

Proceedings of a Workshop  
Organized by the Getty  
Conservation Institute

Los Angeles, California  
1-3 December 2009

# Consensus Building, Negotiation, and Conflict Resolution for Heritage Place Management



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*Proceedings of a Workshop Organized by  
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1–3 December 2009*

Edited by  
David Myers, Stacie Nicole Smith, and Gail Ostergren

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LOS ANGELES

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Cover: (top left) Mirrar child at Kakadu National Park, site of the Jabiluka uranium mine, Australia, 1997 (photo: Friends of the Earth International, licensed under Creative Commons Attribution-NonCommercial-NoDerivs 2.0 Generic [CC BY-NC-ND 2.0]); (top right) Cambodia's Prime Minister Hun Sen, center left, and his wife Bun Rany, center right, pray at the Preah Vihear temple, 2010 (Photo: AP Photo/Heng Sinith); (bottom left) Excavation through The Rocks, Sydney, NSW, 1955 (Photo: City of Sydney Archives); (bottom right) Native American rock art, Nine Mile Canyon, Utah, prior to 2010 negotiated agreement (photo: Steven C. Hansen).

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# Foreword

One of the Getty Conservation Institute's most influential research projects, initiated in 1998, examined the values and economics of cultural heritage in response to the increasing need to demonstrate the role of heritage in civil society in order to engender support for its conservation. The Research on the Values of Heritage project aimed to fill a gap in the conservation field's body of knowledge and to advance our understanding of values, markets, and other social factors in our work and the need for an integrated approach to conservation. Initially, this project produced three reports that were published by the GCI: *Economics and Heritage Conservation* (1999), *Values and Heritage Conservation* (2000), and *Assessing the Values of Cultural Heritage* (2002).<sup>1</sup> At a later stage, from 2001 to 2003, the GCI developed and published four case studies that illustrated the role of values in site management.<sup>2</sup> One objective of those case studies was to demonstrate values-based management in practice.

A closely related key area of work—management planning for heritage sites—has been a core area of interest to the GCI for over two decades. Both areas of work highlight the fundamental importance of understanding and dealing with stakeholders, or actors who have the potential to affect or be affected by the conservation of a heritage place. In most parts of the world, it is increasingly recognized that public engagement is essential to the conservation process, and efforts to encourage and facilitate better public appreciation for heritage and more involvement in its management have been the focus of many governments over the last decade or so. Sustainable conservation is reliant on good public understanding about its heritage and support for its conservation. With this recognition comes the realization that heritage practitioners need to be conversant in tools and methods to better engage with stakeholders and achieve well-supported outcomes.

Oftentimes stakeholders have differing perspectives about the significance of a heritage place. These differences may lead to tension or conflict, and heritage practitioners may find themselves caught in the middle. It is important for heritage practitioners not only to recognize these differences but also to be prepared to resolve them; however, heritage practitioners often have no formal training in consensus building or conflict resolution. This has prompted the GCI to take an interest in the potential application of consensus building and dispute resolution methods to dealing with stakeholders in heritage place management.

As a next step, the GCI and the Jordanian Department of Antiquities collaborated to produce a didactic case study of the archaeological site of Jarash, which was designed as a resource for teaching a values-based approach to dealing with stakeholders in heritage site conservation and management.<sup>3</sup> The GCI obtained the assistance of the Consensus Building Institute, based in Cambridge, Massachusetts, in the creation of this study, which introduced consensus building concepts and techniques to the heritage field.

Since the 1970s, an entire field of practice has developed around dispute resolution, consensus building, and negotiation. Its concepts and techniques have been expanded and refined over time through application to a wide range of societal issues and in various parts of the world. Many countries have integrated public consultation processes into various heritage planning processes, such as at the time of designation, for development processes, and for major local planning processes. Though heritage practitioners in these countries now had some experience in this area, the GCI determined that these practices were not universal. A concerted effort had not yet been made to apply those formal dispute resolution methods to issues of heritage place management, and many heritage practitioners were not aware of the existence of these techniques. This finding led the GCI to convene an international group of heritage practitioners and leaders in the field of public collaboration and dispute resolution, bringing them to the GCI in December 2009 for a workshop on the application of dispute resolution methods to heritage place management.

The workshop, titled “Applying Consensus Building, Negotiation, and Conflict Resolution Methods to Heritage Place Management,” unfolded over three days, from 1 December through 3 December. The first day included background presentations on the identification of relevant issues and challenges in the heritage field; background presentations on consensus building concepts and processes; an exercise on the mapping of interests, values, and identities to the cultural significance of a heritage place; and case study presentations on El Mirador, Guatemala, and on challenges related to heritage tourism. On the second day, presentations were given on strategies for negotiation and for applying consensus building approaches, as well as case studies on Chan Chan, Peru; Lake Condah, Australia; and Quilmes, Argentina. The final day included a presentation on dialogue as a consensus building process, and case studies on developing legislation for Canada’s historic places, on the Blue House, Macao, and on Sites of Conscience. The workshop ended with participants putting forth conclusions and recommendations regarding the application of consensus building and dispute resolution methods to heritage practice.

These proceedings seek to fill the knowledge gap in the heritage field about dispute resolution concepts and methods, to identify typical challenges in the heritage sector that appear appropriate for application of these methods, to provide examples of how such challenges have been dealt with in the heritage field, and to identify related areas that are ripe for further work. It is our hope that the 2009 workshop and this publication will help spur the application of dispute resolution methods within heritage practice.

Susan Macdonald  
Head of Buildings and Sites  
The Getty Conservation Institute

### Notes

- 1 Randy Mason, ed., *Economics and Heritage Conservation* (Los Angeles: Getty Conservation Institute, 1999); Erica Avrami and Randy Mason, eds., *Values and Heritage Conservation* (Los Angeles: Getty Conservation Institute, 2000); and Marta de la Torre, ed., *Assessing the Values of Cultural Heritage* (Los Angeles: Getty Conservation Institute, 2002). All of these publications are available at: [http://www.getty.edu/conservation/field\\_projects/values/values\\_publications.html](http://www.getty.edu/conservation/field_projects/values/values_publications.html).

- 2 The case studies resulted from the collaboration of professionals from the Australian Heritage Commission, Parks Canada, English Heritage, the United States National Park Service, and the GCI. The partners involved in that project were selected, in part, because they were deemed to practice values-based management in one way or another. The case studies examined management at Chaco Culture National Historical Park in the United States, Grosse Île and the Irish Memorial National Historic Site in Canada, Port Arthur Historic Site in Australia, and Hadrian's Wall World Heritage Site in England. They were published in Marta de la Torre, ed., *Heritage Values in Site Management: Four Case Studies* (Los Angeles: Getty Conservation Institute, 2005). The individual cases are available at: [http://www.getty.edu/conservation/field\\_projects/values/values\\_publications](http://www.getty.edu/conservation/field_projects/values/values_publications).
- 3 David Myers, Stacie Nicole Smith, and May Shaer, *A Didactic Case Study of Jarash Archaeological Site, Jordan: Stakeholders and Heritage Values in Site Management* (Los Angeles: Getty Conservation Institute; Amman: Dept. of Antiquities, Hashemite Kingdom of Jordan, 2010); and Stacie Nicole Smith, David Myers, and May Shaer, *A Didactic Case Study of Jarash Archaeological Site, Jordan: Stakeholders and Heritage Values in Site Management: Teaching Materials* (Los Angeles: Getty Conservation Institute; Amman: Dept. of Antiquities, Hashemite Kingdom of Jordan, 2010). Both publications are available at: [http://www.getty.edu/conservation/publications\\_resources/pdf\\_publications/jarash\\_case\\_study.html#note](http://www.getty.edu/conservation/publications_resources/pdf_publications/jarash_case_study.html#note).



# Preface

These proceedings are based on material delivered during the December 2009 workshop “Applying Consensus Building, Negotiation, and Conflict Resolution Methods to Heritage Place Management,” held at the Getty Center in Los Angeles. All papers presented at the workshop have been further developed for this publication. Part 1 includes background papers on the identification of relevant issues and challenges in the heritage field, and on consensus building and dispute resolution concepts and methods. Part 2 is devoted to case studies showing examples of how such challenges have been dealt with in the heritage field. Each case study is followed by commentary from the Consensus Building Institute—written by Stacie Nicole Smith and David Fairman—analyzing the case from the perspective of dispute resolution practice. The case studies reflect conditions from 2009 through 2010.

The third and final section contains conclusions and recommendations identified by the workshop participants regarding the application of consensus building and dispute resolution methods to heritage practice. It is hoped that this will serve as a blueprint for further action in this area. The publication’s backmatter includes a glossary of consensus building terminology and an annotated bibliography of selected resources for those who wish to further explore dispute resolution concepts and methods.

We are grateful to the contributors of the case studies: Christina Cameron on developing legislation for Canada’s historic places; Maria Isabel Hernandez Llosas on Quilmes, Argentina; Chris Johnston on Lake Condah, Australia; Laurence Loh on the Blue House, Macao; Jeremy Radachowsky and Bayron Castellanos on the El Mirador region of Guatemala; Liz Ševčenko on Sites of Conscience; and Eugenio Yunis on challenges related to heritage tourism. These individuals are also acknowledged for their contributions during the workshop, in addition to those of Carolina Castellanos and GCI staff members Jeanne Marie Teutonico, Susan Macdonald, Kathleen Dardes, Jeff Cody, and Françoise Descamps. Our special thanks go to Chris Johnston for her thorough review of and invaluable input on the entire manuscript, and for serving as a catalyst to finalizing the publication. David Fairman of the Consensus Building Institute deserves recognition for his contributions as a workshop co-facilitator and presenter and for his insightful input during workshop discussions. We are also thankful for the constructive input provided by Guy Burgess and Heidi Burgess of the Conflict Information Consortium, University of Colorado, who served as external reviewers.

Special thanks go to GCI staff members Michael Aronowitz, who provided logistical support to the workshop, and Maria Cummings, who provided logistical support for production of the publication.

David Myers

**PART 1**

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**Background Papers**



# Resolving Conflict and Building Consensus in Heritage Place Management: Issues and Challenges

*Chris Johnston and David Myers*

## Introduction

This paper examines some of the ways in which disputes, conflict, or simple disagreements can arise and where gaining agreement would be beneficial in heritage place management. Its purpose is to demonstrate the relevance of consensus building, negotiation, and conflict resolution to the practice of heritage planning and management.

*Conflict*, in this context, means a disagreement in which the involved parties perceive a threat to their *interests, values, identities, or rights*. Fundamental in conflict resolution, these four concepts, as well as the concept of *positions*, are explained in more detail in Stacie Nicole Smith's paper, "Consensus Building for Cultural Heritage Place Management," in this volume. These terms can be found in the glossary at the back of this book and are defined as follows:

- *Interests*: underlying desires or needs that individuals and groups seek to attain
- *Values*: deeply held views about the way the world is or should be, which may be spoken of as truths
- *Identities*: answers to the question "Who am I?," incorporating groups that one belongs to as well as characteristics or attributes that are associated with those groups or that one associates with themselves as individuals
- *Rights*: independent standards of fairness or legitimacy that are either socially recognized or formally established in law or contracts
- *Positions*: specific, desired outcomes

Conflict is common in heritage place planning and management, and can be minor and relatively easy to resolve. In some situations, *conflict* is far too strong a word; rather, it is more a lack of agreement that slows or stops a process, or prevents mutual understanding and trust that may create a better outcome for all.

Sometimes conflict, discord, or lack of agreement is ignored in the hope that it will dissipate with time or become a lesser issue if the shared goals can be realized. But conflicts and disagreements can also present major barriers to achieving good heritage outcomes.

Conflict may arise in response to real or perceived threats. Imbalances of power or influence are often at play in heritage conflicts and may in themselves heighten tensions. Fears that one's heritage will be disrespected or damaged, for example, are potent motivators. Cultural differences may be a factor, too.

Disagreement and conflict can occur within a heritage planning and management process or may be present in the wider context. For example, heritage professionals may engage in disputes over whether a place is "heritage" and should be conserved, or may face conflicting views about whose heritage values are to be

recognized—all conflicts that commonly arise in our practice. By applying conflict resolution and consensus building tools, we may be able to achieve outcomes that offer mutual benefits to all parties.

Some conflicts are external to heritage planning and management and may be deep and enduring, including cultural conflicts within or across national borders or even warfare. In some circumstances, there are deeply held suspicions and distrust of another culture or social group, perhaps founded on a history of clashes. Finding ways to address such conflicts through heritage place management may be impossible.

By being aware of the potential for conflict, the likely circumstances, and one's own role in creating or helping resolve conflict, heritage professionals can become proactive. They may draw on skills and strategies to help them respond and ensure that they undertake their own work in ways that will reduce the potential for conflict.

This paper uses a number of examples from the case studies in this publication. It is hoped that the circumstances described will resonate with readers and that they will be able to find parallels to the circumstances in which they may face conflict in their work.

## **Defining Heritage**

Heritage is a complex domain. It engages with the foundations of human society: peoples, cultures, and places. Heritage is a concept constructed out of what is culturally important to a society, a cultural group, a family, or an individual. It is never simply a material object or place, nor is it simply facts. Heritage engages with human feelings and identities, and heritage values can therefore change over time. Our understandings of our cultural heritage emerge through interactions between peoples, places, environments, objects, or other species. Heritage is now recognized as being as much about the future as it is about the present and past. This explains the social and cultural importance of heritage, and the potential for conflict. Equally, significant benefits may be gained from approaches designed to recognize and respect multiple values and multiple stakeholders, and to address conflicts.

The ways in which we typically frame heritage today, through influential international regimes such as World Heritage, are often founded on Western concepts of heritage. These underpinnings may obscure important differences and present a singular view of “what is heritage” when there are actually multiple perspectives (Harrison 2013, 64). How we understand heritage today has evolved over time, with the focus shifting from the grand and monumental to recognition of a wider range of cultural expressions. The idea of universally held values is under challenge, and heritage is increasingly conceptualized as multiple, collaborative, dialogical, and interactive (Smith 2006).

For any particular place, there are multiple players or parties with distinct roles and perhaps even different concepts of what comprises “heritage,” often resulting in conflict or differences of opinion. Many heritage places reflect multiple cultural connections and meanings, and therefore many values. Coexistence of these connections may be problematic, sometimes leading to conflict or actions that could have negative impacts on heritage values. For example, a government perspective may be to emphasize heritage connected to national identity and a valorized past,

whereas a local community may see its own stories as primary. Both may be reflecting on the same heritage place; some examples are examined later in this paper. Here we advocate for approaches that recognize difference, help build respect for all values and connections, and seek coexistence.

Across the globe, many heritage places are within contested terrains. Heritage places can become pawns in national identity formation and assertion, at times becoming the focus of physical attacks designed to destroy a place that serves as an important symbol for another cultural group.

Consensus building, negotiation, and conflict resolution have been developed through the desire to resolve conflicts and disagreements with the aim of achieving constructive rather than negative outcomes. Difference is inevitable and to be respected; it is not the same as conflict. Acknowledging and respecting difference can mitigate conflict or disagreement.

## **The Dynamics of Heritage**

What are the dynamics or factors in heritage planning and management that typically lead to conflict or disagreement? This paper looks at a range of typical issues and challenges that face heritage managers and communities that may result in a level of disagreement or conflict and, without intervention, lead to a less than optimal outcome. The three broad categories of issues and challenges examined are as follows:

1. Heritage and identity
2. Heritage practice
3. Heritage as part of public policy

The appendix at the back of this book offers a classification of heritage management issues and challenges in which a level of conflict or the need for agreement is apparent and where the techniques of consensus building and negotiation, as well as the use of conflict resolution skills and strategies, are likely to deliver improved outcomes. It recognizes that the need can arise in the following situations:

- Tensions between cultural heritage conservation and other national or local interests and agendas, including governance, economic development, and environment protection
- Issues related to the recognition of traditional communities and their heritage, including understanding of heritage values, cultural worldviews, access, ownership and use issues, and interpretation
- Extremely contested heritage places, especially where there is conflict over heritage values or between different cultural or religious groups
- Issues about how heritage conservation and management is undertaken, including disputes over methods, principles and interventions, and practices that fail to engage key stakeholders

## **Heritage and Identity**

Some of the most serious conflicts arise when heritage places are seen as symbols of national and cultural identity, potentially triggering disputes over ownership of the place, of the territory it is on, or of its meanings. In some situations, these types

**FIGURE 1**

Cambodia's prime minister, Hun Sen, center, and his wife, Bun Rany, right, pray at the Preah Vihear (Khao Phra Viharn) temple. Hun Sen later paid his first official visit to Cambodian troops at the historic temple in the disputed territory with Thailand.

Photo: Associated Press, Heng Sinith, 2010.



of conflicts have involved the use of destructive force and significant damage to or the loss of the place entirely.

On the border between Cambodia and Thailand, there is an ongoing dispute over the location of national boundaries. Enmeshed within this dispute is the ownership of an important ancient temple known as Preah Vihear in Khmer and Khao Phra Viharn in Thai (fig. 1). Possession of the temple has shifted between Cambodia and Thailand for more than a hundred years (Silverman 2011, 2). The factors at play include assertions of “nationness,” or national identity, on both sides. For Cambodia, it is reaffirmation of a cultural connection to the ancient and vast Khmer Empire “from which the vast majority of Cambodians descend as ethnic Khmer” (Silverman 2011, 6); for Thailand, “it is the manifestation of a longstanding existential Thai challenge to Cambodia’s very legitimacy as a nation...and longing for lost territories” (Silverman 2011, 8). In the middle of this conflict sits a temple precious to both sides and to the world.

Spiritual practice is a central part of cultural identity for many people, and may be at the center of conflicts in which one set of beliefs or practices is seen as threatening the values of another. Whereas in many parts of the world different religions coexist peacefully, in other places these differences erupt into destructive violence. In 2012, in Mali, Sunni Islamist militants attacked ancient sites associated with Sufi Islam, destroying a number of revered tombs and mausoleums of Sufi saints in Timbuktu that are part of a World Heritage Site (fig. 2). Though most Malians practice a popular form of Sufi Islam, the Sufi shrines were targeted because they were viewed as being idolatrous and in contradiction to a particularly strict interpretation of Sharia Islamic law. The attacks were officially condemned by the World Heritage Committee, and in response to a request from the Malian government, Timbuktu and the Tomb of Askia were placed on the List of World Heritage in Danger (Tharoor 2012).

**FIGURE 2**

A man prays at the site of a mausoleum destroyed by extremists during the occupation of Three Saints Cemetery in Timbuktu, Mali. Even though many mausoleums have been destroyed, Malians continue to visit and worship the saints buried in Timbuktu, keeping alive an ancient religious practice.

Photo: Marco Dormino, 2013, courtesy UN MINUSMA, licensed under noncommercial Share Alike 2.0 Generic.



## Differences over Heritage Values

A fundamental part of values-based heritage management is to understand the heritage values held by different groups within a society and by the society as a whole. Ignoring or denying the heritage values of a group with close and enduring associations with a place is both unacceptable under the ICOMOS *Ethical Commitment Statement* (ICOMOS 2002) and highly likely to lead to protest. Two case studies in this publication illustrate this issue, both in relation to Indigenous communities. In the Quilmes case study by Maria Isabel Hernandez Llosas, for example, the denial of Indigenous identity and traditional connections to ancestral land resulted in violent confrontations, occupation of the site of Quilmes, and, finally, court action. Denial of access to ancestral land may have significant consequences when traditional cultural responsibilities cannot be carried out.

The Quilmes case study illustrates a “cultural rights” issue at the local level, illustrating how access to a group’s cultural heritage may be denied by those with greater political power. In this example, Indigenous people were seeking to reclaim their cultural identity, assert their cultural rights, and tell their own story, rather than have their heritage places relegated to the status as a relic of the past that today has no living community.

Particularly difficult conflicts can arise in relation to places of past atrocities. Tensions have arisen around remnants of World War II-era Nazi concentration and death camps in Europe. As well as the question of the conservation of the sites and structures—whether they should be preserved as found, reconstructed, or left to crumble—the most potent tensions relate to the interpretation and presentation of these sites, including contestation over who is highlighted as victim and who is depicted as perpetrator. The sites of the Auschwitz and Birkenau death camps, both in the township of Oświęcim, Poland, are now museums. These places became the focus of a series of disputes regarding nearby land uses. One involved protests over the establishment of a Carmelite convent (1984) and the erection of a large wooden



**FIGURE 3**

The Auschwitz cross, erected on the grounds of the Carmelite convent in the late 1980s, casts a shadow on the Auschwitz site. The building in the background is Block 11. Although the nuns relocated in 1993, the cross has not been removed and remains a source of controversy.

Photo: Signalhead, 2008, courtesy Wikimedia Commons, licensed under Creative Commons Attribution-Share Alike 3.0 Unported.



cross (1988) next to the Auschwitz Museum (fig. 3), arguing that Christian symbols “so close to the former concentration camp (would cause) grave offence to Jews around the world” (Charlesworth et al. 2006, 155). But for local Polish Catholics, there was a strong desire to express Christian sentiment after decades of communist repression. The convent was closed after years of protest, and a church was built elsewhere in the town and dedicated to the recently beatified Catholic priest Father Maksymilian Kolbe, who had been put to death at Auschwitz. Lack of a clear appreciation of the Polish historical and cultural contexts has been suggested as the key reason for the continuation and increasing polarization in these disputes over many years, ultimately leading to desecration of Jewish graves. The Auschwitz Museum, as a presenter of the Holocaust story, is caught between the demands of the world and the realities of Poland and its own local communities (Charlesworth et al. 2006, 160, 167, 168–69).

Another relevant example, examined in the Sites of Conscience case study by Liz Ševčenko in this volume, is the development of a museum—the Villa Grimaldi Peace Park in Santiago, Chile—designed to reflect on the experiences of those imprisoned and tortured at that location in the 1970s under the Pinochet regime. One of the issues faced in creating the museum was the continuing denial by some over whether the repressions took place at all, challenging the veracity of those who survived and now sought to communicate their experiences.

## Heritage and Human Rights

If heritage is at the center of personal and community cultural identity, then it may be argued that its protection is a right that should be morally and legally enforceable. The assertion of such “rights” is often contested, as illustrated above, and there may be very different perceptions about the status and legal or moral force of such rights. Internationally, the *Universal Declaration of Human Rights* (United

Nations 1948), widely accepted but not always acted upon by nation-states, defines a set of basic human rights, including the right to “participate in the cultural life of the community,” the “protection of moral and material rights” in their creations (Article 27), and the freedom of opinion and expression (Article 19). This raises the issue of whether these rights encompass the right to the free expression of cultural identity, including conservation of a place or continuation of a cultural practice at that place, and what happens when cultural identities collide, when a societal majority denies a minority identity, or when the definition of what is heritage is exclusionary.

The *International Covenant on Economic, Social and Cultural Rights*, adopted by the United Nations General Assembly in 1966, defines as a human right the right to “take part in cultural life” (Article 15). Further elaboration in 2009 refers to cultural rights as an integral part of human rights, recognizing that “respect for cultural rights is essential for the maintenance of human dignity and positive social interaction between individuals and communities in a diverse and multicultural world.” It asserts that all people have the right to “have access to their own cultural and linguistic heritage and to that of others” (UNESCO 2009, paras. 1, 49). Other expressed rights include the right to enjoy one’s own culture; the right to maintain, control, protect, and develop heritage; and the rights of peoples to self-determination and freedom of expression, thought, and religion (UNHRC 2011, paras. 34–48).

Other internationally recognized conventions, norms, and standards adopted by bodies such as the United Nations and UNESCO also make reference to cultural heritage in relation to human rights. The United Nations’ *Declaration on the Rights of Indigenous Peoples* (2007) refers to Indigenous peoples having a human right to their own heritage. The Quilmes case study illustrates the clashes that can occur when perceived or claimed Indigenous rights are not officially or legally recognized.

Intangible cultural heritage is the expression of living and evolving cultural practices. It is embodied in people and their knowledge and expressed in multiple ways. It is often subtle and highly nuanced, and the most celebrated forms likely to be recognized—such as performance, language, and art—may or may not be the most important to a community. Intangible cultural heritage can be integral to the importance of a heritage place to a particular community. For example, the Lake Condah Mission case study by Chris Johnston in this publication highlights the desire of Indigenous people to regain access to and ownership of the mission so that they may again experience the place and pass on their stories to younger community members.

Human rights issues may come to the fore if it is expected that a community will have to retain a cultural heritage that it wants to leave behind, although conversely, recognition may mean new support for a declining cultural heritage place, enabling a community to fulfill its desire to pass it on to the next generation. Cultural heritage places that embody the darker side of humanity offer an example where retaining a place helps transmit the memory to future generations, but not through the retention of cultural practices that infringe on human rights (UNHRC 2011, paras. 8, 74). Places associated with atrocities, as cited above, illustrate this point well.

International conventions also seek to protect cultural heritage and cultural rights at times of war or conflict, recognizing that the destruction of cultural heritage can be “used as a strategy to destroy the morale of the enemy” and, where it

occurs with discriminatory intent against a cultural community, can be charged as a crime against humanity (UNHRC 2011, para. 18).

During the 1990s, religious sites and other cultural symbols were intentionally and systematically damaged throughout Bosnia-Herzegovina, and in parts of Croatia and Kosovo during the Balkan wars of the period. Targeted sites included mosques, churches, cemeteries, libraries and archives, museums, and other cultural institutions. These actions and related systematic killings and other forms of destruction, referred to as “ethnic cleansing,” ultimately resulted in the indictment, and in some cases the conviction, of a number of Serbian leaders, including former Serbian president Slobodan Milošević, for crimes against humanity and violations of the laws or customs of war (Calic 2012, 133, 136–37).

The 2003 UNESCO *Declaration Concerning the Intentional Destruction of Cultural Heritage* recognizes that “cultural heritage is an important component of the cultural identity of communities, groups and individuals and of social cohesion, so that its intentional destruction may have adverse consequences on human dignity and human rights” (UNESCO 2003, Preamble, in UNHRC 2011, para. 20).

## Interpreting Heritage

Even place conservation and interpretation, undertaken with the best of intentions, can impact the heritage values of a cultural group; for example, when the assertion of national identity obliterates or dispossesses that of a local or ethnic community. In a plan developed by Parks Canada, the island of Grosse Île (see sidebar, p. 9), a former immigrant quarantine station, was designated as representing the national experience of immigration, expressed as “Canada: Land of Welcome and Hope.” Irish Canadians framed the island’s story differently, seeing it as a place of tragedy and death for their Irish ancestors. Finding a way to allow these two differing perspectives to coexist demonstrated the value of respecting difference in avoiding continuing conflict, and in valuing the diversity of cultural identities.

The Sites of Conscience case study offers another illustration of this issue. In creating the Lower East Side Tenement Museum, a five-story apartment building that was home to thousands of immigrants of more than twenty nationalities between 1863 and 1935, a decision was made to focus the interpretation by re-creating each apartment to reflect how it looked when a specific immigrant family lived there. But instead of harmony, conflict arose as immigrant groups from the neighborhood that were “excluded” from this interpretation protested. Underlying their concern was access to resources for housing in the neighborhood. Careful diagnosis of the interests and identities entwined in the conflict resulted in a creative resolution. Here the choices made in the interpretation of the place brought to the surface existing conflicts, as people felt that the proposed interpretation would assert the identity and legitimacy of one group over another.

## Heritage Practice

This section looks at some of the ways in which conflict or disagreement can arise in or through current approaches to heritage practice. Heritage as a defined professional area of activity is an evolving area of practice. Internationally, a number of influential organizations emerged during the mid-twentieth century. ICOMOS, for

## Grosse Île

In Canada, a place may be designated of “national historic significance by virtue of a direct association with a nationally significant aspect of Canadian history.” Guided by the National Historic Sites of Canada System Plan, Parks Canada seeks to identify places that can adequately represent each of the important historic themes in Canadian history (MacLean and Myers 2003, 5–6).

Grosse Île, a small island on the St. Lawrence River, near Quebec City, was selected by Parks Canada to represent the national theme of “Canada: Land of Welcome and Hope.” Because of its strategic location, this island was used as a quarantine station from 1832 to 1937, receiving newly arriving immigrants from Europe and the British Isles on their way to the mainland. Quebec City was Canada’s most important immigration port. Quarantine proved to be a necessity, and the station on Grosse Île was established after immigrant-borne epidemics of typhus and cholera killed thousands in the early 1830s. Disease continued to ravage new arrivals, however, with overcrowding on ships and poor conditions at the station adding to the risk (MacLean and Myers 2003, 7).

The importance of the history of Grosse Île was first recognized in 1909 by the Ancient Order of Hibernians, who placed a Celtic stone cross there in memory of the lost immigrants (MacLean and Myers 2003, 8). It was first designated as a National Historic

Site in 1980. Reconsidered in the light of the 1981 National Historic Sites of Canada System Plan, it was agreed that Grosse Île represented the theme of immigration. When Parks Canada assumed management of the site in 1988, it engaged in a detailed planning process, defining the primary interpretive theme of “Canada: Land of Welcome and Hope” as expressed through two ideas: “Immigration to Canada via Quebec City” (1830–1939) and “Grosse Île Quarantine Station (1832–1937).” Parks Canada sought to link the stories of a small island to the expansive concepts that framed the national experience of immigration (MacLean and Myers 2003, 8–9, 13–14).

When Parks Canada presented its development and interpretation concepts to the public in 1992, it caused an uproar among Irish Canadians across the entire nation as the plan failed to express sensitivity to the Irish tragedy at the height of the Great Famine in 1847. That year, 5,424 Irish immigrants died and were buried on Grosse Île, and more than five thousand emigrants perished at sea. After a period of further public consultation, Parks Canada recognized that the national values of “immigration” and the specific values expressed in relation to the Irish immigration could coexist. The site was renamed Grosse Île and the Irish Memorial National Historic Site of Canada in 1998, and construction began on a new memorial adjacent to the existing Irish Cemetery (figs. 4a, 4b). The decision to replace the theme

“Canada: Land of Welcome and Hope” with simply “Immigration” was an important step in recognizing the tragic dimensions of events and the deeply held feelings that remained about that history (MacLean and Myers 2003, 14–18).

In Grosse Île, the need to recognize the potential diversity of values and values holders is evident, along with the ever present possibility that other significant stakeholders can emerge at any point in the heritage planning and management process (MacLean and Myers 2003, 36).



**FIGURE 4A**

The Grosse Île Memorial, constructed as a result of a public consultation process regarding a controversial plan for the National Historic Site’s development and interpretation.

Photo: Cephas, 2013, courtesy Wikimedia Commons, licensed under Creative Commons Attribution Share Alike 3.0 Unported.



**FIGURE 4B**

Detail of the Grosse Île Memorial, showing names of immigrants who died at the site.

Photo: Margaret MacLean.  
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example, sets standards and advocates for the protection of cultural heritage places, working at the international level through UNESCO and nationally throughout many countries. It is a nongovernment organization comprising a network of experts “that benefits from the interdisciplinary exchange of its members, among which are architects, historians, archaeologists, art historians, geographers, anthropologists, engineers and town planners” (ICOMOS 2015). The work of ICOMOS is based on the principles enshrined in the 1964 *International Charter for the Conservation and Restoration of Monuments and Sites*, commonly referred to as the Venice Charter (ICOMOS 1965).

As in many professional domains, approaches and standards evolve in response to changing understandings and values both within the profession and across the wider community. Cultural heritage as a practice has developed out of a number of other academic disciplines and fields of professional practice, such as architecture, archaeology, and history, initially influenced by the perspectives of each discipline but increasingly developing its own identity, philosophical and methodological frameworks, critiques, and ethical positions.

As a relatively young field of practice, cultural heritage has been a dynamic domain and continues to actively engage with many issues and challenges in practice. Some of these are discussed later in this paper.

Here we look at heritage practice through its broad processes: defining heritage, engaging stakeholders, understanding values, developing policy, taking action to conserve, and presenting and interpreting a place.

### **Who Defines Cultural Heritage?**

Defining cultural heritage can open a realm of dispute and disagreement in heritage practice. Formal definitions generally occur through legislation or other guidance, offering a measure against which the heritage values of a particular place can be tested. Many disputes revolve around the processes of determining whether a place is “heritage” or not; that is, does it fit the definition applicable in that locality? Parties with different interests may assert opposing views. What is “heritage” in one jurisdiction may not be heritage in another, even within the same country.

Specific heritage values attributed to a place are also often the basis for disputes, with different parties presenting claims for or against certain values. Sometimes this simply reflects different perspectives on or connections to a place: for example, an Indigenous community may regard a rock art site as a place of spiritual significance, whereas archaeologists may emphasize its antiquity and visitors may admire its beauty. If all the asserted heritage values are recognized in a heritage system, a dispute is unlikely. But if one heritage value is acknowledged and others rejected, a dispute or discord may be inevitable.

In other instances, one party may argue against some or all heritage values while seeking to demolish or redevelop a heritage place, whereas other parties advocate for the protection of heritage values. Interpretation of legislative definitions, criteria, and guidelines becomes central in such disputes.

In the World Heritage system, it has been suggested that “heritage protection campaigns serve ideological and political purposes such as nation building” (Logan 2009, 14). As some of the examples in this chapter illustrate, such actions may boost the profile of one cultural group in a positive way but may also be used to dominate, deny, or assimilate others.

A fundamental risk with the international listing of cultural heritage—tangible and intangible—is that in a politicized process, state parties get to play favorites.

Some cultural heritage expressions will be recognized and others rejected. “Successful” communities may rejoice, and those that fail may abandon their heritage for one more likely to lead to success; in some settings this may exacerbate internal cultural conflicts.

### **Engaging Stakeholders**

Cultural heritage is a lived experience as well as a professional field of practice. Many jurisdictions give it statutory protection, which mandates legal responsibilities, often at multiple levels of government for a single place. Each heritage place is therefore likely to have multiple stakeholders, and identifying all stakeholders can be a challenge. Different stakeholders may attribute different interests, values, and identities to a heritage place. Stakeholders may also have established relationships with one another. In the consensus building process described in Stacie Nicole Smith’s contribution to this volume, identifying stakeholders and clarifying their interests, values, and identities is considered a key foundation for success.

Three of the case studies in this publication illustrate approaches to identifying and engaging stakeholders. The El Mirador case study, by Jeremy Radachowsky and Bayron Castellanos, illustrates the importance of engaging with the full range of stakeholders and demonstrates one approach: a roundtable to which all stakeholders are invited to participate. In the heritage tourism case study, Eugenio Yunis points out the need to think broadly about the potential stakeholders when there is tension between heritage conservation and tourism objectives, starting with those who may be directly or indirectly affected and who therefore need to have a role in finding solutions. Likewise, the Canadian legislation case study, by Christina Cameron, demonstrates how stakeholders across key government departments, provinces and territories, nongovernment organizations, and the private sector are engaged through a network designed to build collaboration between these different types of entities, each having differing interests in the outcome.

In understanding the significance of a heritage place, a critical category of stakeholders is those who have connections or associations with the place. The Australian Burra Charter is recognized internationally as offering best-practice principles and procedures for managing heritage places. It recognizes that “community and stakeholder engagement should occur throughout a heritage planning process” (Australia ICOMOS 2013).

The Burra Charter recognizes that there are connections or associations between people and a place that may include social or spiritual values and cultural responsibilities. Places may signify, indicate, evoke, or express important meanings through people’s lived experience in relation to the place (Australia ICOMOS 2013, Articles 15, 16). To ignore such connections may adversely impact the cultural identity, human dignity, and well-being of individuals, families, and cultural groups. The result may be conflict, withdrawal, or disaffection, all of which reduce the likelihood of an effective heritage planning process.

Understanding the heritage values attributed to a heritage place requires the involvement of or engagement with those who hold those values. While in the past, heritage values were seen as expert based and derived purely from research and expert knowledge, good heritage practice today requires direct engagement with stakeholders. For example, in the Blue House case study in this volume, Laurence Loh points out that a critical issue is understanding how the community perceives the Blue House: was it regarded as heritage, and what heritage values were attributed to it? In this instance, the method used was a phone survey. However, a wide

range of techniques are available to explore and document heritage values held by those with close and enduring associations with a heritage place, and to engage them through the whole heritage planning and management process as advocated in the Burra Charter.

Most heritage places have multiple stakeholders, and it is desirable that heritage planning processes respect and seek the coexistence of multiple values. The *Code on the Ethics of Co-existence in Conserving Significant Places* is one example of a heritage practice guideline designed to achieve this (Australia ICOMOS 1998). Where diversity is not recognized and respected, conflict may arise openly or through the denial or even repression of some values.

The Quilmes case study illustrates that a place can be important to different cultural or social groups for distinctly different reasons and based on different concepts of cultural heritage. At Quilmes, the national government and archaeologists who value the historical record contained in the site attribute archaeological heritage values to the site, whereas the Indigenous community sees it as a place of remembrance and memory. Because the government denied aspects of significance recognized by the Indigenous community, conflict arose. Such different framings of heritage significance are likely to lead to differences of opinion about conservation and interpretation actions.

Dissimilar understandings of what is heritage and what its primary values are may result in some heritage values being diminished in management of heritage places and values. Disagreements may arise over the facts, over whether the right stakeholders have been consulted, or even over the definition of cultural heritage. Heritage values recognized at different levels may be neither consistent nor complementary. In the development of a new heritage management plan for the city of Angkor in Cambodia (see sidebar, p. 13), engagement with the local people revealed a far wider set of heritage values than those recognized in the World Heritage listing. The resulting management plan has therefore been able to support the conservation of all heritage values, including local Cambodian spiritual, cultural, and social values, rather than emphasizing one set of heritage values—namely, World Heritage values.

Finally, the engagement of stakeholders requires consideration of the many external factors at play. For instance, the roles of and resources available to each key player may be of critical importance. A number of the case studies in this publication highlight how involvement in or exclusion from decision-making processes can make a real difference in how smoothly heritage planning and management proceeds.

## **The Roles of Heritage Professionals**

Heritage is a multidisciplinary field, with heritage professionals representing many different disciplines and occupying a wide range of roles in government, academia, and the private sector. Moreover, heritage is an increasingly complex domain and heritage professionals are expected to work with other specialists both within and outside the field, and to engage with a range of community-based heritage values and interests.

Each discipline brings its own way of looking at a heritage place and may emphasize certain values over others. For example, an architect would be expected to focus on the built form and fabric of a place; an anthropologist, on intangible

## The Great City of Angkor

Angkor, in Cambodia, recognized as an extraordinary cultural landscape extending over some 1,000 square kilometers and the largest known city in the preindustrial world, attracts more than two million tourists annually, a number that continues to rise. Its World Heritage status and the intrigue of a “lost civilization” rediscovered and rescued from the devouring jungle are romantic and appealing. But neither of these perspectives encompasses why this place is important to contemporary Cambodians or to the very local communities—numbering more than one hundred thousand—who live within its boundaries.

The Living with Heritage initiative arose out of Sydney University’s Greater Angkor Project. It sought to recognize and manage all the heritage values of this large and complex site and ultimately became part of the Angkor Heritage Management Framework project. It has worked with local communities on appreciating the importance of the great city of Angkor in their lives, traditions, and culture. The approach is one of participatory planning, with heritage specialists taking on the multiple roles of facilitator, consultant, and stakeholder to “ensure that all the ways in which the place has cultural value to different groups are revealed and taken into account in the way the place is managed” (Mackay and Sullivan 2009, 209). Workshops were used and maps created to document the values revealed, with a strong emphasis on mutual understanding of values among stakeholders.

To date, the process has revealed a much wider set of values “expressive of Angkor in its contemporary setting,” acknowledging its cultural continuity and traditional links and its place as a “living cultural and sacred landscape” for Cambodians and especially for local people for whom the land has been home and the source of their livelihood for generations (fig. 5) (Mackay and Sullivan 2009, 211).

Angkor illustrates the importance of recognizing all the values attributed to a heritage place, and acknowledges that heritage and other values held by different stakeholders may at times be in conflict. High numbers of visitors may displace ceremonies that form a part of important local traditions, or may prevent locals from enjoying the pleasure of simple activities, such as “a family picnic on the grass beside the moat at Angkor Wat” (Mackay and Sullivan 2009,

208). Management solutions therefore need to be explored collaboratively to achieve outcomes that broadly benefit stakeholders: for example, the need to coordinate the mechanization of agriculture to improve the income of subsistence farmers with the protection of buried archaeology.

The report *Angkor Heritage Management Framework*, prepared by GML Heritage for UNESCO, the Cambodian and Australian governments, and the site management authority (APSARA), recognizes that the values of Angkor are broader than the original World Heritage values and addresses the risks to the whole suite of values. An initiative arising from this framework and the accompanying Tourism Management Plan has been a community-based tourism project created by two local villages working with a participatory planning model designed to bring alive “natural and local community values” (GML Heritage 2013, 5, 14; Hall, Mackay, and Sullivan forthcoming). The project team worked with a community committee to identify local heritage values and the knowledge and experiences that community members were able to share with a visitor. The resulting tour links contemporary community activities—such as a forest nursery—with the experience of traveling across the *baray* (an artificial water basin dating from Angkorean times) in a traditional boat to visit a temple, reflecting and interpreting the significance of water in Khmer society from Angkorean times to the present (Hall, Mackay, and Sullivan forthcoming).



**FIGURE 5**

A group of Buddhist monks near a reflecting pool at Angkor Wat. Among its multilayered heritage values, Angkor Wat is a living sacred landscape where traditional cultural and religious practices continue to be exercised.

Photo: Sam Garza, 2006, courtesy Wikimedia Commons, licensed under Creative Commons Attribution 2.0 Generic.



cultural expressions such as performance or rituals associated with a place. Where the conservation of two aspects of a place is in conflict, the professionals associated with each aspect may end up at odds. Professional disciplines or domains tend to operate autonomously, which can result in a failure to appreciate other perspectives; this is true across all professions, not just heritage.

Bringing different views and perspectives to understanding all heritage and other values associated with a place is an essential and well-established approach in values-based heritage management. But when heritage practices increase the conflict or reduce the potential for mutual understanding of values and collaborative solution seeking, we need to question whether such processes are operating in the best interests of heritage.

Where disputes exist around a heritage place, heritage professionals can be drawn in and asked to advocate for particular positions, potentially heightening a conflict, increasing the level of dispute over facts, and ultimately risking some of the heritage values. Heritage professionals may find themselves in a position where their research or opinion is being used in ways they are not happy with, triggering conflict between experts and the commissioning body. The ICOMOS *Ethical Commitment Statement* (2002) is one source of guidance through complex practice issues.

In many countries, heritage processes are legalistic and use adversarial court-like systems to determine the heritage significance of a place or to determine appropriate actions, such as whether the place should be protected under law or whether changes, including demolition, are to be allowed. Heritage professionals are often asked to be advocates for a particular position, such as that of the community or of a developer or government heritage agency. While each heritage professional may be expected to maintain an independent perspective, this can be difficult, resulting in “dueling experts” and robust cross-examination. Such a process is unlikely to result in agreement on the facts and may cause participants to overemphasize differences.

Having recognized this, some jurisdictions ask experts to convene beforehand to identify matters on which there is agreement and those on which the facts or their interpretation is disputed, enabling the legal or administrative process to focus on these areas. Other jurisdictions seek to actively mediate such issues to seek an agreement that better meets the needs of all parties.

Some aspects of heritage conservation are highly scientific, and in these realms there can be disagreement over the right approach to take or the correct interpretation of data. This may be the case, for example, in choosing a particular technique to enable the dating of a site, or in selecting a consolidating material to conserve a stone surface. In these instances, discussion is to be encouraged so that the whole field can become better informed about the merits of particular techniques (ICOMOS 2002). Joint fact finding (see Smith’s paper), a collaborative process designed to bring stakeholders together to examine the facts as a foundation for good decision making, may be a suitable method.

## **Making Decisions about a Heritage Place**

Once the heritage values of a place have been established, decisions about its future can be made. Stakeholders, especially those with enduring associations with a place, should be active participants in this process, and decision-making processes

should be inclusive and culturally sensitive. Establishing good processes designed to recognize differing interests, avoid position taking, and explore a range of options is fundamental.

If decision makers lack a full understanding of how heritage values are attributed to a place, disagreement may not arise until specific management actions are proposed or implemented. For example, the Lake Condah case study in this volume describes the reconstruction of a building that had long served as an Aboriginal children's dormitory. While initially supported by the Indigenous community, the reconstruction was to a period prior to living memory. To those who had lived in the dormitory, it was not *their* dormitory, and they felt their history had been denied. They responded with anger, an outcome no one had anticipated.

The Lake Condah case study illustrates that key players may have very different understandings of what constitutes heritage significance and how this influences conservation decisions. Such differences arise from a lack of communication, failure to clearly articulate heritage values, or differing worldviews based on factors such as culture, experience, or profession.

Similarly, the New South Wales (NSW) government's development proposals for The Rocks in Sydney (see sidebar below) ultimately collided with public and local community opinion. A typical feature of development-versus-heritage disputes such as this one is that pro-development and pro-conservation stakeholders are likely to argue their respective cases from different perspectives, making common ground hard to find. For example, developers are likely to argue their case from an economic discourse focusing on the commercial value of heritage; local communities may argue in relation to local identity; and town planners may argue in terms of urban planning and design considerations. Appreciating the differing perspectives of others can be challenging.

### The Rocks, Sydney

Located in Australia on the edge of Sydney Harbor and a stone's throw from the Harbour Bridge, The Rocks is today regarded as a precious part of Sydney's heritage, much loved by locals and visitors alike. This rocky promontory was an early focus for European settlement in Sydney, and being close to the wharves it was an important commercial hub and a residential area for dockworkers. The precinct retains a variety of nineteenth-century cottages, terrace houses, hotels, churches, warehouses, and wharves, clustered tightly along a network of narrow streets interconnected by steps. Other key features are sandstone outcrops and retaining walls, as well as views along the streets and to the wharves, harbor, and bridge.

The Rocks was first acknowledged for its heritage values in 1980, when it was added to Australia's Register of the National Estate, signaling a major shift in public sentiment. During the nineteenth and

early twentieth centuries, The Rocks had a reputation as a place of ill repute. An outbreak of bubonic plague in 1900 started at Millers Point, a part of The Rocks; the waterfront was barricaded off and the whole area disinfected and fumigated. The Rocks was labeled a slum, and the government took back possession of a large section of waterfront from Darling Harbour to Circular Quay, buying up around nine hundred houses along with wharves, bond stores, factories, and workshops (The Rocks 2015).

Government ownership was designed to facilitate redevelopment. Houses were demolished in the early 1900s, and again in the 1920s for the building of the Harbour Bridge, then once more in the mid-1950s for construction of the Cahill Expressway, an elevated freeway that slices through The Rocks and Circular Quay (fig. 6). Public opposition was vocal, and the design was described as "ridiculous," "ugly," "unsightly," and "a monstrosity." The Quay Planning Protest Committee formed in 1948 to fight

*(continued)*



**FIGURE 6**  
Excavation through The Rocks for construction of the Cahill Expressway's southern approach to the Sydney Harbour Bridge in 1955.

Photo: City of Sydney Archives.

the proposal, but without success; the elevated section of the Cahill Expressway opened in 1955 (City of Sydney 2015). Nevertheless, this action represents the start of protests dedicated to saving The Rocks.

By that time, The Rocks had become the “gateway” to Sydney. A series of government-sponsored redevelopment plans emerged in the 1960s and early 1970s under the guidance of the newly formed Sydney Cove Redevelopment Authority. But local residents, many with connections going back several generations, rose up in protest, fearing the redevelopment would mean the end of their community. They formed The Rocks Residents Group to oppose the plans, and gained the support of the Australian Builders Labourers Federation (BLF), an activist trade union committed to social responsibility that had started to impose work bans in defense of the environment, seeking to protect open spaces from development, to save existing housing stock from demolition, and to preserve older-style buildings from

replacement (Burgmann and Burgmann 2011). These work bans were known colloquially as “green bans.”

The Rocks’ green ban was declared in 1971, allowing The Rocks Residents Group time to draw up a “People’s Plan” that combined revitalization and heritage protection. When it appeared that the government would proceed with the redevelopment plan using non-union labor, local residents and unionists rallied together in street protests. After several years of conflict, a compromise was reached and the work bans were lifted in 1975, with the government agreeing to conserve the historic precinct, retain and expand public housing, and remove any high-rise buildings not in conformity with the People’s Plan (Burgmann and Burgmann 2011). Green bans indicated a change in public sentiment toward heritage, reflected in the passing of the Australian Heritage Commission Act that same year—which created Australia’s first national heritage list, the Register of the National Estate—and followed in 1977 by the first NSW Heritage Act (The Rocks 2015).

Today, both conservation and development within The Rocks are guided by a heritage management plan under the direction of the Sydney Harbour Foreshore Authority (SHFA). While The Rocks has largely lost its working-class residential community, Millers Point remained intact until the NSW government began to relocate these residents and sell government-owned properties to the private sector in 2014. The Rocks has remained highly significant to Millers Point residents over the last forty years as part of their sense of identity, expressing a deeply felt connection to their past and of community survival (Sydney Harbour Foreshore Authority 2010a, 21, 27; Perrottet 2014; Hasham 2015). For the people of Sydney and Australia, The Rocks represents the foundation of the colony and the story of European colonization. These are but two of many layers of heritage values expressed in the tangible and intangible aspects of The Rocks.

## Heritage as Part of Public Policy

Heritage protection and valorization form part of the wider domain of public policy and governance. Divergences of opinion about the merits of heritage retention may arise from competing public policy agendas (e.g., heritage conservation versus new development) and require resolution through legal means or government decision making. This is a normal part of public policy processes. Given the importance of

heritage in cultural identity, such processes need to be applied with considerable sensitivity. This section looks at some of the ways in which heritage places may feature in public policy debates.

Public policy refers to government policy and is typically embodied in laws, regulations, funding priorities, and government decision-making processes. Ideally, it is based on promoting and protecting what is perceived to be the common good, reflects societally agreed principles, and seeks to balance different needs, interests, and values to achieve equitable outcomes. However, public policy is complex and dynamic, responding to changes in a society's values and perceptions. Ideal outcomes are often not achieved, which sometimes results in controversy.

Public policy addresses and is often required to adjudicate between economic, social, environmental and political perspectives. Because public policy typically encompasses a diversity of societal needs and aspirations, it often embodies the tension between different needs and aspirations and may define how these are to be resolved. For example, the decision about recognizing and protecting a heritage place may be adjudicated by an expert body such as a "heritage council" or by a court-like structure such as a tribunal. The process may be informed by evidence presented by external experts and by advocacy from parties with different interests, such as the property owner, a local heritage group, or Indigenous traditional owners. Many different individuals and organizations may compete or collaborate to seek to influence public policy and achieve particular outcomes. However, the ultimate decision remains in the hands of government.

### **Complexities in Shaping Public Policy**

Governments often place different policy agendas into distinct portfolios or departments, institutionalizing an interdepartmental process of competition or collaboration. Overcoming these policy "silos" has been a long-term concern of public policy makers, and the Mutual Gains Approach, described in Smith, is relevant.

Cameron's Canadian legislation case study offers a good example of the complexities inherent in public policy development. It illustrates an innovative approach to building networks involving government and external stakeholders while also demonstrating how "power" and "entrenched positions" may work against opportunities to develop a consensus-based approach. This case study shows that particular government agencies' mandates and interests are of great importance in achieving a new public policy outcome. For example, Cameron identifies the transfer of the Historic Places Initiative from the Minister for Canadian Heritage to the Minister for the Environment (and therefore the Department of the Environment) as a key factor in the failure of this initiative to succeed because of the latter agency's disinterest in historic places. Similarly, the extent and strength of the advocacy brought to bear on this policy development process by external organizations proved heritage to be a relatively weak player compared to environment.

Public policy sometimes involves the use of court-based processes to arbitrate differences and find a suitable solution. Such differences may be embodied in a suite of public policies or in the needs and interests of particular stakeholders. A typical example is where there is a dispute over protection of a heritage place versus redevelopment of the site.

On the world stage, public policy comes into play when differences between national agendas and international agreements may be argued out by state parties through the processes of the World Heritage Committee. This sometimes occurs when the World Heritage Committee discusses potentially adding a property to the

List of World Heritage in Danger. In such cases, state parties (i.e., nations) responsible for the place are likely to emphasize the care they are giving it, whereas the international community may take a different view, as was the case with Kakadu National Park World Heritage Site during the controversy over uranium mining (Aplin 2004, 158–68).

## **Development Planning and Heritage Places**

The development planning process can be fraught with tension or disagreement when considering potential impacts to heritage places. These challenges can take a number of different forms.

The design of decision-making processes can be critically important in reducing the potential for disagreement to arise. Compare two of this publication's case studies. In the Quilmes case study by Hernandez Llosas, decision making was exclusively held by the government of the day, alienating the Indigenous community for many decades and finally resulting in their direct action to occupy the site of Quilmes. In the El Mirador case study by Radachowsky and Castellanos, a presidential decree in 2002 establishing a special protected area was challenged in the courts and ultimately overturned. While initial attempts to establish effective stakeholder engagement and collaborative planning processes did not succeed, eventually the El Mirador Roundtable was formed, offering a new paradigm in decision making for this place. Both case studies also illustrate how government power structures can deny the rights of Indigenous peoples and neglect to recognize the diversity of heritage values present in a place.

Development proposals and associated impact assessment processes often become the focus of disagreements around heritage values and places. Many such situations pit the merits of the economic or utilitarian benefits of development against the benefits of heritage conservation. In most cases, conflict arises when heritage values and economic values come head to head. Occasionally, heritage conservation arguments are presented disingenuously, when no heritage values exist to challenge development and change, with the hope that heritage protection legislation will prevent or constrain development.

Tensions between heritage conservation advocates and parties with economic and utilitarian interests related to natural resource extraction as well as dam building are common globally, often surfacing when the price of or demand for a specific raw material increases. Heritage agencies and traditional owners may not be prepared for the intense interest of a mining company or have sufficient resources to respond in the time frames often demanded.

In Kakadu, Australia (see sidebar in Smith, pp. 27–30), controversy initially set the national economic benefits of uranium mining against environmental issues. Later, as Aboriginal land rights began to gain legal recognition, the debate shifted focus to the protection of Aboriginal rights and traditional cultural places, with a massive public protest and expressions of concern from the World Heritage Committee. The traditional owners revoked an early agreement with a mining company, saying that the original process did not enable them to properly consider the matter and provide informed consent.

In the first decade of the twentieth century, controversy resulted from the initiation and expansion of activities of a major energy development corporation, the Bill Barrett Corporation (BBC), to extract natural gas within Nine Mile Canyon, Utah,

**FIGURE 7**

Truck traffic in Utah's Nine Mile Canyon stirred up dust clouds, negatively impacting the Native American rock art. This photo was taken prior to the 2010 negotiated agreement between heritage and environmental advocates and energy producers that now protects the rock art while allowing for the extraction of natural gas. The road has since been rerouted away from the rock art panels.

Photo: Steven C. Hansen.



in the United States, which contains one of the largest concentrations of Native American rock engravings and paintings in North America. The development involved the establishment of new roads and pipelines, as well as a regular flow of over a hundred large trucks per day down a dirt road in Nine Mile Canyon to more than two hundred natural gas wells. Heritage advocates and members of the Hopi tribe decried the negative effects on rock art of the truck traffic, particularly through the stirring up of dense dust clouds and potentially magnesium chloride, applied to the roads as a dust suppressant (fig. 7). Ultimately, the dispute was resolved through a negotiated agreement between the environmental and heritage advocates and the BBC that reduced the extent of natural gas development and committed to mitigation measures aimed to protect rock art and archaeological resources (Tobin 2011).

The possibility of achieving solutions that will sustain both economic and heritage outcomes is clearly the most desirable, but perhaps is less often achieved. The planning process at the site of Chan Chan, Peru, offers a positive example of how engaging with the range of agendas and interests can enable social, economic, and heritage needs to be addressed (Castellanos 2002).

At times heritage conservation is portrayed as an insurmountable obstacle to new development when in fact it is not. In the Blue House case study by Loh, the proposed development on the site of the Blue House was not aligned with the needs of the agency expected to occupy the new building. Recognition of strong community connections to the Blue House—an aspect of its heritage value—resulted in a government decision to retain the Blue House and use it for community purposes, and to relocate the agency into premises better suited to its present and future needs. The Macao community is now more aware of the policy frameworks affecting heritage and has actively expressed views on subsequent heritage issues.

Sometimes previously unknown heritage values are revealed through development planning processes. An example is The Rocks, in Sydney, where community

heritage values were revealed when major redevelopment plans were released by the government (see sidebar, pp. 15–16). Today, engaging the community and respecting heritage values is a key requirement of the heritage management plan established for The Rocks. This plan recognizes that “a resident community is important to The Rocks’ ‘sense of place’” and contributes to its heritage significance. Further, the plan recognizes that The Rocks’ community is everyone with a common interest in The Rocks—residents, workers, tenants, and visitors—as they all have a keen continuing interest in protecting its heritage values (Sydney Harbour Foreshore Authority 2010a, 29).

The settings of heritage places can also be impacted by development even though the specific heritage place itself is protected. Again, The Rocks provides a good example. The Rocks is now protected from the high-rise development that threatened it in the past. A policy framework has been developed that addresses key issues, including the setting. In the 1920s, construction of the Sydney Harbour Bridge severed the physical connection between The Rocks and the adjacent historic area known as Millers Point (Sydney Harbour Foreshore Authority 2010a, 13). Today, the Bridge is part of Sydney’s heritage, but preventing future disconnections is a part of the current heritage management plan. Views from The Rocks to the harbor reflect historical connections, and the plan recommends these views be identified and protected (Sydney Harbour Foreshore Authority 2010b, 21). Defining the setting or visual catchment area of The Rocks beyond its defined heritage curtilage will ensure that the impacts of change or development are considered in decision making. This visual catchment is large and includes the Sydney Harbour Bridge, the inner harbor across to the northern shoreline, the view to the Sydney Opera House, and vistas along several streets toward The Rocks (Sydney Harbour Foreshore Authority 2010b, 21).

## **Tourism in Heritage Places**

Tourists often seek opportunities to engage with cultural expressions and heritage places. Yet the objectives of tourism development and heritage conservation do not always align.

Tension can arise between those who have interests in heritage as a tourism resource, typically for economic reasons, and those who value the conservation of heritage, or who value heritage for its ability to provide authentic cultural experiences, or as part of local culture. In some cases, tourism to a heritage place may be a significant source of income for a nation or locality. However, mass tourism to that place may be deemed as exceeding its safe carrying capacity, and the number of visitors is therefore viewed as a direct threat to the heritage. High-profile examples include Machu Picchu in Peru (Zan and Lusiani 2011, 329–71), the Valley of the Kings in Egypt (Weeks 2008, 12–15), Angkor World Heritage Site in Cambodia, and the historic city of Venice, Italy.

The nature of tourism can also change the character of a place, whether through efforts to attract or cater to tourists by restoring or reconstructing historic fabric, through changes in uses of space, such as converting historic buildings to hotels and souvenir shops, or because tourists are now the dominant users of the place. Local inhabitants can feel alienated from these places, no longer able to enjoy a part of what was once important to them. Well-known examples include European cities such as Venice and Bruges, Belgium.

In the historic city of York, United Kingdom, it has been suggested that a decision by the local government authority to build a shopping complex outside the medieval heart of the city, which conservation advocates have argued will hurt small retailers in the historic core, was enabled by the local community's loss of connection to the town center as a result of the number of tourists visiting each year (now around seven million) or by the perception that contemporary retail vitality and historic fabric are incompatible (Grenville 2015).

At Angkor, the growing number of visitors risks the displacement of local traditions and spiritual ceremonies. One of the responses in the new heritage management plan has been to encourage greater dispersal of tourists to reduce physical and community impacts. The plan was developed through a participatory process that was designed to enhance mutual understanding and find widely agreed solutions. An initiative of the plan has been to work with village communities within the greater Angkor area to help them develop their own tourism enterprises so they can offer visitors the opportunity to understand local heritage values and build a new respect for these local community connections (see sidebar, p. 13).

The Lake Condah case study reveals how the government's development of a tourism complex next to the Lake Condah Mission, with the intention of establishing a tourism enterprise to support Aboriginal people, backfired. This resulted in members of the Aboriginal community feeling that this place that was central to their history and sense of identity was designed for tourists, not for them. The conflicting feelings about this situation finally resulted in protest and closure of the tourism complex to outsiders.

Tourists are not just passive consumers. They bring their own needs, values, and identities, and may well be visiting because of their connection with that place and its history. As Liz Ševčenko points out in her case study, they may be "immediate survivors; descendants of people with direct experience; people with a related experience in their own country" (p. 168). At a heritage site where the focus is on the "unconnected visitor," the consequence for the connected visitor may be to feel disengaged or to actively dispute the story being interpreted, as she recounts in relation to the Lower East Side Tenement Museum.

## **Opportunities for New Approaches**

A range of issues and challenges that commonly occur within the heritage field lend themselves to the application of dispute resolution and consensus building methods. The formal practice of dispute resolution has been in existence since the 1970s. Over time this field has developed an expanding number of approaches that have been tested and improved through their practical application to challenges relating to a broad range of fields of practice and areas of public policy.

Heritage practitioners have tried a number of approaches to dealing with such challenges, sometimes successfully. However, these efforts have not been broadly based on formal methods of the dispute resolution field. In addition, there is little indication that formal dispute resolution methods have been taught within academic programs on heritage management. Therefore, it is believed that the dispute resolution field offers a number of concepts, methods, and success stories that are ripe for application by the heritage field. Part 3 of these proceedings, "Conclusions and Recommendations," contains specific suggestions for the application of dispute resolution methods within heritage practice, education, and professional training.



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# Consensus Building for Cultural Heritage Place Management

*Stacie Nicole Smith*

This background paper provides a framework for heritage professionals to the use of collaborative practices such as consensus building and negotiation to respond to issues and challenges in heritage planning and management. The first section introduces the practice of consensus building. The second provides an overview of fundamental concepts. Section 3 describes the roles in a collaborative process from facilitator to technical expert, advocate, or decision maker, noting potential roles for heritage professionals. In section 4, the focus is on the collaborative practices that make up consensus building, including specific examples of strategies and tools to improve management processes and outcomes. The final section provides additional advice for dealing with some of the most challenging conflicts, such as disputes involving deep differences in identities and values.<sup>1</sup> To illustrate and exemplify these points, this paper draws from the heritage case studies in this volume, as well as other heritage and non-heritage examples.

## **Section 1: Introduction to Consensus Building Practice**

In all realms of public life, disputes arise over how to allocate scarce resources, set social and economic priorities, and create government policies. Individuals and groups in these disputes utilize a range of approaches to try to reach a resolution and meet their objectives. These approaches can be categorized as *power-based approaches*, *rights-based approaches*, or *interest/needs-based approaches*. Power-based approaches include any number of methods that seek to achieve goals unilaterally—that is, without the consent of the other parties. In heritage management disputes, this could mean simply using direct authority to identify places for heritage protection, to set policies for conserving places, to approve development of heritage places, or to undertake development of their own sites regardless of the impact on others. These might be fought with other power-based approaches, from legislative lobbying to civil protest. Power-based approaches to heritage conflicts are not uncommon, as exemplified by the destruction of the Bamiyan Buddhas or the occupation of Quilmes, Argentina, particularly when one party has the ability to impose or coerce its preferred outcomes with minimal or acceptable cost, or lacks access to other methods for resolution. Another set of approaches is based on rights encoded in ethics or in law and enforced by legal means. As discussed in the Quilmes case study (Hernandez Llosas, this volume), the Indigenous community of Quilmes claims the rights to its traditional lands and has tried to enforce these rights in courts (so far unsuccessfully, leading them to power-based methods). Members of the Mirrar clan, in Kakadu National Park (see sidebar, pp. 27–30), used their legal rights as traditional owners to prevent the transportation of uranium ore.

They also used power-based approaches, including appeals to elected officials and physical blockades.

However, using power- and rights-based approaches alone to resolve disputes rarely leads to mutually satisfactory outcomes, as one party typically prevails at the expense of another (Ury, Brett, and Goldberg 1993, 7). Such approaches often carry risks and come at a price, even for the victors, in terms of reputation and relationships, sustainability of outcomes, and money, time, or lives lost. Power-based outcomes can violate ethical standards, and even rights-based approaches can fail to live up to moral precepts, because institutions for enforcement of rights are imperfect, many rights are not legally enforceable, and groups in dispute may each claim valid yet conflicting rights (as in the stories in the Lower East Side Tenement Museum; Ševčenko, this volume). These approaches also reduce opportunities to reach creative, more holistic, and sustainable outcomes that can be discovered only through collaboration, such as the environmental protection, local empowerment, and fundraising achievements of the Mirador Roundtable, as described in the El Mirador case study by Radachowsky and Castellanos in this publication.

Several decades ago, few alternatives existed to these approaches. However, in the 1970s in the United States, a number of independent efforts arose that sought to resolve disputes by focusing on what each party cares most about and finding resolutions that address those underlying concerns. From this evolved public consensus building, an interest- and needs-based methodology for bringing together leaders, concerned groups, and the public to resolve contentious issues that will have broad impacts on specific groups and citizens at large (Susskind and McKernan 1999). This set of collaborative approaches can be distinguished from the power- and rights-based approaches primarily by the difference of mutual acceptability: parties using power- and rights-based approaches work to meet their needs without regard to the impacts on other parties (and often at the expense of the needs of other parties), whereas collaborative approaches require all parties to seek outcomes acceptable to all parties.

The consensus building methodology presented in this paper is drawn largely from the theory and principles of negotiation developed during the Program on Negotiation (PON) at Harvard Law School and its affiliated organizations over the past three decades, as well as other scholars and practitioners. PON is an interuniversity consortium dedicated to developing the theory and practice of negotiation and dispute resolution. The principles are based on interaction between scholarly research and practical application in the fields of law, psychology, public policy, business, and political science, and have been adapted to the arena of public dispute resolution and collaborative decision making. The methodology presented here draws from interest-based approaches, which focus on the core needs and concerns of parties, as well as social-psychological approaches, which center on the fundamental values, identities, and emotions that contribute to conflicts.<sup>2</sup>

The consensus building process is a framework for developing and implementing collaborative decision making. It is appropriate for situations in which two or more parties or groups seek to affect outcomes on a complex, interrelated set of issues, and when their support—if not full agreement, then at least broad-based consent—is helpful or essential to the implementation and long-term sustainability of the decisions. It is, in essence, a way to structure and coordinate deliberations so that participants can work together efficiently and productively.

An effective approach to negotiation lies at the heart of the consensus building process. The Mutual Gains Approach (MGA), a methodology for negotiation devel-

oped at PON and the Consensus Building Institute (CBI), helps parties reach decisions and agreements that are more acceptable, more stable, and wiser than those reached through conventional or unilateral processes.<sup>3</sup> This approach offers a set of principles and strategies that enable people and groups to maximize the chances of achieving their core objectives while responding to the needs, interests, and values of other stakeholders. The approach also maximizes the chances that the negotiation process will help build and improve relationships between negotiating parties. It cannot guarantee a mutually satisfactory agreement; however, it can help to ensure that the negotiation process is efficient and that all available mutual gains are realized.

Many heritage professionals, such as the authors of the case studies in this volume, are already using elements of mutual gains negotiation and consensus building in their work. Yet, the ideas and approaches highlighted here have not been systematically and universally applied to heritage place management. This paper aims to fill that gap by providing practical tools for professionals faced with complex, multiparty heritage challenges, and by offering a pathway for management outcomes that are legitimate, implementable, and sustainable over time.

## Section 2: Concepts of Fundamental Consensus Building

Like any technical field, the field of public dispute resolution has developed a number of terms and concepts that are defined and used in particular ways. Among the most important concepts are *stakeholders*; *interests*, *values*, and *identities*; and *alternatives and options*. These concepts are discussed in detail below. Succinct definitions of these and other consensus building terminology can be found in the glossary.

### Stakeholders

In the heritage field, the concept of *stakeholder* is often used broadly to refer to anyone associated with a heritage place or issues related to it. In the field of public dispute resolution, this definition has been differentiated more specifically in order to help guide a fuller determination of the relevant parties to engage in a decision-making or conflict resolution process. Under this definition, a stakeholder is any person, group, or organization with one of the following characteristics:

- Has an interest or concern (a stake) in the situation, issue, or conflict, or will be fundamentally affected by outcomes
- Has power or authority, or may otherwise be needed to implement any outcome or solution
- May try to undermine the process if not meaningfully involved
- Has resources to contribute to the process or solution

Not all parties identified as stakeholders under this definition must become actively involved in eventual decision making. The definition encourages a thorough analysis of affected parties, those who are needed to implement an agreement, those who may obstruct it, and those who can contribute technical or monetary resources to a collaborative solution.

Questions about who is a legitimate stakeholder can sometimes be highly contentious, and can be fought over as a proxy for the underlying identity conflicts that are at stake. Leaving out core stakeholders or including stakeholders perceived as

illegitimate can threaten a collaborative process. In general, an approach of greater inclusivity will increase the perceived legitimacy of the process. In a representative process (as opposed to one that is open to all), it is also important to represent each of the stakeholder groups with individuals who are able to stand up for the needs and concerns of that group. Identification of stakeholders is not so much contentious as it is highly complex and challenging, with large numbers of overlapping and conflicting entities engaged over long periods of time. A situation assessment, described in the next section, is a tool for analyzing stakeholders, identifying credible representatives for stakeholder groups, and determining appropriate roles in a collaborative process.

### Interests, Values, and Identities

Collaborative processes and consensus building require an understanding of stakeholders' needs and concerns. These can be categorized as *interests* and *needs* (Maiese 2004) or further distinguished as interests, values, and identities.<sup>4</sup> These are differentiated from one another as a means of developing a detailed and nuanced understanding of each party's root, underlying concerns. Although stakeholders' core concerns can range across these categories, it is useful to disentangle them in order to develop appropriate responses.

To illustrate the use of these terms, we have prepared a case study on Jabiluka, a uranium mine in northern Australia, surrounded by Kakadu National Park (see sidebar below).

### Uranium Mining in Kakadu National Park

This case study focuses on Jabiluka, a uranium mine in northern Australia, surrounded by Kakadu National Park. The case study is designed to illustrate three concepts used in the public dispute resolution field: stakeholder interests, values, and identities.

#### Background

Kakadu National Park is a unique natural and cultural reserve. At nearly 20,000 square kilometers encompassing tidal flats, floodplains, lowlands, and plateaus, Kakadu is Australia's largest terrestrial national park. A place of enormous biodiversity, its complex of ecosystems provides habitat for a wide range of rare and endemic plant and animal species. Kakadu is also a place of great cultural significance: a living cultural landscape continuously inhabited for more than fifty thousand years, the park is rich in archaeological and spiritual sites and contains one of the world's largest bodies of rock art (fig. 1). The Aboriginal traditional owners have a deep spiritual attachment to the land based on the belief that the physical formations and the culture of Kakadu were shaped by spiritual ancestors of Aboriginal people

during the "Creation Time." As they journeyed across the country, these spiritual ancestors created land formations, plants, animals, and the Aboriginal people themselves, and endowed language, ceremonies, kinship rules, and ecological knowledge. They taught Aboriginal people "how to live with the land and look after the country," fostering a continuing sense of responsibility among Aboriginal people to care for



**FIGURE 1**

A view of the abundant Aboriginal rock art at Kakadu National Park.

Photo: Neville Agnew. © J. Paul Getty Trust.

(continued)

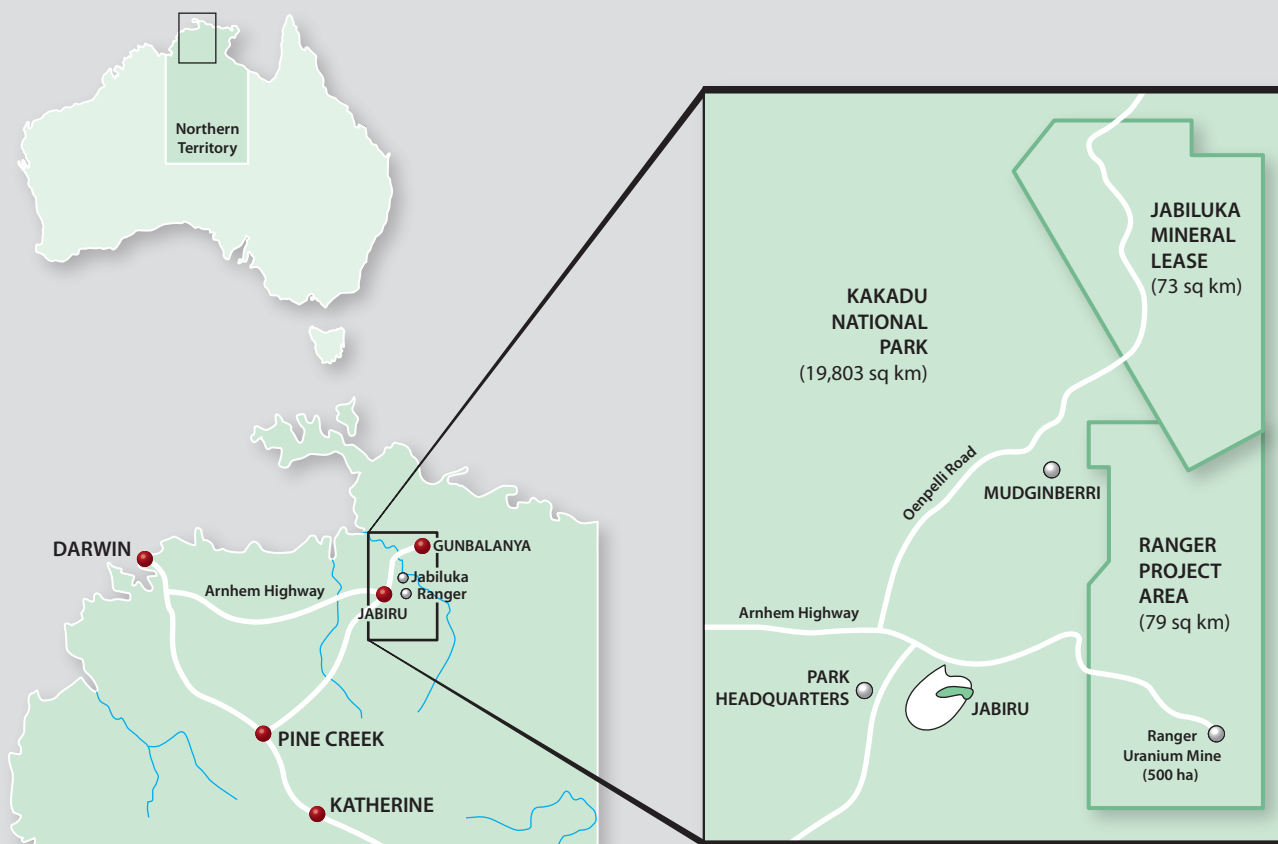
their country (Australia Department of the Environment 2015a; University of Melbourne Indigenous Studies Program 2004).

Joint management of the national park enables Aboriginal participation on the board and in hands-on management, enabling a continuation of traditional land management practices. Approximately half of the park is Aboriginal land under the Aboriginal Land Rights (Northern Territory) Act 1976, with further areas subject to land rights claims, and is leased back to the director of national parks (representing the Australian government agency Parks Australia) to be jointly managed as a national park. The lease agreements provide traditional owners and other relevant Aboriginal groups the right to continue traditional uses of the park for hunting, food gathering, and ceremonial and religious purposes, as well as the

right to reside within the park (Australia Department of the Environment 2015a).

### A Conflict Arises

Uranium was discovered in the Kakadu area in 1969, prior to the establishment of the national park. A national government inquiry into uranium mining in 1975, the Ranger Uranium Environmental Inquiry, focused on environmental issues, recognizing that many Australians were opposed to uranium mining because of the risks and dangers in the use of uranium in the nuclear power industry. The inquiry established the basis for uranium mining in Australia, and four mineral leases were approved—Ranger, Jabiluka, Koongarra, and Nabarlek—and the lease areas were deliberately excluded from the national park (fig. 2).



**FIGURE 2**  
Map showing the location of the four areas—Ranger, Jabiluka, Koongarra, and Nabarlek—leased for uranium mining in the Kakadu region.

(continued)



**FIGURE 3**

A view of the open pit at the Ranger uranium mine, located on the land of the Mirrar clan.

Photo: Alberto Otero Garcia, 2009, courtesy Wikimedia Commons, licensed under Creative Commons Attribution 2.0 Generic.

Kakadu National Park was established in 1979 and Aboriginal title was granted to extensive areas of land across the region from 1976. In 1981 Kakadu was inscribed on the World Heritage List for both its cultural and natural values (with extensions in 1987 and 1992 to cover the entire national park).

Of the four mineral leases, Ranger is currently the only operational uranium mine in this region (fig. 3). Koongarra has not been developed and is now included within the national park after years of lobbying by the Djok clan, traditional owners of this site. The Nabarlek mine was decommissioned in the late 1980s and the site has been substantially rehabilitated.

Jabiluka, like the Ranger mine, is on the land of the Mirrar clan, the traditional Aboriginal owners of much of the northeast region of Kakadu National Park and parts of Western Arnhem Land. The Mirrar claim that the initial agreement for the Jabiluka mine in 1982 was negotiated under extreme duress and contest its validity. When a mining company (Energy Resources of Australia [ERA], a Rio Tinto group company) commenced construction of the Jabiluka mine in 1998, the Mirrar led a major national and international campaign against the proposed mine. An alliance of Aboriginal, environmental, and anti-nuclear interests organized an eight-month blockade of the site that included more than five thousand protesters. In September 1999, the Mirrar exercised their

veto power over ERA's plan to transport ore to a milling facility 20 kilometers away for processing. During the short period that the mine was in operation, some 47,000 tons of uranium were extracted but not processed.

In 1999 the World Heritage Committee considered whether to place Kakadu National Park on the List of World Heritage in Danger as a result of issues raised by the UNESCO mission to Kakadu in late 1998. The resulting World Heritage Centre report reflects a grave concern "about the possible serious impacts to the living cultural values of Kakadu National Park posed by the proposal to mine and mill uranium at Jabiluka." The report noted the need for "confidence and trust building through dialogue" and that "a more substantial and continuous dialogue needs to be established between the Australian government and the traditional owners of the Jabiluka Mineral Lease, the Mirrar Aboriginal people" (UNESCO 1999, n.p.).

Agreements are now in place between Rio Tinto and the Mirrar people that no further development will occur at Jabiluka without Mirrar approval. Rehabilitation of the site began in 2002, and the unprocessed ore has been put back into the mining tunnel. The Mirrar are seeking inclusion of the Jabiluka site into the Kakadu National Park and World Heritage Site (Gundjeihmi Aboriginal Corporation 2015; Australia Department of the Environment 2015b).

### **Interests, Values, and Identities**

This period, from the late 1960s to the end of the 1970s, saw the emergence in Australia of strong community concerns about the environment and cultural heritage, new legislation to protect that heritage, the Aboriginal land rights movement, and the signing of the World Heritage Convention. Uranium mining brought these elements together, and the key players—the Australian national government, Aboriginal traditional owners, mining companies, environmental and antinuclear interest groups (such as the Movement Against Uranium Mining, the Campaign Against Nuclear Energy, Friends of the Earth, and the Australian Conservation Foundation)—took up positions on the issue. It was a time when new interests were emerging in public policy debates and values were undergoing a dramatic shift across the community.

*(continued)*



To understand how uranium mining at Jabiluka became such a controversial issue, it is helpful to examine the interests, values, and identities of the stakeholders, as well as their differences. Table 1 offers a summary of the broad interests, values, and identities evident from what has been written about this issue.

It is important to note that interests, values, and identities are not immutable. For example, the

Australian government's declared "interests" have changed over time, reflecting the political persuasion of the government of the day. Similarly, the current commitment to joint management of a national park with Aboriginal people was not an interest prior to the 1970s.

**Table 1. A summary of stakeholder interests, values, and identities in the Kakadu National Park uranium mining controversy.**

<b>Stakeholder Groups</b>	<b>Key Interests:</b> <i>underlying needs or desires</i>	<b>Values and Beliefs:</b> <i>deeply held views of how the world should be</i>	<b>Identities:</b> <i>one's sense of self and of one's position in the world</i>
Aboriginal traditional owners	<ul style="list-style-type: none"> <li>Aboriginal living traditions remain strong.</li> <li>Gain economic benefits, such as jobs, for Aboriginal people</li> <li>Active role in planning, land management, and development decisions</li> <li>Free, prior, and informed consent</li> </ul>	<ul style="list-style-type: none"> <li>Country (i.e., the complex web of interrelationships between people and land) should be respected and not desecrated.</li> <li>Kakadu is Aboriginal land and Aboriginal people have a sacred obligation to care for the land, their people, and their culture.</li> </ul>	<ul style="list-style-type: none"> <li>Aboriginal people are the rightful owners and stewards of their land.</li> <li>Aboriginal people and land are inseparable.</li> </ul>
Aboriginal representative organizations (e.g., Northern Land Council)	<ul style="list-style-type: none"> <li>To fulfill responsibilities to ascertain and express the wishes of and protect the interests of Aboriginal traditional owners</li> <li>To assist Aboriginal people with pursuing their land claims</li> <li>To negotiate with third parties in relation to Aboriginal lands</li> </ul>	<ul style="list-style-type: none"> <li>Land is an integral part of Aboriginal law, culture, and their well-being.</li> <li>Australia's Aboriginal people have rights that should be upheld under the Aboriginal Land Rights Act (Northern Territory) 1976.</li> </ul>	<ul style="list-style-type: none"> <li>Entities with the role and responsibility to advocate for and protect Aboriginal interests</li> </ul>
Mining industry	<ul style="list-style-type: none"> <li>Economic gain in return for investment</li> <li>Develop/maintain a positive public image</li> </ul>	<ul style="list-style-type: none"> <li>Economic benefits offset limited environmental or cultural impacts.</li> <li>Nuclear power is cleaner than fossil fuel-based power.</li> </ul>	<ul style="list-style-type: none"> <li>The mining industry is the backbone of the country's economy.</li> </ul>
Environment groups	<ul style="list-style-type: none"> <li>Protect environment/ecosystems from degradation and destruction</li> <li>Prevent radioactive contamination of the environment</li> </ul>	<ul style="list-style-type: none"> <li>People should protect the environment and ecosystems rather than exploit them.</li> </ul>	<ul style="list-style-type: none"> <li>Guardians of the earth's environment for current and future generations</li> </ul>
Antinuclear groups	<ul style="list-style-type: none"> <li>Prevent mining and export of uranium</li> <li>Prevent radioactive contamination of the environment</li> <li>Prevent the expansion of nuclear weapons</li> </ul>	<ul style="list-style-type: none"> <li>Nuclear war is immoral.</li> <li>People should seek forms of energy that do not pose the threat of massive environmental contamination or destruction.</li> </ul>	<ul style="list-style-type: none"> <li>Guardians of the earth's environment for current and future generations</li> <li>Defenders against nuclear war</li> </ul>
Commonwealth government	<ul style="list-style-type: none"> <li>Protect cultural and natural heritage within the park, and the heritage values for which Kakadu was inscribed on the World Heritage List</li> <li>Promote economic benefits for all Australians</li> <li>Facilitate Aboriginal representation and participation in park management</li> <li>Promote culturally sensitive and sustainable economic development</li> </ul>	<ul style="list-style-type: none"> <li>Kakadu National Park is a resource for everyone.</li> <li>Available natural resources should be used to benefit everyone.</li> </ul>	<ul style="list-style-type: none"> <li>Politicians: responsible and balanced decision makers</li> <li>Public servants: providers of balanced and objective technical advice</li> </ul>

### Interests

Interests are underlying desires or needs that individuals and groups aim to achieve or meet. In a heritage context, interests can be tangible things, such as more land for buffer zones, increased jobs or national revenue, or intangible things, such as avoidance of uncertainty or a voice in decision making. Interests can usually be prioritized, and there may be multiple ways of meeting them. To feel satisfied by a collaborative decision, stakeholders will need their priority interests to be met.

Interests are different from “positions,” which are statements of particular favored outcomes or solutions.<sup>5</sup> Positions are usually stated in terms of the one outcome sought, rather than the underlying need that would be served by that specific outcome. For example, a position could be to “mine the uranium resource discovered in the Kakadu region.” For the Commonwealth government, an expected underlying *interest* would be to provide economic benefits for locals and the Australian community.

Collaborating on and negotiating agreements based on positions is difficult, since the positions that different parties take often appear to be incompatible. Interests are usually more flexible than positions; there may be several different options that can fulfill the underlying interests. Uncovering the underlying interests behind the positions opens the door to finding common ground and potential agreements. A well-designed collaborative process creates the space for parties to make this shift from positions to priority interests.

### Values

In consensus building practice, the term *values* refers to our deeply held views about the way the world is or should be, as well as the principles we believe are or should be most important in guiding our lives, society, and behavior. Our values are developed through our lives—from our upbringing, our life experiences, and our religious or spiritual traditions—and are often held as “truths.” One group’s most fundamental and cherished assumptions about the best way to live may differ subtly or radically from those held by another group. This is different from the way that the terms *value* and *values* are used in the cultural heritage field, where they refer to the qualities of a place that, through a process of research and assessment, are judged as being of cultural significance.<sup>6</sup>

Values can be a source of conflict when one person’s or group’s ethics or views are not accepted or equally valued by other parties. Parties may give fundamentally different answers to serious ethical and moral questions. When groups have different ideas about values, they often stress the importance of different things and may develop significantly different or incompatible goals (Susskind and Field 1996). Aboriginal clan groups such as the Mirrar derive their expressed values, beliefs, and identities from customary law and traditions that define their obligations and responsibilities to the land, to one another, and to other Aboriginal clan groups. They feel a strong obligation to prevent the destruction of country and desecration of sites. Mirrar culture is also dynamic and responsive to modern circumstance, technologies, and demands (Gundjeihmi Aboriginal Corporation 2015). In the words of Yvonne Margarula, who led the Mirrar opposition to uranium mining:

For many thousands of years we Aboriginal people of Kakadu have respected sacred sites where special and dangerous power resides. We call these places and this power Djang. There is Djang associated with both the Ranger mine area and the site of the proposed Jabiluka mine. We believe and have always believed that when this Djang is disturbed a great and dangerous power is unleashed upon the entire world. (Margarula 2011, n.p.)

The values expressed in her statement are particular to the beliefs and worldview of the Mirrar. Other stakeholders from different cultural backgrounds may respect these perspectives, but they are unlikely to share them. A key environment stakeholder, the Australian Conservation Foundation, offers another example of a deeply held value about personal and collective responsibility: “We have the lion’s share of the Earth’s nuclear ingredients buried in our backyard—which means Australia has a significant role and responsibility in the international nuclear debate” (Australian Conservation Foundation 2015, n.p.).

Because people’s ethical and moral values are usually so fundamental to their understanding of the world, people are usually unwilling to give up or “trade” their values for the sake of achieving other interests. When competing values collide, it can be much more challenging to find resolutions than when interests clash. It may also make basic communication between groups difficult to achieve, if each is certain that its values are “correct” and those of the other are inferior, strange, or morally wrong. Misunderstanding, mistrust, strained communication, stereotyping, and inflexibility are common features of values-based disputes (Maiese 2003).

### Identities

Identities are people’s answers to the question “Who am I?” and, as such, are central components of human experience. All people have multiple identities as members of families; of communities of place; of business, civic, and cultural organizations; of nations and states with distinctive histories and cultures; of religious communities; and so forth. Identities are made up of people’s psychology, familial ties, culture, basic values, shared history, and beliefs about themselves and others. These factors may be abstract and unconscious, or they may be quite conscious. Some of our identities are innate or inherited, whereas others are chosen and deliberate.

The dispute resolution field does not define *identities* in a different or unique way. It is included here as a category of human experience that can contribute to the development or exacerbation of conflict in distinct ways. Personal and cultural identities are frequently central to people’s concerns about access to, use of, and the protection or management of cultural heritage places. At such places, heritage places are often intertwined with one or more groups’ historical and cultural identities. The role of identities is explored further in the sidebar on Kakadu National Park (see pp. 27–30), as well as in this publication’s case studies by Hernandez Llosas, Johnston, and Ševčenko. When groups are in conflict with one another, they often focus on the identities that distinguish them (e.g., Israeli vs. Palestinian, Muslim vs. Hindu), rather than on identities they might share (e.g., parent, nature lover, artist). The historical narratives of different identity groups claiming an interest in a cultural place may be incongruent; may include incidents of victimization, discrimination, defeat, and/or domination; and may elicit strong feelings of patriotism, pride, or love for one’s own group, and fear, anger, or hatred of other groups. Over time, groups in conflict can come to perceive their identities as fundamentally opposed to those of others, bringing them into discord within entirely different settings (e.g., tensions between Jews and Muslims in the United States). Practically or symbolically, some heritage management decisions not only may undermine a group’s sense of its history but also may seem to threaten the group’s legitimacy and trigger existential fears. Because of the centrality of identity to human experience and the strong relationship between heritage and identity, heritage conflicts involving iden-

## Rights and Power

Rights are defined as “independent standards of fairness or legitimacy that are either socially recognized or formally established in law or contract. Such standards include reciprocity, precedent, equality, and seniority” (Maiese 2004, n.p.). As discussed in Johnston and Myers (this volume), human rights are critically important in managing heritage and also are frequently contested. To the extent that legal institutions exist to resolve rights-based disputes in ways all parties can accept, this may be the most appropriate approach for upholding established cultural rights. Similarly, the power of heritage authorities to implement decisions as they deem appropriate based on their specialized knowledge and expertise, as well as their legal mandate, may be sufficient for resolving disputes. However, as described in section 1 of this

paper, legal enforcement of rights is frequently inadequate, and power-based approaches can be countered with other power-based approaches, resulting in missed opportunities for mutually beneficial outcomes.

This does not mean that rights and power hold no place in collaborative approaches. In practical terms, groups using collaborative methods do not abandon rights and power. In fact, negotiators utilize rights- and power-based approaches, particularly in the form of “credible threats,” to motivate counterparts to negotiation and to improve their negotiated outcomes. Assertions of rights and power can influence what issues are open for discussion and what options are viable. This is illustrated in the Kakadu case (sidebar, pp. 27–30), in which the Mirrar utilized both rights- and power-based approaches to reach a negotiated agreement.

tities can be particularly challenging and intractable. Attention to identities and identity conflicts, and establishing an acceptable process for addressing them, can be critical to making effective decisions in heritage management.

## Alternatives and Options

Though they can be used interchangeably in general contexts, alternatives and options have very different meanings in the negotiation field. In dispute resolution, alternatives are actions parties can take to meet their needs outside of the collaborative process. In other words, they are the best alternative a party has if its members choose not to engage or continue a negotiation or consensus building exercise. A collaborative process will be successful only if parties perceive that it will provide them more value than the next best alternative.

In negotiations, strong alternatives can be important sources of power, altering the motivations of typical “high-power” parties, such as those with decision-making authority or extensive resources. In Kakadu National Park, for example, prior to coming to a negotiated agreement with the mining company, Aboriginal and environmental groups responded to uranium mining activity with mass protests in an effort to gain public and political support for a mining ban. They also convened a meeting of influential shareholders of the parent company to pressure the mining company, and sought to convince the World Heritage Committee to place Kakadu World Heritage Site on the List of World Heritage in Danger. By increasing the external pressure on the mining company, the mining opponents shifted the cost—in terms of shareholder and public relations—of ignoring the concerns of Aboriginal and environmental groups, and made reaching a negotiated agreement more valuable for the company.

Options, on the other hand, are potential agreements that the parties develop *within* a negotiation. Any negotiation issue may be resolved by multiple viable options, some of which may be better for some stakeholders than others. The mutual

gains approach to negotiation, described below, emphasizes the importance of generating multiple options that seek to address each party's underlying interests and concerns. Other possible options for resolving the uranium mining impasse at Jabiluka might have included relocating the mining operations to an acceptable alternative location, significantly increasing the economic benefits to and reducing adverse cultural impacts on Aboriginal people, or implementing specific design and monitoring activities acceptable to all parties to ensure that mining did not negatively affect any environmental and cultural values. While generation of "possible options" does not guarantee that a mutually acceptable agreement will be reached, it greatly enhances this possibility.

### Section 3: Roles in a Collaborative Process

This section describes the various roles typically played by individuals or institutions during collaborative processes. Some or all of these roles may be played by heritage professionals, either individually or in combination. The section highlights the responsibilities and requirements of each of these roles, discusses advantages and considerations for each, and provides advice for balancing multiple roles. A breakdown of roles and responsibilities is found in table 2.

#### The Role of Convener

The convener is the person or institution who initiates and oversees the organizing activities of a collaborative process, including formally launching the process, setting its goals and constraints, framing the issues for discussion, and providing appropriate resources and logistical support (Carlson 1999). The convener is often (though not always) also the party that pays for or contributes the financial resources needed to

**Table 2. Roles and responsibilities in the collaborative process.**

Role	Responsibilities	Requirements	Advantages	Considerations
<b>Convener</b>	<ul style="list-style-type: none"> <li>Initiate and oversee collaborative process</li> <li>Frame issues, specify goals and constraints of process</li> <li>Provide resources and logistical support</li> <li>Often the sponsor may contribute financially.</li> </ul>	<ul style="list-style-type: none"> <li>Legitimate and credible to bring other parties to the table</li> <li>Ability to set tone of open and respectful dialogue</li> </ul>	<ul style="list-style-type: none"> <li>If also the ultimate decision maker, formalization and implementation of agreements are simpler.</li> <li>Public agencies generally have authority to bring parties into the process.</li> </ul>	<ul style="list-style-type: none"> <li>Clarify decision-making authority upfront</li> <li>Repair poor relationships, demonstrate good faith</li> </ul>
<b>Technical expert</b>	<ul style="list-style-type: none"> <li>Provide technical information for all parties in the process</li> </ul>	<ul style="list-style-type: none"> <li>Perceived as knowledgeable by all stakeholders</li> <li>Perceived as equally accountable to all</li> </ul>	<ul style="list-style-type: none"> <li>Bring a broad range of heritage expertise</li> </ul>	<ul style="list-style-type: none"> <li>Include both scientific data and local knowledge</li> <li>Avoid advocating for particular outcomes</li> </ul>
<b>Stakeholder</b>	<ul style="list-style-type: none"> <li>Advocate for interests and priorities central to effective heritage conservation</li> <li>Negotiate effectively</li> </ul>	<ul style="list-style-type: none"> <li>Good negotiation skills</li> </ul>	<ul style="list-style-type: none"> <li>Knowledgeable and effective heritage advocate</li> <li>Potential to develop strategic alliances</li> </ul>	<ul style="list-style-type: none"> <li>May be at a disadvantage compared to powerful political or economic interests</li> </ul>
<b>Facilitator or mediator</b>	<ul style="list-style-type: none"> <li>Assess and design the process</li> <li>Plan and manage meetings</li> <li>Help parties surface and resolve differences</li> </ul>	<ul style="list-style-type: none"> <li>Perceived as neutral, impartial</li> <li>Skilled in facilitation/mediation</li> <li>Able to commit the necessary time</li> </ul>	<ul style="list-style-type: none"> <li>Knowledge of issues, agency's culture, stakeholders</li> <li>Potentially accessible and affordable</li> </ul>	<ul style="list-style-type: none"> <li>May not be perceived as neutral and impartial</li> <li>May be hard to balance with advocacy or technical expert role</li> </ul>

support the collaborative process. When engaging others in decision making or working collaboratively to resolve a dispute, heritage professionals may play the role of convener. Frequently, a government agency fills this role. It may also be played by one or more nonprofit organizations, such as the Mirador Roundtable, or by a university, foundation, or other technical party. Because collaborative processes are largely voluntary on the part of the participants, the central requirement is that the convener must have the legitimacy and credibility needed to bring other parties to the table.

Government heritage authorities with the necessary public credibility have many advantages in taking on the role of convener. If they are the party tasked with ultimately deciding and implementing an agreement, convening the process simplifies the challenge of linking an informal consensus building process to a formal policy and decision-making process. Furthermore, public agencies usually carry the credibility, legitimacy, and authority necessary to persuade otherwise reluctant parties to come to the negotiating table.

While the role of convener is generally highly appropriate for government heritage authorities, there are a few considerations to keep in mind. It is important to be upfront about the authority of a collaborative group convened for this purpose as the ultimate decision-making body. The convener should also be able to set the tone for an open and respectful dialogue. If the convening agency is not seen as a credible, honest broker or is working in contexts of poor relationships or mistrust, it may need to repair relationships and demonstrate its intentions for authentic engagement and improved interactions, and/or bring in external mediation or facilitation to ensure participants that they will be treated fairly in the process.

### **The Role of Technical Expert**

The technical expert provides a collaborative group with a shared base of common data for use in decision making. Heritage professionals frequently serve as technical experts in a range of decision-making situations. Whether government employees affiliated with a particular heritage site, representatives of nonprofit advocacy institutions, or independent cultural resource practitioners, heritage professionals collectively offer a broad range of expertise in such fields as planning and design, archaeology, history, interpretation and presentation, and management of heritage places.

The technical expert in a collaborative process needs to be perceived as knowledgeable and committed to working equally for all parties, as opposed to just one party. Heritage professionals in this role may need to go beyond their traditional areas of expertise, which include dealing with technical problems or data, gathering and sharing local knowledge, and understanding and conveying the ways in which a distinct community ascribes significance to a heritage place. This may require specialist skills. For example, during the heritage planning process at Chan Chan, Peru, described by Castellanos (2002), the interdisciplinary technical team engaged traditional communities and other stakeholders not only to understand the values and significance of the site but also to document their historical understandings, their core interests, and their ideas on how to respond to conflicts over usage of the site. The technical team benefited from the internal interdisciplinary collaboration and from their active involvement with a diverse range of stakeholders, fostering a broader appreciation of why Chan Chan should be conserved and for whom, and helping to integrate heritage, social, and economic needs.

Technical data accepted by all parties can reduce conflict and help in highlighting a range of potential options, but may not definitively provide a solution that all parties accept. For example, even if parties can agree on the level of risk posed by a particular intervention, they may disagree on the acceptability of that risk—a disagreement that data cannot resolve. If stakeholders disagree about the implications of technical data, an impartial technical expert should avoid advocating for specific interpretations or outcomes beyond the limited findings of the data, unless they are explicitly asked to do so.

### **The Role of Stakeholder**

Heritage professionals also participate in collaborative processes as stakeholders, advocating for effective protection of heritage places. In this role, heritage professionals may speak for the long-term importance of appropriate protection in the face of other pressures or for the use of conservation strategies and methods that meet international standards and reflect scientific knowledge. This role is distinct from that of a technical expert, who is not directly affected by the outcome, since the stakeholder has a set of interests and priorities that may not be shared by all participants and a responsibility to their constituents to advocate strongly and effectively for these.

In addition to possessing good negotiation skills, the heritage professional as a stakeholder would do well to seek coalitions with other potentially like-minded stakeholders. In many political contexts, and especially when competing with more powerful political or economic interests, heritage advocates can find themselves at a disadvantage. By seeking strategic partnerships and alliances with other interest groups who have similar or overlapping concerns, heritage advocates can both increase their power at the negotiating table and expand their network and message to reach a broader constituency. For example, in the El Mirador case study, cultural resource and ecological protection groups discovered that they shared a common interest: that of decreasing misuse of the rainforests in the Mirador basin, and in advocating for the protection of the area's rich biological and cultural resources. Finding common ground is an important part of building mutual understanding and increasing trust, especially among disparate and potentially conflicting interests.

### **The Role of Facilitator or Mediator**

The role of a facilitator or mediator is to help assess and design a collaborative process, and to ensure that the process runs smoothly by planning and managing meetings and helping the parties resolve differences to achieve consensus on the key issues.<sup>7</sup> Facilitators and mediators may also help make technical information accessible to stakeholders, accept their skepticism of official data, and explore ways to overcome differences. Some of the benefits of using a facilitator or mediator include fostering communication and understanding among participants, ensuring meaningful stakeholder involvement and equal participation, fostering and enforcing an atmosphere of fairness and respect, and increasing the effectiveness of negotiation processes and outcomes. Facilitators and mediators should be neutral (having no stake in the outcome), impartial (able to treat all stakeholder perspectives with equal value and consideration), and skilled in dispute resolution.

Heritage professionals may at times play the role of facilitator in collaborative heritage planning or decision-making processes. This has many potential

advantages, including expert knowledge about the issues, understanding of the host agency's culture, and familiarity with stakeholders. If internal to the process, heritage professionals in this role may also be relatively affordable and easy to access. However, there are several potential notes of caution. Heritage professionals who represent government authorities may not be neutral, as they may have a stake in a particular outcome. Even more likely, they may not be entirely impartial—that is, inclined to treat all stakeholder perspectives with equal value and consideration. Further, even if they are able to be both neutral and impartial, they may not be perceived as such by other stakeholders. On the other hand, heritage professionals entrusted with protecting cultural resources may be perceived by their heritage colleagues as shirking their responsibilities for public stewardship if they give equal weight to opposing views in a process. They may also have insufficient training and experience in facilitation to meet the needs of a given situation, be unable to commit the necessary time to such a task, or face a lack of support from their superiors or colleagues. Extremely complex or contentious situations may benefit from the assistance of a professional, neutral facilitator or mediator, preferably one who can bring an appreciation of heritage planning concepts and practices.

At the very least, it is important to ensure that the facilitator or mediator can demonstrate sufficient neutrality, impartiality, and skill to be successful in the task. If the facilitator's credibility is compromised in the eyes of the stakeholders, then the facilitator will not be able to successfully engage stakeholders in the collaborative process. It is also helpful for facilitators to be conscious of their biases and interests and to prevent these from intruding on their ability to manage deliberations in a fair and balanced manner. If it seems that either technical or advocacy partiality may undermine their credibility as honest brokers, it may be better to utilize professional facilitators or mediators.

### **Balancing Multiple Roles**

Heritage professionals may need to play multiple roles within the same collaborative process; for example, as both technical expert and facilitator. While such overlap is common within collaborative processes, there are potentially negative consequences to blending and conflating these roles. A technical expert who is also a stakeholder might be inclined to evaluate the technical merits of other viewpoints, might feel wedded to a particular vision of a heritage place, or might argue with other stakeholders about their views. Similarly, a heritage professional also playing the role of facilitator may hold strong opinions about which preservation interventions would be most effective, and may find it difficult to facilitate discussion without bias.

One suggestion for managing these challenges is to make clear delineations between each of these roles. Ideally, an agency that is convening, participating in, advising, and facilitating a process (in any combination) would engage different individuals to fill the various roles. For example, a planning process for a publicly owned and managed heritage site might be convened by the site manager who attends meetings but is not a participant in the negotiations, while the cultural resource manager might be the representative at the negotiation table, and a heritage consultant might serve as the technical expert. If the same individual needs to play multiple roles, that person will need to identify which role he or she is playing at any given time. Maintaining clarity is helpful in promoting openness and credibility within a collaborative process.

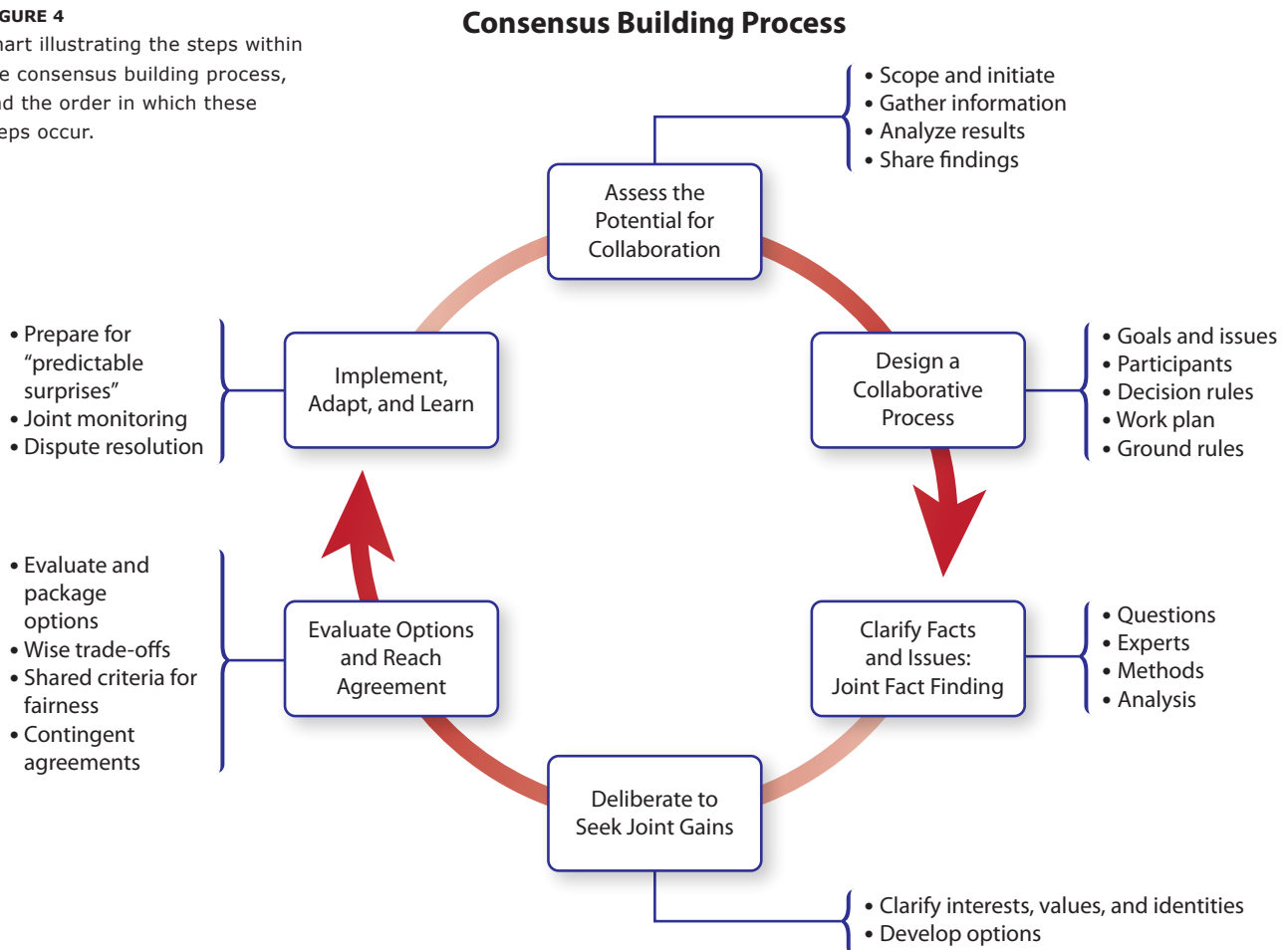


## Section 4: Multi-stakeholder Consensus Building

This section describes a framework for analysis and collaborative decision making, as developed by CBI.<sup>8</sup> This framework can be used as a comprehensive, step-by-step consensus building process for assessing, designing, negotiating, and implementing collaborative agreements. The steps within this framework, including the typical order in which they occur, are illustrated in figure 4. However, collaborative processes do not follow a rigid approach; each intervention is tailored to meet the specific needs and conditions of the situation. Similarly, each step in the framework may also be applied, on a case-by-case basis, as a response to specific challenges and at various stages in the endeavor of conserving and managing heritage places. The description of each step in the process is divided into three parts. The first part defines the step, the second offers suggestions for applying it to heritage management, and the third provides more instruction on how to implement it.

The framework is a flexible tool for dealing with a wide range of complex, multiparty interest-based disputes and situations, including those in which stakeholder values and identities have been intertwined with interests. In situations that are more strongly or entirely based on groups' perceptions of their values, their rights, or their identities, additional strategies for collaboration may also be needed to

**FIGURE 4**  
Chart illustrating the steps within the consensus building process, and the order in which these steps occur.



actively engage stakeholders in developing management policies and priorities that they can accept. This is described in greater detail in section 5, “Beyond Negotiation: Dealing with Values and Identities.”

### **Step 1: Assess the Potential for Collaboration**

#### Key Concepts and Principles

Before dealing with a complex collaborative heritage planning or management activity or in advance of responding to a heritage-related conflict, it is critical to first have a multifaceted, detailed understanding of the situation. Situation assessments are processes that capture the way key stakeholders perceive a situation and aim to provide an accurate, impartial analysis of their views.<sup>9</sup> Following are the essential objectives of a situation assessment:

- to diagnose the core dynamics of a situation—who is involved, how they see the situation, what they care about, and where their concerns overlap and differ—and
- to analyze and recommend whether and how best to proceed with a process for resolution.

Situation assessments can also educate stakeholders about the situation, issues, and collaborative process options, introduce them to the collaborative decision-making process, build trust among the involved parties, and propose boundaries and protocols that would be beneficial or necessary for any collaborative process.

Not all situations are appropriate or ready for negotiated solutions. For collaborative processes and consensus building to succeed, participants need to be willing and able to participate and commit to implement agreements. Assessments can help evaluate the potential value of a collaborative process to each of the stakeholders (as compared to their alternatives—the outcomes they could gain from traditional power- or rights-based approaches), as well as their capacity and authority to fulfill settlements. Consensus building may be inappropriate or ill-advised for other reasons, such as lack of sufficient time or resources and lack of clarity or agreement about goals or issues to address. Assessments help to identify these likely pitfalls in advance so that they can be addressed before (or instead of) convening a collaborative process.

The outcome of a situation assessment is typically a report or presentation on findings. It typically includes descriptions of key issues, significant stakeholders—their interests, values, and identities and relationships to one another—and analysis and recommendations on whether and how to move forward with a collaborative planning or problem-solving process. If a consensus building process seems viable, the assessment report should also suggest criteria for selecting credible representatives for stakeholder groups, highlight potential informational or fact-finding needs, and suggest appropriate roles and levels of engagement for stakeholders.

#### Application

Situation assessments are consistent with feasibility studies that heritage professionals might undertake prior to embarking on formal planning processes, development processes, or other, similar activities. They are, however, a distinct activity that is outside the typical processes that heritage professionals may undertake, such

as assessment of a place's heritage values, physical conditions and threats, impact assessments, or the assessment of its management context. The key distinction is that stakeholder assessments clarify subjective views about the situation from the perspectives of the people involved, rather than seeking to determine or verify facts or evaluate those views. Nonetheless, analyses of stakeholder views may contribute useful information to heritage decision makers and assist in anticipating how stakeholders understand the place and their views of its future. Some stakeholder concerns may be connected directly to a place's cultural significance (e.g., an identity connected with the cultural values attributed to the place), and some may relate instead to its management context (e.g., a value in the sanctity of private property). The findings from situation assessments may also help to identify threats to a site and/or potential mechanisms for overcoming them.

A situation assessment may prove useful as a prelude to making significant investments in heritage conservation efforts. When initially considering whether to engage in various heritage conservation efforts, it is important to assess whether the necessary conditions exist for successful implementation of the proposed work. A situation assessment can help clarify characteristics of the management context, such as existing social, human, and financial resources and limitations, as well as potential conflicts or tensions among stakeholders.<sup>10</sup> If it is determined that conditions are right, a situation assessment may be useful in designing the planning process.

A situation assessment may also be useful before responding to a conflict or crisis, or prior to interventions that might be controversial or contested. Cases ripe for assessment may include long-standing conflicts at a site that have festered and become more challenging over time. In cases like these, it may be helpful for decision makers to identify stakeholder perceptions and expectations prior to making decisions or initiating decision processes, in order to diagnose underlying dynamics of stakeholder or public views and design engagement processes appropriately.

The process of carrying out a situation assessment may also help identify stakeholder concerns that relate to typical heritage assessments; that is, assessments of cultural significance, management contexts, opportunities, and threats and potential ways to mitigate those threats. Even in the absence of a consensus building process, a stakeholder assessment could be valuable in informing heritage experts about the needs, interests, and values of the community and other key stakeholders, as well as building relationships and trust. This understanding and connection can improve the quality and sustainability of heritage advocacy.

Conveners or funders may initially be reluctant to allocate the time and/or cost to these preplanning processes; however, the money and time spent upfront on assessment is an excellent investment in terms of the overall cost and effectiveness of any collaborative process that might be initiated. Like mediators, those carrying out such assessments should be neutral, impartial, and skilled in dispute resolution. If an assessor is a heritage professional directly affiliated with the place under consideration, and if it seems that either technical or advocacy biases may undermine the assessor's credibility as an honest broker, it may be necessary to employ an external and impartial assessor acceptable to all parties.

The El Mirador case study offers an excellent example of the application of the situation assessment method to a complex heritage context marred by conflict. In El Mirador National Park, multiple networks of influential stakeholders were

advocating different and conflicting proposals for conservation and development of the park, with no clear mechanism for sustainable decision making. In 2005 a team of mediators from the Institute for Conflict Analysis and Resolution (ICAR) met one-on-one with representatives of the full range of stakeholders—from transnational environmental groups to local concessionaires—and through confidential conversations identified the issues they cared about, their views and preferences on those issues, and their ideas for moving forward. Based on these, ICAR categorized the issues at stake, summarized stakeholder views on each, and analyzed areas of commonality, difference, and conflict. ICAR then drafted a report of these findings, along with recommendations for a process for moving forward, which was shared with key stakeholders.<sup>11</sup> This impartial analysis of the situation helped stakeholder groups to better understand the range of views and the underlying dynamics of the conflict.

The ICAR assessment found that the existing proposals for developing and conserving the area were unlikely to succeed. It suggested that a process convened by international NGOs would lack legitimacy and neutrality. The report identified clear differences in views as well as conflicts about how the place should be developed and conserved, and raised a surprisingly common belief about the need for more effective and more coordinated protection of the region's cultural and natural resources. This example shows how a situation assessment can uncover critical collaborative process needs or constraints, elicit hidden concerns, and highlight areas of strong opposition and common ground. All of this should guide a plan for moving forward.<sup>12</sup>

#### Process for Implementation

Typically, a situation assessment proceeds as follows:

1. *Scope and initiate the assessment.* Assessments begin by drawing up an initial list of stakeholders. Once this list is compiled, conveners should formally launch the assessment with a letter to introduce the assessor and the assessment process. The list of stakeholders will expand progressively based on recommendations by interviewed stakeholders. Interviews are based on an interview protocol, a list of questions designed to elicit the interviewees' issues of concern, their perspective on these issues, and their hopes, fears, and expectations for the planning process. In dealing with heritage places, a typical situation assessment is likely to ask people what they value about the place and how it is important, what uses it should have, what concerns people have about its current management, and what their hopes are for the place in the future. Rather than being a rigid protocol that must be followed identically with each stakeholder, it should use open-ended questions to provide the starting point for a conversation with stakeholders.
2. *Gather information.* Interviews and focus groups should be conducted confidentially. Assessors should seek to understand people's underlying interests, values, and identities, withhold judgment of interviewees' views. They should avoid arguing or disagreeing about assertions of fact they may personally disagree with or may know that others disagree with. Instead, assessors should ask open follow-up questions, such as "What experiences have led you to that conclusion?"

3. *Analyze results.* After all interviews are completed, the results should be analyzed to synthesize the range of stakeholder views and perceptions, and to highlight commonalities, differences, and disagreements. This helps to identify key issues for deliberation and provides a basic understanding of the interests, values, and identities of stakeholders on these issues. A clear, focused analysis highlights key issues and breaks them down into manageable pieces. This analysis might include the mapping of stakeholders through several methods, one of which appears in table 3. For example, in an assessment CBI undertook for the development of a cultural resource management plan for the historic Dune Shacks of Cape Cod National Seashore, the concerns of stakeholders were categorized into the core issues of documenting history, maintaining traditions, determining use and occupancy, providing appropriate public access, protecting physical structures, preserving cultural landscapes, and protecting natural resources. This categorization helped determine which parties needed to be involved, how long the process was likely to take, and later guided the mediation discussions as well as helping shape the content of the final plan.

**Table 3. Stakeholder mapping strategy.**

	Interests, Values, Identities of Stakeholder 1	Interests, Values, Identities of Stakeholder 2	Interests, Values, Identities of Stakeholder 3	Potential Options	Process Needs, Barriers, and Concerns
Key Issue 1					
Key Issue 2					
Key Issue 3					

4. *Share findings.* The final step is to prepare a summary of findings on the situation in written or presentation form that can be circulated, shared, or published. The findings reflect the stakeholders' opinions, providing a common understanding of the situation that can be used to make decision making more effective. The resulting report or presentation should also recommend whether a collaborative process has a reasonable chance of success and, if so, in what arenas, with which stakeholders, and with what goals and structures. These issues are discussed further in the section below on designing a collaborative process (or "process design").

Assessment reports and presentations should use a neutral voice, reporting only what has been heard from interviewees. A summary of findings may be organized by stakeholder group or by key issue. To protect the confidentiality of individual interviewees, summaries of findings should avoid attribution of specific interests or ideas to specific people; instead, they should use broad categories of stakeholders such as "local businesses" or "municipal leaders."

Assessment reports should be circulated to interviewees in draft form first and allow for suggested comments and corrections before being finalized. In very complex or contentious situations, it may be valuable to circulate and review feedback about the findings from stakeholders prior to drafting and circulating process recommendations, in order to make sure that recommendations reflect the most accurate information available.

## Step 2: Design a Collaborative Process

### Key Concepts and Principles

Consensus building is a collaborative approach for bringing people together to resolve contentious issues and make decisions. As each situation is unique, each process must be specifically tailored and designed to address the goals, needs, constraints, and realities of that situation. This “road map” for a collaborative process is known as a process design. It typically articulates the following:

- Goals, objectives, and desired outcomes for the process
- Primary issues to be discussed and decided
- Participants (and/or representatives) that will form the collaborative group, and overall level and purpose of stakeholder involvement
- How decisions will be made by the group, and how those decisions will influence the ultimate policies or decisions about the situation
- Process time frame and schedule; may be in the form of a detailed work plan breaking down the topics and areas of discussion by number of weeks, months, and meetings in the process
- Ground rules or operating protocols for the process, including roles and responsibilities of participants, facilitators/process managers, public officials/decision makers, and experts, as well as expected norms of behavior

A first draft of a process design might be compiled at the beginning of a collaborative process (perhaps as part of an assessment) and then shared with the collaborative group members at or before the first meeting of the group for refinement, revision, and ultimate approval.

It is critical to match the level of stakeholder involvement with the needs of the situation. Table 4 illustrates three points along the spectrum of participatory processes, from the lowest level of collaboration and commitment (information sharing) to the highest level (agreement seeking).<sup>13</sup> In information sharing processes, participants are expected only to provide and gain information. In consultation processes, stakeholders deliberate and develop options that seek to integrate their collective needs and concerns. In agreement seeking processes, such as consensus building, stakeholders are empowered to share a role in making decisions and policies. Processes may also be designed wholly or partially in collaboration with stakeholders and participants, drawing on them to identify culturally appropriate practices for addressing the key issues and needs.

Once the level of stakeholder participation is determined, other decisions in a process design can be made by drawing on findings from background research on the place and its history and on a situation assessment, if one has been undertaken. These can help illuminate considerations such as management structures, available resources, and compatible decision-making forums. There may be other relevant factors to consider, including the extent to which cultural differences among parties may exacerbate tension, the compatibility of collaborative methods with stakeholders’ cultures, legal requirements and constraints mandating or limiting the role of stakeholders in decision making, political dynamics that may impact the potential success of a process, economic factors such as possible impacts of the economic climate or the economic considerations of key players, and historical factors such as the outcomes and perceptions of similar or previous decision-making processes (Carpenter 1999, 70–75). These factors may impact the feasibility of a process, as well as influence the design of any process that does go forward.

**Table 4. The participatory process spectrum, from information sharing to agreement seeking.**

<b>Features/ Process Type:</b>	<b>Process Goal/Intent</b>	<b>General Activities</b>	<b>Negotiation Activities</b>
<b>Information Sharing</b>	<ul style="list-style-type: none"> <li>• Inform, learn, educate, identify needs, improve communication, build relationships, explore perspectives</li> </ul>	<ul style="list-style-type: none"> <li>• Attend sessions</li> <li>• Listen</li> <li>• Learn</li> <li>• Share stories, ideas</li> <li>• Dialogue</li> <li>• Ask questions</li> <li>• Give comments</li> </ul>	<ul style="list-style-type: none"> <li>• Become informed</li> <li>• Consider data</li> <li>• Explore interests</li> <li>• Offer options</li> <li>• Build understanding and trust</li> </ul>
<b>Consultation</b>	<ul style="list-style-type: none"> <li>• Consult/advise</li> <li>• Solicit ideas</li> <li>• Engage parties in developing a range of potential solutions</li> </ul>	<ul style="list-style-type: none"> <li>• All of the above AND:</li> <li>• Identify areas of agreement and disagreement</li> <li>• Deliberate</li> <li>• Develop greater expertise</li> <li>• Advise individually</li> </ul>	<ul style="list-style-type: none"> <li>• All of the above AND:</li> <li>• Discuss, develop, and consider options</li> <li>• Consider criteria for weighing options</li> <li>• Evaluate and narrow options</li> </ul>
<b>Agreement Seeking</b>	<ul style="list-style-type: none"> <li>• Make decisions</li> </ul>	<ul style="list-style-type: none"> <li>• All of the above AND:</li> <li>• Seek agreement on final recommendations/outcomes</li> </ul>	<ul style="list-style-type: none"> <li>• All of the above AND:</li> <li>• Decide between the options</li> </ul>

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### Application

Designing a process for stakeholder engagement and collaboration can be productive before engaging in planning and decision-making processes requiring substantial stakeholder involvement. The activities associated with this step relate directly to heritage planning activities described in Demas as “Stating the Aims” and “Identifying a Planning Team and Stakeholders” (2002, 30–31), and referred to by Castellanos and Descamps as “Team Integration and Definition of Goals” (2007, 14–15). Process design also is an essential activity prior to the initiation of any kind of collaborative dispute resolution process designed to respond to a conflict or crisis.

A key task in process design is determining an appropriate and viable level of stakeholder engagement to meet the defined goals and objectives. The case studies in this publication collectively demonstrate a wide range of different process goals and designs. The El Mirador case study illustrates how stakeholder assessment articulated the need for the active and empowered participation of stakeholders in developing a plan for conservation and development. The ensuing roundtable consisted of a formalized, highly participatory process, including thirty-two member organizations, with decision making by consensus of all members. This has led to a high level of stakeholder engagement, a highly credible and legitimate process, and a track record of successful implementation of agreements reached.

In the Blue House case study (Loh, this volume), public outcry over plans for demolition led to a call for stakeholder engagement, in a setting with few precedents for public decision making. The acceptable intervention was a public opinion survey that solicited views on the importance of preserving the building as well as on the conservation of Macao’s heritage generally. In addition, a technical report on the heritage significance of the site was commissioned. This approach to public engagement limited the risks to authorities, met cultural expectations, and provided a decisive recommendation in a short period of time. An unanticipated outcome has

been an increased willingness among community members to speak out against development that puts heritage places at risk. Clearly, a broad range of process types can be appropriate to heritage management, and what is important is matching the right approach to the needs and context of each situation.

Collaborative processes need not be purely site based and need not bring together all parties to reach a consensus. For example, preservation advocates may use consensus building to form a common coalition with potential allies (such as natural resource activists) around an agreed platform that can collectively improve the power and influence of heritage and other interests simultaneously.

#### Process for Implementation

Typically, a collaborative process design proceeds as follows:

1. *Establish the initial goals, objectives, and desired outcomes of the process.* Just as a destination is needed in order to map out directions, substantive goals and desired outcomes should be the driving force behind a collaborative process. Some processes seeking to produce formal agreements may require a set of legal or regulatory steps, whereas this would be unnecessary for processes aimed at developing less formal agreements. Conveners may have more or less flexibility around the boundaries of the process scope and goals, but ultimately the process needs to be framed in a way that motivates key stakeholders to participate. For example, the Mirador Roundtable goals included security, access, community development, and sustainable forest management along with the protection and preservation of cultural and ecological resources. The goals, objectives, and desired outcomes need to be clearly articulated, transparent, and acceptable to all stakeholders.
2. *Determine the appropriate level of stakeholder engagement.* The following are considerations in determining the appropriate level of stakeholder engagement in the process:
  - How deeply do people care about the situation, and how much do they disagree about preferred outcomes?
  - How important is maintaining positive long-term relationships with and between stakeholders?
  - How much power do stakeholders have to influence or undermine implementation of outcomes?

The more contentious a situation and the more the importance of relationships, the more stakeholder support for decisions is needed for their implementation and the more intensive the stakeholder engagement needs to be. Such situations may also come with higher risk of failure and lower levels of direct control by authorities. Conversely, the lower the level of conflict and polarization, the less intensity of engagement might be required. However, no matter what process is used, it is critically important that participant influence over the outcome is clearly articulated upfront, so that stakeholder expectations are consistent with the intent of the convening parties.

3. *Determine stakeholders and representation.* A collaborative process should seek to include or represent the whole range of stakeholder interests, values, and identities within a total number of participants compatible with the level of engagement and the process goals. If a situation assessment has been conducted, the resulting report is usually a good tool for determining what stakeholder groups should be included in the collaborative process; otherwise, a



similar process will need to be used to identify the people and groups most interested in, affected by, or relevant to the issues at stake.<sup>14</sup> Stakeholder concerns can be brought into a process by reaching out, finding, and including all stakeholders, or by seeking one or more individuals to represent each set of concerns based on an agreed process.

Stakeholders sometimes fall into clear categories or organizational structures, and they can be easily represented in a collaborative process. Such categories may include local or regional government officials, national and international agencies, and interested NGOs. Other stakeholders may be more diverse or harder to represent, such as unaffiliated local citizens, diverse local businesses, or future generations. These groups may require assistance in organizing, and additional outreach to stakeholders outside the negotiating table might be required. In the El Mirador case study, for example, elected leaders from the most impacted communities did not sufficiently represent the diversity of perspectives of the area's citizens. To ensure their involvement, the roundtable hired outreach coordinators to engage with people in these communities to inform them of the issues and get their input.

If the process uses representatives, the method for selecting individuals to represent a stakeholder group may be left to each group, recommended by the facilitator, or determined by the planning authorities or convener; in any case, it is critical that the method be legitimate, clear, transparent, and equitable.

4. *Clarify roles, responsibilities, and logistics.* The process design also needs to clarify how decisions will be made; delineate the roles and responsibilities of participants, the convener, and the facilitator or chair; determine the need for knowledge or capacity building; and offer a set of behavioral ground rules or operating procedures for the group to follow to ensure communication and effectiveness. Also incorporated should be an indication of the time frame, including the total number of meetings, frequency of meetings, and duration of each; these would be determined based on the context and needs of each individual process. All of these decisions should be clearly communicated and acceptable to stakeholders, possibly in a Process Protocols document that is approved by the group.

In some situations, there may be a need to include some capacity building for parties within the group or the group as a whole, to make the decision-making process efficient and successful. This may include building a shared understanding and technical capacity, improving stakeholder coordination and consensus building skills, and/or building trust and relationships between the key parties so they are better able to negotiate. In the El Mirador case study, it was important to balance power asymmetries, foster authentic engagement, and overcome structural and historical mistrust.

### **Step 3: Clarify Facts and Issues through Joint Fact Finding**

#### **Key Concepts and Principles**

When participants in a dispute don't know or disagree about key scientific, technical, and factual information that could impact their decision making, they may benefit from a process known as joint fact finding. Joint fact finding is a collaborative process whereby "stakeholders with differing viewpoints and interests work together to develop data and information, analyze facts and forecasts, develop common assumptions and informed opinion and, finally, use the information they have

developed to reach decisions together” (Ehrmann and Stinson 1999, 376). Done successfully, joint fact finding leaves parties with greater clarity on the facts that exist, as well as shared understanding of what questions still remain and, ideally, with increased trust in the process and one another. Meanwhile, the data generated are more useful, more acceptable, and possibly more accurate. The aim of a joint fact-finding process is a statement of information or set of scientific results that is agreed upon as valid by all stakeholders.

#### Application

A range of heritage situations may benefit from joint fact finding, including understanding cultural significance, heritage impact assessments, planning physical interventions, and the formulation of broader policies. The approach may be applied early, as the issues are being clarified, or later on, when the parties have identified a range of options and need to study the potential impacts or pros and cons of a set of actions. This would be particularly important when there is potential for conflict over findings. It may also be beneficial in cases where there is a wide imbalance of technical knowledge and understanding of the underlying conditions among stakeholders. This is well illustrated in the Lake Condah case study by Johnston. The return of water to Lake Condah had been impeded for decades by the uncertainty and fears of the non-Aboriginal community that their farmland might flood. In response, the 2002 planning process included technical studies on potential impacts, and the non-Aboriginal neighbors were invited to contribute their knowledge, questions, concerns, and ideas to the study design and analysis. Though the experts were not jointly selected by the stakeholders, they were able to gain the stakeholders’ trust. This process led to a common knowledge base that all stakeholders accepted and found legitimate. Parties with less technical knowledge gained the opportunity to learn about the issues so that misunderstandings would not hamper efforts to reach agreements and craft realistic solutions. The process also clarified the “range of uncertainty,” the specific areas where definitive factual answers did not exist. Working together to clarify the facts helped overcome long-standing mistrust among people with different perspectives, such that existing uncertainty could be addressed through joint, creative problem solving.

Joint fact finding may be especially useful when differing findings in the assessment of a particular condition or threat could lead to different proposals or policies. Consider the Dampier rock art complex in the Burrup Peninsula of western Australia, where heritage advocates and industry supporters have engaged in ongoing conflict over the extent of damaging impacts caused by acid rain and other pollutants from nearby petrochemical plants. In this scenario, the two sides not only have differed in their findings on impacts but also have disputed the research questions and scientific methods used in each other’s studies (Bednarik 2007, 227–28). As a result, despite years of research, the intense disputes over the effects of petrochemical emissions remain unresolved. This is among the types of dispute, with dueling experts each dismissing the findings of their adversaries, that joint fact finding is particularly suited to preventing and resolving.

Joint fact finding can be useful in the assessment of economic values and benefits associated with heritage or, as illustrated in the Canadian legislation case study (Cameron, this volume), in projecting the future costs and benefits of proposed incentives for heritage preservation. The approach also may help in determining the fair market value of an important historic building. But as Cameron’s case study illustrates, fact-finding processes may be undermined by other factors at play

between the parties; a more powerful party—in this example, the Department of Finance—was able to reject the “facts” that had been carefully established through a rigorous process that involved generation and testing of options.

In addition, joint fact finding may be useful when stakeholders hold different conceptions about the history of a place by helping to establish a common historical record. This is especially true around questions regarding objective reality, such as whether or not something occurred, or when or where something occurred. Joint fact-finding techniques have been used to help reconcile disparate or conflicting narratives of historical events and motivations for groups seeking improved relationships, such as joint history textbook revisions for Germany and France after World War II (DeFrance and Pfiel 2008). This type of joint fact finding may be particularly useful in developing a shared history of a heritage place. Caution should be used, however, not to water down or oversimplify history, which could undermine the historical record and perhaps exacerbate an existing conflict. In cases where multiple and conflicting historical narratives coexist and scientific or social science methods are unable to yield mutually satisfactory answers, methods involving storytelling and dialogue (described in section 5) may be more effective for responding to differences in stakeholder perceptions of history.

#### Process for Implementation

To undertake joint fact finding, stakeholders collaboratively clarify what they know, what they don't know, and what they need to know. They then need to agree on the questions to be investigated, the methods for gathering information, and the means of analysis. Participants themselves may engage in the research or agree to hire a technical or scientific expert or panel acceptable to all parties. Finally, the group should be involved in analyzing and publicizing the data, and agree on methods for dealing with conflicting data and conflicting interpretations. If all questions are not fully answered in a way that all participants can accept, the group should clarify the extent to which uncertainty and disagreement still exist. Some of those outstanding issues may need to be resolved through negotiation, which is addressed next.

Using joint fact finding to discover information relevant to decision making may require a significant investment of time and possibly money. However, expending the extra time upfront to ensure that data are seen as legitimate and acceptable to all usually saves time later, particularly in cases in which facts or forecasts are disputed. It is much more efficient to respond to research concerns before beginning the research rather than after the research is complete.

There are several potential challenges to implementing joint fact finding. In contexts with severe power or knowledge imbalances, extra assistance may be needed to support and bolster the capacities and input of the less powerful or less technically adept. Often, it can be helpful to use a mediator or facilitator as an interlocutor. If there are too many limitations in resources, time, or mutually acceptable study designs, it may not be possible to use joint fact finding. When it is impossible to eliminate bias from the study design, all participants would need to agree about and factor in the impacts of that bias on the outcomes.

### **Step 4: Seek Joint Gains**

#### Key Concepts and Principles

The next phase of the consensus building process involves surfacing and clarifying the interests, values, and identities of all participants, and the development of potential options that can satisfy the highest priority needs of all stakeholders. This

is sometimes referred to as “creating value.” *Creating value* means exploring the various interests, values, and identities of the parties, inventing solutions that meet those interests, and upholding those values and identities. A promise of a collaborative process is the opportunity to develop innovative, creative solutions that build on the knowledge, experience, and expertise that the many participants bring. This not only expands the scope of mutually beneficial options available but also raises the potential for outcomes that would not have been imagined in a traditional authoritative decision-making setting.

#### Application

There are many contexts in which heritage professionals might engage in deliberations and developing options, including many of those described in the Issues and Challenges background paper (Johnston and Myers, this volume). This is consistent with current heritage planning literature that promotes active stakeholder engagement and responsiveness to stakeholder needs in order to reach the most informed, sustainable, and effective outcomes.<sup>15</sup> An explicit effort at creating value can help heritage decision makers to develop sustainable management decisions that uphold their values and interests while responding to the range of interests, values, and identities of the many other parties who have a stake in heritage places. For heritage decision makers or advocates seeking outcomes that can gain broad acceptability from the parties with the greatest stake in a heritage place, this approach can help maximize the chances of realizing joint interests and increase stakeholder commitment to the decisions. For example, stakeholders participating in the development of the management plan for Chan Chan, Peru (Castellanos 2002, 78–80), created value by inventing an option—zoning—that would allow heritage managers to maintain strict protection in the site’s most fragile areas while allowing the local community’s need for subsistence farming to be met in zones where it did not harm the site’s archaeological remains and heritage values. This option not only met the core interests of both sides, including lessening salt deterioration of archaeological remains, but also has been seen to enhance heritage values by bringing back traditional uses.

#### Process for Implementation

In order to invent solutions that meet stakeholder needs, the group needs to understand what those needs are. Participants should collectively clarify the core interests and values at stake, including stepping back from positions and looking for the core interests underlying them. If there is a facilitator, that individual’s role is to help ensure that participants are able to articulate these underlying interests and values. When identities are involved, it helps to clarifying their possible role in causing, complicating, or exacerbating the situation. A thorough situation assessment report available to all might help parties to prepare by identifying core interests and concerns of all participants.

Once participants understand one another’s needs, the group should focus on inventing solutions that meet the core interests of all stakeholders in order to maximize the possibility of finding an outcome that is acceptable to the parties. The more plausible options a group can generate, the more likely it is that they will find one that all parties can support. To avoid locking into an idea before all potential options can be explored, or to avoid inhibiting the creativity of option generation, it is critical to suspend judgment about these options and explicitly avoid making commitments at this phase. This can be done by asking “what if” questions and offering “what if” scenarios.

To create value, it can be helpful to expand the frame for the discussion or the set of issues to be resolved. In the case of the Lower East Side Tenement Museum, the focus of dialogue expanded from determining which stories to tell to developing structures and initiatives to preserve and support the cultural heritage of all of the area's traditional communities. This resulted not only in the resolution of disputed interpretation but also in the preservation and interpretation of additional cultural sites and stories, and improved relationships and collaborations within the community.

In intercultural settings, it is important to be sensitive to cultural norms and behaviors. For instance, people of Western cultures may be more direct in their tone and approach, whereas those of other cultures may find this style overly forceful or offensive. However, they may be amenable to more subtle forms of inquiry after a level of trust has been established. By beginning a negotiation process with the generation of a wide array of options, stakeholders can devise possible responses to management challenges that go beyond narrow solutions and lead to greater benefits than initially seemed possible.

Neutral facilitation can be useful during deliberation to help surface underlying interests, needs, and values, synthesize commonalities and differences, and identify viable options. The facilitator can also attend to procedural needs, setting a tone for trust building, ensuring participants are engaging in good faith, and enforcing ground rules.

### **Step 5: Reach Agreement**

#### Key Concepts and Principles

Once a set of options exists, groups need strategies to choose between them, because options can be expected to offer different levels of benefits and costs for diverse stakeholders. This phase of deliberation focuses on methods for collectively evaluating options, making wise trade-offs, and reaching acceptable agreements. There are various techniques to help groups assess options and reach agreements, including creating packages using smart trade-offs, developing shared standards for evaluation, and establishing contingent agreements. These techniques make it more likely that groups are able to reach sustainable decisions, as well as preserve and strengthen relationships and trust among parties.

In some cases, the purpose is to provide helpful input and suggestions rather than reach agreement. It may still be worth using some of these methods to develop a common evaluation of the options according to a set of criteria, and to narrow options using packages and trade-offs to provide better advice to the ultimate decision makers and increase stakeholder support for decisions.

#### Application

As in the case of deliberation and creation of options, using effective methods to evaluate and reach agreements can be valuable to heritage professionals facing management conflicts or challenges. Making management decisions that all stakeholders can support increases the likelihood of sustainable implementation, reduces or resolves conflict, and builds trust and long-term relationships that can help sustain culture as well as heritage places.

In her discussion of the "Response Phase" of the heritage planning process, Demas highlights "the overarching, guiding principle" that decisions "preserve the values of a site" (2002, 42). This well-established principle in values-based heritage

management can serve as a shared criterion—a goal for success that the group can agree on, and therefore a tool to use to evaluate the benefits and costs of solutions.

#### Process for Implementation

Several techniques can be helpful in evaluating options and reaching agreement. One method is to use wise trade-offs, in which parties give up something less important to them in order to get something of higher priority. When stakeholders prioritize or value issues differently, they may be able to agree on a trade-off across different issues. For example, in Chan Chan, the group created different zones that allowed for agriculture and other traditional uses in some places in return for greater restrictions in the most sensitive areas (Castellanos 2002).

In order to evaluate options, participants can develop common criteria together based on shared principles or standards. The goal is to find standards that are acceptable to all participants as reasonable criteria for reaching a successful outcome, or a set of criteria that collectively include that which participants find fair, just, and right. As mentioned above, cultural significance may be one of these criteria. If stakeholders generally agree on a place's significance and that it should be conserved, then the group can collectively examine the extent to which each option helps to conserve this significance. In the zoning agreement in Chan Chan, the group developed a set of criteria for determining the appropriate use for each zone within the site, including the characteristics and conservation conditions, type of existing infrastructure, type of uses compatible to conservation, and needs for visitor use (Castellanos 2002, 79). These criteria gave stakeholders common measures for their deliberations about which uses should be allowed and where. Agreed-upon rights can also be important criteria, whether legally established or widely accepted. In the Mirador Roundtable, a jointly commissioned analysis showing that roads were illegal within protected areas led to a ban on new roads that met the needs of stakeholders as well as those of government and the larger public.

Another way to resolve disagreement about options is to make a contingent agreement. If participants cannot be sure about an agreement's impact on their interests, a contingent agreement helps to reduce risk by including a procedure for changing the agreement in response to future developments. The process used in the Lake Condah case study incorporated contingent agreements to reassure local farmers that their pastures would be protected from flooding by promising implementation of an alternative technology for water management if water exceeded the agreed level.

### **Step 6: Implement, Adapt, and Learn**

#### Key Concepts and Principles

Reaching a collaborative agreement among a broad group of stakeholders is a considerable achievement. However, the real test is whether the terms of the agreement will be implemented over the long term. To ensure that plans can be implemented, it is important to identify and address likely challenges and clarify procedures for monitoring, evaluation, and review, and to build these things into the agreement or plan itself.

Most agreements or plans are meant to be implemented over a long time period and require monitoring and adapting based on evolving circumstances. Similarly, every situation has a set of “predictable surprises,” things that, upon reflection, we might identify as likely to occur and that have the potential to undermine an agree-

ment (Bazerman and Watkins 2008). These might include changes in leadership, differences in interpretations of phrases, reductions in available budgets, or debates over how best to respond to new issues that may arise. Before concluding a collaborative process, it is critical to include discussion, and potentially agreement, on the procedures for monitoring and revisiting potential changes. It can also be useful to establish ongoing dispute resolution mechanisms to clarify how to address any disagreements that might arise in the future.

#### Application

It is widely noted that in cultural heritage management, many plans are never implemented. Rather than relying solely on experts who “parachute in” and then leave, local ownership and commitment are essential to a successful outcome. In cultural heritage settings, ongoing connection and involvement of local stakeholders in implementing preservation initiatives may be key to achieving goals. Preparing for implementation and adaptation might involve establishing a standing forum for multi-stakeholder engagement, such as in El Mirador, where the roundtable became a legally recognized forum for management decisions. In Lake Condah, the planning process established an ongoing active role for members of the Gunditjmara community in the governance structure of the place, thus maintaining their position as partners in the preservation of their heritage.

Planning takes place within a specific time frame, yet plans need to be adaptable to future circumstances. When plans are developed collaboratively, it is important to have clear protocols for future changes. Ideally, all stakeholders should understand what monitoring will occur and how adaptive decisions will be made to ensure that the interests, values, and identities of involved stakeholders are respected.

#### Process for Implementation

Preparing an agreement or plan for implementation should include an upfront review of potential challenges that might arise during implementation. Some implementation challenges may be technical and can be anticipated through joint fact finding on technical issues, field testing of proposed indicators and verifiers, and other such methods. If final agreements requiring active implementation by stakeholders fail to satisfy those stakeholders’ core interests and needs, then potential challenges could arise. The implementation of some agreements may require reviewing and potentially changing institutional policies, priorities, or incentives. Eugenio Yunis (this volume) notes that in the process of implementing the Special Plan for the Historic Quarter of Toledo, Spain, it was recognized that public administration of heritage policies required a streamlined process. The plan also required property owners to pay for archaeological investigations whenever construction or restoration work was to be undertaken. When property owners were at first reluctant to allow such studies to be undertaken due to the financial burden, public financial incentives were introduced to help pay for them. This initiative has encouraged greater appreciation of heritage by property owners.

It is helpful to look for the “predictable surprises” that might get in the way and prepare responses to these in advance. For example, in any process set in a context where change of political or bureaucratic leadership is likely, participants should be prepared by cultivating support across a range of political affiliations.

Parties should collaboratively determine procedures and indicators for monitoring and evaluating the implementation of decisions. Procedures should be developed

for reviewing and revising a plan or agreement in light of implementation experience, including if implementation benchmarks are not being met. Finally, a procedure should be established for making changes to an agreement if necessary to achieve joint goals, so that all stakeholders have a mechanism for voicing grievances that may arise during implementation; for example, adding a commitment to reconvene core parties or use alternative dispute resolution in the case of future disagreement about the decision.

## **Section 5: Beyond Negotiation: Dealing with Values and Identities**

Cultural heritage is tied not only to people's interests but also to their identities and values, and often intersects with strongly held rights. Many of the types of conflicts described in Johnston and Myers can center around deeply held and potentially threatened identities and values, such as heritage disputes in places important to indigenous and traditional communities, sites of religious significance, and sites of past atrocities. In instances of long-standing intergroup conflicts, parties may frame their disputes in terms of values, rights, and identities, which are more important than meeting their interests.

Not all situations are ripe for collaborative resolution; in some cases, exercising rights or power is a necessary and wise strategy as a prelude to collaboration or as a resolution technique. In Kakadu National Park (see sidebar, pp. 27–30), leaders of the Mirrar clan claim ownership of the land as a matter of rights and believe that their cultural values and their identity would be compromised if mining at Jabiluka is allowed (Gundjehmi Aboriginal Corporation 2015). Protecting these rights, values, and identities is seen by the Mirrar as nonnegotiable. For many of them, these values supersede any interests they might have in economic development. Their exercise of power—to form coalitions with environmental and heritage allies, to appeal to the World Heritage Committee—and their efforts to enforce their legal authority over the site were effective in forcing a retreat by the mining company. In many cases, however, the use of power or rights approaches has been unable to compel a resolution, as in Quilmes, where the stalemate goes on.

In conflicts centered around deeply held identities and different conceptions of values and rights, what role can collaborative practices play in advancing resolutions? This section reviews several strategies that conflict resolution professionals use to reduce the polarization of values and identities as a prelude or within a collaborative process, or as a component of a broader effort drawing on multiple approaches (Susskind and Field 1996; Susskind et al. 2009; Forester 1999, 2009; Kelman 1999, 2008; Susskind 2010).

### **Building Trust, Safety, and Respect**

In situations where past relationships and polarized identities and values have been so strained that communication between parties is limited or poor, a key strategy is to engage in trust building activities or what are sometimes called confidence building measures. These are small moves, involving little or no cost or risk, that signal a willingness to engage in constructive interaction; for example, shared visits to a heritage place, where differing sides can experience a place together, as long as no promises of any kind are required ahead of time. Such visits need not address substantive concerns. In mediation between Arab and Bedouin landowners and the



Israeli government over the development of Tzalmon National Park in the Galilee in Israel, park residents initially refused to participate in formal talks. It required multiple visits by the mediation team to Bedouin homes for informal meals and tours before the Bedouin felt comfortable enough to participate. Inclusion of appropriate cultural rituals at these sessions was also critical to maintaining a sense of mutual respect (Levine and Har Lev 2005).

It is important to create safe places to exchange views. By getting agreement ahead of time on ground rules that prevent personal attacks, maintain confidentiality, and require respectful behavior, it is possible to create a venue where parties can and do listen to statements that may otherwise be impossible to accept. Requiring respectful behavior does not ensure that parties respect one another, though it does open up the possibility that such respect may develop over time. Meanwhile, dialogue can begin. In the Tzalmon National Park mediation, deliberation over the ground rules took multiple meetings but ultimately led to a formalized process of all participants, who signed a poster-sized listing of the ground rules that increased the stakeholders' sense that they could work together.

### **Encouraging Empathy and Acknowledgment of Differences**

In situations of long-standing conflict, groups often demonize others' identities and values and hold incorrect or mischaracterized perceptions of others' views. It is difficult for groups to be open to the solutions of others when they really don't understand one another's perspectives. Dialogue—open exchange between two or more parties—provides an opportunity for the parties in conflict to teach about themselves and learn about others. At first this may involve some venting, even ranting, but if the process is well managed, groups will begin to feel heard. This often enables them to hear others. Parties often begin to see that their perceptions are incomplete and perhaps inaccurate. There are many examples where dialogue has helped groups to set aside stereotypes they may have held for many years.<sup>16</sup> Encouraging the telling of stories, explaining not only what one believes but also how one came to hold those beliefs, can open up space to build entirely new relationships.

When the history of the situation or the relationship is an issue, it cannot be excluded, nor is it helpful to dwell only on the past when current issues need to be confronted. It is important to provide opportunities to acknowledge past injustices and to provide room for discussion about the past without getting stuck there. One strategy is to create a literal seat at the table for history, to symbolize the important role that history continues to play, and to invite stakeholders to move to that seat when discussing events of the past. When part of the goal is to develop a shared interpretation of the past for present and future generations, it may be possible to create shared or blended narratives that tell truer and richer stories than any one side is able to write on its own.

The Sites of Conscience case study by Ševčenko offers “civic dialogue” as an effective way of developing greater mutual understanding, empathy, and the ability to confront conflict productively. The examples used—the Lower East Side Tenement Museum (New York), Constitution Hill (South Africa), and Villa Grimaldi (Chile)—offer powerful illustrations of the benefits of engaging in open-ended and purposeful dialogue around heritage management and interpretation questions. At the Lower East Side Tenement Museum, interests and identities combined to create conflict between two groups, with each seeking to assert that its identity was the foundation of the neighborhood's historic and contemporary

identity. The case study reveals how, through dialogue, the focus was shifted from a decision about which immigrant groups would be represented in the museum to a broader consideration of how all of the immigrant histories could be told through a range of places across the neighborhood. The dialogue process built mutual understanding of values, shifted fixed positions, clarified interests, and enabled contested group identities to coexist.

Similarly, to address years of pent-up anger and strongly held beliefs about the events leading up to a long-standing conflict about the protection, use, and occupancy in the cultural resource management plan for the historic Dune Shacks of Cape Cod National Seashore, described earlier, the stakeholders spent the first few meetings in a collaborative process mediated by CBI developing a shared timeline of events. Each participant added his or her own memories of when shacks were built, sold, damaged, rebuilt, or destroyed. Participants further provided details about the former owners and uses, including whether the shacks were shared with others or occupied exclusively, a major point of contention in the dispute over future use. There was a limited attempt to reconcile different perspectives; when this seemed impossible, the timeline incorporated multiple (and conflicting) perspectives on what had happened. The group decided to include the timeline as a chapter in their final report. The participants were then able to move on to develop options for resolution of the current challenges, and to draw on points of agreement from the past to inform their deliberations. If the historical record is sufficiently complete, it may be possible to use the methods of joint fact finding as a tool for coming to a common understanding on historical questions.

### **Selecting Level-Headed Representatives**

Groups in conflict over long periods of time may develop polarized (“us” vs. “them”) identities and values. These are reinforced by internal political dynamics that exacerbate mistrust, differentiation, and difference. Some individuals thrive on these dynamics, while other, more thoughtful leaders faithfully represent core values but remain open to other perspectives and the possibility of dialogue. It is important to identify representatives who are both legitimate in the eyes of their constituents and capable of interacting effectively with “the other.” These individuals are able to move beyond posturing and grandstanding, and beyond dehumanization or dismissal of the other. They can explain the beliefs and feelings of their group while appreciating the radically different (and at times highly negative) views of others. A professional mediator, relying on confidential interviews with prospective stakeholder group representatives, ought to be able to help identify such people and/or work with groups to help them put forth appropriate representatives.

It can also be helpful to add mutually trustworthy participants who can help bridge the gap between the identities and values of the polarized sides. People are far more able to hear views different from their own when they are coming from someone they trust. For example, in the Tzalmon National Park process, a particularly critical member of the mediation team was a prominent Arab-Israeli leader. This individual was trusted by the Arab parties and also able to see and help communicate the legitimate concerns of the Israelis. Similarly, in bringing a group together to develop the Dune Shacks management plan, the National Seashore included members of their advisory group who were respected by both the non-profit groups and the traditional owners of the shacks.

**Identifying Shared or Overarching Values and Identities**

There may be instances in which a set of overarching common values may be found that can reduce polarization between groups. Dispute resolution practitioners have found that universally held values such as human rights, freedoms, or the rule of law can help connect parties in dispute and find common ground, and shared identities can bring together individuals who may otherwise see one another as enemies. An example of uniting around common identities is the Parents Circle–Families Forum (PC–FF), in which bereaved family members of those killed in the Israeli–Palestinian conflict come together to advocate for reconciliation and work to promote an end to violence in the region (Parents Circle Families Forum 2015). In this case, attention to their shared identity as grieving parents allows them to overcome their polarized identities as Israelis or Palestinians, and leads them to behave not as enemies but as allies, united in supporting the common value of the sanctity of life.

**Setting Aside Values and Negotiating Interests**

There may be situations in which identities and underlying values will never be reconciled but some interests may nonetheless be negotiated. As John Forester, a mediator and professor of planning at Cornell University, states, “Parties in conflict may disagree about what the Bible means and what their sense of the Creator requires of them, and they may nevertheless agree about where to place the stop signs on the roadway” (2009, 6). For example, stakeholder groups involved in the negotiation over a management plan for the Cape Cod Dune Shacks disagreed about the value of long-term family occupancy of the shacks. However, they managed to reach an agreement on a set of criteria that the National Park Service could use to evaluate proposals for use and occupancy, as well as on several other components of a conservation and preservation plan.

**Seeking Evolution in Values and Identities**

While some believe that values and identities are immutable, research in intergroup dispute resolution suggests otherwise. Herbert Kelman, a pre-eminent mediator-scholar, has shown that resolution and reconciliation of protracted conflicts between identity groups can include a transformation in the way that their identities are constructed, in that “each party may have to give up those elements of its identity that negate the other—such as the view of itself as the sole owner of the land” (1999, 199). Such shifts may have occurred during the dialogues at the Lower East Side Tenement Museum or at Constitution Hill, described in the Sites of Conscience case study, as the exclusivity of meaning held by different identity groups (Chinese vs. Jewish, political prisoner vs. criminal) began to break down to allow a more multi-textured narrative. For a mutually agreeable resolution to occur in the case study on Quilmes, a similar shift on the part of the national government in Argentina toward recognizing the identity claims of the indigenous community may be needed. As groups learn more about and gain empathy for one another’s perspectives, their values may also shift and/or their perception of the supremacy of their values over those of others may loosen, allowing the possibility for coexistence of incompatible beliefs.

The potential shifts in identities and values go beyond the assumptions with which the parties begin. They may learn that their perceptions of themselves and others could be inaccurate. Forester warns us to avoid being lulled into a belief about the intractability of differences no matter how irreconcilable initial values

and identities may seem. The careful and skillful convening of collaborative processes—dialogues and negotiations—frequently yields surprises in the extent of possibilities for resolution and reconciliation on a range of levels (Forester 2009).

## Section 6: Conclusion

Public decision making involves a range of challenges, including the following:

- Incompatible interests (who gets what)
- Clashing values (how the world “is” and “ought to be”) and identities (self-definitions)
- Disagreements over “facts” (what information is legitimate and relevant)
- Histories of negative relationships (which may include misperception and lack of trust)
- Structural factors (e.g., unequal representation, power, and authority)
- Logistical issues (e.g., unclear, overlapping mandates; limited resources; and timelines)

Collaborative strategies such as consensus building are designed to respond to these challenges by resolving contentious public disputes, improving public engagement in decision making, and making decisions that can be effectively and sustainably implemented. Collaborative processes can take a wide variety of forms, from robust public engagement to binding decision making by consensus. Different situations and cultural contexts call for different approaches. However, the parties involved typically all share the objective of improving the acceptability, and therefore sustainability, of outcomes by seeking to address the underlying needs and concerns of those impacted by the decisions.

Heritage places, as the arenas in which historical, scientific, and cultural significance combine with present economic, political, and cultural priorities, are often fraught with the range of public decision-making challenges mentioned above, which may take the following forms:

- Differences in perspectives between varying groups about the cultural significance of a place, its interpretation, or management priorities
- Conflicting prioritization of heritage preservation vis-à-vis other critical interests
- Conflicts unrelated to the heritage itself but that pose a risk to the cultural resources if not resolved

Though not all conflicts are amenable to collaborative solutions, the strategies and tools of consensus building can be applied to a wide range of heritage management challenges. Used in combination or individually, these collaborative dispute resolution strategies can provide effective ways to understand, develop, and engage in decision making. These approaches can help decision makers respond effectively to disagreements about the significance of heritage places, or to priorities regarding their protection or management. Their use in the context of heritage place management is likely to improve the effectiveness and sustainability of management decisions and outcomes.

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## Notes

- 1 This background paper provides an overview of approaches and methods most likely to be relevant to cultural heritage place management. It is not a comprehensive exploration of all collaborative methodologies, and particularly does not address dispute resolution methods that pertain to peace building, such as conflict transformation, problem-solving workshops, multitrack diplomacy, trauma healing, future visioning, and appreciative inquiry. Those interested in finding out more about these other methods may wish to explore the Beyond Intractability website at: <http://beyondintractability.org>.

- 2 For early scholarship on the interest-based approach, see Fisher and Ury (1981), Lax and Sebenius (1987), and Raiffa (1982). For early scholarship on the social-psychological approach, see Deutsch (1973), Kelman (1958), and Rothman (1992).
- 3 CBI is a not-for-profit organization founded in 1996 and dedicated to improving public decision making through effective collaboration, negotiation, and consensus building. For more information about CBI, please visit <http://www.cbuilt.org/>.
- 4 See Smith and Fairman (2004); others in the field have made similar distinctions. See, for example, Spangle and Isenhardt (2003).
- 5 The distinction between interests and positions is a core concept in the field of negotiation. See Fisher and Ury (1981), among others.
- 6 The “values” concept used in the heritage field, focusing on the topics of values and economics in heritage conservation, has been explored extensively in the GCI publications mentioned in the foreword to this volume.
- 7 Distinctions between facilitators and mediators vary. To the extent they are differentiated, facilitators are those whose task centers on coordinating processes and managing meetings, whereas mediators may take responsibility for a deeper role in the process as a whole, including a range of interactions with stakeholders outside of formal meeting settings to help bridge differences and find common ground. For purposes of efficiency, I use the terms interchangeably.
- 8 While the illustrative process and steps have been developed by CBI, they draw upon activities and strategies that are widely advocated within the field.
- 9 Situation assessments are also known in dispute resolution literature as issues assessments, conflict assessments, or stakeholder analyses. For a more detailed discussion on the history, terminology, and process of conflict assessment, see Susskind and Thomas-Larmer (1999).
- 10 The need for feasibility studies to assess whether a formal planning process is appropriate is addressed in a report by Castellanos and Descamps on their experience in preparing a management plan for Joya de Ceren archaeological site, El Salvador. Their report recommends that this take place within a “pre-planning” phase of a management planning process (Castellanos and Descamps 2007, 50–52, 68–69).
- 11 The stakeholder analysis is an unpublished report by ICAR. CBI was not involved in the situation assessment but played an active coaching role in the process design, convening, and early stages of the facilitation of the Mirador Roundtable.
- 12 As Radachowsky and Castellanos note in the El Mirador case study, the ICAR process recommendations were not implemented; however, the findings of the assessment did contribute to the participants’ understanding of the conflict and provided guidance for the ultimate convening.
- 13 Several organizations and consortia have developed graphic spectra to illustrate the range of types and purposes of collaborative and consensus building processes. For examples of spectra/processes that are widely used, see Orenstein et al. (2015); International Association for Public Participation (2007); and National Coalition for Dialogue and Deliberation (2014).
- 14 For more information, see “Stakeholders” under section 2 above.
- 15 See, for example, Demas (2002); Aas, Ladkin, and Fletcher (2005); Mason (2002); and Article 26.3 of the Burra Charter (Australia ICOMOS 2013).
- 16 See Rothman (1992, 1997) and the work of organizations like the Public Conversations Project (2015) at <http://www.publicconversations.org>.





**PART 2**

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**Case Studies**



# Developing Legislation for Canada's Historic Places

*Christina Cameron*

## Abstract

This case study examines policy and legislative development for Canada's historic places.<sup>1</sup> Following a review of existing policy and legal instruments in this area, the study presents an unsuccessful attempt in the period between 1997 and 2004 to achieve Canadian federal legislation to protect and conserve all of Canada's National Historic Sites and other historic places. Despite strong political commitment, bureaucratic effort, and the mobilization of all Canadian provinces and territories, two proposals failed to make their way through the federal system to become law. This study documents the significant challenges faced by the proponents as well as the underlying tensions between heritage conservation and competing governmental priorities. It examines the situation through the lens of a consensus building theoretical framework to ascertain the degree to which consensus building and conflict resolution methods were used to advance the cause. It then reflects on how these techniques might have been used to achieve a more positive outcome.

Both positive and negative lessons can be drawn from examining the Historic Places Initiative in the framework of a consensus building approach. The positive points include an appropriate choice of convener at the outset, early involvement of key stakeholders, joint fact finding, willingness to share power, successful coalition building, and extensive consultation. On the negative side are weak strategic alliances at the ministerial level, the slow pace of government policy development, frequent government reorganizations that result in new inexperienced champions, and low levels of broad-based public awareness and support. Although the Historic Places Initiative failed to produce new federal legislation, it did nonetheless result in the creation of a single source of information about all historic places recognized for their heritage value at the local, provincial, territorial, and federal levels. This source, the Canadian Register of Historic Places, was unanimously adopted by all jurisdictions of the Standards and Guidelines for the Conservation of Historic Places in Canada.

## Introduction

Development of policy and legislation for heritage places requires consensus building and effective collaboration. This is particularly true for countries such as Canada and the United States, which are governed through complex federal structures. The Historic Places Initiative in Canada achieved some success but failed to produce new legislation or fiscal incentives. Despite strong political commitment and bureaucratic effort, two proposed laws, informally referred to as the Canada

National Historic Sites Act and the Canada Historic Places Act, never reached Canada's Parliament and were not debated in the legislature.

Prior to this intensive period of heritage policy development, Canada's laws and policies related to heritage conservation could be described as an uneven patchwork. In comparison to the United States, where preservation of historic places has been deemed worthy of legislation and public investment for over a century, Canada has a poor track record. With the notable exception of the National Battlefields of Quebec Act (1908) and the creation of the Historic Sites and Monuments Board of Canada by Order in Council (1919), a federal legislative and policy framework emerged only incrementally in an ad hoc way during the second half of the twentieth century. The Historic Sites and Monuments Act (1953) provided a statutory basis for the board more than thirty years after the fact, as well as authority for the federal government to commemorate historic places of national significance through plaques, agreements, and acquisitions.

Twenty years later, a number of policy initiatives came forward. The government of Canada created the Heritage Canada Foundation (1973) to foster citizen support for heritage. In 1976 Canada acceded to the UNESCO *Convention for the Protection of the World Cultural and Natural Heritage* (World Heritage Convention). In 1982 the government approved a Federal Heritage Buildings policy to protect the heritage character of federally owned property. The policy required custodians to obtain a heritage evaluation for all buildings forty years or older and to develop a statement of significance with an appropriate reuse strategy for buildings deemed to have heritage value.

At Parks Canada, the federal organization responsible for national parks and National Historic Sites, two early policy documents were issued: the National Historic Sites Policy (1968) and the Parks Canada Policy (1979). These fledgling policy frameworks were replaced in the late 1980s by the innovative Cultural Resource Management Policy (1988, 1994), which proposed a principles-based framework for the management of historic places administered by Parks Canada. A federal Archaeological Policy (1990), developed unilaterally by another department, had limited impact, as it did not apply to the vast land holdings of Parks Canada.

There is a certain irony in the fact that the only historic place legislation in this period was initiated not by government but by the NGO community and a member of Parliament from an opposition party. Championed by the Heritage Canada Foundation and fueled by surreptitious demolitions by the railway companies themselves, grassroots support emerged in communities across Canada. Part of the Canadian psyche, railway stations are associated with the stories of thousands of ordinary Canadians who arrived as immigrants or who waved good-bye to young soldiers destined for the battlefields of Europe. The cause had powerful allies in the Parliament of Canada, including an opposition member of Parliament, Len Hopkins, who was outraged at the midnight demolition of his community's station, and Senator "Choo-Choo" Charles Turner, a locomotive engineer by career. Not even the influence of Senator Ian Sinclair, chair of the huge Canadian Pacific Railway Limited from 1969 to 1981, could prevent the successful passage of the Heritage Railway Stations Protection Act (1988), a clear demonstration of the power of grassroots interest in a specific and sentimental building type.

At the end of the twentieth century, no comprehensive federal legislation existed to protect National Historic Sites and other federally owned historic places. It was only after Charles, Prince of Wales, visited Canada in 1996 and lamented on the

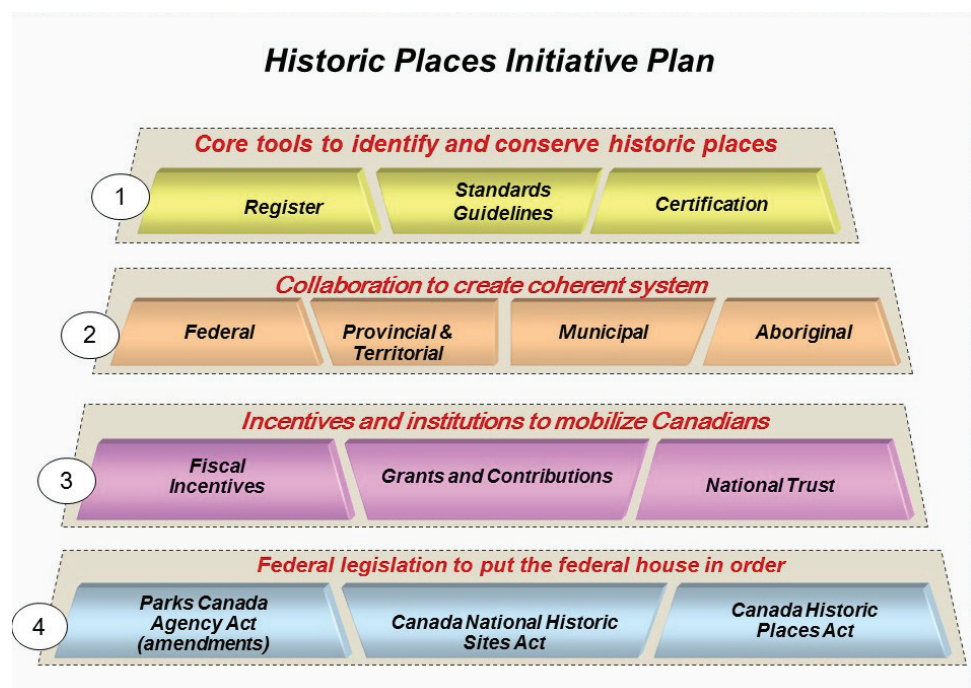
sorry state of the country's built heritage that the Canadian government began work on the Historic Places Initiative. This was a visionary strategy that involved a pan-Canadian effort to create tools, processes, and legislation to protect the country's built heritage, including the two proposed acts cited earlier. The Historic Places Initiative proposed a suite of measures aimed at fostering a culture of conservation. It introduced core tools, including a register, conservation standards, and a certification process, to identify and conserve historic places; established a formal collaborative process to create a coherent national system; proposed financial incentives and a National Trust to mobilize Canadians; and proposed legislation informally referred to as the Canada National Historic Sites Act and the Canada Historic Places Act to put the federal house in order (fig. 1). The intent was to encourage appropriate stewardship of its built heritage inventory and manage the impact of federal activities on other levels of government.

It is important to clarify jurisdictional distinctions in Canada. Property rights as set out in the British North America Act (1867) and the Canada Constitution Act (1982) are assigned to provinces and territories. Nonetheless, the federal government has jurisdiction and legal authority for real property that it administers directly. Indeed, the government of Canada is the largest single property owner in the country. With regard to heritage property, the proposed legislation aimed to address gaps in the federal legal framework in order to protect about two hundred National Historic Sites owned by the federal government, approximately two thousand Federal Heritage Buildings, Canada's UNESCO World Heritage Sites, and countless archaeological resources on federal lands and lands under water. In addition, it proposed measures to prevent adverse federal actions on nine hundred additional National Historic Sites in other jurisdictions. The proposed federal legislation was also intended to provide a statutory basis for the Canadian Register of Historic Places and the Standards and Guidelines for the Conservation of Historic Places in Canada (Canadian Heritage 2002).

**FIGURE 1**

Policy framework for the Historic Places Initiative plan.

Image: Parks Canada, with adaptations by Christina Cameron.



## Management Context

The role of government is to develop policy, create legislation, and deliver programs and services that flow from policy decisions. The federal government has a policy responsibility for lands, waters, and lands under water that fall under its jurisdiction; it also has a policy role for federal works and undertakings.

Legislation is initiated by specific government departments. The legislative process in Canada is complex. Approval for tabling legislation in Parliament comes from the full Cabinet, a body composed of all federal government ministers. Before reaching full Cabinet, proposals are examined in Cabinet Committees composed of selected ministers and created to study specific subject areas. To gain access to a Cabinet Committee and ultimately to full Cabinet, a confidential Memorandum to Cabinet (MC) is required. It is up to an individual department to prepare an initial draft of an MC for its minister, who champions it through the system. Before an MC can go forward, it must run the bureaucratic gauntlet of an interdepartmental meeting of senior officials. An MC normally does not proceed to Cabinet Committee without support from officials of other affected departments. It is important to note that all departments are not necessarily equal. The Department of Finance exercises an inordinate degree of power within the bureaucracy since it must signal support in principle for whatever new funding might be required. If the MC is approved by a Cabinet Committee and, subsequently, full Cabinet, legislation can then be introduced into Parliament by the government for debate and enactment.

## Convener

The theoretical framework for a consensus building process places great importance on the role of the convener. It is essential that the body initiating a consensus building process be trusted and credible. In the case of the Historic Places Initiative, the initial convener was Parks Canada, an institution deemed competent and knowledgeable. An additional advantage lay in the long-standing positive relationships that Parks Canada staff had with many of the participants. In 1997 the convener set up regular meetings with the network to develop policies together. Included in the network were representatives from key government departments, all thirteen provinces and territories, NGOs, and the private sector. Side tables were set up for technical issues such as register criteria, conservation standards, and technology platforms. The initial success in engaging key stakeholders can be attributed in part to the reputation of the convener and in part to the unusual invitation to participate in—and not simply react to—policy development. Over time, the role of convener shifted in response to government restructuring.

Analytical work began in November 1997, at a time when Parks Canada was a program within the Department of Canadian Heritage. The role of convener changed twice in seven years as a result of government restructuring. In April 1998, shortly after the launch of the Historic Places Initiative, the government transformed Parks Canada into an agency, an independent operational unit reporting directly to the minister. At that time, the lead role for policy development shifted to less experienced staff within the Department of Canadian Heritage, although Parks Canada staff remained active. In December 2003, the Parks Canada agency was transferred from the minister of Canadian heritage to the minister of the environment. The effect was to make the Department of the Environment

**FIGURE 2**

Timeline for the Historic Places Initiative, highlighting key moments in the project's implementation.

Image: Christina Cameron.



responsible for the Historic Places Initiative, including the proposed legislation. Given Environment Canada's policy focus on biodiversity, climate change, and pollution, one can charitably describe its attitude to historic places as one of benign disinterest. The common thread throughout these upheavals is the participation of built heritage experts from Parks Canada.

The Historic Places Initiative, which included proposals for federal legislation, was discussed several times by different Cabinet Committees over a period of six years. Although the proposal was never rejected outright by Cabinet, it was sent back each time for further work. Following the last discussion, prospects looked positive for advancing the legislation, only to be dashed by the Department of Finance when no funding was included in the federal budget of 2004. Since that time, the government has been formed by a different party with other priorities, and federal legislation to conserve Canada's historic places has stalled (fig. 2).

## Assessor

Though not technically a situation assessment as defined in consensus building theory, the government did produce its own analysis of the existing state of built heritage conservation in Canada as a starting point for discussions on the Historic Places Initiative. Prepared with the Parks Canada federal heritage policy branch, the assessment undertook a comparative analysis, situating Canada in the context of other G7 countries (fig. 3). It examined the existence and strength of tools like heritage trusts, tax incentives, heritage registers, protection systems, and legislation, concluding that Canada ranked at the bottom. Other research by an external consultant concluded unequivocally that 20 percent of Canada's built heritage had been destroyed in the previous thirty years—"20% lost in one generation," as the








FIGURE 3

Comparative analysis of Canada's readiness to conserve historic places with that of other G7 countries, prepared in 1997 by Parks Canada and Gordon Bennett and Robert Sheldon.

Image: Parks Canada.

**In 1997 How Did Canada Compare With Other Countries?**

					Provinces & Territories 	
National or Heritage Trust	Yes	Yes	Yes	Yes	Some	No
Tax Incentives for Historic Places	Yes	Yes	Yes	Yes	Some	No
Heritage Register	Yes	Yes	Yes	Yes	Some	No
Designated Historic Places Protected by Statute	Yes	Yes	Yes	Yes	Yes	Some
Archaeological Resources Protected by Statute	Yes	Yes	Yes	Yes	Yes	No
Heritage Shipwrecks Protected by Statute	Yes	Yes	Yes	Yes	Yes	No
National Government Buildings Protected by Statute	Yes	Yes	Yes	Yes	N/A	No

tagline went. These analyses were accepted by politicians and stakeholders alike as neutral and factual, identifying specific needs and establishing a credible case for taking action on an urgent basis.

## Stakeholders

Many stakeholder groups represented diverse interests and values, ranging from those who care about Canada's historic places to others who fear potential negative impacts from heritage conservation obligations. In some cases, stakeholder groups were ambivalent. Before delving into specific issues related to this case study, a brief description of stakeholders and their interests follows:

- *Federal politicians* from all political parties were generally supportive of the conservation of historic places, as evidenced by two Private Members' bills, which received all-party approval to become laws to protect specific types of heritage buildings (railway stations in 1988, lighthouses in 2008).
- *Lead federal ministers*, who, as government members, have the responsibility for initiating new legislation could be described as supportive but not necessarily ready to expend political capital to ensure the passage of federal historic places legislation.
- *Parks Canada* is a large organization with diverse cultures and interests. It is custodian of most federally owned National Historic Sites and the center of expertise for historic places within the federal government. From the outset, it provided leadership and technical advice for the Historic Places Initiative. Since 2003, when Parks Canada was transferred to the minister of the environment, it has the sole statutory mandate to bring forward historic places legislation (Government of Canada 2005, 4 b-c). At the same

time, Parks Canada has many field managers who administer almost 3 percent of Canada's land mass (largely through the national parks system). Like other federal land managers (see below), this group showed reluctance toward new legal obligations that could affect their management practices related to historic buildings, archaeology, cultural landscapes, and actions outside federal lands. In a context of continuing financial constraint, field managers were worried that new obligations might not be fully funded and therefore would increase pressure on already strained budgets.

- The *Department of Canadian Heritage* is a large federal body created in 1993 by amalgamating portions of five other departments, including Parks Canada. As such, it has many competing priorities. Only after a specific minister and deputy minister decided to indicate their support for historic places legislation did the department dedicate resources to the project. Following the transfer of Parks Canada to another minister in 2003, the department no longer was responsible and stopped work on the legislation.
- The *Department of the Environment* traditionally focused exclusively on diverse issues related to the natural environment. The transfer of Parks Canada to the minister of the environment meant that lead responsibility for federal historic places legislation came under the purview of a department with no experience and little interest in cultural heritage matters. The department's other mandates focus on the natural environment, including renewable resources, migratory birds, biodiversity, water, meteorology, and climate change. Departmental support ranged from lukewarm to indifferent.
- *Other custodial federal departments* with large inventories of culturally significant buildings and lands (National Defence, Public Works and Government Services, Fisheries and Oceans) were not particularly receptive to new heritage legislation, with the exception of the National Capital Commission, which already had its own legislation in place with specific requirements for historic places. Other custodial departments made it clear that support for the conservation of historic places and specifically for legislation would be contingent on new funding. Any new obligations flowing from legislation would have to be fully funded with new money. Disagreement over the actual costs of new obligations is one of the issues raised in this case study.
- The *Department of Finance* is in principle opposed to any policy or legislation that might put new demands on the budget. It therefore challenges all cost estimates that must necessarily be estimates, not exact calculations. The department believes as an act of faith that tax policy is not to be used as an instrument for social policy. It therefore regarded with suspicion a proposed tax incentive program, another part of the Historic Places Initiative inspired by the highly successful historic preservation tax credit system in the United States. Its concerns centered on the perceived weakness of definitions and conservation standards to control the program, which could have a negative impact on the federal fiscal framework (despite positive impacts demonstrated in the American model).
- *Provincial and territorial governments* all have existing legislation to protect heritage buildings and manage archaeological resources in their areas of responsibility. They consistently appealed to the federal government to improve its custodianship of heritage property. Therefore the provinces and territories strongly supported policies and legislation that would oblige the

federal government to conserve its historic places in an appropriate manner and not use federal funds to adversely impact historic places outside the federal domain.

- The *Federation of Canadian Municipalities* is a national organization of municipal leaders that passed several resolutions to support the Historic Places Initiative. Mayors of Canada's large cities viewed the initiative positively because they anticipated potential new investment in local heritage properties (with concomitant increases to the tax base), as well as improved communication and consultation from the federal government prior to taking actions that could negatively affect significant properties in their communities.
- *Heritage groups and organizations* are dispersed across Canada and generally suffer from low membership, lack of cohesive networks, and relatively weak standing in public perception. Heritage groups obviously share similar objectives with the initiative, but advocacy efforts on national issues can be hampered by local perspectives. In the case of the Heritage Canada Foundation, an important pan-Canadian grassroots organization, its enthusiastic public endorsement of the Historic Places Initiative was partially undermined by its simultaneous support for a different set of priorities and sequencing. Such disagreements between proponents and key external stakeholders provided the Department of Finance with an excuse to send department officials back to the drawing board. In the case of ICOMOS Canada, a national organization of heritage professionals, its advice on proposed federal policies and legislation was weakened by a perceived conflict of interest, since many of its members included federal employees. The Canadian Museums Association, while supportive, focused on museum issues with only a marginal interest in historic places.
- *Environmental groups and organizations* in Canada are well organized and politically savvy. Among the most prominent are the Sierra Club, the Canadian Parks and Wilderness Society, the Nature Conservancy of Canada, and the Canadian Environmental Network. While not necessarily opposed to cultural heritage initiatives, environmental groups are strongly focused on their own priorities. They did not rally their national networks or exercise their considerable political clout on behalf of the Historic Places Initiative and federal legislation.

## Issues and Processes

This case study examines selected issues and processes using a theoretical framework of consensus building activities. The framework or checklist includes activities such as joint fact finding to identify problems and develop solutions, sharing information, consulting proactively with stakeholders, fostering coalitions, and engaging in interest-based negotiations. These are tools that can contribute to a successful outcome, namely a consensus or agreement on a specific matter. In this section, key issues and processes arising from the proposed Canada National Historic Sites Act and the Canada Historic Places Act are examined to determine how effectively such techniques were applied. These issues and processes are political championship, bureaucratic championship, costing models, provincial and territorial engagement, and external advocacy.

### **Political Championship**

Political champions play a critical role in advancing policy and legislation. In this case study, political champions were effectively engaged. From the beginning, the Historic Places Initiative had strong political endorsement. It arose through serendipity, when the initial lead federal minister was convinced by Britain's Prince of Wales that Canada needed to do something about the poor state of conservation of its built heritage. Despite several changes in political leadership during the more than seven years that the Historic Places Initiative was under development, it is fair to say that the various lead federal ministers were seized with a sense of urgency to take action as a result of research that demonstrated that Canada had lost 20 percent of its built heritage in one generation. Lead ministers consistently voiced support for federal legislation and their willingness to navigate it through the Cabinet process described above.

However, if one looks at their actions through the lens of effective consensus building, one could argue that the lead ministers rarely consulted face-to-face with their key stakeholders, namely other ministers whose departments were raising significant concerns. They were content to sign letters to their colleagues, usually drafted by public servants. This inadequacy made it hard to resolve differences that had stalled at the bureaucratic level. In addition, successful ministers foster coalitions with their Cabinet colleagues in order to gain support for their proposals. Given that the legislative proposals failed to advance, one might speculate that lead ministers neglected to build adequate coalitions with their primary stakeholder group.

### **Bureaucratic Championship**

Government bureaucracies wield enormous power. As demonstrated by the wily Permanent Secretary Sir Humphrey Appleby in the British television series *Yes Minister*, bureaucracies have the ability to drag out and thwart politically driven proposals, to the great frustration of ministers. To be successful, a policy proposal requires consistent support from the most senior levels of government bureaucracy in order to rise above competing initiatives. In this case, there was strong commitment from one deputy minister of Canadian heritage who recognized the merits of the Historic Places Initiative and legislative renewal as good public policy. Building on an impressive track record of policy innovation, he led the way in sharing information, consulting proactively with stakeholders, fostering coalitions, and engaging in interest-based negotiations.

Unfortunately, other deputy ministers were less committed, in spite of the Department of Canadian Heritage's clear policy role in this field. When Parks Canada was transferred to the minister of the environment in 2003, along with responsibility for historic places, the deputy minister of the environment showed little interest in this cultural policy initiative, which was outside his usual purview. An analysis of this decline in bureaucratic championship suggests that the outcome might have been different had there been a consistent use of consensus building tools. While internal pressures can often be ignored, bureaucratic champions are generally sensitive to external pressure and media attention. Had strong supportive voices been heard outside government, one could speculate that the leadership of bureaucratic champions might have continued.

### **Costing Models**

The theoretical framework for consensus building can be applied to the tricky issue of developing costing models for the restoration and maintenance of historic

properties. Officials from other departments believed that the proposed legislation would impose greater obligations on them. The proposal evoked negative reactions to increased costs from custodial departments with large inventories of heritage buildings as well as from the Department of Finance. Collectively, they claimed there would be significant new costs for capital investment to meet the *Standards and Guidelines for the Conservation of Historic Places in Canada* and increased costs for ongoing operations. Initial estimates from other departments were so high that early reviews by the Department of Finance indicated that they would not support the proposal on the grounds that it was too expensive. Many of the recommended consensus building techniques were used to overcome unsubstantiated fears of increased costs, including information sharing, interest-based negotiating, and joint fact finding to assess the scope of the challenge and develop solutions.

As a way forward, the proponents invited concerned departments to participate fully in a joint fact-finding exercise. In the absence of accurate data, three costing models were developed and analyzed. It is interesting to note that all three models produced similar results, with only slight variations. The costing models concluded that, with the exception of some unique properties, the incremental costs of implementing heritage legislation were minor. The fact that these identified costs were to be added to the budget proposal for the legislation did little to change the original script. Officials from custodial departments and the Department of Finance viewed the costing models with skepticism, still refusing to accept that the cost estimates were accurate and not convinced that any increased expenditures were justified. They continued to oppose the initiative. It is not clear that any other conflict resolution tools or techniques could have overcome this inherent resistance or convince officials that income tax policy should be used for social purposes.

### **Provincial and Territorial Engagement**

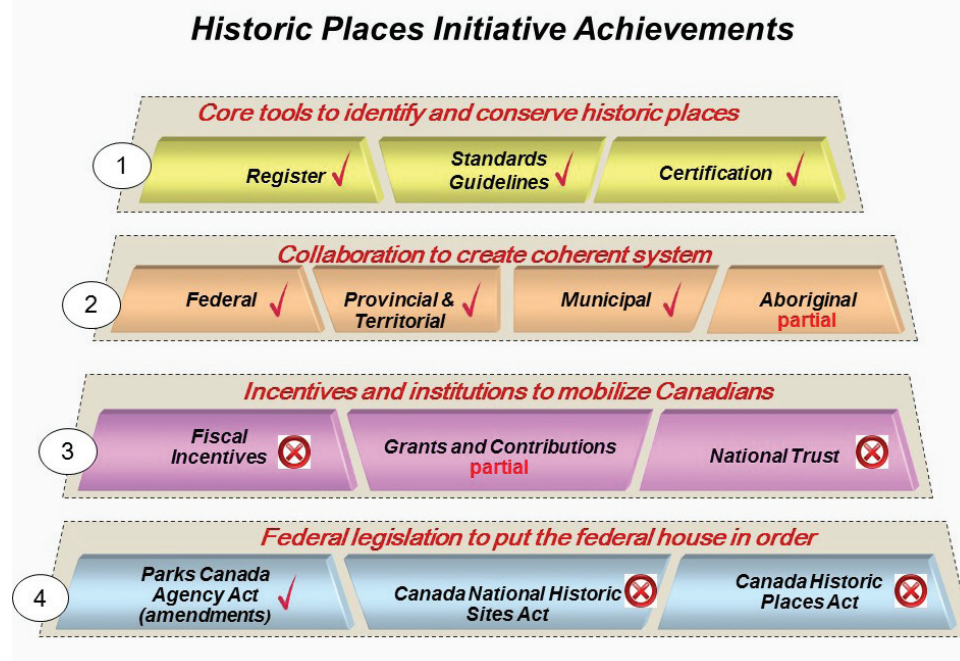
It is unusual for the federal government to involve provincial governments in the development of their policies. Regrettably, the federal government in Canada has a long track record of exercising its policy prerogative unilaterally with only passing regard for impacts on other jurisdictions. The Historic Places Initiative did not follow this model. Instead, in line with established practices for building alliances, a decision was made at the outset to fully engage provincial and territorial governments as equal partners in developing the policy framework. As observed by Gordon Bennett, a retired Parks Canada policy director, this initiative “was remarkably free of two of the major deficiencies that afflicted some comprehensive federal policy visions in other fields: it deliberately avoided intrusion into areas of provincial jurisdiction, and it was devoid of the paternalism that sometimes characterized federal policy initiatives” (Bennett 2009, 126).

The results of this collaborative approach are remarkable: a single database platform for information on all historic places was created as the Canadian Register of Historic Places; conservation standards known as *Standards and Guidelines for the Conservation of Historic Places in Canada* were adopted by all provinces and territories, sometimes by Cabinet or by legislatures; national certification approaches were designed and implemented; national training programs in heritage management were carried out at all three levels of government; and a pilot federal program to rehabilitate commercial heritage properties was implemented in partnership with specific provincial or territorial governments (fig. 4) (Parks Canada 2005). The full panoply of consensus building tools was used to forge this federal–provincial–territorial coalition, including early involvement in defining the issues,

**FIGURE 4**

Achievements of the Historic Places Initiative, indicating complete (red check), partially complete (red 'X'), and incomplete components (red 'X').

Image: Parks Canada with adaptations by Christina Cameron.



joint fact finding, power sharing, consultations, and financial support. It goes without saying that provinces and territories unanimously supported the Historic Places Initiative and federal heritage legislation.

There is deep irony in the fact that the Canadian government shifted its priorities and chose to cut funding for provincial and territorial participation in the Historic Places Initiative at the same time that the author of this case study received the Outstanding Achievement Award—Canada's highest recognition of its public servants—in recognition for her leadership of this specific initiative. To quote from the citation, read in front of the governor general and the prime minister of Canada:

Perhaps her greatest achievement will be found in intergovernmental work. Through the 1980s and '90s, she began preparing the ground for what would eventually become the Historic Places Initiative—a national register for historic places managed at the federal, provincial and municipal levels, with corresponding standards and guidelines for their use and preservation. At first, this seemed an impossible task, given the diversity of these sites. Dr. Christina Cameron began the initiative as a straightforward register and, through professionalism and diplomacy, gradually brought her colleagues at other levels of government to understand and eventually contribute to her vision. The Historic Places Initiative...is itself a monument to what intergovernmental cooperation can achieve. (Governor General of Canada 2008, n.p.)

### External Advocacy

Knowing that a policy is fundamentally sound does not guarantee success. To achieve consensus, key stakeholders need to be involved in building a convincing case. In evaluating the effectiveness of external advocacy in this case study, tools such as information sharing, proactive consulting, and fostering coalitions are key. Politicians and senior officials often are motivated by public opinion as manifested through media coverage, petitions, and public debate. In the absence of external

advocates noisily pointing out critical problems and demanding solutions, governments are slow to take action.

As stated above, Canadian heritage groups have a low public profile and are poorly coordinated. By contrast, environmental nongovernmental organizations (ENGOS) are organized, media savvy, well funded, and effective in influencing the government's agenda. Through focused campaigns, ENGOS have often been effective in mobilizing public opinion and gaining access to political power at the highest levels. Government officials undertook a pan-Canadian consultation process that involved systematic communications and face-to-face sessions with stakeholders. This did little to raise the public profile of the initiative. Despite efforts by heritage proponents to foster external support for the proposal—efforts limited by ethical constraints placed upon public servants in this regard—external advocacy for the Historic Places Initiative was largely ineffective.

An exceptional high point came as a result of a very public message from the auditor general of Canada in her 2003 audit on the protection of cultural heritage. At her press conference, she pointed out that two-thirds of Canada's National Historic Sites were in fair to poor condition. The audit made it clear that the absence of federal legislation meant that historic places owned by the federal government were poorly conserved. Stating that federal built heritage was at risk, the auditor general identified the need for a reinforced legal protection framework (Auditor General of Canada 2003, 6.33). What followed was a media frenzy that continued for an unprecedented six weeks, probably because this essentially national story had local roots in communities across Canada. The audit report served to mobilize Canadians from coast to coast over the need for government to take action. External advocacy groups eventually reverted to more fragmented and parochial behavior. This lack of maturity and focus meant that their messages to key decision makers were not consistent.

To achieve sustained support, efforts are needed to engage key stakeholders in identifying and resolving problems. Polling data suggested that heritage and environmental protection were important issues for Canadians. One must, however, be wary when dealing with polling information. Public opinion polls in the 1990s regularly confirmed that ordinary citizens cared about historic sites, Canadian heritage, and Canadian history. Pollsters cautioned that such support was shallow when faced with competing priorities like health and the economy; they warned that a major social marketing campaign would be needed to transform this latent interest into a robust and effective lobby. It is clear that government priorities ultimately respond to the priorities of its citizens. Nonetheless, in the days before pervasive social media, a formal social marketing campaign was beyond the means of this initiative. Ironically, as Barack Obama's successful 2008 campaign for US president shows, the phenomenal growth in new media has transformed social marketing into an affordable and accessible undertaking.

## **Conclusions**

In terms of the effective application of consensus building skills, several positive lessons emerge from this case study. The project got off to a good start with an appropriate choice of convener and a credible situational analysis from internal and external assessors. Involving all jurisdictions in developing policy from the ground up had positive results. The remarkable collaborative relationship between the fed-

eral government and the provinces and territories is a successful example of sharing power and building alliances. This approach is a delicate one, dependent on personalities and shared ethical values. Another positive aspect is the consultation process. Internal consultations within the federal government were proactive and consistent, leading to reasonable support from many departments. The external consultation process, with its feedback loop, contributed to fostering coalitions and influencing decision makers.

As some of the issues discussed here show, the initiative suffered nonetheless from lukewarm and sometimes hostile internal reactions as entrenched anti-heritage positions surfaced within the system, especially among major custodians. Of particular importance is the failure of the proposal's champions to build strategic alliances with those who had a direct influence on decision making, namely Cabinet ministers, members of Parliament, and central agency officials. Weak ministerial coalitions were a barrier. Pan-Canadian consultations were successful but too narrow. Failure to foster broad-based constituencies that could influence public opinion meant that not much external pressure was brought to bear on government.

### **Timing: The Carpe Diem Factor**

This case study also demonstrates weaknesses in the application of consensus building skills. The overall approach to developing the initiative incorporated several good practices: joint fact finding, engagement of stakeholders, information sharing, fostering coalitions, and engaging in interest-based negotiations. It had the unintended consequence of bogging down the process and hence losing the capacity to exploit opportunities.

Timing is important. The ability to be nimble, to seize the moment when success factors align, is critical. In this sense, the process-bound approach led to at least one missed opportunity to advance the legislation. As Bennett explains, it can take a long time to develop policy. "The policy development process is contingent on a number of factors, including...changes in departments, Ministers, Deputy Ministers and program heads, changes in government, and the timing and duration of consultations—public as well as intra/inter-governmental—which are an integral part of the policy making process" (Bennett 2009, 131).

It took seven years to develop federal legislation for historic places. While minor amendments to the Parks Canada Agency Act gave new statutory powers to protect historic places (Government of Canada 2005, 4 b-c), the two main legislative proposals did not advance. The slow pace can be attributed in part to the changes in leadership that cost precious time. It can also be attributed to the perverse impact of applying proper consensus building techniques: sharing power to identify problems and develop solutions with other federal departments and other levels of government; sharing information by publishing periodic updates; consulting proactively with stakeholders through published discussion papers and public meetings; and providing seed money to foster networks of heritage stakeholders.

But the slow pace is a disadvantage in the political and bureaucratic context where governments, people, and priorities change frequently. Momentum flagged and needed to be rekindled several times. The situation poses a dilemma: is it better to follow best practices of engagement and consensus building in the search for perfection, or is it preferable to settle for a more pragmatic approach? Is half a loaf better than no loaf at all? With hindsight, one might suggest that the lengthy processes should have been cut short in order to take advantage of the powerful alignment of political and bureaucratic champions. This alignment occurred only once



in seven years. The challenge lies in how to seize the moment while respecting the slow-moving collaborative process.

As a postscript, it is important to note that the absence of comprehensive federal legislation dealing with National Historic Sites and other historic places represents a significant policy failure. That the outcome might have been different is highlighted by the fact that four other federal environmental and heritage protection laws—the Canadian Environmental Protection Act (1999), the Species at Risk Act (2002), the Canada National Parks Act (2000), and the Canada Marine Conservation Areas Act (2002)—were enacted during this period (Bennett 2009, 163). Perhaps this study will encourage further debate on strategies for achieving a positive outcome in the future.

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### Notes

- 1 This case study draws on the extensive paper presented at the Montreal Round Table 2009 by Gordon Bennett, former director of federal heritage policy, National Historic Sites Directorate, Parks Canada. Bennett thoroughly documents the role of government as it relates to policy and legislation, the importance of championship and timing, and the comparison of heritage and environmental legislation.

## Commentary

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This case study offers an opportunity to examine the strategies of mutual gains negotiation and consensus building in a national policy-making context. Though in many ways specific to a particular political paradigm of Western liberal parliamentary democracy, this context may still have resonance in countries around the world, as it shares some similar dynamics. In particular, many national heritage conservation agencies face the constraints of low prioritization of their goals in relation to competing national interests. It therefore raises questions about how a relatively weak heritage agency, as well as its allies or advocates, might use negotiation and consensus building strategies to achieve outcomes for protection and conservation of heritage places.

The network set up by Parks Canada to engage key government departments, provinces and territories, NGOs, and the private sector exemplifies the potential of consensus building arrangements to create acceptable and efficient outcomes. The fact that no precedent existed for this type of intergovernmental collaboration demonstrates that traditional methodologies can be effectively challenged. Given the award received by Christina Cameron for this work, we are hopeful that, going forward, this process might lead to cultural changes in expectations for this type of governmental collaboration.

A primary challenge faced by Parks Canada was convincing the Department of Finance to support the proposal. Several promising and innovative approaches were used, including initiation of joint fact finding to respond to uncertainty about potential costs of the law to the federal government and its constituent departments. Ultimately, the Department of Finance had a very strong alternative to negotiated agreement: politically, the senior tier of the civil service in the department was powerful enough to reject Parks Canada's legislative proposal on cost grounds. The author indicates that the department's objections to the policy lay at the level of values, which tend to be more resistant to negotiation than party interests. However, we wonder whether any creative options or contingent agreements might have been developed that could assure the parties that impacts on public revenue could be minimized through user fees, a special assessment, or some other fiscal vehicle.

As the author concludes, it appears that efforts at external advocacy fell short of what would have been needed to persuade political leaders to support the initiative. Given the description of grassroots success in passing the Heritage Railway Stations Protection Act, we wonder whether there were other potential moves within the constraints of the initiative's proponents to rally Canada's heritage preservation organizations, environmental organizations, or other advocacy groups. Jointly, could they have made it politically difficult for the minister of finance—an elected official more directly responsive to public constituencies than the senior civil service—to say no to the legislation? To do so, heritage advocates would need to persuade the other groups that (1) supporting heritage protection is beneficial to their interests, (2) support from cultural heritage groups might benefit them in later political efforts, or (3) this law would help uphold social principles held in common. They would also need to find a way to publicize—and even dramatize—the role of the Department of Finance in jeopardizing the conservation of Canada's heritage. In this BATNA-driven (best alternative to a negotiated agreement; see glossary) political advocacy approach, Parks Canada would have had to play a very cautious and indirect role to avoid creating high-level conflict within the federal Cabinet.

Another question raised by this case is one of timing and sequencing. The order in which negotiations are conducted matters, and taking advantage of opportunities of public attention might be worth forgoing full collaborative deliberation. Perhaps a situation assessment of the type described in Stacie Nicole Smith's background paper in this volume, focused on analyzing the underlying interests and values of all the key stakeholders, would have helped in making strategic process decisions about engagement and sequencing. This may have highlighted the need to build more internal alignment (among Parks Canada land managers) and more effective coalitions, ensuring full support by the Heritage Canada Foundation for the priority actions of the initiative.

# Contested Aboriginal Heritage in Southern South America: Quilmes— Indigenous Identity, Stolen Heritage

*Maria Isabel Hernandez Llosas*

## **Abstract**

Contested rights over traditional lands are a significant area of heritage conflict. The case of Quilmes, an archaeological site in northwestern Argentina, illustrates the complex relationship between Indigenous rights, identities, law, and social and economic power. Historically viewed by the Argentine government as an archaeological site ripe for tourism and economic development, Quilmes is also the traditional, ancestral land of a local Indigenous population that has been largely written out of the historical narrative. Their efforts to assert rights to this land have led to serious conflict with other stakeholders. This case study recognizes that places are defined as culturally significant through a process of negotiation. They can become flashpoints for political struggle as ruling elites fight to maintain control over resources in the face of competing claims.

## **Introduction**

This paper presents a case study of contested heritage, illustrating at the local scale a conflict that also takes place at the national and international scale. The case is about Indigenous people claiming rights to traditional lands and archaeological sites that they perceive as their cultural heritage places. These claims have extensive historical background, beginning in the sixteenth century, when early contact between the Americas and expanding Europe occurred, and have developed over time in a complex and controversial way.

The Indigenous claims concerning lands and rights on archaeological sites overlap with the interests of other social, economic, and political groups who are usually from more empowered sectors of society. These overlapping interests result in a fight for access to and control over these places. This struggle is about not only the actual possession of land but also the possibility of gaining control over which notion of heritage will be sustained and passed on through management of each heritage place.

The notion of heritage is critical because, in accordance with different ideological and political backgrounds, it can lead to open confrontation between different social interest groups. Therefore the core of the disagreement is revealed according to which heritage notion is adopted by whom (social actors in conflict) and why (sustaining which interest).

## Heritage Significance

The notion of heritage is itself controversial, and many scholars have dedicated a great amount of research to this particular topic. There is ongoing debate over the validity of the traditional notion being used worldwide and represented in the World Heritage Convention (UNESCO 1972), which has been heavily questioned since the 1980s and represented in the amendments made since the 1990s (UNESCO 1994, 2001, 2003). This controversy is also taking place within the academic community in the social science disciplines, where there are supporters of the traditional notion and opponents who criticize and confront it.

The traditional notion was established in the nineteenth century, during the rise of capitalism and nation-states at a global scale. It sustains a universal validity (*essentialist*) about what cultural heritage is and relates it only to Western views, values, and ideas, specifically those set up by ruling elites. The critical position holds that this notion not only was driven by a hegemonic sector of the society but also was directed from a dominant culture to dominated cultures, as this occurs mainly in colonial and postcolonial historical contexts, where this notion was imposed (Smith 2006).

In opposition, a notion is proposed that considers cultural heritage as a process of social construction (*constructivist*) (Benavides 2001; López Aguilar 2002; Mehrotra 2004). This notion also emphasizes that cultural heritage has the potential to manipulate the representation of past and present events in favor of different interest groups (Criado Boado 2001). Further, heritage is conceived as a kind of cultural capital (in the sense of Bourdieu 1989) with an active role in the material and symbolic struggle among classes, ethnic groups, and other sectors of society (García Canclini 1999).

### Heritage Significance as Symbolic Struggle

This paper considers heritage as a process of social construction (*constructivism*). Within this perspective, cultural significance is considered the foundation of the “heritage process”; through it, different social values are assigned to specific things, events, or practices by particular groups of people within a society (Pearson and Sullivan 1999).

The process of defining significance always includes a negotiation between the social sectors involved and is influenced by power positions. This is the core of the symbolic struggle among different groups within a society; the validation of heritage significance is an effective way to gain control of the social memory in order to legitimize power positions. The prevailing party decides which discourse will sustain the heritage status of selected things and what sort of values will validate it (Prats 2005).

Cases occurring in colonial and postcolonial historical contexts are illustrative of these situations. In addition to political and economic domination, the imposing powers need to set up a symbolic system with the capacity to justify their domination over land and people for their own benefit.

### The Struggle of the Indigenous in Argentina

In Argentina, as in other countries (for the Australian case, see Byrne 1991, 1996), this symbolic struggle focuses on the authenticity of the Indigenous people, their continuation in the present, and their right to relate to tangible and intangible legacies of their past (“archaeological heritage”). This issue is relevant because it goes

beyond the heritage dispute itself and involves the actual and legal recognition of the pre-existence of Indigenous people in Argentina.

The struggle, not only in the combat field but also in the symbolic field, began in the sixteenth century, when the territories now under the political dominion of Argentina were conquered by Europeans and continued when the population and settlement of their descendants expanded dramatically at the start of the nineteenth century. The physical resistance of the Indigenous people was met by armed forces, while their symbolic resistance was countered by proscribing traditional practices, by attempts to acculturate them religiously and culturally, and by denying their previous and present existence.

The denial of existence of the Indigenous people was, and still is, a strong argument used to disqualify their claims to legal, land, and cultural rights. This argument is based on the smaller scale of the Indigenous societies that lived in Argentina before the conquest rather than on other Indigenous societies in the Americas, some of which left behind extensive material culture of their past (such as pyramids, temples, and urban centers). The lack of such impressive and highly visible archaeological remains facilitated the attempt to deny the existence of the Indigenous people of Argentina (Hernandez Llosas 2003).

This is a symbolic strategy that sustains the notion that even if there were Indigenous people at the time of Spanish conquest, they were fewer and less “civilized” (i.e., “closer to Nature”) than others found in the Americas, and most of them died of exotic illnesses. It also sustains that the few survivors interbred with the initial European population, resulting in a racial and cultural social group called *mestizo*. If it is taken for granted that no genuine Indigenous people remain living, then the material remains of the Indigenous past are considered significant only for the information they can bring about the human past, leaving them to the realm of science.

The strategy of excluding any trace of the people who preceded the Spanish conquerors in Argentina from the social memory gives support to the colonial and postcolonial powers, identifying only places, buildings, objects, past events, and beliefs related to colonial and republican times as the unique, existing cultural heritage. In doing so, the European past, traditions, and beliefs have been promoted as the national heritage in accordance with the interests and identity of the ruling elite.

This perception of cultural heritage and the promotion of values attached to it is an efficient symbolic system to justify the primacy of the ruling group and helps not only to keep Indigenous people out of sight but also to cast doubts on their identity. It is a notion that is still dominant and underlies the struggle over who owns the remains of the past Indigenous people and which values have to be taken into account to consider them “heritage.” Following this perception, the only heritage significance officially recognized has been their scientific value.

Indigenous people, for their part, are trying to reverse this social, generalized perception by continuing to fight in the symbolic arena to neutralize the dominant discourse that has been denying their existence for so long. It is critical for them to regain some control over collective social memory concerning the Indigenous past and the events that led to their present situation. For them, the symbolic struggle aims to recover social recognition, cultural rights over heritage, and legal rights over ancestral lands.

Archaeological places play a key role in this symbolic struggle because they are the material proof of their past existence and help to tell the story about what

happened to Indigenous people during the resistance against the European conquest. To recover these places symbolically and materially would be a suitable way to promote the notion of heritage as a process of social construction, one in which the Indigenous people have been prevented from participating. Sustaining this notion, the heritage significance of archaeological sites is scientific as well as social and cultural for Indigenous descendants who bring cultural continuation to those places.

Taking these different positions into account, one expects that the perception of the heritage significance of a place will change radically according to which of these conceptions prevails. This is the decisive factor that will define the significance to be assigned to heritage places.

### The Quilmes Community in Argentina

Quilmes is a case study that is the result of a long historical process involving the struggle among several social groups, with overlapping interests, who have been trying to impose upon or defend from others using different means, including the use of physical and symbolical strategies and access and control over the lands and the archaeological site in dispute.

Politically, Quilmes is located in northwestern Argentina, within Tucumán Province. Geographically, it is located within the southern end of the south-central Andes, in the eastern ranges, which form a geological and ecological border between highlands and lowlands (fig. 1).

The physical setting is a mountain valley that is a branch of the Calchaquíes Valleys. The valleys are named after one of the most important Indigenous leaders, Don Juan Calchaquí, who formed the largest alliance to resist the Spanish invasion during the seventeenth century (fig. 2).



**FIGURE 1**  
Map of Argentina, showing the location of the Quilmes site.

**FIGURE 2**  
Aerial view of the environment of the Quilmes site. The mountains of the Calchaquíes Valleys appear in the background. Modern infrastructure is visible at left of center.

Photo: Cayuqueo, 2008. Courtesy Wikimedia Commons, licensed under Creative Commons Attribution 3.0 Unported.



### History and Cultural Context

The southern end of the south-central Andes was first populated about ten thousand years ago, first by small-scale societies of hunter-gatherers and later by subsistence farmers. Around 900 CE, the Indigenous societies started a process of economic and technological intensification with an increase in political and social complexity. This process ended up in middle-scale societies (*politias*), with political centralization, marked territoriality, and distinctive social and cultural identities. The people of the Calchaquies Valleys, named Diaguita by the Incas, composed one of these societies.

The Quilmes people were one fraction of the Diaguita people. Their sociopolitical complexity and population density positioned them among the most noteworthy indigenous societies in Argentina's precolonial era. Close to 1200 CE, they were occupying the entire valley and some of their settlements were highly populated in the form of dense and complex villages. The Inca Empire incorporated them into their domain in about 1470 CE. Nevertheless, their identity as a single people, linked with that specific land, remained strong.

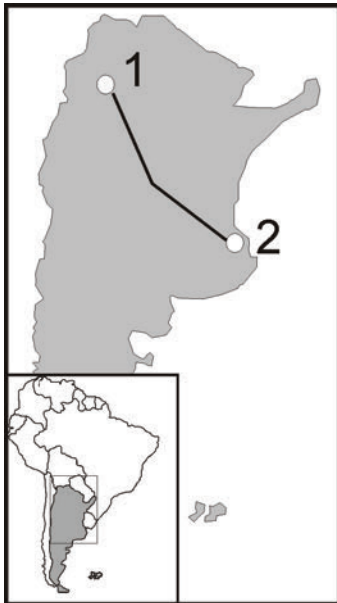
The Spanish conquistadors invaded the area in about 1535, and the Diaguita fought them with determination over the next 130 years. The Diaguita carried out three major rebellion episodes for which they were violently punished. They were defeated in 1666. To prevent further resistance, the Spanish decided to disarticulate the Quilmes by removing them from their lands. They were forcibly removed to a location approximately 1,500 kilometers away and completely different from the environment they used to know (fig. 3). The new location, near Buenos Aires, was a "reduction" (an Indigenous settlement established by Spanish colonizers with the purpose of assimilating residents into Spanish culture and religion) that developed over time and is still named Quilmes today.

On the forced march to the new location, some Quilmes died, others stopped along the way, and a few escaped, returning to join those who stayed in the Calchaquies Valleys area. However, they could barely reconstruct themselves as a community. The colonial administration gave this Indigenous community over to new, Spanish private landowners under the Spanish *encomienda* system, as servants who had to work for them on the vast ranches started by the Spanish in the Calchaquies Valleys.

This Indigenous community requested the Spanish Crown's acknowledgment of their rights to 120,000 hectares of land, within which is located the former central village of Quilmes. The Crown recognized these rights in 1716, but the recognition was only on paper and in fact they never again had access to that land.

During Republican times, the Indigenous community again requested from the new political authorities the recognition of their rights to the land, basing the claim on the document from the previous colonial power. This recognition was never received. In 1853 the colonial-era document was recognized by the new government but, again, the land was not returned to the Indigenous people. They could effectively continue to occupy only a small portion of the land claimed while 70,000 hectares were taken over by white landowners who inscribed it "legally" as their property.

Since then the Indigenous Community of Quilmes (CIQ) have continued fighting for their rights over their ancestral land, based on the two legal decisions cited above. They are also seeking control over the archaeological site, which before the conquest was Quilmes's central village, and which today they perceive to be their heritage. Both claims are still not completed.



**FIGURE 3**  
Map showing (1) the location of the original Quilmes Indigenous settlement; the route they were forced to walk by the Spanish conquistadors; and (2) the location of the village founded as a "reduction" near Buenos Aires.  
Image: Lic. Jorge Sosa, by permission.



After the forced abandonment of the central village during colonial times, the place remained uninhabited. According to the different notions of heritage, on the one hand it became an archaeological site and was named the “Ruins of Quilmes.” On the other hand, it became a symbol of the rebellion of a brave people who fought their invaders to the end, and is dubbed the “Sacred City of Quilmes.”

## History of Site Interventions

The site entered the archaeological sphere in 1888, when one of the first scholars of archaeology encountered it, and it was the subject of two studies at the end of the nineteenth century. These early researchers provide the bulk of detailed information, recounting the large extension and importance of the site for archaeological studies (Ambrosetti 1897; Bruch 1911; Lafone Quevedo 1888; Schreiter 1919, 1928). This information, available to the general public at the end of the nineteenth century, enabled private collectors (Zavaleta 1906) to loot the site, negatively affecting several important structures (Sosa 2007).

Even though the archaeological relevance of the site was widely known since the beginning of the twentieth century, there were no scientific studies or interventions until the 1970s, when interventions for tourist development began (fig. 4).

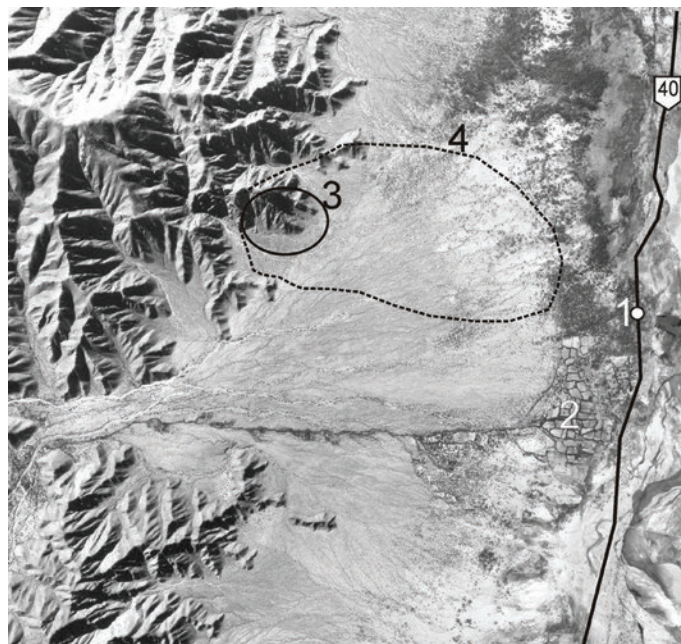
### Intervention: 1978–80

During the military dictatorship government of the late 1970s and the beginning of the 1980s, extensive interventions were implemented at the site with the specific aim of attracting tourists and providing tourism infrastructure. To do this, the government needed professional support and contacted academics from the University of Buenos Aires (Pelissero and Difrieri 1981, 2008) who were supporters of the regime. Even though they were university professors and professionals (archaeologists and geographers), they did not follow scientific methods, they did not document their work, and they caused heavy damage to the historic fabric of the site.

**FIGURE 4**

Aerial photograph of Quilmes archaeological site area, ca. 1966, showing minimal evidence of intervention: (1) beginnings of a dirt road to access the main part of the site; (2) site of the present Quilmes village; (3) area with more density and greater amount of archaeological remains; (4) dispersion area of known archaeological sites.

Photo: Lic. Jorge Sosa, by permission.



**FIGURE 5**

View of the main part of the site, showing evidence of reconstruction of a wall and a sign with directions to the hotel entrance.

Photo: Lic. Jorge Sosa, by permission.



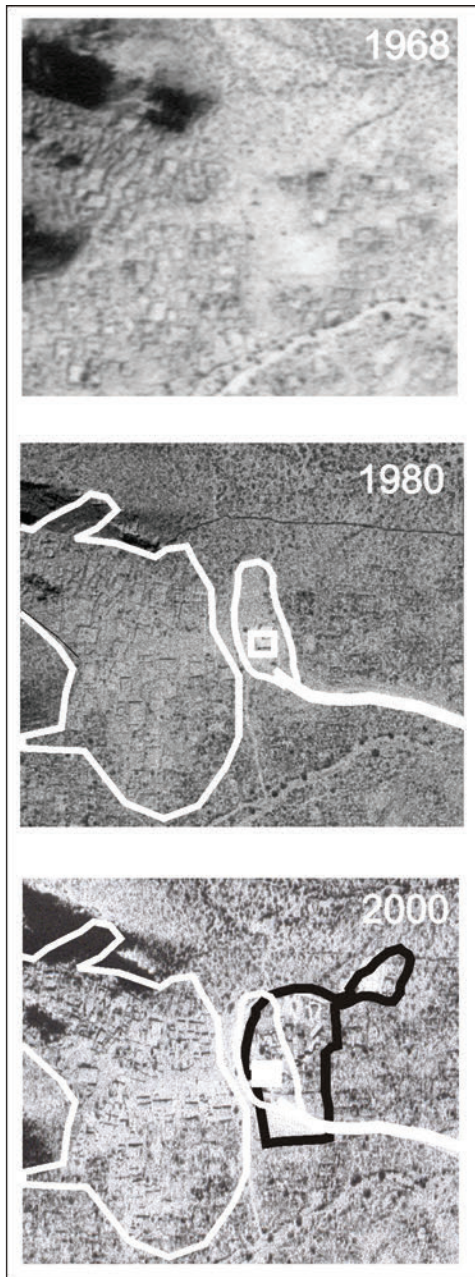
One reason for these deficiencies was to save time in accordance with the short-term goal of creating a tourist attraction. They used soldiers and heavy equipment provided by the regime to excavate and accomplished a “free reconstruction” of the main part of the site, which was completely conjectural and not based on archaeological evidence (fig. 5). In addition, they built a museum and parking area within the reconstructed area in the main part of the site to house the archaeological materials recovered (fig. 6). However, most of the archaeological materials were removed from the site and entered the illegal market (Sosa 2007).

**FIGURE 6**

Artifacts found at the site, exhibited inside the museum that is attached to the tourist hotel.

Photo: Lic. Jorge Sosa, by permission.





**FIGURE 7**  
Comparative sequence of the interventions done to the site under a private developer: (top) ca. 1968, before interventions; (center) ca. 1980, first intervention, outlined in white; (bottom) ca. 2000, second intervention, outlined in black.

Image: Lic. Jorge Sosa, by permission.

These actions impacted approximately 112,000 square meters of the site. In addition to the damage done through nonscientific procedures under government custody, persons involved in the projects with access to archaeological pieces sold them on the black market. The site also was ineffectively guarded against looters.

By the beginning of the 1980s, the military government was losing power, and with that the tourist project faded quickly. As a consequence, the site and the facilities for tourism were almost abandoned but remained under the sphere of the provincial administration.

### **Intervention: 1992–2007**

With the replacement of the military government by a new liberal democratic government that favored privatization, additional interventions were carried out at the site during the period from 1992 to 2007. The new government's aim, like the prior one, was still the improvement of the facilities for tourism attraction. In this case, no academic was contacted or involved at all. Instead, in 1992 the provincial government leased the land, with the site and its facilities, to a local entrepreneur for ten years (1992–2002). In addition, the provincial government loaned money to the private entrepreneur to develop the business venture. The developer enlarged the existing tourist facilities and built new structures, including a hotel and restaurant, all within the bounds of the archaeological site, impacting over 90,000 square meters at the very core of the site (fig. 7).

After the lease expired, it was automatically extended to 2007 without review. During those years, the exploitation of the complex provided income from entrance tickets, the hotel and restaurant, and a handicraft shop. The average number of visitors was about 60,000 per year (Sosa 2007).

### **Recent Confrontations**

Since the national constitution was amended in 1994 to more fully recognize Indigenous rights, the Quilmes community has been more active in sustaining claims within courts of law about the site, the land where the site is located, and land beyond the site that they perceive as theirs. They have been aided in this endeavor by NGOs, one of which, ANDHES (Abogados y Abogadas del Noroeste Argentino en Derechos Humanos y Estudios Sociales), is devoted to legal assistance for the promotion of human rights in northwestern Argentina (see [www.andhes.org.ar](http://www.andhes.org.ar) for information about the legal dispute).

These claims, together with the Indigenous community's more active attitude, led to confrontations with locally empowered groups who have leased the site and hold interests in its land and resources (fig. 8). The confrontations have occurred in different forms, ranging from verbal harassment to acts of physical violence. One of the most extreme cases occurred in 2000, when a member of the Indigenous community was intentionally burned to death by a member of the family who holds the lease. Another occurred in October 2009, when an Indigenous leader was murdered and other members of the community were injured by former police officers who were trying to remove them illegally from their land. In November 2009, ANDHES,

**FIGURE 8**

Members of the Indigenous community of Quilmes meet to set a strategy for claiming their rights over the site.

Photo: Lic. Jorge Sosa, by permission.



on behalf of the Indigenous community, presented a petition to the Inter-American Commission on Human Rights (CIDH) asking the Argentinean government to guarantee Indigenous rights and physical protection of Indigenous inhabitants.

Regarding the Quilmes site itself, members of the Indigenous community had to ask permission from the provincial government and from the leaseholders just to enter the site. However, tourists were freely able to enter upon paying the entrance fee.

On 9 January 2008, the Indigenous community of Quilmes occupied the site by force. Since then, the community has maintained physical and legal resistance to keep the place. This has included legal negotiations between the Indigenous community of Quilmes, with the help of ANDHES, and the Tucumán provincial government, together with different civil means in which Indigenous leaders have worked to create dialogue between these two parties.

As of early 2011, the Indigenous community of Quilmes is still in custody of the site and now offers guided tours to visitors. These tours give the community the opportunity to tell their side of history, together with sharing their vision and cultural values (Bidaseca and Ruggero 2009a).

## Significance of the Place

The site is considered important for different social actors who hold different values and different visions. By consequence, the significance of the site varies according to the conceptions adopted by each of the social actors involved.

The main values argued by different groups are (1) archaeological–scientific, (2) tourist–economic, and (3) social and cultural.

### Archaeological–Scientific Values

The early archaeological exploration of the site (see above) has shown that it has great potential to provide information about the social processes that occurred in the area from 1000 to 1500 CE. The historical documentary information about the Inca domination, the Spanish invasion, and the subsequent Indigenous resistance indicates the importance of the site to the social and political processes that were taking place from 1500 to 1700 CE. Therefore, the site is considered valuable as a firsthand source of archaeological and historical information for scientists researching social and political sciences.

### **Tourist–Economic Values**

Since the nineteenth century, archaeological remains with high visibility in different parts of the world have been considered valuable as tourist attractions. Examples include the Egyptian pyramids, the Greek Parthenon, and the Maya temples. Such archaeological remains are perceived as admirable relics that attract tourists interested in culture. They are commonly perceived as remnants of past cultures uncovered through scientific research. Similarly, smaller-scale archaeological structures have been envisioned as potential resources for tourism. This is the case with Quilmes, where interventions have been carried out since 1978 to “enhance” its potential as a tourist attraction, considering it as a ruin of past people, already gone, with historical value that should come from scientific research. The visibility of the remains themselves, plus the information obtained by research, exhibited in site museums and other types of interpretation for the public, should be the “cultural attraction.” This attraction could be used to produce income. Therefore, the site is considered valuable as an economic resource for private investors and government authorities.

### **Social and Cultural Values**

The Indigenous community of Quilmes recognizes the site as the former village of Quilmes, which their ancestors were forced to abandon at the beginning of the Spanish colonial era. For them the site is a sensitive cultural place, a place of remembrance, a place of memory. They value the site as material evidence of their ancestors’ lives and their struggle against the European invasion. They consider the site as their material and symbolic inheritance, based on historical and cultural rights. In this regard, the site is perceived not only as a cultural heritage place that specifically belongs to their community but also as a material place from which the story of their people can be told, a story that has been concealed through four hundred years of colonial and postcolonial domination. They also recognize the possibilities the site gives to their community in rebuilding their wounded identity and reconnecting, in different ways, with at least some of their cultural traditions. These traditions include the cult to Pachamama and performing memorial practices in honor of the last Indigenous people who resisted the European invasion.

### **Disagreement over Significance**

These three values are not only sustained by different social actors with specific interests in the site but also based in completely different approaches to the conception of what cultural heritage is about. Taking this into account, one can expect that the perception of heritage significance transmitted to visitors and through all management practices will change radically according to which of these conceptions is adopted.

### **Management Context**

In Argentina, by law, all pre-Hispanic archaeological sites belong to the state and are considered scientific heritage. In theory, the provincial states have to grant permission to those who want to conduct research at and/or intervene in archaeological sites. However, this does not always happen, since there is no state register of sites, and most are included in private lands. In the case of Quilmes, Tucumán Province owns the land where the site is located.

**FIGURE 9**

Detail from the second intervention, ca. 2000. A large rock, which the Indigenous community considered a *waka* (sacred place)—a reverential spot in the middle of the original site—was incorporated into a modern wall of the hotel complex.

Photo: Lic. Jorge Sosa, by permission.



The government of Tucumán Province gained interest in the site during the dictatorship regime in the 1970s. It aimed to increase the tourist industry in the province and planned to create an attraction based on the site's archaeological (scientific) values. This led to the 1978–80 intervention, followed by the 1992–2007 intervention. Throughout those years, management of the site focused on increasing use of the place for economic purposes. This was done directly by state agencies during the first period of interventions. During the second period, this was carried out by leasing the site to private investors, related to local elites and authorities, who have largely controlled the site until 2007 (fig. 9).

The occupation of the site by the Quilmes Indigenous community in 2008 was prompted, in large part, by the emergence and increase of Indigenous rights in national legislation and policies. This process started in 1985, when a national law granted community members certain rights over communal property that they were occupying, though the property belonged to the national state. In 1994 the amendment of the national constitution recognized for the first time the pre-existence of the Indigenous people and gave them the ability to claim rights on lands. In 2001 Argentina ratified the International Labour Organisation's (1989) *Convention Concerning Indigenous and Tribal Peoples in Independent Countries* (Convention 169), which also supports their claims.

These landmark 1985, 1994, and 2001 laws and agreements are the only legal tools the Indigenous people have to sustain their claims. In practice, little has changed; even the constitutional mandate to return land to the Indigenous communities has been ineffective. Since 1994 there has been much discussion on governmental levels about how to put this into practice, but more than fifteen years later, no official actions have been approved to facilitate this.

On top of this, and in open contradiction with the 1994 amendment of the National Constitution, a new federal law on the "Protection of Paleontological and Archaeological Heritage" (25.743/03) was approved in 2003 (Argentina 2003). This law, as its name clearly shows, still links the indigenous past with natural history, denying its status as cultural history and its link with contemporary Indigenous people.

This contradictory legislation, together with the lack of agreement at the national government level over strategies to achieve rights granted Indigenous people under the 1994 constitution, triggered processes that led to the confrontation of the parties involved. Local and federal governments keep their interest in maintaining the status quo, including the control of land. The private sector intends to maintain its primacy and control over land and resources, even by using force and harassment against the Indigenous community. Indigenous communities try to

achieve some of their rights. In a few cases, this complex scenario also includes disputes over archaeological sites; Quilmes is the most significant of those.

The Argentinean archaeological community has had little involvement, even though the site has been appreciated mainly for its archaeological and scientific values. This could have been the result of the unethical intervention in 1978 by professional scientists during the dictatorship regime and a reluctance to speak out against the military regime. Even though the site is considered valuable as a first-hand source of archaeological and historical information for scientific research, due to the pseudoscientific circumstances within which the first intervention was done, plus the political conditions surrounding the second intervention, the site has been mostly avoided by archaeologists.

Regarding the heritage significance of the site, many archaeologists today still sustain only its scientific values. Recently, other social scientists started to research the social, historical, and cultural values related to the Indigenous people (Bidaseca and Ruggero 2009a, 2009b; Isla 2002, 2003; Lorandi and Rodriguez 2005; Sosa 2007).

## **The Current Situation**

At present, the Indigenous community of Quilmes is physically occupying the site and different negotiations and confrontations are taking place. The contradictions in the national legislation have opened avenues for local authorities and empowered elites to influence the provincial justice system to favor their interests against the many appeals filed by attorneys who represent the Indigenous position (ANDHES n.d.).

During the course of the negotiations, the provincial government position has been going back and forth; the conditions asked of the CIQ are contradictory, such as the complete devolution of the site or payment to buy the facilities, including a hotel, site museum, and parking spaces, as a prerequisite to negotiate restitution of the site.

Another requirement of provincial authorities is the involvement of local archaeologists from the University of Tucumán Institute of Archaeology. The CIQ requested their participation in the negotiations to help provide technical support. In response, the authorities of the institute issued a written letter offering technical advice if necessary, requiring the explicit agreement of the provincial government, and specifying that they recognize the site and will approach it as an archaeological remain, calling it “Ruins of Quilmes,” a position in clear opposition to the CIQ.

## **Issues and Processes**

The key issues in this case can be summarized in three main struggles, differentiated by scale and/or kind.

### **Issue 1: The Struggle over Authority and Rights (national scale)**

The broadest issue is the national-level conflict between the interests of federal and/or provincial governments and their allies in maintaining their authority and primacy, versus the Indigenous community’s goal of reclaiming their identity and rights. This conflict varies according to different provincial governments and sec-

tors of national government. Some of these actors sustain a more sympathetic position to the cause of Indigenous peoples, while others are openly opposed.

National Indigenous NGOs have given the heritage topic, specifically, a lower priority to more urgent Indigenous problems such as land rights needed to live and survive, or access to basic sanitary facilities. The main national agencies dealing with Indigenous claims have had little interaction with national authorities involved in heritage protection, and similar situations have occurred in provincial contexts.

This situation, together with the generalized notion of heritage imposed since the nineteenth century by the hegemonic discourse of dominant elites, has created a scenario in which most people do not question what cultural heritage is, including the remains of past Indigenous people, which they unknowingly associate with archaeology and scientific values. Under these circumstances, the government has retained the law that relegates Indigenous heritage places to a status of relics of the past. This position is supported by other social actors, including members of the Argentinean archaeological community, and is used as one of several means to maintain their authority and/or primacy over lands historically taken from Indigenous peoples. This policy, by extension, has prescribed that such sites be used only for scientific research and tourism. The social actors involved have different theoretical and ideological positions about heritage significance, which leads to the second issue.

### **Issue 2: The Struggle over Heritage Significance Sustained by Stakeholders (national scale)**

The key actors hold conflicting views of an archaeological site's heritage significance. These views are tied to different theoretical and ideological positions, which deal with authenticity, continuity, and the existence of Indigenous people in the present.

The traditional notions of heritage mentioned earlier prevent recognition of Indigenous rights over archaeological sites and sustain the primacy of experts over other social actors. This is linked to issue 1 because the government and other allied social groups sustain the traditional notion in order to empower their positions of authority and maintain the status quo with respect to control over lands taken from Indigenous peoples against their claims. They perceive the touristic use of archaeological sites as an extension of their scientific values, because they hold that the attraction for tourists is the scientific importance of the sites in showing the way of life of past people, which is understood through archaeological research. This denies the existence of Indigenous groups and implies that the site of Quilmes is associated only with the past as a ruin, a relic of people who no longer exist.

### **Issue 3: The Struggle for Control of Quilmes (site itself/local scale)**

As described above, the provincial government has sought to gain and maintain control of the site since the military dictatorship regime in the late 1970s.

During the 1990s, when democracy had already been established, the provincial government regained interest in exploiting the site as a tourist attraction, this time by leasing it to the private sector. In doing so, an empowered local group started to use the site for commercial purposes, harassing the Indigenous community in its attempts to regain access to and use the site. These local empowered groups have been supported by government and therefore are an extension of government authority. The harassment is evident in judicial statements against the CIQ that are in response to CIQ's legal demands, and in threats and acts of physical violence against members of the Indigenous community.



Meanwhile, members of the Indigenous community of Quilmes have taken several actions to recover the site, culminating in the occupation of it by force in 2008. The most important aim of this action has been to take charge of its interpretation to reconstruct their social memory. By doing this, they have the opportunity to tell visitors their side of history, which was concealed by the hegemonic discourse sustaining the traditional vision of heritage. The Indigenous community's aims tie into renaming the site the "Sacred City of Quilmes" over "Ruins of Quilmes."

Indigenous leaders and their legal representatives have presented their claims to provincial political and judicial authorities. These authorities have not yet given a final resolution; instead several steps backward and forward have been taken.

The Indigenous community has specifically requested the following:

- That the government act in accordance with laws that support Indigenous rights at the international (International Labour Organisation 1989), national (1994 Amendment of the Constitution), and provincial (Law 7484) levels, and international conventions and charters that support the preservation of cultural heritage in harmony with local communities and the natural environment (UNESCO 1994; International Council on Monuments and Sites 1999)
- Removal of the word "ruins" to refer to Quilmes on every reference to the place (including textbooks and tourist brochures), using instead the name "Sacred City of Quilmes"
- Formal repatriation of the land to the Indigenous community of Quilmes
- Performance of a public reparation event, including formal return of the site and related lands to the Indigenous community of Quilmes and recognizing the community's legal possession

Archaeologists, as the other key actor in this dispute, have not taken any collective position on the conflict. None of the few existing Argentinean nongovernmental institutions related to archaeological practice (e.g., the Association of Professional Archaeologists of Argentina, the Argentinean Society of Anthropology) has made any public declaration about the Quilmes situation.

## Looking Ahead: Potential Approaches

This review of the Quilmes conflict demonstrates that when fundamental differences arise over how places should be treated as heritage—particularly when strongly held stakeholder identities and perceived rights are at play—the circumstances can lead to heated conflicts that can turn violent if not mediated.

The conflict over Quilmes possesses a strong component of ideological confrontation. On the one hand, the political establishment sustains the perception of archaeological heritage as "ruins" and/or "remains of past dead people" that can be converted into "museums" in order to commercialize them. On the other hand, Indigenous people sustain the perception of archaeological heritage as a cultural legacy of their ancestors, which can help to recuperate their cultural memory by positioning it as "a place of memory."

Cultural heritage is related to history and is mainly concerned with the social memory of past events. The reconstruction of social memory is a collective process, which the traditional notion of heritage does not take into account if it leaves out many of the main social actors, including minorities and other, lower-level

actors who have a different view of heritage than the official one. The actions taken by the Indigenous community of Quilmes represent, among other things, an attempt to gain a voice and a place in the reconstruction of the social memory, uniting physical and symbolic struggles.

In reconstructing social memory, it is necessary to combine efforts to recover data through different means such as archaeological excavations, archival research, interviews with key actors, and listening to elders. This information, together with local and Indigenous knowledge (UNESCO 2001), could be applied to collectively reconstruct part of the lost social memory. This approach could help mediate the Quilmes conflict, as the confrontation arises partly from lack of accurate information, which barely reaches the areas of society that are out of the archaeological, anthropological, and social science spheres, and prevents the construction of dialogue about the contested parts of the dispute.

A first step in a consensus building process, then, could be to provide all parties with the full range of existing, legitimate archaeological and historical information, which may include the characteristics of Argentina's Indigenous people and the nature of the historical battles against them. Also, it is important to emphasize the potential of cultural heritage place significance to be manipulated and used to support specific group interests (Isla 2003), as has been pointed out in the case of Quilmes by several scholars (Bidaseca and Ruggero 2009a, 2009b; Rodríguez 2004). Social scientists can help mediate conflict by sharing the information recovered from the scientific work and the knowledge gained from it in a way that can be applied in the process of collective reconstruction of social memory.

Some social scientists have developed innovative theoretical perspectives to analyze situations under which different indigenous peoples and other subaltern groups are being dominated and their rights violated, leaving them far removed from participating in constructing a collective social memory (Guha 2002; Quijano 2003; Racero, Requejo, and Segura 2004). However, most of these studies focus more on deeply analyzing such situations than on proposing actions to improve or prevent them. Some institutions such as museums and universities that have been involved in archaeological research are now encouraging a process of repatriation or restitution of cultural objects and/or human remains that were taken in past studies; this approach usually does not generate further connections with the Indigenous groups involved, beyond the restitutions themselves (Fforde 2002; Galla 1997).

These current trends are encouraging and give some direction on how to mediate the Quilmes conflict. Nevertheless, there are several ways to reinforce these trends that have not been adequately explored. One notable missing link is to combine efforts to reconstruct social memory, involving all the parties, in order to find a common ground where all voices can be heard. If such an enterprise were possible, the positions of politicians and bureaucrats, together with those of Indigenous groups and social scientists, would be exposed. By bringing to the table all specific knowledge, the parties involved could jointly work toward building social memory as a collective work.

This endeavor envisions new forms of restitution, beyond places, human remains, and objects, and adds useful knowledge in order to recover the intervened memory and provide a place where scientific and Indigenous narratives can coexist. Through this, it aims to help bring back collective memory, to return Indigenous people to social sight, and to help reclaim their human rights. Heritage topics, heritage professionals, and heritage institutions are in a unique position to trigger that process.

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## Commentary

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This case study demonstrates the challenges of contested identities as a primary concern in a heritage place dispute. At a fundamental level, members of the Quilmes Indigenous community seek official recognition of their identity as connected to the history of the site and recognition of legal claims to the site. Based on these claims, the Quilmes community seeks access to and use of the site, protection of the ancient remains, and a role in its management, including influence in defining its interpretation and tourism policies, among other interests. The refusal of the Tucumán provincial government to recognize the identity of the Quilmes Indigenous people and their legitimacy as a stakeholder in decisions about the Quilmes site poses a major challenge. Equally challenging is the strong sense of grievance and the rights-based claims for control of the Quilmes site and decisions related to it that representatives of the Quilmes Indigenous community bring to any potential dialogue.

Fully resolving the dispute over the management of the Quilmes site would require a potential for acknowledgment (if not legal recognition) by the Tucumán government of the Quilmes community and their historical and cultural links to the site, and acceptance of legitimate national interests by the community. On this basis of mutual understanding and mutual recognition, it would be possible to develop a collaborative approach to site management that reflects the underlying values and identities of the Indigenous and non-Indigenous peoples of Argentina. However, given the historical trend and far-reaching impacts that would result, such a mutual recognition seems unlikely in the short term.

The ongoing dispute over the Quilmes site is but one of the consequences of a national policy that rejects Indigenous identity and claims to natural, cultural, and physical resources. A recent analysis of outcomes of Indigenous land and resource claims suggests several preconditions that appear to facilitate successful resolutions. These include internal agreement and capacity within the community, international allies with national leverage, support within the domestic dominant culture, and opportunities for direct engagement of the Indigenous people to develop acceptable solutions (Susskind and Anguelovski 2008, 47–51). Given this, the Quilmes people might seek to develop international and domestic alliances that will increase the likelihood that their concerns will be heard by the Tucumán government.

In the absence of an acknowledgment of legitimacy, is there any potential for improvements to the situation? Though we generally advocate addressing core underlying concerns in a successful negotiation process, there may still be an opportunity for an interest-based negotiation around some subset of issues that might reduce the level of conflict. A valuable first step for exploring this potential may be a well-implemented situation assessment of the site to clarify the range of site-specific issues, such as preservation, occupation and control, management, and interpretation, and the interests of all parties on those issues. Such an assessment could provide a neutral account to educate all parties about one another's perspectives and identify issues with potential for trade-offs or mutual gain.

For example, there may be common interests and values that the Quilmes community may share with the government, such as the goal of protecting the existing ancient remains from further damage (even though the parties may disagree on reconstruction interventions). Perhaps there is a potential package agreement that all stakeholders could accept, at least for the short term, that removes “ruins” from

the site's name, includes in the site's interpretation and presentation some recognition of cultural and social values (not necessarily linked to the modern Quilmes people) along with currently recognized scientific values, provides access rights for Indigenous cultural practices, and gives the Quilmes community some shared benefits from, and/or role in, tourism. In return, Indigenous occupation of the site would end, all without addressing the authenticity of the Indigenous lineage. This is just one possibility, which likely falls far short of the desirable outcome for both the government and the Quilmes community.

A key ingredient missing so far in the progression of events at Quilmes, however, is one or more actors able to act as a neutral convener to launch an exploration or process of bringing parties together around either limited issues or a larger dialogue. Given that international intragovernmental bodies concerned about heritage protection, such as UNESCO, engage with countries only with approval of individual country governments, it is hard to see such an actor as a viable convener in this context. We wonder whether there might be a political, academic, or nongovernmental organization—domestic, regional, or international—that might step in to play the role of a neutral convener.

# Lake Condah: Restoring an Indigenous Living Landscape

*Chris Johnston*

## **Abstract**

Lake Condah is a nationally significant place. Planning for the protection of its cultural heritage values since the 1970s has witnessed a remarkable transition from conflict to consensus. The traditional Aboriginal owners—Gunditjmara—have passionately advocated for their interests, values, and identities, moving from direct action and protest to becoming the initiators of consensus building activities.

Part of the Budj Bim National Heritage Landscape, Lake Condah was placed on Australia's National Heritage List in 2004 for its outstanding cultural and natural heritage values. When first recognized for the important heritage values associated with its extensive fish-trapping systems and stone structures, the interests of Gunditjmara were not considered. Times have changed, and Aboriginal people and their right to speak for their traditional country have now been embedded in national laws.

The journey to regain the Lake Condah Mission and return water to Lake Condah represents long-held desires of the Gunditjmara community: both goals are about to reach fruition, achieving an important milestone in conserving the tangible and intangible values of this living landscape and creating opportunities for healing. These achievements demonstrate the many challenges of heritage management planning and recognize the potential benefits that consensus building techniques bring in enabling a clear understanding of interests, values, and identities.

## **Introduction**

Lake Condah is a nationally significant Australian heritage place. This case study looks at heritage management planning activities, starting in the 1970s through to today, to illustrate how changing relationships between traditional owners, government, and other “communities” have led to understanding and consensus. It is a story of Indigenous advocacy, located squarely in the context of Indigenous land rights and land justice in Australia, and over a period in which Australian governments, initially reluctantly, have finally recognized that there are distinctive Indigenous interests, values, and identities.

First, the case study sets the scene by describing Lake Condah and recent Gunditjmara history. It then examines the development of government-sponsored heritage management and tourism activities on traditional Gunditjmara country from the 1970s to the 1990s, highlighting problems and conflicts and indicating how these were created and addressed. It illustrates how Gunditjmara progressively became the drivers of these activities, initiating the development of new ways of working with others to increase the prospect of consensus and thereby achieve their



interests. Finally, the case study draws together the threads of the story, offering insights and lessons.

In this paper, the term *heritage values* is used as shorthand for the cultural significance of a place.<sup>1</sup> The term *benefits* is used for utility values such as economic return. *Interests*, *values*, and *identity* are used to indicate the nature of the concerns expressed by stakeholders and accord with the consensus building terminology used in this publication.



**FIGURE 1**  
Map showing key locations around Lake Condah.  
Image: Context, 2010.

## Setting the Scene

Lake Condah is located in southwestern Victoria, close to the southern edge of the continent of Australia. It is part of the traditional country of Gunditjmara, the Aboriginal people who lived in this area for many thousands of years prior to the arrival of European colonial settlers in the 1830s, and who continue to live here today (fig. 1).

Lake Condah was formed as a result of recent volcanic eruptions twenty thousand to thirty thousand years ago. The extensive lava flows disrupted the landscape, causing the realignment of streams. Over time and with sedimentation, a series of swamps was created along the western edge of the lava flow. One of these swamps is Lake Condah. The ancestors of Gunditjmara developed extensive aquaculture systems at the lake (and elsewhere) over several thousand years, creating dug and stone channels, weirs, and holding ponds using volcanic stone, earth, timber, and woven baskets.<sup>2</sup> They also created circular stone dwellings and other structures close to the lake using the same materials. Recent research has suggested that smoking was being used as a food preservation technique (Builth 2002) and that an even larger-scale system of water control and management had been developed upstream of Lake Condah (McNiven and Bell 2010).

Gunditjmara witnessed the eruption of the Mount Eccles volcano nearby and saw the event as an ancestral being revealing himself in the landscape. The Gunditjmara word for the mountain is *Budj Bim* (high head)—a part of the ancestor's head, the other part of which forms Mount Napier to the north. Other parts of the ancestor are evident in the landscape, for example *tung att* (Budj Bim's teeth).

In this part of Victoria, as occurred in many places in Australia, there was violent conflict between Indigenous people and the colonial settlers, primarily over land and resources. Gunditjmara fought a long campaign that became known as the Eumeralla War. Their knowledge of the landscape, especially the rugged lava flow—"the stones"—enabled them to attack and retreat, and (it is believed) to continue to harvest the rich food resources from Lake Condah's aquaculture systems.

From the late 1850s, missions were established across Victoria to "look after" Aboriginal people. The Lake Condah Mission was constructed in 1867 by the Church of England's Missionary Society. It was built on a traditional Gunditjmara camping site on the "softer" country adjoining the lake and the "stones," with its large land holding of 2,043 acres (826.8 hectares), including Lake Condah. Over the years, the land holding shrank, with parts sold to farmers or given as land grants to

**FIGURE 2**

The missionary's house ruins at Lake Condah Mission.

Photo: Context, 2006.



returned war servicemen.<sup>3</sup> After several attempts, a drain was cut through the lake in 1954, ensuring that floodwater would quickly drain away, leaving the area available for grazing. Lake Condah remained public land. The return of water has been central to the Gunditjmara vision since at least the 1980s and is discussed below.

The mission closed in 1918, and those still in residence were moved many hundreds of kilometers to the Lake Tyers Mission. Some remained at Lake Condah, and by the 1930s there were at least seventy people living at Lake Condah. At the end of World War II, the Victorian government took dramatic action to force people off the mission. First the school was closed, and then the church was demolished using explosives. The church and school served both Aboriginal and non-Aboriginal people in the local area and were the center of social activity. These opportunities vanished after their closure. As well, many Aboriginal people had no choice but to relocate, and some moved away from the immediate local area. The mission buildings progressively became ruins (fig. 2) (Context 2000).

In the 1970s, the government archaeological agency, the Victoria Archaeological Survey (VAS), initiated a process of heritage investigation of Lake Condah. This was followed by legal action in 1981 to assert Aboriginal rights and seek land hand-back, the start of heritage management planning and tourism development in the early 1980s, National Heritage Listing in 2004, and a native title agreement in 2007.<sup>4</sup> It is a complex story. Throughout, and until recently, these processes have been marked by ongoing disputes between government, Gunditjmara, and local landowners.

## Heritage Management Planning

Heritage management planning involves understanding and conserving the heritage values of a place. At Lake Condah, this has not been an easy or smooth process. The heritage management planning activities are described broadly in chronological order to assist in understanding each of the processes and which

interests and authorities were the drivers. The relationships between the players are particularly important, as is the relative ability of Gunditjmarra to influence government.

### **“Discovering” Lake Condah**

An important issue in managing the heritage values of cultural heritage places is recognizing all values, including those held by associated communities. If there are different, competing, or conflicting values, heritage management needs to consider how all values can be respected.

In the 1970s, VAS “discovered” Aboriginal stone house sites on the stony rises in the southwest of Victoria using references from the historical literature, and over several field seasons documented hundreds of stone features at Lake Condah. In one publication resulting from this survey work—*Aboriginal Engineers of the Western District, Victoria* (Coutts, Frank, and Hughes 1978)—the archaeologists expressed their admiration for the technical skills used in the making of the fish-trapping systems and raised questions about the nature of the prehistoric Aboriginal economy and social structure. But there were virtually no opportunities for Aboriginal people to participate in this work, and none are acknowledged in the resulting reports. VAS had an archaeological and scientific focus and was not interested in Aboriginal people’s own knowledge, lived experience, or values.

This failure to work with and consider the interests of the Aboriginal people resulted in legal action in 1981 when two Gunditjmarra women sought recognition of their community’s rights and interests through the Australian High Court. Specifically, they sought to restrain the company Alcoa from “damaging or interfering with Aboriginal relics” on the site of a proposed aluminum smelter near Portland (Castellino and Keane 2009, 96). To do this, they needed to seek legal standing and gain a right of action under the Archaeological and Aboriginal Relics Preservation Act 1972 (Vic.), the legislation that gave VAS its mandate.

Their principal concern was to “ensure continued access for Gunditj-Mara people to land which by tradition was their ancestors” and to “preserve the relics and sacred sites on the land” (Castellino and Keane 2009, 96). The need to take such action is indicative of the failure of the state government’s archaeological agency to consider the importance of such sites to Aboriginal people.

In a settlement designed to ensure the Alcoa aluminum smelter could proceed, the Aboriginal mission site at Lake Condah was returned by the Victorian government to a newly formed Aboriginal organization that the government had created. The organization, the Kerrup Jmara Elders Aboriginal Corporation (KJEAC), was based on representation from selected families. Kerrup Jmara refers to the Gunditjmarra clan group associated with Lake Condah. The structure of KJEAC proved to be an insecure foundation for community decision making, probably reflecting an imposed structure and insufficient prior discussion.

### **Starting Formal Management**

The ability to hand-back the mission was created through legislation designed to recognize limited Aboriginal land rights in Victoria but ultimately required Commonwealth government action, becoming one of a number of Aboriginal land rights initiatives in Australia in the 1980s. Following the hand-back, the Victorian government progressively purchased adjoining land with the intention of returning it to Aboriginal ownership and management. Much of this land had once been mission land, and all was within the vast Gunditjmarra traditional estate. Lake Condah itself was public land, designated as a game reserve.

In 1984 the first heritage management plan was produced for the mission (Gould and Bickford 1984), and in 1985 the Victorian government funded the development of a tourist accommodation complex adjoining the mission. One of the recommendations of the heritage management plan was for the reconstruction of a number of buildings, with the first proposed to be the timber building that had once served as a children's dormitory.<sup>5</sup>

Rebuilt several years later, after archaeological investigation relocated the building footprint, the new Dormitory was strongly rejected by the Elders who had been so keen to see it built. For the Elders, reconstructing this building was "very important...It's about their memories...the times they had there...they wanted to recreate that...they wanted to walk in their footsteps again like they did as children." But the reconstructed building was not the place they remembered: "They couldn't relate to the place or the space so it just caused a lot of anger" (fig. 3) (Lovett 2009, 4).

What went wrong? For the consultants involved, their recommendation accorded with the current heritage paradigm—reconstruction to the period of greatest cultural significance (ca. 1888) and the removal of elements postdating 1888—but for the Elders, when they spoke about the Dormitory, they were speaking about their Dormitory, a building they had lived in as children in the 1920s to the 1940s and knew intimately. The two Dormitories were in essence not the same place.

Rather than offering the Elders a place of connection back to their lives at the mission, the reconstruction created intense anger. Many times, people threatened to burn it down or haul it off. It was some years before solutions were identified. At the same time, on land right next to the mission, the Victorian government had funded the development of a tourism complex (cabins, bunk houses, a shared kitchen, recreation room, and amenities) and run a number of pilot cultural heritage tours (Context 1993, 163, 166). The lease was held by the Victorian Tourism Commission, and Aboriginal people had no control over what was happening. Worse still, they felt locked out of the land they had fought so hard to have returned.

Within several years, the tourism venture had been beset by problems: lack of adequate planning, facilities that were inadequate for visitors' needs, lack of training for Aboriginal people who were expected to run tours and manage the complex,

**FIGURE 3**  
Annual community day at the Lake Condah Mission, with the reconstructed Dormitory in the background.

Photo: Denise Lovett, 2000.



and conflict within and between the sponsoring government agencies. These setbacks were identified as being “costly to the whole community, and especially to the standing of Aboriginal people” (Context 1993, 168). Soon after, members of the Aboriginal community took over and occupied the tourism complex, and any form of tourism ceased.

That Aboriginal community members needed to use direct action to achieve their goal—the closing of the tourism venture and return of the mission for Aboriginal community use—demonstrates that the government was either not listening to or choosing not to understand the multifaceted interests of this community.

The 1993 Lake Condah Heritage Management Strategy and Plan highlighted these issues. It recognized that the community felt locked out of the mission and wanted it back as “their place.” It also expressed the importance of Lake Condah and the Mission to the identity of Aboriginal people:

The Lake Condah Mission is of singular significance to Aboriginal people as a place that has been instrumental in the shaping of their present-day community. The whole of the Lake Condah area, and particularly the complexes of Aboriginal sites, is important to Aboriginal people as the place which best embodies their spiritual and historical connections to their traditional country, beliefs and culture. (Context 1993, 135–36)

The 1993 plan, covering the mission, Lake Condah, and the stony rises, was the start of formal heritage management planning for the site. Known affectionately as the “blue book,” the plan proved to be a useful management tool for the Aboriginal community. Its success seems to have come from its clear expression of Aboriginal values and from management policies that reflected community aspirations. Everyone had learned from the recent past—the fight to get the mission back, the “identity” impacts of the Dormitory reconstruction based on the 1984 plan, and the impacts of the tourism development.

As well, a new heritage agency (Aboriginal Affairs Victoria [AAV]) and new legislation provided greater recognition of the interests of Aboriginal people in their cultural heritage and in defining the heritage values of a place.

A challenge for the heritage management planning team was gaining the trust of the Elders and understanding their deep and enduring connections to the mission, the lake, and the surrounding country. The team was jointly responsible to AAV and the Elders and took much of their guidance from the Elders. Time was spent getting to know one another. Listening was essential, with many meetings in the recreation room and many long walks out onto their traditional country, learning to see the landscape through the eyes of the Elders and thereby appreciate their knowledge of their country and the depth of its importance to them (fig. 4). At times the team observed conflict within the community and had to carefully step back and allow people space to work through their issues.

In 1999, when the community decided that it needed a more detailed heritage management plan for the mission and the mission cemetery, they reengaged Context, the heritage consultants who had prepared the successful 1993 Lake Condah Heritage Management Strategy and Plan. This new project enabled the Elders to talk in more depth about the mission, and by then some had recorded their own stories. Responding to the anger still felt toward the new Dormitory building, the new plan recommended that the Elders document their Dormitory (Context

**FIGURE 4**

Gunditjmara Elders Denise Lovett (*left*) and Damein Bell (*far right*) talk with members of the heritage management planning team during a walk out on the dry bed of Lake Condah.

Photo: Context, 2006.



2000). Working with a facilitator, the Elders met in the building and marked out in chalk the internal layout—the rooms, where beds were, where each person slept, where Grandma sat, the kitchen, where the windows were—all features missing in the reconstruction. Together, they recovered their experiences and recorded their “facts.” The healing process had begun.

Recognizing the importance of being able to visualize outcomes, the plan was drawn up in several forms, including a detailed written plan, a community action plan, a large wall chart, and a take-home poster for all community members. Each used an image indicating “successful management” at the mission (fig. 5).

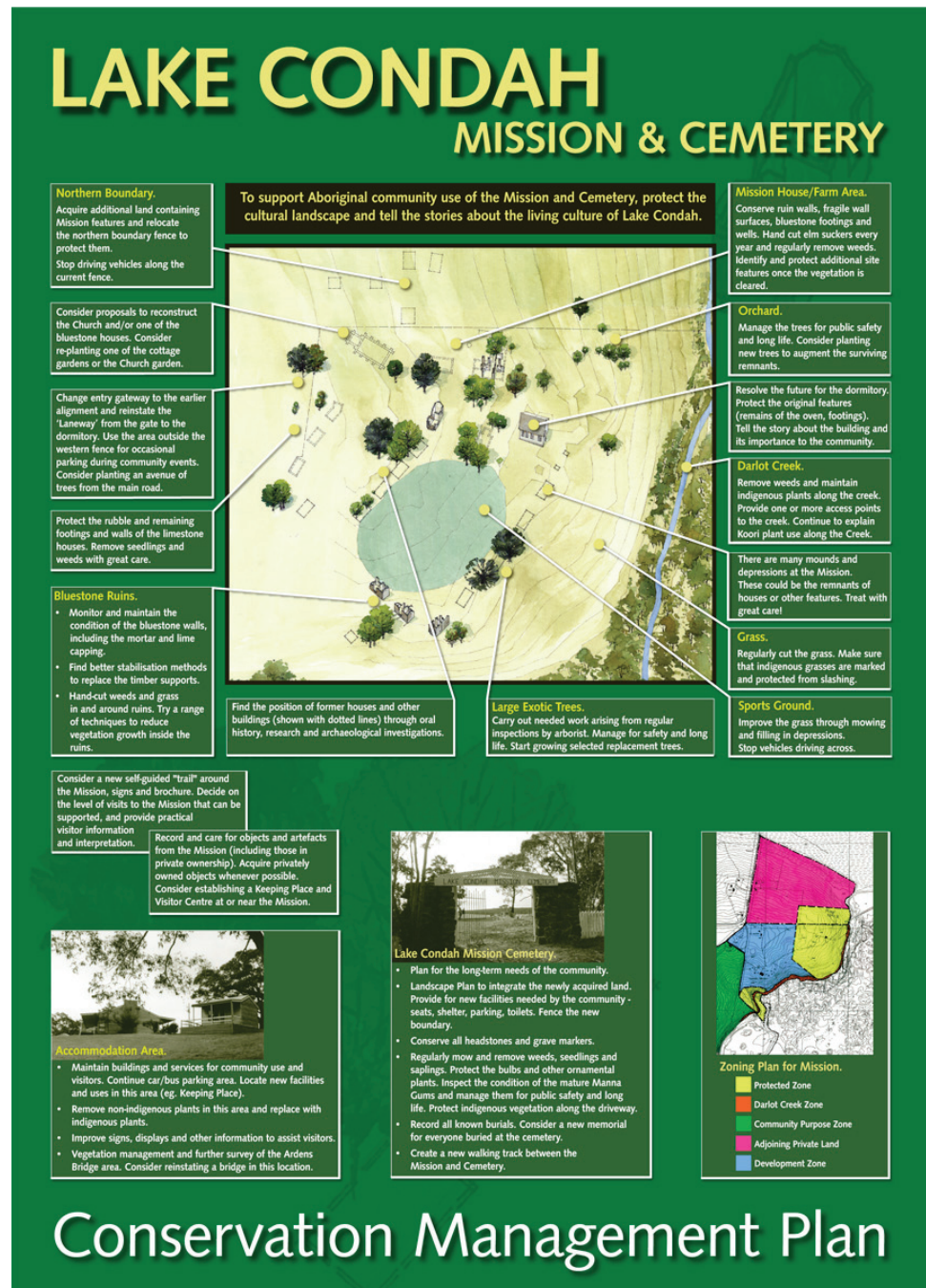
By the end of the 1990s, much had been achieved. Heritage management planning was well under way, but only the mission land had been returned. The government held on to the adjoining properties it had purchased on behalf of the Aboriginal community, even though nationally a Native Title Act had been proclaimed in 1993.<sup>6</sup> The community’s ambition to have water returned to Lake Condah had stalled back in 1991, when a trial weir was sabotaged. Access to funds for management was still quite limited.

The challenges of this period of almost thirty years had been many. For the Gunditjmara community, they had faced the challenge of being recognized in the eyes of the law and by the government; they had been required to take up their campaign for recognition repeatedly through direct action; and they had constantly lacked the resources to act on their own behalf and were too often beholden to government. The KJEAC was no longer functional, and some individuals had been exhausted by the various campaigns and had left the community. The government did not understand or trust the Aboriginal community. Locals—landowners and many not connected to the Aboriginal community—were suspicious about a “land grab.” And while good communication built bridges of trust between individuals, this failed to extend into their organizations.

FIGURE 5

The take-home poster of the conservation management plan.

Image: Context, 2000.



## The Last Ten Years

In the ten years since, Gunditjmarra initiatives have achieved much. Lake Condah (as part of the Budj Bim National Heritage Landscape) was entered onto the National Heritage List; a native title claim was successfully made; Lake Condah and the adjoining properties acquired by the Victorian government in the 1980s and early 1990s have all been returned to Gunditjmarra ownership; and a Gunditjmarra plan to return water to the lake is about to reach fruition. The Gunditj Mirring Traditional Owners Aboriginal Corporation (GMTOAC) now represents traditional owner interests. But most important, relationships between the Gunditjmarra, gov-

ernment, local organizations, and landowners have shifted to a point where trust and collaboration are possible and being achieved.

### **Recognizing Gunditjmara Values: The National Heritage List**

When Australia's new National Heritage List was announced in 2004, the Budj Bim National Heritage Landscape was one of the first three places listed, and the first Aboriginal heritage place.

This remarkable achievement reflects the determination of Gunditjmara to prove their enduring connections and values, and to use advocacy and research in a new and powerful combination. As Uncle Ken Saunders, a Gunditjmara traditional owner, put it: "Well you couldn't have a blackfella telling that story. So to prove it we had to have a white person doing the scientific research to say this is real" (Catalyst 2003, n.p.).

Aboriginal heritage values are pre-eminent in the National Heritage List, and for the first time Indigenous spiritual connections are acknowledged, with the listed landscape named for the ancestral being—Budj Bim—who revealed himself here. As a cultural landscape, the role of Gunditjmara people in creating complex aquaculture systems is recognized, as is the continuity of their connection, their strong defense of their country at the time of European colonization, and their ongoing advocacy for land rights and land justice up to the present day.

Gunditjmara have succeeded by bringing science and culture together, replacing divisiveness with a powerful integration of Western and Indigenous knowledge, and demonstrating a shift in authority and "ownership" to Gunditjmara from the government and from archaeologists.

To pursue their goal of bringing water back to Lake Condah, Gunditjmara established the Lake Condah Sustainable Development Project (LCSDP) in 2002, as an Indigenous community initiative led by the Winda Mara Aboriginal Corporation.<sup>7</sup> The overall goal has been to "sustainably develop" the Lake Condah and Tyrendarra district as "a major heritage park through inclusive activities that engage communities, land owners, governments, industry, schools and education institutions," with the overall project offering a "major hub for eco and cultural tourism and a major demonstration project exploring appropriate pathways to sustainable development" (Parks Victoria 2002, 5).

The project established a community-driven governance structure with a broad-based leadership group and all key government agencies represented, along with local government and significant NGOs. Andy Govanstone, a skilled facilitator and lake restoration officer from the Department of Sustainability and Environment, worked to secure all the agreements needed for the project to proceed. Specific working groups advanced priorities identified in the LCSDP Masterplan 2002 (Winda Mara Aboriginal Corporation 2002). A business plan was developed (Ruge 2004) and a multifaceted planning process commenced.

Of the many priorities and actions, two are highlighted below as part of the development of cultural heritage management and tourism: developing a sustainable tourism plan and restoring water to Lake Condah.

### **Developing a Sustainable Tourism Plan**

In contrast to the 1980s tourism development at Lake Condah that angered and fractured the Aboriginal community, the Budj Bim National Heritage Landscape Sustainable Tourism Plan was "built on the work and aspirations of the Aboriginal



community...developed with and by the community rather than for the community...owned by and supported by the community [and other stakeholders]" (Context 2007, v). Moreover, the project was achieved through a partnership between an Aboriginal organization, the Winda Mara Aboriginal Corporation, and the Commonwealth and Victorian governments.

In this new plan, the interests of the Aboriginal community were paramount. Sustainable tourism was defined by the community, and the underlying desires and needs to be achieved through tourism were made explicit. Examples included "keeping young people at home" (i.e., living locally), "something we can do and that will lead to success" and will be rewarded (Context 2007, 15–16).

An important expression of identity that shaped this tourism plan was tourism "on our own terms," with visitors as guests who are invited to join with the community and share in what the community is doing (Context 2007, 15). This reversed the idea of putting on a show for tourists, and increased people's feelings of comfort and personal authenticity.

The plan was created with the participation of a range of community members. The format was casual and open. People were able to drop in and contribute, or just listen. Visits to specific areas, again with community members, enabled particular ideas to be tossed around: some are resolved in the plan and others are recognized as requiring more extensive community discussion.

In relation to the mission, the plan establishes that the mission is culturally significant and is first and foremost a place for Gunditjmara, their community, and their cultural activities. When this idea was first mooted in the 1993 plan, it was a challenge to the future of the government-built tourism complex. Now the idea is firmly established and agreed on by all partners, including the state government, demonstrating a major shift in thinking. Whereas the 1980s government-driven tourism initiatives quickly met with strong community resistance, the 2007 plan is being actively implemented through partnerships, with the Aboriginal community setting the parameters and initiating action (fig. 6).

#### FIGURE 6

New infrastructure, such as this boardwalk at the Tyrendarra Indigenous Protected Area (IPA) to the south of Lake Condah, will help Gunditjmara show visitors around their country.

Photo: Lake Condah Sustainable Development Project, 2009.



## Restoring Water to Lake Condah

Attempts to drain Lake Condah and create more grazing land started in the 1870s, and Aboriginal people from the mission worked on cutting the first drain through the lake bed, with more drains cut in 1886. In 1908 and again in 1946, local floods were blamed on Lake Condah, and there was major pressure from local farmers for a better drainage scheme. This was finally implemented in 1954 and has been effective ever since. The lake still filled, but the water drained away quickly. As a result, the natural abundance of the lake has reduced substantially, and the Gunditjmarra aquaculture systems are not able to operate effectively.

The idea of returning a more natural water regime to the lake started only ten years after the 1954 drainage scheme had been implemented. The first proponents were those seeking to increase its value as a game reserve, especially for duck hunting. In 1970 the idea was again mooted, but was abandoned after strong opposition from adjoining and nearby landowners.

After the return of the mission in 1987, the KJEAC started advocating for the return of water to the lake to restore its cultural values. By this time, the archaeological values of the aquaculture systems were well recognized. In 1991 a trial weir was installed at the request of the Aboriginal community, but it was poorly designed and repeatedly sabotaged, apparently by local landowners.

Damein Bell, manager of the LCSDP, thinks that while opposition to the weir appeared to be driven by concerns that local farmland would be inundated, there were also feelings of jealousy (“the blacks are getting too much”) and distrust (“the black fella’s might muck it up”). From talking to adjoining landowners in 1991 and 1992, some also feared an Aboriginal land grab was imminent, and resented the fact that the government was already actively buying back land with the aim of giving it to the Aboriginal community (Bell 2009, 5).

At that time, too, connections between Aboriginal and non-Aboriginal communities were tenuous. Many older people in both local communities had grown up together, going to school, to church, and to social occasions together at the mission. But that had stopped many years ago, when the mission school and church were forcibly closed.

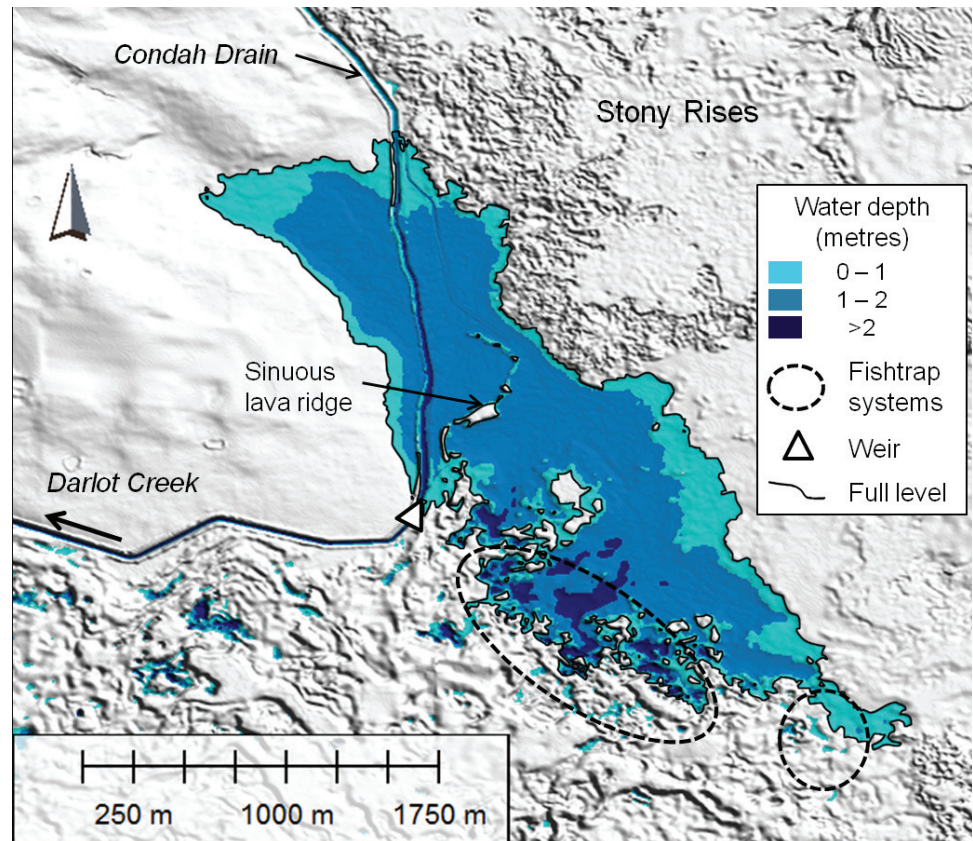
The model proposed for the water restoration project was based on joint fact finding, transparency, and open communication. Initially, the Aboriginal community consulted the non-Aboriginal community about sustainable development. Specialist consultants were employed to tackle the technical aspects (geology, hydrology, etc.), and everyone was invited to contribute to the process by asking questions and sharing his or her own knowledge about past flood events. All the information gathered was made available in easy-to-understand formats, which helped dispel the animosity that had existed for several decades. To encourage wider participation, meetings were held in smaller communities so that people would feel more comfortable in their own familiar environments. Sometimes the presenters were Aboriginal and sometimes not, depending on the LCSDP team’s reading of the best approach for that local community. Computer-generated imagery derived from the hydrological modeling combined with site visits enabled people to visualize water heights and flows, and ensured that expected impacts were clearly understood (fig. 7).

Facilitator Andy Govanstone explains that “inviting the detractors” to the table was critically important in the success of the process:

**FIGURE 7**

Computer-generated image used in community discussion of proposed water depth in relation to fishtrap systems and flooding potential as part of the water restoration project at Lake Condah.

Image: Chris Gippel, Fluvial Systems, 2010.



Our story was...we just want to give you information, come and listen... They were prepared to come and have a listen and hear the information first hand and ask the questions in a non-confronting environment with all their neighbours...and get honest straightforward answers, and they could see the benefits of what's being proposed for themselves and that there will be benefits. (Govanstone 2009, 7)

Through the process, people found that they were being taken seriously and that their concerns were being incorporated into the fact-finding process. Powerfully, “their concerns became opportunities” and “their concerns were our concerns because we are all in it together.” People came to see that there was no fixed agenda and that nothing would be forced on them. If the technical studies said returning water to the lake would cause serious consequences, then restoration would not proceed (Govanstone 2009, 8–9).

In parallel, a heritage management plan was needed to ensure the requirements of the National Heritage List were met. The planning process was led by Gunditjmara and reported through the widely representative LCSDP leadership group. Stakeholders were consulted individually and in roundtable workshops. The aim was to create a “both ways” document that responded to both “Western” scientific and Indigenous interests, finding and seeking agreement on a new approach.

One of the most significant challenges for the government heritage regulators was to agree on the extent of control sought by Gunditjmara over their cultural heritage and to support a traditional knowledge and learning-based management approach. The Lake Condah Restoration Conservation Management Plan has been

**FIGURE 8**

Gunditjmara traditional owners and other community members inspect the newly completed weir.

Photo: Lake Condah Sustainable Development Project, 2010.



accepted and is now being implemented through a series of initiatives controlled by Aboriginal people (Context 2009). The weir that will direct water into the lake has been completed; the Budj Bim Rangers program is enabling employment of local Indigenous people to undertake environment and heritage protection activities, and co-management of the Mount Eccles National Park is being planned (fig. 8).

The outstanding successes arising from the LCSDP and this project have come through a commitment to collaboration and partnerships as the tools to overcoming hostility and distrust.

## Reflection

This section reflects on past heritage management processes and outcomes, and examines factors leading to success or failure, and lessons learned.

The exclusion of Aboriginal people, the denial of any real opportunities for them to express their interests, values, and identities, and the failure to hear them when they did speak resulted in Gunditjmara taking direct action through the courts and at the mission in the 1980s and early 1990s. These actions were powerful and achieved significant outcomes, but they also fractured local relationships and created fear of a “land grab.” The Victorian government sought to make amends through the hand-back of the mission, but its approach was paternalistic and controlling, and failed to understand the complexity of Gunditjmara community interests and attachment to the land and culture.

The government development of a tourism complex adjoining the mission is a case in point. Denise Lovett suggests that there were two problems: the first was that the tourism complex was foisted onto the Aboriginal community as part of the return of the mission property and they had no real choice in the matter. The second problem was that what community members really wanted was to spend time “on country” themselves. “They wanted to be out there, they wanted to relax and

**FIGURE 9**

Gunditjmara continue caring for country. Here community members undertake field survey work by boat after water was restored to Lake Condah.

Photo: Tom Day, 2010.



enjoy it and reconnect there,” but instead they saw “white fellows doing something they wanted to do” (fig. 9) (Lovett 2009, 10).

Although the government’s intent may have been to build employment and economic development opportunities through tourism, it failed to recognize the multiplicity of community interests. Worse, its actions caused deep divisions and conflicts within the community, increased the sense of disconnection from the mission, and fostered resentment toward paying visitors.

The Dormitory reconstruction offers another example of how easily heritage planning processes can fail when community interests, values, and identities are not recognized. Discussions between the Elders and the consultants on reconstruction of the Dormitory did not tap into the actual interests and values of the Elders, nor reveal the importance of this place in the identities of the Elders. The strength of the Elders’ reaction to the reconstructed building is clear evidence of its impact on them: it denied their lives and experiences, and challenged their sense of identity. This “denial” needs to be understood in light of the losses of country, language, culture, and traditions faced by Indigenous people across Australia. Through storytelling and marking up the building in chalk, the Elders were able to reassert their identity, literally reinscribing it onto the place.

It was Gunditjmara who realized that to achieve their goals, they needed to find new ways to engage with government agencies and the wider community. They also realized that this meant building relationships based on mutual trust and gaining a better understanding of everyone’s interests.

Damein Bell has identified two key changes in how Gunditjmara are now working. The first is sharing knowledge: the project to restore water to Lake Condah has been based on an open sharing of knowledge and respect for all types of knowledge—technical and lived—and for all knowledge holders. The second change was in recognizing that there are two sides to the Lake Condah story: the Aboriginal side and the non-Aboriginal side.

By inviting non-Aboriginal people to share their knowledge and their living memories, decades-old barriers started to break down. People have shared their own stories about the lake, and found that they were heard with respect. Antagonism has been progressively replaced with trust and recognition of mutual interests.

For the Gunditjmara community to be able to initiate such different processes is a major change. Denise Lovett says: “We are more assertive about what we want to

do and how we want to do things,” noting that unlike the Elders who were brought up in more restrictive times, the next generations are able to stand strongly with the Elders and argue the case (2009, n.p.). Andy Govanstone has also observed this change in approach, indicating that today the Aboriginal community and key players know how to negotiate, they have far wider experience in working with government than in the past, and they approach government as “diplomats,” not “warriors,” combining advocacy, activism, and engagement as needed.

Likewise, there has been a significant change in the government’s approach to working with this Aboriginal community. The sit-in at the tourism complex seriously challenged the government, and its consequent withdrawal from involvement is perhaps not surprising. What is interesting is the government’s willingness to reengage some ten years later and on a very different basis.

Over this period, much has changed in Australia. Aboriginal people’s land rights had been embodied in national “native title” legislation in 1993, a new Victorian Aboriginal Heritage Act recognized Aboriginal heritage values and responsibilities, and reconciliation was on the national agenda, culminating in the prime minister’s apology to the Stolen Generations in 2008.<sup>8</sup>

Andy Govanstone believes that the government saw the water restoration project as an opportunity, not a risk. It was a chance to deliver on government policies. Government also recognized that the project had strong foundations within the Aboriginal community, and that the Aboriginal organizations initiating the project had experience and credibility and were able to manage government partnerships effectively. The risks for government were therefore small. Importantly, the key Aboriginal players were “very good at extending the hand of friendship” (Govanstone 2009, 6–7).

## Conclusions

What can be learned? First, connection to place and heritage is deeply connected to identity. Second, interests and values may not be revealed easily, and cultural differences may impact the effectiveness of communication, requiring that extra time and care be taken. Third, “words” are not always effective in communicating about “place,” and visual representations such as models, drawings, and computer-aided design can be much more effective (fig. 10).

Because interests, values, and identities are fundamental to heritage management planning, failing to take them into account can be devastating to communities, especially when these communities already suffer social and economic disadvantage and discrimination.

The way that people work together in a heritage management planning process is critical but often overlooked. Governments are always powerful players, and they need to develop respectful and culturally sensitive ways of working. The Lake Condah case study illustrates both the harm that can be caused and the potential for good through consensus building alternatives. In the 1980s and 1990s, pressure from the government, whether intended or not, was intense and put almost intolerable stress on this Aboriginal community, expecting it to respond immediately to government priorities. Today Gunditjmara are setting a pace that is culturally sustainable for their community.

Looking to the future, the methods applied in the LCSDP have achieved a remarkable reduction in conflict and development of a broad consensus on the



**FIGURE 10**

A drawing of a traditional Gunditjmara possum skin cloak. The markings on the inside illustrate aspects of traditional life and country, and some are understood to symbolize the lake and fish-trapping systems.

Image: Gundij Mirring Traditional Owners Aboriginal Corporation, 2008.

return of water to the lake. Damein Bell expects that the good relationships that have been cultivated will continue to develop and knows that everyone is watching to see how the water restoration goes once the new weir is built. He sees the project as part of a broader historical step, from invasion and conflict toward reconciliation: “The lake’s restoration is the cornerstone to everything—to the tourism, the enterprise, the caring for country, the benefits for the Aboriginal community and the broader community” (Bell 2009, n.p.).

As with the Dormitory, getting the water restoration wrong could risk the sense of community identity that is so closely tied to the lake:

As a community getting to know the lake again is going to be challenging, both in the physical sense and in a spiritual sense.... That’s why we put aside two years to learn about the lake, for the lake to learn about us, and like Uncle Kenny says, you know once the water comes back in there, them spirits are going to be flushed out, and we have to be prepared for that. (Bell 2009, n.p.).

In reflecting on the ways that LCSDP has achieved greater community consensus out of intense conflict and strongly held positions, some important elements that emerge include the following:

- The use of an open fact-finding approach that supported everyone in bringing his or her concerns and interests to the table. The use of a technically driven process with extensive opportunities for engagement with the issues and with the consultants and the leadership team (in groups and individually) was vitally important. Local and personal knowledge was actively sought out and added to the modeling.
- Concerns raised were recognized and respected. Direct compensation for adverse impacts offered additional evidence that these impacts were being treated seriously.
- Uncertainty was dealt with through exploration of options and the development of contingency plans. There is increasing confidence that any unexpected adverse impacts can and will be managed.<sup>9</sup>

An interesting question is the extent to which differences in values were at the heart of the conflict in the 1980s and 1990s, or whether the root cause was a deep distrust created by a long-standing culture of racism and discrimination.

In reflecting on how Aboriginal interests in their cultural heritage have moved from the margins to being recognized as among the most important values nationally, some important elements are as follows:

- The long struggle for recognition by Indigenous people nationally and internationally
- Changes to legislation and the gaining of native title that have shifted the “power” relationships between Aboriginal people and government agencies, and enabled Gunditjmarra to again hold the “authority” for their traditional country
- Attitudinal change across the Australian community, evident in the prime minister’s apology in 2008, and earlier in native title legislation
- Increasing Aboriginal participation in government through employment, appointment to advisory bodies and councils, and election
- Development of new paradigms in heritage practice, including in social significance and in the right ways to work with Aboriginal people (e.g., Ask First guidelines)

In the heritage field, engaging stakeholders through the use of effective consensus building techniques has had limited support and often no budget. But as the Lake Condah case study illustrates, these processes can offer substantial benefits. Establishing new ways of working will take time. An essential component will be recognizing the potential to substantially improve heritage management outcomes. Consensus building approaches are empowering, leading to real ownership of and commitment to outcomes. In an era when government resources for heritage appear to be shrinking, consensus building can help tap into a wider set of nongovernment resources.

If conflict has a value, it is because it alerts us to a problem. Government often fears conflict, and in response seeks greater control. The idea of engaging with communities can trigger this fear. Consensus building implies letting go of some control, with the aim of better outcomes. Governments will need to develop confidence in these techniques and their application to heritage projects before they are willing to allocate funds to consensus building methods. Governments will also need to become consensus partners, putting aside their usual “control” mind-set.

For heritage consultants and project workers, consensus building techniques offer new opportunities to learn, build skills, and seek collaboration rather than constantly facing conflict. Moreover, new directions in cultural heritage, such as understanding social significance, appreciating the breadth of tangible and intangible cultural expressions, and respecting community identity, meanings, and connection to place, will all be advantaged by the development of a suite of consensus building techniques suited to heritage planning and management. Finally, by working with the diversity and complexity of issues, values, and identities in our communities, the outcome is sure to be a richer understanding of place and its meanings along with an increased capacity to manage.

## Acknowledgments

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## Notes

- 1 In Australia and at the national level, it is the heritage values of the place that are now described as "being managed" rather than the place itself.
- 2 Recent archaeological research by Ian McNiven suggests 4,000 years BP at least; this research is ongoing (McNiven and Bell 2010).
- 3 Although Aboriginal people served in World War II, they were not citizens at this time and were not eligible for returned servicemen's land grants.
- 4 The Australian National Heritage List was established in 2004 to recognize exceptional natural and cultural places that contribute to Australia's national identity ([www.environment.gov.au](http://www.environment.gov.au)). Native title is the recognition by Australian law that some Indigenous people have rights and interests to their land that come from their traditional laws and customs. Native title rights and interests differ from Indigenous land rights in that the source of land rights is a grant of title from government. The source of native title rights and interests is the system of traditional laws and customs of the native title holders themselves. Native title is determined by the Federal Court of Australia under the Native Title Act 1993 ([www.nntt.gov.au](http://www.nntt.gov.au)).
- 5 Children lived in the Dormitory, not with their parents.
- 6 In 1992 the High Court of Australia in *Mabo v. Queensland (No 2)* recognized native title as a form of customary title arising from traditional laws and customs that pre-existed and, under certain conditions, survived British sovereignty. In response to this decision, the Commonwealth Parliament enacted the Native Title Act in 1993 with the stated aim of recognizing and protecting native title rights while ensuring a workable, secure, and effective system of dealing with land.

- 7 The LCSDP is now known as the Budj Bim Sustainable Development Partnership.
- 8 On 13 February 2008, Australian prime minister Kevin Rudd made an apology to Aboriginal people taken as children from their families and put into government or church-run welfare institutions during the period from 1869 to the 1970s.
- 9 The options explored were primarily about the height of the “full” water level; each height considered had different implications in relation to the restoration of natural and cultural values of the lake, and also in terms of the impact on adjoining landowners.

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## Commentary

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This case includes many excellent applications of consensus building tools, including trust building; elicitation of interests, values, and identities; and joint fact finding. The author is part of the vanguard of heritage management consultants who explicitly define their role as facilitator and their specializations as including community engagement. The collaborative interventions highlighted in this case employ the key principles of consensus building tools and offer valuable insights into the impacts of skillful stakeholder engagement on heritage place management.

The history of the Lake Condah region from the 1970s and prior to 1993 shows the failures and limitations of a top-down, expert-driven approach to both heritage management and land use. The unsuccessful government attempt to create a leadership body within the Gunditjmara community shows the pitfalls of imposing representational structures without investigating the dynamics of stakeholder groups, as a situation assessment might do. The 1980s tourism development plan, which did not integrate the interests of the Aboriginal group, led to an increase in conflict and was ultimately abandoned.

Shifts in Australian governmental attitudes giving greater authority and input to Aboriginal people over management of their heritage places seem to open the door to increased acceptance and use of more authentic and effective collaborative heritage management planning. Hired by the state Aboriginal heritage agency, the author is nonetheless empowered in this context to define her role as working equally for and with the Aboriginal people.

This case highlights the use of strategies for dealing with identities and values, and the dangers of superficial efforts in collaboration, especially in settings with vast cultural differences between stakeholders. Despite good intentions, unspoken cultural assumptions and differences in communication styles led to the unacceptable outcomes in the reconstruction of the children’s Dormitory. By reaching an agreement without exploring the underlying interests and values of both parties, the implementation failed to conform to the expectations of the Elders. Conversely, using storytelling and graphic representations, the heritage consultants were finally able to understand the Elders’ underlying concerns and how these linked to their identities and values. This example illustrates the need for heritage professionals to dig beneath the surface and venture into the realms of memories, images, and stories. These tools were used successfully in the development of the new tourism plan by offering the Indigenous community opportunities to share their vision of successful tourism, their values for authenticity, and the link between their identities and use of the Lake Condah Mission.

The process for returning water to Lake Condah is an excellent example of joint fact finding and illustrates the flexibility of the tool. Though the research process

does not conform entirely to the model used in the dispute resolution field, it builds from the principle of engaging the affected parties in the development and implementation of the technical studies. In this case, it seems that the technical experts were not jointly selected by all the participants but were nonetheless accepted by all as honest brokers. They took the lead on designing and implementing the studies, incorporating the concerns of the non-Aboriginal neighbors into their research questions and methods. The studies were done in a fully transparent manner. Two-way communication occurred throughout the research process, and technical education was provided to ensure that all participants understood the data and its implications. Finally, enduring uncertainties were addressed with contingent agreements. The outcome of this approach was twofold: information that all parties could accept and use for decision making, and a notable breakdown of mistrust and a reduction in fears that Aboriginal empowerment constituted a threat to the non-Aboriginal way of life.

# The Blue House, Macao: Transforming Conflict through Public Consultation

*Laurence Loh*

## **Abstract**

In 2006 the Social Welfare Bureau of Macao (Instituto de Acção Social do Governo da RAEM, or IAS) submitted a proposal to demolish its existing premises on Estrada do Cemitério, a two-story building colloquially known as the Blue House (Lam Uk Chye), and replace it with a fifteen-story office block to serve present and projected future needs. The building had been listed as a protected historic site in 1984 but was delisted during the economic boom of the 1990s, presumably to liberalize heritage controls. This was the rationale given by a key member of the Macao Cultural Affairs Bureau during an interview conducted by the author in 2006.

When residents in the vicinity of the Blue House got wind of the proposal, they voiced their objection to the proposed demolition. The issue went public, with debates appearing in the press and on radio. The issue was heightened by the fact that the historic center of Macao had just been inscribed as a World Heritage Site in 2005.

The Macao Special Administrative Region (MSAR) government decided that it would make an informed decision after a study of its cultural significance had been carried out by independent heritage experts and a public survey conducted. Based on the recommendations of the study and survey, at the end of 2006 Macao's government ruled in favor of preservation of the Blue House. The Social Welfare Bureau agreed to retain the heritage building and, looking forward, decided to adopt an alternative strategy, which was to rent space in a commercial office building in a suitable location. The decisions were well received by the community, the building was saved, and the loss of heritage averted.

## **Introduction**

This case study focuses on the 2006 controversy surrounding plans by the Social Welfare Bureau of Macao (Instituto de Acção Social do Governo da RAEM, or IAS) to demolish the Blue House, or Lam Uk Chye—a building of local heritage significance—and replace it with a high-rise office building. It begins by reviewing the heritage significance of the Blue House and the context within which the demolition plan emerged. It then identifies the issues that contributed to the conflict, including gaps in Macao's heritage laws, and the processes employed to preserve the site. These included input by independent heritage experts on the building's significance, advocacy, and public consultation in the form of a telephone survey. The case study concludes by examining the potential for the application of publication consultation and consensus building approaches to heritage practice in East Asia, as well as broader lessons learned. The case is an exemplar of the threats to

**FIGURE 1**

The Blue House, a service center for the Social Welfare Bureau of Macao, as it appeared in 2006.

Photo: Laurence Loh.



East Asian urban heritage posed by widespread forces of large-scale, dense, new development, and it examines potential approaches to protecting such heritage in the region (fig. 1).

### Geography and Physical Setting of the Place

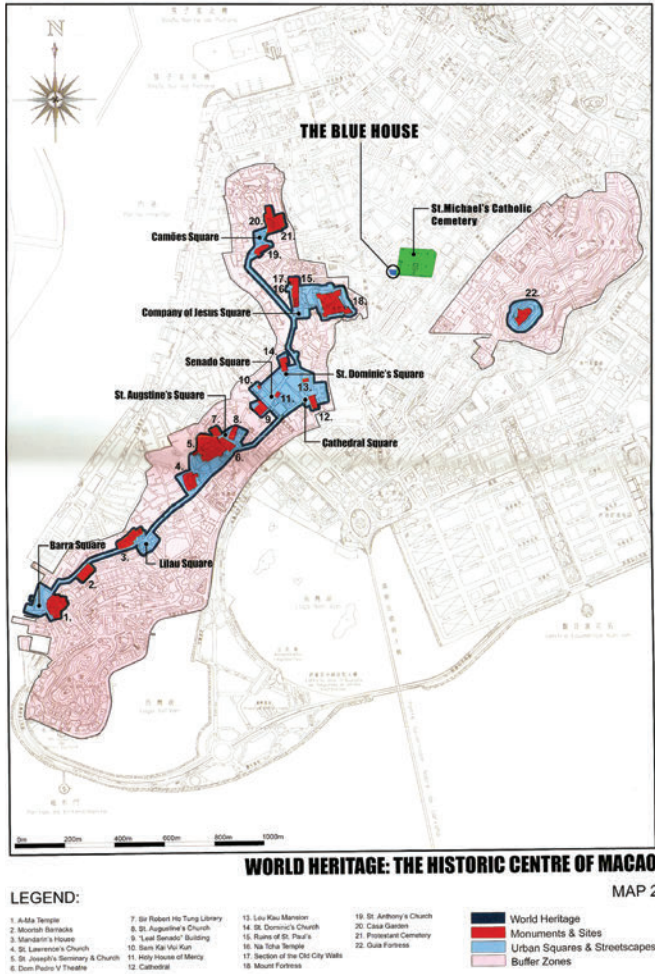
The Macao Special Administrative Region (MSAR) is located at 113°32'47" E and 22°11'52" N, in the People's Republic of China. It is an island off the coast of Guangdong Province and was a colony of Portugal from 1570 until 1999 (fig. 2).

The site of the Blue House itself is composed of two elements:

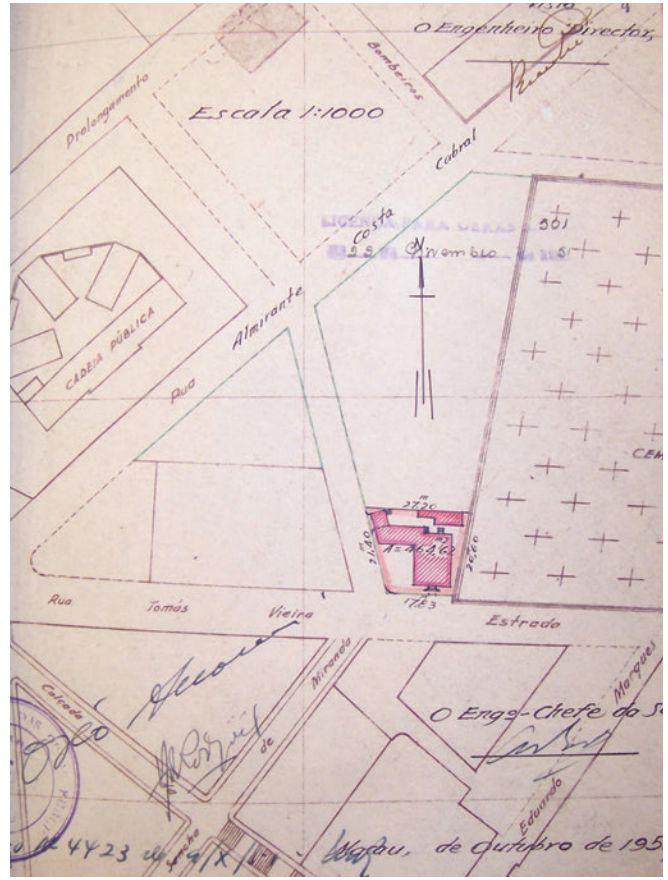
1. The boundary of the property known as the Blue House, which encompassed an area of 464.62 m<sup>2</sup> in 1951 (when the building was first constructed), with an additional 25.9 m<sup>2</sup> added in 1966. It is located at the corner of Estrada do Cemitério and Rua de Jorge Álvares (fig. 3).
2. The setting of the property, which is the area between Tap Seac Square and the Ruins of St. Paul's (Ruínas de São Paulo). This area also includes the St. Lazarus (São Lázaro) historic district and the St. Lazarus Church.

The Blue House is outside the core area and buffer zone of the World Heritage Site in Macao. The site, known officially as the Historic Centre of Macao, was inscribed on the World Heritage List in 2005. UNESCO's World Heritage Centre website provides a succinct description of Macao's historic significance:

Macao, a lucrative port of strategic importance in the development of international trade, was under Portuguese administration from the mid-16th century until 1999, when it came under Chinese sovereignty. With its historic street, residential, religious and public Portuguese and Chinese buildings, the historic centre of Macao provides a unique testimony to the meeting of aesthetic, cultural, architectural and technological influences from East and West. The site also contains a fortress and a



**FIGURE 2**  
Map of Macao, showing the boundary of the World Heritage Site and the location of the Blue House.  
Image: Courtesy of Cultural Institute of Macao, with overlay by Laurence Loh.



**FIGURE 3**  
Original site plan of the Blue House (1951).  
Image: Courtesy of Institute for Tourism Studies, Macao.

lighthouse, the oldest in China. It bears witness to one of the earliest and longest-lasting encounters between China and the West, based on the vibrancy of international trade. (UNESCO World Heritage Centre, n.d.)

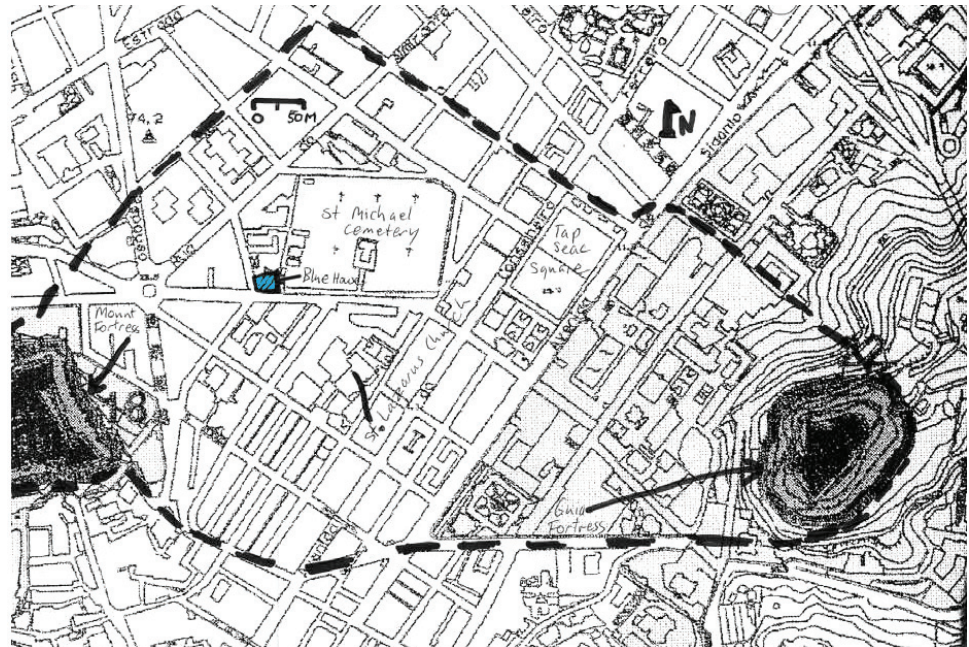
### Historical and Cultural Context

In 2006 the author submitted a report to the Macao government titled “Study for Determining the Significance and Future of the Blue House” (Loh and Cardoso, 2006). To prepare the report, relevant information sources were examined to establish authenticity of the historic property and support the premises for the statement of cultural significance. These sources included historical documents, historical essays especially on the social welfare movement and activities in Macao, maps, building plans, personal interviews with relevant resource persons, and radio interview transcripts. Specifically, maps of Macao from the seventeenth century up to

**FIGURE 4**

Site of the Blue House (shaded in blue) next to St. Michael's Cemetery, as indicated on a map of 1854. The dotted line denotes the general setting.

Image: Courtesy of Cultural Institute of Macao.



the present day were examined to formulate a picture of the development history of the area.

In 1854 the area around the eventual Blue House site was suburban in nature, with St. Michael's (São Miguel) Catholic Cemetery already established. Up until 1912, the area remained relatively undeveloped except for a few buildings. By 1927, however, the area was already developed, and building continued until the 1950s, with the area becoming completely built up with freestanding buildings whose footprints are similar to that of the Blue House. The Blue House itself was constructed in 1951. By the 1990s, the area west and north of the Blue House had already been redeveloped into multistory buildings. The Blue House is still intact (fig. 4).

Loh and Cardoso's 2006 report notes:

Based on plans submitted, it can be assumed that the Blue House was first used as a residence when it was completed in 1953. In 1956, the IAS took over the building. In 1958, it was sold to the Comissão Central de Assistência Pública. It was then partially rebuilt in 1966 as an office for the Provedoria de Assistência Pública or Department of Public Welfare. Throughout that time it has acted as a service centre for the community at large, providing aid to the poor, needy and elderly, in good times and in bad. (2006, 50)

This remains the current use.

## Evolution of the Building

Figures 5–7 show the progressive changes in the building's form through its various phases of renovation until its present configuration. The plans show the evolution from a single-story, L-shaped residential building in the Casa Portuguesa style and set back from the road, into a double-story office abutting the road edge, and

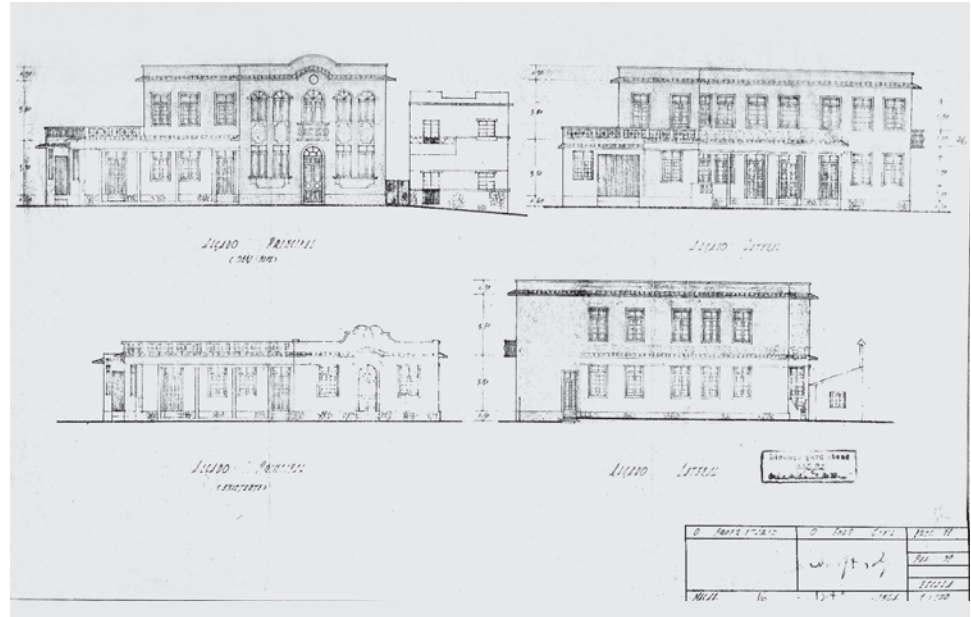




**FIGURE 7**

Elevations of the building extended to two stories, as drawn in 1964.

Image: Courtesy of Institute for Tourism Studies, Macao.



finally into a structure built out to all of its boundaries. The final configuration remains today, with the exception of the windows and doors, which have been replaced with aluminum-framed units.

Visual examination of the paintwork revealed two tones of blue. The bottom layer is a lighter shade of blue, the present coat of paint a deeper blue. Historians interviewed stated that the original color was yellow.

## Significance as Heritage

During their mission in 2006, the author and Elizabeth Cardosa formulated a series of statements of cultural significance for the Blue House:

1. “The Blue House or the ‘*Lam Uk Chye*’ in Cantonese is a historical icon in the context of the Macao government’s role in the story of welfare and charity.” The building “embodies the history” of the Instituto de Acção Social do Governo da RAEM (IAS) and its predecessor, the Provedoria de Assistência Pública, and the “continuity of service to the citizens of Macao without cessation. Its place in the collective memory of the Macao people has been sustained through its continuous use” (Loh and Cardosa 2006, 50).
2. “It was listed as a building to be protected and conserved in the 10th June 1984, under Decree 56/84/M.” It was subsequently delisted in 1992. There was “an economic boom in the early nineties” and “the heritage imperative was not as embedded in the government’s agenda as it is today” (p. 51).
3. “Its commemoration on a stamp as one of the 15 most important ‘Public Buildings and Monuments of Macau’ confirms its status as a heritage building that is worthy of retention. The fact that it was the most frequently used stamp, given its denomination of 10 *avos*, enhances its value in the collective memory of a place, especially in respect of the older generations” (p. 52).

**FIGURE 8**

The Red Cross building, Macao, in the Casa Portuguesa style, as seen in 2006.

Photo: Laurence Loh.



4. “Its architectural design represents the ‘*Casa Portuguesa*’ style that is unique to Portugal and its former colonies” and is “attributed to Raul Lino in Portugal, who reinterpreted Portuguese traditional architecture and created a design language for domestic buildings in the 1920’s and 1930’s in Portugal. His ideas were transposed to all the Portuguese colonies from Mozambique to Macao, where there is evidence of his legacy up till today” (p. 55). Other examples in Macao include the Red Cross building (fig. 8) and the Macanese House Museum in Taipa.
5. As a government building, the Blue House is unique. “An examination of other government buildings built in roughly the same period shows that designs tended to be reflective of the International Style, for instance the local authority’s vehicle repair workshop on Estrada do Cemitério, built in the early 1950s, or a revisionist version of eclectic classicism, such as the present courthouse” (p. 62).
6. “The treatment of the street corner on which it stands has created a sense of place in the neighborhood. The special attention to retain an existing mature tree demonstrates the government’s promotion of sustainability” (p. 64). A corner building, especially when its architectural design is special to the place, always acts as a landmark in the urban landscape. Its intrinsic value as a signpost and a place of memory for the community and users of the street on which it stands should never be underestimated.
7. “It is the only remaining exemplar of the original urban morphology of free-standing residential buildings behind the top of the St. Michael’s Catholic Cemetery.” The early development pattern behind the top of the cemetery consisted of stand-alone residential units. “Over time most of the buildings were demolished to make way for development of a more intensive nature. Today only the Blue House remains in its original form. It is valuable as a reminder of how the site evolved and what the early setting was” (p. 66) (fig. 9).

**FIGURE 9**

The Blue House, primary elevation, as seen in 2006.

Photo: Laurence Loh.



## Current Status

As a result of the government’s decision to reject the redevelopment plans submitted by the Social Welfare Bureau, the Blue House has been saved and retained in its present form, including all its existing functions. In spirit, it has been deemed a heritage site once again. As it stands, there are no significant physical and institutional challenges that would affect the site. The following sections describe the site’s management context, the issues that created the conflict situation, and the processes through which the Blue House was saved from demolition.

## Management Context

### Heritage Legal Framework and Governing Authorities

Presently there are several heritage laws in Macao.<sup>1</sup> One is as follows:

- Decree Law (Decreto Lei) no. 63/94/M (19 December 1994)—the Organic Statutes of the Cultural Institute of the Macao SAR Government

This law, promulgated specifically for the creation of the Cultural Institute (now named the Cultural Affairs Bureau), gives equal weight to the protection and retention of both tangible and intangible heritage. Article 1 of the law also references “the reinforcement of the cultural identity of the population of Macao and for the implementation, support and promotion of cultural and artistic manifestations that are linked to the intercultural existence of the various communities of the Territory,” and the aim of the law is to prevent “irreversible damage of the city’s memory” (State Administration of Cultural Heritage of the People’s Republic of China 2005, 71, 94).

The next three laws largely focus on protection of the built heritage:

- Decree Law no. 7/91/M (14 January 1992)—General Regulations for Urban Construction
- Decree Law no. 56/84/M (30 June 1984)—Defense of the Environment, Architectural and Cultural Heritage
- Decree Law no. 83/92/M (31 December 1992)—Defense of the Environment, Architectural and Cultural Heritage

The Blue House was originally classified as a heritage building in Decree Law no. 56/84/M in June of 1984. It was subsequently delisted in 1992, together with other, minor sites that were not monuments, when Decree Law no. 83/92/M was promulgated, with the statement: “This legal opportunity is also a good occasion to proceed with some adjustments of the classified lists of monuments, ensembles and sites” (Macao 1992). No justification was given for removal of the buildings. A perusal of the law suggests that it was promulgated purely to revise previous heritage designation lists. An unnamed government source offered the view that this happened at a time when Macao was undergoing massive redevelopment and experiencing an economic boom. This does not infer that its heritage value had decreased, but rather that the development imperative had taken over and perhaps land had to be freed for redevelopment on an island where resources are limited. Further, the reversal demonstrates that any heritage classification can be retracted and a site’s heritage status is not cast in stone. This scenario can arise with any law. Heritage is more secure if a community takes collective ownership of its own legacies and incorporates a continuous, self-renewing system of endorsement.

It is important to note that as a result, the Blue House is not legally listed or protected as a heritage site today. Law no. 7/91/M refers only to requirements regarding construction on listed heritage sites (State Administration of Cultural Heritage 2005, 74–75). To date, there is no legal provision that heritage impact assessments be prepared when redevelopment is proposed on sites with heritage value. Public consultation is also not a legal prerequisite at present.

The Cultural Affairs Bureau is the main governmental authority mandated by law as being responsible for heritage conservation, management, and regulation. It acts as the statutory guardian of the World Heritage Site and other heritage in the public domain, undertakes conservation projects, and orchestrates public awareness programs. It is occasionally called upon to mediate when conflicts arise in matters related to heritage. While its responsibilities are vast, it does not have executive powers and is required to defer and refer to higher authorities. Any site that is legally classified as a heritage site comes under its purview. Presently, the Macao heritage regulation process is very top-down. The draft heritage legislation includes provisions that would shift the emphasis to include more public consultation. This is discussed below in the section “Issues and Processes.”

### **Governmental Authorities and Stakeholders**

Aside from the Cultural Affairs Bureau, there are a number of other key governmental authorities and stakeholders in matters pertaining to the Blue House:

1. The Social Welfare Bureau of Macao is the land and building owner. It is responsible for maintenance of the site and utilizes it as a social center.
2. The MSAR government’s secretary for social affairs and culture has jurisdiction over the Social Welfare Bureau. Any development policy or proposal requires the secretariat’s sanction. The secretariat commissioned the expert

assessment and public opinion survey through the Institute for Tourism Studies.

3. The Macao Government Tourism Office and the Institute for Tourism Studies promote the heritage of Macao and China. The institute coordinated the expert assessment and telephone survey described later in this paper.
4. The communities of Macao, particularly the underprivileged, must have access to the offices of the Social Welfare Bureau to receive social services. In recent times, because of the high profile of heritage in Macao, citizens have become more engaged with conservation issues and more active participants in public issues and advocacy.
5. The academic community and the media, whose focus is on issues related to the public and social realms, have championed and articulated their concerns for protection of Macao's heritage values.<sup>2</sup>

## **Issues and Processes**

### **Issues Leading to the Conflict**

#### Conservation versus Redevelopment

The Social Welfare Bureau, owner and occupant of the Blue House, had an urgent need to increase office space to accommodate its welfare activities. To this end, in 2006 the department submitted development plans to demolish the Blue House and erect in its place a fifteen-story office block. It was assumed that the site could be redeveloped, as it had been delisted as a heritage site. From the standpoint of Macao's heritage laws, there was no obligation to retain the building.

Moreover, during the period leading up to the inscription of Macao's historic core as a World Heritage Site, all efforts at conservation of heritage properties and promulgation of laws were concentrated on the nominated World Heritage Site and not on heritage buildings like the Blue House that were located outside of the zone. The department concerned did not think that its proposal would be controversial or inappropriate, despite the heightened awareness in the significance of Macao's heritage, particularly resulting from the activity and excitement leading up to World Heritage inscription in 2005 and beyond.

It must be pointed out that while the Cultural Affairs Bureau was working very hard to achieve World Heritage listing for its major monuments, the liberalization of the gambling concession in 2002 created unprecedented development, with the advent of Las Vegas-style operators and their large-scale models of land development. In some instances, development projects had also been proposed on beloved heritage sites or in the vicinity of the World Heritage Site; for example, the Ha Wan market, near the inner harbor (demolished in 2006). Pressure on limited land resources is also a microcosm of the accelerated growth and economic development taking place within the larger context of the Pearl River Delta (which includes Hong Kong), where heritage protection took a secondary role to infrastructure and real estate development.

Earlier, in September 2005, the Social Welfare Bureau had contacted the Cultural Affairs Bureau regarding the intention to demolish the Blue House. The latter replied that the Blue House should be retained for its community and heritage value. Nonetheless, the Social Welfare Bureau elected to submit redevelopment plans soon after, ignoring the Cultural Affairs Bureau's advice.

In March 2006, the Land, Public Works and Transport Bureau, the regulatory agency for processing development plans, solicited the Cultural Affairs Bureau for a technical opinion on the permissible height of the new building (and not on the site's heritage value). The Cultural Affairs Bureau replied that the Blue House should be retained. Soon the intended redevelopment of the site became public knowledge. In June 2006, residents of the St. Lazarus district, where the Blue House is sited, urged the chief executive of Macao to preserve the building, as the new high-rise proposal would radically change the nature of the site and its relationship to the prevailing historic, two-story scale of the neighborhood. A public outcry erupted, fueled by press articles, radio interviews, debate, and exposés.

Thus a situation of contestation was created over whether to retain a building perceived to be of heritage value or to permit demolition and redevelopment of the site. Whose interests, needs, or values should take precedence? How was the challenge to resolve the conflict met by the decision makers?

#### Gaps in Macao's Heritage Laws

In 2006 gaps in the heritage laws of Macao contributed to the conflict when government agendas and public perceptions differed. The primary legal gap affecting the case of the Blue House was that a building could be delisted simply by decree without first conducting an assessment of its cultural significance and offering justifications for the action. Because the Blue House was no longer a listed site, the Cultural Affairs Bureau did not have the power to intervene for its protection and could be ignored by the Social Welfare Bureau.

Generally, at the time of the Blue House controversy, the idea of heritage site management was not as yet seen as a tool to be applied comprehensively beyond the World Heritage Site. Statutory planning did not adequately protect the cultural values of the Blue House or sustain heritage goals vis-à-vis urban qualities, character, and cultural identity. Public discourse on heritage also had not reached its full height.

In addition to the Blue House case, a number of other controversies relating to heritage sites in Macao took place around the same time period, including one relating to the Wan Ha market, a proposal in 2006 to demolish a school building that obscures the A-Ma Temple's direct connection to the waterfront, and various development proposals related to the World Heritage Site, with one relating to the Guia Lighthouse (Farol da Guia) being particularly newsworthy. It was evident that the prevailing laws were insufficient to provide legal protection where it mattered. Thomas Chung offers the view that these controversies can be

attributed to the chronic lack of strategic planning within which to formulate an integrated conservation and management framework, as well as the absence of enforceable heritage design guidelines for regulating new interventions in old districts.... Within Macau SAR's planning administrative structure, poor inter-departmental coordination and communication also expose a fragmented approach in which conservation projects are often initiated, planned and implemented according to each department's interests and their own subjective criteria. (2009, 144)

#### **Processes for Resolving the Conflict**

The conflict situation was resolved and transformed through the opinions and recommendations of cultural heritage experts, galvanizing public support through advocacy, and public consultation. Arising from the controversy, the secretary for

social affairs and culture of the Macao government commissioned two studies that “included (1) a large-scale survey of Macao residents’ attitudes and opinions and (2) an expert panel technical assessment” in order “to gauge Macao residents’ attitudes and opinions regarding the Blue House and the extent of their support or opposition to proposed redevelopment plans.” They also sought to gauge “general perceptions about the government heritage preservation efforts” and provide a means “to conduct technical and expert assessment of the cultural, architectural, and historical significance of the Blue House” (Institute for Tourism Studies 2006, 2).

The Institute for Tourism Studies, as a neutral government agency, was tasked with coordinating the heritage experts’ research work as well as undertaking a public consultation exercise.

#### Expert Assessment

The author was one of two experts invited to prepare the technical-cultural study. As part of the study, the experts also introduced and carried out a heritage impact assessment of the proposed development, the first time such an evaluation has been conducted in Macao. There was no legal prerequisite compelling them to set such a precedent. Based on their findings, they concluded that the Blue House had a high degree of cultural significance and recommended that it be retained due to its heritage value to Macao.

#### Telephone Survey

The Institute for Tourism Studies elected to solicit public opinions through a telephone survey using a random, digit-dialing methodology. This survey of 38,000 households, with a response rate of roughly 26 percent (about 10,000 households), found that the residents of Macao largely agreed that the government had done a considerable amount to protect and preserve heritage buildings. However, 59 percent were unaware of the Blue House or of any government initiatives to restore it. The respondents generally felt that demolition of heritage structures was unacceptable for private investment or private initiatives, though they were not as opposed to public usage such as clinics, health centers, parks, or recreational centers.

Of the respondents who knew of the Blue House, almost 47 percent were against its demolition, 38 percent thought only the facade should be maintained, and 15 percent thought it should be demolished. Supporters of conservation stressed the historical, architectural, and cultural aspects of the house, while opponents felt that the government was generally doing too much to preserve heritage buildings, especially when the buildings were not particularly significant or when it was at a cost to taxpayers and to residents’ needs. The respondents’ extent of knowledge about the Blue House influenced their opinions, which were also related to other variables such as level of education and age. (For a summary of the results of the survey, see Institute for Tourism Studies 2006, 3–6.)

#### Advocacy

In the case of the Blue House, local historians (one of whom was host of a radio talk show) and journalists galvanized public support by giving the issue exposure in the public realm, with tacit backing from the Cultural Affairs Bureau and local heritage conservation experts, academicians, and consultants. They tapped into the public’s growing awareness of the value of their local heritage, which was apparent to the author earlier in 2004, when he served as site evaluator for UNESCO, which

was then assessing the World Heritage application dossier for Macao. The government's efforts to raise awareness were kick-started when it launched its bid for World Heritage listing in 2002, as it expended funds and energy locally and abroad on many related educational and promotional programs to foster buy-in, which did come about. This consciousness was leveraged when other subsequent development conflicts arose during and after 2006. As discussed earlier, the ensuing campaigns led by heritage advocates did produce positive results.

### **Outcomes**

Based on the findings of the public survey and the heritage consultants' declaration that the building had a high degree of cultural significance, the executive council of the Macao government declared that the Blue House should be retained in its existing form. The heritage lobby and advocates were happy with the outcome. The various stakeholders recognized that a decision had been arrived at through a transparent consultative process and that it had its merits in conflict resolution and opinion building.

For the Social Welfare Bureau, the key stakeholder, the decision resulted in the search for a more suitable site located closer to the community it serves, in premises designed for its needs (e.g., it is preferable that all public service areas be situated on the ground floor, as most users are aged and lack mobility). The footprint of the proposed Blue House project site is small, and the development would have resulted in an uneconomical and inefficient building, with the service areas distributed over many floors, in a hilly location not served by direct public transport. The Social Welfare Bureau also carried out maintenance work on the building soon after, in recognition of its ongoing use as a local center.

In doing so, the Social Welfare Bureau reversed its negative image as being disrespectful of Macao's heritage and, on a broader front, the Macao government effectively showed that its policy regarding heritage conservation was consistent and enlightened. This contestation revealed many gaps in governance and the protection of heritage. The public consultation process suggested several directions that could be taken to avoid future conflicts. The government took positive steps to rectify the condition.

The conflict situation was thus transformed.

## **Conclusions**

### **Movements to Address Gaps in Macao's Heritage Laws**

Arising out of the various heritage-versus-development controversies, including the Blue House case, the government recognized that a new comprehensive law on heritage had to be drawn up to plug the gaps that "highlighted disjunctions between policy and public interest" and took steps to prepare one (Chung 2009, 154). Well-drafted cultural heritage laws are vital to avoiding the continued loss of heritage through ad hoc, indiscriminate spatial development and uncoordinated planning. When this author enquired about the status of the cultural heritage draft law in August 2009, Stephen Chan Chak Seng, vice president in charge of the Cultural Heritage Department of the Cultural Affairs Bureau, replied, "I have been working on it with a team since 2006. We have already finished two phases of public consultation, and the feedback is good. Now it is under final revision. Our target is to submit it to the Legislative Assembly at the end of this year"



(personal communication, 2009). The process of public consultation has fostered a sense of buy-in and acceptance by the local citizens and interest groups (as of June 2011, the draft law has not been enacted).

Vice President Chan further indicated in subsequent exchanges that, if enacted, clauses within the draft law would facilitate the legal classification of the Blue House as a heritage site. It would require public consultation on matters related to heritage and planning, improved management systems for heritage sites, and impact assessment in the form of compulsory comment on work on sites legally classified as heritage by the Cultural Affairs Bureau. It would also set up channels for dialogue and coordination between government departments, which would hopefully improve upon the situation in 2005–6, when the Social Welfare Bureau chose to ignore the authority on heritage.

The relevant clauses in the draft law relating to public consultation and management plans for the World Heritage Site and buffer zones are as follows:<sup>3</sup>

1. Article 51: Management Plan, wherein it provides for the development of a management plan for the Historic Centre of Macao, that the Cultural Affairs Bureau with the assistance of other public agencies is responsible for the formulation and implementation and that the management plan must comply with the provisions of the law and UNESCO guidelines.
2. Article 52: Core Content of the Management Plan, wherein the contents of the plan are specified. These cover, among others, conservation criteria, land use and planning, construction specifications, urban landscape control, and new building design control.
3. Article 54: Public Consultation, wherein it is stated that management plans or partial management plans are subject to public consultation for a period of thirty days and the comments collected shall be sent to the Cultural Heritage Committee.
4. Article 55: Approval and Priority, wherein the management plan or partial management plan, after consultation with the Cultural Heritage Committee, shall be approved in accordance with prevailing administrative procedures, rules and regulations and that such plans are primary and binding and shall prevail over other urban development plans.

Further, impact assessment of any works on sites legally classified as immovable heritage and within the core area and buffer zone of the World Heritage Site shall be in the form of commentary by the Cultural Affairs Bureau.

In an article issued by the Xinhua Press on 10 June 2009, it was stated that “there has been greater concern from society and government, regarding the balance between urban development and heritage protection” and that “the government will strengthen and expand heritage protection activities and create mechanisms for the classification of cultural heritage sites, so as to provide a sound scientific basis for the legal protection of Macao’s cultural heritage” (Xinhua News Agency 2009).

### **Empowerment Inspires Community Action**

Heritage advocates and other local residents in Macao feel that they have become more empowered and that a collective voice of advocacy can effect change. They have also noticed that the authorities can save heritage buildings even if they are not listed.

When future conflicts pitting development against heritage conservation arise, this author believes there is an expectation among heritage advocates that early public consultation will be sought. Empowerment also means that concerns will be vocalized in the public place without fear or favor. In recent times, even without the prerequisite for public consultation, the public of Macao has made its voice heard against development projects that threaten the integrity of heritage places.

The Blue House case was followed by yet another conflict the following year. The Guia Lighthouse controversy of October 2006 involved three proposals for high-rise building complexes that would have blocked the views of and from said property, one of the monuments of the World Heritage Site. The heights of the building designs were subsequently reduced in April 2008 as a result of public outcry and debate and UNESCO's eventual intervention. In addition, in 2007 the public called for the realignment of a proposed aboveground mass rapid-transit system whose route would have traversed the World Heritage Site. Bowing to public opinion, in 2008 the Macao government realigned the route away from the World Heritage Site. The heightened and empowered heritage voice of the public in these two cases had been strengthened by the previously successful retention of the Blue House.

### **Approaches to Public Consultation**

Public consultation can take many forms. As stated earlier, a phone survey methodology was employed in the Blue House case. However, as a public participation methodology, pure random public opinion polls as a primary method could be even more problematic for decision making on places that have less popular appeal but are nonetheless highly important to some stakeholders. Furthermore, in highly complex situations where a yes or no option is not going to satisfy many parties, this particular approach may not be ideal and could be questioned or manipulated, especially where results are borderline.

Although a random phone survey has limited utility and may be subject to manipulation, it proved to be a satisfactory tool in this instance. In general, the practice of public consultation in the region could be described as somewhat lax, although there are exceptions, such as in Hong Kong. Many Asian countries have both planning laws and heritage conservation laws that prescribe public consultation, but these remain legal statements with no explicit application procedures laid out.

In the case of Malaysia, Section 12A (b) of the Town and Country Planning Act states that before commencing the preparation of a local plan, the local planning authority has to publicize the objectives and purpose of its preparation and describe the matters it wishes to include in the plan. It has to then ensure "that persons who may be expected to desire an opportunity of making representations to the local planning authority in respect of those matters are made aware that they are entitled to, and are given, an opportunity of doing so" (Malaysia 2006, 32). However, the extent, manner, and depth of consultation are not expressed.

The Malaysian law was modeled after an act of a similar name in Great Britain, and it is evident that in the transposition of the law and its language, the practice models and legal interpretations did not follow in its wake. To date, the concept of public consultation is still not well understood and application of the law is merely perfunctory. It begs the question of whether building a high degree of consensus through public participation is seen as a national goal or a *modus operandi* for nation building and the embedding of sustainable policies and plans.

In the case of Macao's pending cultural heritage draft law, public consultation took place through public forums and publication of the drafts and subsequent amendments on the Cultural Affairs Bureau's website. This method had not been applied in the case of the Blue House. With regard to the draft law's content on public consultation, as it stands now, it specifies only the need for public consultation. It does not spell out the methodologies that are to be employed, how the results are to be weighed and outcomes achieved, or how different methodologies are to be balanced against one another. No distinction is made between the need to negotiate as opposed to the provision of input and feedback only. It is obvious that policies, bylaws, and a system of methodologies have to be prepared once the law is promulgated. The same observation would also apply to provisions in the draft heritage law for heritage impact assessments, as there are no official precedents or formats in Macao.

As a way forward, it is suggested that a combination of the phone survey method applied in the Blue House case as well as various other methods, such as public forums and publications, on-the-street surveys, and Internet polls, can be employed holistically as models for future test cases. These could then be collated into a matrix of responses, with respective values being given a certain weighting based on statements of cultural significance prepared by conservation professionals.

### **Collaboration and Consensus Building: The Role of the Heritage Professional**

In the context of Macao and the region, the heritage professional clearly has a role to play in the area of collaboration, public consultation, and consensus building. This case demonstrated that there is a legitimate position for the consultative process in heritage management. It also set a positive precedent and acted as the catalyst for change. As the process is mainstreamed and the methodologies become more refined and less simplistic, there will be an increasing need for trained facilitators and professionals who have knowledge about culture and heritage. Heritage professionals will have to familiarize themselves with the process and they, as well as the heritage agencies, will have to recognize that capacity building has to begin, as it will increasingly become a standard tool for heritage management and a theme within their advocacy role. This will become apparent when governments in the region make public consultation legally mandatory.

The context of the Blue House is a microcosm of the prevailing conservation condition in the Asia-Pacific region, especially the gaps in public consultation, heritage site management, and heritage impact assessment. This case study can serve as a model for other sites and countries in the region, especially in view of the challenges that conservation professionals continually face when confronted with the prevailing real estate spatial development paradigm. Profit-driven, this paradigm promotes intensification of building and increased floor areas, high densities, and demolition of existing buildings, which more often than not results in the creation of high-rise, super-scale edifices that overshadow the prevailing heritage environments, displacing historical communities and destroying tangible and intangible cultural values in the process.

The key lesson learned is that the successful resolution of the ever-present heritage-versus-development conflict can be promoted through proper public consultation. In the case of the Blue House, out of a need to resolve conflict in an amicable and professional manner, the government of Macao voluntarily embarked on a public consultation exercise in the form of an extensive phone survey. The process

and positive outcomes resulting from the Blue House controversy (management of a potential conflict situation achieved through consultation) confirm that public consultation is desirable and necessary. This could serve as a precedent for other Asian countries to emulate where generally public consultation is seen not as a means to empower or reflect the sentiments of its citizens but as a prerequisite under the law.

In the case of the Blue House, there was no model in Macao for assessing the impact of new development projects on heritage sites or within heritage zones, which in other parts of the world often includes some form of public consultation. Therefore stakeholder consultation was not initially sought. If submission of a heritage impact assessment had been a prerequisite, interest groups would have automatically been consulted for feedback and to negotiate, thus avoiding the need for expensive surveys, studies, and public relations exercises to handle the public's discontent.

### **Being Culture Specific**

While a strong case has been made for public consultation, it is a fact that due to cultural differences and local sociopolitical realities, methodologies that work in one context may not necessarily be applicable without modification in another. They should be used only as templates and altered to suit local cultural conditions. Application of consensus building methods, such as facilitation, mediation, and other dispute resolution approaches, should be culturally specific as well.

A question comes to mind regarding the methodology applied in the telephone survey in this case study. The questionnaire was originally prepared in English. A large majority of the local population speaks the Cantonese dialect and is not necessarily proficient in the English language. At some stage in the interview exercise, the interviewer may have had to shift to Cantonese or Mandarin, as many of the recent Chinese arrivals in Macao are from other parts of China. Was the translation back into English a fair representation or an accurate interpretation? The meanings of words and terms are often lost in translation, even when the same language is used but by a different culture, race, or community. Some words used in the English language cannot be translated directly into Chinese, such as *heritage*. Preparing such a questionnaire is even more complex when one is dealing with a multicultural community.

### **Broader Lessons Learned**

Though the promotion and protection of cultural heritage is evident in many Asian countries to varying degrees, the professional practice of conservation in the region is still in a relatively young state. Exponents with in-depth understanding, hands-on and research-based knowledge, and involvement in education and outreach programs remain relatively few in both the public and private sectors. The promotion of conservation as an activity in this region has been established for only fifteen to thirty years. This is true for Macao as well.

Based on the critique of the consultative methodologies used in this case study and the Asian region, several observations can be raised. First, the idea of public consultation is relatively new in Asia and approaches taken are still very rudimentary. Methodologies have to be improved so that in-depth consultation is seen to reflect a genuine and sincere desire on the part of the authorities to enable community participation in decision making. Public consciousness about this issue has to be raised. Second, the value of consensus building as a negotiation and conflict

prevention tool needs to be recognized, along with the idea that early consultation would reduce the cost of heritage management. Third, the public consultation process, if used in the correct manner, can directly create awareness of the cultural significance of a place, which is codified and socialized through debate, contemporary dialogue, and the examination of all stakeholder interests, values, and identities against a common backdrop.

By taking cognizance of the above points, the heritage professional will realize that her or his role as a leader can be potentially extended by incorporating consensus building within the range of skills the professional has to offer. It is anticipated that as heritage laws in the region are strengthened as a result of changing values and increased public awareness, the process of consultation will become the norm. The heritage professional will need to stay relevant and ready to participate in public consultation, a critical activity that will in the not too distant future be embedded within initial steps of the conservation process as a matter of course. In fact, if placed in a leadership position, it would become the heritage professional's responsibility to ensure that consultation does take place in a manner that is understood and meaningful, especially where it relates to heritage protection.

## Final Thoughts

Generally, whose heritage goals are being reflected? How have heritage values been constructed, and how do they continue to be constructed? The process of consensus building and public consultation that translates into policy and plan is part of the answer. The government of Macao appears to be giving credence to this aspect of heritage place management. It also recognizes that heritage laws have to be strengthened in order to add clarity to and manage the conservation process more effectively. The preparation of a new, comprehensive law reflects an emerging symmetry in values and goals after World Heritage listing.

The art of consensus building, if applied seriously, can be an enlightening and progressive tool for good governance. If it is built into the heritage management regime, many a conflict related to public interests and rights can be moderated. Successful interventions occur when conflicts and conditions are transformed into lasting resolutions. Consensus building has a good chance of becoming a positive planning tool for Macao given that heritage awareness is quickly gaining ground.

An immediate impact was created when the decision to conserve the Blue House was carried at the highest level of government. It highlighted the fact that a heritage building or site can be protected even if it was not listed or classified. It also demonstrated that the government has the ability to respond relatively quickly to a social situation of discontent and contestation and arrive at a popular decision expeditiously.

Clearly, the creation of a well-managed heritage environment would take into account the issues, challenges, and solutions highlighted in this study. It would also presuppose that the majority of the stakeholders of the heritage sites, especially sectors in government who are entrusted with protection of such sites, namely the cultural and tourism portfolios, and the informed public:

- are firmly committed to the idea of conservation,
- have embarked on a course to protect it,

- have witnessed a degree of buy-in from the local population, and
- have endorsed a heritage place management system.

A component of such a management system would be the concept and practice of consensus building. For World Heritage Sites, the *Operational Guidelines for the Implementation of the World Heritage Convention* provides that stakeholder consultation is a prerequisite for listing and is a core activity within the management process (UNESCO World Heritage Centre 2008). This approach should become the norm for all heritage sites.

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### Notes

- 1 Full text of these laws is available in Chinese or Portuguese at <http://www.macaolaw.gov.mo/cn/index2.asp>.
- 2 The author interviewed Carlos Morreiros, a practicing architect, and several local historians, including Chan Su Weng, Cheong Koi Keong, and Wu Kun from the Macau Association for the Study of History. All stressed their concern for the need to protect Macao's heritage assets.
- 3 Sections of the Cultural Heritage Draft Law are summarized from an English-language translation provided by Vice President Chan. The Chinese version was downloaded from the Macau Heritage website at [www.macauseritage.net](http://www.macauseritage.net).

## Commentary

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When developing strategies for collaboration and consensus building, heritage professionals, especially those working cross-culturally, need to be aware of and responsive to governmental and cultural contexts for public participation and stakeholder engagement. This case highlights positive developments in the Macao Special Administrative Region (MSAR) government's institutional perspective on public engagement, while reminding us that national and regional contexts can play a major role in setting the parameters for stakeholder engagement.

In this case, public opposition to a government redevelopment plan led to studies, including a public opinion survey, that ultimately saved the Blue House. The survey provided an opportunity for the general public to indicate a general position on heritage preservation, and to select among options about whether to preserve the Blue House. It is hard to tease out the role of the public survey in the ultimate outcome. The strong public outcry from the minority of activists who greatly valued protection of the house appeared to have a powerful influence on the authorities, and the expert heritage impact assessment recommending retaining the building must also have played a role. In any case, the inclusion of any direct public engagement was a step forward in bringing community voices into decision making on cultural heritage issues in Macao. Given the cultural challenges to robust public engagement generally in East Asia, in China, and most specifically in the MSAR, this constitutes an achievement of public input in that context. Nonetheless, it is important to note serious limitations of random public surveys as a tool for soliciting public engagement in heritage decision making.

First, this methodology results in elicitation of people's positions rather than their interests. Selecting from a list of potential values such as historical, architectural, and cultural actually provides limited information about why and how people really value heritage. If opinions about the value of a place are strongly divided, such methodologies may make public acceptance of any solution from among the options more divisive. In political settings, such surveys are also highly vulnerable to manipulation depending on how the questions are worded, so that the opinions elicited may not represent an accurate picture of public views. The author also mentions that translations of the questions, answers, and discussions from English to Cantonese and back might have skewed the intended meanings. This could limit the accuracy and value of the survey results.

Second, while public opinion can be an important data point, a random survey methodology overlooks the special importance of individual stakeholders for whom decisions about the place may hold greater significance. The survey on the Blue House found that 59 percent of those polled were unaware of the Blue House, and 15 percent opposed its protection. If the government's position was to follow the majority, it would have chosen to demolish the Blue House. Pure random public opinion polls as a primary method could be even more problematic for decision making about places that have less popular appeal but are nonetheless highly important to some stakeholders.

In order to gain a more complete picture of public views and concerns about the Blue House, CBI would recommend using a tool such as the situation assessment. Interviewees might include any identifiable stakeholder groups, like Department of Social Welfare users and heritage advocates, as well as the general public. Asking open-ended questions and including key stakeholders would provide a much fuller

and more nuanced picture of people's wishes for the place and may elicit a broader range of options for resolution.

Finding an acceptable solution may also require more opportunities for value creation. In a political context, this might be achieved through a process that brings together a few representatives of different views, such as the Department of Social Welfare, heritage advocates, and tourism stakeholders, to brainstorm new ideas for meeting everyone's interests.

The author also mentions a proposed new cultural heritage law for the MSAR, which would require impact assessments and public consultation on developments affecting heritage within the World Heritage Site and its buffer zone. If enacted, this proposal may have the potential to greatly increase public voice in some heritage decisions. In situations where conflicts between heritage preservation and development pressures lead to stalemates, the proposed law might open the door for heritage professionals to encourage and lead more robust methods of dispute resolution, such as situation assessments, joint fact finding, and interest-based negotiation, as well as promote coordination among the various government departments with influence over heritage decisions. As the author suggests, it might set the stage in the future for negotiation between the Cultural Affairs Bureau and its sister departments.

Finally, even without new heritage laws, this case highlights the potential for heritage professionals to incorporate and implement more public engagement and stakeholder collaboration in their methods of assessing and defining the importance and uses of heritage places. In this way, heritage professionals in Asia have the opportunity to promote collaboration and consensus building in cultural heritage protection and management.



# Consensus Building Methods for the Management of Natural and Cultural Heritage in the El Mirador Region of Guatemala

*Jeremy Radachowsky and Bayron Castellanos*

## **Abstract**

Adaptive collaborative management has been proposed as a method for building resilient social structures capable of dealing with the complexity and uncertainty inherent in modern natural and cultural heritage problems. Yet, purposeful efforts for creating and evaluating such processes have only recently begun to be documented. The Mirador Roundtable, an adaptive co-management structure that emerged surrounding development in one of Guatemala's most environmentally and culturally significant regions, represents a significant innovation with promise of long-term positive impacts on sustainable development practice. In this paper, we describe the confluence of key events and actors that created the Mirador–Rio Azul Roundtable, evaluate its accomplishments and ongoing challenges after three years of existence, and extract lessons that may be applicable to complex heritage conflicts around the world. This case study supports existing theory claiming that adaptive co-management can be a powerful structure with numerous emergent and spin-off benefits far superior to top-down management. We emphasize and elucidate several practical lessons central to the creation and maintenance of successful multi-stakeholder processes, including: (1) responsiveness to stakeholder core interests; (2) proactive involvement of a range of voices; (3) institutionalization from a place of authority; (4) coordination at a practical level of getting things done; (5) strong facilitative leadership; and (6) preparation for predictable surprises.

## **Introduction**

Nearly two millennia ago, El Mirador was the center of a massive Pre-Classic Maya city-state denominated the “Kan Kingdom,” comprising dozens of major cities with monumental architecture and elaborate art, ruled by a single dynastic lineage, and interconnected by a system of raised highways. For reasons still under investigation and debate, the city-state was suddenly abandoned around 150 CE, well before the Late Classic collapse of the lowland Maya civilization in 800–900 CE. Today, El Mirador lies in the heart of Guatemala's Maya Biosphere Reserve, encompassed by the largest remaining tropical forest in Central America, and is a 55-kilometer, two-day trek from the nearest village.

Given its extraordinary blend of cultural and natural heritage, El Mirador holds enormous potential for tourism development. However, during the past decade, efforts at development have created intense conflict between different stakeholders due to conflicting visions and interests; poor communication, dialogue, and decision making; and lack of trust among key actors. At its most extreme, the intensity

of the conflict escalated to include death threats and a legal dispute that was finally ruled upon by the Guatemalan Constitutional Court.

Since 2006, active conflict management and consensus building methods have been implemented in a continuous and adaptive process to try to reduce conflict and create a common agenda for the conservation and development of the region. Although the process is ongoing, the techniques have yielded promising tangible and intangible results. This paper describes the complex and conflictive context surrounding the development of El Mirador, discusses five fundamental issues to making progress toward consensus, and provides lessons that may be useful to managers of other cultural or mixed heritage sites.

## **El Mirador and the Kan Kingdom**

El Mirador has been called the “cradle of Maya civilization” since it flourished during the Pre-Classic Maya period and presents some of the earliest evidence of a complex, stratified society in the Western Hemisphere. El Mirador was inhabited continuously from at least 1000 BCE to 150 CE but truly flourished from about 300 BCE to 150 CE. During its apogee, the urban center of El Mirador was likely inhabited by more than one hundred thousand people.

The city contained monumental architecture, including La Danta, arguably the largest pyramid in the world as measured by volume, large-scale water collection systems, and elaborate agricultural systems with raised beds in low-lying flooded areas. The size and complexity of the structures at El Mirador attest to a massive force of organized labor, capable of quarrying, transporting, and constructing millions of cubic meters of stone edifices without the benefit of the wheel or beasts of burden. El Mirador also hosted major works of art, including large masks, stelae, and the recently discovered “Twin Heroes” stucco frieze depicting the earliest known references to the Maya story of creation, the Popul Vuh. Furthermore, El Mirador presents some of the earliest evidence of Maya writing, with glyphs dating to the Late Pre-Classic.

The city of El Mirador was connected to other contemporary cities in the Kan Kingdom by a system of raised stone highways, or *Sacbes*. These 30-meter-wide causeways traversed flooded forests in segments as long as 23 kilometers, elevated between 3 and 6 meters above the flooded forest floor. Most other major sites in the Kan Kingdom, such as Nakbe, Tintal, Wakna, Xulnal, and La Florida, as well as several dozen smaller population centers, all share similar “kan” or “serpent” dynastic glyphs, providing evidence of an interconnected city-state.

Unlike most early Maya sites that were later overbuilt by Classic period structures, El Mirador and its neighboring cities experienced a Late Pre-Classic hiatus, or abandonment, at approximately 150 CE, after which there was little new construction. As Classic period populations shifted to nearby sites such as Calakmul and Tikal, El Mirador lay dormant. Thus, the Kan Kingdom presents a rare view into Pre-Classic architecture just as the Maya left it more than 1,800 years ago. When the site was spotted by small aircraft in the early twentieth century, it had been under forest cover for more than a millennium; its major pyramids appeared as mountains under natural vegetation.

In 1962 Ian Graham first mapped the major archaeological sites in the area and conducted preliminary excavations. However, it was not until 1978 that archaeological

research began in earnest, led by Ray Matheny of Brigham Young University and Bruce Dahlin of the Catholic University of America. In 1987 Richard Hansen, currently at Idaho State University, began the Regional Archaeological Investigation of the North Petén, Guatemala Project (RAINPEG), later called the Mirador Basin Project, which has undertaken major efforts in research, restoration, and conservation in the area of the Kan Kingdom for the past two decades.

Today the Kan Kingdom, or El Mirador Cultural Zone, stands out due to its extraordinary combination of natural and cultural heritage. Partially exposed monumental Pre-Classic structures and ancient relics are surrounded by Central America's largest wilderness, covering more than 20,000 square kilometers and still maintaining viable populations of charismatic species such as the jaguar, white-lipped peccary, Baird's tapir, and black howler monkey, as well as hundreds of other species endemic to the Maya forest. The area also presents significant intangible cultural heritage, holding ceremonial importance linking modern Maya populations to their cultural origins. Furthermore, the zone is home to a century-old forest-based culture, with small villages that were established as camps for the extraction of *chicle*, or chewing-gum resin. Today the villages of Carmelita and Uaxactún are gateways to the Kan Kingdom, and villagers still depend on forest products such as certified timber and the ornamental *xate* palm for their livelihoods.

## Management Context

### Legal Framework and Governing Authorities

The 20,000-square-kilometer Maya Biosphere Reserve was established in 1990, covering the entire northern half of the Petén Department and bordering Mexico and Belize. The reserve is divided into three zones, each with a different management status. Core Zones, covering 40 percent of the reserve, are dedicated to strict conservation and protection. Mirador–Río Azul National Park is one such zone, with geographic boundaries centered on the archaeological sites of El Mirador and the Classic site of Río Azul to the east. Management units in the Multiple Use Zone, covering another 40 percent of the reserve, are dedicated to sustainable forest management and contracted through concessions to communities living within the reserve and to private logging companies. Many of the major archaeological sites in the Kan Kingdom are found in the Multiple Use Zone, especially in the Carmelita Community Forest Concession. Lastly, 20 percent of the reserve consists of a Buffer Zone, a 15-kilometer-wide band along the reserve's southern border, with the most lenient legal restrictions of all. In practice, the Buffer Zone has received very little management attention and is essentially indistinguishable from areas outside the reserve.

By law, the National Council of Protected Areas (CONAP) is charged with the management of the Maya Biosphere Reserve. However, the Institute of Anthropology and History (IDAEH) is responsible for managing all historical and archaeological sites in the country. In practice, because the reserve's natural and cultural heritage overlaps with unclear and ambiguous boundaries, the jurisdictional limits of CONAP and IDAEH are also often unclear, sometimes causing tension between the institutions. Since CONAP and IDAEH personnel cannot bear arms, the accompaniment of the Guatemalan Army and Natural Resource Police is indispensable to natural and cultural resource protection.

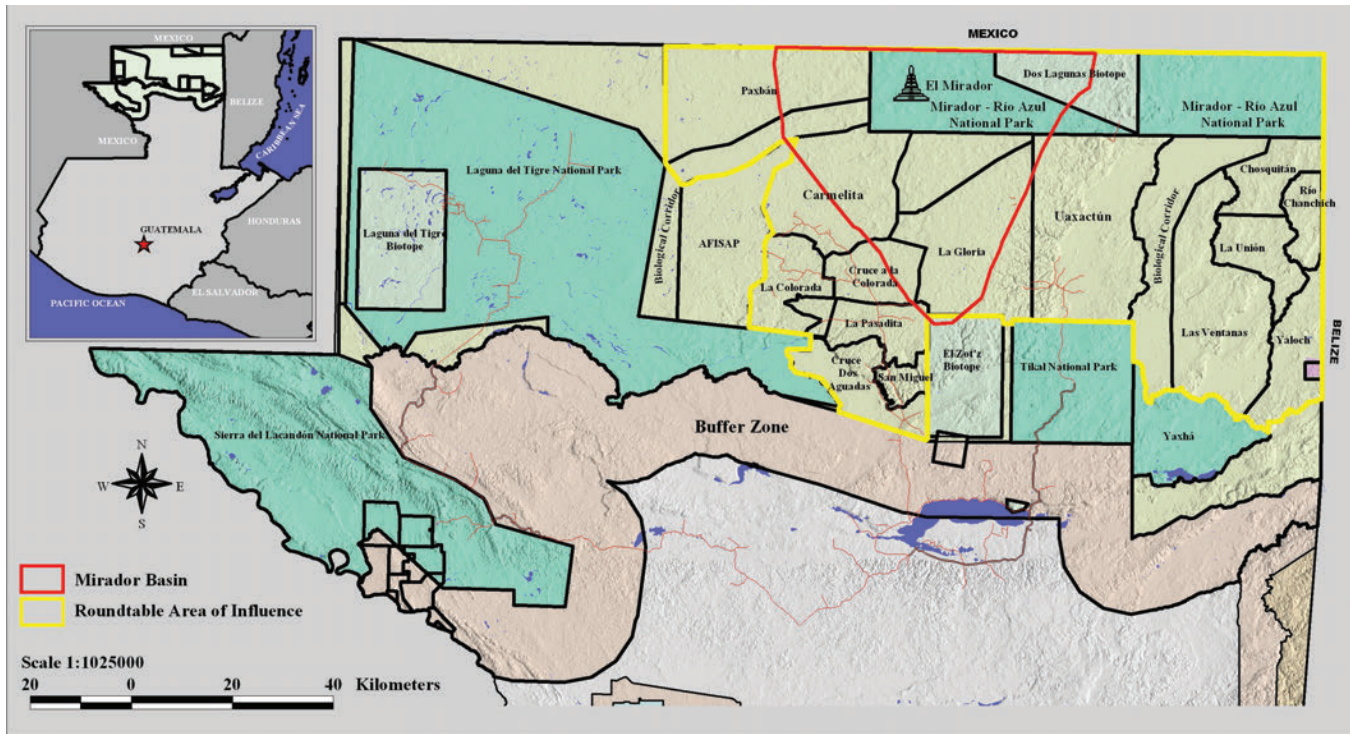
In the community and industrial forest concessions of the Multiple Use Zone, management rights and responsibilities are extended by CONAP to individual managing organizations through twenty-five-year contracts, and managed according to mutually agreed-upon management plans. The Guatemalan government also has mechanisms through which protected areas can be co-managed by accompanying NGOs or academic institutions, as well as legal concession mechanisms through which third parties can provide services within protected areas.

### **The “Mirador Basin” Conflict**

In 2000 a consortium including the Global Heritage Fund and the Foundation for Anthropological Research and Environmental Studies (FARES), led by El Mirador archaeologist Richard Hansen, began promoting and lobbying for the establishment of a new national monument that would assign strict protected area status to an area defined as the “Mirador Basin.” The proposed national monument included 212,000 hectares of low-lying forest overlapping the pre-existing Maya Biosphere Reserve, as well as the National Parks and co-managed community and industrial concessions contained within that portion of the reserve. The boundaries of the “basin,” a term disputed among archaeologists, ecologists, and geologists, were roughly defined based on the concentration of Pre-Classic “Kan” sites identified to date, as well as regional topography. Along with the legal designation, the consortium promoted a multi-million-dollar fundraising campaign for investment in archaeological restoration, conservation, and tourism development. They argued that the two thousand tourists who visited Mirador each year could be increased to more than one hundred thousand, as in nearby Tikal.

In 2001, after having circulated the idea to the central government and donors, Hansen presented the proposal to the Association of Forest Communities of Petén (ACOFOP), a second-level organization representing the community forest concessions, as well as representatives from the two industrial forest concessions. The concessionaires publicly declared their disapproval of the proposal, as it violated their pre-existing concession contracts and would limit their access rights to forest resources. For example, the proposed Mirador Basin Monument overlapped 68 percent of the Carmelita Community Forest Concession, 34 percent of the Cruce a La Colorada Community Forest Concession, 73 percent of the La Gloria Industrial Concession, and 35 percent of the Paxbán Industrial Concession. Despite local resistance, Hansen continued developing alliances, giving public presentations, and lobbying the central government, arguing that the concessions were doing little to thwart looting and deforestation, and that their certified logging activities were damaging the forest and opening access routes to criminals (fig. 1).

In April 2002, Guatemalan president Alfonso Portillo signed a Presidential Accord (129-2002) giving the Mirador Basin formal designation as a Special Protected Area. ACOFOP and the industrial forest concessions immediately joined with the Center for Legal, Social, and Environmental Action of Guatemala (CALAS) to vehemently challenge the accord. Tension mounted between community groups and Richard Hansen, escalating to arguments and threats. In 2003 the Constitutional Court suspended the implementation of the accord until a verdict could be reached on its constitutionality. Finally, in 2005, after years of conflict in and out of the courtroom, the Constitutional Court judged the Presidential Accord unconstitutional since it violated the law establishing and zoning the Maya Biosphere Reserve (5-90), as well as the forest concession contracts.



**FIGURE 1**

Map of the Maya Biosphere Reserve, showing the proposed Mirador Basin Monument (outlined in red), and areas under the decision-making influence of the Mirador Roundtable (in yellow).

The law had been rescinded, but the conflict persisted. Hansen continued to push for legal designation of the basin, and raised funds for its protection and development, reaching out to wealthy businesspeople and celebrities such as actor Mel Gibson. To add to the controversy, Hansen promoted the idea of building a small-gauge train to transport tourists through the forest to El Mirador. At the same time, the Guatemalan government was preparing the blueprint for a \$30 million loan from the Interamerican Development Bank (IDB) for the sustainable development of the Petén Department, and tourism development was to be a major part of the plan. Even though local communities and the national government had much to gain from wise tourism development of the region, the Mirador controversy had become anathema.

A 2005 stakeholder analysis conducted by the Institute for Conflict Analysis and Resolution (ICAR) at George Mason University confirmed the complexity of the issue and outlined process recommendations for stakeholder engagement and collaborative planning (Cobb et al. 2005). However, neither the government nor any of the numerous NGOs in the Petén wanted to accept the responsibility and political risk inherent in trying to find a way to navigate between the extremely polarized parties. The process design recommendations of the ICAR team were not implemented. Discussions were at a stalemate, and development plans were paralyzed.

## The Mirador Roundtable

In late 2006, more than a year after the Constitutional Court decision and the ICAR recommendations, members of the Wildlife Conservation Society (WCS), an international conservation NGO; Asociación Balam, a local NGO dedicated to conser-

vation and local development; and APANAC, a Guatemalan NGO dedicated to preserving the cultural and natural heritage of the Kan Kingdom, began discussing the idea of a roundtable to break the stalemate and begin a healthy dialogue surrounding the conservation and development of the Mirador region. They called all of the key stakeholders to ascertain the level of interest, and all parties accepted—some with hesitation.

In November 2006, under the aegis of the Secretary to the Presidency, a formal inauguration of the Mirador Roundtable (in Spanish, *Mesa Multisectorial para la Zona Natural y Cultural Mirador–Río Azul*) was held in Guatemala City, led by Guatemalan president Oscar Berger and several ministers. The roundtable was initially established with twenty-six member organizations, including governmental institutions, municipal governments, community organizations, NGOs, private companies, and the public university. The parties most central to the conflict, including Richard Hansen, ACOFOP, and members of the community and industrial concessions, were all in attendance.

### **Roundtable Structure and Coordination**

To allay public distrust and fears of process manipulation, the roundtable structure was designed in a participatory fashion among all twenty-six member organizations. During the first meetings, statutes and rules of engagement were established. Early meetings were facilitated by Bayron Castellanos of Asociación Balam and an appointed official from the secretary to the president, with technical assistance from the Consensus Building Institute. Castellanos drafted an eight-page document containing thirty-one articles outlining the roundtable's general objectives and guiding principles, rules of membership, and methods of coordination, dialogue, and decision making, as well as incorporation of roundtable decisions into institutional commitments. He facilitated the first meetings with major logistical support from the executive branch of government (SCEP). Castellanos's multifaceted experience and civil society status allowed him to navigate between sectors, simultaneously helping to build trust between members and create confidence in Balam as a neutral "bridging organization." After a number of initially tense meetings, roundtable members revised and approved the statutes by consensus.

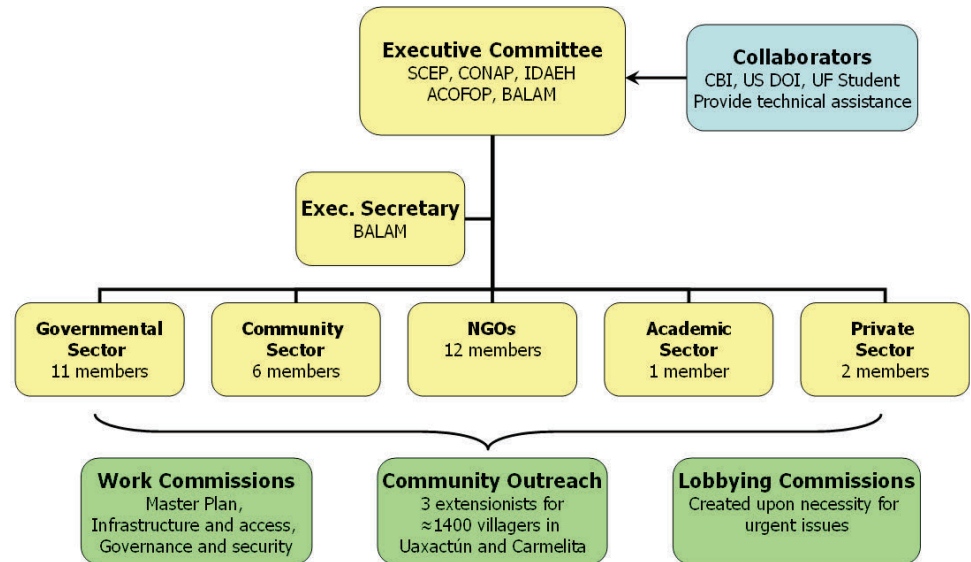
The statutes stipulate that the highest leadership level of the roundtable should consist of a five-party executive committee representing several societal sectors: SCEP, the two governmental institutions with legal authority over the MBR (CONAP and IDAEH), the Association of Forest Communities, and a civil society coordinating secretary, Asociación Balam. The executive committee would be responsible for defining meeting agendas and coordinating activities.

The roundtable holds monthly plenary meetings in which all members participate. Plenary discussions range from topics such as security and governance to infrastructure development and internal community conflicts. There have also been occasional special meetings, with participation of the president of the republic and ministers. Commissions with more regular meetings were created to deal in depth with technical themes such as Mirador access, security, community dynamics, and drafting of the new master plan for the park. All interested parties from the roundtable may participate in commission meetings, and results are reported in plenary meetings, where all decisions are taken. Decisions must be made by consensus among all members.

Membership in the roundtable is open. However, all member organizations must be formally accredited, with a named representative and an alternative with

**FIGURE 2**

Chart showing the Mirador Roundtable organizational structure.



decision-making authority. New organizations can gain membership by submitting a letter of intent, naming representatives, and being accepted by consensus among existing members. To date, six organizations have joined for a total of thirty-two member organizations. Currently, the roundtable consists of seven governmental institutions, four municipal governments, six community organizations, twelve NGOs, two private companies, and one university (fig. 2).

The roundtable is also accompanied by collaborating organizations. The US Department of the Interior supports technical aspects of infrastructure design, interpretation, community organization, and master plan drafting. The Consensus Building Institute (CBI) supported and advised the executive committee in the design, facilitation, and leadership of the roundtable, in addition to monitoring and evaluating the process. CBI is a not-for-profit organization that helps multiple parties and organizations make better decisions on complex public policy and development issues.

After much analysis about whether to employ a local or nonlocal facilitator and consideration of potential candidates, the executive committee decided that no ideal candidate existed. Instead, a self-organized facilitation team emerged from members and supporters, with coordination from Balam. In order to maintain transparency and access to information, the facilitation team has attempted to publish all meeting minutes and proposals on a basic webpage (<http://www.mesamultisectorial.org/>).

From the outset, it was clear that community outreach would be important to the success of the roundtable. Initially, three community members were employed full-time to communicate basic information about the roundtable and the proposals being discussed to the two communities most impacted by development decisions: Carmelita and Uaxactún. However, after several problems arose, a journalist was hired to capture key information from meetings and translate it into information products for outreach.

This structure was developed to do the following:

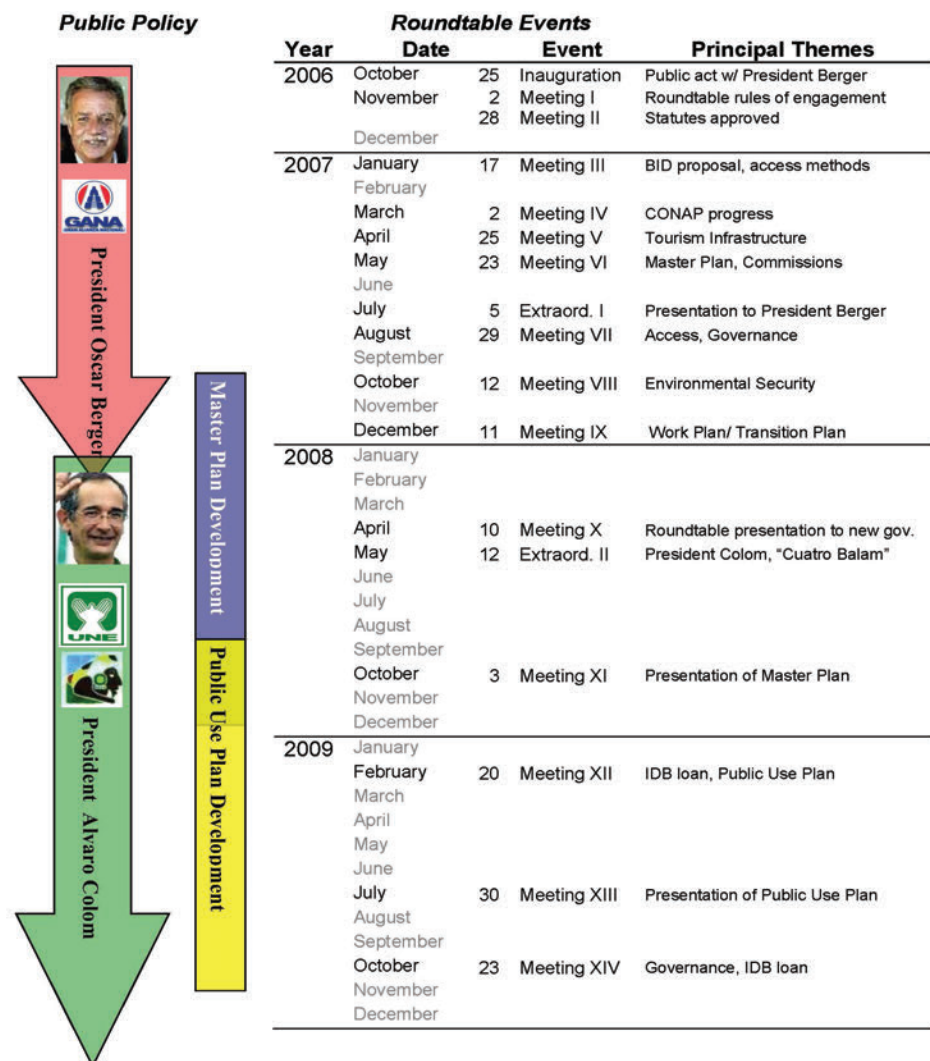
- Create the reality and the perception of a fair and balanced process (multi-sector executive committee, consensus decisions)

- Build legitimacy by institutionalizing the roundtable from a place of authority (formal inauguration)
- Ensure participation of members with decision-making authority (accreditation)
- Allow broad and multiple types of participation (commissions, outreach)
- Increase transparency and proactive information sharing (webpage, outreach)

Since its inception, the roundtable has held sixteen monthly or bimonthly plenary meetings, as well as two extraordinary meetings with the participation of Guatemalan presidents Oscar Berger and his successor, Alvaro Colom. Besides plenary meetings, roundtable members have met in numerous smaller commissions to discuss technical issues such as access, security, community dynamics, and drafting of the new master plan for the park (fig. 3). During the three years of its existence, the roundtable has had near-perfect participation at all meetings and increased its membership. The roundtable was recognized legally by a CONAP resolution and has become a consultative forum for management decisions in the eastern Maya Biosphere Reserve.

**FIGURE 3**

Timeline of Mirador Roundtable events and related public policy initiatives.





In multi-stakeholder processes, the line between process and outcome is often blurred (Plummer and Armitage 2007). That is, the creation of a functional space for dialogue and decision making is a powerful achievement in itself because it creates both the conditions with which to solve immediate problems and the resilience to learn, adapt, and preempt future problems. This section evaluates the results of the Mirador–Rio Azul Roundtable in terms of tangible outcomes, process outcomes, and intangible outcomes, incorporating the results of structured surveys of thirty-two roundtable members and fifty-two community members.

### **Tangible Outcomes**

#### Formalization and Institutionalization of the Roundtable

As mentioned above, the roundtable was formalized as a new institutional structure. Internally, this was achieved with a letter of intent, statutes, and accreditation of members. In order to give the structure legal stature, roundtable members made a consensus decision to seek a CONAP resolution, writing and signing a letter and sending a commission to lobby at a high-level meeting in Guatemala City. CONAP emitted a legal resolution recognizing the roundtable on 5 July 2007 with a mandate to coordinate activities in the zone. In discussions on whether to further formalize the roundtable through a governmental decree, members realized that the seventeen-year-old law creating the Maya Biosphere Reserve (decree 5-90) contained a clause stipulating the creation of a coordinating committee for the reserve that had never been realized. Through the roundtable, the coordinating committee was established and decisions were couched within the legally recognized entity with governmental decision-making authority.

#### Regional Planning

When the roundtable began, the master plan for Mirador–Rio Azul National Park had expired and needed renewal. A commission was formed and a joint learning trip to El Mirador was organized to give participants an on-the-ground understanding of the area. During discussions, it became clear that the zone had three incoherent planning documents from three different institutions: CONAP's expired master plan for the national park, IDAEH's management plan for cultural and historical sites, and the Center for Conservation Studies' (CECON) master plan for Dos Lagunas Biotope. For the first time, IDAEH, CONAP, and CECON agreed to integrate their master plans in a joint planning effort. They held a formal evaluation of former master plans, created an integrated work plan for developing a master plan, raised \$30,000, and hired consultants to develop the master plan based on input from more than a dozen interactive and participatory strategic planning workshops. Because tourism development was such a complex and controversial issue, the roundtable organized the development of a separate and more detailed public use plan. These two documents now legally regulate all activities within the national park until 2013.

#### Protection of Environmental and Cultural Resources

Through open dialogue, a strategy was created for natural and cultural resource protection and regional security based on two major lines of activities: (1) an increase in institutional presence and (2) strengthening the justice system. Collectively, members pressured the central government, and President Berger approved a \$700,000 emergency security plan for the construction and operation of

several control posts. Due to governmental inefficiency, only a fraction of the promised funds were disbursed before the governmental transition in early 2008. However, the roundtable continued to pressure the new administration and managed to quickly raise tens of thousands of dollars of public and private funds to establish five new control checkpoints on major trafficking routes, operated by joint forces including army, natural resource police, and CONAP personnel. The roundtable also leveraged significant funds from the UK Department for International Development (DFID) and the US Department of the Interior (DOI) for a wide range of activities aimed at improving governance and law enforcement.

#### Capacity Building and Community Organization

The roundtable trained 150 CONAP, IDAEH, CECON, natural resource police, and community control and vigilance field staff in first aid, protected areas and natural resource laws, strategies for natural resource protection, and forest fire prevention. Furthermore, Balam hired a community extensionist to work full-time in Carmelita, helping to organize community groups, develop proposals for community development, and provide clear communication between community members, NGOs, and the roundtable. Carmelita held a community beautification day in which more than a hundred community and roundtable members pitched in to clear brush, pick up garbage, paint a mural on the elementary school wall, paint and install garbage cans, build a sign at the entrance of the trail to Mirador, and install a large welcome sign for the community. Since that day, village schoolchildren have kept the community free of litter with weekly cleanups. The extensionist also coordinated a formally accredited course to train community tourist guides. The course graduated Guatemala's first sixteen community tourist guides, an event overseen by President Colom. Concomitant with guide training, the community cooperative formed a tourism commission to rebuild its defunct tourism business, and is currently in the process of developing infrastructure and scaling up operations.

#### Raising Awareness and Lobbying

The roundtable issued several declarations to raise awareness and influence policy about pressing matters ranging from forest fires to governance problems. Perhaps the most notable pronouncement dealt with the issue of road building. Poor access and lack of infrastructure severely limit tourism development in El Mirador, and new roads have been repeatedly proposed to improve visitation. However, infrastructure development, especially of access routes, has always been an extremely controversial issue. Tourists have traditionally traveled to the site with mule tours, benefiting local communities. Proposals for other modes of mass transit create uncertainty about the future distribution of benefits as well as potential ecological and archaeological impacts. The roundtable commissioned a multi-criteria analysis of access options, including a legal analysis. Citing the protected areas laws, CONAP's lawyers ruled out construction of any new roads, thereby assuaging one of the major latent fears that had caused distrust among roundtable members for years. The "no new roads" decision was made public and incorporated into the master plan.

#### Fundraising

The roundtable has elevated the profile of the Mirador–Rio Azul zone and successfully used its influence for fundraising. The roundtable itself has been funded by the WCS, the DOI, the Critical Ecosystem Partnership Fund, the Flora Family

Foundation, and the DFID. However, the greatest achievements have come about through increased coordination between local leadership, regional initiatives, and other donors. To date, more than \$3.7 million has been invested by private and bilateral donors toward activities derived from agreements reached during roundtable meetings. Members also successfully lobbied for the allocation of approximately \$3.5 million of a \$34.1 million IDB loan and Global Environment Facility matching grant being executed through the Ministry of Environment, to be used for environmental protection and tourism development.

### **Process Outcomes**

#### **Pluralism and Linkages**

The structure of the Mirador–Rio Azul Roundtable brings together multiple types of stakeholders, including high-level government officials, local government, civil society organizations, private businesspeople, academics, donors, and campesinos, representing a diversity of interests and worldviews. The roundtable has also created connections across multiple scales by linking leaders at the regional, national, departmental, municipal, and village level, each with some autonomy over management decisions and actions but also with shared and overlapping responsibilities. These cross-scale linkages have led to discoveries of shared goals and opportunities, eventually producing synergies between donors, politicians, and local managers. The most poignant example was the development and funding of a strategy to improve governance along the route to Carmelita, a region dominated by illegal activities and rampant forest conversion.

#### **Communication and Negotiation**

The roundtable is predicated on the principle of respectful dialogue. As such, facilitators have focused on promoting equity and efficiency of discussion to arrive at universally acceptable proposals. However, striking the correct balance between maintaining a diversity of inputs by allowing all members to voice opinions and feel heard, and keeping meetings concise and productive has been a major challenge.

Of thirty-three roundtable members surveyed, 82 percent reported that they have had sufficient opportunity to express their opinions, with the remaining 18 percent reporting little or no opportunity. Contrary to expectations due to potential power imbalances, no community members responded that they had not had the opportunity to express themselves. When participants were asked what they had learned, 61 percent noted that they had a better understanding of the roles and interests of other members, and 55 percent responded that they had broadened their knowledge. In all, 88 percent of surveyed members felt that they had a fair to excellent understanding of other members' interests, and 73 percent felt that the other members understood their interests.

It is important to note that informal conversations during coffee breaks, lunch, and outside of meetings have been vital to sharing knowledge and building relationships. The roundtable has created a space for dialogue, allowing members to quickly identify mutual interests, create joint plans, and move forward with field implementation. When asked the open-ended question "Do you think the roundtable members learned anything as a group?," 58 percent of participants responded that they had learned the importance of dialogue and consensus building; 39 percent responded that they could get more done through teamwork than alone.

### Decision Making

The roundtable statutes state that decisions must be reached by consensus among members, raising facilitation challenges to adequately balance power between participants with very different backgrounds, experience, and capacities. Of surveyed members, 67 percent felt that their ideas were incorporated fairly well in decision making. However, while about 75 percent of NGO and government members reported satisfaction, only 38 percent of community members felt that their ideas were being taken into account. This discrepancy of perceived fairness between community members and other roundtable members was also reflected in satisfaction with the decision-making process and resultant decisions. Approximately 90 percent of NGO and government members felt that the decision-making process was fair, while only 50 percent of community members responded favorably. Similarly, 100 percent of government officials and 88 percent of NGO members felt that the resultant decisions would be fair, while only 50 percent of community members responded so. Interestingly, reported perceived power showed the opposite pattern. Nearly 90 percent of members of all sectors reported a fair to strong ability to influence decisions. However, while 73 percent of NGO members and 57 percent of government members reported having the power to block decisions that they didn't agree with, 100 percent of community members reported such power. The perceived blocking power within communities is likely the product of empowerment due to successful obstruction of previous projects promoted by powerful actors including oil exploration, road building, and the development of the Mirador Basin Special Protected Area.

### Intangible Outcomes

#### Social and Human Capital

Sixty-seven percent of participants reported that their involvement in the roundtable had led to improved personal relationships with other roundtable members, while 33 percent reported no change. Several participants reported that the roundtable had led to new friendships, even among members of formerly polarized groups. Furthermore, 85 percent of roundtable members reported that they were collaborating with other roundtable members outside of the meetings. Although many of these collaborations began before the creation of the roundtable, several notable collaborations were a direct result of dialogue and relationships created through the roundtable. In general, 81 percent of roundtable members reported a relatively high level of trust in other roundtable members. It is noteworthy to mention that a significantly smaller proportion of community members reported trust of other participants (67 percent) than NGO employees (81 percent) and government employees (89 percent). Conversely, 100 percent of community members, 94 percent of NGO employees, and 89 percent of government employees reported that they were willing or very willing to share their knowledge. Participants from all sectors unanimously reported a willingness to negotiate other conflictive issues with roundtable members.

#### Enhanced Legitimization for Policies and Action

The roundtable has created greater oversight, accountability, and transparency of decision making and policy implementation. Nearly 95 percent of members hoped that the roundtable would lead to a desirable outcome. Expectations for public support of decisions varied between sectors. One hundred percent of government

officials, 94 percent of NGO members, and 75 percent of community members who participated in the roundtable reported expectations of relatively high levels of public support, with the remaining respondents expecting little public support. A survey of fifty community members from Uaxactún and Carmelita showed that 75 percent of village members were satisfied with the decision-making process, 15 percent had no opinion, and 10 percent were unsatisfied.

## Insights and Conclusions

Development of El Mirador is a complex and conflictive problem, not unlike many natural and cultural heritage problems around the world. For several years, proponents of top-down decision making and management of El Mirador were backed by the unwavering political support of the presidency, members of Congress, and tens of millions of dollars. However, their efforts were thwarted at the planning stage, resulting in little on-the-ground progress and an increase in social tension and conflict.

The roundtable was a last-ditch attempt to reconcile the conflict caused by top-down management and served as an antidote to a decision-making stalemate (table 1). Despite ongoing challenges, it has quickly produced substantial tangible and intangible results and restored hope of reaching a desirable outcome.

**Table 1. Comparison between conventional top-down decision making before the roundtable and the multi-stakeholder approach as practiced in the Mirador–Rio Azul Roundtable.**

	<b>Business as Usual (pre-roundtable)</b>	<b>Mirador Roundtable</b>
Goal	Technically viable plans	Technically, socially, and politically viable plans
Primary client	Few powerful actors (political leadership, foreign interests, business associates)	Several societal sectors, with multilevel representation
Role of public participation	Provide occasional input and advice	Build shared understanding and agreement
Decision-making protocol	Financial and political influence, litigation	Seek unanimity among all societal sectors, settle for overwhelming agreement
Dialogue between disputants	Infrequent and antagonistic	More frequent, collaborative, and constructive
Tangible outcomes	Fundraising, archaeological restoration and investigation (other advances limited by social rejection of unilateral development plans)	Master plan, infrastructure construction, stakeholder capacity building, environmental and cultural heritage protection, fundraising
Intangible outcomes	Distrust and frustration	Identification of shared interests, improved relationships, increased trust, hope, public support
Political support	Support of Presidents Portillo, Berger	Support of Presidents Berger, Colom

In order to extract lessons for other processes, we analyze the factors contributing to the roundtable's early success, and examine major ongoing challenges that threaten its continued success. Finally, we list a handful of practical lessons for natural and cultural heritage managers.

We identify seven critical factors in the early successes of the roundtable:

1. *Favorable preconditions*: Overt conflict had led to crisis and impasse in the face of pressing threats from ranching and drug trafficking encroachment, necessitating negotiation and openness to others' ideas.
2. *Responsiveness to stakeholder interests*: All parties perceived foreseeable, tangible benefits from successful negotiation with respect to underlying concerns.
3. *Proactive involvement of a range of voices*: The process was designed to be inclusive, representative, and fair. Community outreach has been challenging but essential to progress.
4. *Institutionalization from a place of authority*: Formal institutional recognition and the participation of two presidents and high-level institutional directors helped legitimize the roundtable. Participation at meetings has been very high, and participants have had the decision-making capacity to act on behalf of their organizations.
5. *Coordination at a practical level of getting things done*: The roundtable has worked at a geographic scale that matches the area of interest for stakeholders.
6. *Strong facilitative leadership*: The roundtable has had strong leadership with legitimate convening power, including a single bridging organization responsible for coordination, and direction from a multisector executive committee. Key personalities were able to bridge the gap between stakeholders with very different backgrounds and to maintain a link between the interests of the group and political interests of those in power.
7. *Preparation for predictable surprises*: The facilitation team has constantly monitored attitudes and opinions in order to provide reflexive process management and to quickly identify and actively address the issues most important to its members, for instance, through surveys such as the one shown in figure 4. For example, access infrastructure discussions were postponed in order to attend to stakeholders' urgent concerns about governance and environmental security.

## Ongoing Challenges


Adaptive collaborative management is a continuous process, with ever-evolving challenges (Olsson, Folke, and Berkes 2004; Carlsson and Berkes 2005; Folke et al. 2005). The literature has often highlighted obstacles such as power asymmetries among stakeholders, insufficient commitment of resources, negative group dynamics, and information asymmetries. However, roundtable members responded that the two greatest challenges were (1) community participation and outreach, and (2) surviving governmental transitions. We also perceive a third latent risk: centralized roundtable leadership. Below we discuss the nature of these three key obstacles and their importance to the success of multi-stakeholder processes.

### Maintaining Involved and Informed Communities


Adequate community representation and communication lie at the core of successful multi-stakeholder processes (Plummer and Armitage 2007). From the beginning, Balam strategically aimed to ensure broad-based understanding among communities regarding the purpose of the roundtable and the mechanisms for influencing its activities. Fair representation among local, national, and international stakeholders

FIGURE 4

Post-meeting surveys such as this one were used to gain an understanding of roundtable members' perceptions and attitudes and identify key issues of importance.



## Mesa Multisectorial - Monitoreo de Satisfacción



Nombre \_\_\_\_\_ Fecha 28 de Mayo del 2010

**Instrucciones: Dibujar un círculo alrededor de su respuesta así:** 1  
Respuesta

1. Que tan satisfecho estuvo usted con la reunión de hoy?

1	2	3	4	5
muy insatisfecho	insatisfecho	ni satisfecho ni insatisfecho	satisfecho	muy satisfecho

2. En la reunión de hoy, cuanta libertad sintió Ud. para decir lo que pensaba?

1	2	3	4	5
muy poca	poca	regular	mucha	muchisima

3. Cree que todos los miembros tuvieron igual oportunidad de opinar en la reunión?

(    si    no    )

Si su respuesta es no, 3.1. Quien tuvo mas oportunidad de opinar? \_\_\_\_\_

\_\_\_\_\_

3.2. Quien tuvo menos? \_\_\_\_\_

\_\_\_\_\_

4. Que tan justo cree Ud. es el proceso de toma de decisiones?

1	2	3	4	5
muy poco justo	poco justo	regular	justo	muy justo

5. Cuanta esperanza tiene que el proceso de toma de decisiones va a llegar a una solución buena?

1	2	3	4	5
muy poca esperanza	poca esperanza	regular	mucha esperanza	muchisima esperanza

6. En general, que tan satisfecho está usted con la mesa multisectorial?

1	2	3	4	5
muy insatisfecho	insatisfecho	ni satisfecho ni insatisfecho	satisfecho	muy satisfecho

7. Como se podría mejorar la mesa multisectorial?

was a particularly important public indicator of the roundtable's intent to balance a broad range of concerns without subverting the interests of local communities in the shadow of more politically powerful voices at the table. Moreover, given the scarcity of collaborative decision-making structures in Latin America and low levels of public trust in authority, it was critical for the roundtable to attempt to produce "early wins"—tangible outcomes that can improve people's lives.

However, achieving meaningful progress by working with community organizations has been hampered by internal community conflict, organizational weakness, and perceived illegitimacy of local governance structures. For example, the mayor of Carmelita was elected by a small fraction of village members at an impromptu meeting. He was later also elected president of the community coopera-

tive, further centralizing authority to an individual whose power was already perceived as unrepresentative by a large sector of the community. By working through existing structures, it was difficult to gain widespread acceptance of roundtable outreach activities, especially since the mayor appointed his daughter-in-law as the local roundtable point person. Roundtable organizers have attempted to compensate for internal power imbalances by employing outreach technicians from outside the community, focusing on universally beneficial activities, holding meetings in neutral locations, investing extra effort to reach out to marginalized groups, and actively helping to manage conflicts.

### **Building Long-Term Political Support**

A second, vital issue is preparing for and surviving political transitions. When multi-stakeholder decision-making efforts are tied to political tides, a change in leadership can dissolve the institutional support needed to implement key group agreements and decisions. The roundtable used several strategies to insulate itself from the 2008 political transition, which brought in a new president and new leadership of all the governmental institutions participating in the roundtable. First, organizers attempted to represent public interests that superseded those of particular parties and devolve leadership to the grassroots level. Second, the roundtable institutionalized its work within a permanent agency, CONAP. Finally, members lobbied key political champions of several major parties during and after the 2007 presidential election, including Congress members and presidential candidates.

Despite these efforts, the governmental transition was tumultuous. Several founding members were lost as their institutional appointments expired. New appointees entered without the same level of understanding and buy-in, and in some cases rejected the roundtable as a project from the era of the former administration. Other appointees asked to postpone meetings until they had time to understand the issues and establish positions, creating a long delay between meetings. Furthermore, for months there were disjoint opinions and public statements coming from the different governmental institutions. Only after five months of tireless lobbying and communication did the roundtable receive widespread acceptance from the new administration.

### **Group Empowerment through Shared Leadership**

Collaborative decision-making efforts often require the impetus of unique leaders who can find ways for diverse parties to work more effectively together. In the case of the roundtable, Balam's director, Bayron Castellanos, possesses both the institutional knowledge and cultural sensitivity to motivate a broad range of stakeholders who typically do not join forces. However, a disproportionate burden of leadership and coordination has fallen on the shoulders of Balam and Castellanos to bring this leadership to bear. In part, this is because the level of skill required to manage a multi-stakeholder process is not easily cultivated. The centralization of leadership and coordination has not caused major problems yet, but for the roundtable to succeed in the long term, leadership will likely need to be further decentralized. Moreover, if Castellanos is for some reason unable to serve as acting secretary, the roundtable's fragile relationships may fall apart as quickly as they have formed. To counter this risk, the roundtable could foster more active champions at the grassroots level and strengthen their capacity to facilitate consensus-based decision making and representation for their communities. This could help lead to group empowerment and further investment.



## The Take-Away Lessons for Managers

The Mirador Roundtable has functioned for more than three years as a forum for dialogue and decision making surrounding the integrated management of cultural and natural heritage in the complex social and political context of the Maya Biosphere Reserve. It has served to reduce conflict, produce tangible conservation and development results, and influence public policy across two governmental administrations. To a degree, it could also be argued that it has made progress toward creating a “culture of collaboration” between previously separatist organizations.

Although the context of the roundtable is unique, several principles are universal:

- *Processes that are inclusive, representative, and perceived as fair* can produce better and faster results than top-down management for problems with high social complexity.
- *Facilitators must attend to both group process and outcomes* to ensure that decisions are perceived as fair, informed, and wise, and that results benefit key constituencies quickly and in significant ways.
- *Organizers must be alert and flexible* in order to quickly identify and address surprises.

The facilitators of the roundtable do not take this success for granted. The survival and sustenance of such a multi-stakeholder forum presents continuous challenges requiring constant learning, adaptation, and hard work. We are humbled by the progress to date and hope to continue learning.

## Acknowledgments

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## Commentary

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Of the case studies in these proceedings, this study is unique in its use of professional consensus building and collaboration experts. CBI was involved in the design and early convening phases of this process, which explains the consistency of its process design to model consensus building structures, including the following:

- A highly inclusive, transparent, and participatory roundtable with regularly scheduled plenary meetings, where all decisions are made by consensus
- A formal structure of recognized representatives and alternates to provide accountability for leadership in stakeholder groups
- An executive committee to manage the process, composed of the most central stakeholders, including all sectors (key government entities, community and private sector, and NGOs)
- Thematic "commissions" operating as subcommittees or working groups
- Clearly articulated ground rules (referred to as "statutes" in the case), negotiated by the group as a first order of business

These structural components were strategically designed based on the findings of the situation assessment and drew upon extensive experience in designing collaborative processes. The impact of this has been a process perceived as highly legitimate by all participants.

This case is also notable in being convened initially by an NGO rather than a governmental convener. Processes initiated by parties outside of formal policy and management structures often struggle to make links between the informal decisions of the stakeholders and formal government decisions and actions. The inauguration of the roundtable through the secretary to the president, and the active participation of core government entities, lent a high level of credibility and legitimacy to the process. Legal recognition by CONAP officially bridged the gap between the informal and formal. As the author notes, this formal recognition has contributed to the success of the roundtable. However, the process also benefited from its noninstitutional origins, as it allowed the conveners the flexibility to implement innovative structures and methods that may have been impossible from within governmental institutions.

The tangible and intangible outcomes named in this case illustrate effective use of the Mutual Gains Approach to create value for all. Faced with deeply polarized visions for the place, the roundtable expanded its scope beyond simply designing a plan for development of the site, and focused on the many issues of common concern to the participants. These include improvements in security and crime prevention, community capacity building, and improved governance and involvement of local stakeholders in local decision making.

The author describes a number of ongoing challenges facing the roundtable. Effectively representing local interests and ensuring meaningful community

involvement can be particularly challenging in contexts where formal leaders lack consensus support. Committing to additional outreach, as the roundtable has done, is a valuable investment. It may also be possible to expand membership to include additional community participants who can represent alternative viewpoints. This might also protect against political changes that might occur at the local level.

A parallel approach should be used at the national level with opposition political leaders in order to manage political transitions. In highly polarized political settings, it is critical to foster participation of high-level officials while avoiding close identification with any one party or leader. The most stability can probably be found by fostering bureaucratic champions in middle-level civil service positions who will not turn over with changes in political leadership.

Sharing the burden of leadership—the final challenge raised by the author—might be fostered by deliberate role divisions that encourage and support stakeholder leadership on issues that are of high importance, and by tasking leaders with drafting and communicating key messages from the roundtable to their own constituencies and the public. It is also important to provide opportunities for public visibility and credit for stakeholders.

# Dialogue as a Resource for Heritage Management: Stories from Sites of Conscience

*Liz Ševčenko*

## **Abstract**

People use heritage as a means of expressing identity, forging relationships, and declaring their intentions for the future. It can be both a catalyst for conflict and a tool to address it. Managing conflict is an unavoidable, ongoing challenge for heritage practitioners. But this also presents an opportunity for heritage sites to serve as valuable new resources for bringing diverse communities together to confront the issues they face. Heritage sites can inspire empathy for different people's experiences and provide historical perspective on current problems. How can—and how should—heritage sites confront the connections between past and present that our publics are making? How can we open the past as a resource for addressing contemporary conflicts without instrumentalizing it for narrow political ends?

This paper draws on examples from the International Coalition of Sites of Conscience, a network of heritage sites in forty-five countries dedicated to “stimulating dialogue on pressing social issues.” Dialogue is an indispensable tool for conservationists and heritage managers to address contemporary conflicts inspired by heritage sites. Defined in this paper as “sharing ideas, information, experiences and assumptions for the purposes of personal and collective learning,” dialogue can take a variety of forms and be used to address a variety of conflicts involving different types of audiences.

Using case studies on Constitution Hill in South Africa, Villa Grimaldi in Chile, and the Lower East Side Tenement Museum in New York City, this paper explores how these sites have become resources for diverse constituencies to address some of the most pressing issues they are facing. Examples include mediating political conflicts between community leaders, addressing the root causes of violence among youth, and raising awareness among tourists. The paper includes tools and strategies for heritage practitioners to design and facilitate dialogues that can manage conflict and open sites as critical new assets for their communities.

## **Introduction**

For better or for worse, heritage is terrain on which people express identity, forge relationships, and declare their intentions for the future, making it also a catalyst for conflict and a resource for addressing it. People turn to sites of memory to address local conflicts, as when two black South African communities, which had once clashed during the anti-apartheid struggle, came together to construct a memorial on the street that once divided them as a first step toward reconciliation (Kgalema 1999). Sites of memory can also be the center of international diplomatic crises, as when the prime minister of Japan, Junichiro Koizumi, visited the

Yasukuni Shrine war memorial, whose honored include fourteen Japanese convicted of war crimes in 1948, prompting China and Korea to call off summit meetings with Japan (Onishi 2006).

But heritage policy is often slow to engage with the role historic sites play in contemporary conflicts, and with the challenges and opportunities this poses for practitioners. The International Coalition of Sites of Conscience is a network of sites around the world dedicated to exploring these challenges and opportunities. How can heritage sites confront the connections between past and present that our publics are making? How can we open the past as a resource for addressing contemporary conflicts without instrumentalizing it for narrow political ends?

The coalition was founded in 1999 by nine leaders in heritage, human rights, and democracy building who share a common vision of the power of historic sites to inspire dialogue and civic engagement on pressing social issues. These leaders recognized that historic sites are inherently contentious and sought to explore strategies that would use these sites to support peace rather than exacerbate conflict. They developed a vision for “Sites of Conscience,” which they defined as institutions that (1) interpret history through site; (2) stimulate dialogue on pressing social issues and promote democratic and humanitarian values; and (3) share opportunities for public involvement in the issues raised at the site.

Sites of Conscience try to use the history of their sites to address larger social conflicts in their society. Some use debates over how a site should be preserved as starting points for dialogue about what is really at stake in those debates—what the larger, underlying tensions are—and to make preservation decisions along the way. Sites of Conscience resist the idea that these conflicts are ever “resolved”; instead, they begin from the assumption that new social issues continually emerge to challenge heritage sites and their communities, and that heritage can provide a vital resource for addressing them.

## What Is Dialogue?

Dialogue is an indispensable tool for conservationists and heritage managers to manage conflict. This paper uses facilitator Tammy Bormann’s definition of *dialogue* as “sharing ideas, information, experiences and assumptions for the purposes of personal and collective learning.” Bormann contrasts dialogue with discussion (“sharing information and ideas in order to accomplish a specific task”) or debate (“sharing information and ideas in an effort to bring others into agreement or alignment with one’s position or belief”) (Bormann and Campt 2003, n.p.). Dialogue has goals different from those of other conflict resolution processes analyzed in this volume: where negotiation seeks to reach agreement on a specific decision, and consensus building serves as the framework for ensuring that decision making is collaborative and efficient, the goals of dialogue are more focused on building long-term mutual understanding by:

- bringing assumptions out into the open and encouraging people to reflect on their personal experiences and how those experiences shaped their viewpoint;
- creating equality of communication/exchange among participants; and
- encouraging multiple perspectives and fostering understanding of others’ viewpoints (Bormann and Campt 2003, n.p.).

Sites of Conscience seek to foster “civic dialogue,” defined by Animating Democracy, an organization supporting arts-based civic dialogue projects, as “deliberate, sustained, informed communication on complex and multi-dimensional issues that are of concern to multiple segments of a community and that elicit multiple and often conflicting perspectives” (Bacon, Yuen, and Korza 1999, 11–12). Civic dialogue often does result in agreement among conflicting parties on a specific issue. But its main goal is to build greater understanding and communication across differences within a community. This lays the necessary foundation for other conflict resolution strategies and fosters an ongoing capacity for heritage sites and their communities to confront conflict in productive ways over the long term.

Dialogue does not take one form; it is an adaptable approach to a range of challenges (table 1). Sites can use dialogue on a onetime basis to confront a specific conflict that flares up. But dialogue can also be integrated into normal operations,

**Table 1. Diverse dialogue strategies for heritage managers.**

	<b>Challenges/Conflicts</b>	<b>Opportunities and Goals</b>	<b>How to Use the Physical Site and Its History</b>	<b>Dialogue Techniques</b>	<b>Duration and Size</b>
<b>People with direct personal connection to the site or its story: e.g., survivors; people living in the geographic community; people working on the contemporary issues the site raises</b>	<p>People who have had personal experience with the site (e.g., survivors of a secret prison) remain marginalized in the wider society; asserting representation of their story at the site becomes proxy for securing a place/power in the wider society.</p> <p>Groups are in conflict with one another over resources, access to power in the wider society; asserting one group's claim to the site and its history becomes a proxy for asserting their dominance in wider society.</p> <p>Groups are in conflict over a specific contemporary issue or support different political parties; they seek to shape the historical narrative of the site to support their specific agenda (e.g., antecedents of Party X were the sole perpetrators of crimes at this site, so they should now be removed from power).</p>	<p>Use dialogue around a historic site as a new starting point for dialogue on a contemporary issue that is deadlocked.</p> <p>Build new understanding among groups in conflict about the roots of/assumptions behind opposing sides' positions</p> <p>Offer historical perspective on contemporary conflict, providing new ideas for solutions.</p> <p>Offer new tools communities can use to address conflict before it arises.</p> <p>Make the site a lasting resource for communities in conflict, a forum communities can use to address new issues as they arise, offering ongoing resources for addressing different conflicts or diffusing them before they start.</p>	<p>Invite groups in conflict to visit the site together and share their emotional responses to the site, humanizing both the site and each participant.</p> <p>Invite participants to explain how their personal experiences shape their responses to the site, as a starting point for inviting them to reflect on how their personal experiences shape their opinions on the issue in conflict.</p>	<p>Invite groups composed of people with similar backgrounds/perspectives (caucus groups) to the site to share responses, the personal experiences that shaped them, and their contemporary concerns.</p> <p>Use these meetings to build trust between participants and site stewards, and to help stewards better understand issues and perspectives. Then select individuals from each caucus group to participate in mixed-group dialogues to take place with the same participants over time. Use arc of dialogue to build from session to session, from responses to the site to personal experiences to larger issues.</p> <p>Provide opportunities for spontaneous groups to gather on an ongoing basis—e.g., a monthly, facilitated open forum for anyone who expresses a connection to the site—to address new issues around the site and related contemporary issues as they arise.</p>	<p>Option 1: 2–3 hours, including break(s) for food. Periodically for as long as needed (e.g., once a month for 4–6 months). Frequency should allow for reflection and distance between each dialogue without losing momentum; duration should be sufficient to probe issues deeply and build trust among group participants. Ideally 20 participants or fewer for each dialogue; but unlimited number of groups engaging in parallel dialogues. Can offer final/periodic larger forum for up to 100 people in which representative of each group shares key issues discussed in their group and forum participants discuss in small (5 or 6 persons) breakout groups.</p> <p>Option 2: Once per month or according to stakeholder demand and site staff capacity. Ideally 20 participants or fewer for each. Larger group would need to be broken up into smaller groups with facilitator provided for each.</p>

(continued)

	<b>Challenges/Conflicts</b>	<b>Opportunities and Goals</b>	<b>How to Use the Physical Site and Its History</b>	<b>Dialogue Techniques</b>	<b>Duration and Size</b>
<b>Youth/ New generation</b>	Young people do not see relevance of site's history or its relationship to their own experiences; site risks becoming obsolete in a few decades.	Use site as a new resource for young people to identify new issues emerging in their lives today, which are legacies of what happened at the site.	<p>Invite young people to share what they notice about the site and how it makes them feel. Ask if the site and the story of what happens there reminds them of anything they have observed or experienced in their own lives.</p> <p>Identify transcendent issues in the site's history (e.g., discrimination; immigration; struggles over deciding what's fair). Share with young people how people in the site's past experienced or debated those themes. Ask them to reflect on how they are experiencing those issues similarly or differently today, and what ideas from the past (positive or negative) can help them address those issues.</p> <p>Use histories of how people (particularly young people, if possible) organized for change in the past to provide ideas and inspiration for steps youth can take to address the issues they identified.</p>	<p>Partner with teachers and school administrators in order to work with classes over sustained period of time (e.g., one semester).</p> <p>Invite teachers and school administrators to the site first and engage them in sample dialogue, to educate them about the site's history, understand their perspectives/positions on related contemporary issues, and familiarize them with how the site proposes to work with youth.</p> <p>Conduct series of dialogues with youth to identify contemporary issues and design potential action youth can take to address them.</p> <p>Use issues identified in youth dialogues to design education program for future onetime school visits that draws connections between the history of the site and concerns of youth today. Can train youth who participated in intensive program as guides/educators.</p>	<p>Intensive program: 4–6 sessions (2 hours each).</p> <p>Onetime visits: duration of average school visit to site (e.g., 1–2 hours).</p> <p>20 participants or fewer (if classes are larger, break up into multiple groups).</p>
<b>Tourists/ Walk-in visitors</b>	<p>Tourists/walk-in visitors represent the largest number of visitors to most sites. Through "voting with their feet," blogs, reviews, and other means, they can be the most influential critical voices about a site, yet are often the least knowledgeable or connected to it.</p> <p>Some who visit the site as tourists/walk-in visitors may in fact have deep personal connections and highly emotional reactions to the site; without providing space for them to share their experience, there is a risk these people will be deeply offended by something at the site and express strong criticism. Identify debates that took place in the past that relate to debates in present; invite reflection on those debates and what lessons, new perspectives, or potential solutions they offer for today.</p>	<p>Provide constructive forum for visitors to voice feedback.</p> <p>Gather ongoing feedback to improve site experience.</p> <p>Build deeper engagement in site and its issues with potential supporters.</p> <p>Provide resource for people to address important social issues in their own communities.</p>	<p>Highlight universal themes and questions the site raises that could relate to issues in visitors' home community.</p> <p>Highlight individual human stories of the site; encourage visitors to imagine themselves in the shoes of those who were at the site, to build empathy with their experiences.</p>	<p>Integrate open-ended questions in tours and/or exhibit text; offer opportunities for visitors to respond by writing or "voting" in a way that is visible to other visitors.</p> <p>Offer facilitated public dialogues at the conclusion of tours. Dialogues must be voluntary and should be marketed in an approachable and understandable way (e.g., "Kitchen Conversations," "Lekgotla").</p>	<p>Tours and exhibits: unlimited participant size and duration.</p> <p>Public dialogue programs: 20 participants or fewer; 1 hour.</p>

offering an ongoing forum for diverse stakeholders to grapple with questions or misunderstandings as they arise. The US National Park Service, for instance, mandated “civic engagement,” a “continuous, dynamic conversation with the public on many levels,” as an integral part of site management (US National Park Service 2003, 1). Offering ongoing opportunities for dialogue can be extremely effective for identifying issues early and addressing them before they escalate into full-blown conflicts.

## Common Components of Dialogue

While dialogue can take a wide variety of forms, there are certain structural elements that are essential for successful dialogue at heritage sites.

1. **Set expectations and agreements first.** Whether you are planning a one-hour dialogue or a series of sessions over the course of a year, it is critical to take the time to establish the purpose and parameters. With ample time, agreements can be generated by the group; otherwise, they can be suggested by the facilitator with an invitation to anyone in the group to amend them. Agreements can include the following:
  - a. *Why are we talking? What are we talking about?* In a heritage site setting, people often expect to talk only about the site’s history, management, or conservation. But in order to address the conflict at hand, facilitators will often engage participants in a wider range of topics. Facilitators should explain why. For instance, gathering participants’ personal experiences with the site’s history will help us better understand our varying perspectives on the central issue, and soliciting their opinions on related contemporary questions will help us better understand the issues underlying the immediate conflict. This will ensure participants do not see these topics as distracting side issues and are comfortable placing themselves in the hands of the facilitator.
  - b. *Who is the facilitator(s) and what is his or her role?* In a heritage site context, where site staff includes historical experts, participants may expect the facilitator to serve as an authority who will adjudicate disputes with facts. Facilitators at heritage sites should clearly describe their role and what participants can expect of them: that they are there to guide the discussion, to ensure that everyone has the chance to speak, and that participants understand one another.
  - c. *How will we communicate?* A key principle of dialogue is that all participants are invited to contribute on equal terms. In a heritage site setting, participants often assert themselves as historical experts because of academic training; others may assert special authority based on their firsthand experience with the site. Facilitators should clarify that in dialogue, book learning and personal experience are both valued as knowledge. Facilitators should also establish guidelines for respectful speaking and listening, such as “keep your comments brief so others have the chance to contribute,” or “wait until someone else finishes speaking before you start.”
  - d. *Where will we have the discussion and for how long?* Make sure people understand the different components of the dialogue experience and how long each will be; for example, “We will begin with introductions for fifteen minutes, followed by a one-hour tour of the site, concluding with a



one-hour discussion.” Make sure they know where the bathrooms are, where to get water or other refreshments, and when there will be formal breaks.

2. **Develop an “arc” of dialogue.** Dialogue, as opposed to other forms of communication or conflict resolution, focuses on helping people to deconstruct their opinions on an issue, on surfacing the assumptions behind their opinions by exploring the life experiences and other learning that formed these opinions. Dialogue therefore begins with sharing personal experiences and uses these as a resource for subsequent discussion of larger questions. In a heritage site context, dialogue also needs to help people use their reflections on the history of the site, to reflect further on personal histories, and to have more productive discussions of divisive present-day issues. To this end, effective dialogues at heritage sites move in a stage-by-stage process, or arc. Facilitators at the Lower East Tenement Museum, for instance, use an arc of dialogue in their Kitchen Conversations program (see sidebar, p. 167), discussed below. These arcs help participants progress from comfortable questions to more challenging ones; from personal experiences to divisive larger issues; and from past to present to future. Whether used over one hour or several months, dialogue arcs include the following steps:
  - a. *Community building/introductions: Where are we all “coming from”?* Begin with nonthreatening “icebreaker” questions that break down artificial barriers between people by providing participants with opportunities to teach about themselves and learn about others.
  - b. *Common experience of the site.* Any dialogue about the site and the issues it raises should begin with a common experience at the site. Even if you believe your participants are already familiar with the site and have nothing more to learn about it, it is important that the group experience it together as the basis for the dialogue to come. All sites have emotional power as well as intellectual content, and participants have plenty to learn about how each of them responds to the site differently. Facilitators should solicit responses to the site during the tour that tap into the personal or emotional connections to the site—as opposed to professional or intellectual ones—with questions such as “What place in the site, or what story, is most meaningful to you and why?”
  - c. *Sharing the diversity of personal experiences.* Questions during this step invite participants to reflect on their personal responses to the site and how they may be informed by experiences from their own lives, giving examples of these life experiences. Questions should be open ended; there should be no implied hierarchy of preferred responses. Questions should welcome and encourage the group to share different experiences, not just similar experiences.
  - d. *Exploring issues of shared concern and visions for change.* At this stage, the facilitator can use the reflections from the discussion thus far as the basis for exploring the broader, more contentious contemporary issues.
  - e. *Identifying action steps to address issues.* In the concluding section, facilitators solicit ideas for concrete actions participants can take as individuals and as a group to realize the change they envisioned in the previous section. Actions could range from extremely small-scale steps to more sustained engagements. In a one-hour, onetime dialogue, participants might simply state a personal commitment to take a particular action when they leave the

## Lower East Side Tenement Museum: Arc of Dialogue for Kitchen Conversations

### Setting the Tone: Explaining the Purpose (approx. 2 minutes)

A Kitchen Conversation is an opportunity to continue learning from one another after your tour of 97 Orchard Street. We invite you to share your own experiences and to explore questions, ideas, or issues the tour may have sparked for you about the experiences of immigrants today.

### Setting the Tone: Introducing the Agreements and the Facilitator's Role (5 minutes)

Although (or because) most of us sitting around this kitchen table may not know each other very well, there's a great deal we can continue to learn from each other. As your facilitator, my role will be to guide this conversation, to offer questions for you to reflect on together, and, from time to time, to share my own observations about the issues we're discussing.

To help us get the most out of this Kitchen Conversation, I'd like to share some simple guidelines that I will use to facilitate this conversation. Would anyone be willing to read an agreement aloud? [Review agreements.] Is there anything you would like to add to this list? [Make any necessary adjustments to agreements.] Is everyone comfortable with these basic agreements? Great. Let's get started.

### Icebreaker Question (5 minutes)

Let me invite you to introduce yourself and tell us what you say when people ask you where you are from. Why do you answer this way?

### Exploratory Questions (20 minutes)

Did the stories of the families on 97 Orchard Street give you any new insights about how life might be for immigrants today, or how it could be different? If so, can you share these insights with us?

### Experience Question (10 minutes)

Based on what you know through personal experience and other knowledge, how did the tour of 97 Orchard challenge or confirm your beliefs about immigration today?

### Action-Oriented Questions (15 minutes)

Based on the immigration issues we've discussed, what changes would you like to see happen in your community? What can you do to help these changes occur?

### Conclusion and Handout (approx. 2 minutes)

The Tenement hosts the Kitchen Conversation program because we believe in the power of dialogue in creating a space for our visitors to explore the beliefs that they and others have surrounding today's immigration debate. More importantly, we hope that such exploration leads our visitors toward playing a more active role in shaping these issues. This pamphlet is something that the Tenement developed to give you some ideas about how individuals—some historical, some contemporary—have been inspired to create change.

Thanks for exploring your thoughts with us today.

historic site. In a dialogue that takes place over a longer period of time, the group could decide on an action to take together.

3. **Provide opportunities for dialogue over the long term.** Dialogue is a flexible tool that can be integrated into heritage management practice on an ongoing basis in a variety of ways. Heritage sites will always encounter new conflicts, as the social issues underlying conflicts over heritage management are always evolving and taking new forms as generations pass. Building dialogue into the institution's work gives the site, and its stakeholders, a permanent resource for addressing each new problem as it arises.
4. **Don't discount tourists as dialogue participants.** Although the World Tourism Organization's Global Code of Ethics celebrates "tourism's contribution to mutual understanding and respect between peoples and societies," most heritage sites treat their visitors as passive consumers rather than potential

actors in the issues and conflicts with which sites are struggling (United Nations and World Tourism Organization 1999). But any group of tourists wandering through a site may include people with a variety of relationships to its history, such as immediate survivors; descendants of people with direct experience; people with a related experience in their own country; or people with no immediate personal experience at all but who live in a place where similar issues are being debated. All these people have great potential to become invested in the site in ways both positive and negative for heritage managers. For most sites, walk-in visitors or tourists make up the majority of their audience. To limit critical discussions to a small number of people defined as true stakeholders, even if—or especially if—these issues were the source of conflict, would be to isolate the site from potential support of its majority audience while opening it to potentially damaging criticism. Many Sites of Conscience have begun to develop a concept of “conscience tourism,” designing creative ways to engage tourists in the issues surrounding the site by integrating dialogue into the regular site visit. These approaches to dialogue must be completed in the time of an average tourist’s site visit and with a group that is not prepared in advance to engage in deep debate on difficult issues. Despite the short time frame, the core structure of dialogue described above remains. But these dialogue experiences have more limited goals: to raise the questions the site and its communities are facing; to offer the opportunity to reflect and exchange perspectives; and to offer people ways of continuing the dialogue by remaining involved in the site over the longer term.

### **Case Study: Lower East Side Tenement Museum, New York City**

*The Site:* The Lower East Side Tenement Museum preserves a five-story apartment building, home to more than seven thousand immigrants from over twenty different nations between 1863 and 1935, when the apartment building closed. The museum carefully researched who lived in the building at different moments in time and re-created these immigrant families’ apartments to look as they did when they lived there. “Behind every door is a family with a different religion, a different language,” founder Ruth J. Abram explained. She hoped the museum would “stand as a vibrant beacon for tolerance” (fig. 1) (Seitz 2004, 11).

*The Conflict:* The museum had to choose which families’ stories to tell and which apartments to re-create. Initially, the museum chose to represent families from different ethnic and religious backgrounds, hoping to promote values of diversity and harmony. This strategy did not have the desired effect; in fact, it inspired conflict. Different immigrant groups living in the neighborhood each protested publicly, with different rationales, that their ethnic group should have more representation in the museum. The battle over representation in the past was directly tied to battles over resources in the present day. Two groups in particular, one representing Chinese families and another representing Jewish seniors, were deadlocked in a battle over the rights to build housing for their constituents on the last available land in the neighborhood. Identity and interest combined: these groups believed laying claim to the neighborhood’s historic identity—by painting the neighborhood as “historically Jewish” or “historically Chinatown”—would support their claims to space there in the present.

**FIGURE 1**

The Levine apartment, one of the apartments of former immigrant residents of 97 Orchard Street restored by the Lower East Side Tenement Museum. This apartment remembers a Russian Jewish family who operated a dressmaking factory out of their 325-square-foot home. Their story raises enduring questions about immigrants and labor that are still relevant in a neighborhood rife with sweatshops.

Photo: Battman Studios.



In this conflict was one opportunity for connection: the groups shared a common value in their commitment to preserving and celebrating their heritage through conserving the neighborhood's built environment. This shared value presented an opportunity for the museum to manage the conflict directed toward the museum itself over how the site should be preserved and to use its heritage site as a resource for addressing the deeper conflict between these two groups.

*The Stakeholders:* The museum reached out to the leaders of the two organizations that had protested the most. But rather than bringing together only those two entities, which risked a standoff, the museum also invited nearly a dozen community leaders, including the heads of organizations representing African American, Puerto Rican, and other groups. These leaders were important decision makers and relationship brokers in the community, with the authority to mobilize public protest or support and to encourage peace or conflict between their constituencies.

*The Dialogue Strategy:* This was not a conflict that was going to be resolved by agreeing on any specific action in the museum. First, the museum's research indicated that, while the neighborhood was heavily Chinese today and an area to its west had been so since the late nineteenth century, no Chinese families ever lived in the particular building the museum preserved. Second, even if the museum decide to break its preservation protocols and interpret the story of a family who did not live in the building, the conflict between these groups ran much deeper; a preservation concession by the museum would not address the underlying cause of the problem, and the museum would be sure to encounter many additional criticisms of a similar nature over time. This was a conflict, then, that called for long-term dialogue on underlying issues, as opposed to immediate and direct negotiation of a circumscribed disagreement.

For this reason, the museum decided to broaden the topic of discussion from the interpretation at the museum, which was far from the only historic structure in this richly textured neighborhood, to how to build collective responsibility for creating a neighborhood-wide strategy to conserve and represent the diverse histories of the

many groups living on the Lower East Side today. The museum dubbed the initiative the Lower East Side Community Preservation Project.

About twelve community leaders were invited to gather at the museum approximately once a month for two to three hours. There was no limit set to the number of sessions that would be held; it was considered an ongoing project. Community leaders were joined by two or three museum staff members, including the museum's architectural preservationists. Meetings were held in the evenings; food and drink were provided.

The first three or four sessions were carefully designed to move in stages from sharing personal experiences to addressing larger issues, to develop communication and trust among the group that would facilitate future collaboration. The first session began with a tour of the museum (many who criticized the museum had never visited it), focusing on the individual stories of immigrant families who lived in the building at different moments in time. The tour was followed by a dialogue between community leaders facilitated by a museum educator. Participants were asked to interview each other in pairs about their personal histories on the Lower East Side, and introduce their partner and their partner's history to the rest of the group. The facilitator then asked all participants to reflect on how their experiences compared with one another's and with those of the people interpreted at the museum. The facilitator guided the group in identifying commonalities and differences (fig. 2).

In the next meeting, the facilitator invited the group to break up into groups of three or four. Each group was asked to identify two or three places in the neighborhood that were particularly historically resonant for them or their communities and explain why. The groups began creating a map of neighborhood places whose histories had not been told.

Only in the third meeting did the facilitator invite the entire group to begin to reflect and discuss the issues that were points of conflict in the neighborhood today. The facilitator began by revisiting the map and asking participants to share what

**FIGURE 2**

Community leaders representing the neighborhood's current immigrant and migrant groups were invited to step into the homes of immigrants past and reflect on similarities and differences with their own experiences.

Photo: Keiko Niwa.



difference it would make if more people understood the histories of these places today—what current issues or conflicts the perspective and knowledge of these places could help to address.

The group agreed to work together to preserve and interpret these sites, calling themselves “Community Preservationists.” They chose to begin with a “slave gallery” in St. Augustine’s Episcopal Church, a segregated space where people of color were forced to sit even after the official abolition of slavery in New York. While the story was rooted in the neighborhood’s African American community, the experience of marginalization and exclusion was one that resonated powerfully with many of the other communities. The group agreed to collaborate across ethnic and racial lines and work to open the space as a center for education and dialogue for diverse neighborhood groups. The museum raised funds for its preservation architects to work with the church and the rest of the Community Preservationists to conduct a preliminary restoration of the space. Over a series of sessions, community leaders were trained to facilitate dialogue in cross-ethnic teams, using a tour of the slave gallery as the starting point for dialogues between different neighborhood groups on experiences of marginalization and exclusion and how they could confront that exclusion together. The group also collaborated with museum education staff to develop a new neighborhood walking tour that included the places identified by community leaders, histories researched by the museum’s curatorial team, and community leaders’ personal recollections of the places and why they matter today.

During the process, the museum was also able to build a more productive exchange about the museum’s own heritage management. The museum shared with the Community Preservationists the process by which the museum chooses which family stories to interpret in the building. In particular, it was able to communicate that as a historic site, the museum tells only stories of what actually happened at that site. While both the Jewish and Chinese communities are indeed extremely important to the history and the contemporary life of the neighborhood, by pointing to census reports and other data, the museum was able to demonstrate that Jewish families were only one of the many ethnicities that lived in the building and that there was no record of a Chinese family ever living there. In their dialogues with museum interpretive staff and preservationists, the Community Preservationists appreciated that historic sites must tell the stories of what actually happened at their places, even if those stories conflict with the images or desires of contemporary communities. This was critical for mitigating the original conflict between Jewish and Chinese community groups over what histories should be preserved. The Community Preservationists, for their part, educated museum staff about enduring and universal themes and issues, such as coping with exclusion. While these dialogues did not change which family stories were interpreted (that choice needed to be based on the data of who actually lived in the building), they did guide *how* the museum told those stories: which of the family’s experiences to focus on and what kinds of struggles in their lives were most resonant with diverse communities today. In addition, the Community Preservationists identified other sites and histories in the neighborhood about which the museum should educate its visitors.

The Lower East Side Community Preservation Project resulted in the preservation of a new site and the identification of several others; a new walking tour; and twelve new community leaders trained in facilitating dialogue across difference. But it also resulted in new collaborations between community leaders, initiated by them independently, on some of the divisive issues the museum had observed

before the start of the project, including conflicts over housing and access to schools.

*The Ongoing Dialogue/“Conscience Tourism” Strategy:* Beyond the museum’s geographic community, “tourists” to the Lower East Side Tenement Museum include immigrants, the children and grandchildren of immigrants, and people from cities with immigrant populations from around the world. Tour guides noticed that huge numbers of visitors shared their experiences with immigration and voiced strong opinions during tours. These comments took the form of criticism or praise for the museum’s interpretation and preservation choices, for the experience of walking or shopping in the museum’s immigrant neighborhood, and even for other visitors. Guides were not trained to deal with these comments, and there was no format to address them in a respectful and productive way or to facilitate exchanges between visitors. However, they had a tremendous opportunity to create such a format, as the museum is accessible only by guided tours of no more than fifteen people.

In response, the museum redesigned its tours to integrate more open questions about immigration experiences past and present, and retrained its guides to facilitate visitor discussion of these questions while continuing to impart historical information about the site. In addition, it created Kitchen Conversations, a two-hour tour program that begins and ends with dialogue in a small, comfortable room decorated to appear like a kitchen, with mismatched chairs surrounding a common table full of snacks and drinks. The program begins around the “kitchen table,” with participants introducing themselves and sharing their personal connections to immigration. Having established a level of trust and awareness of the varying perspectives in the room, the guide conducts a tour of the building that draws connections between the building’s history and people’s personal experiences, and raises questions about preserving immigration history and its relevance for the present day (fig. 3).

After the tour, visitors are invited back to the kitchen table to reflect further on what they learned on the tour and how it relates to immigration issues their fami-

**FIGURE 3**

In Kitchen Conversations, walk-in visitors from around the world share their responses to the immigrant stories they heard on the museum tour and reflect on their diverse experiences with immigration in their own communities. Trained facilitators guide the group from reflection on personal experiences to discussions of larger immigration issues.

Photo: Greg Scaffidi.



lies or communities are facing now, and what could be done about them. At the end of the program, visitors are given a brochure titled “10 Ways to Make a Difference,” with information on how to become more involved in the issues discussed in the program, as well as in the museum itself. Museum staff members have found that the program provides opportunities for visitors to share different perspectives on the museum’s heritage management as well as the larger immigration issues underlying it. For example, simple comments about whether the re-created apartments appear too clean or too dirty inspire discussions not only about why the museum chose to represent the family’s environment that way but also about enduring stereotypes of immigrants as dirty, or the challenges of keeping clean in the polluted environments available to impoverished people. Visitors have the opportunity to hear different perspectives on the site that often mitigate their own opinions, while gaining an outlet for their voices to be heard and addressed by museum staff. For their part, museum management receives ongoing critical feedback on its activities that can be used to continually improve its work. More significantly, though, the museum is providing a unique civic forum in which visitors have the chance to engage with critical social issues they have the power to shape.

### Case Study: Constitution Hill, South Africa

*The Site:* In 1995 the justices of South Africa’s new Constitutional Court decided to build the post-apartheid court right on the spot where justice had been most denied in the past: the Old Fort Prison in Johannesburg. This prison once symbolized the worst of the apartheid regime, holding both Mahatma Gandhi and Nelson Mandela for their opposition to the racist state. Beginning just one year after the end of apartheid, over the next decade the abandoned ruins were transformed into “Constitution Hill,” a massive, multipurpose complex that includes preserved prison buildings, a museum, the court, and space for human rights NGOs (fig. 4).

**FIGURE 4**

Schoolchildren make their way toward South Africa’s new Constitutional Court after visiting the Old Fort Prison, part of which (the brick-and-metal structure) is seen behind them. After discussing prisoners’ struggles for justice under apartheid, students explore the new questions of rights and wrongs before the court today.

Photo: Oscar G.





*The Conflict:* This case study explores the role of heritage sites in addressing broader social conflict over the long term. The public feedback process undertaken to guide the development of Constitution Hill revealed several social issues that might be addressed in the preservation and interpretation of the site. Impacting the project most directly was a sort of shift from political to economic apartheid that was decimating Johannesburg and other urban centers, caused in part by an exodus of white-owned businesses and residents. This inspired the Johannesburg Development Agency (JDA) and other entities to invest in the Constitution Hill project as an inner-city economic-development project, one that literally and symbolically sought to combat new forms of segregation emerging in the new South Africa.

The JDA hired a heritage and education team, including museum professionals, preservationists, and survivors, to conserve and interpret the Old Fort Prison as a historic site. Consultations were initiated with diverse stakeholders who raised issues such as the unfinished nature of the transition to democracy, the fear of change among many South Africans, and the tension between building a celebratory history of the anti-apartheid struggle and a critical/analytical one, which impacted on their ideas of whether the site should be preserved. In this context, the team decided to resist a finalized, conclusive story of the prison and its meaning today. Instead, it sought to develop exhibits and programming that would offer South Africans an ongoing space to grapple with the very difficult issues of change they would continue to face in every new stage of their nation's history.

*The Stakeholders:* Different stakeholders were involved in different stages and aspects of the project. To develop the initial vision for the site, the team was determined to include the voices of people with a variety of connections and perspectives with the site, both in the immediate vicinity and across the country. They launched a "We the People" campaign that reached out to three groups of stakeholders: people with a relationship to the area (neighborhood residents); people with a relationship to the site (former prisoners, guards, and workers); and people from diverse communities who held wildly divergent perspectives on the questions of justice raised by the site.

To develop the preservation and interpretation strategy for the prison buildings and yard, the heritage team conducted workshops with five specific groups of stakeholders with direct experience of the site: male political prisoners, women political prisoners, male and female nonpolitical prisoners, white guards, and black guards (fig. 5).

Before any steps were taken toward a master plan, the team opened the site to public feedback. The first step was to develop an open-air exhibit titled "We the People." To create the exhibit, the design team interviewed former prisoners, former guards, and residents of the surrounding areas about their memories of the site and their visions for its future. It also sent teams out to travel the country and ask people how the end of apartheid had changed their lives and what further change they would like to see. Gathering diverse and even contradictory responses, the team created a series of translucent scrims installed along the ramparts of the Old Fort Prison. From the ramparts, visitors could look through the scrims onto the ruins of the prison below—a view never before afforded to the public. On the scrims were printed images of the prison in the past, with quotes of people's memories, and projections of what the site could look like in the future, with quotes expressing a range of needs and ideas for the buildings, from housing to heritage

**FIGURE 5**

Former prisoners stand in the doorways of the isolation cells that once held them at the Old Fort Prison. Constitution Hill's "We the People" campaign invited neighborhood residents, former prisoners, and guards to share their memories of the site and their visions for how it could be transformed.

Photo: Oscar G.



to child care. As Nina Cohen, one of the architects on the heritage and education team describes it, "The idea was to superimpose the historical and social issues embodied in the site and new constitution over the physical landscape of the site itself" (fig. 6) (Constitution Hill Foundation 2006, 125).

As the heritage team moved to design the preservation and interpretation of the prison space, it conducted daylong workshops with different groups of people who had lived part of their lives in the space. In addition to gathering visions and concerns, these workshops were conducted to learn about the culture, layout, and rhythms of the place to ensure that preservation and interpretation captured this

**FIGURE 6**

Images illustrating the Old Fort Prison's past and potential future, accompanied by quotes from stakeholders, are printed on translucent scrims installed along the perimeter of the site. Passersby can view the abandoned, undeveloped site superimposed with visions of potential new incarnations.

Photo: Terry Kurgan.



from all perspectives. The workshops identified which significant spaces should be marked and preserved and how certain spaces should be restored. For example, one former group cell now displays prisoners' blankets folded and stacked in particular formations, as these were what defined space, hierarchy, and the roles of both prisoners and guards. This restored a critical part of the site's internal architecture.

The team held workshops with political and nonpolitical prisoners. These workshops revealed a significant difference in their experiences that fundamentally shaped the interpretation of the site. The Old Fort Prison held celebrated figures arrested for their organized resistance; ordinary people who committed acts that were criminalized under apartheid; and people who committed crimes such as murder or robbery that were still against the law in the new South Africa. Whereas places like Robben Island and other new heritage sites were focusing on celebrating leaders who sacrificed for the country's freedom, the Constitution Hill team began to ask: Should all the prisoners' experiences be remembered? What would be gained by remembering them?

The first exhibit on the site profiled a series of different prisoners at the Old Fort. This provoked strong debate, as Audrey Brown, one of the team's content developers, remembers: "Should the story of a murderer be represented alongside far more noble people who had fought for their freedom and been unjustly imprisoned?" (Constitution Hill Foundation 2006, 127). But the "We the People" process had identified the underlying tensions and brewing conflicts about what defined *just* and *unjust* in the new South Africa. The team therefore decided to create an exhibit that would offer an ongoing forum for open discussion of how to define *justice*. Above the profile of the different prisoners hung the question "Who is a criminal?" Visitors were invited to write their responses and post them on a wall of the exhibit.

Constitution Hill, then, used a variety of forms of dialogue to address different heritage management needs, but all followed the same basic principles and structures. Further, they all built on one another to propel the different stages of the site's development. To develop the initial approach to the site, the heritage team conducted individual interviews with stakeholders that built from personal experiences to opinions on larger issues, and compiled contrasting perspectives into the first temporary exhibit on the site. To develop the preservation strategy for specific spaces, the team conducted face-to-face dialogues with diverse "survivors." Finally, to open the site as a space for wider publics to engage in ongoing dialogue on key issues, the team offered both ongoing face-to-face dialogues and opportunities to exchange perspectives remotely, through written responses.

*The Ongoing Dialogue/"Conscience Tourism" Strategy:* First, a "response room" opened at the conclusion of the central site exhibit. The room included an exhibit about the making of the site, focusing on the debates and tensions and the different stakeholders involved. After viewing this "making-of" exhibit, visitors were invited to write a short personal reflection on the site. Reflections were later etched onto a copper plate and mounted on the outdoor walls surrounding the complex, creating an ever-evolving conversation about the meaning of the site for South Africa today.

In addition, after touring the prison museum and its "Who Is a Criminal?" exhibit and touring the Constitutional Court building to observe the justices deciding cases today, visitors have opportunities to debate the issues in an open plaza through Constitution Hill's *lekgotla* programs. *Lekgotla* is derived from a Sesotho word for community councils of Botswana villages in which communities debate

**FIGURE 7**

A student and a facilitator engage in *lekgotla* dialogue. *Lekgotla* takes a variety of forms, including conversations between schoolchildren and former prisoners about questions such as “What are my rights and responsibilities as a citizen?”

Photo: Bamabanani Professional Photographers.



and decide important issues by consensus. Drawing on this cultural memory and reference, Constitution Hill developed a range of structures for modern *lekgotla* on a variety of issues raised at the site. *Lekgotla* structures included conversations between schoolchildren, question-and-answer periods with former prisoners or others with direct experience, discussions between community leaders or policymakers on certain issues, or public discussions on an issue before the court, such as whether homosexuality and gay marriage are constitutional rights (fig. 7).

### Case Study: Villa Grimaldi Peace Park, Santiago, Chile

*The Site:* Following the 1973 coup d'état, soldiers from the Chilean Directorate of National Intelligence (DINA) appropriated Villa Grimaldi, the estate of a wealthy family, and transformed it into military intelligence offices. Villa Grimaldi became one of the epicenters of cruelty and violence of the military dictatorship. Approximately 4,500 political prisoners passed through Villa Grimaldi, of whom four were executed and 226 went missing. As the dictatorship came to an end, military intelligence burned the estate in an attempt to destroy all evidence of its history. Virtually all of its buildings were bulldozed.

In 1996 survivors partnered with the municipality of Peñalolen to found the Villa Grimaldi Peace Park Corporation. Faced with few physical remains, the corporation created a park with a combination of memorials, reconstructions, excavations, and spaces for meeting and reflection. Colorful floor mosaics, created from existing pieces of pavement found at the site, are scattered throughout the park to commemorate the view of the detainees, who were always blindfolded and sometimes only ever saw the ground. A room that was used for creating false documents for the secret police was transformed into a memory room exhibiting photographs and personal mementos collected and arranged by families of former prisoners. Former holding cells, solitary confinement units, and torture cells have been reconstructed

**FIGURE 8**

A mosaic on the grounds of Villa Grimaldi Peace Park in Chile, constructed from broken floor tiles, marking the locations of buildings destroyed by the secret police before they evacuated the site. The inscription is translated as follows: "Birch Tree Patio. Place for cells and the torture of prisoners. On this site prisoners experienced solidarity, loyalty, and friendship."

Photo: Corporación Parque por la Paz Villa Grimaldi.



on their former sites to provide visitors with a physical sense of how the repressions were organized. A small exhibit room displays artifacts related to those who were taken from Villa Grimaldi and other secret detention centers and dropped from helicopters to their deaths in the ocean: railroad ties, clothing buttons, and other personal effects recovered from the bottom of the sea and carefully preserved (fig. 8).

Opinions about whether the repressions took place at all and whether they were justified divide families and communities. Villa Grimaldi staff are particularly concerned about the decrease in civic participation among youth, the main consequence of recent repression of captured and tortured student activists. Other legacies of the categorizing of groups as threats during the dictatorship and public violence against them are on the rise through xenophobia, racism, and bullying in schools.

*The Stakeholders:* Villa Grimaldi is run by a loyal constituency of survivors of the dictatorship, many of whom give tours of the site. While these survivors are still young, site leaders are aware that the site was at risk of becoming irrelevant soon. Surveys revealed that newer generations who grew up learning little about the dictatorship often did not see the connection between this history and their own lives. This new generation's primary environment is the school, where a whole new set of conflicts and violence is emerging. To help ensure the long-term sustainability of the site for future generations, Villa Grimaldi collaborated with local school administrators, teachers, and students (fig. 9).

*The Dialogue Strategy:* Site leaders began by inviting more than a dozen private and public schools, including students from a variety of ethnic, national, and economic backgrounds, to participate in a semester-long project at the Villa. The project started with tours of the Villa in caucus groups of all teachers or school administrators, and of all students. After learning the history of the site, each group sat in a circle in the outdoor "Theater of Life" for an hour-long dialogue on the contemporary legacies of the site. Facilitators asked what experiences of issues raised on the

**FIGURE 9**

Survivors of Villa Grimaldi lead tours of the site, sharing their personal experiences and narrating the larger history of the Pinochet era to raise public awareness and prevent such abuses from recurring.

Photo: International Coalition of Sites of Conscience.

**FIGURE 10**

Youth visitors to Villa Grimaldi Peace Park. Villa Grimaldi invites young people to analyze the mechanisms of exclusion and repression that were in operation during the Pinochet era. That analysis is used to reflect on similar challenges young people face today, such as xenophobia and racism, and identify actions young people can take to address them.

Photo: Corporación Parque por la Paz Villa Grimaldi.

tour are still felt in the school environment today and what form they take. Both groups identified xenophobia and racism against immigrants and indigenous peoples, as well as bullying and violence among students, as major concerns (fig. 10).

Villa educators then designed a new tour for young people that included some of the themes youth expressed as most important to them and offered opportunities for young people to reflect on any relationships they saw between exclusion, labeling, and silencing during the dictatorship and similar phenomena in their own lives today.

In the final phase, facilitators worked with students and teachers on the site to reflect on the range of issues discussed and identify one that they could address together. They brainstormed a collective action or project that they could undertake using the site as a catalyst. The projects began by bringing a larger group of students from the school to tour Villa Grimaldi. The tours were given by a fellow student trained as a guide, and served as the starting point for a dialogue about the project's target issue and as the first step in involving students in a campaign to combat a problem at school, such as raising awareness about immigrant and indigenous cultures or how to speak out against bullying.

## Lessons Learned

These case studies suggest that *dialogue can be a critical tool for heritage management* at many different stages in the development and management of a site, from site identification, to initial management plans, to preservation strategies, to ongoing interpretation and programming. Dialogue works best when it is integrated into the site's ongoing work and when it is used in diverse forms that complement one another. Different audiences communicate in different ways, and different conflicts require different approaches. One size does not fit all.

Perhaps most significantly, these examples also suggest the inverse: that *heritage management can be a critical tool for dialogue*. Heritage sites have unique assets for helping divided communities address some of the most difficult issues they face. These assets include the following:

- The power of place—inviting visitors to literally step into others' shoes helps visitors emotionally connect to the individual human stories of what took place at the site and helps inspire empathy across different experiences.
- The perspective of the past—stories that answer questions such as: How have we confronted these questions before? How did we respond and what was the result?
- The distance of the past—in some contexts, looking at more distant histories can be a safer starting point for talking about related issues that are rawer in the present.

## Debates and Tensions

The International Coalition of Sites of Conscience provides a dynamic space for experimentation on how historic sites can best serve as ongoing resources for confronting conflicts. There are several important, ongoing debates among Sites of Conscience:

- What are the limits of dialogue? Are we advocates or forums? Does inviting multiple perspectives mean legitimizing all sides?
- How can sites balance a goal of creating a space for democratic engagement, where dissent, critical thinking, and questioning are encouraged, with promoting particular truths about human rights abuses that have been suppressed?
- What is the difference between dialogue and controversy, and what is their relationship to conflict? How can you protect yourself from controversy in trying to foster dialogue?
- How do we define and measure success?
- What new training and competencies do preservation professionals now need: dialogue facilitation, trauma counseling, community organizing?

## Promise for the Future

Heritage sites have the opportunity to play a critical social-mediator role in their communities, serving as new spaces to bring together communities in conflict to address difficult issues over time. Dialogue is a useful and flexible tool for achieving that vision. It helps heritage managers better address conflicts over conservation and management plans and practices and builds deep community commitment to heritage sites as trusted community forums. Integrating dialogue practices may require new training and new structures at heritage sites, but it has the potential to transform these sites from marginal attractions into thriving, new centers of civic life.

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### Commentary

Liz Ševčenko's paper adds an important dimension to the focus of this publication: the use of cultural heritage places to address current or ongoing issues that are linked to these places by engaging visitors and stakeholders in history. The International Coalition of Sites of Conscience challenges us to think more deeply about the importance of cultural heritage to contemporary society, and to wrestle with the diverse range of identities and values that usually lies at the core of heritage. Its work also highlights the importance of and strategies for dealing with differences in views about heritage that go beyond a tangible set of negotiable issues.

This paper is a valuable supplement to the section on dealing with values and identities in the background paper "Consensus Building for Cultural Heritage Place Management," by Stacie Nicole Smith in this volume. The methodologies and examples described are highly innovative, informative, and adaptable in many contexts. Sites of Conscience engage with the public as a defining purpose not only to resolve disputes but also to foster democratic participation. By seeing all visitors as stakeholders, the Sites of Conscience might also increase the relevance of heritage sites to modern citizens, and thereby broaden the base of advocates willing to stand up for their protection in the face of other priorities.

The examples offered demonstrate excellent examples of stakeholder identification and assessment, trust building, overcoming assumptions, collaborative framing of goals, joint fact finding on site history, and joint development of interpretation and presentation for the sites. The case of the Lower East Side Tenement Museum shows the transformation of a zero-sum dispute over who will be commemorated



most into a collaborative exploration of joint concerns and mutually valuable actions. The author notes that, at the outset, the interests and identities of stakeholders are intertwined. Through dialogues, the groups involved seemed to disentangle these, and even transcend them, to focus their efforts on commemorating the history of a third disempowered group. The framework we present separating interests, values, and identities might also be useful in situations such as these, as an analytic tool within the dialogue process.

The dialogues promoted by these sites have value in themselves. They may also enrich the site's interpretation by fostering outcomes that integrate multiple narratives into a site's presentation. And yet, there are times when decisions have to be made, trade-offs explored, and conflicts resolved. In these situations, following dialogue with mutual gains negotiation may be helpful.

# Conflicts and Challenges Associated with Heritage Tourism

*Eugenio Yunis*

## **Abstract**

To navigate the benefits and challenges of heritage tourism successfully, communities must recognize the varied interests and values of heritage advocates, the tourism sector, and residents. This paper draws on three examples that demonstrate the ways in which heritage and tourism can come into conflict: Lumbini, Nepal; the Alhambra in Granada, Spain; and, most specifically, the historic quarter of Toledo, Spain. In the case of Toledo, economic and social factors contributed to the decline of the district at the same time as its popularity as a tourist destination was on the rise. The complex and competing interests and goals of various stakeholders suggested the need for an effective approach to the renewal and management of the district. In conjunction with the development of a special plan for the historic quarter, a process was designed that effectively supported decision making across public agencies and their constituencies.

## **Introduction**

Tourism activity at heritage places has existed in some form for centuries. With the advent of economic progress, democratization processes, the widening of consumption patterns to encompass all layers of the population in developed societies, the spread of mass media communications, and other influencing factors, heritage tourism—formerly an activity implicitly reserved for the elite—has grown rapidly in the last few decades around the world into an (often) mass form of tourism, with all the attendant advantages and disadvantages.

A number of benefits can be derived from tourism at heritage places, including the following:

1. Greater awareness and concern among national and local authorities for the conservation and upkeep of heritage sites, in view of the tourism-related economic value of the site
2. A wide range of employment and entrepreneurial development opportunities in tourism-related businesses, including those associated with the tourism supply chain and the corresponding economic benefits for the surrounding communities
3. Generation of financial income for the heritage site, allowing for improved management, conservation, and restoration work, as well as further in-depth academic research
4. Prevention of looting and abandonment of the sites, especially when they are in isolated areas

5. Greater awareness among both the local community and visitors regarding the values of the site and the need for its conservation

The list of potential negative impacts, however, is comparatively long and includes the following:

1. Damage to the site's structure and fabric if tourism grows without adequate regulation and control
2. Overcommercialization of the site's surroundings and/or neighboring towns, with a potential focus on tourism-related activities and abandonment of traditional economic activities, resulting in overdependence on tourism
3. A loss or even disappearance of local religious values and beliefs, cultural traditions, lifestyles, and other intangible values of the site or the community behind it
4. A loss in the quality of the heritage visit affecting all types of tourists, especially those genuinely motivated by the site's cultural, historical, and/or spiritual values
5. Marginalization and sometimes ejection of the local population, especially the poor and indigenous segments, if they are not fully involved in the tourism process
6. Rise of property prices in the vicinity of the site and potential expulsion of traditional residents and trades from the area
7. Overconstruction of new residential and commercial buildings, hotels, shopping centers, restaurants, and other tourism-related infrastructure, with subsequent damage to the local natural and/or cultural landscapes and possible environmental damage

The need to maximize positive results and minimize negative impacts has become one of the great challenges of heritage tourism today. Differing values, interests, expectations, hopes, and priorities among the numerous stakeholders interested in or concerned about heritage can create conflicts that eventually may pose threats to heritage preservation.

Most commonly, conflicts occur in relation to the following main issues:

1. Development of the site for tourism purposes, including buildings to accommodate, feed, and offer other services required by tourists
2. Unlimited growth in the number of tourists visiting the site
3. Access to the site and the related transportation infrastructure
4. Interpretation of the site for tourists
5. Overall management of the site
6. Distribution of the economic benefits derived from tourism

Resolution of conflicts requires the development of specialized approaches, as well as the intervention of a wide range of public and private actors.

A first step is identifying the stakeholders who may be directly or indirectly affected by heritage tourism and thus should be involved in solving conflicts related to it. In most cases, these stakeholders are as follows:

1. Cultural heritage authorities, including policymakers and public administrators responsible for archaeological and cultural sites, museums, and other heritage resources
2. Heritage site managers and associated staff

3. Local residents and communities living close to heritage sites. In many locations, there is a need to distinguish between various groups, each with its own set of values and inhabiting the same territory, through characteristics such as religion, ethnicity, or income level.
4. Local authorities of the territory in which heritage sites are located, including the local administrations responsible for urban planning, tourism, culture, education, policing, safety and security, transportation, and waste management
5. Local and foreign outbound tour operators promoting and marketing the heritage tourism destination
6. Incoming tour operators managing tourists while they are at the destination
7. Local and foreign owners/managers of tourist accommodations and catering establishments
8. Tourism transport providers
9. Guides and tourist information providers

Examples from a number of heritage tourism destinations can help to illustrate how some conflicts have arisen, how they have been dealt with, what results have been achieved, or, alternatively, how such conflicts have deepened.

### The Alhambra, Granada, Spain



**FIGURE 1**

A tour group at the Court of the Myrtles at the Alhambra. Implementation of a special plan for the Alhambra has greatly improved the experience of visitors to the site.

Photo: Gail Ostergren, 2007. © J. Paul Getty Trust.

The Alhambra, a spectacular fourteenth-century Moorish fortress and palace complex in Granada, is one of Andalusia's major cultural tourism attractions. Through the development and implementation of a special plan, the site's managers succeeded in doubling the number of visitors in some sixteen years (to more than three million per year by 2008). This was accomplished by introducing a number of infrastructural improvements, transport-related measures, and visitor management plans, while simultaneously improving visitors' cultural and intellectual experience and the economic benefits for continuous conservation works (fig. 1) (Junta de Andalucía 1986; Troitiño Vinuesa 1999).

The managers of the Alhambra understood that the conflicts and ensuing challenges were not between tourism in general and an abstract demand for conservation of the site. The overall imperative was to maintain the cultural values and meanings of the site while enhancing its use and enjoyment by visitors, which mass tourism and uncontrolled access were preventing. In doing so, the managers realized they needed the cooperation of city authorities and of tourism and transport operators, as well as the support of policies that view tourism as a factor of sustainable development rather than as an opportunity for (short-term) economic growth only (Troitiño Vinuesa 2000).

### Lumbini, Nepal

Lumbini, birthplace of the Buddha, has seen impending conflicts from increased tourism activity. The town is one of the most important Buddhist sites in the world and therefore is a major tourist destination for pilgrims and nonreligious visitors alike. Lumbini is, however, inhabited and surrounded by a non-Buddhist population, which has become a major impediment to its conservation and sensitive tourism development, given the key role that community involvement normally has—or



**FIGURE 2**

A devotee stands before the Pillar of Ashoka in Lumbini. In Lumbini, development for tourism must be balanced with the needs of religious pilgrims.

Photo: Tevaprapas Makklay, 2007. Courtesy Wikimedia, licensed under Creative Commons Attribution 3.0 Unported.

should have—in managing heritage. As a result, there is a high potential for conflicts between the local people—in the seven surrounding villages, some 67 percent professed the Hindu religion and 32 percent the Muslim faith in 2005—and tourism operators and authorities who are using tourism as an effective tool for economic progress in the area (Nyaupane 2009, 165).

There is, therefore, a risk of transforming Lumbini into a destination mainly for tourists, shifting the local population into a wide range of profitable, tourism-related economic activities and making it into a popular tourist destination similar to those elsewhere, such as Vatican City and Assisi, Italy; Avila, Spain; Canterbury, England; and Varanasi, India. The continuation of this trend and its commercial success would mean destroying Lumbini's religious and spiritual values and alienating it in the eyes of the followers of Buddha (fig. 2).

Lumbini illustrates some of the complexities of managing religious heritage places located in multifaith, pluralistic societies where there is the potential for conflicts between different religious groups. The results are an irregular, disproportionate involvement of locals in tourism activities and an unequal distribution of benefits.

## The Historic Quarter of Toledo, Spain

The historic city of Toledo provides a good example of a site that has made heritage conservation compatible with both residential redevelopment and tourism activities. Capital of the Castilla–La Mancha autonomous community in the central region of Spain, Toledo is situated on top of a promontory surrounded by the Tagus River. Few cities can embody the harmonious encounter and coexistence of several cultures and artistic styles from prehistoric times to the present as fully as Toledo does. Traces of Roman, Visigoth, Muslim, Jewish, and Christian civilizations can be found within the walled historic center. In Toledo's historic quarter are 103 registered monumental buildings, 281 houses with recognized and certified heritage value, and 440 buildings with special-interest elements (Busquets 2000, 370). Toledo's rich patrimony and cultural interest, its proximity to Madrid, and its easy accessibility from other regions of Spain have made it an important tourist destination; indeed, tourism-related commercial and service industries are a major sector of the city's economy (fig. 3) (Troitiño et al. 1998, 305; Montero Lorenzo, Fernandez-Aviles Calderón, and García Centano 2010, 163).

The main issues here are the actual and potentially escalating abandonment and decay of heritage-rich residential buildings in the historic city center due to several factors, including the impact of a growing number of tourists and tourism-related businesses. During the 1970s and 1980s, partly as a result of the overall economic improvement in Spain, the city of Toledo suffered from a series of problems in its urban structure:

1. Loss of population in its historic quarter (from about 30,000 inhabitants in the 1950s to 13,599 in 1996), with intensive migration toward newly built housing outside the historic center and in neighboring suburbia (Busquets 2000, 361)
2. Deterioration of the quality of life in the city center due to the disappearance of a number of resident-serving services such as schools, cinemas, and retail shops; the increase of automobile traffic on narrow streets; and the absence of suitable access roads and parking areas for newly acquired private cars (fig. 4)

**FIGURE 3**

The walled historic center of Toledo is one of Spain's great monumental ensembles and a popular tourist destination.

Photo: J. Sciupac, 1993. © J. Paul Getty Trust.



3. Removal of ancient residential buildings that had architectural heritage value but were in poor condition, replaced with new, modern construction of relatively low quality and designed in different, incompatible styles
4. Addition of numerous TV antennas on top of old buildings, street commercial signs of all kinds, and other disturbing elements that affected the aesthetics of heritage buildings
5. A general rise in construction height, resulting in alteration of the city's urban landscape

**FIGURE 4**

The increase in automobile traffic on Toledo's narrow streets, combined with inadequate parking facilities, has created serious pedestrian safety and traffic congestion issues.

Photo: Gail Ostergren, 2007. © J. Paul Getty Trust.



At the same time, a massive flow of visitors began descending upon Toledo as domestic and international tourism grew at a rapid pace in Spain and elsewhere from 1970 to 2000. Tourism added to the impact on the historic city center, with the emergence of many new commercial activities geared to serve tourists, as well as with difficulties in the handling of transport and other services. The quality of the visitors' cultural experience rapidly deteriorated due to rapid tourism growth in the absence of a management plan.

In the mid-1980s, two events triggered local authorities to develop a renovation process for the historic quarter. In June 1985, the central government issued Law 16/1985 on the Spanish Historical Heritage (dated 25 June), which defined categories of historical heritage and established protections and enforcement mechanisms. The law included a requirement that the declaration of a historic district would "entail the obligation for the municipality...to draw up a special plan for protection of the area" (Spain 1985, article 20; Sanz Salla 2009, 164). The following year, the Historic City of Toledo was inscribed on the UNESCO World Heritage List, in recognition of its outstanding universal value.

The process of developing a plan that would meet the requirements of the new law and position the city to take advantage of the enhanced tourism potential brought on by its UNESCO listing formally started in 1991, when a number of professionals and technicians from various public administrations started preparing studies for the Special Plan for the Historic Quarter of Toledo (Plan Especial del Casco Histórico de Toledo). With its emphasis on urban renewal, the special plan is not a tourism plan; however, it recognizes that the historic quarter's fortunes are inextricably linked to tourism, which is "one of the major factors affecting the commercial activity of the historic center" (fig. 5) (Busquets 2000, 359).

In Toledo, there are several layers of public administration with a variety of responsibilities regarding three interrelated issues: urban development, cultural heritage conservation, and tourism development and management. Further, there are the three territorial layers typical of Spain, namely the central Spanish govern-

**FIGURE 5**

Toledo's economy depends on its popularity as a tourist destination. The Special Plan recognizes tourism's importance, but it is not a tourism management plan.

Photo: J. Sciupac, 1993. © J. Paul Getty Trust.



ment, the regional government (Castilla–La Mancha), and the municipal authority. The potential for conflict when trying to implement the special plan was very high; indeed, conflicts between the various public agencies and the different agendas that each of them was responsible for existed even before the plan was formulated.

To prevent such real and potential conflicts, a special public agency, the Royal Trust of the City of Toledo (Real Patronato de la Ciudad de Toledo), was established in 1988 under the high patronage of King Juan Carlos and President José Luis Rodríguez Zapatero. Its membership includes the minister of culture and several other ministers of the central Spanish government, the president of the Castilla–La Mancha region, the mayor of Toledo, the head of the provincial government, the bishop of Toledo, the rector of the University of Castilla–La Mancha, the director of the Royal Academy of Fine Arts and History of Toledo (Real Academia de Bellas Artes y Ciencias Históricas de Toledo), and a representative from the Royal Toledo Foundation (Real Fundación de Toledo).

The trust was created with the recognition that Toledo is one of the main monumental ensembles of Spain. The city's historic center is of great symbolic importance due to the historic coexistence within it of the three large, monotheistic cultures that have shaped Spanish civilization. One of the original purposes of the trust was to strengthen and enhance the city's cultural and tourism development potential by facilitating and coordinating the activities of national, regional, and local entities (Spain 1998, preamble).

An executive agency of the trust, the Consortium of the City of Toledo (El Consorcio de la Ciudad de Toledo), was established in 2001. It is run by a governing board with representatives from the institutional members of the trust. The consortium is a public yet highly decentralized agency that can operate with total autonomy and full capacity to achieve its aims and objectives.

The central mission of the consortium has been, first, to serve as a catalyst to build consensus among the various public agencies that have some responsibility for heritage conservation in Toledo, and through them, among the constituencies that they represent; and second, to implement the main, heritage-related recommendations of the Special Plan for the Historic Quarter of Toledo, which came into force in 1997. The consortium is funded by the four public administrations that created it, and its task is fundamentally operational: to implement the special plan. Although it has no monitoring or control functions, the agency must also act as coordinator of the work of the various administrative levels that hold some responsibility for aspects covered by the plan. For this it has the administrative ability to act quickly, without the burdensome regulations of public administrations, and to establish collaboration contracts and agreements with a wide range of institutions.

It is interesting to note that the consortium does not have legal authority in the field of urban development (which belongs to the local municipal government) or in the area of heritage (which falls under the Department of Culture of the regional government). It does have the budgetary resources to aid citizens in both of these areas, in the form of economic assistance, advisory services before and during any restoration work on their residential properties, and assistance in navigating the necessary bureaucratic procedures involving the corresponding public administration. Indeed, at the present time, the consortium is consulted in *all* rehabilitation and restoration interventions undertaken in the historic quarter of Toledo.

Surprisingly, the residents of the historic quarter did not take part in the overall consultation process carried out in the initial development of the special plan, except for a survey conducted by the local authorities. This survey, which collected



detailed information on the quarter's population, building typologies, housing conditions and amenities, and quality-of-life issues, provided background for the development of the plan.

Notwithstanding this absence of participation in the initial process, the consortium has become today an obligatory point of reference for the entire population and for all specialized architects and conservation professionals who intervene in one way or another in the historic quarter, thanks to the effectiveness of the agency's work and the financial resources it possesses.

The success of the consortium seems to stem mainly from the somehow paradoxical fact that it does not have the power to legislate or to establish new norms or regulations regarding heritage conservation or urban development; it applies only existing norms and is viewed by citizens as an ally rather than as a restrictive authority. Success was also owed to the fact that the consortium is an institution created by three different public agencies, which still participate on its board and in all its decision-making processes.

But legislation and the various regulations established in the plan have been crucial to preventing further deterioration of the city's heritage. Before embarking upon any construction or restoration work in Toledo's historic quarter, an archaeological evaluation study of the relevant site must be conducted by a professional archaeologist. Such a study is normally financed by the private owner of the building or site, but owners receive a subsidy through the consortium; this has encouraged greater appreciation for heritage from such owners. Almost everyone now wants to have some archaeological piece in his or her property and feel proud about it. Dissemination of heritage values, elimination of administrative barriers, and financial and technical assistance to residents have all been key factors for success.

The residential heritage (housing buildings with a heritage value) has been greatly improved, including its supporting structures (for instance, old wooden beams and stone elements) and its sanitary and sewage pipes. External electrical wiring has been eliminated, and common spaces and areas such as staircases, patios, facades, and main gates have been improved. To make these a reality, the consortium has granted subsidies to some 1,600 owners of houses and apartment buildings since 2001, with the overall objective of enhancing the standards of living within the historic quarter under the motto "Rehabilitate to activate." Thus, wide-ranging heritage conservation works have become an engine for economic development in the city.

The results have quickly become evident. In 2008 the population of the city center was on the rise, a variety of retail shops (except shopping malls) exist within the historic center, and three schools have returned to the quarter, making it easier for families with children to live there. In other words, the population no longer escapes from the city center.

Prior to the special plan's implementation, it was common for residents making alterations or repairs to their houses to find archaeological remains or valuable heritage pieces. At that time, their typical reaction was to hide the discovery, fearing they would not be authorized to continue with the intended repair or improvement of their property. Today the situation has completely changed, as residents value these discoveries from a cultural point of view and feel proud of them. The most important point, however, is that they can now present their cases to the consortium and receive subsidies for the conservation of any heritage-rich element found in their homes.

Though very successful in the case of Toledo, the consortium model has not been exactly replicated elsewhere in Spain. Two roughly similar institutions do

exist in two other Spanish World Heritage cities: Santiago de Compostela—which was indeed created before the one in Toledo—and Cuenca. Yet, the type and level of interventions of these two institutions do not seem to have been as determinant in conserving heritage as the institution in Toledo.

## Lessons Learned

Three main lessons can be drawn from the Toledo case study:

1. Coordination by a fully empowered entity, such as the consortium, of the tasks and responsibilities corresponding to three different layers of public administration, each in charge of different aspects linked to heritage conservation, seems to be a key factor in avoiding conflicts and ensuring that all issues are duly addressed.
2. The availability of public funds to help local residents undertake repair works related to the heritage elements that exist within their properties encourages residents to value, preserve, and restore this heritage and instills a conservationist attitude toward it.
3. The example of Toledo shows that offering technical and financial support to the local people as a way of developing awareness of the richness of their heritage and the need to conserve it might be an effective approach to involving them in conservation activities and preventing conflicts.

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## Commentary

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This case study focuses on the complex issue of international heritage tourism and the potential differences in interests and values between heritage conservation advocates and the tourism sector, which in some cases include conflict with cultural identities. Despite some common interests and benefits to all parties, there are also potentially conflicting aims between those who prioritize tourism as an economic enterprise (with interests including economic development and maximization of profits) and those who prioritize heritage conservation (with interests such as sustainable protection of historic resources and conformity to international heritage norms of authenticity). Various members of the local population may share some of these interests or may have entirely different ones (such as protection of the local cultural and natural environment or property values). Given the range of stakeholders and the variable impacts on each of different choices, consensus building strategies can be particularly useful for assisting decision making regarding heritage tourism.

The study offers several useful examples of the benefits of coordinated and collaborative place management as well as some cautionary tales. The case of Lumbini offers a good example of the latter. The religious significance of the site to Buddhism (and Buddhists) has little value to the local population of Hindus and Muslims. Further, the government of Nepal is interested in promoting tourism, particularly from Western visitors, who enjoy visiting the monuments and hiking in the Himalayas and spend more money, providing a greater economic boost. The large proportion of Buddhist visitors provide little economic value to the local population, who therefore have little interest in upholding the spiritual values of the site. Recent national and international interventions aimed at local economic development have emphasized the nonreligious aspects of the region. Given this divergence in identities and values among stakeholders of Lumbini, this paper highlights the risks to the sustainable preservation of the spiritual values of the site.

As the primary case explored in this paper, the renovation of the historic quarter of Toledo provides an example of successful integration of key parties into decision making. In many historically significant cities, processes for urban renewal are divorced from examinations of heritage and tourism. The Toledo process is notable in its ability to respond to the common challenge of overlapping authorities and to integrate solutions to Toledo's urban challenges in a wide range of institutional areas. The Patronato and its executive agency, the Consortium of the City of Toledo, were successful in bringing together bureaucratic players from across levels of government and areas of specialization. The outcomes of the implementation of the special plan—improved urban quality of life and improved resident behaviors regarding the antiquities on their property—have led to greater protection of heritage.

As clarified in the section “Step 2: Design a Collaborative Process” in the background paper “Consensus Building for Cultural Heritage Place Management,” by Stacie Nicole Smith in this volume, not every situation requires that all parties with an interest at stake participate directly in consensus building. In this case, the primary obstacles to urban revitalization and heritage protection were the overlapping and conflicting public agencies, as well as public disinterest in heritage preservation and uncertainty about impacts of heritage finds. People were hesitant to report an antiquity in their yard for fear of negative implications. Although the local population was not directly represented in the development of the Special Plan for the

Historic Quarter of Toledo or in the consortium, the outcomes suggest that the residential survey succeeded in eliciting some of their underlying interests and concerns and that decision makers attended to these in their plan.

Collaborative processes designed to meet the dual goals of urban renewal and heritage protection can draw from decades of experience in land-use dispute resolution. As in Toledo, successful collaborative processes tend to be initiated at the outset of a project, draw on an understanding of core stakeholder interests, and build from formal structures without relying on them. By setting up the consortium as a new entity with formal links to existing agencies and administrative processes, the process had the legitimacy to command attention and the flexibility to address challenges. The author states that the agencies involved in the consortium were able to build consensus among themselves, and indirectly among the constituencies they represent. Successful collaborative bodies do this using effective deliberation, based on the interests of all stakeholders, as well as creative decision making, with an eye toward strengthening relationships for implementation.



**PART 3**

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## Conclusions and Recommendations



## Conclusions and Recommendations of the Workshop Participants

Participants in the GCI workshop “Applying Consensus Building, Negotiation, and Conflict Resolution Methods to Heritage Place Management,” held in December 2009, identified significant relevant challenges and gaps in the heritage field, as well as opportunities to apply methods of consensus building, negotiation, and conflict resolution. This process ultimately resulted in recommendations, for addressing these challenges, gaps, and opportunities. The following recommendations were identified:

1. The need for dedicated resources, and possibly also centers, focused on the application of consensus building and dispute resolution approaches to cultural heritage management to support heritage professionals
2. The need for a community of practice among heritage professionals related to consensus building and dispute resolution to better enable them to share experiences, approaches, and resources
3. The need for dedicated training in consensus building, dispute resolution, and negotiation techniques for heritage professionals, including development of relevant teaching materials
4. The need for certification (possibly online) for heritage professionals who learn basics or principles of consensus building and dispute resolution in cultural heritage management
5. The need for incentives for heritage professionals and institutions to adopt consensus building and dispute resolution approaches, such as the following:
  - Awards/rewards/prizes
  - Professional standards and requirements
  - Funding and other types of support
  - Peer-to-peer education/storytelling (successes and failures)
  - Documented examples of how such approaches can help solve problems
6. The need for familiarization, and perhaps also training, for facilitators from outside the cultural heritage field who facilitate for the field, to ensure they are more sensitive to the nuances of the field

The participants also put forth a number of recommended actions to address these needs and gaps according to several topical areas.



Topic Clusters	Recommended Actions
Philosophical concepts and frameworks	<ul style="list-style-type: none"> <li>• Bring into heritage practice the dispute resolution field's concepts of interests, values, and identities; in addition, formalize the consensus building process to apply the analytical framework (incorporating the concepts of interests, values, identities) to heritage practice.</li> <li>• Identify the applicability of specific consensus building, dispute resolution, and negotiation strategies to different cultural contexts, reporting on related successes and failures.</li> </ul>
Capacity building and awareness raising	<ul style="list-style-type: none"> <li>• Create a cultural heritage consensus building, dispute resolution, and negotiation training package for the heritage field (including didactic materials and potentially modules) that is available to heritage educational and training institutions and heritage educators and trainers; the package should address particular (and different) requirements of both educational courses and professional training activities.</li> <li>• Create distilled, graphics-based guidelines on consensus building, dispute resolution, and negotiation for heritage professionals, using layered information and focusing on principles for practice.</li> <li>• Train heritage educators and trainers in consensus building, dispute resolution, and negotiation approaches.</li> <li>• Train heritage professionals (including government officials and ICOMOS evaluators) in consensus building, dispute resolution, and negotiation concepts and methods and provide for professional accreditation.</li> <li>• Provide for targeted awareness raising of consensus building, dispute resolution, and negotiation approaches across the heritage field via institutions involved in heritage professional training and education.</li> </ul>
Pilot projects	<ul style="list-style-type: none"> <li>• Implement a pilot project, perhaps focused on a place on the List of World Heritage in Danger, as a model for applying consensus building, dispute resolution, and negotiation approaches.</li> </ul>
Strengthen ability of those in the heritage field to advocate and negotiate on behalf of heritage	<ul style="list-style-type: none"> <li>• Establish coalitions between the heritage field and other related fields (e.g., urban planning, environmental conservation, cultural tourism) to further the cultural heritage field's aims.</li> </ul>
Interfield collaboration	<ul style="list-style-type: none"> <li>• Hold activities for environmental and cultural heritage professionals on how to work together on related issues, such as workshops and pilot projects; such efforts could aim to produce shared tools and methodologies, models of collaboration, and joint familiarity with concepts in both fields to potentially result in common concepts and terms.</li> <li>• Integrate consensus building, dispute resolution, and negotiation approaches into heritage environmental impact assessment processes.</li> </ul>

Los Angeles, 3 December 2009

# Glossary

The following is a glossary of terms used in this publication from consensus building and dispute resolution practice. For a more extensive discussion of dispute resolution concepts, consult the encyclopedic essays on the website of Beyond Intractability, created by scholars and practitioners from around the world. The website was developed and is currently maintained by the University of Colorado Conflict Information Consortium at: <http://www.beyondintractability.org/library/essay-browse-tree>.

## **Alternatives**

Actions parties can take to meet their needs outside of the collaborative process.

## **Best alternative to a negotiated agreement (BATNA)**

A concept commonly used in the dispute resolution field, referring to the best possible outcome when the opposing party refuses to negotiate. Coined by Roger Fisher and William Ury in *Getting to Yes: Negotiating Agreement without Giving In* (1981).

## **Collaborative process**

A process for managing conflicts or decisions that engages parties with a stake in working together toward acceptable outcomes. Includes consensus building as well as non-consensus approaches, such as advisory or dialogue processes.

## **Conflict/Dispute**

A disagreement through which the parties involved perceive a threat to their needs or interests.

## **Consensus building**

A process of collaborative decision making in which parties with a stake in the situation participate in negotiating an outcome that is acceptable to all.

## **Convening (Convener)**

A process in which a neutral party (convener) assists parties by initiating and overseeing the organization of the collaborative process. The convener's task centers on bringing together interested parties, setting the goals and constraints of the collaborative process, and providing resources and logistical support.

## **Dialogue**

An open exchange between two or more parties for the purpose of increasing understanding.

## **Facilitation (Facilitator)**

A process in which a neutral party (facilitator) assists parties by designing and running efficient and successful meetings or collaborative processes. The facilitator's task centers on coordinating processes and managing meetings.

## **Identities**

Answers to the question "Who am I?," incorporating groups that one belongs to as well as characteristics or attributes that are associated with those groups or that one associates with themselves as individuals.

## **Interest-based negotiations**

An approach to negotiations that focuses on achieving the core, underlying needs of all parties.

## **Interests**

Underlying desires or needs that individuals and groups seek to attain.

## **Joint fact finding**

A collaborative process whereby stakeholders with varying interests and points of view cooperatively gather and analyze facts and information to develop a common understanding and informed opinions; that information is then used to jointly reach decisions.

## **Mediation (Mediator)**

A process in which a neutral party (mediator) assists parties in negotiating agreements or resolutions to disputes. The mediator's task may include meeting with management and interacting with stakeholders outside of formal meeting settings to help bridge differences and find common ground.

## **Mutual gains negotiation/approach**

A set of interest-based negotiation principles and strategies that center on achieving better outcomes for all parties while responding to the needs, interests, and values of other stakeholders and protecting relationships.

## **Options**

Potential agreements that parties arrive at *within* a negotiation.

**Positions**

Specific, desired outcomes.

**Power**

The ability to influence or coerce others to concede to your wishes regardless of the benefits or costs to them.

**Process design**

A road map for conducting a collaborative process. It typically states the following: clear objectives for the process, primary issues to be discussed, clarification of participants and representatives, criteria for making decisions, process time frame and schedule, and drafting ground rules.

**Public dispute resolution**

An approach to managing conflicts, disputes, or decisions within the public or government domain. Sometimes used to refer to the field of practitioners who work on these processes.

**Rights**

Independent standards of fairness or legitimacy that are either socially recognized or formally established in law or contracts.

**Situation (or Conflict) assessment**

A process for understanding the way key stakeholders perceive a situation, resulting in an accurate, impartial analysis of their views.

**Stakeholder**

Any person, group, or organization with an interest or concern (a stake) in the situation, issue, or conflict, or that will be fundamentally affected by outcomes. For developing collaborative processes, stakeholders also include those who are needed to implement an agreement, those who may obstruct it, and parties that can bring technical or monetary resources to the table.

**Values**

Deeply held views about the way the world is or should be, which may be spoken of as truths.

# Additional Resources

The following is an annotated bibliography of selected additional published literature on the topics of negotiation and consensus building, organized by topical categories, for those who wish to delve deeper into these subjects. To consult additional online materials, explore the “Virtual Bookshelves” on the website of Beyond Intractability, created by scholars and practitioners from around the world. The website was developed and is currently maintained by the University of Colorado Conflict Information Consortium at: <http://www.beyondintractability.org/library/browse-virtual-bookshelves-standard>.

## Overview of Consensus Building in Public Policy Settings

Arthur, Jim, Christine Carlson, and Lee Moore. 1999. *A Practical Guide to Consensus*. Santa Fe, NM: Policy Consensus Initiative.

This handbook divides the consensus building process into steps, then devotes one chapter to the “how to” of each, from “How to Write Ground Rules” to “How to Formalize and Implement the Agreement.” Though case studies are provided along the way, this is primarily a practical guide, complete with handouts and checklists for sponsors, stakeholders, and participants alike. Simple illustrations and diagrams help to make this slim volume even more manageable.

Carpenter, Susan L., and W. J. D. Kennedy. 2001. *Managing Public Disputes: A Practical Guide for Government, Business, and Citizens' Groups* (2nd ed.). San Francisco: Jossey-Bass.

Using specific examples and illustrations, *Managing Public Disputes* walks the reader through the process of setting up a consensus building process from beginning to end. Written primarily for decision makers in business, government, and citizens' groups, this guide explores the common pitfalls of dealing with public conflicts, then lays out basic principles for avoiding these mistakes. From knowing when to use a mediator, to ensuring effective representation, to dealing with the media, the authors anticipate common questions and obstacles and outline step-by-step responses.

Susskind, Lawrence, and Jeffrey L. Cruikshank. 1987. *Breaking the Impasse: Consensual Approaches to Resolving Public Disputes*. New York: Basic Books.

Structured around a number of detailed case studies, *Breaking the Impasse* sets as the goal for consensus building processes an agreement that is fair, efficient, wise, and stable. Susskind and Cruikshank explore the psychological and structural obstacles that impede the use of consensus building, then walk through the case studies to illustrate how each obstacle might be overcome. Weaving together theory and practice, this book contemplates both the place of consensus building in the larger scheme of dispute resolution and the more intimate “how to’s” of implementation on the ground.

Susskind, Lawrence, Sarah McKernan, and Jennifer Thomas-Larmer, eds. 1999. *The Consensus Building Handbook: A Comprehensive Guide to Reaching Agreement*. Thousand Oaks, CA: Sage Publications.

*The Consensus Building Handbook* is a comprehensive research guide designed to help any group decide when and how to use consensus building techniques. It is organized in three parts, including a “short guide” that distills the essential procedures, chapters that offer a “how to” for each activity within the consensus building process, and a set of diverse and detailed case studies (with commentary) that examine these processes in action. Numerous simple diagrams and checklists are also included. Winner of the 1999 International Institute for Conflict Prevention and Resolution (CPR) Award for Excellence in Alternative Dispute Resolution (Outstanding Book Category).

## Mutual Gains Negotiation

Fisher, Roger, William Ury, and Bruce Patton. 2011. *Getting to Yes: Negotiating Agreement without Giving In* (3rd, rev. ed.). New York: Penguin.

This canonical negotiation text is built on four basic mandates: separate the people from the problem; focus on interests, not positions; invent options for mutual gain; and insist on using objective criteria. Though the focus is two-party negotiations, the book lays out principles and a foundation theory applicable to all contexts. Written for a general audience, the text is readable and laden with anecdotes.

Raiffa, Howard. 1982. *The Art and Science of Negotiation*. Cambridge, MA: Harvard University Press.

Drawing on his background in game theory, Raiffa offers a look at both the “art,” or human element, of negotiation, and the more theoretical and analytical “science” element. The author employs specific cases and simple diagrams to counter his rigorous quantitative analysis, bridging the gap between the scholarly and the practical. Geared toward professionals and executives with at least some background in the subject, *The Art and Science of Negotiation* provides helpful advice on the mutual gains approach.

## Mediation and Facilitation

Moore, Christopher W. 2014. *The Mediation Process: Practical Strategies for Resolving Conflict* (4th ed.). San Francisco: Jossey-Bass.

*The Mediation Process* is written for professional mediators, other professionals who incorporate mediation into their work, and anyone interested in using mediation techniques to negotiate more effectively. Moore overviews different types and stages of mediation and mediation history, and where they fit into the spectrum of conflict resolution practices. He then offers a detailed framework and procedures that can be used by a mediator in preparation for and during a session, from the beginning to the end of a process.

Schwarz, Roger M. 2002. *The Skilled Facilitator: A Comprehensive Resource for Consultants, Facilitators, Managers, Trainers, and Coaches* (2nd ed.). Jossey-Bass Business & Management Series. San Francisco: Jossey-Bass.

*The Skilled Facilitator* focuses on group dynamics: how to diagnose a group’s functionality, how to facilitate to improve group effectiveness, and how to deal with challenges such as difficult emotions and cofacilitation. It offers a step-by-step description of a facilitation process with suggested interventions tailored to each stage. The book aims to educate both professional facilitators and those who use facilitation skills in other professional domains, such as consulting.

## Values and Identities

Forester, John. 2009. *Dealing with Differences: Dramas of Mediating Public Disputes*. Oxford: Oxford University Press.

Forester confronts the popular misconception that stark power imbalances and deep differences in values cannot be mediated, showing through examples that agreements under such circumstances are both possible and potentially desirable for all involved. Using as illustration such controversial cases as AIDS education, Forester offers frameworks and techniques for navigating volatile waters, and in doing so makes a spirited case for activist mediation.

Kelman, Herbert C. 2007. "Social-Psychological Dimensions of International Conflict." In *Peacemaking in International Conflict: Methods and Techniques* (rev. ed.), edited by I. William Zartman, 61–107. Washington, DC: United States Institute of Peace.

This chapter is a seminal academic analysis of the social-psychological conditions leading to the generation, escalation, and perpetuation of international conflict, particularly in the ways group identities are shaped in opposition to one another in contexts of long-standing ethnic conflict. Kelman highlights the social and psychological dynamics that create a resistance to change, and suggests broad social conditions necessary for reversing these dynamics to help resolve ethnic conflicts.

Rothman, Jay. 1997. *Resolving Identity-Based Conflict in Nations, Organizations, and Communities*. Jossey-Bass Conflict Resolution Series. San Francisco: Jossey-Bass.

Drawing from a wide range of academic and real-world contexts, Rothman offers a theoretical model for understanding and overcoming identity conflicts. Detailed case studies employ his model—Antagonism, Resonance, Invention, and Action (ARIA)—demonstrating step by step how it can be applied in a variety of environments. Includes assessment instruments and an implementable training guide.

# Participants in the Workshop

*Note:* This list reflects titles and affiliations at the time of the workshop, December 2009.

**Christina Cameron** Canada Research Chair in Built Heritage, University of Montreal; head of Canada's delegation to the World Heritage Committee; former director general of National Historic Sites, Parks Canada

**Carolina Castellanos** Consultant, Atlatlahucan, Morelos, Mexico

**Jeff Cody** Senior Project Specialist, Education, Getty Conservation Institute

**Françoise Descamps** Senior Project Specialist, Field Projects, Getty Conservation Institute

**David Fairman** Managing Director, Consensus Building Institute, Cambridge, Massachusetts; Associate Director, MIT–Harvard Public Disputes Program

**Kecia Fong** Project Specialist, Education, Getty Conservation Institute

**Maria Isabel Hernandez Llosas** Director of Rock Art Program and Pintoscayoc Project (Archaeology of High Rift Valleys in Humahuaca, Jujuy), Institute of Archaeology, University of Argentina

**Chris Johnston** Consultant, Context Pty Ltd, Victoria, Australia

**Lawrence Loh** Principal Architect, Laurence Loh Arkitek, and Executive Director, Arkitek LLA Sdn Bhd, Penang, Malaysia; Associate Professor, University of Hong Kong

**Susan Macdonald** Head, Field Projects, Getty Conservation Institute

**David Myers** Project Specialist, Field Projects, Getty Conservation Institute

**Gail Ostergren** Research Associate, Field Projects, Getty Conservation Institute

**Jeremy Radachowsky** Governance and Livelihoods Director, Guatemala Program, Wildlife Conservation Society; participant, Mirador–Rio Azul National Park Roundtable; PhD candidate, Interdisciplinary Ecology, University of Florida, Gainesville

**Liz Ševčenko** Director, International Coalition of Sites of Conscience, New York

**Stacie Nicole Smith** Senior Associate and Director of Workable Peace, Consensus Building Institute, Cambridge, Massachusetts

**Jeanne Marie Teutonico** Associate Director, Programs, Getty Conservation Institute

**Eugenio Yunis** Director of Programme and Coordination, World Tourism Organization, Madrid, Spain

# About the Contributors

**Christina Cameron**, MC, PhD, holds the Canada Research Chair in Built Heritage at the University of Montreal, where she teaches and directs a research program on heritage conservation in the School of Architecture. She previously served as a heritage executive with Parks Canada for more than thirty-five years. She has worked with the World Heritage Convention since 1987, chairing the World Heritage Committee in 1990 and 2008 and coauthoring *Many Voices, One Vision: The Early Years of the World Heritage Convention* (2013). In 2007 she received the Outstanding Achievement Award of the Public Service of Canada, the country's highest recognition for public service, and in 2014 the Gabrielle Léger Medal for Lifetime Achievement in the cause of heritage conservation. She was appointed to the Order of Canada in 2014.

**Bayron Castellanos** has sixteen years of experience in biodiversity conservation and protected areas management in Petén, Guatemala, including a decade of experience leading the implementation of conservation projects while managing Asociación Balam. Over his tenure, he has become a national leader in promoting avenues for public participation based on multisector partnerships between the government of Guatemala, community groups, NGOs, municipal mayors, donors, and the private sector. His efforts have been recognized by the Overbrook Foundation, the Critical Ecosystem Partnership Fund, and the US Department of the Interior. Since 2012, his focus has been on establishing partnerships with government and civil society organizations in Belize and Guatemala to reduce illegal timber trafficking and improve governance and rural livelihoods in the Chiquibul/Maya Mountains of Guatemala.

**Maria Isabel Hernandez Llosas** is a research archaeologist with the National Council of Scientific Research of Argentina, where she has worked since 1987. She has a PhD from the National University of Buenos Aires, Argentina, and a postdoctoral visiting fellowship at the Humanities Research Centre, Australian National University, Canberra. Much of her research focuses on the archaeology of high-altitude arid environments in the Argentinean Andes, and on the study of rock art. She is concerned with the intersection of archaeology, community, and identity in South America today, and with aboriginal heritage revalorization. She collaborated with the National Museum of Australia on an exhibition exploring the archaeology and environmental history of Southern Hemisphere deserts. Hernandez Llosas was a professor of archaeology at national universities in Argentina and created a postgraduate course on material culture heritage management. She has also been an ICOMOS consultant on World Heritage listing.

**Chris Johnston** is founder and a director of Context, an Australian heritage consultancy, and Honorary Fellow at Deakin University, Melbourne. Since the early 1990s, she has been at the forefront of developing Australian methodologies for the systematic identification of social and community-held values of heritage places, seeking to ensure that important meanings and associations are recognized in heritage planning and management. She has carried out many commissioned projects in this field, and regularly shares her knowledge through publications, training, and conference presentations. Through her work, she seeks



to build shared understandings about heritage in all its diversity and complexity, and to advocate for the active participation of communities.

**Laurence Loh** is a leading conservation architect and cultural heritage expert in Malaysia and the Asia-Pacific region. Trained at the Architectural Association in London, he runs the architectural practices of Laurence Loh Arkitek and Arkitek LLA, producing both new-built designs and award-winning building conservation, adaptive reuse, and planning projects, including the restoration and adaptive reuse of the Cheong Fatt Tze Mansion, Penang, and the restoration of Merdeka Stadium in Kuala Lumpur. Loh is a UNESCO World Heritage Site evaluator, Heritage Awards judge, and technical consultant, and teaches annually at Hong Kong University. He is president of the Heritage of Malaysia Trust, adviser to the Hong Kong Institute of Architectural Conservationists, and director of Think City, an urban regeneration company working at the George Town World Heritage Site in Penang.

**David Myers** is a senior project specialist at the Getty Conservation Institute, where he has worked since 2001. He manages the GCI's Recording and Documentation Unit and is part of the Buildings and Sites department. He is currently at work on developing the Arches open source heritage inventory and management system, and on research on applying dispute resolution methods to heritage place management. In the past he participated in GCI projects in Jordan, in Egypt, in southern Africa, and for Iraq. He holds an MS in historic preservation and an advanced certificate in architectural conservation and site management from the University of Pennsylvania, as well as an MA in geography from the University of Kansas. He previously served as a legislative assistant to a member of the US House of Representatives.

**Gail Ostergren** is a research associate at the Getty Conservation Institute, where she has worked since 2002. She has undertaken research, writing, editing, and dissemination work on a wide range of projects, including the Conserving Modern Architecture Initiative; Heritage Values, Stakeholders and Consensus Building; the Earthen Architecture Initiative; and the Los Angeles Historic Resource Survey Project. She earned her PhD at UCLA, specializing in urban, architectural, and Southern California history.

**Jeremy Radachowsky** is regional director for the Wildlife Conservation Society Mesoamerica and Western Caribbean Program, providing strategic and technical direction and leadership for national programs and regional conservation initiatives in law enforcement monitoring (LEM), environmental governance, jaguar conservation, and the live-stock/conservation interface. He has worked in Central America for more than fifteen years on community ecology, ecological monitoring, conservation planning, adaptive management, LEM, environmental governance, and multi-stakeholder negotiation.

**Liz Ševčenko** is director of the Humanities Action Lab, a consortium of twenty universities, led from the New School in New York City, where students and stakeholders across the United States collaborate on projects remembering the histories of contested contemporary issues. She is founding director of the Guantánamo Public Memory Project and the International Coalition of Sites of Conscience, a network of historic sites that fosters public dialogue on pressing human rights and social justice issues. Before launching the coalition, she was vice president for programs at the Lower East Side Tenement Museum, where she developed exhibits and educational activities that connect the stories of the neighborhood's immigrants past and present. She holds a BA from Yale University and an MA in history from New York University.

**Stacie Nicole Smith** is a senior mediator at the Consensus Building Institute in Cambridge, Massachusetts. She works as a mediator, facilitator, and trainer in a wide

range of settings and contexts in the United States and internationally. Smith specializes in working with highly complex and contentious groups, where identities, values, and interests intertwine, in contexts involving natural resources and the environment (land use, water, energy), historic and cultural resources, and social issues. Her work includes facilitation of multisector community and national stakeholder dialogues, disputes, and collaborations; curriculum and training for international, national, and local government entities, NGOs, and schools; and assessment and mediation of national public policy issues. She holds a BA from Brown University and an MA from Columbia University Teachers College.

**Eugenio Yunis** is a civil engineer (University of Chile), with postgraduate studies in development economics (University of Grenoble, France), who has been involved with international tourism development and management issues for more than twenty years. From 1990 to 1994, he was director general of the National Tourism Department in Chile. In 1997 he joined the World Tourism Organization (UNWTO) as head of sustainable development of tourism. From 2007 to 2010, he was director of programme and coordination at UNWTO and a member of the High Level Committee on Programmes of the United Nations. Following this, Yunis returned to Chile to become executive vice president and CEO of the Chilean Federation of Tourism Enterprises. In 2013 he was elected by the UNWTO General Assembly as a member of the World Committee on Tourism Ethics, a position he will hold until 2019. He has written books and numerous articles on the relationships between tourism and environment, tourism and culture, and tourism and poverty alleviation, as well as on socially responsible investments in tourism.

# Appendix: Resolving Conflict and Building Consensus in Heritage Place Management: Classification of Issues and Challenges

The matrix on the following pages attempts to classify typical issues and challenges in heritage place management relating to the need for consensus building, negotiation, and conflict resolution skills and strategies. It was developed by David Myers based on the experience of GCI heritage specialists, on a review of relevant heritage literature, and on input from participants in the December 2009 GCI workshop “Applying Consensus Building, Negotiation, and Conflict Resolution Methods to Heritage Place Management.” Special mention goes to the input provided by Carolina Castellanos, Chris Johnston, and Stacie Nicole Smith.

The matrix was prepared as a background document for the workshop to promote discussion about the range of issues and challenges that might benefit from the application of consensus building, negotiation, and conflict resolution skills and strategies. Following are the broad categories of issues and challenges identified that are described in further detail in the matrix:

1. Decision-making process issues and challenges
2. Tensions between heritage conservation and other national or local interests or agendas
3. Issues related to traditional communities
4. Challenges related to extremely contested places
5. Issues relating to heritage norms and processes
6. Challenges regarding determining heritage place interventions

Issues 1 through 4 may occur in interactions between actors within the heritage field and external to the field. Issues 5 and 6 are framed as challenges during interactions between actors within the heritage field. It is hoped that future work may be able to identify specific dispute resolution techniques that are effective in addressing particular issues and challenges of the heritage field.

<b>Type 1: Decision-Making Process Issues and Challenges</b>		
<b>No.</b>	<b>Examples</b>	<b>Typical Situations</b>
1.1	Challenges derived from legislative and regulatory frameworks	<ul style="list-style-type: none"> <li>• Tensions derived from conflicting mandates</li> <li>• Challenges caused by duplication and/or overlap of government functions</li> <li>• Challenge of heritage gaining an effective bargaining position at negotiation table given its typically weak position relative to other interests</li> </ul>
1.2	Challenges derived from policy development and implementation processes	<ul style="list-style-type: none"> <li>• Conflicts in policy between heritage and other areas</li> <li>• Negotiations over allocation of revenues, budgets, and tax incentives</li> <li>• Disputes in determining policies on appropriate use of heritage places</li> </ul>
1.3	Challenges derived from decision-making contexts and approaches	<ul style="list-style-type: none"> <li>• Challenges related to transparency and accountability issues</li> <li>• Challenges related to top-down vs. bottom-up decision making</li> <li>• Challenges related to public participation and inclusion, such as when a local community feels isolated from decision-making authorities</li> </ul>
<b>Type 2: Tensions between Heritage Conservation and Other National or Local Interests or Agendas</b>		
<b>No.</b>	<b>Examples</b>	<b>Typical Situations</b>
2.1	Challenges derived from infrastructure and other economic development	<ul style="list-style-type: none"> <li>• Tensions between heritage conservation and development, such as urbanization and natural resource extraction</li> <li>• Conflicts over land use</li> </ul>
2.2	Challenges derived from economically driven heritage tourism	<ul style="list-style-type: none"> <li>• Tensions between profiting from mass tourism and retaining an authentic sense of place and quality of life for local residents</li> <li>• Tensions between encouraging tourist demand to heritage places and conserving those heritage places</li> </ul>
2.3	Challenges associated with responding to emergency situations	<ul style="list-style-type: none"> <li>• Tensions in determining priorities among a range of urgent needs during emergency situations, including during and following conflicts and natural disasters</li> </ul>
<b>Type 3: Issues Related to Traditional Communities</b>		
<b>No.</b>	<b>Examples</b>	<b>Typical Situations</b>
3.1	Challenges derived from traditional heritage not valued or understood by majority/authorities	<ul style="list-style-type: none"> <li>• When a traditional group has a small power base</li> <li>• When a traditional group has insufficient resources to act</li> <li>• Authorities who do not feel compelled to address a traditional group's values</li> <li>• When a traditional group lacks confidence in the legal/policy system and/or does not wish to reveal its values</li> </ul>
3.2	Conflict over access, control, ownership, and use of a heritage place	<ul style="list-style-type: none"> <li>• Conflict over ancestral land claims, occupation, or other land uses</li> <li>• Challenge related to determining validity of land claims</li> <li>• Priority to maintain traditional land use or lifestyle, and negotiation required to determine how to make that viable</li> <li>• Priority to maintain traditional land use or lifestyle, toward which traditional community is ambivalent or opposed (occurs in cases due to economic market forces, migration to cities, desire to lead "modern" lifestyle, technological change)</li> </ul>
3.3	Conflict derived from the interpretation or presentation of heritage places	<ul style="list-style-type: none"> <li>• Conflict over the correctness of facts interpreted or presented</li> <li>• Differences over which topics are to be included in presentation, or over the relative emphasis given to differing perspectives</li> </ul>
<b>Type 4: Challenges Related to Extremely Contested Places</b>		
<b>No.</b>	<b>Examples</b>	<b>Typical Situations</b>
4.1	Conflict arising from place's importance to national or cultural identity (nonreligious/spiritual)	<ul style="list-style-type: none"> <li>• When a place that symbolizes the identity of one group is seen as offensive by another group</li> <li>• When a fragile nation-state perceives it is threatened</li> </ul>
4.2	Conflict arising from place's importance to religious or spiritual beliefs	<ul style="list-style-type: none"> <li>• If a place is claimed as sacred by differing religious groups, or when a place symbolizing the beliefs of one group is seen as offensive by another group</li> </ul>
4.3	Conflict arising from differing views about how places of atrocity or painful memories should be treated	<ul style="list-style-type: none"> <li>• Decisions about treatment of physical fabric of places of atrocity or painful memories, such as whether original fabric from the time of the events should be conserved, restored, demolished, or allowed to deteriorate naturally</li> <li>• Differing opinions about interpretation and presentation of historical events relating to atrocities</li> <li>• Differences over types of new development allowed to occur on the site of or in the setting of places of atrocity or painful memories</li> </ul>
4.4	Conflict derived from the interpretation or presentation of heritage places	<ul style="list-style-type: none"> <li>• Conflict over the correctness of facts interpreted or presented</li> <li>• Differences over which topics to include in presentation, or over the relative emphasis given to differing perspectives</li> </ul>

(continued)

<b>Type 5: Issues Relating to Heritage Norms and Processes (within the heritage field)</b>		
<b>No.</b>	<b>Examples</b>	<b>Typical Situations</b>
5.1	Challenges relating to heritage norms (e.g., conventions, charters, standards, guidelines)	<ul style="list-style-type: none"> <li>• Challenge of establishing norms, including getting broad input and managing differing biases</li> <li>• Challenge of updating norms, which may be needed in response to changes in thinking or new technologies</li> <li>• Conflict between heritage norms (e.g., international vs. national norms)</li> <li>• Disputes in application of specific norms to particular situations</li> <li>• Conflict when trying to impose heritage norms on those outside the heritage field (e.g., changes to historic buildings; clash of norms with traditional uses)</li> </ul>
5.2	Elicitation of values, interests, and positions	<ul style="list-style-type: none"> <li>• Challenge of determining who are legitimate representatives of stakeholders</li> <li>• Challenge of determining what extent of elicitation is sufficient</li> <li>• Challenge of stakeholders lacking trust in those eliciting their values, interests, and positions</li> </ul>
5.3	Credibility of convener, facilitator, or mediator	<ul style="list-style-type: none"> <li>• Challenges to the neutrality of the convener, facilitator, or mediator of a dispute resolution process</li> </ul>
5.4	Choosing extent and type of public participation	<ul style="list-style-type: none"> <li>• Deciding when a public participatory process is appropriate vs. when decisions should be made by experts or individuals in positions of authority</li> </ul>
5.5	Dealing with uncertainty, including differences over scientific methods, findings, and resulting actions	<ul style="list-style-type: none"> <li>• Differences of opinion over data, including challenges to the methods of producing data</li> <li>• Experts set up in opposition through legal or quasi-legal processes</li> <li>• Different perceptions about future results of recommended interventions</li> </ul>
<b>Type 6: Challenges Regarding Determining Heritage Place Interventions (within the heritage field)</b>		
<b>No.</b>	<b>Examples</b>	<b>Typical Situations</b>
6.1	Dispute over ethics and aesthetics of physical interventions	<ul style="list-style-type: none"> <li>• Disputes over whether conservation, rehabilitation, restoration, or reconstruction approaches are appropriate, and over specific aspects of those approaches</li> </ul>
6.2	Dispute over effectiveness of interventions in meeting conservation objectives	<ul style="list-style-type: none"> <li>• Differences over the facts of an issue as well as the future effects of proposed interventions, some of which may be knowable and others which are unknowable</li> </ul>



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