

INHERITANCES POSSESSION, OWNERSHIP AND RESPONSIBILITY¹

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Inheritance traditionally refers to material possessions passed on from a deceased person to his or her heirs. With the expansion of the related concept of heritage and the emergent cultural practices associated with it, questions of responsibility and ownership arise on a much larger scale of actors. This paper explores the analogies and differences between inheritance and heritage. How do issues of ownership and responsibility differ between a familial and global context? Ownership coupled with expectations of safeguarding is particularly complex when material heritage is expanded to the realm of the intangible. The process inherently furthers the path toward the commodification of cultural expressions ennobled through heritage regimes. Intangible heritage regimes are a contributing factor for treating excerpts of culture as a renewable (albeit fragile) resource.

Keywords: *inheritance, heritage, cultural commons, cultural ownership, cultural resources.*

Dediščina se navadno nanaša na materialno lastnino, ki se s pokojnika/pokojnice prenese na njegove/njene dediče. Z razširitvijo s tem povezanega koncepta dediščine izročila in brstečimi kulturnimi praksami, ki so z njim povezane, se spoprijemamo z vprašanji odgovornosti in lastništva pri razsežnejši skupini akterjev. Članek obravnava analogije med dediščino in izročilom. Kako se razlikujejo problemi lastništva in odgovornosti na družinski in globalni ravni? Posebej je zapleteno, ko se lastništvo poveže s pričakovanji za varovanje dediščine in ko se snovno izročilo razširi na območje nesnovnega. Proces sam po sebi vodi h komodifikaciji kulture, oplemenitene z upravljanjem dediščine. Režimi upravljanja nesnovne dediščine odločilno prispevajo k obravnavi delov kulture kot prenovljivega, čeprav krhkega vira.

Ključne besede: *dediščina, izročilo, skupna kultura, lastništvo kulture, kulturni viri.*

How can an individual, a group, a nation, or the world population inherit cultural expressions, from material monuments and cultural landscapes to intangible culture? What does “to inherit” entail in the formulation “intangible cultural heritage”? A first, perhaps too easy answer, is to note the semantic difference between “inheritance” and “heritage.” A more complicated train of thought is necessary to outline the entanglement between *inheriting* – a gerund that always points to future ownership – and *heritage*, a noun that does not have a related verb to accompany it. The 2003 UNESCO convention to safeguard the intangible cultural heritage of the world marks, as Laurajane Smith and Natsuko Akagawa have noted, “a significant intervention in international debate about the nature and value of cultural heritage” (Smith and Akagawa 2009: 1).²

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² The Budapest Convention on World Heritage of 2002 (<http://whc.unesco.org/en/BudapestDeclaration/>) uses both *heritage* and *inheritance*; in the 1972 document, the word *inheritance* does not appear.

Over the past four decades, participants debating the need and contours of safeguarding culture have continually absorbed fragments of scholarly input concerning the nature of “culture.” One can argue that the enlarged repertoire of UNESCO world heritage categories – from monuments to memory and intangible culture – reflect the slow and subtle growth of awareness that material culture is ultimately but an expression of human mental capacities. Whereas Article 1 of the convention concerning cultural and natural heritage from 1972 focuses on the materiality of works, sites, or buildings (World Heritage Center 1992–2009), Article 2 of the convention for intangible heritage acknowledges actors and their agency, and with them the fluidity and dynamic inherent to cultural expressions:

This intangible culture heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity. (UNESCO 2003: 3)

Such insight would – if one were consistent – likely demand that earlier heritage conventions be adjusted based on the recognition that culture is forever flexible and its material expressions are but fleeting evidence of human creativity. Accepting the dynamic of human creativity would ultimately require the acceptance that communities interact with their history, their ancestry, and their inheritance in a culture- and context-specific manner. Indeed, communities might see fit to destroy or dismember extant monuments and sites to transform them into something new. Internationally sanctioned heritage regimes, however, limit and channel creative agency. The impulse to safeguard disciplines culturally divergent ways of interacting with the past. In particular, heritage regimes are closely intertwined with processes of cultural commodification. Heritagization does not simply express historical and moral³ value; it also opens up an arena for questions of ownership and opportunities for sale.

Given the complexity and long duration of achieving an international convention and its subsequent ratification in member states, successive heritage conventions remain in force alongside one another. One might regard this as an inheritance in and of itself, a result of the slow learning process within international consciousness raising, with the successive conventions for material and natural heritages, cultural landscape, memory of the world, and, finally, intangible culture each maintaining their respective goals, which in part conflict with one another.⁴ One might equally well acknowledge that it is not (or not only) slow organizational learning processes that bring about a change in perspective

³ This paper skirts one important issue that deserves to be addressed in separate studies; namely, the question of how “morality” is defined in global discourse. There are some thinkers (with a deep philosophical tradition behind them) as well as global actors that foresee the possibility of a globally shared morality endorsed by rational actors; there is, on the other hand, a tradition that acknowledges a cultural relativity of morality. Cf. footnote 18.

⁴ Some interpreters of the *Convention for Safeguarding Intangible Heritage* focus less on its expanded definition of culture. Because the earlier conventions privileged states in possession of a rich monu-

and scope. Rather, the deficits or asymmetries in information are but one component; motivation to work toward change (or stagnation) and, on a macro level, the political and economic constellation of actors capable of bringing about change have an influence on the breadth of heritage options.⁵

In turn, enlarging heritage recognition from material to enacted and, ultimately, mental categories complicates notions of ownership. Because they are territorially located, monuments seemingly pose fewer problems for determining whose responsibility they are to safeguard, even if the cultural ownership may be more difficult to determine in countries with heterogeneous cultural groups. There certainly are conflicts on record here, too, with Preah Vihear Temple, nominated in 2008, on the border between Cambodia and Thailand being a prominent example.⁶ Expanding notions of heritage to include intangible culture constitutes a materialization of fluid tradition (Brown 2004: 50–51) and shifts questions of ownership into the realm of intellectual property. The category “cultural property,” which predates UNESCO’s heritage work, takes on renewed potency. The World Intellectual Property Organization (WIPO) and UNESCO had, as a matter of fact, cooperated for a considerable time on issues of culture, but parted ways in 1988, with UNESCO focusing on safeguarding and preserving, and WIPO addressing “questions of ownership and exchange” and, attendant to such concerns, protection, with list-making as an emergent practice of such regimes evident in both organizations (Hafstein 2007: 86).⁷

The work of international organizations by necessity dwells on levels of abstraction on the one hand and terminological opaqueness on the other in order to move forward at the negotiation table. This essay builds on some accounts concerning the generation and aftermath of this most recent heritage convention (e.g., Hemme, Tauschek and Bendix 2007; Smith and Akagawa 2009), and reflects on the nature of this intervention from the perspective of cultural anthropology. In particular, I would like to explore the semantic shifts in concepts such as inheritance and ownership. What impact do new components of world heritage regimes have on the meaning and daily practice of inheriting, owning, and – potentially – selling “culture”? What kind of semantic connection, if not analogy, do such sequences share with the matter of inheriting the material and immaterial stuffs of family and kin and the questions of ownership that ensue? What occurs in the shift from

mental heritage, the new convention permitted (largely “developing”) nations to participate in the global competition of heritagization (cf. Meyer-Rath 2007: 173–174).

⁵ Ongoing research by the Göttingen research group on cultural property (<http://www.uni-goettingen.de/en/86656.html>) at the World Intellectual Property Organization (WIPO) in Geneva supports the latter view, although the component of “organizational learning” cannot be discounted.

⁶ Research on the issues surrounding the nomination and implementation of the Preah Vihear site are currently being studied by Brigitta Hauser-Schäublin (Göttingen) as part of a larger Göttingen research endeavor concerning the constitution of cultural property (cf. <http://www.uni-goettingen.de/en/86656.html>).

⁷ Wend Wendland, secretary for the intergovernmental committee concerned with matters of cultural property at WIPO, stressed this distinction between preservation and protection in an interview by Stefan Groth, 24 October 2008.

privately regulated und experienced passing on of material and immaterial inheritance to a global regime of heritage:⁸

Semantics are, of course, tied to particular languages and the present thoughts are penned with English vocabulary in mind. In a comparative study of heritage terminology, Astrid Swenson (2007) sought to delineate conceptual shifts that eventually led to *heritage*, *patrimoine*, and *Kulturerbe* in English, French, and German, respectively. These terms circumscribe in the respective languages what is to be safeguarded from the point of view of UNESCO as well as many national and regional institutions and initiatives concerned with honoring, protecting, and profiting from the cultural past.⁹ Swenson reaches the conclusion that, despite differences, in these three language contexts the terms achieved a similar meaning:

It is never a neutral term; it always carries the moral implication that things must be preserved, and almost always the term is emotionally charged. At the same time, the fluidity of the concept, its role as an 'empty signifier,' permits one to more distinctly perceive opposing ideas and motives, the mechanisms of social control, and the power play entailed or hidden within the term (Swenson 2007: 72).¹⁰

In this spirit, I would like to build on earlier reflections regarding the relationship and interplay of the heritage construct, with terms and practices in social life that are considerably less opaque and thus have more concrete consequences in everyday lifeworlds (cf. Bendix 2000).¹¹ Because I am a European as well as an Europeanist, cultural anthropologist, and folklorist by training, my examples are probably eurocentric. The emergent heritage regimes are also decidedly “Western” in their conceptualization and implementation, simply because they draw on the cultural patterns of western evaluation regimes and – initially – build on the bureaucratic apparatus built to implement and maintain them.¹² Indeed, even the competitive selection procedure and the resulting lists reflect western practices of establishing scales and priorities.¹³ Nonetheless the reader is asked to think further and

⁸ Of course, there are state and federal laws regulating the inheritance of private property; nonetheless, there remain private, “customary” sensibilities and individual experiences that are free of a more comprehensive public regime.

⁹ With regard to assessing the need for follow-up on the *longue durée* of political efforts to preserve and protect aspects of cultural practice deemed valuable, see Tschofen (2007).

¹⁰ The translations from German are mine.

¹¹ Nelson Graburn has provided a farther-reaching comparative exploration of the linked terminologies of kinship and heritage – whereby the title of his essay does not really do justice to its content (2001).

¹² As an example for how culturally patterned implementation measures the impact on the lives of those living within a heritage site, see Miura’s study on Angkor, Cambodia (Miura 2004, 2005). Her ethnographic study painfully illustrated what complex, contradictory, and often unproductive bureaucratic hoops are introduced and how extant political structures lead to developments not at all likely to embody the spirit of UNESCO’s heritage conventions.

¹³ The generating of lists as instruments of heritage regimes is superbly discussed by Hafstein (2009). Although I am aware that the impetus to introduce intangible heritage into UNESCO’s work was a result of Japanese lobbying for safeguarding models (“living national treasures”), which had a long

comparatively, because an understanding of notions of ownership, responsibility, and generation must work toward including culturally diverse ideologies of handling death, the past, and continuity (that is, systems of time),¹⁴ as well as notions of inheritance and ownership (that is, systems of property and attendant rights). It is these last features that interest me here, but one cannot treat this without also touching on the former.

INHERITING WRIT SMALL: PRIVATE “HERITAGE”

On the heels of a death follows, aside from ritual leave-taking and grief, the necessity to deal with what the individual left behind – both in terms of debts as well as material and/or monetary possessions: inheritance is rarely solely a matter of welcome material gain for those left behind. A comparative survey of ethnographic studies carried out worldwide on funerary and post-funerary practices would reveal a good deal of difference on how possessions are handled, depending on whether a given culture permits or values personal possessions. Possessions might be placed in a funeral pyre to burn with the corpse, they might be distributed within the entire social group, or they might go into the possession of the culturally determined heir or heirs. Heirs, in turn, are generally kin; that is, individuals that are related to the deceased by blood (or, in the era of genetic testing, by genetic makeup) as well as marriage into a given kin group. Whereas indigenous societies may adhere to customary laws of inheritance, the political success of the nation state has ensured that there are legal codices (albeit divergent, but generally equally complex) regulating the ways in which inheritance is to be dealt with in the family context.¹⁵

“To inherit” semantically implies a great deal more than “to own,” although this, too, depends on the cultural context. Inheritance confirms or establishes a continuity of kin and perhaps also validates additional social relationships. Heirs are likely to be guided (if not also observed and talked about) as they take on the responsibility encoded in an inheritance. The more closely knit and homogeneous a community, the more intensely the forces of social control will be at work. There is the moral expectation that the debts of the

history in Japan, the bureaucratic paths chosen to bring about the competitive application and certification programs appears to be built on western cultural certification patterns.

¹⁴ On the conceptual connections of inheritance and world heritage from a literary, legal, and economic perspective, important work is being conducted in an ongoing multidisciplinary research endeavor funded by the VW Foundation at the Berlin Zentrum für Literatur- und Kulturwissenschaft, *Generationen in der Erbgemeinschaft* (Center for Literary and Cultural Studies in the project *Generation in the Community of Heirs*) (<http://www.erbschaftsforschung.de/>; consulted 13 February 2009). Though more strongly guided by research questions from literature (albeit assisted with expertise from law), a number of relevant projects on the notions of generation, tradition, and heredity are emerging there; cf., for instance, Weigel (2006) or Müller-Wille and Rheinberger (2007).

¹⁵ David Sabean (2007) provides a brief assessment of the emergence of restricted inheritance practices in Europe, with some emphasis on the gender disparity that was introduced, and calls for a more comprehensive comparative study of nineteenth-century legal codes that restructured inheritance law with relation to family.

deceased be paid, just as there is a moral expectation that his or her possessions be tended properly and respectfully. Personal property such as land, real estate, or a business are to be handled wisely, ensuring that their value be maintained or increased. In distributing the personal effects, emotional wishes and/or obligations come into play. The children, grandchildren, more distant relations, or friends that receive the coat or the painting, the ring or the butterfly collection of the deceased receive not just an object, but are also entrusted with the memory of this individual, and his or her lifeworld, predilections, and obsessions. The inherited objects encode the inheritors' relationship with the deceased person. Some individuals seek to control the management of their inheritance by specifying in a last will who is to be gifted with what and who is to be in charge of what assets for the greater benefit of further descendants; some descendants in turn seek to contest such arrangements. The social relations between the dead and the living hence continue with regard to inherited property, much as property is, in an adaptation of Chris Hann's definition, best viewed as social relations between people with regard to objects and assets (Hann 1998: 4).

Thus, an inheritance passes on to the future both material value and mental valorization. In addition to the mesh of intangible memory encoded in inherited tokens, there are further memories – positive and perhaps also not so positive – that are woven into the fabric of family and kin folklore; stories that are passed on, components of ritual that the person might have created in a family, and recipes and other knowledge that may begin to form a temporary or long-term part of a given family's traditions. Barbara Kirshenblatt-Gimblett has reflected on the duality of valuation and valorization for public heritage practices (2006: 193). They appear to derive, in intent if not in morphology, from the rights and responsibilities, material and emotional, of the familial, more private context of inheriting writ small.

The very precise contours of a family inheritance – tangible and intangible – extend over time into a more inchoate bundle of memories and cultural practices that one might term “private heritage.” Individual actors touched by a death take on ownership as well as responsibility of such an inheritance. Although there may be customary as well as local and national law on how such ownership and responsibility are to be enacted, the *emotional* investment can at best be subject to a socio-cultural regime. The actual level of familial and individual feeling cannot be assessed, although the process of enculturation naturally does condition individuals to be aware of what is culturally expected of them. Nonetheless, for individuals and families there is the option to discard what is inherited. The house willed to the eldest daughter might be in ruins and she might opt to have it torn down and build a new one. The family traditions upheld by the deceased *pater familias* might have been stifling and oppressive, and a widow or family may break with them with enormous relief. While the powerful hold of custom and social control mechanisms cannot be underestimated, individuals faced with familial inheritance have a measure of freedom of choice. The bigger and more heterogeneous a group is, the weaker are the forces of social control and the greater the measure of such familial or individual freedom to uphold or to abandon an inheritance.

This is, of course, the nexus where the anxiety of cultural loss is lodged because it is invariably also tied to feelings of alienation which, I would argue, contribute to the emergence of heritage practices – inheritance writ large. In order to grasp the leap into the inheritance analogy entailed in material and intangible cultural heritage regimes, and to understand where the bridge between inheritance and heritage is located, it is worth summing up the relevant factors involved: Social actors dead and alive are kept in a relationship over a generation or more through values of material and immaterial dimensions. There are customary and legal, economic, and moral obligations, rights, and responsibilities.

INHERITING WRIT LARGE: PUBLIC HERITAGE

Inheriting within the family context materializes continuity and generation – connections that perhaps facilitate and are certainly also deeply implicated in the ideology that has generated world heritage regimes. The “loosened ties” connected with industrialization, urbanization, and migration provide individuals with greater freedom in fashioning their lives. Much as “good” can only be evaluated on the basis of its opposite, freedom is felt only vis-à-vis experiences of bondage; the social and cultural ties of tightly knit custom can turn, in retrospect, into havens of communal support, common tradition, and individual safety within a collective. This very contrast between lasting tradition and unrelenting modernization is, ultimately, where the romantic vision of culture finds its origin. A desire to salvage, and with it the foundations for the study and preservation of culture, took their beginning from such longing.¹⁶ Reams of studies on migration and ethnicity, as well as on the effects (more broadly speaking) of modernization, document the impact of changing lifeworlds on the individual. The sense of individual empowerment goes hand in hand with a growing realization of individual responsibility for managing the risks of such a liberated life (Beck 1992). In the manner of historical, comparative case studies, Richard Sennett recounts how such individualization processes transform public life. Individuals searching for empowerment within their own lives undermine their attention to social competence; they gain individual freedom, yet pay the price of social isolation.¹⁷ The dis-embedding brought about by a second or reflexive modernization observed by Beck and attributed to the dual pressures of a globalized and individualized lifeworld (1996, 2004), is, in Sennett’s earlier study, more closely tied to the relevance of “tradition” – a term with semantic powers much like heritage but subservient to it in current social discourse. Sennett portrays the

¹⁶ Questions of the emergence of heritage practices are invariably closely tied to the emergence of ethnological disciplines. Among the legion of works addressing ethnological disciplines, the reader is referred to only a few examples: Bausinger (1971), Bendix (1997), Kaschuba (1999: 20–38), Köstlin and Nikitsch (1999), Stewart (1984, 1991), and, touching on the link between the ethnological disciplines and heritage, Bendix (2008).

¹⁷ Ulrich Beck’s work (1996, 2004) on reflexive modernization similarly points to the dis-embedding entailed in a simultaneously globalized and individualized lifeworld.

emergence of the individual, who seeks new relations and opportunities, and who is in a quandary regarding how to manage such unfolding while tending to the emotional space offered by tradition or folklore – and hence the “group” or cultural context. An increasing reliance on the self and an assured self-determination reshapes the connection to the reservoir of cultural expressions within one’s group. The norms of interpretation loosen in terms of what exactly constitutes a “proper” execution of such tradition – a phenomenon highly visible, for instance, in the realm of “new folk music” in Europe. To what extent such developments and associated trains of thought apply to non-“Western” and less privileged lives remains to be examined.

Individualization has also loosened the immediacy of responsibility for aging kin – without necessarily reducing the interest in the property held by such kin. Industrial and post-industrial societies show increased mobility, largely due to occupational opportunities. Both by necessity and choice, this has increased the distance between the living and death. The once customary proximity between the aged and ailing and their next of kin has given way to institutions for the aged and correspondingly less social contact and kin responsibility. There are increasingly more services stepping in where family used to be in charge of eldercare as well as, eventually, funeral preparations. I doubt that the separation of dead individuals from inheritable property and associated memory is ever complete. However, I would argue that inheriting as a “complex cultural technique of preservation” (Langbein 2003: 335) has gained in shades of emotional-moral impact through the increased alienation from processes of dying and death itself. The ensuing gap opens emotional space for reflecting on the past – not just personal, but also cultural – tied to material and immaterial inheritance. Here I see the convergence with inheritance writ large.

The leap from familial to (world) cultural heritage requires further transformations not only at the emotional level, but also on the legal plane. Stefan Willer locates a crucial step toward such regimes in the aftermath of the French Revolution and the practice of making large cultural treasures the property of the state:

“The World Heritage program is – in its own turn – inheriting cultural economies of a national orientation. This is particularly the case in European national cultures of the late 19th and early 20th century. And even those concepts of inheritance are transmissions: There were nationalizations of the transfer of legally privately owned goods which thus far had occurred between individuals. Within this ancestral site of inheritance, each case of succession also implies a death which occasions the inheritance-succession in the first place. The collectivist vision of a cultural inheritance thus came about in the aftermath of the disinheritance practices of the French Revolution.” (Willer 2007: 125).

Moving sites deemed of national significance into state ownership prepared the way for building institutions in charge of restoring and maintaining monuments. Such organizations at the local, regional, and national levels, however, also planted and traditionalized the seeds of a preservationist rhetoric that would eventually form the backbone of heritage regimes (cf. Tschofen 2007). One might argue that the second half of the twentieth

century proved to be an era in which mourning the loss of traditions transformed itself into institutions, which in turn enforced maintenance of the material facets of such traditions, as well as increasingly their immaterial facets. The maintenance of cultural expressions no longer appeared to be guaranteed in continually modernizing, individualizing societies. Individuals, institutions, scholarly disciplines, and, eventually (to put it in this grossly abbreviated sequence) international organizations such as UNESCO thus took it upon themselves to ensure the maintenance of at least the “best” of such cultural artifacts and expressions. The construction or “naturalization” of an international responsibility for preserving the past and the emergence of supra-local and supra-national norms associated with this development still awaits further documentation and analysis.

To sum up the relevant factors involved in bringing forth an inheritance writ large – that is, public heritage practices – I note first and foremost the change involved from the private level with regard to social relationships. At the familial level of inheriting, it is the relationship between known social actors – one side dead, the other alive – that is marked through processes of inheriting. On the global stage of heritage, specific individuals recede. Rather, it is the moral obligations of “all” to generate programs ensuring the preservation and protection of chosen aspects of cultural pasts.¹⁸ For this imagined global community, cultural heritage is conceived as a commons of humanity.¹⁹ To forestall the decay of material heritage, UNESCO, as the United Nations organization “in charge” of culture, mobilized and eventually began to generate a series of conventions to save and preserve such physically manifest sites. UNESCO’s intangible cultural heritage convention not only contributed to the valorization of the intangible aspects of cultural inheritance, it also contributed to the

¹⁸ Yet how are such purported global morals legitimized? At this juncture, an additional treatise on the debate regarding morals and norms in global governance needs to at least be pointed out, if not properly treated. Scholarship on an emergent global polity has emphasized norms rather than morals as an avenue to avoid the imposition of universal moral values. The concept of morality can, in a Durkheimian social analysis, only be invoked within specific, socially circumscribed contexts in which there exist shared assumptions governing social action and interaction, and hence shared values and notions of “morality.” At a global level, shared moral obligations are certainly invoked in speechmaking and program building, but, as sociologist Helmut Willke has argued, shared norms rather than morals are what is needed: “We took centuries to overcome the paternalism of morals and achieve the rationality characteristic of democratically shaped norms.” Willke insists on the necessity of separating privately held moral frameworks from politically achieved norms, particularly as a means to overcome the longing for “universal norms”: “The longing for universal norms appear to be fed from similar sources as the longing for eternal world peace. Both longings are understandable, and yet both remain fiction... A universal moral order remains fictional because there are no mechanisms for solving opposing moral postulates” (Willke 2008). Yet, even so, the question remains whose norms are deemed “good,” as Amitav Archarya has pointed out. Archarya further showed how the adaptation of purportedly global norms into regional and local settings undergoes a process of assimilation with locally valid norms (Archarya 2004).

¹⁹ As Rosemarie Wilcken, president of the German Endowment for World Heritage, formulated it in a public address in 2004: “One basic tenet of the world heritage convention is that here is a joint responsibility of all for the protection and maintenance of cultural and natural heritage of the world for future generations” (Vortrag Wicken 2004: 1).

recognition of the resource quality of certain aspects of culture. To forestall a “tragedy of the commons” of intangible cultural heritage – which Garrett Hardin already deplored for natural resources in 1968 – measures to protect it against excessive use and abuse have been seriously debated at the World Intellectual Property Organization since 2001. Philosophical, scholarly, and scientific expertise legitimizes the installation of such regimes to restore and protect cultural values encoded in monuments and artifacts, landscapes, and intangible practices. Rather than specific social ties, it is generalized relations between “the world” and the diversity of its cultural ancestors that is to be kept alive.

This commons idea suffuses the conventions. It is, however, immediately undermined by the fact that international conventions can only be acted upon at the level of countries because all UNESCO conventions must be ratified by individual countries. Thus, while the “world community” is insisting on everyone’s moral obligation to uphold cultural inheritances for the future, it is actors and institutions at the local and national level that have the social, political, and most of all economic responsibility to nominate cultural expressions for heritage status and – if successful – to see to their proper protection.

The magnitude of scale of inheriting writ large cannot be upheld simply with the forces of social control – as is, at least to an extent, still possible with familial inheritances. Within the familial setting, the material inheritance is obvious; the intangible aspects establish themselves in the course of time. For world heritage, however, there is nothing obvious about what is to be inherited and how the inheritance is to be carried forward into the future. Choices of worthiness and urgency are not immediately clear to cultural communities, experts, and politicians, despite the voices that consider value, beauty, and importance self-evident. Depending on historical experience and station, power, or lack of power within the world community, actors on the world stage will have different notions of what is to be part of world heritage. The repercussions of colonialism and postcolonial awakenings are in this regard a latent but powerful component of heritage decision making.

Complicated mechanisms have to be set into place in order to bring forth applications, evaluations, and nominations, followed by guidelines and processes to ensure the proper maintenance of an item that has achieved world heritage status. If the legal accompaniment of a familial case of inheritance might seem to some cumbersome and alienating, the apparatus required to identify and ensure the passing on of the world’s cultural inheritance is of truly bewildering proportions. Barbara Kirshenblatt-Gimblett has spoken of the work of heritagization as “meta-cultural production” (1995). Yet, as some recent research on “heritage work” has begun to point out, heritage practices appear to be moving out of the shadows of a meta-existence and taking on the shape of traditions themselves. As one interviewee in Markus Tauschek’s study on the carnival in Binche noted, soon the people of Binche might celebrate the anniversary of their nomination to intangible heritage of the world, and the carnival might become of secondary importance in their year cycle (Tauschek 2008). Here, again, the analogy to the private sphere may ring more true again – families

that have engaged in extensive legal battles over inheritances may celebrate a legal victory more than whatever material goods remain to be inherited after the struggle.

Despite their tendency toward bureaucratization, heritage practices are not devoid of emotion.²⁰ The moral high ground of preserving a cultural commons brings forth competitive energies, pathos, and jubilation (or disappointment). Perhaps this was not foreseen by those that crafted the convention for intangible cultural heritage in a long, drawn-out process. In his participant observation in the halls of UNESCO, Valdimar Hafstein registered a great deal of concern for how to contain the potentially boundless volume of applications from communities wishing to see their cultural expressions added to a list of intangible cultural heritage (Hafstein 2009: 105–107). In reining in that possibility and establishing selection criteria, however problematic they are, distinction was introduced into the intangible cultural commons, much as it is present in other, earlier UNESCO heritage categories. The capacity to achieve distinction vis-à-vis competitors brings forth winners and losers, good players, and neglectful rogues. Albeit achieved through a very different route than private inheritance, heritage practices appear to generate just as much if not more agency in the present and for the future. The primary mission of preserving evidence of cultural pasts pales by comparison. Archaeologist Denis Byrne's hope for introducing a notion of "feeling heritage" signals a discomfort among international, cross-cultural heritage workers, and a desire to (re-)capture culturally divergent ways of honoring cultural pasts. Yet is that not a revisiting of the same nostalgic longings that suffuse heritage-generating practices in the first place, albeit spurred on by encounters in new fields and saturated with the experience of the effects of one's own work? The moral mission embraced by the conventions will only achieve sustainability, says Byrne, if conservation solutions mesh "with local beliefs and practices," in particular with regard to how the social ties to the dead, to ancestors, are culturally marked and felt. UNESCO, to him, is mired in its "own fantasies of universal value." Byrne argues that the world does not need more archaeologists and heritage professionals recording and conserving intangible heritage. Rather, "we would be better employed, first, in examining the politics of visibility in the production of heritage and second, in reconnecting emotionally to the past via the traces we already have recorded" (Byrne 2009: 249–250). Notwithstanding such sobering calls for reevaluating the state of cultural inheritance in the world, the matter of ownership and attendant responsibility so patently inscribed into familial inheritances also plays a considerable role in public heritage.

CULTURE AS A RESOURCE, BATTLES FOR OWNERSHIP

Once heritage conventions have been ratified by countries, and once actors from the

²⁰ Naturally, one cannot claim that bureaucratic culture is devoid of emotion. Indifference, as Herzfeld's work has demonstrated, is a culturally produced form of seeming non-emotion that in turn can generate a great deal of aggression and frustration (Herzfeld 1993).

national to the local level prepare to implement them, the responsibility of the world at large to ennoble particular sites and practices and elevate them to heritage status has, for the most part, concluded. Other than through the list of endangered sites and practices, UNESCO cannot serve as an agency that puts into practice the ideology encoded in its heritage program. For the most part, the moral ownership of the world does not include the financial responsibilities included in fulfilling the safeguarding measures. UNESCO's task is to focus attention on cultural value, whereas the task of investing and protecting such value rests in the hands of actors within individual countries.

Yet if the production of heritage is strongly couched in moral responsibilities on the global stage, one cannot deny or overlook the fact that in local and national practice heritage presents an economic opportunity. Much as a familial inheritance can entail economic gain, cultural heritage presents possibilities for economic growth. Profiting from such opportunities depends on ownership. Hence the question of “who owns native culture” (Brown 2003) becomes crucial: heritage practices heighten consciousness for culture as a resource. Whereas UNESCO and a number of other actors prefer to emphasize heritage's role as an identity resource, its caliber and growing importance as a renewable economic resource cannot be denied²¹ – more than a century of cultural tourism constitutes ample evidence of this, as does the more recent merchandizing activity in museums as well as in the environs of traditional performances and ritual. The political and economic resource qualities are thus closely paired and, as George Yüdice has argued, can even be seen as a positive coupling in the world of identity politics (2003).

The terms “cultural property” and “cultural heritage” are closely interlinked. There are efforts to mark their distinction, and their semantics differ further, depending on which language is examined. Nonetheless, a proximity in usage can be observed time and again, and this proximity is indicative of the fluid transition from valorization to valuation raised by Kirshenblatt-Gimblett (2006). Scholars of international law in particular have pointed to the problematic, conceptual vagueness in the definition of both concepts, with Lyndel Prott and Patrick O'Keefe (1992) observing the slow supplanting of “property” by “heritage” and arguing for the latter's inclusion of the former. Manlio Frigo has pointed to the problematic of both terms even at the small-scale international level of the European Community because any international legal instrument requires translation into member states' languages. Additional shades of meaning sneak into the language – such as “treasure” being used as an equivalent to “heritage” – which necessities the implementation of legal interpretations within local to international courts (Frigo 2004: 371–373). The vagueness of the conceptual differentiation is thus occasioned by different interpretations of earlier safeguarding conventions, different semantic connotations depending on which language

²¹ Frank Weigelt goes so far as to state that the cultural property notion embraced by UNESCO is intended to prepare cultural excerpts “for the markets of culture on this planet as well as a concept to protect such goods and to facilitate a regulated ‘movement of goods’” (Weigelt 2007: 143).

is spoken, and divergent national interests that express themselves more or less openly through such language use.

Following Frank Weigelt's chronicling of the use of the terms, one is tempted to see a kind of circularity, depending on whether global and moral or political and economic issues are traced. From a first mention of material and immaterial cultural property in the context of the Hague Convention in 1954, efforts to deal with "mobile cultural property," including body parts, were added in 1968 (Weigelt 2007). The UNESCO cultural and natural heritage convention of 1972 shifted away from connotations of property in order to circumvent the economic component and to make a claim for culture as a commons of humanity – that is, the property and responsibility of all of humankind. Then, as UNESCO debated the intangible heritage convention, WIPO chose to concentrate on the discussion of cultural property. After extensive consultation with various stakeholders in the late 1990s, WIPO constituted an international committee devoted to traditional knowledge, genetic resources, and traditional cultural expressions/expressions of folklore in 2001. Since then, it has met in more or less half-yearly sessions to provide "for international policy debate and development of legal mechanisms and practical tools concerning the protection of traditional knowledge (TK) and traditional cultural expressions (folklore) against misappropriation and misuse, and the intellectual property (IP) aspects of access to and benefit-sharing in genetic resources" ("Traditional Knowledge" 2009).

As is characteristic for international policy activity, issues that cannot be properly addressed within one organization are taken to another forum. In this case, one can observe how political and economic concerns emerging with the interest to safeguard intangible heritage could not be handled within UNESCO. Actors engaged in the WIPO committee naturally seek concrete outcomes, and so the moral obligations entailed in heritage transform into questions of determining ownership and property rights more typical of an inheritance. Because an internationally acceptable policy solution will be a long time in the making, the battle over the resource aspects of culture will be taken to organizations such as the World Trade Organization or will take place in small scale bilateral agreements in which legally secured economic gain generally has priority over moral obligation.

CONCLUDING THOUGHTS

Responsibility and ownership are two intertwined and deeply ingrained aspects of the international heritage regimes that have emerged in the course of the second half of the twentieth century. By declaring first tangible and later intangible selections or excerpts of culture as world heritage, UNESCO thus claims moral ownership for the world's nations of selected cultural sites and practices, rendering these into a cultural commons on a moral level, but leaving the political and financial care necessary to tend to this commons in the hands of individual countries. UNESCO also imposes a series of responsibilities that go

with heritage ownership. Thus, in the UNESCO convention on intangible cultural heritage, this world institution defines safeguarding as follows:

“Safeguarding” means measures aimed at ensuring the viability of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage. (UNESCO 2003, Article 2, 3, p. 3)

All of these tasks are costly, and all of them require sets of expertise. Yet given that every country is likely to differ in its organization of cultural policy and support, this document does not specify which actors are entrusted with which aspects of this list of tasks. It is precisely this imprecision that can cause confusion and indeterminacy on the ground. The application procedures are highly regulated; although the initial actors moving forward with such an application are often self-selected, the subsequent path of what needs to be assembled, what form it needs to be presented in, and what kind of expertise needs to be consulted are spelled out. For the post-nomination phase, new processes and responsible people and institutions suddenly have to be determined. After the initial joy of having garnered a world-heritage label for an “item” of intangible heritage, local actors in particular are somewhat bewildered with regard to who holds which rights and responsibilities for a communally generated intangible practice that is to be maintained according to the specifications outlined in the dossier that led to heritage victory. Unlike the clearly defined inheritance relationships at the familial level, world heritage leaves in its wake a (finally moral) lack of clarity concerning particularly the responsibilities and rights of heritage ownership.

Heritage designation fosters a view of cultural expressions as a resource. Because it is not the global community that tends these resources as a commons, it is not surprising that many actors seek to stake a claim for themselves – much as in other resource domains such as coal, oil, diamonds, and gold, prospectors sought to stake claims to build an economic future for themselves. Culture has the potential of being renewable – ultimately, cultural creativity is what keeps transforming environments and milieus. However, heritage regimes – in contrast to the future orientation of inheritance practices – are strongly focused on valuing the past and point instead toward culture as a finite, sustainable resource. This perspective of a limited good further supports interest in protecting cultural property rights, so as to give the power to open, limit, or close access to traditional knowledge and traditional cultural practices. Michael Brown (2003) and Dorothy Noyes (2006) add to this the enormous political role that cultural property has taken on in struggles to assert political identity and self-determination for communities marginalized within countries governed by a cultural majority.

“The movement toward legal protection of intangible heritage offers rewarding vistas for connoisseurs of irony,” writes Michael F. Brown. He continues:

To defend their cultures from commodification, indigenous leaders deploy western idioms of property in their protests and communiques... Most of these plans, however well intentioned, have a powerful tendency to flatten difference in the interests of procedural uniformity. (Brown 2004: 59–60)

Such flattening, I would argue, is also tied to the imprecise semantics of the term “heritage,” which, in contrast to the concept of inheritance, leaves a great deal of room for interpretation regarding responsibility and ownership. Recent scholarship in international law on cultural property rights and its links to human-rights legislation (von Lewinski 2004) demonstrates the importance of examining the translation of heritage ideologies and property regimes into specific judicial systems. As vague as a heritage designation may be in its denotation of “heirs,” it always has the power to disinherit someone or entire groups (cf. Ashworth and Turnbridge 1995). A combination of anthropological, legal, and economic expertise may be the most cogent avenue toward clarifying terms and the social agency made possible or inhibited by them.

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“World Heritage Center – UNESCO World Heritage Convention,” copyright 1992–2009 <http://whc.unesco.org/en/conventiontext/> (accessed 19 February 2009)

DEDIŠČINE.

POSEDOVANJE, LASTNIŠTVO IN ODGOVORNOST

Dediščina se navadno nanaša na materialno lastnino, ki se s pokojnika prenese na njegove dediče. Z razširitvijo s tem povezanega koncepta dediščine in z njim povezanimi brstečimi kulturnimi praksami, postanejo pomembna vprašanja odgovornosti in lastništva. Gre za prepletena in globoko vsajena vidika mednarodnega režima sistema dediščine oz. izročila, ki sta nastala v drugi polovici 20. stoletja. Z deklaracijo izbranih primerov materialnega in pozneje nematerialnega izročila si je Unesco na neki način prilastil moralno lastništvo nad kulturnimi dobrinami, hkrati pa je prepustil vso politično in finančno skrb zanje posamičnim državam. Unesco tako državam narekuje številne odgovornosti, posebej »varovanje«, ki vključuje identifikacijo, dokumentacijo, raziskavo, zaščito, promocijo in posredovanje znanja, skupaj z oživiljanjem različnih vidikov dediščine. Vsa ta opravila so draga in zahtevajo vrsto ekspertov. Zaradi različne organiziranosti po državah pa v listini ni določeno, kdo so pooblaščenki akterji, kakšen je seznam njihovih nalog. Prav ta nenatančnost lahko povzroči zmedo in negotovost na terenu. Postopek za prijavo je strogo predpisan, hkrati pa so lahko pobudniki postopka samoooklicanci; ni jasno, v kateri obliki

naj bo kaj predstavljeno in s katerimi eksperti naj bi se posvetovali. Za čas po razglasitvi so za odgovorne imenovani novi ljudje in ustanove. Po začetnem veselju nad razglasitvijo oz. vključitvijo v seznam nematerialne dediščine lokalni akterji pogosto ne vedo, kdo ima katere pravice in odgovornosti za to, da se priznana praksa nematerialne dediščine vzdržuje po specifikacijah, ki so pripeljale do priznanja.

Številni akterji vidijo v dediščini in kulturnih izrazih vir svoje ekonomske prihodnosti, nasprotno pa so režimi dediščine osredinjeni predvsem na vrednotenje preteklega. Uradno dojemanje dediščine kot omejene kulturne dobrine si prisvajajo pravico ne le zaščititi pravice kulturne lastnine, ampak tudi odpreti, omejiti ali zapreti dostop do tradicionalnega znanja in kulturnih praks. Zelo močna politična vloga pri kulturnem lastništvu je posebej problematična s stališča skupin, ki si z dediščino prizadevajo za priznanje svoje politične identitete in ki jih kulturna večina marginalizira.

Na delu so zelo močne težnje, da bi v uniformiranosti postopka izravnali razlike. Za tako izravnavo je morda kriv tudi nenatančen pomen pojma »dediščina«, ki v nasprotju s konceptom dedovanja pušča ogromno prostora za interpretacijo odgovornosti in lastništva. Zato bi bila potrebna kombinacija antropološke, pravne in ekonomske raziskave in ekspertize, ki bi pripomogla k pojasnitvi pojmov, s katerimi je družbena tvornost mogoča ali pa ovirana.

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