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The Holy Thorn Reliquary and Cultural Heritage

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A thorn, a valueless small and sharp pointed piece of wood, is displayed in an exquisite box made of gold and precious stones, and ornamented with intricate figures and symbols. This expensive artefact showcases a valueless, worthless item, but for the meaning attached to it, the belief that it comes from the Crown of Thorns worn by Jesus Christ, during the Crucifixion. Today, the heritage/cultural value of the reliquary (tangible) as a collectible object, displayed in a museum, overshadows the devotional value of the thorn (intangible). Whereas the reliquary and thorn can be read through different frameworks of reference: religious, historic, aesthetic, scientific, this article will follow the three-stage method for reading an object proposed by Jules Prown (description, deduction and speculation) for the study of material culture understood as 'the study through artefacts of the beliefs – values, ideas, attitudes, and assumptions – of a particular community or society at a given time'.[1]

However, in contrast to Prown's approach, this article does not aim to study medieval society through the reliquary and the thorn but rather to use these artefacts to study our current understanding of both cultural heritage and cultural heritage law by seeing them as museum objects|objects in a museum. First, the reliquary is described and its symbolism explained to understand the scene it represents with reference to its meaning in medieval France. The second stage, deduction, will focus on the relationship between the object and the perceiver in particular in relation to its heritage value. The final stage, speculation, will use the reliquary and the thorn as metaphors for the definition of heritage, when tangible artefacts (reliquary/thorn) embody intangible values (faith); it will then discuss the subjectivity of the heritage discourse by engaging with Laurajane Smith's comment that 'the physicality of heritage also works to mask the ways in which the heritage gaze constructs, regulates and authorises a range of identities and values by filtering that gaze onto the inanimate material heritage';[2] finally, it argues that this critical heritage studies approach can be applied to cultural heritage law.

Description: The Reliquary and the Thorn

This section will first describe the reliquary, a box that contains remains of a holy person or their belongings kept as an object of reverence,[3] with its reference to Christian iconography and it will then set the object in its historical context.

The reliquary is thirty centimetres in height, fifteen centimetres in width and seven centimetres in depth. It was made around 1390s of rare and expensive material: enamel, gold, fourteen pearls, two sapphires and fourteen rubies. Its elaborate design represents twenty-eight figures, God, Jesus Christs, several angels and saints that tell the story of the Last

Judgment. Its base is a fortress with four turrets; each occupied by an angel sounding a trumpet, two of which are decorated with blue *fleur de lys* (the symbol of the French monarchy). The fortress is surmounted by a green-enamelled hill, with four open coffins from which four people are standing, representing the mount where Christ was buried and rose from the dead (the Resurrection of the Dead). Above the hill, there is a rock-crystal window that displays the scene of the Last Judgment that is Jesus Christ's Second Coming that will mark the end of the word and the judgment of human kind. Underneath, there is a scroll stating the origin of the Holy Relic in Latin: '*Ista est una spinea corone Domini nostri ihesu cristi*' ('This is a thorn from the crown of our Lord Jesus Christ'[4]). In the window, a Christ in Majesty[5] in white enamel sits with his feet resting on a white globe to judge humankind, with two angels holding in one of their hand a crown of thorns above his head, and on their other, the instruments of the Passion (spear and nails). Christ's body displays five wounds: one on each hand and one on each foot, pierced by four nails and one on his proper right hand side where his 'holly' heart was pierced with a spear. At his feet, there is one figure on each side, the Virgin Mary and St John the Baptist interceding to save sinners. The Thorn, approximately eight centimetres long is in the middle, and rests on a cabochon sapphire (the colour blue was used in early Christian hood to represent 'heavenly purity' like a clear blue sky).[6] The window is framed by golden foliage, eight rubies and eight pearls associated with Christian virtues and purity.[7] Around the frame, there are twelve figures in white enamel with golden hair and most with a golden beard. They represent the twelve Apostles with their associated symbols; on the right hand side, from top to bottom, St Peter with a key, St James the Greater with a scallop shell, St James the Less with a fuller's club, St Bartholomew with a Flaying knife, St Simon the Zealot with a saw, St Andrew with a cross and on the left hand side from top to bottom: St Thomas with a spear, St Matthew with a battle axe, St John with a serpent in a chalice, St Philip, St Jude or Thaddeus with a club and an axe, St Judas Iscariot.[8] Above the window, God sits amidst sunrays with two angels at his feet. There is a small hole between the two angels' feet within which there might have been a Dove representing the Holy Spirit, between the Father/God and the Son/Jesus Christ, i.e. the Holy Trinity. Encircling the sunrays, there are rubies, pearls, and one sapphire above God's crown, mirroring the bigger cabochon sapphire on which the Thorn is resting. At the back of the window, there is an empty cavity with doors that have representations of St Michael and the Devil and St Christopher carrying the Christ Child.[9]

Jean Duc de Berry (1340-1416), who commissioned the reliquary to display the thorn, was of the house of Valois Burgundy, son of King Jean II known as Jean le Bon and brother of King Charles V[10]. He was influent, rich and prosperous, built castles as symbolised by the fortress at the base of the reliquary, [11] and collected relics and precious stones.[12] Relics that had a direct connection to Christ were the rarest, most expensive and most collectible. The Crown of Thorns, from which the thorn in the reliquary supposedly comes from, was bought in 1239 by the then King of France Louis IX, from his cousin Baldwin the Second, the Latin Emperor of Constantinople, for the price of 135,000 livres; which was equivalent to half the annual expenditure of the kingdom of France.[13] Louis IX (1214-1270) is a major figure in French history: he was the last king of the Middles Ages to be canonized in 1297 and he modernised the feudal state into a 'modern monarchical state'. [14] He was very pious and commissioned

the building of the Sainte Chapelle, a magnificent example of High Gothic style, on the island of the Cité at the heart of Paris. It was completed in seven years in 1248 to house the Crown of Thorns and a vast collection of relics that he had acquired before and during his crusades, including part of the True Cross, the Holy Sponge and iron from the Holy Lance, as he wished to transform Paris into a new Jerusalem.[15] It was traditional for kings to give away relics or parts of relics (e.g. individual thorns from the Crown of Thorns) as gifts to trustworthy members of their royal household.

The ownership of relics symbolized devotion, power, and wealth, all on display in the reliquary and the thorn. Indeed, the exquisite craftsmanship represents the Duc de Berry's personal devotion to God (by showing one of the greatest relics of medieval Christianity), his close relationship to the then King and the Valois Burgundy house (both by being given a thorn and then giving it away with the reliquary), and his extensive wealth (in the use of precious material and the gifting of the reliquary with the thorn).

Deduction: the Reliquary and the Thorn in the Museum

The second stage for reading an object focuses on the relationship between artefact and perceiver and usually requires the latter to physically handle the former. This was not possible as the Reliquary is exhibited at the British Museum behind glass windows. Hence, diverging slightly from Prown's methodology, the deduction will focus on the perceiver's experience with an object exhibited in a museum and rather than asking 'What would it be like to use or interact with the object', it will ask 'How is cultural/heritage value ascribed to the object?' The answer, in the context of this paper, is that an object's heritage value depends first on its authenticity defined as a link to the past and second on its metamorphosis into a museum object.

Firstly, authenticity in this paper is defined as a continuous link between the object as it was when it was created/made and as it is now.[16] Regarding the authenticity of the thorn, it is beyond the scope of this research to engage with theological questions regarding the existence of God, Jesus Christ and the authenticity of either the Crown of Thorns or the thorn displayed in the reliquary. In contrast, the authenticity of the reliquary is evidenced by its well documented provenance or ownership history since 1477, as there are doubts as to its whereabouts from 1401 to 1477, during which period it probably was exchanged between family members of the Valois Burgundy house. After 1477, it was taken to Vienna possibly by Mary of Burgundy who married the Archduke Maximilian I of Austria.[17] Then, it belonged to Charles V or Charles Quint, the Holy Roman Emperor (1500-1558) who succeeded to Maximilian I. It stayed in Austria and later belonged to the Imperial Hapsburg collection as recorded in inventories in 1544 and 1677 and was transferred to the Geistliche Schatzkammer (the repository of ecclesiastical and secular treasures) in Vienna, where it was kept between 1730 and 1856. In 1860, after an exhibition on Medieval and Renaissance Art in Vienna, it was sent for repair to a specialist named Salomon Weininger who made a copy of it that he returned to the Schatzkammer while he sold the original that was later purchased by Baron Anselm Rothschild between 1872 and 1874. The Baron bequeathed it to the British Museum in 1898, with a collection of 300 Medieval and Renaissance European pieces known as the Waddesdon Bequest, which is now exhibited in a dedicated room. Initially, it was

thought that the original reliquary and thorn were in Vienna (because of Weininger's deception) and that the copy was at the British Museum. However, doubts emerged in the 1920s and when both reliquaries were compared side by side in 1959, it was found that the original was at the British Museum and that the copy was in Vienna. This issue regarding the authenticity of the reliquary illustrates that the protection of heritage against art crime such as theft and forgeries are important aspects of cultural heritage law.[18]

Secondly, the reliquary and the thorn have become artefact WB.67 and are now part of the national collection of the British museum.[19] They are now classified and categorised as one of the objects of the Waddesdon Bequest (WB); they are now museum objects exhibited for their cultural/historical/aesthetic value in a room named after the bequest of Baron Rotschild.[20] In contrast, when this reliquary was made, the thorn was perceived as being far more valuable than the gold and precious stones that it was made of; its intangible/devotional value was a direct link to Jesus Christ, the son of God, as made visible by the fact that the reliquary's importance transcended its financial value. However, since the fifteenth century this devotional value has been lost, one does not see visitors kneeling and praying in front of the window display of the British Museum. This loss took place as early as 1730 when the reliquary was transferred to the Geistliche Schatzkammer (the repository of ecclesiastical and secular treasures) in Vienna, i.e. it was no longer used for private worship (intangible) but safely stored away because of its tangible value. This new status of collectible rather than devotional was confirmed when the reliquary and thorn were received by the British Museum in 1898. The reliquary is now exhibited as a representation of the craftsmanship and dexterity of its makers more than six-hundred years ago; for the great majority of visitors, the devotional/intangible value of the thorn is overlooked. This is also true for many objects seized during colonisation.

Speculation: the Meanings of Heritage

Prown's advice on speculation, which is the third stage of his method for reading objects within the discipline of material culture, is as follows: 'What is desired is as much creative imagining as possible, the free association of ideas and perceptions tempered only, and then not too quickly, by the analyst's common sense and judgment as to the what is even vaguely plausible'.[21] This section does not aim to explore the beliefs and values of medieval society but rather to imagine and explore our current understanding of cultural heritage by using the reliquary as a metaphor for the study of heritage today in particular its widening definition, the heritagization process and cultural heritage law.

The widening definition of heritage

The reliquary is one object amongst many in the British Museum whose intangible value has been set aside by its status as one artefact within a museum collection. During the nineteenth and twentieth centuries, museums acquired, collected and displayed objects, while disregarding intangible values that were their raison d'être (artefacts were created to perform rituals and practices, to sing, dance, cook… intangible values). Similarly, treaties and conventions protected artefacts and monuments (tangible outcomes) rather than the practices (intangible processes) of heritage. Since the 1970s, intangible values have slowly been re-integrated within the definition of heritage. This movement, away from and back to,

intangible values is found in the different international conventions protecting heritage where, in the last fifteen years, the definition of heritage has widened to include intangible as well as tangible values.

The disembodiment of heritage from its intangible values, where mainly tangible artefacts and places are protected, is found in the international framework of conventions aiming to protect them in time of war and conflict. For example, Article 8 of the 1874, Draft International Regulations on the laws and customs of war (Brussels declaration) prohibited the seizure, destruction of, or wilful damage to, museums, historic monuments, works of art and science. Similarly, Article 27 of the 1907 Hague Convention on War on Land and its Annexed Regulations referred to buildings dedicated to art and historic monuments that should be protected because of their historical, archaeological or aesthetic interest. After the extensive destruction of museums, monuments, and places of worship during World War II, states adopted the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict with its First Protocol 1954 that specifically aimed to protect cultural property in time of conflict. Article 1 defines cultural property as '(a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above' as well as museums or libraries and historic centers'. Later, three conventions were adopted under the aegis of UNESCO that aimed to protect and identify the physical/tangible representations of cultural heritage in different forms: the built and natural heritage (the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage), cultural objects (the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property) and underwater objects, wrecks and sites (the 2001 Convention on the Protection of the Underwater Cultural Heritage). These four conventions (1954, 1971, 1972 and 2001), as well as numerous charters and declarations recognise the importance of heritage for humankind and the need to preserve it but none clearly articulate the link between the intangible and the tangible heritage.

Since the 1990s, however, the definition of heritage has widened to include intangible elements such as stories, languages, songs, practices or rituals. The inclusion of intangible heritage within the definition of heritage, recognises that heritage is not just made of objects and monuments but that those artefacts and places are important because of the beliefs and values that people attribute to them. This evolution is the consequence of the influence of, on the one hand, Asian and African states that emphasised skills and crafts in the 1970s, and, on the other hand, of indigenous communities who have, since the 1990s, encouraged a move away from an European notion of heritage as limited to work of arts and monuments. This evolution was crystallized in both the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The best example, however, is found in the Council of

Europe Faro Convention on the Value of Cultural Heritage for Society that does not distinguish between tangible and intangible heritage (unfortunately, it has only been ratified by 10 countries). Article 2 states that '(a) cultural heritage is a group of resources inherited from the past which people identify, independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions. It includes all aspects of the environment resulting from the interaction between people and places through time; (b) a heritage community consists of people who value specific aspects of cultural heritage which they wish, within the framework of public action, to sustain and transmit to future generations.' Hence, there should be a move from identifying first tangible and then intangible values to considering both as an ensemble.[22]

The reliquary and the thorn illustrate that heritage is valuable because of its intangible values that attribute meaning to it. Hence, tangible artefacts are the physical representation of intangible practices and beliefs, they explicit intrinsic values and the definition of heritage now includes both elements.

Heritagization

Heritagization is the process by which elements of a culture (buildings, monuments, sites, gardens, landscapes, objects, practices, rituals, and traditions) are identified as heritage.[23] This process is not a contemporary phenomenon as people continually select elements of history and of material culture to ascribe meaning to the past, to create a narrative of nation-building, to achieve broader social, political and legal objectives.[24] However, from the late 19th century, heritagization has developed 'a particular stand' that has shaped the power relations that gave rise to the universalist discourse of heritage in the 21st century.

Criticisms of this narrative of heritage have risen from within the discipline of Heritage Studies which is the interdisciplinary field that has heritage as its common theme, [25] and is at the junction of archaeology, architecture, conservation, tourism, museology, urban planning, history, anthropology (omitting law[26]) etc. It is a discipline that grew out of 'early critiques of the use of the past in nation-building'[27] then moved to politics of representation and the 'idea of heritage as a series of discursive practices.' Their criticisms mainly focus on the 1972 UNESCO World Heritage Convention and its implementation by both State Parties and the World Heritage Committee that has led to a distorted definition of heritage (mainly European monumental heritage), management practices, and the idea of universal heritage value that exclude local/minority stakeholders from the identification and management of their heritage.[28]

These criticisms highlight the subjectivity of the heritage discourse and raise the following questions: Who tells the story of heritage? Who defines what heritage is? Who attributes values to heritage? Where is heritage found? Those questions have been critically approached by two leading authors: Laurajane Smith's Authorised Heritage Discourse approach and Rodney Harrison's official/unofficial approach. [29] Smith defines heritage not as a 'thing' but as 'a cultural and social process which engages with acts of remembering that work to create ways to understand and engage with the present.'[30] According to the author, heritage is intangible because objects and places are not valuable in themselves but because of the

cultural process and/or activities that attribute meaning to them.[31] Therefore, Authorised Heritage Discourse is the discourse that attributes meaning to practices and transforms them into heritage: it is also a source of power and authority over the making of heritage.[32] Initially, the traditional selective process complied with the Western approach to heritage, i.e. the best, the oldest, the biggest, the most monumental, the most beautiful (criteria of age, monumentality, and aesthetics). Hence, it created a common sense of identity and memory that allowed for the exclusion of minor forms of expression and of minorities, including indigenous communities. It also created an imbalance of power/authority within the heritage discourse.[33]

By contrast, Harrison defines heritage as a 'thing' rather than a discourse and refers to official heritage as 'a set of professional practices that are authorised by the state and motivated by some form of legislation or written charter'[34]. Unofficial heritage is the practices that are not recognised 'by official forms of legislation'[35] at a national or local level. For example, the official heritage of Stonehenge is found in the Ancient Monuments and Archaeological Areas Act 1979, whereas its unofficial heritage is found in the neo-pagans and druids who meet up at summer solstice to practice their religion. Unofficial heritage values can 'surround an object, place or practice that remains completely unrecognised by the state' it means that an object can be recognised officially with a particular narrative and unofficially by a different group (community or interest group) that will attribute to that object, place or practice a different meaning. [36] This is not a problem for sites like Stonehenge but it is a problem in countries that were colonised, where there are difficulties in reconciling the settlers and indigenous narratives and official/unofficial heritage practices and values.

In the case of the reliquary and the thorn, the Authorised Heritage Discourse/ official discourse is found in their selection as museum objects. It overshadows their devotional value and the story telling of the Resurrection of the Dead and the Last Judgment that relies on knowledge of the symbol of the Catholic faith and its references to the New Testament. Hence, heritage is not an assemblage of monuments, objects, antiquities, practices, songs, it is not a list of word heritage properties, and it is not a list of intangible practices. Heritage is a political and social process that is organised by experts; it is a process of selection and identification (through inventories[37] or *inventaire*[38]) of places, objects, monuments that contribute to the definition a national identity and this process can and should be challenged.[39]

Critical Heritage Law

Whereas Heritage Studies is the interdisciplinary field that has heritage as its common theme, Heritage Law crosses the boundaries between the different areas of law that directly or indirectly regulate the heritage such as contract law, tort low, property law, public law, criminal law, international private law, international public law etc. This is a relatively new area of law that has emerged from different international conventions adopted by UNESCO since 1954, from regional regulations (European law in particular), and national legislations. According to Hoffman:

"Cultural Property[40] in the US is not treated as ordinary personal property. A developing jurisprudence involves law, ethics, and policy consideration often beyond the case at issue. The results of efforts to recover looted art and Cultural Property either through litigation or other means transcend the issue of the return of such property to the claimant and look toward identifying those values and principles to contribute to a fair and equitable cultural heritage policy. As courts confront new and difficult applications for traditional legal doctrines, the US law of Cultural Property is fluid and in a state of flux"[41]

Similarly, international and national cultural heritage laws are 'fluid and in a state of flux.' There are however several core principles to cultural heritage law that have emerged in the past fifty years: the obligation to respect cultural property in the event of armed conflict, the obligation to abstain from appropriating and transferring cultural property within militarily occupied territories and the corresponding obligation of restitution, the principle of cooperation in times of peace for the prevention and remediation of the illicit traffic of movable cultural property, the respect for national laws protecting cultural property, the principle of cooperation for the respect for cultural diversity, the protection of World Heritage Properties, sustainable development as a duty to safeguard the cultural and natural wealth of the world, and cultural rights (such as the right to a cultural identity that emanates from the right to take part in cultural life, people's right to a tangible and intangible heritage, freedom to choose one's culture and the right to non-discrimination).[42]

Those principles can be critically examined through the lens of critical heritage studies. As noted by Lucas Lixinski, critical heritage studies and critical heritage law can learn from each other even if so far they have not engaged with each other.[43] One reason is that Heritage Studies scholars see the law as one of the discourses that contributes to the uncritical definition of heritage.[44] Another is that as non-lawyers, they sometimes refer to the law as one homogenous block which it is not. For example, Harrison describes the official discourse as 'a set of professional practices that are authorised by the state and motivated by some form of legislation or written charter'.[45] However, not all practices in the definition of heritage are found in legislation and not all written charter are binding, which shows that Heritage Studies scholars might have difficulties understanding legal vocabulary and legal systems. Similarly, cultural heritage lawyers are reticent to venture outside their legal discipline and to challenge their understanding of heritage.

A critical approach to cultural heritage law shows that conventions and national laws have set up processes and mechanisms that lead to the appropriation of heritage, in particular of World Heritage Properties (1972 UNESCO Convention) and of intangible heritage (2005 UNESCO Convention) by nominating States Parties. It also highlights that the politics of protection of heritage is based on state sovereignty, which is evident in the different UNESCO conventions; in the 1970 Convention, states of origin have 'preferential rights over cultural artefacts' with the effect of excluding minorities and creating and idealized nationhood, thus reinforcing the authorised heritage discourse or official heritage. [46] For example, experts from the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest define movable heritage in the UK by awarding (or not) export licences for cultural objects.

The committee, through the Waverley criteria[47], creates an official British history and nationhood by deciding which artefact should stay within the United Kingdom. Furthermore, heritage is regulated at different levels, international, regional, national and intra-national with the consequence that it is not homogenous, and that it has diverging goals, in particular its aspiration to 'universal heritage' which is in opposition to the protection of minorities or indigenous communities.[48]

Conclusion

Heritage is not an assemblage of monuments, objects, antiquities, practices, songs, it is neither a list of word heritage properties nor a list of intangible practices, and likewise law is not an assemblage of statutes and cases. Heritage and law are political and social processes that are structured by experts whereby the selection, and identification of places, objects, monuments contribute to the construction of a national identity; or as in the case of the Reliquary, a religious identity. Tangible objects and monuments/cases and statutes are the physical embodiment of intangible values that are identified by experts to create the heritage that is then regulated by conventions, laws and policies. However, what is the most valuable: Is it the reliquary/thorn (tangible/material)? Or is it the fact that this thorn was on Jesus Christ's head when he died (intangible)? The answer to this question will depend on the values of the person/expert who answers it. Hence, analysing cultural heritage law through the prism of the Holy Thorn Reliquary gives a visualisation of the 'authorised heritage discourse' to critique this legal framework. This approach has limitations, as looking at heritage through objects emphasises the problem of looking at the material remains of heritage understood as physical remain of the past frozen in time. [49] It, however, challenges our perception of how the law is seen.

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[1] Jules Prown, 'Mind in Matter: An Introduction to Material Culture Theory and Method' (1982) 17(1) Winterthur Portfolio 1, 1; A. Perry Kessaris, 'The Pop-up museum of legal objects as sociolegal research design', this journal.
[2] Laurajane Smith, *Uses of heritage* (Routledge 2006)
[3] John Cherry, *The Holy Thorn Reliquary* (The British Museum Press 2010) 19
[4] Cherry 3, 9
[5] Aleksandr Kazhdan (ed), *The Oxford Dictionary of Byzantium* (1991) see Majestas Domini. Christ in Majesty is the technical term of Christian iconography that describes Christ sitting frontally in the centre of the composition with his right hand raised in speech.
[6] Cherry 3, 10
[7] Cherry 3, 34
[8] Author's own interpretation.
[9] Cherry 3, 12.
[10] The Duc of Berry was the brother of the King of France, Charles V (reigned 1364-80), and uncle of Charles VI (reigned 1380-1422).
[11] Cherry 3, 7
[12] Cherry 3, 39 and 42
[13] For a detailed description of the circumstances of the acquisition, see Jacques Le Goff, *Saint Louis* (Gareth Gollrad tr., University of Notre Dame Press 2009) 94 et foll.

[14] M. C. Gaposchkin, *The making of Saint Louis: kingship, sanctity, and crusade in the later Middle Ages* (Cornell University Press 2010) 1; Le Goff 14, 549

[15] Le Goff 14, 99. According to Gaposchkin 15, 72: The chapel 'designed above all to represent royal authority to a Parisian public audience, (…) constituted the monumental representation of Capetian sacral kingship, emphasizing both Old Testament kingship and the kingship of Christ'.

[16] Nathalie Heinich, *La fabrique du patrimoine* (Editions de la Maison des sciences de l'homme 2015) 239. Authenticiy has a different meaning in the context of the 1972 Unesco Convention Concerning the Protection of the World Cultural and Natural Heritage, Natsuko Akagawa. 'Rethinking the global heritage discourse – overcoming 'East' and 'West'?' (2016) 22(1) International Journal of Heritage Studies 14

[17] Cherry 3, 49.

[18] Regarding the art trade see: Sophie Vigneron, 'L'authenticité d'une œuvre d'art, une comparaison franco-anglaise' (2004) Revue Internationale de Droit Comparé 625; Sophie Vigneron, 'The Authenticity of Art: an Insight into French law' (2008) 13(3) Art Antiquity and Law 297

[19] Samuel Alberti, 'Objects and the Museum' (2005) 96(4) Isis 559

[20] Alberti.

[21] Prown 2, 23.

[22] Celmara Pocock et al. 'Assessing stories before sites: identifying the tangible from the intangible' (2015) 21(10) International Journal of Heritage Studies 962

[23] Rodney Harrison, *Heritage, Critical approaches* (Routledge 2013) 79.

[24] Ryan Al-Natour, 'The racialisation of local heritage' (2017) 23(5) International Journal of Heritage Studies 470; David C. Harvey, 'Heritage Pasts and Heritage Presents: temporality, meaning and the scope of heritage studies' (2001) 7(4) International Journal of Heritage Studies 319, 320; Lucas Lixinski, 'Between orthodoxy and heterodoxy: the troubled relationships between heritage studies and heritage law' (2015) 21(3) International Journal of Heritage Studies 203.

[25] Peter Howard, 'The heritage discipline' (1994) 1(1) International Journal of Heritage Studies 3.

[26] Lixinski 24.

[27] Harrison 23,113.

[28] Harrison 23; Roshi Naidoo, 'All that we are – heritage inside out and upside down' (2016) International Journal of Heritage Studies 1.

[29] Harrison 23, 268 and Smith 2.

[30] Smith 2.

[31] Smith 2.

[32] Lucas Lixinski, 'Selecting heritage: the interplay of art, politics and identity' (2011) 22(1) EJIL 81

[33] For a recent discussion on heritage and power see: Camila del Mármol, et al. 'Reflecting on heritage and power: dynamics, strategies and appropriations in the Catalan Pyrenees and the French Alps' (2016) 22(5) International Journal of Heritage Studies 341

[34] Harrison 23, 14.

[35] Harrison 23.

[36] Harrison 23.

[37] Harrison 23, 44.

[38] Heinich 16.

[39] Luke James and Tim Winter, 'Expertise and the making of World Heritage policy' (2015) International Journal of Cultural Policy 1; Sophia Labadi, *UNESCO, cultural heritage, and outstanding universal value: value-based analyses of the World Heritage and Intangible Cultural Heritage Conventions* (AltaMira Press 2013).

[40] For the debate on the use of the term cultural heritage v cultural property see: Alan Audi, 'A Semiotics of Cultural Property Argument' (2007) 14 International Journal of Cultural Property 131; Janet Blake, 'On Defining the Cultural Heritage' (2000) 49 ICLQ 61; Manlio Frigo, 'Cultural property v. cultural heritage: A "battle of concepts" in international law?' (2004) 86(854) IRRC 367; Betina Kuzmarov, 'The Coherence of the Concept of Cultural Property: A Critical Examination' (2013) 20 IJCP 223; Marilena Vecco, 'A definition of cultural heritage: From the tangible to the intangible' (2010) 11(3) Journal of Cultural Heritage 321.

[41] Barbara Hoffman (ed), *Art and Cultural Heritage: Law, Policy and Practice* (Cambridge University Press 2006) 176.

[42] Harrison 23, 204; Janet E. Blake, *International cultural heritage law* (Oxford University Press 2015). 8; Eleni Polymenopoulou, 'Cultural Rights in the Case Law of the International Court of Justice' (2014) 27(2) Leiden Journal of International Law 447; Francesco Francioni, 'The human dimension of international cultural heritage law: an introduction' (2011) 22 EJIL 9.

[43] Lixinski 24.

[44] Ibid.

[45] Harrison 23,14.

[46] Blake 42, 13.

[47] Vivan F. Wang, 'Whose responsibility? The Waverley System, Past and Present' (2008) 15 International Journal of Cultural Property 277; Lord Waverley, *Report of the Committee on the Export of Works of Art* (HMSO , 1952).

[48] Blake 42, 12.

[49] Smith 2, 53.