

World Heritage: Thirty Years of U.S. Participation

The year 2002 marks the 30th anniversary of the World Heritage Convention, and we in the United States should use the occasion for celebration, since we were the first nation to ratify the convention, and it was American preservationists who conceived of expanding the draft convention from a protective tool for natural resources to include cultural heritage. Proof that this was a good idea is the convention's smashing success. Its ratification by 167 nations makes it the most popular pact in history. The World Heritage List has exceeded all expectations, with 721 inscriptions, of which 554 are cultural, 144 natural, and 23 a mix of the two. The nomination process has become so brisk that the World Heritage Committee has had to limit nominations to one per country each year.

This enthusiasm has not spread to the United States, where interest in the convention has been on the wane for the past decade. Over the past 30 years, only eight U.S. cultural sites have been inscribed on the list—scarcely a handful if we consider our country's size and diverse cultural history, and especially if we compare our participation with nations such as Italy, with 34 cultural sites on the list, or Spain, with 33, or Mexico, with 20. But our most gaping absence from the World Heritage List has to do with our historic cities.

The map of the United States is studded with brilliant cities that speak of our history, please our senses, and enrich our cultural life. Some of them played important roles in the larger history of the world, while others are the result of early experimental European settlements in the New World. American concepts of architecture and urban planning and their application have had a major impact on the mod-

ern development of all cities on the planet. Alexandria, Annapolis, Boston, Charleston, Chicago, New Orleans, New York, Newport, Philadelphia, San Antonio, San Francisco, Santa Fe, Savannah, Washington ... do any of these cities have the outstanding universal value required for World Heritage listing? Probably yes, and an overview of the list of World Heritage cities in the Western Hemisphere republics place the eligibility of U.S. cities in a favorable context. The urban history of the World Heritage cities of the Americas runs just as deep as ours. They include 37 Colonial and Republican cities, and even one Modern Movement city (Brasilia), that run from the universally recognizable, such as Mexico City, to the relatively obscure, such as Santa Cruz de Mompo (Table 1).

Fostering participation by the United States in all international cultural conventions is an integral part of the mission of US/ICOMOS [the U.S.

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Table 1. Colonial World Heritage cities in the Americas, by country.

Bermuda	St. George
Bolivia	Sucre, Potosi
Brazil	Brasilia, Diamantina, Olinda, Ouro Preto, Salvador de Bahia, São Luis
Canada	Quebec, Lunenburg
Colombia	Cartagena de Indias, Santa Cruz de Mompox
Cuba	Havana, Trinidad
Curaçao	Willemsted
Dominican Republic	Santo Domingo
Ecuador	Quito, Cuenca
Guatemala	Antigua
Mexico	Campeche, Guanajuato, Mexico City, Morelia, Oaxaca, Puebla, Queretaro, Tlacotalpan, Zacatecas
Panama	Panama City
Peru	Lima, Cuzco, Arequipa
Uruguay	Colonia del Sacramento
Venezuela	Coro

Committee of the International Council on Monuments and Sites] since they provide one of the principal frameworks for international exchanges of information and cooperation. For this reason, our consistent failure to attain the full potential benefit from the World Heritage Convention has been a nagging frustration for the leadership of US/ICOMOS. As we celebrate 30 years of the convention's existence, this might be an appropriate time to examine the reasons for our poor national performance, and to launch a national debate on how to proceed. That debate should culminate in December, when US/ICOMOS and Harvard University Graduate School of Design will convene a conference on New World Cities and the World Heritage Convention.

Background

When an international convention is ratified by our Congress, it binds

our federal government. For that reason, a federal agency is responsible for managing the implementation of the World Heritage Convention: the National Park Service through its Office of International Affairs, which is both the convention's door and gatekeeper for all Americans. Only federal reserve lands and designated National Historic Landmarks are eligible for nomination. The only person who can lawfully nominate a U.S. site to the World Heritage List is the Assistant Secretary of the Interior for Fish, Wildlife, and Parks. That post is currently filled by Judge Craig Manson.

There are 18 U.S. sites inscribed in the World Heritage List: ten are natural; eight, cultural. Two additional natural sites span our northern frontier and are shared with Canada. All our listed sites, except for four, are national parks. Those four exceptions are Monticello, which is privately owned by a non-profit organization; Cahokia

Mounds in Illinois and the Jeffersonian Grounds of the University of Virginia, both of which are owned by state governments; and Taos Pueblo in New Mexico, which is owned communally by an independent First American nation.

Congressional Opposition and Public Indifference

For the last six years, activity related to the World Heritage Convention has been at a virtual standstill. There are several reasons for that, a principal one being the generalized public ignorance of or indifference towards U.S. participation in the World Heritage Convention. Another powerful reason is that a fringe element in the U.S. Congress has posted strong objections to the inscription of U.S. sites in the World Heritage List, alleging that in doing so we surrender our national sovereignty over those sites to the United Nations, and furthermore that it impinges on the private property rights of the communities in or surrounding World Heritage Sites who may be affected by use limitation on natural sites. The congressional concern either sprang from or resonated well among mining, logging, grazing, and energy constituencies, mostly in the West. The group in Congress is small, but in the absence of a champion for World Heritage on Capitol Hill, it has met little opposition. For the last four Congresses, legislation has been introduced and passed in the House—but stopped in the Senate—proposing far more stringent restrictions on our involvement in World Heritage. On these occasions, US/ICOMOS has often been the lone congressional witness from the private sector testifying

on behalf of greater international involvement. But if the bills themselves have not passed, they have had some successes, including getting the U.S. to pull out of the U.N. Man and the Biosphere Program and obtaining a cut in the State Department's FY2001 budget that eliminated the U.S. contribution to the World Heritage fund.

This, then, might be the place to dispel some of the broadly circulated misconceptions that appear to have driven congressional opposition to World Heritage listings:

1. Property of a World Heritage Site is not transferred to the ownership of the United Nations. Its property status remains unchanged.

2. Authority and responsibility for managing and protecting a listed site continues to rest exclusively with the national, state, or local authorities. Not a single function is transferred to the United Nations.

3. No instructions regarding management or protection are given by UNESCO [the U.N. Scientific, Education, and Cultural Organization, which oversees the World Heritage Convention] unless the country requests such assistance. If and when given, these instructions are in the form of recommendations, never binding obligations.

In other words, after inscription it's business as usual—there is no change in the legal, administrative, or protective status quo. If an American city were to be inscribed in the World Heritage List, no oversight contingents from abroad or from UNESCO would descend on the town to tell the locals

what to do. In the unlikely event the town were to fail in its preservation, the Blue Helmets will *not* disembark on our shores; no black U.N. helicopters will enter our airspace. No international body can order changes to local ordinances, and local authority cannot be taken away. No international body can fine or sanction a U.S. person, municipality, or corporation, nor the United States government, for failure to comply with the convention. The most extreme thing that could happen—and only under the most egregious mismanagement — is removal from the World Heritage List due to loss of significance, and that has never occurred.

What this political opposition on the one side, and public apathy on the other, have meant is that the National Park Service has given a very low priority to World Heritage, and no nominations have been submitted by our country in several years. The last U.S. property listed was Carlsbad Caverns in 1995. How can the process be reactivated? One approach would be for the White House to issue a specific directive to the Secretary of the Interior to pursue more proactively the nomination of our cultural sites. But unless World Heritage listing can acquire a substantial level of political value, this is unlikely to happen.

The U.S. Indicative List

The second obstacle to the nomination process is the content of the U.S. Indicative List. What is the Indicative List? In order for the World Heritage Committee to forecast the volume of nominations to be presented in the coming years, each State Party [i.e., signatory to the conven-

tion] is requested to put together a list, called the Tentative or Indicative List, which identifies the sites that each country may consider for nomination in the next ten years. Sites that are not on the list cannot be nominated unless the list is amended in advance, which can be done at any time. The U.S. Indicative List is compiled by the National Park Service's Office of International Affairs through official and non-official consultation processes with other agencies, experts, and interested parties, including US/ICOMOS. In most countries amending the Indicative List is not a big problem, but here in the United States procedures require that, prior to adoption, the list be published in the *Federal Register* with an adequate period for public comment. However, the Indicative List has not been revised since 1991, when minor adjustments to the 1982 list were published in the *Federal Register*. The Indicative List is outdated and in desperate need of revision to reflect our evolving appreciation of heritage (Table 2). Without public support and its resulting political pressure, the list is not likely to be opened for review. The only historic city that is on the U.S. Indicative List is Savannah, Georgia. It is hard to conceive that there are no others.

Landmark Designation

A third but minor obstacle to World Heritage nomination is the requirement for the candidate site to have National Historic Landmark (NHL) designation. Any historic district in an American city nominated to the World Heritage List has to be confined to existing NHL boundaries. Because the World Heritage guide-

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Table 2. U.S. Indicative List of cultural sites.

Alabama	• Moundville Sites
Alaska	• Cape Krusenstern Archaeological District
	• Alaska Maritime National Wildlife Refuge
Arizona	• Hohokam Pima National Monument
	• Casa Grande National Monument
	• Ventana Cave
	• San Xavier del Bac
	• Lowell Observatory
Colorado	• Lindenmier Site
District of Columbia	• L'Enfant Plan / Washington Monument
	• Chapel Hill, Gallaudet College
Georgia	• Ocmulgee National Monument
	• Savannah Historic District
	• Warm Springs Historic District
Hawaii	• Pu`uhonua o Honaunau National Historical Park
Illinois	• Auditorium Building, Chicago
	• Carson Pirie Scott and Co. store, Chicago
	• Frank Lloyd Wright Home and Studio, Oak Park
	• Leiter II Building, Chicago
	• Marquette Building, Chicago
	• Reliance Building, Chicago
	• Robie House, Chicago
	• Rookery, Chicago
	• South Dearborn Street – Printing House Row, North Historic District, Chicago
	• Unity Temple, Oak Park
Indiana	• New Harmony Historic District
Louisiana	• Poverty Point, Bayou Macon
Massachusetts	• Goddard Rocket Launching Site, Auburn
Missouri	• Wainwright Building, St. Louis
	• Eads Bridge, St. Louis
New Jersey	• Edison National Historic Site
New Mexico	• Trinity Site
New York	• Prudential (Guarantee) Building, Buffalo
	• Brooklyn Bridge
	• Bell Telephone Laboratories, New York
	• General Electric Research Laboratory, Schenectady
	• Pupin Physics Laboratory, Columbia University
Ohio	• Mound City Group National Monument (now called Hopewell Culture National Historical Park)
Pennsylvania	• Fallingwater, Mill Run
Texas	• San Antonio Missions National Historical Park
Virginia	• McCormick Farm and Workshop, Walnut Grove
Wisconsin	• Taliesin, Spring Green

lines are strict in that district boundaries really must embrace the entirety of all the valuable urban fabric that merits inscription, it may be necessary in some cases to enlarge the NHL boundaries to reflect that reality. Urban nominations can be smaller than the NHL district, but they cannot exceed it.

100% Owner Consent

The final obstacle to a nomination of any city in the U.S. is truly a formidable barrier: the National Historic Preservation Act, as amended, requires that for any site nominated to the list there must be 100% owner consent. Everyone knows intuitively and empirically that there is not a single historic district in the world with universal agreement on this matter. The 100% consent differs qualitatively from that required for NHL status, in that for NHL status silence from an owner is assumed to be tacit approval, whereas for World Heritage, silence is the exact opposite: non-concurrence. The federal regulations require proof of owner consent from each and every individual owner in written form. In addition, in nominations of non-federal properties, such as an urban district, there has to be an irrevocable pledge of preservation by the proper local authorities and/or the owner of the site. These pledges are examined in detail by the Park Service's office of legal counsel to verify true irrevocability.

In 1995 the city of Savannah tried to circumvent the 100% owner consent requirement by limiting their nomination to the historic city plan, the squares, and some public buildings, but the nomination was stopped

in the official ICOMOS review process for not meeting any of the acceptable definitions of an integral historic district. The nomination was returned to the United States for revision and re-submittal in such a way that the real Savannah historic district was the basis for the nomination. There was also an informal comment from ICOMOS that the city appears to have sufficient significance for listing. The experience proved to be traumatic for the local community, especially those who had devoted so much time, effort, and TLC to prepare and submit the nomination.

Under these circumstances, officials at the National Park Service have no choice but to take the position that it is absolutely impossible at this time to accept any nomination of a U.S. city without prior proof of 100% owner consent, and they actively have to discourage any U.S. city from even considering it. The National Park Service is not to blame; they are only meeting legal obligations mandated by the federal laws enacted by the Congress. If there is fault, it lies in Congress, not in our civil servants.

Needless to say, all of these extraordinarily stern limitations are a great frustration to all American preservationists who work in the international arena. Not a single other country in the world has such unreasonable limitations on its World Heritage nominations. The United Kingdom and Canada—democratic, capitalistic countries with governing principles close to ours—each has two World Heritage cities: Bath and Edinburgh in the U.K., Quebec city and Lunenburg (Nova Scotia) in Canada. Italy

alone has Venice, Vicenza, Sienna, San Gimignano, Florence, Naples, Pisa, Ferrera, Pienza, Urbino, and Verona. France has the center of Paris, Nancy, Lyon, Avignon, Strasbourg, and the towns of Vézelay and Provins; Spain has 13 cities inscribed in the list; Germany, four; Norway and Sweden each have two. Morocco has five. There are private owners in all these cities, and surely not all of them would have consented if asked. Are we so different? Are we so unique?

Some Rationale for Our Limitations

Why all this fear, inflexibility, and excessive precaution? It is a drastic and sweeping response to the issue of the constitutional rights of the states and private property owners. Since under international law the federal government is the entity responsible for the safekeeping of all U.S. sites on the World Heritage List, there is a concern that if a private owner or a municipal government were to default on their preservation pledge, international law would obligate the Feds to step in and assume full responsibility for the site's conservation, thus forcing it to override state and local authority, and perhaps individual property rights. Another fear is that because of the federal government's obligation to protect these sites, any activity affecting the site's significance in a negative way, but somehow allowed at the local level, could bring about lawsuits against the federal government that, again, would demand their intervention in municipal matters.

How do other countries manage this dilemma facing every central gov-

ernment? Well, they do not really have to. The World Heritage Committee has tacitly accepted the normal limitations of government to protect every single element in a listed site. The purpose of the World Heritage Convention is to elevate the level of protection, not to impose a perfect foolproof system. There have to be acceptable agreements that can be reached between our federal government and its state and local counterparts who have constitutional authority over land use.

Into the Future

One way to overcome the 100% owner consent requirement would be to amend the National Historic Preservation Act to alleviate the perceived burden of the federal government, such as permitting nominations of historic cities on the Indicative List that have proven majority levels of popular and owner support, as is presently required for NHL status. Another path may be to override the National Historic Preservation Act through specific legislation enacted by Congress that would allow Specific Town, USA, to proceed with only a majority of owners consenting, per the same requirements imposed for NHL status. But some legal experts opine that such a law would be immediately challenged as unconstitutional, since the 14th Amendment provides equal rights for all under the law.

Obviously, better options need to be explored by legal experts. But this will only come about if there is strong support from the public and a strong alliance of historic American cities to change a system that limits our citi-

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zens' power of choice. Given the potential list of benefits for each community or site listed, the issue of World Heritage goes far beyond the interests of the preservation community: it concerns city managers, mayors, council members, local businesses, and all the citizens who want to make their town a better place.

One could interpret the sternness of Congress as a mere manifestation of how seriously the United States takes its compliance to international law under the conventions that we choose to ratify. But this is only the legalistic view, for it could also be argued that the exaggerated strictness of the self-

imposed limitations on the part of the U.S. government constitutes an overt negation of the spirit and the aims of a convention that we have pledged to abide by.

At the beginning I wrote that we should be proud that the U.S. was the first nation to ratify the World Heritage Convention. Thirty years into the convention, we might also be very angry that our country is not meeting its full moral obligation under the convention and, more seriously, that it is preventing Americans from exercising our rights over the future of our own cultural heritage and our country's historic communities.

[Ed. note: This article originally appeared in the newsletter of the U.S. Committee for ICOMOS, January–March 2002, and is reprinted here by permission. For the record, in 1997 and 1998 the George Wright Society sent written testimony to Congress supporting World Heritage in response to the House legislation mentioned above.]

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