

Cultural Heritage. Scenarios 2015-2017

edited by Simona Pinton and Lauso Zagato

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I am particularly pleased to welcome this important volume. I do this under two titles: as the Director of Cestudir (Study Center for Human Rights) and as a professor of Theoretical philosophy. I could also pay attention to my position as a simple citizen of this planetary society, which, by entering into the so-called age of technique, has to face many difficult questions and unknown variables even unthinkable until yesterday. If, in these uncertain times, we need some help, I think this book may perhaps make some contribution in this direction.

It is an important book. First and foremost, because cultural heritage is more and more a central issue as for the human rights matter. Indeed, it is becoming increasingly clear that an individual exists as a true human person only to the extent that he/she belongs to a culture, so that the mere survival of the single individuals of a people does not at all guarantee for that people the real right to exist. In this regard, I like to remind that the Statute of the Center I am currently heading sets forth the commitment to the “valorization and promotion of the territory, including the safeguarding of the material and immaterial cultural heritage of Venice and its hinterland” (art. 2(2)). It is no coincidence that in 2014, under the steering of former Director Lauso Zagato, particularly interested in this field of research, we devoted the annual reflection on human rights to “Cultural Rights in the Universal Declaration of Human Rights”, having been engaged in a thematic workshop on art. 27 of the UDHR, an article too often overlooked. In this historic moment, it is crucial that these rights, which are very concrete and strongly linked to geographical, social and cultural identities, become the subject of interest by those who really care for human rights, because if they are neglected, they could be interpreted and applied in a manner that, distinguishing and emphasizing the universal and special rights as opposed to each other, would end up in overthrowing their meaning by encouraging the emergence of feelings far distant from those to which the defence of human values has to be inspired.

The treatment of cultural heritage as the object of a fundamental right represents, in some sense, an enlargement of the notion of ‘human rights’. Such phenomenon of extension, which is gradually becoming tendentially unlimited, is one of the most remarkable features of the current situation. This is particularly so because it thrives in a twofold direction: in the sense of equating, within the various spheres, between ‘ordinary’ and ‘extreme’

cases, on one side, and in the sense of enlarging (or at least of specifying and making explicit) the values that we have to consider as human rights (which is precisely the case for the right to safeguard traditions, including manual ones), on the other side. For example, with regard to the first aspect, gender violence tends to be equated (in the provisions of the Istanbul Convention) to inhuman or degrading behaviour, if not to real torture. As for the second aspect, cultural rights tend to be raised to the rank of primary rights even if they do not immediately touch the body and the lives of people.

All of this obviously involves considerable progress, even though it is exposed, as it is inevitably for every human experience, to risks. We understand this aspect if we pay attention to what is an essential feature of the defence of human rights, which we can summarize in the following way. By identifying fundamental human rights, we intend to set some points that are assumed as unquestionable, both in negative and in positive terms. For example, in the negative, slavery and torture are forbidden, while, in the positive, good and satisfactory working conditions (but also rest, leisure, education, health and so on) are guaranteed. In other words, on a lot of things human beings can be distant, and even in contrast, from each other, but there are some steady, fixed elements that are undeniable values for all of them. So, if we are able to keep our eyes fixed on these points and to assume them as a reference system, we will be sure to travel, albeit perhaps with some clutters, in the right direction.

Now, by equating (at least tendentially) even weaker rights to those that constitute the strong core of human rights having the character of indisputability and therefore of universality, while at the same time extending the field of what is considered a human right, we run into the risk to weaken the borders, thus compromising the incontrovertible and absolutely binding nature of fundamental rights. This dynamic, moreover, represents a specific feature of our time, when all of what has previously been considered undeniable appears to fail and, conversely, even worth aspects once considered marginal assume the role of fundamental values. In short, we can understand here - in the loss of a stark distinction between what is *a priori* and what is *a posteriori*, between what is valid *de jure* and what is valid *de facto*, *i. e.* between what is considered fair by everyone and what simply manages to impose on everyone - a distinctive trait that is typical of our age, with all its propulsive pushes but also its own unknown aspects and dangers.

These are extremely delicate and complex issues, which can be tackled in a productive way only by keeping in mind the various levels within which these issues move. One of the great merits of this book is to make an important contribution in this direction. This is due to the capacity to hold together, in a sensible and rigorous manner, many heterogeneous levels of reasoning. And for that we thank the promoters of the venture, today

also editors of this volume: Simona Pinton and Lauso Zagato. This volume brings together highly theoretical considerations with essays of a purely juridical nature and with more specific topics related to particular areas, up to those that deal with extreme concrete practices and situations. The interweaving of all these skills and of all these levels of interest bestows on the work as a whole a particular taste and a value that I think is not exaggerated to define as of the first order.

This is the reason why we believe that this book can be only the first step - albeit indeed very significant for its richness and amplitude, which is not merely quantitative - of a path that is highly interesting and stimulating not only for law scholars or for intellectuals (referring to this term in a strict sense) but also for all those who have in mind a positive future for human experiences and for the cultural traditions in which those are realized and incarnated.

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