

RESEARCH ARTICLES

Tsehay Hailemariam*

tsehay_hailemariam@yahoo.no
Faculty of Humanities, Choreomundus
Norwegian University of Science and Technology
NO-7491 Trondheim, Norway

“Lawmaker Wants Cockfighting [to be] Part of Heritage”: A Critical Analysis of the 2003 Convention and the Struggle of Animal Rights Groups

Abstract: This article critically examines the 2003 Convention and the struggle of animal rights groups. Throughout the analysis references will be made to the currently inscribed elements to the Representative List of the Intangible Cultural Heritage of Humanity, and the 2003 Convention’s criteria in place. In addition, the article demonstrates the 2003 Convention’s implications for the current debates on intangible cultural heritage and animal rights through a case study from the Philippines. The questions raised are developed within the broader discourses of the political, philosophical, and legal literature relevant to the issue of animal rights and intan-

* **Tsehay Hailemariam** is member of the study group for performance philosophy. He is a researcher interested in philosophy, performance theory, aesthetics, philosophy of dance, philosophy of music, and philosophical studies of the digital technologies (mainly on the relationship between digital technology and society, the metaphysics of virtual reality, works of art, museum and its relation to (in)tangible heritage), and draws his work from both analytic and continental philosophy. He is currently a researcher and guest lecturer of the European Union sponsored MA programme in Music and Culture at Addis Ababa University, College of Visual and Performing Arts. He serves as project leader of the working group for the digitization of Ethiopian dance and music (ICH) film materials archived at the Institute of Musicology in Budapest, Hungary. He is also founder and project leader of Virtual Dance Museum (VDM), a digitally enhanced research and experiment project dedicated to the promotion of dance as a living mirror and a shaping part of human culture.

gible cultural heritage. It is argued that intangible cultural heritage practices that maltreat animals are not sustainable, and the definition of sustainable development currently being used by the United Nations is more holistic and inclusive than understood by the designers of the 2003 Convention; it can encompass the rights of animals, not only when their abuse and mistreatment is considered as serious damage to the environment, but also when their right to exist within the environment is violated.

Keywords: intangible cultural heritage, safeguarding, cockfighting, animal rights, human rights

Introduction

What's wrong – fundamentally wrong – with the way animals are treated isn't the details that vary from case to case. [...] The fundamental wrong is the system that allows us to view animals as our resources, here for us – to be eaten, or surgically manipulated, or exploited for sport or money.¹

In 2016, the United Nations Educational, Scientific and Cultural Organization (UNESCO) inscribed falconry to its Representative List of the Intangible Cultural Heritage of Humanity. The nomination was a multi-national one, supported by 18 States Parties (the United Arab Emirates, Austria, Belgium, the Czech Republic, France, Germany, Hungary, Italy, Kazakhstan, the Republic of Korea, Mongolia, Morocco, Pakistan, Portugal, Qatar, Saudi Arabia, Spain, and the Syrian Arab Republic).² Apart from these States Parties, the nomination was backed by a large number of local organizations and falconry communities, such as the Austrian Falconry Association (ÖFB), The Federation Berkutshi of Kazakhstan, the Czech Falconry Club, Portuguese Falconers Association, UNCF falconers in Bologna, Pro-Falcon Centre (UAE), Associations for Hunting and Conservation of the EU (FACE), the International Council for Game and Wildlife Conservation (CIC) and many other heritage trust organizations and cultural and tourism industries that exist in each States Party of the multi-national nominators.

However, this is not the first time that UNESCO inscribed falconry to its Representative List. In December 2010, four years after the 2003 Convention entered into force, it included falconry in its list – although in this instance the

¹ T. Regan, *The Case for Animal Rights*, in: P. Singer (ed.), *In Defence of Animals*, Blackwell, Oxford 1985, p.337.

² See UNESCO, *Falconry, a Living Human Heritage*, <http://www.unesco.org/culture/ich/en/RL/falconry-a-living-human-heritage-01209> [accessed: 14.01.2017].

nomination was shared among fewer States Parties (Mongolia, South Korea, Belgium, the United Arab Emirates, Morocco, the Czech Republic, Spain, Qatar, France, and Syria).³ The crucial and most imperative criterion for the inscription of falconry on the Representative List was a conventionally agreed and planned program for safeguarding falconry for future generations as part of the Intangible Cultural Heritage of Humanity. Intangible Cultural Heritage is now widely considered as offering important instruments for promoting cultural diversity and inclusiveness in the world, and is defined as “practices, representations, expressions, knowledge, skills [which are] transmitted from generation to generation [and which provide communities and groups] with a sense of identity and continuity”.⁴ These include “oral traditions and expressions, including language as a vehicle of the intangible cultural heritage; performing arts; social practices, rituals and festive events; knowledge and practices concerning nature and the universe; traditional craftsmanship”.⁵ However, these categories are broad in their scope, and innumerable practices can be encompassed within the term “practices”; some entail not only the participation of raptor birds, such as in the case of falconry, but also various kinds of domestic animals, with a significant symbolic meaning for the members of the community who include them in their practices. Cockfighting is arguably among them. Cockfighting, together with its rituals, religious uses, and entertainment, is a practice developed in line with the evolution of human society. The American folklorist Alan Dundes argues that “cockfight is one of the oldest, most documented and most widely distributed traditional sports known to man [mankind]”.⁶ The *Encyclopædia Britannica* also holds that “the sport was popular in ancient times in India, China, Persia [...] and was introduced into Greece in the time of Themistocles”.⁷

Despite the fact that cockfighting is an ancient traditional spectator sport practiced worldwide, starting from the Indus valley civilization to China, Persia, Ancient Greece, and in the modern-day Philippines, when one aims to inscribe and thereby safeguard cockfighting for future generations as part of the Intangible Cultural Heritage of Humanity, this inevitably leads to heated debates. These debates relate to “the animal rights groups” on one hand (who argue animals’ rights should not be abused in the name of heritage), while also calling into question the entire system (in this case the 2003 Convention, which motivates States

³ See the International Association for Falconry and Conservation of Birds of Prey, *UNESCO Recognises Falconry*, 16 November 2010, http://www.danskfallejagtklub.dk/iaf_press_unesco.pdf [accessed: 16.01.2017], and the inscription can be searched here: UNESCO, *Falconry*...

⁴ Convention for the Safeguarding of Intangible Cultural Heritage, 17 October 2003, 2368 UNTS 1.

⁵ *Ibidem*.

⁶ A. Dundes, *Gallus as Phallus: A Psychoanalytic Cross-Cultural Consideration of the Cockfight as Fowl Play*, in: A. Dundes (ed.), *The Cockfight: A Casebook*, University of Wisconsin Press, Madison, WI 1994, p. 242.

⁷ *Encyclopædia Britannica*, *Cockfighting*, <https://www.britannica.com/sports/cockfighting> [accessed: 14.01.2017].

Parties to see cultural practices that involve animals as intangible cultural heritage), while at the same time asking: What can be considered as the Intangible Cultural Heritage of Humanity? How do humans relate to animals? How and why do animal rights advocates, philosophers, political theorists, and others engage in an endless struggle for the rights and protection of animals? What is the relationship between human rights and animal rights in the context of UNESCO's legal frameworks?

In this article, I analyse a recent case of a lawmaker who wants cockfighting to be part of the intangible cultural heritage of the Philippines. The representative of the congressional district of Agusan del Sur, Rodolfo Plaza, ignores the notion of animal cruelty and the right of animals to legal protection and is pressing the country's congress to declare cockfighting as part of the Philippines' intangible cultural heritage. The lawmaker aims to create a national inventory (supported by a national law called Presidential Decree No. 449, sometimes known as the Cockfighting Law of 1974, signed by the former President of the Philippines Ferdinand E. Marcos)⁸ that will be eventually sent to UNESCO and thereby include cockfighting in the Representative List of the Intangible Cultural Heritage of Humanity, as was done via the 2010 multi-national inventory mentioned above which resulted in inscribing falconry (the hunting of wild quarry) to the Representative List.

This article is divided into four parts. The first part examines cockfighting in relation to the philosophical origins of the animal rights movement, and is heavily drawn from previous philosophical literature and archival sources used by earlier scholars in their renowned works. The main aim of this part is to demonstrate how many early philosophers and their ideas took for granted the dominant position of humans over animals, while others also challenged such a view, and these challenges eventually served as an ideological background to the animal rights movement. Part two discusses cockfighting as intangible cultural heritage and the struggle of the animal rights groups against it, viewed through the prism of a case study from the Philippines, where the Philippine Animal Welfare Society (PAWS) is openly engaged in a fierce public debate which arose when lawmaker Plaza sent an official letter to the congress of the National Commission for Culture and Arts and the National Historical Institute to declare cockfighting as intangible cultural heritage of the Philippines. Part three examines the history of animal rights advocacy and the cockfighting industry in the Philippines. It briefly describes the social, political, and historical accounts which underlie both the animal rights struggle and the cockfighting industry in the Philippines, including the structure, history, and activities of the animal welfare organizations, which serve as an umbrella and operation centre for animal right advocates, as well as the size

⁸ See Presidential Decree No. 449, 9 May 1974, http://www.lawphil.net/statutes/presdecs/pd1974/pd_449_1974.html [accessed: 12.01.2017].

and economic benefits of the cockfighting industry. The final part moves from description to analysis. By critically analysing the relationship between human rights and animal rights in the context of the 2003 Convention, this part suggests that although there is no substantial reason within existing theories and the animal rights literature why rights cannot be extended to animals, the views and the current practices that support the abuse of animals in the name of intangible cultural heritage are very distinctive and contain arguments that go beyond what is normally understood by the animal rights literature and legal frameworks. In the final part I also examine cockfighting in relation to past and current universal declarations of animal rights, as well as their advocates.

Until recently, it was accepted without question that cockfighting is a traditional sport, deeply rooted in the history and culture of human society and that it is a heritage of humanity. Today, both the historic and contemporary arguments that support the recognition of cockfighting as part of human heritage are confronted with two main challenges: from the side of animal rights advocates they are asked to reverse their views and accept responsibility for the violation of the rights of animals in the name of heritage; and from the side of legal and cultural policy frameworks – such as UNESCO’s Universal Declaration of Animal Rights of 1978 – all individual human beings and institutions are required to treat animals with decency and respect their right to exist within the context of the biological equilibrium.⁹ The problem (as we shall see) is that this Declaration was never put into practice, and the struggles and efforts the animal rights groups are met with considerable resistance, difficulties, and dilemmas. It is this unaddressed and complicated problem that underlies the current debate between the Filipino lawmaker who aims to include the practice of cockfighting into the intangible cultural heritage of the Philippines, and PAWS, which publicly opposes his effort. However, before considering the case in the context of the 2003 Convention I would like to develop the underlying background to the issue the relationship between humans and animals (i.e. non-humans) and the origins of the animal rights movement at the philosophical level.

Cockfighting and the Philosophical Foundations of the Animal Rights Movement

No scholars have given us a better description of cockfighting and its meaning in relation to nature and the order of creation than: 1) the famous Christian philosopher St. Augustine of Hippo in his 4th century philosophical dialogue entitled *De Ordine*; 2) the renowned American anthropologist Clifford Geertz in his ground-breaking

⁹ See ESDAW, UNESCO – Universal Declaration of Animal Rights 17-10-1978, <http://www.esdaw.eu/unesco.html> [accessed: 11.01.2017].

work *The Interpretation of Cultures: Selected Essays*; 3) the aforementioned Alan Dundes in his 1994 book entitled *The Cockfight: A Casebook*; and 4) the contemporary art historian Stephen Eisenman who, in his most recent book *The Cry of Nature: Art and the Making of Animal Rights*, published in 2013, postulated the two main Christian (and utilitarian) oriented and enlightenment-inspired philosophical traditions that challenged the prevailing viewpoints about animals and their rights during the 18th century. These four scholars, who represent entirely different time periods and disciplines, have demonstrated how humans – sometimes through their interpretation of the behaviour of animals (for instance in the case of St. Augustine’s analysis of cockfighting) and their efforts to understand their relationship with animals and with nature in general – have over time developed and expanded the philosophical discourses on animals’ capability to feel pain, think, and their rights. By describing an intense cockfight scene and the situation and exact location in which the fighting was taking place, Augustine wrote that:

And when our daily prayers to God had been said, we began to go to the baths; for that place was comfortable and suitable for our disputation [...]. Suddenly we noticed barnyard cocks beginning a bitter fight just in front of the door. We chose to watch. For what do the eyes of lovers [of truth and beauty] not encompass; where do they not search through to see beauteous reason signalling something thence? – reason which rules and governs all things, the knowing and the unknowing things [...]. Whence indeed and where can she not give a signal? – as was to be seen in those fowls [...]. Finally, [...]. We asked many questions: Why do all cocks behave this way? [...] Why did the very beauty of the fight draw us [...] onto the pleasure of the spectacle?¹⁰

In Augustine’s description and examination of the cockfight, Dundes sees two highly useful philosophical questions for understanding the underlying meaning of a cockfight and humans’ obsession with the phenomenon and its related causes. These are: “Why do cocks fight?” and “Why are men fascinated by cockfights?”. He places Augustine’s questions within the context of his discussions of the notion of *De Ordine* (about order). The central theme of the *De Ordine* is the vexing problem of theodicy. Theodicy involves two basic questions: (1) How can man reconcile the existence of evil in the world with the idea of a beneficent or good deity?; (2) If God is good, how could He have created evil or cruelty? At the core of his analysis of these two fundamental questions, Dundes considers the cockfight as a symbolic meaning for the existence of order throughout creation, which includes evil components. Moreover, it is precisely the existence of evil or ugliness which confirms the existence of good or beauty. In folkloristic terms, he states that one might say that “it is the exception which proves the rule”.¹¹

¹⁰ A. Dundes (ed.), *The Cockfight: A Casebook*, University of Wisconsin Press, Madison, WI 1994, p. 4.

¹¹ *Ibidem*, p. 3.

What Dundes' comments suggest is that for Augustine the cockfight signalled the order of creation in the context of theodicy, or the manifestation of evil in the world. This, however, is a very simplified interpretation of his ideas. Although Augustine did not attempt to consciously assign a philosophical meaning related to the despotism of humans over animals (perhaps because the cockfight he described was a “natural” one, occurring in the barnyard rather than arranged or organized by human beings), much of the evidence he provided to support the notion of the order of creation, in general indicates that animals are inferior to humans and God because they are irrational, and therefore subjected to a higher order of domination.¹²

According to Eisenman, such a view, and other prevailing views about animals, began to be challenged by the middle of the 18th century “in learned treatises and children’s books, popular poetry and visual art, [which] proposed that animals were neither slaves nor unfeeling automata, and that they possessed the capacity to feel and perhaps to think [and that] the biblical injunction to humans that they exercise domination over animals was mere prejudice and that animals might in fact possess certain rights”.¹³ Beginning with the early difficulty the movement faced, Eisenman posits the two opposing Christian (or utilitarian) oriented animal-welfare and non-welfare philosophical arguments that dominated the discourse on animals and their rights and nature during the 18th century.

The first animal-welfare discourse, which emerged (during the middle of the 18th century) either from the long-standing tradition of Christian paternalism or the new philosophy of utilitarianism, had two main levels of arguments. The first paternalist argument emphasized the notion that “humans were responsible for protection of the ‘brute creation’, and abuse of animals was a violation of the principle of just sovereignty”.¹⁴ The second argument, drawn from the work of the English philosopher Jeremy Bentham, employed a utilitarian “quantification of pleasure and pain [...], proposing that if certain actions increased aggregate happiness for beings capable of that sentiment (animal as well as human), they were to be promoted; and if they increased aggregate unhappiness, they were to be condemned”.¹⁵ The problem with the theory of utilitarianism, however, is that if the advantage was considered to be great enough for a majority of human beings (for instance, if the majority thought they would benefit from the meat and skins of the animals targeted), then it was appropriate to murder them, albeit as humanely as possible.

¹² Ibidem, p. 4.

¹³ S. Eisenman, *The Cry of Nature: Art and the Making of Animal Rights*, Reaktion Books, London 2013, p. 9.

¹⁴ Ibidem.

¹⁵ Ibidem.

Bentham's utilitarian view was also the basis of Geertz's famous analysis of a Balinese cockfight (in Indonesia). Geertz suggests that Bentham's concept of "deep play" entered into usage as a "play in which the stakes are so high that it is [...] irrational for men to engage in it at all",¹⁶ enabling the distinction between "the marginal utility of the pound [one] stands to win [and] the marginal disutility of the one he stands to lose".¹⁷ As a standard of judgment, according to Geertz the concept of "deep play" became more defined with the help of Bentham and people who think like he did, such as lawyers, economists, and psychiatrists. One such use was a derogatory distinction and it allowed for Benthamians to perceive such men (in Geertz's case Balinese men involved in a cockfight) as "irrational – addicts, fetishists, children, fools, savages, who need only to be protected against themselves".¹⁸ But for the Balinese, he argued that, "though naturally they do not formulate it in so many words, the explanation lies in the fact that in such play, money is less a measure of utility, had or expected, than it is a symbol of moral import, perceived or imposed".¹⁹

Although Geertz wrote about the relationship between men and cocks in light of Bentham's notion of "deep play", he did not specifically formulate how his analysis related to human-animal relations in ways that are relevant to the history of the animal rights' struggle and the theoretical and philosophical foundations that have formed it. However, his analysis of the concept of "deep play" and the context in which he developed his arguments was further developed by the American folklorist Simon J. Bronner, who examined the links between Geertz's interpretation of "deep play" and human-animal relations in his 2008 book *Killing Tradition: Inside Hunting and Animal Rights Controversies*. According to Bronner, "it is not coincidental that in Geertz's study of the cockfight, one of the most cited methodological guides to the interpretation of culture, the significant metaphors are about animals and violence. After all, the processes that represent everyday life and social structure involve men ritualizing their dominion over nature, [including animals]".²⁰

In Eisenman's view, the aspect of human's dominance over animals is even more manifested in arguments that combined both Christian and utilitarian views. For instance, the English Reverend William Paley claimed that "[his] faith decreed that animals be granted certain basic rights such as protection from 'wanton [...]"

¹⁶ C. Geertz, *The Interpretation of Cultures: Selected Essays*, Basic Books, New York 1973, p. 432.

¹⁷ *Ibidem*, p. 433.

¹⁸ *Ibidem*.

¹⁹ *Ibidem*.

²⁰ S.J. Bonner, *Killing Tradition: Inside Hunting and Animal Rights Controversies*, University Press of Kentucky, Lexington, KY 2008, p. 102.

cruelty’, while still upholding the God-given dominion of humans over brutes”.²¹ While Paley was certainly confronted and proven wrong by his contemporary theorists, nonetheless his ideas led to the codification of some rights and some limited protections for animals in laws and many local and national societies, such as the Royal Society for the Prevention of Cruelty to Animals (RSPCA) established in 1824 in Britain and the Humane Society of the United States (HSUS) established in 1954, which Eisenman argues are a legacy of this welfarist tradition.²²

However, at the end of the 18th century, a second non-welfarist approach, mainly evolved from the Enlightenment, was already in place. This movement, according to Eisenman, proposed overturning human-animal relations by arguing that “humans had no God-given or natural right to exploit animals at all – for food, clothing, research or any other purpose – and that the laws of nature cried out for universal freedom and mutual respect for all”.²³ One of the theorists was the Scottish Jacobin John Oswald, widely known for his classic book *The Cry of Nature*, published in 1791, in which he argued that “the vegetable kingdom can supply all the food and other resources people need without recourse to bloodshed”.²⁴ According to Eisenman, Oswald’s position is both moral and ecological, and together with the animal-welfare approach gave birth to the movement for animal rights. However, as we shall see below in the context of intangible cultural heritage, the movement is not without challengers.

Cockfighting as Intangible Cultural Heritage and the Struggle of the Animal Rights Groups

In March 2010, four years after the 2003 Convention entered into force, Rodolfo Plaza, the representative of the congressional district of Agusan del Sur, sent a letter urging the National Commission for Culture and Arts and the National Historical Institute to declare cockfighting as part of the intangible cultural heritage of the Philippines.²⁵ According to Plaza cockfighting, along with other social practices, is deeply rooted in the culture and tradition of the people of the Philippines. In the Philippines, cockfighting is known as *Sabong*.²⁶ The cockfight is usually held in constructed cockpits. During the fight, “the birds [i.e. the cocks] cannot

²¹ S. Eisenman, op. cit., p. 10.

²² Ibidem.

²³ Ibidem.

²⁴ Ibidem.

²⁵ See House of Representatives (the Philippines), *Solon Seeks to Declare Cockfighting as Part of National Cultural Heritage*, 21 March 2010, <http://www.congress.gov.ph/press/details.php?pressid=4174> [accessed: 7.01.2017].

²⁶ A. Dundes (ed.), *The Cockfight...*

escape from the fighting pit. The razor-sharp steel blades or ‘gaffs’ (which resemble 3-inch-long, curved ice picks) tied to the birds’ legs are so sharp and dangerous that cockfighters themselves have been killed when accidentally slashed by their own birds”.²⁷

Plaza did not make clear whether he was aiming to have cockfighting considered as part of the intangible cultural heritage of the Philippines or humanity in general, together with other States Parties which practice cockfighting within their territories, but in the letter he sent to the National Commission for Culture and Arts and the National Historical Institute, he noted that cockfighting is a popular, traditional, and customary form of entertainment and pastime game among Filipinos, which can be seen especially during holidays, fiestas, fairs, and other events. According to Plaza, such practices are recognized within the 2003 Convention, because intangible cultural heritage includes practices, skills, and expressions that communities, groups, and individuals recognize as part of their cultural heritage. He further supports his proposal by stating that “even Presidential Decree No. 449 [...] recognizes that cockfighting is a vehicle for the preservation and perpetuation of native Filipino heritage that enhances national identity”.²⁸ Offering this as evidence, he argues that cockfighting must be recognized, protected, promoted, and enhanced as part of the national cultural heritage of the Philippines.

Plaza’s argument appears to be consistent with the criteria of the 2003 Convention as well as the above-mentioned cockfighting law signed almost thirty years prior to the 2003 Convention. Nonetheless, his effort to declare cockfighting as part of the intangible cultural heritage of the Philippines has been met by an intensive and highly organized counter-movement of the Animal Rights Groups in the country. Among them is PAWS. Just a few hours after the lawmaker’s intention made headlines,²⁹ the organization immediately re-aired the news and thereby opened a petition publicly urging citizens to stop the bill that aims to include cockfighting as part of the Philippines intangible cultural heritage. With reference to Plaza’s letter, which appeared on the official website of the House of Representatives of the Republic of the Philippines, PAWS noted that “while cockfighting is legal in the Philippines, it remains one of our country’s cruel sports and does not deserve to be declared as part of our ‘national cultural heritage’”.³⁰

²⁷ The Humane Society of the United States, *Cockfighting Fact Sheet*, http://www.humanesociety.org/issues/cockfighting/facts/cockfighting_fact_sheet.html [accessed: 11.01.2017].

²⁸ House of Representatives (the Philippines), op. cit.

²⁹ See KBK, *Lawmaker Wants Cockfighting Part of RP Heritage*, “GMA News”, 21 March 2010, <http://www.gmanetwork.com/news/story/186680/hashtag/lawmaker-wants-cockfighting-part-of-rp-heritage> [accessed: 11.01.2017] (the title of this article also served as a title of this article).

³⁰ See PAWS, *Stop Bill that Seeks to Declare Cockfighting as Part of our National Cultural Heritage*, 29 March 2010, <http://www.paws.org.ph/no-to-cockfights-as-cultural-heritage.html> [accessed: 11.01.2017].

According to PAWS, the aim of the petition is thus both to raise awareness and to stop the bill from passage.

PAWS has made significant efforts, through education, rehabilitation, and the pursuit of Animal Welfare Acts, to compel the humane treatment of animals. It encourages legal institutions, courts, and animal rights organizations to use Animal Welfare Acts to demand appropriate legal action by those organized groups, individuals, and institutions responsible for animals' safety and protection. PAWS members strongly believe that all animals (whether wild or domestic) deserve to be defended against any form of human exploitation. As a result, the animal activists' struggle in the Philippines has become a kind of morally charged activity, primarily founded on what Bronner calls “a conflict of urban and rural values” that originates from radically different views of humans' domination over animals.³¹ In the historical context of the post-independence struggle for preserving Philippines' cultural identity, Geertz's symbolic interpretation of a Balinese cockfight in Indonesia became highly important; especially in the reconstruction and reformation of the country's legal status of cockfighting and the conceptions of human-animal relations held by the rural and urbanized elite. Writing on the reasons behind the delegalization of Balinese cockfighting, Geertz states that the game was outlawed following Indonesia's independence mainly:

as a result of the pretensions to puritanism radical nationalism tends to bring with it. The elite, which is not itself so very puritan, worries about the poor, ignorant peasant gambling all his money away, [...] about the waste of time better devoted to building up the country. It sees cockfighting as “primitive,” “backward,” “unprogressive,” and generally unbecoming an ambitious nation.³²

According to the American anthropologist Scott Guggenheim, in the Philippines, as in Indonesia, the elites similarly complained of the peasants ruining themselves, but the government did not ban the practice of cockfighting, based on the argument of retaining national sovereignty against those (especially Westerners) who often oppose the practice. This approach is also taken by the current government led by President Rodrigo Duterte, who sees all rights groups as messengers of the West, which unashamedly intervene in the country's national sovereignty and its way of life.

PAWS campaign against lawmaker Plaza's proposition to make cockfighting a part of Philippine intangible cultural heritage is thus significant in terms of cultural interpretation, because it accentuates wider ethical questions regarding the features of tradition, the use and misuse of history (or rather the past), and

³¹ S.J. Bonner, *op. cit.*

³² C. Geertz, *op. cit.*, p. 414.

the rhetoric of heritage and identity, as well as the social and political conflicts in the cultural and political landscape of the contemporary Philippines. From an interpretive perspective, this kind of phenomenon systematically reinforces reflection on how symbols such as a cockfight are portrayed and perceived, both by the animal rights activists, mainly concentrated at the urban centres of Manila, and the political elites and intellectuals who claim to represent the wider tradition of both the urban and rural citizenry, and see a connection between cockfighting and the larger picture of Philippines' culture.

The underlying assumption is that a symbolic metamorphosis takes place, by which the attitude of humans (in this case the cockfight practitioners) toward animals (the cocks) translates into relations with one another; and for some institutions and animal rights' advocates an extended step means to see the animals as themselves (or fellow creatures), eliminating the existing (traditional) boundaries between human animals and non-human animals.³³ If the view of these rights group is correct, then non-human animals have rights too, because they are capable of understanding, thinking, and feeling pain just like human animals do.

According to the American folklorist Simon Bronner, such a view was largely influenced by the ideas of the American philosopher Tom Regan, who described animals as "moral patients" in his well-known work *The Case for Animal Rights*.³⁴ In this book, Regan uses enfeebled humans, infants, and young children as an example of paradigm cases and analogies of human "moral patients". He considers "moral patients" not to be accountable for any of their actions as compared to "moral agents", such as adult humans, who as "human agents" are undoubtedly accountable because they develop moral principles to carry out what they do.

According to Regan, animals deserve the necessary protection and respect not only because they are a "subject-of-a-life", i.e. they possess desires, memory, and perhaps perception, but because they also feel pain and pleasure, and more importantly they have an "individual welfare", that is, the experiential life is important to them. Regan posits that these distinctive qualities separate animals from other kinds of creatures, such as tomatoes, grass, or cells, which are also regarded to be alive. The identified qualities also cause animals to possess an "inherent value", shared by both moral agents and moral patients, because they are distinctive and irreplaceable. Referring to Darwin, Regan writes that there is no "fundamental difference between man and the higher mammals in their mental faculties", and that "the difference in mind between man and the higher

³³ S.J. Bronner, op. cit.

³⁴ Ibidem, see also T. Regan, *The Case for Animal Rights*, 2nd edn., University of California Press, Berkeley - Los Angeles 2004, pp. 13-17.

animals, great as it is, certainly is one of degree and not of kind”.³⁵ He therefore argues that humans and non-human animals, having inherent similarities and values, possess the same basic rights and therefore deserve justice.

Regan, however, is not oblivious to the challenges faced by his assertion that both humans and non-human animals share inherent values, and therefore deserve rights and justice. For instance, he considers many of the existing traditional moral systems currently shared by human beings to be the greatest obstacles to these identified goals, especially the “conditional” view that offers moral justification to human beings in monitoring and murdering animals considered to be dangerous, harmful, diseased, or in situations wherein killing them is considered to be beneficial to human beings. Nonetheless, he posits that moral agents have the capacity to do what is right or wrong in ways that involve or affect moral patients, which according to Bronner “animal rights activists [took] as a pronouncement to work to change unjust moral systems”³⁶ on an international and advanced level.

The History of Animal Rights Advocacy and the Cockfight Industry in the Philippines

Unlike those international organizations of animal welfare and animal right groups influenced by Regan’s views, animal welfare advocacy in the Philippines did not begin equipped with highly sophisticated and advanced philosophical arguments. It started with a welfarist and compassionate view of members of the society towards animals. The first organization to be established based on this view was the Philippine Society for the Prevention of Cruelty to Animals (PSPCA), which was founded on 13 December 1904 “when animal welfare was still considered taboo in the country”,³⁷ making it “one of the oldest animal welfare organizations in the Philippines”,³⁸ established well before the country’s declaration of independence from the United States of America on 4 July 1946. According to the organization’s website, “PSPCA was organized [...] through the initiative of Ms. Anna L. Ide, daughter of former Governor-General Ide, with the support of high government officials”. Shortly after its organization, the Philippine Commission incorporated the PSPCA under Act No. 1285 on 19 January 1905.³⁹

³⁵ T. Regan, *The Case for Animal Rights*, 2nd edn., p. 18.

³⁶ S.J. Bronner, op. cit., p. 103.

³⁷ K. Alvarez, L. Santelices, *8 Animal Rights Groups in the Philippines*, “8List”, 15 April 2013, <http://8list.ph/site/articles/8-animal-rights-groups-in-the-philippines-197> [accessed: 8.07.2017].

³⁸ A.A. Bichara, R.Y. Ramirez, *Animal Welfare Organizations in the Philippines*, “The Guidon”, 16 October 2013, <http://www.theguardian.com/1112/main/2013/10/animal-welfare-organizations-in-the-philippines> [accessed: 9.06.2017].

³⁹ PSPCA, *General Information*, <http://www.geocities.ws/philspca/geninfo.html> [accessed: 9.06.2017].

As its name and history indicate, the organization was founded under the common name for the non-profit animal welfare organizations around the world, such as the above-mentioned Royal Society for the Prevention of Cruelty to Animals established in both the United Kingdom and the United States. Given the colonial history of the Philippines under the American regime and the support of the then-high government officials to the cause, it is self-evident that the Americans were not only influential in the process but also directly involved in establishing the Philippine version of a Society for the Prevention of Cruelty to Animals.

The second oldest organization to be founded in the Republic of the Philippines was PAWS. It was founded in 1954 by Muriel Jay (a British educator who used to live in the Philippines) as a volunteer-based, non-governmental organization whose goal is to prevent animal cruelty through education, animal sheltering, and advocacy. According to its official website, Jay literally handpicked the first wave of members, among whom was the current president of the organization Nita Hontiveros-Lichauco. Nita, who was one of the younger members then, recalls that “the group would make stuffed toys and other items which the members would then sell to raise funds. Other activities included a clinic to provide services to injured animals and two bicycle patrols, which pick up strays from the street”.⁴⁰

The strength of these two organizations is reflected in examples of ordinary members mobilizing their resources locally, and the grass-roots development of the struggle for the rights of animals. It is at the local level that animal welfare organizations and the culture of struggle against any form of human exploitation of animals were born and nurtured for more than a century. Successful and highly progressive initiatives have been developed and implemented by members of the organizations, themselves using their own resources, ideas (as for instance did the early members of PAWS) and imported practices (as seen in the case of PSPCA). The considerable accumulation of self-confidence, self-determination, self-reliance, and creativity within many members of the organizations has generated a wide range of progressive educational, social, and artistic initiatives.⁴¹

These activist groups in the organizations (especially in PAWS) were “from the youth sector (mostly in their 20s and 30s) and naturally, full of idealism, [having been] inspired by their President, [and] came out with more aggressive ideas”.⁴² While some of these activists focused primarily on humane education in public schools, others, either as representatives of the organization or as dedicated members, became much more intent on engaging both themselves and their

⁴⁰ PAWS, *PAWS History*, <http://www.paws.org.ph/paws-history.html> [accessed: 10.06.2017].

⁴¹ *Ibidem*.

⁴² *Ibidem*.

organization in reorganizing and normalizing political relations with the State. For instance, activist members have tackled considerable challenges, with various levels of success, both through the power of courts and through the country’s legislature. As a result, “a revised Animal Welfare Bill was drawn up and diligently pursued by PAWS members in the Senate and in Congress, [and] on February 11, 1998, the Animal Welfare Act of 98 [...] was signed into law by then Philippine President Fidel V. Ramos”.⁴³

It can be argued that these animal welfare organizations⁴⁴ and their advocate members have made a difference in the struggle for the rights of animals in the Philippines by mobilizing both voluntary members and the communities where they come from. They have also brought about a tangible change within the country’s legal system by advocating for a permanent judicial protection of animals. Seen from this perspective, the struggle of the animal rights groups in the Philippines can be seen as a successful movement that is increasingly building on victory after victory, and gradually pushing its aims further, not just in the case of the abuse of animals in the hands of individuals, but also institutions. However, the movement has largely failed in its struggle against much larger industries, such as the cockfight industry, which supports the breeding and killing of 30 million roosters every year.⁴⁵ The reasons for this are twofold.

First, the organizations encounter limitations in terms of producing the required knowledge and arguments in defending animals from human exploitation. Most of them still rely on foreign aid, knowledge, and information. As a resource for raising public awareness about the cruelties associated with cockfighting, PAWS, for instance, links petitioners and the general public with the official websites of international animal welfare organizations, such as The Humane Society of the United States. The Humane Society of the United States, however, does not have first-hand information with respect to the nature and size of the cockfighting industry in the Philippines, and thus lacks reliable sources and knowledge.

The second reason behind the organizations’ limitations is that the practice of cockfighting and the industry that helps sustain it is deeply rooted in the culture of the Filipino people and is shaped equally by both the internal and external political, social, and economic processes that have guided the Philippines’ history as a nation. Written records show that the early activity that led to the evolution of the cockfight industry in the Philippines goes back to at least the period before

⁴³ Ibidem.

⁴⁴ Although PSPCA and PAWS are the two oldest animal welfare organizations in the Philippines, they are not the only organizations that advocate for the rights and welfare of animals in the country. For more on this, see K. Alvarez, L. Santelices, op. cit.

⁴⁵ VICE Staff, *Cockfighting in the Philippines*, “Vice”, 27 February 2015, https://www.vice.com/en_uk/article/ppmq9/cockfighting-in-the-philippines-015 [accessed: 10.06.2017].

the Spanish conquerors arrived in the country, contrary to the commonly-held belief the Spaniards introduced cockfighting to the Philippines.⁴⁶ The Italian explorer Francesco Pigafetta (one of the earliest explorers of the southern Philippines) reported seeing cockfights in Butuan. According to Guggenheim, Pigafetta wrote that the people in “Palawan ha[d] large and very tame cocks, which they d[id] not eat because of a certain veneration that they ha[d] for them. Sometimes they make them fight with one another, and each one puts up a certain amount on his cock, and the prize goes to the one whose cock is the victor”.⁴⁷

Although the early activities of locals led to the evolution of the industry, it was not until the arrival of the colonizers that the industry advanced and took its contemporary shape. Guggenheim writes that “one of the first moves of the Spanish in their new colony was to establish permanent, privately owned cockpits, [which] formed part of a more general effort to force dispersed, rural populations into permanent, nucleated settlements which could be guarded and taxed”.⁴⁸ To help implement this policy, licenses to operate cockpits were sold to the highest bidder; and those operating without a license could be arrested and fined. “At a time when the net profit for the tobacco monopoly [...] set a record of 620,000 pesos, the annual profit from the Manila cockpit alone was between 20,000 and 30,000 for the lucky fellow who won the Franchise”.⁴⁹

Much of the taxation derived from cockfights and the patrons thereof was based on the legitimacy gained – from the perspective of the colonizers – from being not only the first colonizers of the land and responsible for its administration, but also that the game was seen as a source of income that could help sustain their colonial practices. For instance, in 1854 they were able to tax and collect about 80,000 Mexican silver dollars from the Tondo (Manila) cockpit and another 15-20,000 from each of the other provinces. As a result, “a new series of regulations passed in 1861 specified how the franchise auctions were to be conducted to ensure the maximum possible revenue for the government”.⁵⁰ Cockfights were thus used as a means of controlling the economic wealth and the social life of the Philippines.

⁴⁶ In his most famous novel *Noli Me Tángere* (“Touch Me Not”) José Rizal states that the Spaniards imported cockfighting into the Philippines “in order to give an outlet for the frustrations of the colonization” (W. Bethge, *Cockfighting: Passion and Vice*, 2002, <http://www.insights-philippines.de/hahnenkengl.htm> [accessed: 17.06.2017]). However, this remark is considered incorrect by many scholars, including Guggenheim.

⁴⁷ S. Guggenheim, *Cock or Bull: Cockfighting, Social Structure, and Political Commentary in the Philippines*, in: A. Dundes (ed.), *The Cockfight...*, p. 137.

⁴⁸ *Ibidem*.

⁴⁹ *Ibidem*.

⁵⁰ *Ibidem*.

According to Bantay Sabong, “the Americans also introduced baseball to the hilt, hoping the youth would adopt the said sport and completely veer away from cockfighting”.⁵¹ Not only that, they also included morality lectures, emphasizing the barbarity of cockfighting and backwardness of Filipino customs, in the school curriculum. In highlighting how the American colonizers imposed their way of life on ordinary Filipinos, Guggenheim writes that “indeed, throughout this period [that is, the period of their colonization] the American government consistently opposed Filipino cockfighting, indolence, and intellectual inferiority to American ice-cream sodas, racial superiority, and higher mathematics”.⁵² This type of control continued even after the independence of the Philippines, especially by those elites who were brought up under the colonial system. The aforementioned “Presidential decrees #449 and 1310, for example, regulate the location and frequency of cockfighting”.⁵³

However, according to Wolfgang Bethge, “this regulation is on paper only”,⁵⁴ and it had no significant power to reduce either the practice or the industry. Bantay Sabong also comments that, although the Americans and their supporters tried to replace and stop the game, it was “to no avail and cockfighting continuously became popular”.⁵⁵ In particular, after President Marcos signed Presidential Decree 449, cockfighting returned to the spirit and scene of the Philippines like never before. In 1981, the Game-fowl Commission was created by virtue of Presidential Decree 1802. This gave the cockfighting industry a conducive environment for its expansion and allowed it to become one of the main sources of economy for millions of Filipinos. However, as the analysis in the following part indicates, the main argument behind the expansion of cockfighting and the need for its recognition is not about economics, but heritage.

Human Rights, Animal Rights, and the 2003 Convention

The safeguarding of intangible cultural heritage operates under the Convention established in 2003. Since its adoption, the 2003 Convention has been a tremendous success in terms of ratification (so far by 178 States and it is expected to be ratified by many more).⁵⁶ As discussed above however, the 2003 Convention has also been

⁵¹ Bantay Sabong, *Cockfighting in the Philippines*, “Rooster Eye”, 17 March 2014, <http://roostereye.net/cockfighting-in-the-philippines-3/> [accessed: 7.06.2017].

⁵² S. Guggenheim, *op. cit.*, p. 142.

⁵³ *Ibidem.*

⁵⁴ W. Bethge, *op. cit.*

⁵⁵ Bantay Sabong, *op. cit.*

⁵⁶ See UNESCO, *Convention for the Safeguarding of the Intangible Cultural Heritage*. Paris, 17 October 2003, <http://www.unesco.org/eri/la/convention.asp?KO=17116&language=E> [accessed: 6.01.2017].

a source of controversy for a number of reasons and has therefore been criticized by various scholars.⁵⁷ Many of the criticisms focus on the 2003 Conventions' mechanisms and the conflicts it encounters with local/national laws and the cultural activities of nations. This is partly because the 2003 Convention refers to other higher international human rights instruments, namely to the 1948 Universal Declaration of Human Rights (UDHR), the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), and the 1966 International Covenant on Civil and Political Rights (ICCPR) in order to make sure that the elements submitted for inscription enhance sustainable development and respect human rights.

The current view and debate, which postulates that violations of animal rights can occur if they become part of a given culture or heritage, is however a very distinctive view and contains arguments that go beyond what is normally understood by the above-mentioned legal instruments and the "animal rights" literature in general. So before engaging in an analysis whether a heritage that involves the suffering and killing of animals contravenes some "universal" moral or ethical law(s), it is important to establish the background by taking a few steps back in history.

The 20th century witnessed a number of international declarations giving voice to animal rights. These declarations stem partly from the progress in science and partly from the feminist-inspired struggle of animal rights' groups. One may add to this the growing awareness of scientific scholars and policymakers of the universal abuses inherent in the exploitation of animals. Meanwhile, the Universal Declaration of Animal Rights was solemnly proclaimed on 15 October 1978 at UNESCO's headquarters in Paris.⁵⁸ According to the animal jurist Jean-Marc Neumann, "prominent scientists contributed to drawing up the 1978 Declaration. Among them [were] the Nobel Prize Physics laureate Alfred Kastler, Thierry Maulnier of the French Academy, and Professors Théodore Monod, Jean-Claude Nouët, and Marcel Bessis".⁵⁹

⁵⁷ See B. Ivey, *Issues in Intangible Cultural Heritage*, 2004, <http://www.clir.org/pubs/reports/pub126/ivey.html> [accessed: 6.01.2017]; R. Kurin, *Safeguarding Intangible Cultural Heritage in the 2003 UNESCO Convention: A Critical Appraisal*, "Museum International" 2004, Vol. 56(1-2); B. Kirshenblatt-Gimblett, *Intangible Heritage as Metacultural Production*, "Museum International" 2004, Vol. 56(1-2); S. Keitumetse, *UNESCO 2003 Convention on Intangible Heritage: Practical Implications for Heritage Management Approaches in Africa*, "The South African Archaeological Bulletin" 2006, Vol. 61(184); A. Grau, *Intangible Cultural Heritage and the Dreaming*, in: M.N. Mohammad Anis, E. I. Dunin, and A. v. B. Wharton (eds.), *Transmitting Dance as Cultural Heritage & Dance and Religion: Proceedings of the 25th Symposium of the ICTM Study Group on Ethnochoreology*, ICTM Study Group on Ethnochoreology, Kuala Lumpur 2009; and O.A. Berkaak, *Analyse av UNESCOs konvensjon om vern av den immaterielle kulturarven*, Den norske UNESCO-kommisjonen, Oslo 2010.

⁵⁸ The Declaration was inspired by the Universal Declaration of Human Rights, J.-M. Neumann, *The Universal Declaration of Animal Rights or the Creation of a New Equilibrium Between Species*, "Animal Law Review" 2012, Vol. 19(1). For more details about the Declaration, see ESDAW, op. cit.

⁵⁹ J.-M. Neumann, op. cit., p. 96.

The problem, however, is that the Declaration was short-lived, and was never put into practice even though it served a purpose in raising the necessary awareness about the close relationship between human rights and animal rights. By the end of the 1970s, 1980s, and the beginning of the 1990s, the expression that “animals’ rights are human rights” began to re-emerge on the international level, mostly among: the members and participants of the International League of Animal Rights, which was founded in 1977 in Geneva; in the 1978 Universal Declaration of Animal Rights in UNESCO headquarters in Paris; at the international League of Animal Rights in 1989; and among other animal rights advocates and activists based in the United States and the United Kingdom. Currently, the animal rights contained in the Declaration and the Universal Declaration on Animal Welfare (UDAW), conceived in 2000 by a group of animal welfare organizations, are the result of this exhaustive and long struggle made by renowned scholars and activists.

Ironically, however, while 178 States Parties have ratified the 2003 Convention, the Universal Declaration on Animal Welfare remains a declaration which gives rise to the most scepticism worldwide, including in the Western world, where hunting organizations have publicly argued that most of the aims of the Declaration and other animal rights’ movements contravene the traditions, cultures, and the heritage of locals.⁶⁰ This indicates that the rights of animals are not only being violated in the name of culture and heritage in what are often considered as “undeveloped continents”, but also in developed continents such as Europe, where animal welfare legislation is highly advanced.⁶¹

Tradition, culture, and heritage have often been used as a justification for violating the rights of animals. Bronner notes that culture, tradition, and heritage are used all over the world to defend the *status quo* when it comes to attempts to advance animals’ rights, and this includes the United States, where democratic values are considered to be at an advanced level.⁶² One relevant example to our discussion is thus the defences proffered in the Philippines against the denunciation of cockfighting. According to Bantay Sabong, cockfighting is a traditional sport practiced and transmitted through generations, and therefore a part of the heritage of the Philippines. In calling for an organized movement against those who oppose it, Bantay Sabong writes that

the emboldened shift of strategy by the enemies of cockfighting from the crouching to the standing posture, have [sic] driven a handful of cockfighting lovers [...]. And while there are already a lot of cockers and breeders organizations in existence, the founders

⁶⁰ S.J. Bronner, op. cit.; M. Tichelar, *The History of Opposition to Blood Sports in Twentieth Century England: Hunting at Bay*, Routledge, London 2016.

⁶¹ R. Garner, *Defending Animal Rights*, “Parliamentary Affairs” 1998, Vol. 51(3).

⁶² S.J. Bronner, op. cit.

of Bantay-Sabong saw a need for a movement that will engage head-on the various entities that aim to stop our Sport and take away from us a tradition that was handed down to us by our forefathers.⁶³

The cultural argument has also been acknowledged as a problem in the discussion for the safeguarding of intangible natural heritage. In the recent book *Intangible Natural Heritage: New Perspectives on Natural Objects*,⁶⁴ edited by the theorist Erik Dorfman, he declares that – to those of us looking on from the outside – torturing an animal to death as part of a public festival or cultural activities is highly distasteful. The condemnation of bullfighting is, for instance, becoming increasingly universal, even in Spain and Mexico, in a debate that has been going since the 16th century. But the concept of intangible natural heritage specifically does not include activities that are contrary to the well-being of animals.⁶⁵

However, the question remains whether a cultural practice (or intangible cultural heritage) that involves the suffering and the killing of animals contravenes some “universal” moral or ethical law(s). The answer is yes. In a recent commentary article entitled *UNESCO Intangible Heritage or Animal Cruelty? Kazakh Eagle Hunting in Bayan Ulgii, Western Mongolia*, Miacimu evaluated the multi-national nomination files of falconry, inscribed to the Representative List of the Intangible Cultural Heritage of Humanity in 2010. He found that the files demonstrate very little understanding or consideration of the implications of the submission for the welfare of animals, and do not raise objective concerns over whether or not it is proper to transmit it to future generations. In addition, the files describe only the positive aspects of the practice, such as how falconry is welfare-friendly, and with low impact.⁶⁶

During my review of the documents submitted, I also found out that not only do the files omit all the negative sides of the practice, but they also contradict some of the 2003 Convention’s criteria in place. Drawing its arguments from the vantage point of falconry’s practitioners, the authors described how the knowledge and skills related to the nominated element are currently transmitted. As a result, one can easily see the different levels where and how falconry has been transmitted from one generation to another, and how it is now being transmitted through

⁶³ Bantay Sabong, op. cit.

⁶⁴ E. Dorfman (ed.), *Intangible Natural Heritage: New Perspectives on Natural Objects*, Routledge, London 2011.

⁶⁵ The notion of intangible natural heritage is considered by its authors as animal welfare friendly compared to intangible cultural heritage.

⁶⁶ Miacimu discusses many other inadequacies of the submission. These three are selected due to their relevance to the topic under discussion. See Miacimu, *UNESCO Intangible Heritage or Animal Cruelty? Kazakh Eagle Hunting in Bayan Ulgii, Western Mongolia*, 15 October 2012, <https://miacimu.wordpress.com/2012/10/15/unesco-intangible-heritage-or-animal-cruelty-kazakh-eagle-hunting-in-bayan-ulgii-western-mongolia/> [accessed: 4.01.2017].

various media. The authors also described how the practice of falconry is handled with respect to various animal welfare laws. However, it is very difficult for an outsider to identify whether falconry is treated under the same instrument by all interested parties, such as the States involved in the nomination of the element. For instance, Mongolia does not have the required legislation to punish or condemn animal rights offenders.

Through the texts and images (photographs and videos) of the element, the authors also showed how the nominated element embraces affirmative practices and thereby includes all practitioners, regardless of age or gender. Furthermore, the authors also clearly described how the element is compatible with the existing international human right instruments; in particular emphasizing that it respects the rights of women, children, and animals. However, what is declared in the textual part of the application is contradicted in the images, videos, and photographs provided. Zhou Lei, a rehabilitator from the Beijing Raptor Rescue Centre (BRRC) recently noted that

falconry requires cruel manipulations to render an eagle submissive. For example, raptors in training are subject to constraints on activities, starvation, and sleep deprivation. Many raptors die in the process; the survivors, if any, often suffer from various diseases. Among the raptors rescued from falconry by BRRC, an overwhelming majority suffers from diseases that are extremely difficult to treat, including bumblefoot, malnutrition, and respiratory problems such as aspergillosis infection.⁶⁷

Similar evidence can be found on the website of the forum for ethics in museums and natural history, where a highly tethered and muzzled defenceless wolf is publicly seen being attacked by a golden eagle as part of a cultural hunting festival.⁶⁸

Furthermore, the nomination files glamorize the practice's ability to reconnect with the natural world, thus trivializing the extent of the animals' captivity and exploitation. What other nations, and the public in general, learn from such kind of exploitation is a misleading lesson, in which torturing and killing animals are normalized in the name of heritage and through a system that allows them to do so. This is certainly the motivation behind lawmaker Plaza's attempt to inscribe cockfighting as part of the intangible cultural heritage of the Philippines, and thus of humanity. When he referred to the 2003 Convention and the Philippines Presidential Decree No. 449, which recognizes cockfighting as a vehicle for the preservation and enhancement of Filipino's national heritage and identity, he was not doing so accidentally. It was because he understood the link between the heritage inventory at a national level and the 2003 Convention, which lays out the necessary legal

⁶⁷ See IFAW, *Photography Contest Ignores Cruel Reality of Falconry*, 27 July 2016, <http://www.ifaw.org/untied-states/news/photography-contest-ignores-cruel-reality-falconry> [accessed: 4.01.2017].

⁶⁸ See E. Dorfman, *Clash Between Cultural Heritage and Animal Welfare*, 11 December 2011, <https://icom-natistethics.wordpress.com/2011/12/11/clash-between-cultural-heritage-and-animal-welfare> [accessed: 5.01.2017].

guidelines and conducive environment for inscription as part of the Representative List of the Intangible Cultural Heritage of Humanity.

As Regan accurately annotated in the introductory quotation accompanying this article, this indicates that the fundamental mistake with the way animals are treated is not the details, which vary from case to case, the fundamental wrong is *the system*, in this case, the 2003 Convention, that allows humans to view non-human animals as their resources, to be exploited in the name of intangible cultural heritage. While the 2003 Convention clearly refers to other higher international human rights instruments (as discussed above), nowhere does it say that the rights of animals should be considered. I therefore argue that if animals' rights are to be protected from being violated in the name of intangible cultural heritage, then they should be considered as part of the instruments of human rights that the 2003 Convention refers to. One might rightly ask, however: How can we find animals' rights in human rights documents?

The answer lies in the various articles and instruments that the 2003 Convention refers to. As discussed at the beginning of this part, the 2003 Convention refers to the three most widely-known higher international human rights instruments to make sure that the nominated elements enhance sustainable development and respect human rights. These three instruments largely function within the comprehensive image of the United Nations structure, and represent its commitment to stability, peace, unity, and the protection and relief of suffering. Furthermore, they also follow non-discriminatory principles as the basic requirement to their implementation.

These considerations do not operate in isolation. They are intrinsically interconnected with Article 2 of the 2003 Convention, which refers to the notion of sustainable development. According to the United Nations, although "sustainable development" has been defined as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs, [it cannot be achieved without] harmoniz[ing] three core elements: economic growth, social inclusion and environmental protection".⁶⁹ This indicates that not only are the rights of animals connected to human rights through the principles of non-discrimination and the protection and relief of suffering that the United Nations so ardently advocates, but also through the urgent admonition that "sustainable development calls for concerted efforts towards building an inclusive, sustainable and resilient future for people and planet".⁷⁰

In other words, to make animal rights a part of human rights would mean that elements of intangible cultural heritage that mistreat animals cannot be considered

⁶⁹ United Nations, *The Sustainable Development Agenda*, <http://www.un.org/sustainabledevelopment/development-agenda/> [accessed: 10.11.2017].

⁷⁰ *Ibidem*.

in the Representative List, because they are not compatible with human rights. Furthermore, intangible cultural heritage elements (or rather practices) that are incompatible with sustainable development also cannot be listed. This leads to the argument I am making here. My argument is that intangible cultural heritage practices that maltreat animals are not sustainable, and the definition of sustainable development currently being used by the United Nations is more holistic and inclusive than understood by the designers of the 2003 Convention. It can encompass the rights of animals, not only when their abuse and mistreatment is considered as a serious damage for the environment, but also when their right to exist within the environment is violated.

Conclusions

This article has critically analysed the 2003 Convention for Safeguarding of Intangible Cultural Heritage and the struggle of animal rights groups by referring to the case of cockfighting in the Philippines and other currently inscribed elements to the Representative List of the Intangible Cultural Heritage of Humanity.

The struggle of animal rights groups and their movement has its origins in the philosophically based Utilitarian and Christian paternalist welfare approaches and non-welfare (ecological) approaches which evolved during the 18th century. Seen from the perspective and history of the animal rights groups in the Philippines, the movement can be seen as successful, achieving victory after victory. At the same time however, the movement has largely failed in its struggle against much larger abuses, which result in the reduction and suffering of the animal population.

The case of lawmaker Plaza has been analysed in relation to the 2003 Convention's legal requirements and criteria in place. His case suggests that practices such as cockfighting could potentially become part of the intangible cultural heritage of humanity, because at the moment there is virtually no legal argument that supports the claim for making animal rights part of the considerations to be taken into account when deciding whether or not cockfighting, or any given practice, is to be included in the Representative List.

If the argument presented in this article is to be taken seriously, the 2003 Convention has every resource needed to make animal rights part of the requirements in place, at least with respect to those practices that violate animals' right to exist within the environment. These resources lie in the various articles and instruments that the 2003 Convention itself refers to. Among these is the reference to the notion of sustainable development, which the UN says cannot be achieved without building an inclusive, sustainable, and resilient future for people and the planet.

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