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Embracing culture in peril: small island developing states and climate-endangered cultural heritage

Liet, Britt

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*Embracing culture in peril: small island developing states and
climate-endangered cultural heritage*

Name: Britt Liet

Student number: s2787768

Thesis supervisor: dr. J. Belic

Second reader: dr. Rebecca Ploof

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List of abbreviations

A

AOSIS Alliance Of Small Island States

C

Convention Convention on the Safeguarding of Intangible Cultural Heritage

CBDRRC Common But Differentiated Responsibilities and Respective Capabilities

I

ICESCR International Covenant on Economic, Social and Cultural Rights

IPCC Intergovernmental Panel on Climate Change

S

SIDS Small Island Developing States

U

UN DESA United Nations Department of Economic and Social Affairs

UDHR Universal Declaration of Human Rights

UNESCO United Nations Educational, Scientific and Cultural Organization

W

WHC World Heritage Convention

'Piece by piece we'll preserve our country, provide solace to our people and remind our children and our grandchildren what our home once was'

– Simon Kofe, foreign minister of the small island state Tuvalu

Introduction

Climate change has a tremendous impact on the environment and human life. Although for the population of some states the effects of climate change are not as vivid, for others it is a serious issue as their livelihoods are dependent on the consequences of climate change. This is the case for people living on small island developing states (SIDS), where the threat of major storms, floods, and a rising sea level due to climate change could vanish the land their homes and cultural heritage is built upon for good. The Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) asserts that '[S]ea-level rise will exacerbate inundation, erosion and other coastal hazards, threaten vital infrastructure, settlements and facilities, and thus compromise the socio-economic well-being of island communities and states' (2007, p. 689). In addition, tangible cultural heritage, like temples or churches, are threatened by these circumstances and are likely to threaten many more World Heritage Properties, as outlined by the World Heritage Convention (WHC), in the future (World Heritage Committee, 2005, p. 1). Intangible cultural heritage, such as the pursuit of traditions, is already threatened as well as 'the very threat of forced evacuation harms one's potential psychological ties to one's place and therefore to one's identity' (De Shalit, 2011, p. 322). Thus, the plausible threat of having to leave the land where one practised its culture is already affecting the bond to their intangible cultural heritage.

Unfortunately, SIDS do not have the capacity and legal or structural international power to protect themselves from the severe consequences of climate change (Ashe et al., 1999, pp. 209 – 210). Therefore, they have grouped together in an Alliance Of Small Island States (AOSIS) to improve their stance in international climate negotiations. This has been proven to be effective to some extent. However, there has been little research on the resources, effectiveness, and strategies of SIDS in international climate negotiations (Corneloup & Mol, 2014, p. 282). This suggest that the protection of cultural heritage on SIDS cannot be guaranteed by the AOSIS. The international community has the resources and capacity to protect SIDS from the consequences of climate change and therefore the loss of cultural heritage. Yet, various scholars debate on how this protection should be shaped. For instance, some argue that

responsibility lies with states who have the capacity to act, whilst others assert that through cultural resilience local communities should bear responsibility as well. Moreover, issues such as how to incentivize these actors in actively protecting and preserving cultural heritage is the subject of ongoing scholarly discourse (Hill, 2016; Naser, 2013; Chechi, 2015, Ardakanian & Hülsmann, 2015; Nugrho & Hardilla, 2020). Therefore, the research question of this thesis can be encompassed as follows:

How should the cultural heritage of small island developing states be protected from the consequences of climate change?

In this thesis, I argue that a combination of a top-down human-rights based legal framework and a bottom-up nexus approach will be adequate in protecting the people and cultural heritage of SIDS. Here, the top-down human-rights based legal framework indicates that enforcement mechanisms should be ameliorated in order to incentivize states parties to undertake action in protecting intangible cultural heritage. Furthermore, the bottom-up nexus approach can be adequate for the protection of tangible cultural heritage as it asserts that communities are able to identify certain challenges related to water, food, and energy as they live there. This knowledge can then be translated into sustainable manners which could lead to implementation of policies and practices at the national and international level. By bringing these approaches together, a comprehensive account for the protection of cultural heritage on SIDS may be established.

The thesis will proceed as follows. First, I will investigate relevant literature on SIDS, their cultural heritage, the protection thereof from the consequences of climate change, and existing international law concerning these matters. Thereafter, I will argue in favour of why a bottom-up nexus approach could provide insights in protecting and preserving tangible cultural heritage on SIDS. In addition, I will discuss the top-down human rights approach which argues in favour of the protection and preservation of intangible cultural heritage on SIDS. Finally, various counterarguments for both these arguments will be scrutinised and then rebutted, after which I will conclude that these two approaches can give relevant insights for ameliorating the protection and preservation of cultural heritage on SIDS.

Chapter 1: Literature review

When examining how cultural heritage is protected from the consequences of climate change on SIDS, one must first understand the notion of a small island developing state itself, its vulnerability to climate change, and the concept of cultural heritage. This chapter will provide an overview of the different concepts and theoretical debates in the literature discussed further in this thesis. First, definitions of the relevant concepts will be provided. Then I will continue by establishing the importance of cultural heritage and what policies are implemented already by the UNESCO World Heritage Convention (WHC) to protect cultural heritage. Furthermore, I will provide an overview on the debate concerning statehood and why it is important for SIDS. I conclude by putting forward the gap between the incapacity of SIDS to protect themselves from the effects of climate change and the inadequate protection of the international community to do so, which thus will lead to the loss of cultural heritage.

1.1 Small island developing states and cultural heritage

The United Nations Department of Economic and Social Affairs (UN DESA) defines SIDS as ‘low-lying coastal countries that share similar sustainable development challenges, including small population, limited resources, remoteness, susceptibility to natural disasters, vulnerability to external shocks, and excessive dependence on international trade’ (2007, p. 1). In addition, the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) asserts that ‘[D]ue to sea level rise projected throughout the 21st century and beyond, coastal systems and low-lying areas will increasingly experience adverse impacts such as submergence, coastal flooding, and coastal erosion’ (2014, p. 17) Thus, SIDS tend to be rather vulnerable to the consequences of climate change. Vulnerability, here, implies causal factors like socio-economic, political, biophysical, political, and environmental risks and hazards which brings about a potential loss (Cutter, 1996, p. 537).

In order to understand why and how the cultural heritage of these islands is endangered, one must understand the notion of cultural heritage itself. It can be divided into two subsets of definitions, namely tangible and intangible cultural heritage. Tangible, or physical, cultural heritage can be encompassed as the concern for historical areas, towns, environments and groups of buildings (Ahmad, 2006, p. 294 – 295). Intangible cultural heritage, on the other hand, implies ‘the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities,

groups and, in some cases, individuals recognize as part of their cultural heritage' (UNESCO, 2003, p. 5). Thus, tangible cultural heritage is concerned with palpable objects that are of cultural significance, whereas intangible cultural heritage is engaged with cultural practices like traditions and expressions.

1.2 The importance of cultural heritage

Most SIDS attach great value to their cultural heritage (Wewerinke-Singh, 2018, pp. 198 – 199). Still, different authors emphasize different ways in which cultural heritage can be valuable. For instance, Nugrho & Hardilla (2020) assert that cultural heritage 'draws from a theory based in living system, developing strategies both for adopting impact and mitigating those threats by sustaining buildings and the natural environment' (p. 1). In addition, Petronela (2015) argues that intangible cultural heritage has a social value as it ensures humanity with a sense of identity and continuity (p. 731). She adds that it is of significance for the economic sector, as it facilitates 'emotional and sentimental attachment to a nation within domestic heritage tourism contexts' (p. 735). Furthermore, De Shalit (2011) asserts that intangible cultural heritage is of importance as the people living on SIDS who are threatened to be displaced by climate change as they could lose their land, cannot be compensated for this as this harms the functioning of one's identity (p. 321). Here, the 'functioning' can be described as the value ascribed to people's doing or being. Caney & de Shalit (2014) describe this phenomenon by stating that 'the very threat of forced evacuation harms one's potential psychological ties to one's place and therefore to one's identity' and consequently 'the threat of evacuation in itself is a harm indeed' (p. 322). Thus, even when people of SIDS who are displaced due to climate change find new land where they can settle, it will never be the same as the land where they originally pursued their intangible cultural traditions and habits, and the plausible threat of having to leave this land is *already* affecting the bond to intangible cultural heritage. Besides intangible cultural heritage, Apaydin (2020) asserts that tangible cultural heritage is important as well, as it provides resources and grounds for constructing a collective identity, which can hold groups and communities together (pp. 2 – 3). Additionally, the impacts of climate change on tangible cultural heritage were put on the agenda of the UNESCO World Heritage Committee, which is responsible for the implementation of the policies outlined in the World Heritage Convention, for the first time in 2005 (World Heritage Committee (2005) as cited by von Shorlemer and Maus (2015)). Here, they denoted that 'the impacts of climate change are affecting many and are likely to affect many more World Heritage properties, both

natural and cultural in the years to come' (World Heritage Committee, 2005, p. 1). It can thus be noted that climate change does impact the tangible cultural heritage of all countries who are affected by climate change, especially SIDS, as they are rather vulnerable to the consequences of climate change. Others argue that the mere protection and preservation of cultural heritage cannot be granted with certainty, and therefore cultural resilience should be opted for as well. Holtorf (2018) describes this as 'the capability of a cultural system (consisting of cultural processes in relevant communities) to absorb adversity, deal with change and continue to develop' (p. 639). This can be encompassed as the resilience of culture. Alternatively, Nugrho & Hardilla (2020) assert that by preserving and protecting cultural heritage, the community can stay strong and resilient against potential changes and dangers, such as climate change. In other words, culture can be a strategy to build resilience of communities and therefore their cultural heritage should be preserved and protected (pp. 1 – 3). This definition of cultural resilience differs from Holtorf's definition, as the resilience comes not from culture itself, but from the communities practicing their culture. I refer to this notion as the resilience of communities to practice their culture. Both these definitions of cultural resilience differ from cultural preservation, as cultural preservation is concerned with upholding traditional values and cultural practices, whilst cultural resilience is involved with the adaptability of culture and communities to alternating landscapes and values over time. Yet, both cultural preservation and cultural resilience can complement each other in the sense that cultural preservation allows for the foundation and continuity of culture, whilst cultural resilience allows for flexibility and adaptation necessary to endure in an ever changing environment.

1.3 International law concerning the protection of cultural heritage

Having considered that cultural heritage is important for its social and economic value, I will now consider how this heritage is protected. For when it comes to protecting and preserving tangible cultural heritage UNESCO created the World Heritage Convention (WHC) in 1972, which is an international treaty which describes that ratifying nations of the treaty agree on protecting their cultural and natural heritage sites (World Heritage Convention, 1972, p. 3). There are several ways in which the WHC provides protection for tangible cultural heritage. First, they note that the 195 states parties, including several SIDS, agree that it is their responsibility and they will do their best to preserve, protect and identify their cultural heritage. If needed this can be achieved with international help in terms of finance cooperation, and expertise (World Heritage Convention, p. 4). The World Heritage Committee, which is part of

the WHC, and consists of 21 states parties, 'shall receive and study requests for international assistance formulated by states parties to this Convention' (p. 7). In order to provide money for states in need of preserving and protecting their cultural heritage, the WHC has established a World Heritage Fund. Here, different sources of income, like contributions of the states parties, gifts, or donations of private bodies, ensure that the WHC has a large fund for protecting and preserving tangible cultural heritage of the states parties. In addition, the WHC keeps track of a World Heritage List which is updated every two years. This list consists of 'properties forming part of the cultural heritage and natural heritage (...) which it considers as having outstanding universal value in terms of such criteria as it shall have established' (p. 6).

In order to protect intangible cultural heritage, the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (hereafter referred to as the Convention) is established. This convention outlines the importance of intangible cultural heritage and provides a framework in which states parties can assist states who are in need of protection over their intangible cultural heritage. The structure of the Convention looks rather much like the structure of the World Heritage Convention, as it has a Committee, a representative list of the intangible cultural heritage of humanity, and an intangible cultural heritage fund. In 2023, 181 states are part of the Convention, including many SIDS like Haiti, Jamaica, and Kiribati.

1.4 The notion of statehood

With the establishment of how cultural heritage on SIDS is protected, I will now turn to how the notion of statehood can have important implications for the protection and preservation of cultural heritage on SIDS. A great deal of the protection of cultural heritage comes from treaties or intergovernmental policies where states are the main actors. For SIDS, this could become an issue, as their notion of being a state is at hazard. In 1933, the Montevideo Convention was enacted. Here, four main criteria were of importance for an entity to become a state under international law. These four criteria are; (i) a permanent population (ii) a defined territory (iii) the control of a government (IV) the capacity to enter into relations with the other states, or sovereignty (Montevideo Convention, 1933). However, the international community is currently in debate about which entities should be granted the title of a 'state', especially when it comes to state recognition.

The constitutive theory of statehood argues that only through recognition of other pre-established states, a state is considered to be a legal international person (Murphy & Stancescu,

2017, p. 10). However, the act of recognizing a state can take many forms. This can be *de facto*, meaning a state has factually recognized another state, but not through any legal means, or *de jure*, where a state is recognized through legal means like recognizing a state's legal system. A different dual stance is between recognizing a state based on expressions, like providing an official declaration where one state recognizes the other, or by tacit means. The latter entails that a pre-established state recognizes a state by 'any means from which it can be implied that the new state would be treated as any other international legal person' (Murphy & Stancescu, 2017, p. 8). Thus, there are some impediments in the constitutive theory in order to provide an entity with a 'state' status as the act of recognizing one can be subject to interpretation.

Differing from the constitutive theory of statehood, the declarative theory of statehood argues for a stance which is more based on the self-determination of a state. According to this theory, a state exists when it meets the criteria of statehood mentioned in the Montevideo Convention (Murphy & Stancescu, 2017, p. 7). For SIDS, however, the criterion of having a defined territory is jeopardized as their land could vanish due to the rising sea level caused by climate change. This, then, would imply that these states are no longer recognized in the international community, which could lead to them having no international protection for their cultural heritage. In this thesis, I will follow the declarative theory of statehood, as this provides an unambiguous definition of statehood compared to the constitutive theory of statehood.

1.5 The protection gap

What can be observed thus far is that SIDS are vulnerable to the effects of climate change, their cultural heritage may not be replaced as easily just by moving to different territories, and it appears their status of being a state is at hazard once the island submerges under water. SIDS, however, are not capable of protecting themselves, as their small size, insularity, and remoteness bring about problems associated with development like depletion of resources, marginal health standards, and a high per capita foreign debt, which are magnified by a thousandfold compared to larger states (Ashe et al, 1999, pp. 209 – 210). Therefore, the Alliance of Small Island States (AOSIS) has been established to improve their stance in international climate negotiations. Although there has been some enhancement in this stance, there has been little systemic research on the research strategies and effectiveness of SIDS in international climate negotiations (Corneloup & Mol, 2014, p. 282). This suggests that the protection of cultural heritage on these islands cannot be guaranteed by this alliance. Furthermore, although mitigation strategies have a considerable effect in the long run for the

preservation and protection of intangible cultural heritage, the effects of this strategy will only be visible after decades, if not centuries. Even more so, sea levels are expected to continue to rise even if greenhouse gas emissions are stabilised (Witney, 2016, p. 81). Therefore, the focus in this thesis is on adaptation and resilience strategies for the protection of cultural heritage on SIDS. Here, the WHC and the Convention on the Safeguarding of Intangible Cultural Heritage play an important role.

As stated before, the WHC is established to protect tangible cultural heritage and it does so by adopting several strategies outlined in the treaty. It delineates several potential threats to cultural heritage, including rapid urbanization, armed conflict, and natural hazards such as the consequences of climate change (World Heritage Convention, 1972, p. 6). However, these threats are different in nature, and should therefore be addressed based on the threat posed to cultural heritage. In addition, when assessing the implementation of states parties' duties to the WHC, it relies heavily on cooperation, dialogue and persuasion. For instance, it addresses periodic reporting, which entails that states parties must report what efforts they have undertaken to protect tangible cultural heritage and what the conditions of these heritage sites is to the WHC (World Heritage Convention, 1972, p. 115). Furthermore, it discusses reactive monitoring, which addresses 'the reporting by the Secretariat, other sectors of UNESCO and the Advisory Bodies to the Committee on the state of conservation of specific World Heritage properties that are under threat' (World Heritage Convention, 1972, p. 108). Still, once it may be noticed through these assessments that states parties insufficiently fulfil their duties outlined in the WHC, there are limited consequences imposed on these states. Thus, although the WHC does show some features of an enforcement mechanism in terms of monitoring and reporting, it fails to sufficiently implement legalisation that can hold these states accountable when not implementing the treaties outlined in the WHC (Zacharias, 2008, p. 1863). This can lead to a misconduct of the duties states have to the WHC.

Differing from tangible cultural heritage, intangible cultural heritage is mostly protected by the International Convention on the Safeguarding of Intangible Cultural Heritage. Here, the Convention denotes among others tourism, conflict, and natural hazards as a consequence of climate change as potential threats to intangible cultural heritage (Convention on the Safeguarding on Intangible Cultural Heritage, 2003, pp. 90 – 94). In order for states parties to implement their duties listed in this Convention, the covenant denotes that each state party shall 'take the necessary measures to ensure the safeguarding of the intangible cultural heritage present in its territory' (p. 10). Furthermore, it asserts that '[I]n conformity with the provisions

of this Convention, the international assistance granted shall be regulated by means of an agreement between the beneficiary State Party and the Committee' (2003, p. 15). However, there is no enforcement mechanism that obliges states to do so as it is mostly based on cooperation and capacity-building (Convention of the Safeguarding of Intangible Cultural Heritage, 2003, pp. 87 – 105). This could lead to a situation that any state that applies for the safeguarding of intangible cultural heritage may not be taken sincerely (has Kuruk, 2004, p. 134).

Overall, the protection of both tangible and intangible cultural heritage cannot be guaranteed by OASIS, and the protection is not sufficiently implemented by the WHC and the International Convention on the Safeguarding of Intangible Cultural Heritage. In turn suggesting a protection gap of the international community to protect the cultural heritage on SIDS from the consequences of climate change.

Chapter 2: Responsibility, the nexus-approach and a human-rights based proposal

The protection of cultural heritage on SIDS from the consequences of climate change is a complex puzzle where a variety of actors and controversies come into play. Therefore, a 'one fits all solution' is far from being a feasible, if not an utopian, outcome. As stated before, this thesis will focus on adaptation and resilience strategies in order for SIDS to preserve and protect their cultural heritage. I will argue why states and non-state actors bear responsibility for this adaptation and resilience. Furthermore, I will assert as to why a combination of both the top-down human rights approach and a nexus approach can improve the protection of cultural heritage of SIDS from climate change. In this chapter I will scrutinize the theoretical debate concerning responsibility, after which I will argue why a combination of individual, community, and state responsibility can be the best outcome for protecting cultural heritage on SIDS. Then, I will proceed by illustrating why a nexus approach is adequate for protecting the tangible cultural heritage on SIDS, especially from a bottom-up perspective. Subsequently, I will demonstrate the competences of a top-down human rights approach to enhance the protection and preservation of intangible cultural heritage.

2.1 The agents of responsibility

Before delving into what measures must be taken to protect cultural heritage on SIDS, one must understand who in fact is responsible for this protection. Here, the notion of justice plays an important role, as it provides insights in identifying responsible agents and what their responsibilities are. Whyte (2012) asserts that responsibility entails a relationship between various actors, where reciprocity is the basis for executing certain patterns of behaviour (p. 519). Here, reciprocity can take many forms, as it can be between a non-state actor and a nation-state, between nation-states, or between non-state actors. O'Neill (2001) uncovers this debate by scrutinizing who the agents of justice are, and why the Declaration of Human Rights fails to appoint states as these agents, which leads to a weaker implementation of human rights (pp. 183 – 186). For the latter she argues that dependent states, which are states that are too weak to act as primary agents of justice (like SIDS) can fail as primary agents of justice as they may lack resources or capabilities, or fail to represent the interests of their citizens (p. 190). In addition, she argues that in order to uncover who the agents of justice are, one must look at the amount of capabilities and capacities certain agents have. She points out that '[F]rom the point of view of achieving justice -however we conceptualise it - agents and agencies must dispose not only of capacities which they could deploy if circumstances were favourable, but of capabilities, that is to say, of specific, effectively resourced capacities which they can deploy in actual circumstances' (p. 189). This can be translated back to the ability to pay principle, where agents who have the resources and the capacity to act, in this case in order to protect cultural heritage from the consequences of climate change, should be responsible (Moellendorf, 2012, p. 136). For Falkner and Buzan (2022), these agents are states because 'their international power is invariably based on a large domestic economy and industrial base, therefore great powers are usually a key source of global environmental degradation (...), the great powers are thus central to any international effort to advance global environmental protection.' (p. 5). In contemporary climate change policy making, states are the main actors as well. For instance, the UNFCCC brings about formations and treaties which states ratify and implement. Here, the common but differentiated responsibilities and respective capabilities (CBDRRC) lie at the basis. This notion encompasses that states have a common responsibility to combat climate change, however this responsibility is not equally distributed as there is a wide difference in economic development between these states. As a result, developed states should bear more responsibility compared to developing states (Wang & Gao, 2018, pp. 253 – 254). This state-

centric perspective can lead to beneficiary outcomes for policy implementation, international cooperation, and monitoring.

However, although Falkner and Buzan may have a point on why powerful states *should* be responsible, it is worth noting that it is about who *can* be responsible as well. Of course, justice is of significance for holding polluting states accountable for their actions. However, this should not induce that agents who do not fall into this category should not be responsible for combatting and adapting to climate change at all. It has turned into a global problem, and agents who can act, have a moral responsibility to do so in order to combat the severe consequences climate change brings.

It should be noted, though, that moral responsibility has to be *from* some agent *to* some agent as it refers to a reciprocal attitude. For instance, Shue (2021) addresses this stance from a generational perspective. He argues that the choices this generation makes, are pivotal for the inheritance of the world for future generations, and therefore this generation has a moral responsibility to the future generations in combatting climate change (pp. 10 – 13). It is however not very appealing that a state can be a moral agent ‘as it relies on notions of collective responsibility that have been rejected by mainstream philosophers as well as institutions such as criminal and tort law’ (Posner & Weisbach, 2010, p. 101). Therefore, the structure of a top-down approach in international climate politics is now shifting towards a fragmented and decentralized regime, where non-state actors have a moral duty to combat the consequences of climate change (Gajevic Sayegh, 2020, pp. 491 - 492). Thus, states should have a leading role in climate change politics as they are powerful actors who can contribute significantly to combatting the consequences of climate change. However, non-state actors like communities, multinational corporations and nongovernmental organizations have a moral duty to provide assistance as well. Moreover, non-state actors like transnational corporations who have a considerable amount of capabilities can use this as a tool to pressure states (O’Neill, 2001, p. 193). Therefore, a combination of a top-down approach where states are the main actors, and a bottom-up approach where non-state actors are the main actors, may result into an optimal balance in climate change policies.

2.2 The protection of tangible cultural heritage: a nexus-based approach

When examining which approaches may be best for combatting climate change, Ardakanian & Hülsmann (2015) argue in favour of developing a nexus approach, which takes the interdependence of water, energy and food security into account (p. 110). It can be implemented from a bottom-up perspective, where communities implement certain policies and practices as they can identify certain specific challenges related to water, food, and energy. Implementing these policies in the management framework of World Heritage sites could allow for a sustainable use of these sites (p. 115 – 116). This approach can be linked to the resilience of communities to practice their cultural heritage. Considering that culture can establish a strong bond within communities, it can lead to these communities becoming resilient to potential dangers such as climate change. In other words, culture can be seen as a binding factor within communities, and when this culture is under threat, communities can become resilient in their stance against this threat. On the other hand, resilience of culture, which is encompassed as the capability of a cultural system to deal with challenges and being able to continue to develop, can be linked to the notion of a virtual state. Here, SIDS which are threatened to be submerged can opt for continuing their legacy and culture in the Metaverse, which is a three-dimensional internet with elements of virtual and augmented reality. This way, culture can continue to develop despite losing its territory where it was established and practiced. A recent example is the case of Tuvalu, a small island state in the Pacific Ocean, which is threatened to disappear within the upcoming decades due to the rising sea level. In order not to lose their cultural heritage, Simon Kofe, the foreign minister of Tuvalu, has announced the first digital nation at the United Nations Convention of Climate Change (COP26, 2023), which would be a total reconstructed version of Tuvalu in the Metaverse.

This resilience of culture can be of significance when SIDS are threatened to be submerged in a short period of time. However, the resilience of communities to persist in practising their cultural heritage has important implications for preserving and protecting tangible cultural heritage on islands which are not threatened to be submerged in a short period of time. As a vast amount of SIDS is not threatened to submerge in the upcoming decades as it is a slow onset event, I opt for the development of a nexus approach which suggests sustainable practices and involve local communities in the process (Martyr-Koller et al., 2021, pp 245 – 246). This way the tangible cultural heritage on SIDS would likely be sufficiently protected and preserved. I will elaborate the practical implications of this approach in the next paragraphs.

In a general sense, a nexus refers to a connection or link where multiple, usually three, factors converge. The interdependence between these factors can ‘[I]dentify integrated policy solutions to minimize trade-offs and maximize synergies across sectors, and encourage mutually beneficial responses that enhance the potential for cooperation between and among all sectors, and public–private partnership at multiple scales’ (Rasul & Sharma, 2016, p. 689). What is worth noting, is that the nexus approach is not a mitigation strategy, but an adaptive one by making use of inventive manners to adjust to the consequences of climate change. A well-known nexus is between water, energy, and food (WEF). It argues that water is vital in producing food and energy, while energy is required for agriculture in order to produce food and provide water supply. In addition, agriculture uses large amounts of water and energy. Therefore, water, energy, and food are interconnected and interdependent on each other (Figure 1).

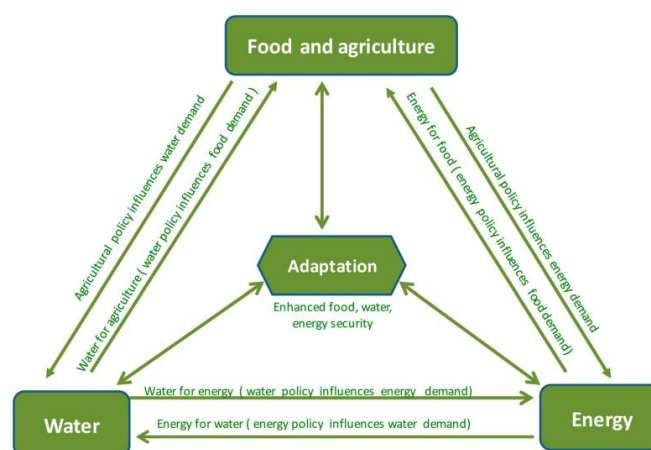


Figure 1: the nexus approach between water, energy, food and adaptation. Source: Rasul & Sharma, 2016, p. 690.

One of the many consequences of climate change is an increase in extreme weather events. Here, longstanding droughts, extreme floods, or an increase in precipitation can influence the livelihoods of many, especially on vulnerable SIDS. These weather events can damage the tangible cultural heritage on these states. UNESCO identifies threats to cultural heritage such as changes in temperature, precipitation, and wind intensity, in addition to sea level rise, desertification, and the interaction between climatic changes and air pollution. For instance, it asserts that flooding may damage specific building materials, and post flooding drying may increase the growth of damaging micro-organisms (UNESCO World Heritage Centre, 2007, p. 23). Even more so, Ardakanian & Hülsmann (2015) argue that ‘[C]ultural

Heritage sites in the majority of cases cannot be considered, maintained and managed without their natural environment, in particular with respect to water and land use' (p. 108). By sustainably managing water, energy, and food resources, one may help to preserve the environments and buildings that are generally intertwined with tangible cultural heritage on SIDS.

One of the main attributes for protecting tangible cultural heritage is the use of stormwater management. By establishing a system that can process a large amount of water by for example drainage techniques, SIDS could be saved, or bear less unpleasant consequences, from flooding. This would then protect tangible cultural heritage from erosion caused by exposure to excessive amounts of water. In addition, by using renewable energy techniques for pumping and drainage of the water, the SIDS reduce their energy consumption which is overall beneficial for the environment and has financial advantages. Local participation is key to the effectiveness of this solution, as local inhabitants are keepers of crucial knowledge on vulnerable places on their island. Furthermore, it contributes to the resilience of communities to persist in practising their cultural heritage.

The nexus approach is also concerned with the production of food on agricultural sites. Here, traditional agricultural practices and landscapes themselves can be observed as cultural heritage (OECD, 1999, p. 9; Daugstad et al., 2002, p. 3). A sustainable use of these cultivational practices is therefore of great importance for preserving the cultural heritage on SIDS. For instance, farmers could make use of rainwater storage, which could be of important use for farmers on SIDS, as their land is rather susceptible to heavy rainfall. By storing rainwater and using it for harvesting, there may be less damage done to cultural heritage sites, and their agriculture could become more sustainable. Of course, every agricultural landscape is different, as it contains different kinds of soils, different water quality and supply, and contrasting weather conditions. Therefore, local farmers and communities should be involved in the process of converting to a more sustainable agricultural landscape. Ultimately, they are knowledgeable on the weather conditions, how it influences their crops and the quantity of water supply needed for maintaining them. In addition, involvement of the community fosters a sense of shared responsibility for the preservation of cultural heritage (Bajec, 2020, p. 25).

2.3 The protection of intangible cultural heritage: a human-rights based approach

Having considered how the protection of tangible cultural heritage could be ameliorated, I now turn to how this could be achieved for intangible cultural heritage. As indicated earlier, the protection of intangible cultural heritage is provided by the Convention on the Safeguarding of Intangible Cultural Heritage, however the enforcement mechanism is insufficient whereby states parties may lack fulfilling their duties to this convention (Kuruk, 2004, pp. 133 - 134). I therefore scrutinize how this stance can be improved by opting for a human-rights based approach.

The people living on SIDS are protected by the Universal Declaration of Human Rights, which argues amongst others that people should have the right to adequate food, housing, and culture (United Nations [UN], 1948, p. 6). Yet, numerous intergovernmental organisations and scholars debate whether the contemporary legal frameworks and policies put into place by international governments and organisations are sufficient in protecting SIDS from the effects of climate change in terms of providing resources, granting displaced climate-induced communities of SIDS access to their countries, and protecting their intangible cultural heritage. Notably, Hance (2020) asserts that ‘the field of intangible cultural heritage law is still rather new and therefore has not reached a point of maturity allowing a theorization of its interaction with human rights’ (p. 82). For instance, Hill (2016) asserts that there is a protection gap between the recognition of communities who seek refuge due to climate change and international legal protection, proposing a ‘human rights-based soft law framework of guiding principles for cross-border displacement, in anticipation of increased displacement’ (p. 43). Although a soft law framework might carry significant influence in shaping behaviour, policies, and practices in the international community, there is no enforcement mechanism to keep states accountable when not implementing these laws. This could lead to states not implementing the policies they were imposed upon. Alternatively, Nasser (2013) argues for a combination of a soft- and hard law legal framework which is right-based on the assertion that it would involve ‘multifarious strategic and comprehensive policy formulation’ (p. 13). Though Hill and Nasser both address the issue of climate change by opting for a certain legal framework in the international community, they do not take into account a state-centred perspective, where states prioritize economic, political or military interests over protecting global public goods like the environment and climate. Chechi (2015) alternatively opts for a global regulating regime which redefines state sovereignty to protect global public goods by implementing clear climate policies, reforms in international markets and trade, financing new technologies that replace

polluting fuels, and raising public awareness about the impacts of climate change (p. 193). Considering these means, I will turn to the practical implications of implementing a human-rights based approach.

There are a number of articles outlined in the International Convention on the Safeguarding of Intangible Cultural Heritage which have similarities with certain human rights related to culture which are circumscribed in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR). Although the Convention may not have a strong enforcement mechanism for states to undertake action, the ICESCR and UDHR do show some features which could enhance incentives for states to actively pursue the articles they have ratified under these documents.

The ICESCR asserts multiple articles that are of importance for the protection of cultural heritage. For instance, article 15 under the ICESCR argues that states parties recognize that everyone has the right to take part in cultural life (ICESCR, 1976, p. 5). In order for states parties to adhere to this article, it employs a system whereby states are obliged to submit regular reports where they outline their measures taken to ensure intangible cultural heritage. Afterward, article 16.2a of the ICESCR asserts that '[A]ll reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant' (1976, p. 6). Here, the Economic and Social Council is responsible for the implementation of human rights. In addition, the ICESCR makes several connections to human rights by for example asserting in article 19 that '[T]he Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18' (1976, p. 6). Thus, the ICESCR has built an enforcement mechanism based on monitoring and reporting, whereby incentives to act by states can be sparked through advisory means, or by pressure from other states.

The UDHR indicates under article 27.1 that '[E]veryone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits' (p. 7). This is in line with the principles of the Convention, as it attempts to safeguard this cultural life. However, it is inadequate in achieving their principles due to their lack of enforcement as stated before. This, suggests an indirect violation of this right, as most states parties to this Convention have 'pledged themselves to achieve, in

cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms' (UDHR, preamble). Thus, these states fail to achieve this respect and observance of human rights as they do not implement a variety of principles set out by the Convention. In other words, their *duty* to adhere to this right is not being adhered to. This can have considerable legal consequences as courts have an immense potential to act on this second-order duty, which aims at changing the social, political, and economic environment in order for states to comply with first order responsibilities such as climate change adaptation. (Sayegh, 2020, p. 496). Thus, by not adhering to second-order duties concerning the freedom to participate in cultural life, states can be held accountable by legal aspects.

Chapter 3: Possible counterarguments

The previous chapter explores how the bottom-up nexus approach and the top-down human rights approach may aid in protecting cultural heritage on SIDS. The bottom-up nexus approach entails that through sustainably managing the interrelated triangle concerning water, energy and food, tangible cultural heritage can be protected and preserved. The top-down human rights approach asserts that states can be held accountable for insufficiently implementing their efforts in protecting intangible cultural heritage through human-rights related treaties such as the ICESCR and the UDHR. Several counterarguments to both these approaches can be made and will be addressed in this chapter.

3.1 Counterarguments to the bottom-up nexus approach

Possible counterarguments can be made for integrating the bottom-up nexus approach. For instance, implementing sustainable technologies and practices asks for a vast amount of financial and technological resources. However, SIDS may lack a sufficient amount of these resources due to their small population, remoteness, and size (UN DESA, 2007). However as stated previously, there are funds, like the World Heritage Fund, private investors, and of course states themselves who can donate to projects concerning sustainable development on SIDS. For instance, there are twelve multilateral climate funds already active in supporting SIDS, financing a total of 2.3 billion US dollars for 437 projects between 2003 and 2021 (Watson et al., 2022, pp. 1 – 2). Even more so, there are obligations between developed states and their responsibility towards SIDS, one of these obligations could be transfers of technology or resources.

A second counterargument concerns cultural heritage practices that are damaging to the environment. For example, the fishery industry is of importance for SIDS as it is of cultural significance and provides financial resources. However, destructive traditional practices like dynamite fishing or using unsustainable gear such as fine mesh nets can lead to deterioration of marine environment (Hicks & McClanahan, 2012, pp. 1 – 2). However, the bottom-up nexus approach may solve this problem by introducing sustainable manners in order to protect the environment. For instance, the unsustainable manners for fishing can be made sustainable by including technology incubators and other private-public sector incentives in order to commercialize the economically and culturally important fishing methods (Suuronen et al., 2012, p. 144). This way, the traditional practice of fishing can be preserved while also incorporating sustainable fishing methods.

3.2 Counterarguments to the top-down human rights based approach

There are several counterarguments that can be made to the top-down human rights approach. For instance, although it may be feasible to hold states accountable for their lack of implementation and adherence of certain duties outlined in the ICESCR and UDHR, it is not clear as to which states violate these treaties. These are the states who only have a mere presence in the Convention, however this does not ensure their efforts are consistent with the treaties outlined in the Convention. A possible solution to this can be to implement a controlling and monitoring system in the Convention, in which states have to demonstrate their efforts regarding the protection of intangible cultural heritage on SIDS. This way, it would be more clear as to which states can prove they have shown effort in the protection of intangible cultural heritage. Of course, there could be numerous reasons as to why other states have not shown efforts, and this should be taken into account by the mechanism.

A second counterargument concerns communities on SIDS who have to migrate due to the consequences of climate change, and therefore lose their bond with intangible cultural heritage. Tuvalu is a recent example where this has become reality, though to preserve their intangible cultural heritage it was announced that a digitalized version of Tuvalu will be built in the metaverse. Of course, the fulfilment of intangible cultural heritage is best preserved when implemented on a real-life scale. However, this might be what the future will look like for SIDS for whom it is already too late and will inevitably submerge under water. Fortunately numerous SIDS do not face the threat of being submerged under water on a considerable short notice like

is the case for Tuvalu, which is why the protection and preservation of cultural heritage is still of importance for these islands.

Conclusion

Cultural heritage of SIDS is being threatened by the consequences of climate change. Flooding, erosion, and soil degradation are only to name a few of the perils cultural heritage is being exposed to. SIDS themselves do not have the capacity to protect themselves from these consequences, and the international community fails to do so. Therefore, the research question of this thesis is encompassed as follows: how should the cultural heritage of small island developing states be protected from the consequences of climate change? I argue that a combination of a bottom-up nexus approach and a top-down human rights approach may come a long way in answering this question. Although it may seem straightforward that states bear the responsibility for the protection of cultural heritage, I argue that both states and non-state agents bear this responsibility. Non-state agents have a moral obligation just like states, and should therefore take part in adapting to practices which could preserve the cultural heritage of SIDS as well. This may be achieved by opting for a bottom-up nexus approach on the protection of tangible cultural heritage. This approach consists of the triangular interdependent relationship between water, food, and energy, which can provide sustainable manners which could lead to the preservation of tangible cultural heritage. Furthermore, incorporating communities in the process contributes to the resilience of communities to persist in practising their cultural heritage.

Intangible cultural heritage is mainly protected by the Convention on the Safeguarding of Intangible Cultural Heritage. This convention, however, lacks an adequate enforcement mechanism as it is mostly built on a framework of capacity-building, support and cooperation. Consequently, the treaties opted in the Convention lack implementation by certain states. In order to prevent this lack of implementation from happening, a strong enforcement mechanism should be established. This may be done from a top-down human-rights based approach. The ICESCR and UDHR both discuss the importance of cultural life and the right to practice this. Through policies outlined in the ICESCR and UDHR states can be held accountable when they do not adhere to their duties defined in the Convention. For denominating which states exactly lack in fulfilling these duties, a controlling mechanism should be established in the Convention. Further research must point out on how to shape this mechanism before entering into force. When the communities living on SIDS forcibly have to move, their intangible heritage could be preserved by creating a digital version of the state. This, however, is a rather new phenomenon on which further research should point out whether this is a useful manner to preserve intangible cultural heritage without having a land to practice this on. A limitation of

this research may be the exclusive focus on two conventions which take the protection of cultural heritage into account. A thorough account could be established by including supplementary treaties in further research on the protection of cultural heritage on SIDS.

All in all is the protection of cultural heritage on SIDS of great importance for the inhabitants of SIDS. By bringing together the bottom-up nexus approach and a top-down human rights approach, a comprehensive account on the protection of cultural heritage on SIDS may be established. It might be too late to prevent the consequences of climate change through mitigation strategies for SIDS. However, much can be achieved when communities and states work together like a well-oiled machine by implementing adaptation strategies like the ones discussed in this thesis.

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