

Cultural Heritage. Scenarios 2015-2017

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Opening Remarks

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1 Introduction

For sake of clarity and in order to contextualize the papers this book presents, I want to briefly suggest some premises on which the 2015 November Conference has been built and which help to track down the interdisciplinary research framework that holds them up.

2 The Cultural Heritage in the Age of Heritagization

First, and above all, we strongly endorse the central role of CH in the present scenario, in the light of the statement that launched the Conference: “today, cultural heritage manifests itself in real life as well as in the imagination of individuals, communities and groups, and mankind, with an overwhelming force”.

That is, we are aware that at stake is the phenomenon of the so-called *heritagization*, a term used in 2005 by Hartog “to indicate a process where heritage affirmed itself as the dominant category, including if not overwhelming cultural life and public policy” (quoted in Tufano, in this volume).¹

This is not a value-based judgment, nor do we underestimate some *side, even problematic, aspects related to the heritagization*. Not only the sub-section dedicated to “Heritagization and Communities”, of the section “Cultural Heritage Inspires”, but also various papers in different sections and sub-sections of the volume, deal with such “side aspects”.²

1 With a critic approach to the matter, see Lowenthal 1998, quoted in Pinton, in this volume.

2 Moreover, these issues have been discussed in previous volumes of the series *Sapere l'Europa, sapere d'Europa*: see Tamma 2015, Sciarba 2015.

Rather, the volume, not unlike the Conference from which it originated, is *in primis* characterized by the acknowledgment – without any reticence – of the paradigmatic shift (Kuhn 1962, 27 and *passim*) intervened in the last decades, at the end of which “the ways in which we look at cultural heritage have evolved dramatically from monument and museum collection to encompassing a complex matrix of meaning, values, associations and related concepts” (Viejo-Rose 2015, 2). Remaining into the connection between memory and CH, the author now quoted guides us to understand what is really at play (Viejo-Rose 2015, 17) “the models for understanding both memory and heritage have moved on from a hierarchical vision by which the brain and social authorities ran the show, to one of web-like network of interconnections [...] to today’s ‘cloud model’”, with its symbiotic balance of inputs and outputs. According to Viejo-Rose, the cloud bears a resemblance with Deleuze’s “world-memory” concept (1989), “where no one singularity of persons, place or group stands out of a continuum of life made up of metamorphoses and perhaps also metaphors”.³

Before moving out of the premise on *heritagization*, we have to address the widespread criticism for which if we talk of a process where everything can become CH, then nothing would be CH. But this criticism is not going beyond a vision of CH as hierarchies between different levels (of importance) of cultural objects. On the contrary, in the *heritagization wave*, CH has to be conceptualized as a process – or, if we prefer, as the always provisional result of processes – of social cultural production, not as a sum of cultural properties. In this perspective, every qualified cultural process entails the process of heritagization, as it will be explained in this volume. Concluding on this point, we have also to be careful when managing the notion of *metacultural* as supported by qualified authors (Kirshenblatt-Gimblett 2004; Ciminelli 2008, 2011, among others; see also Bellato, in this volume). Indeed, as underlined by Tauscheck (2008, quoted in Bendix 2009, 190 ff.) “heritage practices appear to be moving out of the shadows of meta-existence and talking on the shape of tradition themselves”. In short, probably we are already beyond the impalpable dimension of the *metacultural*.

3 A New Role for the Legal Dimension in the CH Studies

Secondly, at the time of the Conference we already underlined some of the issues concerning the relationship among the existing international legal instruments on CH. On one side, there exists an enriched dialogue between UNESCO’s treaty bodies; while a mutual contamination between

3 From a different perspective on the relationship between memory and CH see Zagato 2012.

legal instruments is ongoing, on the other side. Namely, among the UNESCO instruments primarily, but also between the 2003 UNESCO Convention and the 2005 Faro Convention (Zagato 2014, 2015). It is true that there is a difference on the subjective and territorial (at local, national and international) level of application of the two instruments. However, the Faro Convention is open for accession, upon invitation from the CoE, to non-European States, and a real interest to be part of the Convention has already been manifested by some countries of the Southern Mediterranean area.

As a consequence, the centrality of the legal dimension in CH studies emerges with emphases. The jurist, not only is in charge to facilitate the understanding by CHs, other groups, stakeholders in general, and by specialists of other disciplines, of the ‘terminological opaqueness’ of the new legal instruments. Moreover, the jurist must help to properly address the central issue on “what impact do new components of world heritage regimes have on the meaning and daily practice of inheriting, owning, and – potentially – selling ‘culture’” (Bendix 2009, 183). Even more, his task emerges on the complex relationship between the international protection of the CH and IPR instruments of protection.

4 Last Premises

The other premises – perhaps it would be better to speak of ‘preliminary considerations’ – are strictly connected to the previous ones.

The third premise concerns the relationship between human rights and CH. Today we cannot deny, or even ignore, the belonging of CH to the human rights sphere. Rather, this belonging has been articulated more precisely through the recognition of a specific human right to CH, a right sets forth in the Faro Convention (Preamble and art. 1(a)) as a *basic* human right.⁴

However, several human rights specialists – but also, symmetrically, anthropologists and scholars of social sciences – remain skeptical about the existence of such a right, and a precise account of these thoughts will be provided in the volume, sketching also possible interpretative ideas.

Today the existence of a precise right to CH as a key aspect of the general right to culture, as referred to in art. 15(3) ICESCR, can no longer be called into question, even in the light of the Shaheed Report (para. 22), for which ‘references to cultural heritage have emerged in international human rights instruments and in the practice of monitoring bodies’.

4 This issue has been discussed in the second sub-session on “Cultures, Rights, Identity” of the main session on *Cultural Heritage Inspires*.

Fourthly, authors agree on the unitary nature of CH, including both tangible and intangible elements. We know well the risks and effects of parceling the concept of CH and, as a consequence, of parceling the different disciplines dealing with CH. Most importantly, it should be emphasized (Blake 2011, quoted in Zagato in this volume) the sharp ‘cultural racism’ that has supported and still supports the efforts of keeping the radical separation between the tangible and intangible dimensions of the CH: this obviously at the expense of the latter, and of the knowledge and expressions associated with it. Also under this profile, the Faro Convention marks a turning point.

Finally, we also agree that the topic of CH leads inevitably to the issue of common goods. The nature of CH as a common good is underlined by a number of authors’ papers in this volume: what emerges does underline the need to go beyond the simple claim of the CH as a *unus* among the common goods. The different classifications of common goods currently available, in fact, remain notoriously inadequate: from the limitation of the notion of CH to that contained in the 2004 Italian Code – but the same applies to other countries –, to the reckless attribution to IPRs of the CH character.⁵ This means that the time has come for developing a thorough study on the *same theory of common goods* by the network of scholars working on CH. For the CH jurists, in particular, this will require to go deeper into the definition of taxonomic profiles of matter.⁶

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5 The latter idea presents serious dangers. There is no space here to go deeper into the issue but... can someone seriously think about IPR as common goods? In that case... “vexilla regis prodeunt Inferni!”.

6 On the need to produce an adequate taxonomy of the common goods phenomenon cf. Marella 2011, 2012.

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