The Bureaucratic Texture of National Patrimonial Policies

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1 Introduction

Heritage is not only a “project of ideology” (Kuutma 2007: 178), but also a project of bureaucracies. The broad ethnographic literature on heritage production and heritage consumption documents the various dimensions of bureaucratic logics and constraints that influence, for example, the ways traditional culture, transformed into heritage, is used and managed (e.g. Hafstein 2007, Bortolotto 2008, Smith and Akagawa 2009). Discussing the results of patrimonial interventions, Dorothy Noyes underlined the bureaucratic power of heritage regimes that create tensions in the understanding of culture and that change the uses of traditions (Noyes 2006: 35f). Heritage as an ideological process is “a regime in rapid expansion” (Hafstein 2007: 76). However, this expansion cannot only be explained by the plausibility of the different cultural values that are reified in concrete heritage practices: democracy, cultural diversity, human rights, et cetera. Rather this expansion, one could assume, also depends on the specific institutional nature of heritage regimes that are organized according to western bureaucratic logics (cf. Bendix 2009: 184).
“Once created, bureaucracies notoriously expand” (Noyes 2006: 35; cf. Herzfeld 1993). Consequently, bureaucratic institutions permanently legitimize their existence and their search for new fields of action (cf. Douglas 1986). In addition, expansion is accompanied by the need for money and requires legitimation: Bureaucratic budgets expand accordingly with the bureaucratic institutions themselves. The cultural biography of UNESCO’s various heritage programs and conventions illustrate this claim – just within the realm of tangible heritage there has been an expansion of types of sites and attendant bureaucratic measures (both on the international level and the steps necessary and different for each ratifying nation-state), from cathedrals and castles to industrial landscapes, underwater heritage, memory of the world, digital heritage, and so forth. National patrimonial traditions for the protection of historical monuments show the same expanding character of bureaucratic institutions. These institutions, too, are in search of new patrimonial fields that legitimize their institutional existence and that are often inspired by international interventions. The present essay contextualizes the more recent paradigm of Intangible Cultural Heritage by focusing on an older heritage regime: The protection of historical monuments on the national or even state level. I will ask which actors shape national policies for the protection of tangible heritage, and in which bureaucratic and political contexts they are moving. Such a perspective is especially important as many member states that have ratified the 2003 Convention for the Safeguarding of Intangible Cultural Heritage combine this new category with former legislation concerning monuments or archives. As a result, national heritage policies can be seen as assemblages of different patrimonial paradigms, as creative contact zones between different heritage logics that compete against one another or that are combined in synergetic ways.

UNESCO’s 2003 Convention for the Safeguarding of Intangible Cultural Heritage led to enormous anthropological interest in this new category (cf. Kirshenblatt-Gimblett 2004, Hafstein 2007, Hemme; Tauschek; Bendix 2007, Bortolotto 2008, Smith and Akagawa 2009). The ethnographic literature discussing questions concerning the protection of material heritage and the birth of a politics of tangible and natural heritage is comparatively sparse; but there is a plenitude of researchers focusing on the (institutional) emergence of UNESCO’s intangible heritage concept that resulted from international negotiation (e.g. Schmitt 2009). In his research of UNESCO’s intangible heritage regime, Valdimar Hafstein also focused on the institutional agency and bureaucratic power in the process of installing a new concept (Hafstein 2007). This new key concept within the basket of global heritage conventions is, however, pre-structured by different patrimonial forerunners (cf. Tauschek 2010a: 89ff., Hemme 2007). If we want to understand the complex nature of today’s heritage interventions and the bureaucratic structures connected with them, we have to take into account that the cultural life of heritage

1 It was in 1957 that sociologist and historian Cyril Northcote Parkinson published his reflections on the expanding nature of western bureaucracies. Bureaucratic structures grew and grew and grew even if their workload did not grow in the same way or even if this workload was on the decrease.
bureaucracies is shaped by national traditions devoted to the interpretation of history in general. One of these national traditions is the protection of historical monuments that also shaped the semantic field of heritage (cf. Swenson 2007).

One of the central characteristics of UNESCO’s heritage operations is the fact that the member states choosing to ratify a given convention have to translate the internationally binding legal instruments into concrete national heritage policy. This transformation has different impacts: States have to define legal parameters and create responsible governmental authorities and bureaucratic institutions. UNESCO’s program addressing natural and tangible heritage could build on existing legal frameworks at national levels; the implementation of the new concept of intangible heritage required that new frameworks be established. An analysis of this complex process delivers insights concerning national heritage policies, as well as the embedding of these national policies into the global heritage system. In this context, it is not only important to ask how an internationally negotiated concept such as intangible heritage is implemented on a national level, but also how this implementation is brought into being in bureaucratic ways. From a cultural anthropological perspective, it is methodologically relevant to pursue the path of this unfolding implementation through concrete actors, taking into account what range of agency is allotted to them. Heritage interventions on international as well as national levels are realized by different institutional actors, such as ministries on a higher level and museums, for example, on a lower level; individual actors outside of or within different institutional settings may, depending on the political context, contribute as well. Ethnographic research on heritage as a practice, policy and concept thus has to consider concrete actors and their options and paths of action. Who, for example, represents governmental authority in the context of national heritage policies? Who are individual or institutional actors that deal with heritage issues in the context of national bureaucracies? From which perspective do they argue? What is their professional background? How does their often quite personal understanding of heritage influence professional definitions? What are the bureaucratic and political contexts that shape these dimensions?

A first step into this direction is an understanding of patrimonial bureaucracies as cultural practices in their own right. In her reflections on the metacultural nature of Intangible Cultural Heritage, Barbara Kirshenblatt-Gimblett identified differences between bureaucratic heritage interventions and the traditional practices these interventions seek to protect (Kirshenblatt-Gimblett 2004: 55). Whereas traditional culture – or folklore – is dynamic, vibrant, creative, and, through its performative character, constantly remade, heritage bureaucracies can be circumscribed as persistent, slow or unidimensional. In the context of the circumscribed heritage regimes, these bureaucracies are situated in national or international legal and political frames of reference which may explain their persisting character. Hence, these frames – laws or lists concerning heritage – produce sustainable effects and realities that can only be reformed very slowly. In my case-study focusing on nominations in Northern Germany, I will argue that even within these persist-
ing systems, conflict-laden negotiation processes unfold and show which concepts of cultural heritage are articulated within these conflicts.

2 Competing Competences: the Protection of Historical Monuments

If heritage is always dissonant (cf. Tunbridge and Ashworth 1996), different actors that produce and use heritage in the context of the state may also act in a dissonant way. Even if the result of state interventions – materialized in texts, laws and so forth – can be described as an “authorized heritage discourse” (Smith 2006: 29), a more detailed look at the various actors shaping patrimonial fields in the context of the state is helpful. Within an authorized heritage discourse, actors can struggle for different interpretations of heritage. These interpretations emerge on different levels as ethnologist Beate Binder showed in her detailed analysis of Berlin’s “Schlossplatz” debate (Binder 2009). Here, it was a political, national decision to demolish the Palast der Republik as an important monument of the German Democratic Republic in order to reconstruct the baroque castle in Berlin’s city center. As Binder demonstrated, the negotiation process was about the nature and look of Germany’s capital, but it was also about the relationship between the two German states during the Cold War, about collective memory and, finally, about divergent representations of history. Different actors were involved in the discussions about the reconstruction of the castle: politicians, members of local initiatives, curators of monuments, scientists of different disciplines, and so forth. All these actors produced urban textures of meanings. Binder understands the production of heritage as a cultural performance that reproduces significance and, at the same time, has an enormously transformative power. In Binder’s case-study, the negotiation process was shaped both by political actors and actors of the civil society.

This was also the case, when in 2008, parts of Kiel’s university campus built in the postwar period were declared a historical monument of outstanding value. This incident caused a short but intense conflict among the different actors involved. In Germany, the protection of historical monuments is organized according to the federal structure of the state: The Bundesländer (states) are responsible for cultural policy. Therefore, a wide field of bureaucratic institutions and legal regulations exist. In Schleswig-Holstein, the state where Kiel is located, the authorities responsible for the protection of historical monuments are the Federal Historic Preservation Office and, at a lower level, Regional Preservation Offices: Each holds different competences. The ministry responsible for these executive authori-

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2 Kiel is the capital of the Bundesland Schleswig-Holstein in the north of Germany on the shore of the Baltic Sea. Almost 80% of the historic city was destroyed during World War II. Today, Kiel has nearly 240,000 inhabitants.

3 The different competences are defined in operational guidelines that complete Schleswig-Holstein’s preservation act: Ministerium für Bildung, Wissenschaft, Forschung und Kultur 2002.
ties is the federal Ministry of Science, Economy and Transport – which provides an important frame within which cultural policy is set on the federal level. The ministry is supervised by the prime minister of the state. In Schleswig-Holstein, the protection of historical monuments is organized as a constitutive system, which means that the law defines the qualities of historical monuments and the executive institutions concerned have to declare these monuments officially in an administrative act.⁴

![Figure 1: Bureaucratic hierarchies in Schleswig-Holstein’s heritage system (Tauschek 2012). Each institution is part of the executive power of the state.](image)

The Federal Historic Preservation Office is the main bureaucratic institution responsible for the identification of future historical monuments as well as for the “scientific” documentation.⁵ In the case of Kiel’s university campus, it was an art historian of this office who pushed the idea of putting the buildings on the list of valuable monuments. She defined the patrimonial space using art historical expertise for her arguments. Her patrimonial intervention was motivated not simply due to her professional background as an employee of the Federal Historic Preservation Office; postwar university architecture had been her dissertation topic and

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⁴ In contrast to this bureaucratic system, a declarative system exists in which the law also defines patrimonial qualities of a building, for example, and the executive institution only informs owners of historical monuments. Additionally, there are also mixed forms of both systems.

⁵ I put the word scientific in quotes as most of the employees of the Federal Historic Preservation Office have a scientific training in disciplines such as art history, archeology or even European ethnology. From this disciplinary background, they interpret historical materiality often in quite reflexive ways. However, their expertise is framed by legal prescriptions that – to a certain degree – contradict actual scientific approaches to heritage as they are, for example, based on the idea that cultural values simply exist as such.
thus an important aspect of her scholarly biography, adding an element of personal motivation in casting the Kiel campus as an important monument.

A conflict arose surrounding the legal protection of the campus within which one can identify three dimensions characteristic for the making of cultural heritage more generally.

2.1 Negotiations about Esthetic Values

Arguments articulated in the debate about the cultural values of the campus focused on its symbolic nature. The question was whether the campus buildings were outstanding examples of esthetic, architectural qualities that symbolize a certain period in Germany’s university architecture – a period that bears testimony to the introduction of democratic structures in academia. The debating parties sought to represent “factual arguments” and the actors involved tried to objectify their interpretation of the future monument. Arguments that were elaborated in that context were based on scholarly knowledge focusing on art history or on the history of architecture. An important discursive strategy was legitimization of interpretations of the buildings concerned through a comparative perspective. The art historian compared the buildings – which is a typical approach in art history – with other universities built after World War II in order to underline their outstanding quality. Different opponents used comparisons to shape their argumentation, stating that the university buildings were simply functional mass products that could be found a hundred or a thousand times in similar form all over Germany.

2.2 Competing Authorities

The nomination process delivered grounds for social conflict: The university’s chancellor and president protested, as they felt ownership of the campus: They both responded with anger as the art historian responsible, representing the Federal Historic Preservation Office, visited the campus without having informed the university’s administration beforehand.

One could argue that this dimension of the conflict was based on different notions of property: The representatives of the Federal Historic Preservation Office interpreted the campus as a public space accessible to everybody. That is why they visited the buildings in order to prepare a nomination dossier. The university representatives held a different notion of “their” university and expected to be asked whether the buildings could be examined or not. These two concepts clashed when the university administration was informed that the representatives of the Federal Historic Preservation Office would visit different buildings. All the actors involved reacted quite emotionally instead of discussing the question whether the university was a public space or not.
2.3 Competing Imaginations

Different concepts of preservation, finally, brought the crisis to a climax. Different actors held equally different images in their minds for what constitutes preservation practices. The university’s administration was afraid that the campus, as a consequence of the transformation into a monument, would be fossilized, that it would become a museum and that this would prevent future developments of the university (cf. Tauschek 2010b). These paradigms of conservation practices were not based on concrete experiences, but rather presumed uncompromising preservation instructions. The university’s chancellor, especially, expected that the Federal Historic Preservation Office would embark on realizing restoration issues in a quite radical way, for example, concerning the usage of specific building material. However, the monument conservators involved underlined that compromises are a daily occurrence in their conservation practice and that even legal instructions had to be interpreted case by case.

The amalgamation of these three dimensions formed the basis of another important aspect of the conflict: Activated by the university’s president, the Mayor of Kiel wrote a firm letter to the Prime Minister of Schleswig-Holstein as the highest political authority in order to cancel any heritage intervention at the university campus. The prime minister’s reaction is not documented in any of the records available but, as a direct consequence of this letter, a state secretary of the federal Ministry of Science, Economy and Transport protested against the protection of the campus. He argued with both legal and quite personal arguments that went as far as attacking the art historian responsible whose interest, in his perception, had lead to a choice overreaching her power of office.  

All three actors in this conflict – the prime minister, the state secretary and the art historian – represent the executive power of the state: That is, all three enact the same bureaucratic, institutional logic even if their agency is quite different. Thus, the results of the negotiation processes in the context of heritage regimes are all but coherent; rather they result from different scopes of action and different interpretations. That also means that national institutions of the state are heterogeneous formations. In the case of Kiel’s university campus, the actors mentioned argued and performed within the same bureaucratic system which constitutes a frame and structures and organizes bureaucratic, formal interventions (e.g. the formal declaration of a building as a historic monument) and the symbolic function of these interventions (e.g. codification in preservation acts). At the same time, all the actors in this system compete relying on their competences and authority, causing the multivocal conflict described.

This conflict can be further explained by drawing on the differentiation of the state’s executive power discussed by social philosopher Johannes Heinrichs (2003). Heinrichs differentiated two forms of executive power, both depending on the

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6 The conflict is documented in the Historic Preservation Office’s archive; register no. 16080.
relationship between authorized actors and the law. The first will execute laws in a formal bureaucratic – one could also say objective – way. The interventions of the Historic Protection Offices follow this path in transforming legal provisions into concrete conservation practices. The second variant of executive power draws on a wider scope of interpretation and acts more subjectively: This is the case with the ministry responsible whose interventions are directly influenced by the actual political will. The ministry’s interventions are framed by scholarly or factual arguments only in a minor way, as the ministry needs to enact a particular political agenda. Consequently, heritage decisions that are influenced by the ministry are dependent on the given political landscape, which may change more rapidly (in particular after elections), whereas the executive institutions are charged with transforming heritage policy in a more enduring fashion.

The Kiel university conflict led to a legislative discussion within the federal parliament – as a governing body – whether the legislation concerning the protection of historical monuments should be reworked. Buildings of the postwar period, so ran the proposition, should only be protected if the federal Ministry of Science, Economy and Transport agreed. Before, it had been the subordinated Federal Historic Preservation Office that decided which building was to be declared an important monument, legitimizing its decisions with the federal Preservation Act. The proposed shift in the definition of cultural heritage implies a shift in competence from the Federal Historic Preservation Office to a more politically determined executive branch in the case of postwar buildings. One must assume that in this new context, different types of arguments will be articulated, as the decision-makers depend to a greater degree on decisions of political actors. Scholarly arguments may recede as actors from outside institutions devoted to preservation shape the discourse. Earlier decisions, of course, had also been achieved within specific political contexts; the new legislation simply codifies and legitimizes new governmental interests.\footnote{A further and still broader context within which the management of the heritage status of the Kiel campus is to be understood is the composition of the federal government at the particular juncture in time: The government consisted of a coalition of the conservative Christian Democrats and the Liberal Democratic Party. Their members sought to protect the interests of house owners. The change in the preservation act thus had intended consequences far beyond Kiel university’s potential heritage status.}

This small episode illustrates that different representatives of the state can hold different notions of cultural heritage, depending on various criteria. The Kiel campus further shows the social conflict potential inherent in heritage production: Individual social actors may represent a given institution, but they may also fight over individual competences. The conflict between the art historian, on the one hand, and the state secretary, on the other hand, was not only based on factual arguments, but also carried a very strong personal dimension. Finally, two bureaucratic institutions claimed hegemony with regard to determining whether the cam-
pus was to be declared a historical monument or not. The making of heritage is thus a bureaucratic operation, but it is also a social process.\(^8\)

3 Legal Frames of a Federal Heritage Policy

In my first example, actors that were part of the governmental executive power competed for predominance in the definition of cultural heritage. The case of Rantzau castle widens the focus by asking which powers of the state are involved in heritage production and heritage management in general. Rantzau castle is part of the same "heritage-scape" (Di Giovine 2009) as the Kiel campus; both are located in the north of Germany.\(^9\) The castle is a renaissance monument rebuilt in the 18th century. The structure was originally built as a manor house by an aristocratic family who experienced a period of prosperity in the 16th and 17th centuries. After World War II, the house served as a refugee camp and was transformed into a hotel in the 1960s. Gradually, the condition of the house worsened; it was sold in 2009, at which point the story about its patrimonial status began. As is so often the case, the conflict began with rumors.

In June 2010, the Federal Historic Preservation Office heard about dramatic reconstruction work in Rantzau castle for the first time. Representatives of this office tried to get access to the privately-owned building in order to see whether these rumors were based on fact. Even before the preservation office officially asked to gain access, the castle’s owner took legal action in order to forbid the authority concerned from entering the building. The lawyer entrusted with the case based his argument on article 13 of the German Constitution, which guarantees the privacy of the home. The legal institution responsible in this case was the higher administrative court. In its judgment, the court argued that article 13 could not be applied as the building was in such poor condition that one could not live in it. At this level of the conflict, the court thus did not argue with the federal heritage preservation act, but rather employed the legal frame concerning questions of privacy and the accessibility of the home.

As a consequence of this judgment, employees of the Federal Historic Preservation Office could visit the castle during the summer of 2010 in order to see what had been done. A mountain of rubble in front of a window immediately announced what was to be expected inside: Ninety percent of the stucco walls and ceilings had been removed. Eventually, this incident stipulated reactions in another legal context; defined by the federal Preservation Act, questions of public interest

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\(^8\) This is also one the main results from my research about the production of intangible heritage in Belgium (Tauschek 2010a). If one looks at the processes of the implementation of UNESCO’s 2003 convention in the French-speaking part of Belgium, one can observe that single actors shaped a federal heritage policy. Their motivation was not only to protect popular culture, but also to strengthen their own political position – heritage policy as a kind of personal biographical resource.

\(^9\) Since 1982, Rantzau castle has been officially listed as an important historical monument of Schleswig-Holstein.
were brought into play. If properties of public interest, protected under article 13, are destroyed or damaged, this is a punishable act under criminal law. Responsibility for judgment thus migrated to a criminal court of law (see Fig. 2).

Figure 2: Legal and judiciary frames (Tauschek 2012).

A core issue in this case thus concerns public and private property. If an owner of a historical monument destroys, for instance, protected historical decorations, this action can be punished, as the historical monument is of public interest even if the property is privately-owned. To understand this differentiation in the context of the protection of historical monuments, one has to turn to deeper historical dimensions: At the turn of the 20th century, German legislation concerning the protection of historical monuments, for the first time, also included private properties. When a systematic interest in historically important buildings and objects started in the second half of the 18th century in different German principalities, the sovereigns concerned tended to underline and legitimize their claims to power by dint of historical monuments (cf. Schmidt 2008). During the 19th century, the preservation of historical monuments became an important issue for the nation-state. Firstly, laws that were intended for the preservation of monuments were elaborated after 1900 (1902 in Hessen-Darmstadt, Hamburg in 1920, Schleswig-Holstein in 1958 as the first German state that ratified a preservation act after 1945). In 1880, the term “Denkmalpflege” – protection of historical monuments – was used for the first time in the context of Prussian bureaucracy. In the same context – the emergence of the modern nation-state – concepts for the protection of monumental heritage had to be rethought with regard to the state’s relation to privately-owned properties. When monuments served to demonstrate absolutist power in the 18th century, this relation was irrelevant as conservation interventions only concerned properties of secular or ecclesiastic sovereigns. Later, however,
states employed cultural logics to legitimize their symbolic appropriation of private property by evoking public interest of esthetic and historic values, a realm which requires further research (cf. Holtorf 2007: 35).

Apart from the question of national legal regulations, in both cases – Kiel campus and Rantzau castle – concepts of property are legally defined but, nonetheless, required negotiation. In the case of Rantzau castle, it was the court that had to articulate and to assert the public interest.

The case of Rantzau castle is paradigmatic for heritage conflicts as it demonstrates clearly which actors may declare a patrimonial field within governmental structures of the nation-state. Here, there were two important actors who influenced the evaluation of the castle as cultural heritage: Courts, as institutions of judiciary power, and bureaucratic institutions – the Federal Historic Preservation Office – as executive authorities. Both argue within different frames of reference and both shape their arguments by different bureaucratic and legal logics even if the object of negotiation is the same. It is quite clear that the employees of the Federal Historic Preservation Office employ scientific reasoning drawn from disciplines such as archeology, (art) history or architecture. Yet, how do judges discuss patrimonial qualities that lead to a public interest in a building? How do these actors define historical values as circumscribed in preservation laws, but which elude strict legal definitions? How do they weigh public and private interests?

It would be a worthwhile enterprise to analyze the jurisdiction concerning historical monuments in a diachronic perspective. The field of tensions between public interest and private matters is in flux much as is the interpretation of monuments.

4 Patrimonial Contact Zones: From Tangible to Intangible Heritage

What is the relevance of these two cases in the context of the concept of intangible cultural heritage? In the second half of the 19th century, one of the founding fathers of the modern preservation movement in Germany, Alois Riegl, had already differentiated two forms of monuments: Monuments that were, in a thought through manner, built for future generations and made to transport a distinct message, perhaps with the aid of statuary, and monuments that only achieved status in the course of subsequent history. The value of these monuments – “Denkmalwert” – is based on a process of attributing values and meanings, a process which

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10 An excellent example of the value of such source material is a judgment of the Saxonian higher administrative court dating from 2007. The court had to decide whether plastic windows in a 19th century building had to be removed and replaced by wooden windows. Beside the question if this change was economically reasonable, the court discussed whether the building was an outstanding representative monument or not. See the judgment in detail: Sächsisches Oberverwaltungsgericht 2007.

11 Riegls most important theoretical and programmatic texts are reprinted in Huse (2006).
is inherently intangible. That is one reason why Laurajane Smith argues that all heritage is intangible in a certain sense (Smith 2006: 54). Intangibility is one of the central characteristics of heritage and contributes to the flexible nature of the heritage concept: Its intangible attributes allow for continual re-interpretation.

The linkage between the two cases and the concept of intangible heritage also unfolds on an institutional and organizational level. State policy concerning the protection of intangible heritage is in many instances pre-structured by the legal structure of tangible heritage. As Germany has still not ratified the 2003 Convention for the Safeguarding of Intangible Heritage of Humanity, my last examples are based on Belgium’s official national, or better federal, heritage policy. Germany and Belgium can be compared insofar as both nations are federal states.

In Belgium, the federal structure depends on three linguistic communities: the German-speaking, French-speaking and Flemish community; each community has its own cultural policy, as do the Bundesländer in Germany. In 2007, the Flemish community adopted a draft version of a law concerning cultural heritage – tangible as well as intangible – that was based on a former decree for the protection of popular culture dating from 1998 and a law concerning the organization and function of public archives. This reshaping of a national heritage policy was motivated by Belgium’s ratification of UNESCO’s Intangible Heritage Convention.

The French-speaking community had already adopted a decree concerning mobile cultural goods and Intangible Cultural Heritage in 2002. The two legal texts reflect the different contexts of their emergence and are situated within different legal frameworks – both have their own cultural biography. The reason why the French-speaking community had re-organized its heritage policy earlier than the Flemish community has to do with the role this community played within UNESCO’s program “Masterpieces of the Oral and Intangible Heritage of Humanity.” The French-speaking community identified this program as a means to get symbolic recognition within an international heritage landscape by supporting the new concept of intangible heritage. However, the transfer of the international discourse on intangible heritage into federal heritage policy shows that the political authorities used existing legal frameworks.

The result of this process is an innovative amalgam of different approaches codified in the context of federal legal systems. Ratifying an internationally negotiated convention, such as the one centered on the concept as intangible cultural heritage, on a national or federal level is a step requiring further analysis. One could argue that the circumscribed federal strategies to adopt the concept of intangible heritage created what one could call patrimonial contact zones. These contact zones are relevant in two different ways: Firstly, and quite practically, intangible heritage law is not a completely new legal field in the Flemish or the French-speaking commu-

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nity. Rather, both communities tried to combine the new concept with existing laws. This contact zone is thus related to the textual representations of heritage concepts. A second contact zone refers to the concrete realization of these legal representations: Concrete heritage interventions also need to be brought into life. For this issue, federal authorities in Belgium had to install – as was already the case in the protection of historical monuments – commissions and offices that create forms and lists in order to manage the intangible heritage (cf. Hafstein 2009).

The Belgian French community, for example, inspired by UNESCO’s masterpieces program, decided to install a federal list of intangible heritage masterpieces. UNESCO’s interpretation of outstanding value thus endured within this part of the Belgian context, even though it had been abandoned on the international level. The last Belgian federal nominations for that list date from 2011. The body responsible for the nomination of possible candidates is a federal scientific commission whose members are denominated by the federal minister of culture.

Earlier, I argued that heritage bureaucracies and relevant legal frames persist in their character. Within the federal scientific commission of the French-speaking community responsible for the proclamation of federal masterpieces, different members critically discussed the proof of outstanding value by arguing that on the international level too, the idea of masterpieces had been replaced by other criteria. However, the director of the heritage section responsible in the ministry of culture explained that the federal legislation could not easily be reworked. He pointed to the complexity of legislative processes that complicates the change of existing legislation. The bureaucratic and legal structures, one could argue, complicate the transfer of scientific negotiations on the nature of intangible heritage into concrete heritage interventions.

The protection of tangible monuments in Western states has a long bureaucratic history. Bureaucratic experts have developed concrete practices and discursive strategies to transform objects into valuable monuments. The most relevant practice in that context is the listing of heritage, which is also a persisting practice (in the context of UNESCO’s world heritage program, the cases of delisting heritage items are very rare). I also consider the instrument of “the list” as a patrimonial contact zone. It proved itself in the protection of historical monuments and was simply taken over for the task of safeguarding intangible heritage; this has been broadly discussed in the historical (Schuster 2002) and ethnographic literature (Hafstein 2009: 105). Listing heritage is an important bureaucratic and symbolic tool; it renders heritage manageable and translates it into bureaucratic organiza-

\[\text{13} \quad \text{Silke von Lewinski discusses the integration of new concepts into existing legal frameworks in the context of the protection of cultural property (Lewinski 2004). From the perspective of the law, she shows how existing intellectual property laws can be interpreted in a different way due to changes in the concept of property. Similar processes can be described in the realm of intangible heritage.}\]

\[\text{14} \quad \text{Chefs d’œuvre du Patrimoine oral et immatériel de la Communauté française (Fédération Wallonie-Bruxelles 2011).}\]

\[\text{15} \quad \text{Cf. field notes, April 2010.}\]
tional language. No wonder that bureaucratic experts, who during their whole professional life have dealt with such instruments, also try to make these instruments work in the context of the protection of intangible heritage on the international as well as on the national level: Listing heritage is a traditionalized practice itself, which may explain that the experts of the Belgian French community decided to safeguard their intangible heritage by making a list.

More comparative and micro-level research is needed to understand these bureaucratic logics and practices and their meaning for heritage preservation and construction. How, for example, do federal civil servants responsible for the protection of historical monuments react to expansion of their professional field of action due to changes in the legislation (which actually happened in Belgium)? Do states and governments that changed this legislation also change the bureaucratic structures linked to laws, decrees and operational guidelines? What new expertise emerges and on what scientific and administrative grounds is it built? What is the role of bureaucratic practices and materialities – forms, registers, inventories, dossiers, et cetera – in the production and powerful management of heritage (cf. Tauschek 2009)?

5 Conclusion

Talking about national heritage policy is tricky. The implementation of UNESCO’s Intangible Heritage Convention on the level of the nation-state is, first of all, a political project. However, this project has to be realized by concrete actors who move in bureaucratic or political webs of meaning. A central task of anthropological heritage research consists – as Kristin Kuutma stated – of complicating simplicities. Without a consideration of the political background, where strong individual and partisan interests emerge, one might perceive the process of nominating a heritage site as completely arbitrary. The Kiel case demonstrates, most of all, how utterly unpredictable the results of a heritage nomination process are.

What is predictable, however, is the fact that international and national heritage regimes bureaucratize the management and also the interpretation of tangible and intangible heritage. National heritage policies result from very different heritage interventions with various bureaucratic institutions and actors involved. Whereas the products of this process unfold long-lasting effects – once legislation is constituted, it cannot easily be changed; once heritage lists are installed, they will be constantly replenished – concrete nomination procedures as well as the concrete handling of heritage depend on constant negotiation processes.

16 Cf. contributions by Ballachino, Bodolec, Broccolini, and Fournier in this volume.

17 Cf. Kuutma, this volume. See also Dorothy Noyes’ paper entitled “Traditional Culture: How does it work,” where she discusses central terms of heritage policy as community, tradition or folklore (Noyes 2010).
Cultural anthropologists usually hesitate to voice predictions. Yet the example of the implementation of UNESCO’s Intangible Heritage Convention in Belgium suggests that similar processes will follow the same pattern when Germany ratifies this convention. In this case, the legislation concerning tangible heritage and monuments will serve as the legal and bureaucratic model that will be conferred on the concept of intangible heritage. In her feasibility study concerning the implementation of UNESCO’s Intangible Heritage Convention in Germany published in 2011, Marie-Theres Albert, UNESCO Chair in Heritage Studies (university of Cottbus), underlined that Germany’s tradition in the protection of historical monuments has established a well functioning bureaucratic system. Hence, a national committee for Intangible Cultural Heritage should be organized analogous to the “German National Committee for Monument Preservation.”

Albert’s recommendations show that power, hierarchies and different interests will play a crucial role, as discussed in my two examples. If Albert suggests having representatives of all German UNESCO chairs, as well as representatives of all heritage studies programs in Germany, in the aforementioned commission, this proposal might be understood as the inscription of disciplinary interests in the proclamation and management of future intangible heritage. This will eventually cause new conflicts.

It is evident that the ratification of UNESCO’s Intangible Heritage Convention initiates debates about the relevance and the nature of popular culture. In contrast to the protection of historical monuments, this debate is not only about the esthetic or historical values of castles or other types of buildings, but is also about cultural identity and the value of performative culture. “Intangible” culture may be less easy to destroy than the historical interior of a castle. Perhaps popular culture considered for protection might, in its colorful, dynamic variety, mitigate the conflict potential inherent to the protectionist and managerial processes.

6 References


