculturation involves ongoing, circular appropriations of elements between multiple cultures, including elements that are themselves transcultural."[89]

This category discusses what might be considered the apex of multinational heritage sharing. Here the heritage is so widely and freely shared that it is no longer identified as belonging chiefly to any particular state.

Harrison's Typology of Cultural Appropriation: Power and Identity

In contrast to Rogers' typology on heritage and appropriation, Harrison considers cultural appropriation in connection with power and expressions of group identity. His discussion presents a typology of four kinds of cultural appropriation. These can be useful in further

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[87] Ibid.
[88] Ibid.
[89] Ibid.

understanding the conflicts that arise with heritage around claims of identity through ethnicity and nationalism, in conjunction with the insights from Roger's typology. All of these involve displays of power and expressions of group identity.

The first is as a form of exclusion by elite members of society, where "a group may take steps to restrict or monopolise its symbolic practices when it wishes to keep unwelcome outsiders from claiming membership, or indeed to drive out members no longer wanted."[90]

The second is a power move, but one where "subordinates copy[] practise associated with privilege and power, but… their aim is to distance or dissociate themselves from the holders of power to accentuate the social barriers between themselves and those who dominate them, rather than remove or cross such barriers."[91] The aim is to create distinction between the groups.

The third is where "the privileged or the superordinate seek to appropriate the ethnic practices of the subordinate." [92]

A fourth instance of appropriation "occurs when one group tries to assimilate or subordinate another, but is unable to suppress or eradicate the other's identity; the resort is to appropriate the symbolic practices of the other, and so redefine its *own identity* in such a way as to incorporate these practices." [93] Under this fourth kind of appropriation, group identity can seem very fragile and threatened, "…the most radical challenge to a group's identity comes when another community claims, not simply rights to some of its practices and traditions, but exclusive rights, and tries literally to dispossess it of key symbols of its identity."[94]

Resistance to sharing of heritage elements can be seen as an exercise vital to the group's very existence. Sharing is a threat to the unique identity of the group, where

> …the very preservation of a distinct ethnic identity, of rights (such as land rights) associated with this identity, depend on the ability to prevent one's practices from being reproduced or appropriated by outsiders. [95]

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[90] Harrison 1999.
[91] Ibid.
[92] Ibid.
[93] Ibid, emphasis in original.
[94] Ibid.
[95] Ibid.

An assertion of nationalism is an assertion of a unique identity—indeed, it can be argued that the unique identity of a group is a necessary element of nationalism, through cultural expressions. [96]

This is the situation that surrounds the inscription of chovqan. Azerbaijan asserts its own rights to the Karabakh territory, through the heritage claim, a move that is not agreed with by Iran and other countries who dispute the heritage as well as the territorial claim, along an ethnic divide that is a predictive fault line for positions on both the heritage and the territory.

The contested claims fall within Harrison's fourth category cultural appropriation, that of an effort to erase another group by laying claim to its cultural identity. By claiming the game of chovqan and its occurrence in the Karabakh territory, Azerbaijan is not only making a strong claim to its right to the land. It is also laying claim to a strong cultural identity.

Conflict itself has a role in identity creation and maintenance. As Harrison points out, differences between communities, not similarities, lead to conflict over heritage Conflict becomes a means of creating difference and distance in order to maintain a unique identity.[97] It creates at least the appearance of dissimilarity. He urges that while it is clear these acts of distance and creating difference are expressions of both identity and power, there is a greater need to understand how this unfolds with respect to heritage. Simply being aware of this is not enough—there needs to be a much better understanding of the utilisation of power and identity in the context of heritage. [98]

Where there are contested claims of cultural appropriation between and by states, is it better to have a single state inscription or no inscription at all? An answer to this requires understanding the consequences of fragmentation that may occur if a single state nomination is permitted, and what effect that has on not only that particular heritage element, but to the ICH heritage regime as a whole. There is no room within the existing framework to consider claims of cultural appropriation. It is a concept that does not exist in the considerations of heritage nomination. There is only the cautionary comment from the ICH Intergovernmental Committee about states not using heritage as part of nation-building.

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[96] Smith A 1999.
[97] Harrison 1999, Harrison 2003.
[98] Harrison 2003.

Whether deliberately or not, by not addressing issues of cultural appropriation, the result is a single state nomination and the potential fragmentation of heritage elements, along the lines of then existing state conflicts, which may have nothing to do with the actual heritage itself—heritage then one way or another becomes defined by state conflict—and recognition of this and the affect it may have on heritage elements singularly and the regime as a whole.

There are many reasons that a state might opt to pursue its own inscription, rather than opt for a multinational one. As discussed above, these have to do with asserting a unique identity, particularly when there are similarities between one state and another from which a state wishes to distance itself. The initial indications of Iran wanting to pursue a multinational nomination did not come about. Instead, Iran has had its own element inscribed in a single state nomination. It would have been open for Iran to pursue its own multinational nomination if it did not want to work with Azerbaijan to extend its current single state inscription. The countries that Iran might have included in its multinational nomination, aside from Azerbaijan, are not ones where Iran might be supposed to feel the need to assert its unique identity. So what else might have prompted Iran to make a single state nomination of its own?

The answer is to be found in a consideration of heritage as a form of soft power. Iran, in making a successful single state nomination for inscription is exercising heritage as a form of soft power, asserting itself on the world stage. The single state nomination of Iran has much to do with this use of heritage—rather than as a means to distance itself from any state except perhaps Azerbaijan. In the instance of Azerbaijan, Iran may wish to maintain this distance, the state of "fractured" resemblances, and it is this that has kept the multinational nomination on that inscription from occurring.

At first, it might be hard to see how this fits into Harrison's fourth category. But the contest over heritage appropriation may extend to more than a state-to-state conflict. The Karabakh issue is framed as an ethnic conflict, and it has enflamed regional ethnic sympathies. The Persian claim to the game that has been raised by Iran can be contrasted with the ethnic Turkic claim raised by Azerbaijan. The protests that Iran had raised were along the lines that the wrong ethnic community was claiming the heritage, a community that was not the original source of the heritage and had no legitimate claim to it. The regional positions over whether Armenia or Azerbaijan has a legitimate claim to the Karabakh territory are mirrored in those that states have taken about the game. Regional political alliances over the territory claim are mirrored in the opposition to the Azerbaijan inscription. In short, those that oppose the Azerbaijan

inscription view it as a seizure of another group's symbols of culture and identity, and of laying claim through this to the contested territory. At the same time, the inscription of chovqan is something that can boost Azerbaijan's soft power, and provides it with legitimacy with the international community as to its claim over the Karabakh.

 This Azerbaijan example extends Harrison's category of cultural appropriation—it is not only about majority and minority groups within a state. This same sort of appropriation of culture with the motive of erasing identity for the purposes of dispossession can occur *between* states, and between more than one state. In laying claim to this territory via this heritage, Azerbaijan can be seen as accomplishing a metaphoric if not literal dispossession of Armenia from the contested Karabakh region.

Thus, cultural expropriation is useful in shedding light on the nature of this particular type of cultural appropriation, and also shows why in such situations it is naïve to assume that the states locked in such a long-standing conflict would be able to come together to cooperate in a multistate nomination over the heritage. It can be expanded to include groups and identities not bounded by state boundaries, such that the regional conflict over the Karabakh and the associated heritage contest over chovqan fits within his category.

Where a state desires to use inscription as a way of exercising soft power, it is unlikely to join in a multinational inscription. Iran's single state inscription of chogan can be seen as an exercise of soft power, by a state that wants to assert itself on the world state, yet is lacking in hard power resources. While there were obvious ties of the chovqan inscription nomination to the Armenian conflict and contested claims over the Karabakh territory, the inscription also was seen as a marker of prestige that would elevate Azerbaijan into the elite world of competitive polo.[99] This is a demonstration of the use of inscription for state prestige, as well as making a strong political statement regarding the Karabakh conflict. One commentator observed that:

> It is chovgan's similarity to polo, and that sport's affiliation with the rich and
> powerful around the world, that is apparently a factor in the Iranian-Azerbaijani

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[99] Abbasov 2013.

dispute. Movers and shakers in Baku seem to believe that UNESCO recognition can provide Azerbaijan with entrée into the world of polo.[100]

That is, the inscription could be used to enhance the attractiveness and prestige of Azerbaijan, which is one of the aims when soft power is exercised. While the motivations for inscription remained overtly political in relation to the Karabakh conflict, as a way to regain international attention over "the long-stalemated Nagorno-Karabakh conflict, "[101] the reference to the value of the inscription for other purposes points to the multifaceted use of cultural heritage in international relations.

For a state such as Iran, which is an outsider in mainstream global power coalitions and yet strives to maintain a powerful presence on the international stage, as well as a regional one, soft power has become increasingly important. Iran has been embroiled in hard power controversies over nuclear development. Cultural heritage plays an important role in Iran's soft power. This calls upon three thousand years of history and the past glories of the Persian empire as its basis. [102] One expert argues that "To understand Iranian soft power therefore requires recognition of Persia's imperial past, its religious evolution, Persian language and culture, and its history."[103]The potential of soft power to increase international influence of a state is noted by Chong.[104] He argues that soft power increases the influence of territorial small states,[105] but his observations on the elevating potential of soft power apply to a territorially larger state such as Iran which is striving to advance its influence in global affairs.

For the same reason that a single state inscription is attractive to Iran, as an exercise of soft power, the same may be said of Azerbaijan, This is another facet of understanding why no multinational inscription arose from the Azerbaijani single state inscription despite much talk to the contrary. Azerbaijan might not want to dilute the soft power gain of this inscription by changing it into a multinational one—given what symbolically lays behind the claim of the heritage element and the territory with which it is associated.

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[100] Ibid.
[101] Ibid.
[102] Elhussieni 2016.
[103] Rubin 2017.
[104] Chong 2007.
[105] Ibid.

States without a great deal of hard power may then turn to soft power, including cultural heritage, to assert themselves in the international arena. A state in conflict may choose to depict cultural heritage in such a way that it bolsters the state international reputation and draws support for that state's position in the conflict. Such is the situation with the way in which Azerbaijan has used chovqan—using the heritage element as a way to emphasize its claim to the contested Karabakh territory, and in presenting the heritage element in such a way that it is likely to help maintain international support for the Azerbaijan claim to the Karabakh. The ICH Committee encourages states with shared heritage to enter into multinational nominations. But there may be situations where a state is unwilling to do this, due to the role that the heritage element may play in a conflict and in the state's assertion of soft power. In such instances shared heritage elements may be splintered through the UNESCO process of nomination and inscription. Whether or what harm results to the heritage element from being fractured in this fashion is an area in need of further research.

Conclusion: Consequences of State Disagreement on Cultural Heritage Elements and Claims of Cultural Expropriation

The ICH Convention does allow a single state nomination over contested heritage elements. There is no requirement within the nomination process to identify or resolve claims that other states might raise that the heritage has been expropriated. Nor is a contesting state barred from simply nominating its own version of the contested element, again, without making any notation of contested claims. It is this situation which gives rise to Harrison's "fractured resemblances."

Allowing another state to file for inscription of the contested heritage element is to counteract the effects of cultural expropriation. That state can assert its own cultural identity. It is within intra-state disputes where an aggrieved community cannot assert its wish to pursue inscription of the heritage against the wishes of or in contravention of claims made by the state. This is not so in disputes between states. One state cannot unilaterally block the nomination of another

state. Thus, where there is a contested heritage element, the current UNESCO system permits the element to be claimed by two different states, with no acknowledgement of any connection existing between them.

It is undeniable that a single state inscription of a heritage element is appealing to states because of the use of this in soft power cultural diplomacy. The aim of soft power is to make a state's position seem legitimate. Soft power works through making the state appear attractive. Cultural heritage can be used as an appealing allure within soft power, the heritage element itself lending to the attractive qualities of the state. What better than a single-state inscription of a heritage element with the right attractive qualities that are congruent with the state's desired foreign policy position to aid in the work of soft power? Shared heritage with a multinational nomination and inscription is not likely to have the same potent allure within soft power cultural diplomacy.

In the instance of Azerbaijan, maintaining its claims to the Karabakh territory, the single state inscription of chovqan is much more than a symbolic claim to the territory. It is that—but the inscription also has a role to play in international relations. Azerbaijan has received a great deal of international support for its claim to the Karabakh. The assertion of the claim through the single state inscription of chovquan can be seen as a way to bolster this claim both as a symbolic claiming of the land and as a measure of soft power which is a claim which is consistent with foreign policy claims and is also through a means which is meant to increase the attractiveness of Azerbaijan through cultural diplomacy, thus adding legitimacy to its claim to the Karabakh. It is perhaps the undoing of recognizing shared resemblances that cultural heritage through inscription has been found to be a potent currency of soft power.

The current UNESCO ICH arrangements for inscription play into the fracturing of heritage elements, when a single state inscription is deemed by a state to be preferable to a multi state inscription. There is no check in place. If there were, it might reduce the instances of fractured resemblances and at the same time reduce the use of cultural heritage inscription as an exercise of soft power. Surely both of these are laudable goals.

Is the right response the one that is unfolding—with one state making the inscription, and then other states with similar heritage elements making their own single state nominations for the heritage? Is it better for heritage elements to be inscribed in this way than not at all—to be denied the chance for inscription due to geopolitical or other state conflicts? One result is the artificial fragmentation of elements into different inscriptions that do not even call attention to

the other inscriptions or the relationship between the elements. It has to be asked if this is an accurate representation of the heritage that might be fragmented in this way.

What is clear is that here is a need to better understand the role of conflict in heritage nomination and inscription, as the basis for fashioning deliberate policies and practices to deal multinational heritage.

A starting point is this: the recognition that the Operational Directives do not go far enough to resolve this issue. The encouragement of cooperation between states is a step in the right direction, but does not recognise the problem of non-cooperative states and the deep and even violent conflicts that may underlie their inability to cooperate on heritage nomination.

Perhaps the answer to resolving disputed multinational heritage is to ask a different, or additional, set of questions, from what is currently part of the nomination process. These are questions that might to go the heart of exposing the roots of the conflict over the heritage, and also expose those things necessary to arriving at an effective solution for the inscription of contested multinational heritage. This is reflected in comments by scholar Anthony Smith, albeit it said in a context not related to heritage inscription but still pointing out the importance of intangible cultural heritage:

> …we need knowledge and understanding of each community's ethno-history, the shared memories and beliefs of the members of particular ethnies, and of the cultural activity of the community's intelligentsia. Most of all, we need to explore the continuing impact of ethnic myths, symbols and traditions in popular consciousness…[106]

Would an increased focus on community level rather than state level help solve the problem of how to approach multinational heritage? But there is a practical problem of how that could be done—given that it would perhaps require the state to acknowledge the disputes about the proposed inscription and which might be against the interest of the inscription nomination succeeding. And so long as the AHD holds sway in the recognition of heritage through inscription, it seems unlikely that the nature of heritage itself is likely to change. Its links with national pride and national identity, and even linked to contested territory and borders are administered through the functioning of AHD. It is unlikely that the nature of heritage will

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[106] Smith A 1999.

change so that it is not inextricable from these issues of national identity and pride and a means of legitimating certain political views and positions through, soft power.

Perhaps the only way that this can now be redressed is by a change in the "logic" [107] that underlies the 2003 ICH Convention and the actions of the ICH Committee in devising the state cooperation model. A solution lays in the formation of a logic that recognises, if not entirely resolves, the conflicts that surround heritage elements, and the attraction of heritage listing as soft power. This involves a change to one that is cognisant of the very complicated and dynamic issues that can arise, including that of conflict, and of deliberate state manipulation of heritage.

Getting to grips with intangible heritage may be a big ask for any legal regime—something in fact that is not achievable. Leiboff raises doubt whether the law can satisfactorily absorb intangible heritage in all of its meanings and forms, not the least of which is the narrative of identity that is at the heart of the heritage itself:

> …the law is deeply committed to the need for some kind of truthful, untainted, unchallengeable material. In this way, law is happy for a thing to embody and express the artistic as a form of capture of spirt, though not of the recreations and reconstructions that are tantamount to the living existence of the artistic thing.[108]

That is, the essence of what is intangible, and its shifting forms that can result in fractured resemblances are the very thing that law is not able to absorb. Thus the conflicts within these expressions may lay beyond the reach of law to resolve—and the limitations of the law are thus expressed in the state cooperation model put forward by UNESCO—a model that does not address these "recreations and reconstructions" of heritage at all.

So issues about heritage conflict and conflict between states over heritage will remain—for the time being—like the situation over the Karabakh region itself—a frozen conflict, without resolution.

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[107] Mezey 2007.
[108] Leiboff 2001.

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