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Transcultural Diplomacy and International Law in Heritage Conservation

A Dialogue between Ethics, Law, and
Culture

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Forewords by Francesco Francioni and Francesco Follo

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*[...] No government policy and legality
without culture*

—*Otto Morales Benítez (Colombia), El Pais,
July 2010*

*[...] Culture means measure, thoughtfulness,
circumspection*

—*Norberto Bobbio (Italy), Politica e Cultura,
1955*

*[...] A society without culture, without
respect, without the pathos, paves the way for
the society of scandal.*

—*Byung-Chul Han (Republic of Korea), In
the Swarm, 2017*

To
Our Parents

Foreword by Francesco Francioni: Culture, Heritage and International Law

Culture Between Universalism and Relativism

Culture and cultural heritage have not been prominent topics in the historical development of international law. The tradition of legal positivism has always considered the State as the centre of gravity of international law and relegated culture and cultural heritage within the horizon of state sovereignty. This tendency has been reinforced by the conceptualisation of material heritage as an element to be considered part of the State territory and of the nation. Today, cultural heritage in its broadest sense—thus including both material and intangible heritage—remains part of the territory of every state and part of the Nation in the legal system of many states. But there is no doubt that starting from the second part of the twentieth century, culture and heritage have started to play an increasing role as an element of the general interest of humanity and of international law. The creation of UNESCO as the world organisation for culture, science and education in 1945 was predicated on the fundamental belief that culture is inextricably linked to peace because “wars begin in the minds of men” and therefore “it is in the minds of men that the defenses of peace must be construed”. These words, taken from the Preamble of the UNESCO Constitution indicate that culture and education are not only indispensable conditions for the respect of human dignity and for the building of cohesive and stable societies, but are also the foundation of a “moral and intellectual solidarity of mankind”, the ultimate guarantee of a lasting peace among the peoples of the world.

These words of the UNESCO Constitution, coined in the immediate aftermath of World War 2 and of the catastrophe of genocide, acquire today the value of a prophetic message at the present stage of development of international law. The process of globalisation that opened the new millennium, with the elimination or reduction of State barriers to the free circulation of goods, services and ideas, has marked profoundly international law as a system traditionally based on the centrality of the State. It has contributed to the overcoming of the ideological divide between the West and the East that had characterised the long period of the cold war; it has created the conditions for the economic development of millions of peoples and the reduction of poverty in many regions of the world. Non state actors—including

individuals, communities and business corporations—have become holders of rights and bearers of duties under international law. At the same time globalisation and its project of universalism, free market and liberal capitalism has been accompanied by mounting backlash, rising nationalism and cultural fragmentation. Ethnic and religious conflicts have re-emerged with unprecedented violence in the Middle East, Africa, Asia—as they had earlier exploded in Yugoslavia—resulting in mass atrocities and the deliberate destruction of cultural heritage and of symbols marking the religious and cultural identity of the enemies. In recent times we have seen the re-emergence of xenophobia and the spreading of the new ideology of “national sovranism”, which builds upon the distrust towards international institutions and even towards international law as a system of rules and values constraining State power and supporting cooperation and reconciliation among nations. This phenomenon is exemplified by the unfortunate decision of some states to walk out of UNESCO,¹ from the World Health Organization, and, in the case of Brexit, from the European Union.

In this context culture and identity politics have a profound effect on international law because they tend to break the relationship between the “self” and the “others” under the impulse of a perceived unrenounceable group characteristics that resist integration, or even coexistence, in a larger community of shared values and interests. This attitude builds on cultural specificity to oppose a cosmopolitan project based on pluralism, international law and human rights. In its most extreme and pathological forms it gives rise to a cultural and religious fundamentalism which refuses any concept of mutual respect and equal liberty of the “others” and rejects any form of dialogue based on reason. The most pathological and violent manifestations of this attitude have been the rise of the so-called Islamic State in Syria and Iraq and its pursuit of a universal order based on terror and the assassination or enslavement of the “others”. This has resulted in one of the most horrific forms of “cultural genocide” of our epoch with the extermination and persecution of the cultural minority of the Yazidis and with countless acts of terrorism that cost the life of thousands of innocent victims and the intentional destruction of cultural treasures of outstanding universal importance.

Culture in the Theories of International Law

Mainstream international law scholarship and especially human rights thinking have continued to affirm the universality of international law and its primacy over the cultural, social and political specificity of national societies and other human communities throughout the world. On the opposite side, “cultural relativists” have challenged the concept of universality of international law and have given precedence to the particularity of different cultures, all entitled to equal dignity and respect. Similar

¹The United States and Israel have withdrawn from UNESCO because of fundamental differences with the cultural policies of the Organization.

conclusions, albeit on different theoretical premises, are reached by the views from the “Global South”, which tend to look at international law, and especially international human rights, as a sort of a colonial legacy of the West and as an “imperial global state in the making” (Chimni, 2004).

Little contribution to the identification of the place of culture in international law comes from the post-modern “deconstructivist” theories, such as the “critical legal studies” developed in the United States in the second part of the last century (Unger, 1983). At the heart of this theory is the aim of showing how under the guise of seemingly objective values, such as liberalism and human rights, international law can well be used to conceal a political agenda of promotion of special interests of the powerful. Beyond the unquestionable merit of this theory in showing the limits of international law in a particular historical moment, its weakness is in its approaching a nihilistic position with regard to the objective existence of the whole international legal order. If law is just an aggregate argumentation, an ensemble of strategies of persuasion, then how can we save its objective existence as a system of norms, limited and imperfect as they may be but necessary to permit the coexistence, interaction and cooperation among members of a culturally plural and diverse international society? This question remains unanswered even in the most sophisticated elaborations of the deconstructivist theory (Koskeniemi, 2006).

Another important school of thought developed in the United States, the anti-formalistic New Haven international law jurisprudence, places individual liberty and human dignity at the centre of international law, which is seen as a continuing process of deliberation capable of approximating “... the optimum access by all human beings to all things they cherish: power, health, enlightenment, skill, well-being, affection, respect and rectitude” (Reisman, 2007). This manifesto of liberalism is important in counter-balancing the State-centred tradition of legal positivism. But it leaves little room for the role of culture in international law. The idea of international law and international justice is concentrated on individuals, on the fulfillment of their aspirations and the flourishing of their human potential. Little space is left for the collective interests of society, such as public health, environmental security and especially for the role of culture as a unifying element of a community in which the individual self-realisation is anchored, be it the family, the local community, the nation or even a supranational entity founded on a common cultural heritage.

Other contemporary theories have attempted to overcome the limits of the above doctrines, as well as the traditional rule based approach of legal positivism, by developing a “value based” method (Iovane, 2000) and a “constitutional law” perspective ultimately appealing to the human dimension of international law. These are innovative and generous approaches premised on the centrality of human dignity and peoples’ rights in the making, interpretation and implementation of international law. But their limit remains in the belief that the transformative process leading to the “constitutionalisation” of international law may occur by some magical internal force of the system, a force capable of establishing a hierarchical legal order based on inalienable legal principles of constitutional character such as safeguarding peace, basic human rights and prohibiting the destruction of natural and cultural heritage of great importance to humanity. This is certainly part of a progressive project of

modernisation of international law. But this project, though it has achieved important results at a normative level with the emergence of concepts such as *Jus cogens* and obligations *erga omnes*, still finds obstacles in the lack of a centralised system of judicial review and in the reality of a pluralistic world with a variety of cultures and different ideas of the public good. These obstacles are all the more apparent today with the declining sense of collective purpose at the international level and the persistent deficit of a cosmopolitan “demos”.

“Culturalising” International Law

If international law cannot be reduced to a simple aggregate of arguments to advance naked power, or a sterile ensemble of rules, it is obvious that its reality must be found in the actual existence of an international community, comprising the states and the peoples of the world, each one of them with a distinct political and cultural tradition and specific national or community interests. In spite of this cultural and political pluralism, States and human communities need to interact one with another, and in the absence of a world government, they need international law to avoid chaos and to ensure a minimum of order, of peaceful coexistence and cooperation. Since besides the community of States there is also humanity, the totality of the peoples of the world with their common needs, shared interests and an emerging sense of international justice, the contemporary development of international law and its modernisation are marked by the increasing role that general interests of humanity play in the making, interpretation and implementation of international norms that transcend the regulation of reciprocal interests of the States. Actually, some of these interests are antithetic to the purely governmental interests of the States. This is the case with the international law of human rights, which is meant to limit States powers in order to guarantee respect for human dignity and individual liberty. It is the case with humanitarian law, which is meant to limit the freedom of belligerents to resort to violence in armed conflicts. It is also the case with international environmental law which by and large consists of limits to the sovereign right of every State to use the natural resources of their territory and of the planet in the pursuit of sometimes unsustainable projects of economic development.

It is in this general context that we can place the phenomenon of what I have called “culturalisation of international law”. That is, the growing relevance that culture and cultural heritage are playing in the development of international law. This phenomenon has two faces. On the one hand it entails the development of multilateral treaties, sometimes with universal membership, whose objective is the safeguarding of different types of cultural heritage, sometimes building on already formed customary norms and general principles developed in the practice of States and of national courts. Today we can count six cultural heritage treaties of very widespread or even universal application (the 1954 Hague Convention, with its two Protocols; the 1970 UNESCO Convention on illicit traffic; the 1995 UNIDROIT Convention on Stolen and Illegally Exported Cultural Objects; the 2001 Underwater

Cultural Heritage Convention; the 2003 Convention on the Safeguarding of Intangible Cultural Heritage; and the 2005 Convention on cultural diversity). To this list one should add the many instruments dealing with culture at the regional level, and the many recommendations and declarations adopted by UNESCO and other relevant organisations as instruments of “soft law”.² On the other hand, the process of culturalisation of international law consists in the pervasive impact that the specific international cultural heritage law has had on other branches of international law. Cultural treaties and general principles of cultural heritage protection have infiltrated the area of international economic law, both trade law and investment law (Vadi, 2020; Voon, 2020: 483–531), resulting in the adoption of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions,³ in the application of cultural heritage norms to economic disputes or in the utilisation of cultural heritage law as relevant criteria for the interpretation of the applicable rules of international economic law, so as to bring the two branches of law into a relationship of mutual support. Cultural heritage law has pervaded the field of international human rights law, both in the sense of supporting the recognition of cultural human rights, especially the right to participate in cultural life, and in the sense of defining the boundaries of a comprehensive and inclusive cultural pluralism in opposition to cultural nationalism and policies of exclusion (Francioni & Scheinin, 2008). Modern developments of cultural heritage have increasingly impacted on international environmental law and have helped to bridge the traditional gap between nature and culture (Boer, 2020: 318–346). This is made evident by the emergence of the concept of “landscape” as a cultural object resulting from the impact of human labour and creativity on the natural environment and the attribution of transcendental cultural or religious values to specific features of the natural environment (Strecker, 2018). In a broader sense, the idea that humans, with their infinite variety of cultures, are an integral part of the natural ecosystem underlies the 1972 UNESCO Convention on the protection of world heritage. This convention, now in force for 193 States, brings together cultural and natural heritage under a common system of international cooperation for the identification and protection of cultural and natural sites of “outstanding universal value” (Francioni, 2020: 250–272).

In this general overview of the various forms of impact that culture and cultural heritage have had on the fabric of international law we must include also the recent developments regarding the role of culture and cultural heritage in the maintenance of peace and security. In this field there has been a synergic effort by the United Nations and UNESCO towards the objective of linking respect of cultural heritage and protection of cultural pluralism to the preservation of peace and security at the international level. On the one hand the Security Council has consistently held that attacks on, and deliberate destruction of cultural heritage may constitute a threat to peace and therefore may trigger the adoption of mandatory measures for the maintenance of peace under Chapter VII of the UN Charter.

²For a complete list of these soft law instruments, see *Standard Setting in UNESCO*, Vol. II, UNESCO Publishing, 2007, Part II and III.

³Text reprinted in *Standard Setting in UNESCO*, Vol. II, cit. p. 326ff.

This is made evident by a series of binding resolutions that include Resolution 1483 of 2003, concerning measures to enforce the respect of the cultural heritage of Iraq in the wake of the United States led invasion of the country, which had resulted *inter alia* in a mass scale looting of museums and heritage sites⁴; Resolution 2199 of 2015, and Resolution 2347 of 2017, which is entirely devoted to the measures to be taken to prevent the destruction and looting of cultural heritage in the context of conflicts and terrorism.⁵ On the other hand, the increasing frequency of cases of intentional destruction of cultural heritage as a means of ethnic and cultural cleansing has resulted in the recognition at the level of international law of a close nexus between mass atrocities and deliberate destruction of cultural heritage.

This recognition is implicit in several provisions of treaties criminalising the intentional destruction of cultural heritage, such as Articles 15–18 of the Second Protocol to the 1954 Hague Convention, Article 8 of the Rome Statute establishing the International Criminal court (reflecting Article 3 d. of the Statute of the International Criminal Tribunal for Yugoslavia), and Article 10 of the 2017 Council of Europe Convention on Offences Relating to Cultural Property.⁶ But, most important, it is confirmed by the abundant jurisprudence developed by international courts and tribunals, including the International Criminal Tribunal for Yugoslavia, the International Criminal court and the International court of Justice, that have consistently found that intentional destruction of cultural heritage can constitute a war crime, a crime against humanity and even the evidence of the *mens rea* of genocide (Lenzerini, 2020: 75–100).

Conclusion

In spite of the limited role played by culture in the traditional inter-state paradigm of international law, there is no doubt that contemporary developments show a constant progress towards the elaboration of a coherent body of “international cultural heritage law”. This body is not only the product of the expanding nucleus of cultural treaties of universal and regional application; it is the also the result of the emergence of customary norms and general principles of international law that directly or indirectly aim at ensuring respect for cultural heritage and for cultural diversity as an essential element for the maintenance of peace, respect for human dignity and socio-economic sustainability.

The progressive development of international law in this field is supported by the jurisprudence of international courts and tribunals that in the past twenty five years have contributed to the criminalisation of assaults on cultural property and

⁴Resolution 1483, 2003 “stressing the need for respect for the archaeological, historical, cultural and religious heritage of Iraq, and for the continued protection of archaeological, historical, cultural and religious sites, museums, libraries and monuments”.

⁵Resolution 2347 was adopted by unanimous vote on 24 March 2017.

⁶CETS No. 221.

to the enforcement of the responsibility of individuals and States for the intentional destruction of cultural heritage. But also domestic courts have contributed to the progressive development of this field of international law by an innovative case law informed by the awareness of the importance of a close cooperation in view of preventing and suppressing looting and illicit traffic of cultural heritage (Shyllon, 2020: 227 ff.; Gerstenblith, 2020: 200 ff.). As in other areas of international law, such as human rights, the protection of the environment and the maintenance of peace, respect and protection of the infinite variety of cultures and of cultural heritage are slowly becoming an international public good and a common concern of humankind.

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Foreword by Francesco Follo: Education, Globalisation and Intercultural Dialogue

Everyone, or at least everyone who has studied the Greek classics, will be familiar with the apologue about the father who wanted to have his son educated by sending him to the school of a “Sophist”. Finding the cost of the lessons exorbitant, he asked what would be the practical use to which such a great expenditure might be put. The “Sophist” replied “when your son goes to the theatre to see a tragedy performed, he will not be a stone sitting on another stone.” By thus responding to a question that focused on utility and demanded “specifics”, the Sophist referred it to what is true and good, i.e. to knowledge of the “universal” and the desire for it.

That is one of the most important “legacies” that Hellenic speculation has transmitted to us. The natural desire to know, which Aristotle discusses in the first pages of *Metaphysics*, relates to the acquisition of a disinterested knowledge of Being by searching for its cause, i.e. seeking the invisible that explains the visible (*Metaphysics*, Book I, section 980a). That disinterested knowledge, with its “discoveries”, will then create the conditions for the “inventions” that will transform Man’s being alive into his being in the world, whilst also creating new opportunities for his well-being.

But in 1983 when the American economist Theodore Levitt coined the term “globalisation”, I do not believe he was referring to disinterested knowledge of that kind; he was simply inventing an expression to describe the new international economic environment (*cf. Les racines de la mondialisation: De Rome a New York, L’Histoire*, November 2002, p. 33). In historical terms we can date globalisation back to the fifteenth century, the time of the European conquests and mercantilism; but following J. A. Scholte’s argument in *Globalisation, A critical Introduction*, (pp. 15–16) we can also take “globalisation” to mean internationalisation, liberalisation, universalisation, modernisation and supra-territoriality.

Whilst others use the term “glocalisation” or define the “global” as “the local without walls”, let us not forget that the globalisation of media (televisions, computers, tablets and smartphones) does not necessarily mean that their content is globalised.

In any case none of those terms is sufficient to embody the full meaning of globalisation; what is more they reflect a tendency to evaluate the policies and practices of “other” civilisations depending on whatever principles and ideals are current in the “West” (which to give it a geo-cultural indication we should specify as “Atlantic”).

Indeed as is increasingly evident there are many non-Western, i.e. non-Atlantic versions of this modernisation that have to be taken into account, which for the sake of intellectual honesty we should try to include in our analyses of globalisation, knowing as we do how those Others (in China, India, the Islamic countries and Africa) view the West; not least because from their standpoint our “Western” principles, far from being universally valid, are anything but convincing. In fact, due to some behaviour by the West that is less than consistent with some of “our” most widely proclaimed ideals, in practice these are “trampled underfoot” and lose their credibility. Indeed, in the practice of Western geopolitics, the values of which our Western postmoderns are so enamoured (otherness, difference, sense of identity) are very often forgotten.

Further: whilst at the end of the twentieth century, the implosion of the Soviet Union and the economic opening up of China, did indeed accelerate and intensify a globalisation that accorded with the Western neoliberal model—and which is actually pushing towards a compression and simultaneity of space/time across the planet (a time of homogenisation, uniformisation and standardisation)—it is also the case now, in the second decade of the twenty-first century, that China, India, Southeast Asia and the Islamic world are challenging the universality of “our” values and are proclaiming not one, but multiple trajectories for modernisation. Asian values are now very much in vogue, and non-Western versions of modernisation (in China, India and Malaysia) are experiencing the kind of economic success that is attracting the attention of investors.

As an effect of this multifaceted globalisation of neoliberal inspiration, our age is also experiencing the challenge to that hegemonic scheme according to which Western modernity was to be the arrival point for all historical development (an “Atlantic” modernity extending from Rome to New York or, if we prefer, Athens to Seattle, although today perhaps the question of “from where to where” needs to be made clearer—because to me it seems far from easy to indicate where the centre of the West is now, or what its peripheries are; added to which the term “globalisation” can no longer be used to implicitly mean “Americanisation”). In the Islamic countries their culture and religion have once again become points of reference whilst the two Asian giants, China and India, which are emerging as “othernesses” crowned with economic success—albeit less conspicuously now—also intend to use it as a means to exert their cultural influence (for instance in the Confucius Institutes set up by the Chinese, or the dissemination by Prime Minister Modi of the Indian practice of yoga).

The affirmation by China and India of their own clear identities, and of their own projects, is now demanding that everyone, including we “Atlantic” Westerners, take a more open-minded attitude. More than ever, the human race is now called upon to situate itself within the perspective of a fullness that this plurality and difference are bringing to completion.

As is increasingly evident, in fact, globalisation today is not the product of any one culture or the ideas and values that typify any one civilisation, and does not equate to homogeneity or conformity. It has become a much more complex process generated by multiple circumstances, interests and forces (*cf.* Rajaei, *La mondialisation au banc des accusés: La condition humaine et la civilisation*, 2001). Far from being a

uniform phenomenon, globalisation now is characterised by the movement of ideas and values that confront and push against one another: pulling back, developing, spreading, crystallising and transforming again. What is more, the ideas and values that underlie this new globalisation are not emerging from the globalisation itself, which by now has taken on its own regional and polycentric dimension. This is demonstrated by the fact that any of those ideas and values can be expelled from the process without thereby calling into question the idea of globalisation itself which, as I am saying, is more and more “regional”. Furthermore, alongside the geography of globalisation we also need to consider historical globalisation, i.e. an interculturality that is not only geographical but also has a history.

So, to be realistic, any project for world governance must be orchestrated respecting the cultural integrity of local communities, a process that can only be effective if those communities themselves are committed to discussing and constructing a concerted, shared world culture (*The Ethics of Globalisation*, 2002).

As humanity uncovers this human face of globalisation the Church is close at hand, not only by underlining the urgent need to ensure that solidarity, too, is globalised, but that charity is also global: constructing a civilisation of love (an expression originally used by Paul VI and often then adopted by his successors John Paul II, Benedict XVI, and today Pope Francis).

On this subject Pope Saint John Paul II said (among other things): “in undertaking the process of globalisation, humanity can no longer do without a common code of ethics. This does not mean a single dominant socio-economic system or a single culture that would impose its own values and criteria on ethics. These norms for social life must be sought in man himself: in a universal humanity that springs from the hand of God. This search is indispensable if globalisation is not to become just another word for the absolute relativisation of values and the homogenisation of lifestyles and cultures”. (27 April 2001).

In that sense there is much that education can do; an education—obviously—that trains people to be “citizens of the world”. St. John Paul II also taught us that “belonging to the human family confers a kind of world citizenship on all people, giving them both entitlements and duties; and since all human beings are united by a community of origin and a supreme destiny, [...] the condemnation of racism, the protection of minors, assistance for refugees, and the mobilisation of international solidarity towards the most needy. These are nothing more than simple and consistent applications of the principle of world citizenship.” (*Message for World Day of Peace*, 1 January 2005).

His teaching puts into question the objectives and content of teaching and education. In the “ancient” system of Western values, the idea of personal identity reverberated with notions of national supremacy, presumed superiority and otherness as compared to the nationality of the foreigner, who was seen as inferior or threatening. But in our new system of values, “identity” and “otherness” are recognised as complementary and constitutive factors in human development.

This introduction of “identity” and “otherness” into the development of the human person also brings “time” and “space” into consideration. We can use archery as a metaphor to describe it: as a person develops and grows, he draws his bow back and

then releases the arrow. The more he has pulled back on the “educational” bowstring towards “the past” and “the other place”, the farther his arrow will fly towards the “future”, beyond the “here and now”. With this image we can infer that in the future prospect of “globality” and “plurality” the human person should be educated to welcome cultural diversity and complexity.

An education of that kind should be based on imparting knowledge about the cultural heritage of the world, with particular reference to

- the specificity and diversity of the religions,
- interculturality, understood as a meeting of cultures and reciprocal fertilisation,
- knowledge of atheism and agnosticism,
- physical, political and economic geography,
- the general outlines of the histories and cultures of peoples and nations,
- the evolution of science and technology,
- the linguistic and cultural learning of languages,
- the discovery of universal codes and languages,
- the discovery of the rights of the integral human being,
- and, above all, the tendency to arrive at a “coherence of knowledge” or—to use an expression dear to the Catholic world that dates back to the origins of the Universities—for a “unity of knowledge” that brings together the scientific and the humanistic (for UNESCO, cf. the World Humanities Conference, Liège, 6–12 August 2017 and for the Church, the STOQ Foundation, which the Pontifical Council for Culture has been promoting for some time along with a number of Pontifical Universities in Rome: Science, Theology, and the Ontological Quest.

As an outline of school subjects, the foregoing list will certainly need to be revised in view of the last item, which calls for a disciplinarity that is both *trans* and *inter* at the same time. But I would go so far as to hope that when any subject is taught for the purpose of imparting an education that is global, those two perspectives will give full meaning and value to what is taught.

In expressing that hope, it is not my intention to propose the continuance of some updated version of encyclopaedic culture; what I would like to encourage, rather, is an education that enables the individual to encounter different cultures every day, with different mentalities: to prepare individuals who have the ability to “think catholic” or as Paul Claudel would put it, with a Catholic soul i.e. who know how to grasp whatever fragments of truth, regardless of where they come from, that enable the person to open themselves to an ever more inclusive embrace with Truth. Whilst this does not mean the renunciation of an encyclopaedic, global opening up, it should above all concentrate on offering a point of synthesis. At present, in almost every case, our schools tend to impart an understanding of reality in general by strongly compartmentalising it into discrete initiatives, bodies of knowledge, and ambits, giving the impression that it is all determined by a centrifugal principle: many skills, many disciplines and many interests. In my view that will not suffice. We need to propose meaning that is global: a unity of knowledge that makes possible a unity of the person. At first the student will tend to categorise whatever he is being taught into pigeonholes of his own. Instead he should be educated to understand that what

he is learning relates not only to the human condition as it is lived in the world, but also to his personal search for meaning. If we do not do this we will be educating individuals who are competent but ignorant. We therefore require teachers who are capable of imparting not only notions, but also the meaning of life (understood as its sense and direction). And these teachers cannot—must not—explain it via some philosophical “metadiscourse”, but by putting themselves forward as a paragon so that the scholar can develop and resolve the hypothesis of life’s work via their own critical and systematising ability. Putting forward proposals is not enough; it is necessary to educate with reference to an exemplar: to teach “*come l’uom s’eterna*” (Dante, *Inferno*, XV, 84).

To seek the Infinite through the finite, to seek the Eternal through the temporal, to seek the Truth by taking the path among many partial truths: this, it seems to me, is the educational pathway that every human being knows he should complete.

To arrive at this he should be taught how to look at “things”, to find eternal reality “by way of” contingent reality. Permit me to explain by quoting Blaise Pascal in one of his delightful letters to M.lle de Roannez: “All things cover some mystery; all things have veils that cover God. Christians ought to recognise Him in every thing. Temporal afflictions cover eternal goods to which they lead. Temporal joys cover eternal ills that they cause.” In other words, whatever appears as a metaphor to the eyes of sensitised experience is, rather, the “reality” to which education must be an introduction. Putting it another way: whatever appears to our “carnal” gaze as reality only reveals itself as a “sign” or a symbol when it is seen with the gaze of eternity, serving to make us glimpse the authentic reality that remains invisible to our merely physical eyes. Eventually, whatever seems to be the evanescent dream of a single day will manifest itself as an eternal reality and whatever seemed to be a tangible “thing” will vanish, swallowed up by the passage of time.

The mission of the teacher thus encompasses this great task, and the heavy responsibility, of opening the eyes of “beginners” so that they learn how to recognise and distinguish “imaginary” metaphors from “real” things: “removing” the blindfold that makes disciples unable to see, and doing whatever is necessary to open their eyes, just as the eyes of the disciples were opened at Emmaus (*cf. Luke 24: 13–53*), to see that which “really is”. The teacher is therefore he who helps the disciple to open his eyes and free himself from illusions, trying to see the signs that will help him to glimpse the reality that does not fade away.

So rather than transmitting truths as a function of a global system, the teacher must teach the student how to “think” and “reason” in a global way so that he himself can walk the path towards the discovery of it; he must enrich his soul, filling his heart with a wisdom capable of “amazement” which, according to the words of the great Masters (from Aristotle onwards), is the first root of all knowledge. He who does not possess this wisdom will condemn himself to the insignificant and amorphous greyness of repetitive mediocrity.

To conclude, I think it is important to bear in mind the role of the university, which from the very beginning was conceived as universal as an institution open to all wishing to cultivate every form of knowledge and to study the truth in all its expressions: scientific, philosophical and theological. So the university has the

responsibility to seek after truth in every field, and to communicate it using teaching as a form of dialogue that seeks not only to impart notions but also to transmit the meaning and truth of life. And—in my opinion—this is the true form of a dialogue which, as in Plato’s Socratic dialogues, is always a search for truth.

“Hence the urgency for the university, every university, that intends to renew itself and rediscover its true mission, to shed light on its main purpose, which is to study truth in all its aspects” (Pope Francis, *Meeting with Students and the Academic World*, Bologna, 01 October 2017) referencing the teaching of St. Dominic who said we should study the “book of charity”.

The role of the university is to forge peace and a new humanism, working to found a “*ius pacis*”, in which the Church is not neutral (*cf.* Pope Francis, *ibid.*). The Church is on the side of peace and promotes an “integral humanism that comes from the centrality of Christ” (Pope Francis, Florence, 10/11/2015), which is the Word of God, the only Word from which all things have their being and that all things say is the one Word, which is the beginning that speaks in us.

The original sentence in Latin is “*Ex uno Verbo omnia et unum loquuntur omnia, et hoc est Principium quod et loquitur nobis*” (*Imitatio Christi*, Book 1, 3, 2).

We could translate it as follows: From one Word come all things, and one Word speaks all things of Him; and this Word is the Beginning that speaks within us. Or to offer a broader citation:

From that one Word all things descend, and all things proclaim that one Word; it is “the Beginning” that continues to speak to men (John 8:25). Without that Word no one understands, and no one can make a correct judgement. Only he who feels all things as one thing only, brings them towards ‘unity’ and sees them all in unity, can have inner tranquillity and dwell in God, in peace.

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Deep in our hearts, we sincerely wish to acknowledge the presence and the constant support of our parents and without their encouragement and patience, this book could not have seen the light of day.

We wish all readers and colleagues a good reading because your comments will help us to continue this international road in the future.

Olimpia Niglio
Eric Yong Joong Lee

About This Book

This book provides a substantial contribution to understanding the international legal framework for the protection and conservation of cultural heritage. It offers a range of perspectives from well-regarded contributors from different parts of the world on the impact of law in heritage conservation. Through a holistic approach, the authors bring the reader into dialogue around the intersection between the humanities and legal sciences, demonstrating the reciprocity of interaction in programmes and projects to enhance cultural heritage in the world. This edited volume compiles a selection of interesting reflections on the role of cultural diplomacy to address intolerances that often govern international relations, causing damage to human and cultural heritage. The main purpose of this collection of essays is to analyse the different cultural paradigms that intervene in the management of heritage, and to advocate for improvements in international laws and conventions to enable better cultural policies of individual nations for the protection of human rights. The editors submit that it is only through open dialogue between the humanities and jurisprudence that the international community will be able to better protect and value sovereignty and promote cultural heritage for the development of a better world. This collection is relevant to scholars working in areas relating to law, management and policies of cultural heritage conservation and protection.

Africa	Algeria
America	Canada, Colombia, Mexico, Peru
Asia	India, Iran, Japan, Jordan, Korea, Lebanon, Nepal, Syria, Turkey
Europe	Austria, Belgium, France, Greece, Italy, Poland, Romania, Spain, Sweden
Oceania	Australia

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Introduction

Structure of the Research: Toward Transculturality



Olimpia Niglio and Eric Yong Joong Lee

Abstract This research project meets the premises at the different studies and academic experiences realized by two editors between Orient and Occident.

Cultures are not self-enclosed or static entities. They overlap and interact, if only to distinguish themselves from one another. “Cultures are like clouds, their confines ever changing, coming together or moving apart [...] and sometimes merging to produce new forms arising from those that preceded them yet differing from them entirely” (UNESCO, 2007)

This research project meets the premises at the different studies and academic experiences realized by two editors between Orient and Occident.

The concept of culture is deeply changed. Having undergone a dramatic transformation over the course of at least two centuries, the notion of culture is ubiquitous in political discourse yet conceptually elusive. Core debates revolve around the content of culture, its relationship to society and civilization as well as its function and role in the human condition. However, it is very difficult to meet a good cultural policy in the governmental programs in the world. Perhaps we must first ask ourselves what culture means: what does culture do? and what *should* culture do?

Historically, the notion of culture was explicitly normative. This concept represented, more often than not, the eighteenth- and nineteenth-century humanistic understandings. Matthew Arnold’s *Culture and Anarchy* analyzed this belief. Arnold held that culture is

[...] a pursuit of our total perfection by means of getting to know, on all the matters which most concern us, the best which has been thought and said in the world; and through this knowledge, turning a stream of fresh and free thought upon our stock notions and habits; the culture we recommend is, above all, an inward operation. (Arnold, 1993: 190)

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For Arnold culture was a remedy to such human failings as *the want of sensitiveness of intellectual conscience, the disbelief in right reason, and the dislike of authority*. The goal of culture was, therefore, to overcome barbarity and realize higher goods, such as intellectual conscience, reason, and deference to authority, encapsulated in a broad, neoclassical understanding of civility and civilization. Culture became thus associated with products which were seen to embody these goods—classical music, opera, art, literature, and haute cuisine.

Obviously, this idealized the understanding of culture carried with it both ethnocentric and elitist connotations. If it were restricted to elite, Western social circles, then the vast majority of human beings were bereft of culture. Fortunately, the development of the interdisciplinary dialogue among scientists toward the end of the nineteenth century changed this particular trend and this vision.

In the twentieth century, many scholars recognized that every member of any society should have a culture which has to be respected and valorized.

While this was certainly a step forward, the totalizing nature of the concept of culture has been proved problematic, providing, in the first instance, a great deal of interpretations. This is indicated, as Clifford Geertz notes in the account of culture as:

(1) “the total way of life of a people”; (2) “the social legacy the individual acquires from his group”; (3) “a way of thinking, feeling, and believing”; (4) “an abstraction from behaviour”; (5) a theory on the part of the anthropologist about the way in which a group of people in fact behave; (6) a “storehouse of pooled learning”; (7) “a set of standardized orientations to recurrent problems”; (8) “learned behaviour”; (9) a mechanism for the normative regulation of behaviour; (10) “a set of techniques for adjusting both the external environment and to other men”; (11) “a precipitate of history”; and turning, perhaps in desperation, to similes, as a map, as a sieve, and as a matrix. (Geertz 1973: 10–12)

Geertz’s observation seems equally applicable to this concept also to other disciplines interested in the study of culture, including international law, history, applied sciences, ecology, and human rights (Lystra, 1983).

This vision introduces an important opportunity: the dialogue among different disciplines on the concept of culture that had an important evolution in the transculturality as this international research intends to demonstrate.

In this regard, culture meets on the idealism of science whose reference has opened the doors and new interpretations of the world, to new cultural paradigms. Further, this has laid the foundations for the development of new critical thinking importantly in the research project.

This critical thinking accepts the value of culture. If so, what does culture mean? Let’s analyze the etymology of the word.

The word “culture” comes from the Greek language. Its root is found in the term Παιδεία, education, ethical and moral training of young people and citizens.

The culture constitutes the set of intellectual knowledge that, acquired through study, reading, experience, the influence of the environment and reworked in a subjective, critical, and autonomous way, becomes a building block of personality. Culture contributes to enriching the spirit, developing and improving individual ability to judge.