The Cultural Heritage, a Common Responsibility

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"We do not inherit the earth from our ancestors; we borrow it from our children."

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DURING THE last decades, the international debates regarding the cultural heritage have become more and more encompassing and have stirred the interest of more and more professionals, from academics to legal experts, economists or public officials. Discussions on the legal status of the cultural heritage, the issue of restitution to populations that created a cultural heritage and, for historical reasons, have been stripped of their cultural goods, the treatment of heritage as an economic resource (through tourism or crafts revival) or as a sustainable development resource all show that the cultural heritage is increasingly important for contemporary societies. The development of cultural heritage issues goes together with a broader concern of the state and its institutions, of regional and local communities, for identifying and protecting the goods created by past generations and cherished for their memorial, artistic or historical value. This concern can be seen both nationally and internationally. Since

the 1950s, international institutions such as UNESCO or the Council of Europe have set up recommendations and regulations that outline a substantial and dynamic international agenda.

For example, one of the highly praised and effective international tools for the recognition and protection of the cultural and natural heritage is the World Heritage Convention of UNESCO of 1971, followed by the World Heritage List created in the same year. This prestigious list comprises goods having an "outstanding universal value," which meet complex criteria related to their exceptional aesthetic qualities, their representativeness, uniqueness, relevance and, more recently, to their relationship to living traditions and deep-rooted social practices.

At national level, since the 19th century many states have started the so-called process of *patrimonialization* or *heritagization*, in other words, they created inventories or lists of cultural assets that were considered outstanding for the national history and identity. Consequently, national governments sought to implement various measures to protect them from destruction and from changes that would have distorted the characteristics and authenticity of the heritage. In Romania, the first legislative attempts to consistently identify and protect the cultural heritage date back to the second half of the 19th century and relate to historical monuments and archaeological vestiges. The Romanian state, mainly through the Ministry of Religions and Public Instruction and its expert advisory body—the Commission of Historical Monuments, tried to inventory as much as they could of the exceptional cultural assets found on the Romanian territory and to find appropriate means and resources to maintain their integrity and authenticity, even with "a little preparation and a lot of indifference showed by most of those called to serve on this occasion the Commission as organisms of information and testimony" (*Buletinul Comisiunii Monumentelor Istorice* 1908: 30).

Over the next decades and throughout the 20th century, these efforts intensified, although major political changes at times affected and slowed down the cultural heritage management process. The governmental concern in this public policy area was plainly stated between 2008 and 2012, when the Ministry of Culture became the Ministry of Culture and the National Heritage.

The attention paid in Romania to the cultural heritage clearly follows in the wake of European trends, whose evolution has been evaluated by anthropologists, historians, political scientists, and geographers. The scholars attributed the origin of the current heritagization (i.e. the process by which a tangible or intangible good gets recognized and protected as cultural heritage) and its present acceleration to some political, socio-economic or scientific factors of the 18th and 20th centuries. Notwithstanding the diversity of opinions and arguments,

all researchers have become aware of the broadening and extension of the cultural heritage to incorporate new objects and categories, other than the usual architectural and archaeological heritage: industrial heritage, intangible heritage, landscape heritage, or natural heritage. The diversification of cultural heritage forms is accompanied by the overcoming of the conventional criteria to be met in order for something to be designated "cultural heritage."

In the Romanian legislation in the field, for more than 150 years the cultural heritage process has been governed by historical and artistic criteria. In other words, a building could become a "historical monument" only on the basis of its age and/or aesthetic qualities. Since the second half of the twentieth century, a new criterion has been introduced—that of uniqueness or rarity, which determined the value of a piece of property depending on local circumstances and the condition of the cultural heritage in the region. In the 1990s, in line with many international regulations (including the current versions of the Operational Guidelines for the Implementation of the World Heritage Convention) one of the major legislative innovations with important consequences for the place of heritage in society has been to establish a fourth criterion of heritagization—the memorial and symbolic value (Lazea 2011). The protection of monuments that retain the memory of a human group—albeit not extremely valuable in terms of their historical or artistic features—represents a new phase of the heritagization. The significant change is that cultural heritage is ever broader, more inclusive, more open to social and identity aspects, and closer to people and their needs. From now on, cultural heritage is less elitist, less exceptional in itself, less an object of history. It relates more to everyday life and to the living social memory.

The relatively recent creation of a new heritage category, the intangible heritage, is part of the same trend of connecting the cultural heritage to human collectivities and to living practices and traditions. Being introduced in the Romanian legislation in 2008 (Law 26), the concept of "intangible heritage" has already gained recognition and prestige in 2003, due to the Convention for the Safeguarding of the Intangible Cultural Heritage of UNESCO. The year 2008 saw the creation of the List of Intangible Cultural Heritage, which comprises a) oral traditions and expressions (including language), b) performing arts, c) social practices, ritual and festive events, d) knowledge and practices concerning nature and the universe, and e) traditional craftsmanship (Convention for the Safeguarding of the Intangible Cultural Heritage, art. 2). As it can be seen on the UNESCO website, the intangible world heritage is defined as "traditional, contemporary and living at the same time," inclusive, representative, and community-based.[1] The underlying assumption is that the intangible heritage should be first accepted as such by the respective social groups. Firstly, these provisions unequivocally emphasize the social nature of the intangible heritage, whose protec-

tion is justified ultimately by the fact that it is still living, integrated within current practices (though often in danger of disappearing). Secondly, this concept makes room on the world heritage list for traditional societies whose exceptional achievements are not necessarily material (such as cathedrals or monuments), but more frequently intangible, such as traditions, ancient customs, and rites. Because of the openness to intangible expressions of culture, various African countries are now represented on the UNESCO heritage list and receive international recognition, funding, and benefit from public policy and legal framework towards the protection of their intangible heritage.

Maintaining the relationship between a social group and its cultural heritage created and transmitted across generations and intimately connected to social identity is clearly a concern of the regulations and recommendations of UNESCO, and of other international organizations within the socio-cultural sector.[2] Therefore, the tangible and intangible cultural heritage represents more than the sum of material goods and social practices highly praised in terms of artistic and/or historical value. More than that, the cultural heritage is conceived as one of the essential aspects of social identity. If the cultural heritage is therefore assumed by a human group, it serves as a cultural and identity resource, not just as an economic one. Thus, focusing on the heritage's social dimension is part of the efforts of not letting cultural goods and traditions turn into simple commodities.

The concern for (re)integrating the cultural heritage in today's society, for keeping it alive, for using it in the most appropriate and beneficial ways is also noticeable in the objectives pursued by UNESCO. The attempts to identify outstanding tangible and intangible heritage at risk, the creation of the List of Intangible Cultural Heritage in Need of Urgent Safeguarding and of the List of World Heritage in Danger reflect the attention that international organizations are paying to the social dimensions of the cultural heritage. To give an example, in 2009 "Cantu in paghjella, a secular and liturgical oral tradition of Corsica" has been placed on the List of Intangible Cultural Heritage in Need of Urgent Safeguarding. The reason for inscribing it on the list was "a sharp decline in intergenerational transmission caused by emigration of the younger generation and the consequent impoverishment of its repertoire." Thus, the UNESCO website states that "unless action is taken, paghjella will cease to exist in its current form, surviving only as a tourist product devoid of the community links that give it real meaning."[3] We infer from these lines that the major preoccupation of UNESCO appears to be to keep the vitality and social significance of the tradition alive and to prevent it from being converted into a marketable tourist commodity.

Based on the national and international principles of heritagization and on the finding that cultural heritage has acquired greater social significance, particularly in the recent regulations in the field, we notice that, more than ever,

the cultural heritage stands at the center of contemporary social practices, of the here-and-now of social life. Thus, it appears that, regardless of the legal status and the real owner (be it the state, a legal entity or an individual), the heritage's ultimate beneficiary is the present-day community whose social memory is supported by and transmitted through this particular heritage. In the same vein, in Romania, the possibility created by the Law 422 of 2001 on historical monuments to expropriate the legal owner if the asset will be thus saved from damage and destruction proves that, eventually, the legal ownership rights over the heritage are restricted. It looks like the person or the legal body having the certificate of ownership is not the "real" owner of the cultural heritage. In reality, it belongs to the entire community that should benefit from it, use it and enjoy it.

In other words, the legal owner is just a keeper, not a full owner. In all countries where this field is regulated, the various duties and responsibilities incumbent upon legal owners on preserving the cultural goods are all further arguments in favor of the above hypothesis. For example, the preemption right of the state is stipulated for the sale of historical monuments. The same need to protect the monuments (sometimes despite the will of its legal owners) is at the core of relocation permissions, in special circumstances. Even if, apparently, the state has extensive rights on the cultural heritage, in its turn it is even more limited in what concerns the circulation of cultural property, since the movable cultural heritage that is the property of the state or of the local administration can be exported only temporarily and only for exhibitional purposes. Moreover, the cultural heritage that is the public property of the state is inalienable; that is, it can not be taken away from or given away by the state. All these legal provisions can be interpreted as tools meant to limit and control the mobility of the cultural heritage, limiting the very right to property of the legal owner, be it an individual, an institution or the state. Apparently, ownership is not absolute, because the right to hold property seems to be seriously affected by the numerous legal restrictions and responsibilities.

Instead, it appears that there is a "moral" owner, or a "true" owner, an idea which seems to infuse the national and international public policy in the field. The "true" owner, even if does not have or can not have a legal title, has the moral right over the cultural goods. Whereas from a strictly legal point of view the proprietor of a cultural good is generally beyond discussion (even if some lawsuits regarding the restitution of heritage goods have been largely debated), the issue of the moral owner is more complex. As argued above, it seems that the "true" or "moral" owner is the very human collectivity which, in the past, created it and to which it is intimately connected.

The request to revise existing procedures regarding the inscription on the WHL formulated in 2011 by the African Commission on Human and Peoples'

Rights can be interpreted from the same perspective. In particular, the African Commission asked UNESCO to "consider establishing an appropriate mechanism through which indigenous peoples can provide advice to the World Heritage Committee and effectively participate in its decision-making processes" (according to the Resolution on the Protection of Indigenous Peoples' Rights in the Context of the World Heritage Convention and the Designation of Lake Bogoria as a World Heritage site).[4] Therefore, it should be primarily the right of the community to decide whether and under what conditions the asset in question, whether material or immaterial, will get the official status of "world heritage," given that the latter has various consequences, such as the growth of tourism, responsibilities concerning the heritage's preservation, public exposure and many others.

From the social perspective I have just described, the cultural heritage has mainly a representational role. Basically, a social group conveys through the cultural heritage not just what it has most valuable, but what it essentially is, in other words, its values and beliefs embodied in tangible and intangible human creations. From the dominant viewpoint that underpins public policy in the field, heritage goods are not simply possessions or creations, but cultural objectifications or representations. They represent humanity in what it has essential or exceptional. The efforts of international organizations to strengthen the relationship between heritage and the respective social groups are to be understood along these lines. Thus, their goal is to reinstate the cultural heritage at the heart of society,[5] after a long period of time when heritage inventory and protection have been under the sole control of the political and scientific elites.

The criticism over a heritagization process centered on exceptional goods but not integrated in the life of community has led over the past decades to this social perspective on the role of heritage in society. Heritage is no longer just a pedagogical tool (from an artistic or historical point of view) or an inflexible testimony to a distant past, understood only by specialists. Nowadays, it is seen as a living and enduring presence within the community, serving as a social binder, an identity resource or a resource of sustainable development.

Besides analyzing various regulations, by studying the rhetoric of some major organizations one can further clarify the main principles and values that underpin heritage-related public policy. Observing which terms have lately emerged and then become entrenched in international terminology is very useful for a better understanding of how heritage is conceived by current societies and organizations. Thus, the expression "cultural property," used for the first time in the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 was gradually replaced during the next decades by the expression "cultural heritage" (Stamatoudi 2011, Van Krieken-Pieters 2010).

Along with the interesting explanations on this terminological shift proposed by different authors, the clarification made by UNESCO on the issue is revelatory: "Generally, the word 'property' has a legal background (linked to 'ownership'), while 'heritage' stresses conservation and transfer from generation to generation."[6] It follows that the term "cultural heritage" became dominant because international institutions turned out to be less preoccupied with the legal status of heritage and more interested in its potential to bind different generations and to confer identity to a social group.

More recently, we find that the concept of "cultural diversity" begins to dominate cultural international policy (Langfield, Logan and Craith 2010). The discourse of "cultural diversity" is a reflection both of the expansion of heritage towards intangible forms of traditional cultures and of the fact that every cultural heritage should be regarded as a noteworthy manifestation of a particular culture. In fact, the human cultural diversity is one of the most important aspects of our world and it should be protected and preserved. The very idea of "cultural diversity" links the cultural heritage to the problematics of human rights (ibid.). However, entering into a discussion on fundamental rights is beyond the scope of this article.

I N ROMANIA, much as in other countries, the anthropological approach to heritage "consumers" will also reveal a special relationship between heritage and society, which this time is direct, unmediated. During my doctoral research,[7] I observed that many persons working in mass media or in non-governmental organizations shared a common vision on the cultural heritage. Especially the historical monuments were seen as key ingredients of a high-quality environment, basically of the quality of life. In fact, this vision on the cultural heritage is also shared by people working in high positions in central public institutions. To exemplify, I quote from a former minister of culture: "I am not a fundamentalist of the cultural heritage. It is about the quality of life," or from a director of another Romanian institution who was talking about the old urban center: "This is a pleasant place for walking and for leisure time. Even if we do not ask ourselves questions about them, simply seeing things that are different from what we ordinarily see, created by different rules—like the beauty, the pride of the family or of the community—we perceive another scale of values than that of the immediate material concern. It can make you less sensitive to the pressures of everyday life."

Therefore, this particular connection built between nowadays people and old buildings, albeit not based on explicit collective memory or identity, but on the concept of "quality of life" supports an emotional and immediate relationship with these objects and entitles us to consider ourselves the "real" or "moral"

owners of the built heritage. As part of the backdrop of our daily lives, the built heritage belongs to us not necessarily legally, but in an experiential way.

To summarize, from this perspective focused on the ties between heritage and society (whether through social memory and practices or directly, experientially), the cultural heritage exits the classical elitist paradigm of the museum, which involves removing artifacts from their original milieu and exhibiting them in an artificially created environment, for pedagogical purposes. Instead, a new point of view is adopted, according to which the heritage should be kept in close contact with the culture that created it in order to keep all the meanings that people have invested in over time.

Still, even if this understanding pervades the majority of regulations and public positions of officials, nationally and internationally, there are instances when some tensions appear with regard to the "moral" owner. I will further analyze aspects of heritagization that would justify the identification of another actor (apart from the nowadays collectivities), a more abstract and vague stakeholder. Firstly, let us consider the different kinds of restrictions and limitations that are imposed on the communities to which the tangible or intangible heritage belongs or are actually its creators. In the Romanian legislation, although the legal owner is the original owner or the very creator of the patrimony, he or she is burdened by the same servitudes as any other. The case of an architect who wanted to make an intervention to one of his works—a building in the center of Bucharest—classified as historical monument and who was not allowed to do it[8] demonstrates how the cultural heritage, once created and recognized as such, ceases to belong to its creators.[9]

At the same time, restrictions regarding the circulation of cultural goods are to be found in various national legislations, as well as in international regulations and they reveal the limits of the social model of heritage. The following quotation presents a few such cases:

> *There is a further complication when personal property is also national heritage, and when claims [for restitution] are made from different locales. When the National Museum of Canada returned confiscated potlatch material to original owners, it required that the items stay in the country as national heritage (Carpenter, 1981: 66). Similarly, the Nuxalk community recently purchased back a mask which had been 'improperly' sold by one of their members, and they used funds provided by the Canadian Department of Heritage to do so (see Kramer, 1999 and this issue). Likewise, Austria passed the Export Prohibition Law for Art in 1918 to protect its national heritage. Today, the government refuses to return some Klimt paintings to their legal heirs, now in America, as they are said to be essential to Austria's*

cultural heritage. In this case, the 'cultural property' is at home, but the original owners are elsewhere, displaced under extreme duress. (Glass 2004, 133)

Many other similar cases are brought into discussion by legal professionals, anthropologists, sociologists or geographers, who observe that the restitution of cultural properties to original owners (in our terms—"moral" owners) is not equivalent with the full ownership of indigenous communities or of the original owners. By limiting the mobility of the cultural goods held by their very creators or original owners or restricting their capacity to act upon the heritage, their preeminence as moral or real owners is called into question.

Not only state institutions are setting limits on the societies' rights over their cultural heritage, but also specialists in archaeology, architecture or history, who are trying to impose their particular understanding of the heritage, sometimes by disregarding the locals' opinions. In this vein, quite a few researchers criticize the Western ambition (represented by international organizations, European or North American states, and experts) to impose a certain conception about the cultural heritage, disrespecting the needs and the will of living people and sometimes hijacking the cultural heritage process for scientific or political purposes (see for example Brown 2004, Giguère 2006, Meskell 2010, Smith 2006).

Aside from situations where private or obscure interests dictate a particular path to heritagization, my assumption is that a different logic competes with what I called the "social" model. Not only the individuals or the state are limited in their rights over the cultural heritage, but the society as a whole is not entitled to take action against it. Thus, the logic underlying the various restrictions concerning heritage circulation and preservation is that the "real" and most entitled beneficiary are the future generations, not the present ones. My hypothesis is that limitations are considered necessary for preserving the cultural heritage for future generations. The desire to safeguard its purity and authenticity derives from the mistrust in the present's capacity to handle these precious, almost sacred things. In fact, this is a possible interpretation of the withdrawal from the World Heritage List of the Dresden Elbe Valley, in Germany, following the construction of a new bridge in the world heritage site.

An excerpt from the first issue of the *Bulletin of the Historical Monuments Commission*, established in 1908 in Bucharest, can shed light on the way in which the cultural heritage was thought of one century ago: "Like any object made by human hand, the monuments are exposed to destruction; destruction—similar to the bad intentions of people hastening their degradation and destruction—cannot be handled by the law. Thus we have to understand that if we can not preserve their physical beings, we are indebted to our descendants to preserve at least their icon as accurate as possible..." (*Buletinul Comisiunii Monumentelor*

Istorice 1908: 7). The fragment introduces a new reference—the people of the future, to whom nowadays people have to transmit at least the image of the cultural heritage. Today, the idea that we are responsible for the preservation of the cultural heritage for the benefit of our successors is influential in various professional circles. For example, the motto of the Presidential Commission Report on Built Heritage, Historical and Natural Sites from September 2009 is a Native American proverb which affirms that "We do not inherit the earth from our ancestors; we borrow it from our children." This phrase, which appears in such an important official document, created by specialists, is eloquent and strongly supports my hypothesis.

We find a modern version of the same idea in a legal phrase saying that "the protection of historical monuments is a component of the strategies of sustainable development in the socio-economic field, in tourism, and urban and regional planning, at national and local levels." The notion of "sustainable development," which entered international law in the 1980s, is strongly oriented towards the future, concentrating in two words the attitude of the present in face of the future, based on the principle of responsibility.

Here, the cultural heritage should be interpreted through the lens of the principle of responsibility, and not via social memory and identity. In fact, responsibility brings us closer to the theories trying to explain the current profusion of the cultural heritage. David Lowenthal considers that the importance of cultural heritage for our society is the result of processes that "engender isolation and dislocation of self from family, family from neighborhood, neighborhood from nation—even oneself from one's former selves. Such changes involve manifold aspects of life: increasing longevity, family dissolution, loss of familiar locales, genocide and wholesale migration, accelerated obsolescence along with a rising fear of technology" (Lowenthal 2004, 24). The fear, anxiety and insecurity regarding the future we feel today are strong reasons for the society to take care of the heritage for the next generations, who will finally decide its fate. Until then, it has to be preserved. The danger arises from the phenomenon of globalization that levels and homogenizes the praised cultural diversity. Therefore, against this backdrop, the right to cultural diversity—constructed on the basis of the individual and collective rights to self-determination and cultural identity—becomes the obligation to cultural diversity, pursued by preserving various cultural artifacts and traditions. Finally, the very notion of "cultural diversity" is an inestimable resource we inherit from the past and pass on to future generations—the "real" owners of the cultural heritage.

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Notes

1. http://www.unesco.org/culture/ich/?pg=00003
2. Such as the International Council on Monuments and Sites, the Council of Europe, and occasionally the European Union.
3. http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&USL=00315
4. http://www.achpr.org/sessions/50th/resolutions/197/
5. See for example the provisions of the UNESCO Recommendation from Nairobi, 1976, concerning the safeguarding and contemporary role of historic areas.
6. http://portal.unesco.org/culture/en/ev.php-URL_ID=36292&URL_DO=DO_TOPIC&URL_SECTION=201.html
7. Conducted between 2007 and 2010 in Bucharest.
8. Situation described by one of my respondents, an architect, during the doctoral research I conducted in Bucharest.
9. This is also an argument against Davallon's thesis that the real owners of the cultural heritage are the past generations, while we are its keepers (Davallon 2004).

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Abstract
The Cultural Heritage, a Common Responsibility

An analysis of the national and international regulations and recommendations concerning the cultural heritage can reveal the main principles that underlie public policy in the field, as well as the logic of the main institutional actors. Consequently, the article identifies an important tendency related to the cultural heritage process—the centrality and preeminence of the present society as the "moral" owner of the cultural heritage. Nevertheless, there is evidence that a more abstract and vague actor can be seen as the ultimate owner and beneficiary of the cultural heritage.

Keywords
cultural heritage, ownership, unesco, Romania