Choosing between Human Life and Cultural Heritage in War

AUTHOR(S): Hugo Slim

URL: https://www.getty.edu/publications/cultural-heritage-mass-atrocities/part-3/17-slim/

SOURCE: Cuno, James, and Thomas G. Weiss, eds. *Cultural Heritage and Mass Atrocities*. Los Angeles: Getty Publications, 2022. https://www.getty.edu/publications/cultural-heritage-mass-atrocities.

ABOUT THE AUTHOR(S):

Hugo Slim is a senior research fellow at the Las Casas Institute for Social Justice at Blackfriars Hall at the University of Oxford and at the Institute of Ethics, Law and Armed Conflict at Oxford's Blavatnik School of Government. He is also a visiting professor at Schwarzman College at Tsinghua University. He was previously head of policy and humanitarian diplomacy at the International Committee of the Red Cross in Geneva. His most recent books are *Solferino 21: Warfare, Civilians and Humanitarians in the Twenty-First Century* (2022) and *Humanitarian Ethics: The Morality of Aid in War and Disaster* (2015).

COPYRIGHT: © 2022 J. Paul Getty Trust

LICENSE: The text of this work is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License. To view a copy of this license, visit creativecommons.org/licenses/by-nc/4.0/. All images are reproduced with the permission of the rights holders acknowledged in captions and expressly excluded from the CC BY-NC license covering the rest of this publication. These images may not be reproduced, copied, transmitted, or manipulated without consent from the owners, who reserve all rights.

PDF GENERATED: July 13, 2022

Getty

This page intentionally left blank

17

Choosing between Human Life and Cultural Heritage in War

Hugo Slim

One of the most devastating ways to hurt and erase a people in war is to destroy the places and artifacts that are most precious to them as a group. These may be sacred spaces where they meet to celebrate new life, pray together, experience transcendence, or bury their dead. They may be ancient market squares where families have traded with one another for centuries through good times and bad. They may also be works of architecture, art, and craft so beautiful that they exemplify the very best the community can achieve, heartfelt proof that as a people, past and present, they have reached moments that are truly sublime.

To lose these things is deeply tragic. To have them deliberately and sadistically destroyed in front of you is profoundly wounding to that part of us where we feel more as a group than as an individual: our collective sense of self. Such attacks feel like an attempt to eradicate our group's identity and joy, destroying who "we are." This kind of collective heritage destruction has been part of war since records began. Many forms of war have had the specific purpose of destroying a people or rendering them so humiliated and subjugated that they would cease to be a political threat.[1] A good way to do this is to destroy things precious to them.

Being human is about being a singular person and a community. "Life alone is only half a life," as Jonathan Sacks observed.[2] It is rare to find a person who feels complete and truly human without also feeling plural as part of a group, or sharing in an imagined community around them. This is why there are always two main ways to harm someone: by attacking them and their family, or by attacking what they love in the community to which they belong. Both hurt terribly.

Hard Battlefield Choices

If both life and heritage are important, then should soldiers prioritize human lives or beautiful buildings when they are faced with such a choice in a hard-fought battle?

Deliberate and premeditated destruction of cultural heritage in war for genocidal, ideological, or propagandistic reasons is ethically and legally wrong. This chapter does not debate such violations, which are immoral and catastrophic cultural vandalism. But deliberate ideological destruction is not the only situation in which cultural heritage is attacked and lost forever in war. The chapter focuses instead on hard choices that arise for civilians and combatants alike when a legitimate fight comes to areas rich in cultural heritage and it becomes impossible not to lose it in some way as the fight intensifies, as has recently been the case in the battles of Mosul in Iraq, Marawi in the Philippines, and many others.

In these conditions, soldiers and civilians may feel responsibility, and even guilt, for the loss of cultural heritage when they decide to flee to save their lives, abandoning it to likely destruction. Should they instead perhaps stay on and die alongside a heritage that is so important to them? Should they attempt to rescue or protect some of it somehow? Or are they right to flee and prioritize their lives? To let go of the heritage of many generations to save one generation inevitably engenders moral doubt in those who abandon what is precious because the human impulse to preserve runs as deep as the impulse to destroy.

For military forces, state or nonstate, hard battlefield choices arise because the protection of civilians, troops, and cultural heritage are all given importance in the ethics and laws of war. Military forces often encounter cultural heritage when fighting desperately to protect their own civilians, while also trying to limit the number of deaths among their own troops in the process. In defending their civilians from attack, should military forces be ready to accept the collateral destruction of some of their cultural heritage against attackers who do not care about this heritage and position their forces among it? Or should they limit their fire to protect their heritage and so invite greater fire upon their people and their own troops? Some defenders may feel the need to fight to the end in places which are most important to them, risking massive destruction in the process and dying with their heritage in an ultimately meaningful way. Would it be better to surrender to a vicious foe to avoid the destruction of their heritage?

Similarly, should attacking military forces inhibit their onslaught against a ruthless enemy because the latter's forces are held up within an area rich in cultural heritage in which they continue to impose harsh treatment and significant suffering on an occupied population? Is it better to save parts of a medieval town or release thousands of men from inhuman detention and women from forced marriage and sexual slavery? On some battlefields, attackers may feel a pressing military necessity to target combatants inside or around important cultural heritage and so destroy large parts of it. Instead, should they prolong the fight, extend people's suffering and risk more lives among their own troops as they carefully avoid damage to cultural heritage and delay victory?

In these situations, when soldiers are faced with saving people or a medieval temple, the ethics embedded in the laws of war, which say that human life and human culture

are equally valuable, are severely tested. And while both life and heritage are held to be valuable, the law itself gives no answer as to which should be given priority in the face of military necessity. A hard choice, therefore, has to be made between the preservation of human life and human culture. If we cannot save both, which shall we save?

With this choice in mind, I want to think beyond the ideal prescriptions of the laws of war, and their insistence that both human life and cultural heritage are ultimately important, to nonideal times when lawful or unlawful destruction of cultural heritage seems inevitable or is already underway. Considering this choice ethically may help to think it through in a way that helps guide fleeing civilians and military forces attacking or defending amid cultural heritage.

What follows examines two aspects of this hard choice between blood and bricks. In the first section the reasons cultural heritage matters are explored, and therefore why these are hard choices to make: after all, important buildings are not equivalent in survivalist terms to what the Geneva Conventions call "objects indispensable to the survival of the civilian population," such as water installations, food supplies, businesses, and arable land. This is because our humanity is so deeply vested in our cultural heritage that it has ontological and not just instrumental value. The second section looks at whether we should prioritize life or heritage. I argue that human life should always trump cultural heritage in extremis, even though it is always important to mitigate cultural losses in two ways: by letting some individuals stay with their cultural heritage if they wish; and by trying very hard to save some part of peoples' heritage during or after the fight, while primarily prioritizing human life.

Humanity Is Biology and Biography

The principle of humanity, which drives humanitarian norms and action, is a fundamental value in the laws of war that guides the conduct of armed conflict. The most widely recognized meaning of humanity in armed conflict, violence, and humanitarian action is the formal definition of the International Red Cross and Red Crescent Movement. This defines the principle of humanity as follows: "To prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and to ensure respect for the human being."[3] This Red Cross Red Crescent definition has been taken up by the United Nations and integrated into many of its policies and resolutions on armed conflict, disasters, and humanitarian action.[4] It is noticeable for identifying life, health, and being as the integral ingredients of humanity.

The laws of war, and the ethics implicit within them, place significant emphasis on the importance of protecting cultural heritage as well as human life. The way the laws are written seems to give human lives and cultural heritage ethical parity. A bomber pilot should avoid destroying both as much as she or he can. In emphasizing parity between life and culture, the law declares that cultural heritage is a vital part of human life, and that certain artifacts that we make with our hands and our machines are essential to being human.

Without our things of beauty, our cultural buildings, our homes, our books of learning, our ideals, our gods, our religious artifacts, our games, our clothes, our manners, and our art, we are biology deprived of biography, and so significantly less human or dehumanized. Being human is not simply a process of blood flow and breathing. It is also about being a particular person with a life of one's own that is lived with others in a shared sense of meaning and custom that are represented in things made around us and ideas believed between us.[5] These things we have in common and the individual lives we have made with them by living in certain houses, eating certain foods, being happy in certain places, and praying in beautiful buildings give us a sense of a biography that complements our breathing lungs and beating hearts.

How shall we explain this ontological and biographical value in cultural heritage? How is it that we feel our bricks and artifacts to be such a deep part of *being* human, running through us in the same way as our blood? There seem to be three main ways to explain this: arguments of dependence, identity, and universalism.

The first argument hinges on our *dependence* on cultural heritage in all its forms. Like the provision of healthcare, food, and water, the law insists that a group's cultural heritage is a valuable public good on which people depend to be fully human and socially alive. Our ability to meet together in sacred and significant places, or treasure certain artifacts made and handed down by ancestors, affirms our sense of being alive. This argument relies on the idea that being together and being part of some shared meaning are necessary for us as human beings. Sharing common space, mixing with familiar faces, and enjoying traditional music and arts are good for us. The shared bricks, stories, music, and textiles of our cultural heritage help us to be human. Without these things, we suffer. So the argument runs: as we depend on food and water for our physical health, we depend on human culture for much of our emotional and mental health. Culture is essential to our life and health, and protecting it shows a respect for the human being demanded by the principle of humanity.

The second argument goes deeper to focus on *identity*, on our profound identification with our cultural heritage. Our cultural assets do not just give us creative refreshment and social life as an emotional public good, they are woven into the very fabric of our particular identity as a human being. In some significant sense, we *are* our culture in a way that we are not food and water. Although each of us is biologically 60 percent water and we all need water to live, we do not actually live as water or identify as water. But in a more literal sense I am what I believe, and I am the group to which I belong and the things that I hold dear. I am a Muslim if I cherish my copy of the Quran as a sacred text and answer the call of the Muazzan from an ancient minaret. I am a Christian if I pray with others in a church in front of an altar with an ornate silver cross. I am a Gujarati woman if I weave and wear Gujarati textiles as my mother and grandmother taught me to do. I am a devout democrat if I treasure and respect the great libraries of Enlightenment thought and the secular parliament buildings where my national politics

is enacted. We are the things we treasure and believe because our identity is represented, nurtured, and confirmed in our places and our art.

Beyond the dependency claim of social refreshment and the essentialist claim of cultural identity, the ideology around cultural heritage goes further still in a third argument of *universalism*. Many champions of cultural heritage insist that culturally distinct works of human hands and the social meaning invested in them are valuable to the whole world, and not just the group that made them and uses them. This global added value in cultural heritage is in line with the maximal universalist ideology of humanity itself, which insists that every human life is important to us all and that one person's death diminishes everyone.[6]

The idea here is that whatever humans believe and make in any part of the world, and in any time in history, informs a universal ontology in all humans alive today and those who will come after us. Every civilization embodies some truth about human life and experience in its culture and so every culture informs us universally about who we are. This is why the destruction of synagogues across Europe, churches in Dresden, Buddha statues in Afghanistan, classical Greek and Roman ruins in Iraq and Syria, and mosques in Rakhine State, Myanmar, are deemed crimes against humanity. As human beings, the maximal humanity argument says that we have our particular identity as human beings but also a common meta-identity as human beings. This meta-identity can also be hurt and damaged by the destruction of cultural heritage, which, in a sense, belongs to us all as part of the richness of being human. This argument is analogous to the universal claim about the destruction of the environment, which is similarly understood as a particularly local public good as well as a universal one.

What about Bad Bricks and Evil Art?

These seem to be the three main arguments for why cultural heritage is a humanitarian matter and which produce the legal standard for protecting cultural heritage. Ethically, however, it is not this simple, and they all come with one major qualification: there is still a complication around what we should define as cultural heritage that is morally worthy of protection. Should anything which a group of humans assert as culture be protected in war? Or should we recognize that bad humans produce bad cultural heritage that does not merit protection in armed conflict? And, if we think there is an ethical boundary between good and bad human culture, how would we decide this border and reduce legal protection accordingly?

Not all cultural practices embodied in the spaces and artifacts of human culture are respectful of the principle of humanity. Cultural heritage can be used to produce ideologies and practices that are dehumanizing. These inhumane practices may be directed toward women if they are produced in patriarchal cultural sites, against young men if they are sites of induction into wanton violence, or against groups and nations defined in these sites as enemy others worthy of destruction.

There is significant moral ambiguity in cultural heritage, and we might not want to celebrate and protect it all as intrinsically humanizing. For example, would we feel it right if young men from the Hitler Youth or the Interahamwe in Rwanda had insisted that we respect their club houses and the flags and uniforms in which they were first schooled in ethnic nationalism and genocidal thinking, and so protect these sites from attack because they are key spaces of their culture and vital symbols of their particular human identity? Or, as another example, is everything good and worthy of protection in the sacred spaces in which male elites routinely discriminate against women or sexually abuse children? Cultural heritage cannot be simplistically championed as humanizing and good just because it is beautiful and old, or important to some people.

There is obviously good and bad cultural heritage. Most human spaces and many human artifacts embody the ambivalence of our humanity. Does this mean it is ethical to withdraw the protective rule from some forms of cultural heritage and even wipe them from the face of the earth? It seems clear that certain forms of cultural heritage property do not deserve protection from attack and the protective threshold in armed conflict can legitimately be reduced when fighting near or inside them. But their tragic value as human cultural history must still be recognized and a remnant of them should be protected where possible so that, ultimately, the people who were made to suffer in and by these spaces can help define the later ethics of these sites. Much cultural heritage around the world has value as bad sites. Places like the slave forts in Ghana or the death camp at Auschwitz in Poland are rightly preserved to function as remembrance and "dark tourism."[7]

Why Life Comes First

The arguments above constitute an ethical case for protecting cultural heritage, albeit one that is qualified by the humanizing or dehumanizing role played by cultural sites. This section looks at how we should deal with the apparent ethical parity between human life and cultural heritage—blood and bricks—that is presumed in international humanitarian law.

The law insists it is right to protect both human life and cultural heritage in the conduct of hostilities, but this may not be possible in certain instances of war and does not resolve which should take precedence. Even so, when the progress of a war throws up a choice between blood and bricks, it is clear that human life should trump cultural heritage as the more important object of protection. It is always better to save lives instead of buildings or paintings when both cannot be saved. There is one main reason for this, and it should always operate with three mitigating conditions or strategies (discussed in the next section).

The reason to prioritize human life is simple and can be made essentially and consequentially. Essentially, in any comparison between the value of a work of art and a human being, the human is in the great majority of cases inherently more valuable. Rushing into a burning building, a firefighter would not expect to hear his senior officer

cry: “Save the Rembrandt not the child.” If he did hear such an order, we would all think him right to ignore it. To save the child seems reasonably and emotionally right. Failing to protect a Rembrandt would be a tragedy to some but failing to save the child in favor of a Rembrandt would be a crime.

If, however, a firefighter were rushing into a burning bunker in Berlin in 1945, we would understand if he were placed in more explicit moral confusion by the order: “Save the Rembrandt not Magda Goebbels.” We might morally understand if he came out with the Rembrandt, but we might also think it wrong. Survivors of the Nazi regime and her own six children whom she had murdered had greater justice claims on Magda Goebbels than other people had cultural and aesthetic claims on the Rembrandt. The essential value of buildings and artwork is less than human life—good and bad. Their loss is great but to prioritize human life above them is not a crime. This is because, although cultural heritage is a part of us, the potential of our lives and the importance of our ethics mean more to us than a cultural heritage which we can carry within us anyway and realize anew in a different place.

This last point forms the basis of the consequentialist reason for prioritizing human life over cultural heritage. In the long run, it is better to have a remnant of a human community than it is to have the remains of buildings without people, or precious Qurans and icons without their owners and their prayers. If saved, human beings can create and build again. If dead, they cannot. In extremis, therefore, a life-saving ark filled with human life, which still carries culture and creativity within it, must always be prioritized over a cargo of artifacts or sites marked with buildings bereft of the humans who gave them meaning. Cultural heritage is irreplaceable, but it is renewable. Armenians who survived the Ottoman genocide against them have created new community and art. European Jews who escaped from Nazism have built new synagogues, consecrated new cemeteries, written new texts, and continued to raise Jewish children. Yezidis and Rwandans who have saved themselves or been rescued by others are doing the same. This is why people must always be allowed to flee and why defenders and attackers may sometimes be permitted to fight over and destroy cultural heritage if military necessity requires it.

Three Ways to Mitigate Cultural Loss

There are, however, three important qualifications that should be applied to mitigate the loss or destruction of cultural heritage which arises when a primary ethical commitment is made to protect human life over human heritage. These can be carried out by armed forces, humanitarian agencies, and communities themselves. The first is an obligation to discount the lives of enemy combatants who pose a direct threat to cultural heritage and, where possible, to use additional force against them to limit the damage they can do. The second is to respect the decision of some people to stay in a cultural site rather than to evacuate or flee. The third is an obligation to rescue and preserve some remnant from the loss.

The first mitigating strategy is for military forces to change their calculation of proportionate force in targeting enemy troops that are intent on, or very likely to, destroy cultural heritage. The enemy's willingness to violate this ethical and legal norm justifies a lessening of restraint and a significant increase in the use of force against them to limit cultural destruction. In such situations, more massive force seems reasonable against any part of the enemy's operation if this can undermine enemy capacity to destroy cultural heritage. Scaling up attacks against enemy units within cultural heritage sites creates the obvious dilemma of destroying what you seek to preserve, but there may well be other units, infrastructure, and supply lines on which these units depend which can be attacked more fiercely to disempower those in the sites themselves. Within the sites, it may well be justifiable to accept severe heritage damage in one place to reduce it in many others. Just as an adjustment of proportionality would be obligatory to stop enemy forces from deliberately targeting civilians or torturing thousands of detainees, so too would it be to stop them from destroying extensive cultural heritage.

The second kind of mitigation involves letting certain people stay on in cultural sites and not coercing their rescue or retreat. Identification with cultural heritage may be so intense in some people that they refuse to leave places, buildings, and artifacts behind. Such people are often cultural professionals of various kinds who feel a deep affinity with cultural objects and sites, and experience a deep obligation to remain. These people may be religious leaders, museum curators, or cultural devotees of different sorts. Their commitment to staying in these places may be for good reasons. Perhaps they want to stay so they can continue to carry out various rites demanded by the sites and seasons of a place, or to try to defend the sites with dialogue in a way that sees their heritage still honored under a new government. Finally, they may simply wish to die with the site and so accompany it into occupation or destruction in the same way that captains have conventionally felt a duty to go down with their sinking ship. Such consent to stay on, if it is informed consent, should be respected as a conscious commitment to live out one's identity and cultural heritage, which, for some people, can transcend the value of their life.

The third obligation to mitigate the tragedy of cultural destruction is to preserve something of the heritage immediately around the time of its damage and ultimately when peace makes some form of conservation possible. In the 1992 preface to his classic Holocaust text, *Man's Search for Meaning*, Viktor Frankl tells the story of how he visited his parents in Vienna in 1941 to tell them he had received a US visa and so could flee Nazism even though they could not. They were delighted for him, but he then records how he changed his mind:

> It was then I noticed a piece of marble lying on a table at home. When I asked my father about it, he explained that he had found it on the site where the National Socialists had burned down the largest Viennese synagogue. He had taken a piece

> home because it was part of the tablets on which the Ten Commandments were inscribed. One gilded Hebrew letter was engraved on the piece; my father explained that the letter stood for one of the Commandments. I asked, “Which one is it?” He answered, “Honour thy father and thy mother that thy days may be long upon the land.” At that moment I decided to stay with my father and mother upon the land, and to let the American visa lapse.[8]

This moment shows two important things that help make the case for salvaging and preserving whatever one can from the destruction of cultural heritage. First, it shows how people feel it is so vital to gather remnants of their cultural heritage destroyed in war, no matter how small and no matter the risks. It is a humanitarian act to rescue such remains after destruction and loss, just as it is a humanitarian duty to protect it in the first place in armed conflict.

Second, Frankl’s story shows how such remnants point the way for survivors and enable cultural continuity and renewal: even small remains of cultural heritage work ontologically to remind us who we are. In this case, the fragment pointed Frankl to meet his religious obligation as a son by staying, not fleeing. As a result, Frankl, his parents, and his entire family were sent to death camps; only he and a sister survived. Even though the fragment is lost, it always remained with Frankl in his mind as a prompt of what is good and an explanation of the terrible path his choice involved. One can also imagine that if he had instead made the decision to take up his visa and leave for the United States, the fragment would have led him to establish some memorial to his parents in his new life, so renewing and remembering his cultural commitments in a new place, as he eventually does in the preface and his remarkable book.

Life as the Possibility of Cultural Renewal

This principle of potential cultural renewal is equally striking in the stories of two famously beautiful and culturally important European cities. One of the richest cultural sites in the world today was founded in the fifth century by thousands of internally displaced persons (IDPs) fleeing the Germanic invasions of northern Italy. Running from their invaders and their cultural heritage, they hid in marshlands bordering the Adriatic, where their conquerors decided not to follow. Here, they huddled together and, over many years, building on small islands and around lagoons, they slowly became a people of the sea. Their city is Venice.

Similarly, in England in the late twelfth century a group of scholars decided they could no longer tolerate the endemic urban violence and unlawful reprisals that plagued medieval Oxford: its murders, robbery, rape, and arbitrary hangings. They decided to flee, arguably displaced, carrying as many manuscripts as they could. Heading northeast, they settled by the River Cam and founded Cambridge University.

These two stories carry hope in the same way that all fleeing people carry hope and a deep identification with the cultural sites and spaces they have left behind. Millions of

people are fleeing war today and enduring exile in new places as IDPs and refugees (the latter defined as crossing an international border). It is deeply tragic that they have lost their ancient place in the world because of war and violence, and many have had their cultural heritage destroyed. But it is right that they have saved themselves so they can create new things, remember what was lost, and continue to be human.

SUGGESTED READINGS

Jonathan Cuénoud and Benjamin Charlier, “Cultural Heritage under Attack,” *Humanitarian Law and Policy* (blog), ICRC, 18 February 2021, https://blogs.icrc.org/law-and-policy/2021/02/18/cultural-heritage-under-attack/.

Christiane Johannot-Gradis, “Protecting the Past for the Future: How Does Law Protect Tangible and Intangible Cultural Heritage in Armed Conflict?,” *International Review of the Red Cross* 97, no. 900 (2016): 1253–75, https://international-review.icrc.org/articles/protecting-past-future-how-does-law-protect-tangible-and-intangible-cultural-heritage.

Joris D. Kila and James A. Zeidler, eds., *Cultural Heritage in the Crosshairs: Protecting Cultural Property during Conflict* (Boston: Brill, 2013).

Hugo Slim, *Humanitarian Ethics: The Morality of Aid in War and Disaster* (New York: Oxford University Press, 2015).

NOTES

1. Hugo Slim, *Killing Civilians: Method, Madness and Morality in War* (New York: Oxford University Press, 2008).
2. Jonathan Sacks, *To Heal a Fractured World: The Ethics of Responsibility* (London: Bloomsbury, 2005), 3.
3. International Federation of Red Cross and Red Crescent Societies, “The Seven Fundamental Principles,” https://www.ifrc.org/fundamental-principles.
4. See UN General Assembly, “Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations,” UN doc. A/RES/46/182, 19 December 1991, Art. 2, and many subsequent resolutions by the UN Security Council.
5. Hugo Slim, *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster* (New York: Oxford University Press, 2015), 46–49.
6. Bruce Mazlish, *The Idea of Humanity in a Global Era* (New York: Palgrave Macmillan, 2009).
7. Annette Becker, “Dark Tourism: The ‘Heritagization’ of Sites of Suffering with an Emphasis on Memorials of the Genocide Perpetrated against the Tutsi of Rwanda,” *International Review of the Red Cross* 101, no. 910 (2019): 317–31.
8. Viktor Frankl, *Man’s Search for Meaning* (London: Rider, 2004), 13. The book was originally published in 1946.