

AN HISTORICAL DIMENSION OF EUROPEAN CULTURAL HERITAGE

*Claudio POVOLO*University Ca' Foscari of Venice, Department of Humanities, Dorsoduro 3484/D, 30123 Venezia, Italy
e-mail: clpovolo@gmail.com*ABSTRACT*

Codices and manuscripts scattered around European archives and libraries testify to the long cultural journey of the European civilization. Prestige, power and authority were considered as significant elements of a culture and society which not only left numerous witnesses of themselves, but also interacted with subsequent historical events. An entire series of considerations and reflections related to the emergence and development of a specific European culture since the Middle Ages, a culture characterized by elements of cosmopolitanism and pluralism, allow for the identification of a real cultural heritage which still works within the social and political fabric of a vast territory that found a common reference point in the European Union.

Key words: codices, manuscripts, European heritage, common law, pluralism, cosmopolitanism

UNA DIMENSIONE STORICA DEL PATRIMONIO CULTURALE EUROPEO

SINTESI

Codici e manoscritti, dispersi negli archivi e nelle biblioteche europee attestano il lungo percorso culturale della civiltà europea. Prestigio, potere e autorità sono stati considerati come elementi significativi di una cultura e di una società che non solo hanno lasciato numerosissime testimonianze di se stesse, ma hanno pure interagito con gli eventi storici successivi. Tutta una serie di considerazioni e di riflessioni inerenti la nascita e lo sviluppo di una specifica cultura europea a partire dal Medioevo, caratterizzata da elementi di cosmopolitismo e di pluralismo, autorizzano a individuare una vera e propria Cultural Heritage che ancora oggi agisce nel tessuto sociale e politico di un vasto territorio che nell'Unione Europea ha incontrato un punto di riferimento comune.

Parole chiavi: Codici, manoscritti, eredità europea, diritto comune, pluralismo, cosmopolitismo

The notion of a European cultural heritage obviously cannot exist apart from the idea of Europe itself, its historical values, the events that have distinguished each single state that is part of it geographically and the stages that have marked the rise and consolidation of the European Union.¹

As has been frequently pointed out, it was in fact after World War II that a fusion took place between what had by then become a widespread and deeply felt perception of Europe and the projects carried out to establish a new political-institutional system that would go beyond mere geographical entities.²

After 1945, in consideration of the discredit into which the various nationalisms had fallen and of the increasing rigidity of international politics dominated by the confrontation between the U.S. and the USSR, the project of European integration became politically active. After some decades, the much-desired monetary unity was finally achieved.

The financial crisis that has recently involved the European Union, and in particular some of its member states, dramatically highlights how the overall validity of this grand project is making us rethink the existing links between the European historical and cultural heritage on the one hand and the large-scale political vision that led to the formation of the European Union on the other.³ These links are not self-evident; indeed, they still have to prevail over the turbulent events that has for centuries (the twentieth century in particular) characterized the history of nation-states. Just as in more recent times they have had to accommodate the rise of globalization and the interference of international markets, developments that have been faced only with difficulty. In the end, there is clearly a need for further reflection to be able to relate this new political-institutional organization, its objectives and its destiny, to a cultural heritage that can be traced and studied over a very lengthy historical period.

Taken on the surface, this heritage seems to give more importance to the differences and conflicts generally attributed to the rise of nation states and their ideologies than to their deeply shared values. Thus, the historical identification of a common cultural matrix, which can more than anything else unite the existing separate realities, becomes a reaffirmation of a heritage whose very existence counters the claims of mere economic data.

1 On the subject Padgen (2002, 32) observed: “Whether one shares the optimism of the federalist or the skepticism of those who still hope that “Europe” will remain little more than an economic expression, one can detect a very gradual transition from a Europe of competing and frequently hostile nations to a “Union” of peoples”.

2 For an interesting framework of the perspectives within which the idea of Europe was drawn, this volume, which appeared in 1993, is extremely significant: K. Wilson and J. van der Dussen (eds.) (1993): *The history of the idea of Europe*, London-New York. Routledge. In the *Introduction* (pp. 9–11) the curators of the volume emphasized how the discussion contemplated an extremely fragmented vision of Europe, “the continent that never bowed to a single ruler, that never made culture uniform, that never settled for final truths, that kept questioning, debating, remaining self-critical thereby generating a unique dynamism”.

3 Already in 1993 Ole Waever (p. 206), wrote how “it is dangerous and self-defeating to think of a link between European history and culture on the one hand and European politics on the other in terms of the former necessitating the latter. European integration is not coming forth because it is ‘natural’ and ‘necessary’, not because we ‘are’ European and therefore ‘have to’ create a political expression for this our true identity, but because it is a project in which sufficient political energy is invested.

At this point, it seems opportune to note what Ole Waever observed approximately twenty years ago in a splendid analysis focused on the complexity of the idea of Europe in which he recalled two *traditions* that were competing (and to some extent still do), each trying to affirm its own idea of Europe:

It can be noted that there is (as in the different national projects) a competition between on the one hand, more 'romantic', organic concepts of a European identity, projecting pictures of European continuity, coherence and inherent values and using these arguments for a European policy; and, on the other hand, more 'rationalistic' and political concepts of a European political construct being set up either technocratically for certain purposes, or based on certain civic, political values that are shared and to which the citizens of a European republic could pledge their loyalty (Waever, 1993, 209).

At the time, Waever had already observed that these two traditions could come together and recognize each other's perspective:

The civic tradition goes European, while the cultural tradition becomes even more national (or regional), to an extent where it de-couples itself from questions of politics and becomes more a matter of culture-politics. State and society become less closely linked, and we become Euro-state citizens while still belonging to our older culture-nations. Such loyalties might very well conflict from time to time, but not necessarily frontally, since they move partly on different wavelengths (Waever, 1993, 209).

The reaffirmation of all aspects of the concept of *cultural heritage* is in itself a fact that reveals the effort to unify a project (the European Union) that finds its justification in a more properly institutional framework, while also implying the identification and definition of its historical and cultural background. This is a concept that has its roots in the eighteenth century and in the emergence of a distinctly bourgeois cultural sensibility (we need only think of the birth of folklore; See in particular Storey, 2003, 1-13), although it later developed following the circulation of goods and the spread of tourism (Van Assche, 2011, 7).

In reality, its formulation appears to be inevitably linked to that of political identity, understood both as realization and as *invention*. Cultural heritage is in fact a category of values that reflects the community in which it means to find its place, but also the political vision of the establishment that represents it. And consequently it is linked to a strategy that aims at achieving cohesion and unity and overcoming particularisms. This political strategy is meant to achieve social cohesion and the sharing of values, which in reality show themselves in all their facets and which, as today's events seem to show, can be dramatically conflicting -- so much so that some scholars have expressed reservations regarding a project based on the use of the concept of cultural heritage as an instrument of political identity:

A focus on achieving value consensus embedded in an accepted form of European identity is destined to fail, because more complexity is needed in societal models, val-

ue pluralism and identity construction. The unruly and pluralist character of identity construction should be taken as a point of departure for European societal policies. Consequently, cultural heritage should be treated as an expression of cultural diversity, whereas citizenship should not be conceptualized according to value consensus but on shared norms embedded in democracy. (During, 2011, 28).

These observations recall the two traditions we have already discussed and which have for some time now come to vie with one another in the difficult construction of the European political project. The cultural heritage, stripped of any political intention, must represent essentially the pluralism that characterizes it, whereas the concept of citizenship (Europe) is measured by the sharing of legal norms.

The powerful mix of pluralism and unity is a fact that distinguishes European history and makes the ties between planning policy and the notion of cultural heritage less dissonant. The very introduction by international organizations of the concept of 'intangible heritage' which so intimately affects the life of communities has inevitably made more complex, and in a certain sense more democratic, a notion of *culture* characterized by its anthropological and symbolic dimensions⁴. From this perspective it seems all the more justified to assign a primary role to culture in fostering development and educational and economic growth in local communities, relying increasingly on the use of new technologies and in general on approaches aimed at expanding the potential for social growth.

In the European case the historical dimension of the cultural heritage in which a single legal and institutional conformation was accompanied by an extensive cultural and political pluralism is a fact confirmed and testified by scholars. Numerous observers have highlighted the coexistence in European history since the Middle Ages, of two fundamental tendencies: intense localism and cosmopolitanism. Although this coexistence was reflected in tensions and conflicts, it found a justification in the political and legal ideology with which all the diverse realities found an identification. This consideration has led some scholars to compare the long path of European history to the current situation, arguing that:

European unity today is faced with far fewer contradictions. It may emerge victorious in the long struggle with parochialism and prejudice -- as long as the idealists and

⁴ See Smith, Akagawa (eds) (2009): *Intangible heritage*, in particular the essay by Blake. The author observes "With the introduction of intangible cultural heritage into the picture, cultural heritage preservation has become a much more complex and political question than it was when preservation institutions restricted their interest to monuments and artifacts... Hence, any actions aimed at its safeguarding must rely heavily on the collaborative efforts and active involvement of cultural communities and their members. This, in turn, requires governments and government institutions to find new forms of operating in the cultural heritage field that are both alien to them and challenging. They need to move away from the traditional top-down approach of governmental cultural heritage organizations where the institutions are acting as custodians of the national cultural patrimony and where decision- and policy-making are the domain of the government and its representatives" (Blake (2009, 46, 65). See also Rusalić (2009, 8), who observes: "The most of the people consider intangible as the opposite of tangible, that is, by my opinion, totally incorrect. I consider these two very closely related and the main issue has always been that intangible provides the meaning for the tangible".

bureaucrats of unity do not in their hope, or perhaps in their hubris (coercive power is much stronger now), aim quite so high as the predecessors did in the High Middle Ages. (Jordan, 2002, 89).

The political, economic and religious context of medieval society distinguished itself by a sort of renaissance that led to the growth of society as a whole. But the Middle Ages were also a period that on the institutional and legal level profoundly influenced European culture and determined later cultural development. As has been observed, the medieval political-institutional reality produced the first form of the modern state, in which the dimension of dominant centers bestowed with the prerogative of *Imperium* coexisted with the fragmentation of local centers (fiefdoms, cities, Episcopal jurisdictions, etc.) under the banner of mutual cooperation⁵. This form of the state was subsequently superseded between the eighteenth and nineteenth centuries by the affirmation of nation states, though without the loss of its intrinsic values. Indeed, more than one observer has noted that the current political organization of the European Union substantially recalls the state-form that was realized in the Late Middle Ages:

On the matter of the dispersal of power and authority there are some striking parallels between the emerging Europe and the Europe of the Middle Ages. The Medieval system consisted of a complex patchwork of overlapping authorities. Authority was personal (with the ruler), not residing in institutions; property rights were not absolute but contingent in that they entailed obligations; and there were some universal principles that were supposed to supply legitimacy to all rulers. The rights of government were territorial but they did not entail mutual exclusion [...] In looking at Europe today there are some strong reminders of the criss-crossing authority relations that typified medieval social and political organization (Waever, 1993, 193).

One could also add that the dispersion of power and the multiple definitions of status and prestige (we need only think of the Renaissance courts) undoubtedly favored the variety of artistic expression (painting, sculpture, architecture, music ...), which became a particular European feature throughout this period. Thus, the connections between the political, institutional and legal systems and the various expressions of culture in the diverse regions of Europe are obvious.

5 This form of modern state has been defined as jurisdictional and was provided of three fundamental features: “un territorio sempre più inteso in senso unitario, ma in cui l’unità è preceduta, logicamente e storicamente, dalle parti che lo compongono, nel senso che chi governa al centro è sempre costretto a presupporre l’esistenza di una fitta schiera di soggetti, dalle città alle comunità rurali [...]”; un diritto anch’esso sempre più funzionale alla cura dell’intero, ma che non per questo si traduce automaticamente in diritto gerarchicamente sovraordinato rispetto ai diritti delle parti e dei singoli luoghi [...] un governo dunque che non opera per il tramite di un’amministrazione deputata ad esprimere in ogni luogo, al centro come in ogni punto della periferia, la presenza e la forma di un *imperium*, ma per il tramite della giurisdizione, che consente in modo ben più elastico di governare un’unità territoriale complessa, essenzialmente con l’intento di mantenere la pace, di consociare e tenere in equilibrio le forze concretamente esistenti”, cfr. Fioravanti, 2002, 8-9.

According to one of the most acute scholars of the transformations that have occurred in the international context and their relations with territorial organization, the subsequent assertion of nation-states represented a temporary phenomenon, destined to be surpassed in the post-modern perspective. It is from this standpoint that the European Union is an expression of the new political changes that are taking place:

The EU may constitute the first “multiperspectival polity” to emerge since the advent of the Modern Age. That is to say, it is increasingly difficult to visualize the conduct of international politics among community members, and to a considerable measure even domestic politics, as though it took place from a starting point of fifteenth separate, single, fixed viewpoints [...] To put it differently, the identity of each of the fifteen members - and identities are logically prior to preferences - increasingly endogenizes the collectivity they comprise [...] There is no indication, however, that this reimagining will result in a federal state of Europe - which would merely replicate on a large scale the typical modern political form. (Ruggie, 2003, 195).⁶

To see the contiguities between the medieval world and the new European political reality, we need only to turn our attention to the legal dimension that the medieval world passed on as *heritage* to later centuries -- a heritage even more significant if only we consider that it is the legal dimension, in all its complexity, that expresses the economic and political features of the whole of society (Friedman, 1975).

Along with other historians of law, Manlio Bellomo has noted that the correlations between cosmopolitanism and localism found their synthesis in the *ius commune*, which from the twelfth century spread from the Italian cities across Europe. The Roman foundation of this system of law found legitimacy in the idea of empire, but it also included local systems of law and custom (*iura propria*) in its sphere. This system was able to represent both the instances of the Church and those of secular political entities, especially the towns. It was a legal order that came through the political transformations of the modern age almost unscathed, and its influence reached even as far as nineteenth-century political realities (Bellomo, 1995, 55-78). As noted by Peter Stein, between the sixteenth and eighteenth centuries the law of the European states moved in two directions: on the one hand a tendency emerged to emphasize national characteristics, and on the other there was an inclination to emphasize common elements, especially among professors of law, who observed that a modern use of Justinian law (*Usus modernus pandectarum*) had imposed itself (Stein, 1984, 93-103)⁷.

The medieval legal system was able to offer a remarkable synthesis of the complex political reality of the time by merging the two concepts of pluralism and universalism.

6 John Gerald Ruggie underlines the contiguity between the medieval political order and the new political developments taking place at an international level. See also Mitterauer (2010); the author underlines, “The first components of Europe’s special path that I encountered were parliamentarism and democracy [...]. In explaining this aspect of the phenomenon of Europe’s special path, it became apparent that the defining roots of modern political authority were deeply embedded in the Middle Ages” (Mitterauer, 2010, XVI-XVII).

7 A thesis elaborated especially by the Dutch school.

This system created a universalistic and Christian cultural unity, inextricably linked to the idea of Europe as a cultural and spiritual phenomenon.(Cavanna, 1982, 24-30.)

The revival of Roman law and canon law, which became an integral part of the *ius commune* begun at the University of Bologna in the early twelfth century – a revival that based its authority on Justinian's *Digest* and Gratian's *Decretum*, two texts which collected earlier compilations of legal sources. Accompanied by the notes of the commentators and enriched with miniatures (which often had the purpose of helping to identify topics), these texts began to be taught and discussed in all European universities, contributing to the spread and growth of a legal profession that secular and ecclesiastical authorities made large use of to increase their influence in society.

Thus, the law schools and universities acted as intermediaries between the law and a society that required an increasingly more cultured and sophisticated approach to solve its problems⁸. Students began to circulate throughout Europe, constituting a mobile population with its reference point in Italian universities like Bologna and Padua, or in that of Paris, not to mention the influence exercised by the universities of Montpellier, Oxford, Cambridge, Salamanca, Valladolid, Lisbon and Coimbra. These were places frequented by the elite but which also offered the possibility of upward social mobility.

It must not be forgotten that between the 11th and the 12th centuries European society grew visibly both economically and demographically, at the same time renewing its culture and values. In the face of common needs and problems, Europe developed a common juridical cultural system reflected in its legal practice, but also in the production of codices and manuscripts that circulated widely, enlarging the sphere of knowledge that found its ideological reference-points in the past:

Service with individuals, with towns or rulers also offered an increasing number of openings to graduates, masters of Arts and, above all, law graduates. In the fourteenth century, central law courts (such as the parliament of Paris) were in the hands of professional civil lawyers from universities. Even in the provinces, the middle ranks of the royal administration employed some doctors or licentiates. The position was the same in the tribunals and chanceries of Italian towns. And doctors of medicine who did not teach had no difficulty in finding employment in the entourages of princes, great men and prelates (Vergier, 2000, 78-80).

As we see, the abundant production of codices and manuscripts recorded in the centuries of the late Middle Ages was the result of widespread political and economic growth, to which the *ius commune* gave a common ideological and cultural matrix transmitted by jurists and other mediators of law (Van Caenegem, 1987). As Peter Stein recalls, this development made a very specific political mark, whose aim was to propose a consistency

⁸ “Thus in effect, both the market and the universities were essential to the rise of the legal profession. It was the unique combination of market demand, text-centered culture, a series of inaccessible texts, and the rise of university law schools able to interpret and provide auxiliary texts that together led to the rise of the legal profession in the twelfth and thirteenth centuries”. (Hoeflich, Grabher, 2008, 1-21).

that clearly implied an extremely malleable use of texts, though in an equally extremely fragmented juridical context:

The demands made on the glossators included a clarification of the elements of rational procedure for implementing the law, of the nature of legislative authority and of relationship between local law and the imperial law. Although there were several sporadic texts in the Corpus iuris on all these subjects, none of them was treated in a coherent and detailed manner. Political realities required the twelfth-century civil lawyers to give them special attention⁹.

It is in this context that we can understand not only the transformations that took place, but also their influence on the definition of the cultural values that influenced European society over the centuries, and that still do today. The same transformations that determined the spread of the documents (codices, manuscripts and, indirectly, other forms of artistic expression) that made this period a critical one for the characterization of a cultural heritage with specific European traits¹⁰.

The *ius commune*, with the important incorporation of canon law, intervened in a practical and theoretical way in many crucial areas of European life. The matrimonial doctrine formulated between the eleventh and twelfth centuries and accepted by the Church aimed at guaranteeing security to family unions and legitimacy to children. Graziano's thesis, based on the consummation of carnal copulation, was surpassed by the doctrine of Peter Lombard, the bishop of Paris, who considered a marriage legal only if it was definitively based on the exchange of consent between the *nubendi, per verba de praesenti*. This doctrine was quickly accepted by the Church, though Graziano's thesis was not completely rejected¹¹.

It should be noted that, despite the Protestant Reformation and the changes implemented by the Council of Trent, the doctrine which developed between the twelfth and thirteenth century had enormous importance in the European context, impacting significantly on family values and culture (Mitterauer, 2010, XVII-XVIII). Besides the texts and codices housed in libraries, the action undertaken by the Church in matrimonial matters is testified by the enormous quantity of manuscript documentation preserved to this day in the archives of the courts of European cities. Disputes and controversies in matrimonial matters are in fact the most constant and significant action taken by ecclesiastical and secular courts to transmit a sacramental practice as uniform as possible¹². These codices

9 Stein, 2004, 57.

10 As Stein himself observed, the *ius commune* created a sort of “accepted ‘mind-set’” all over Europe influencing European Christian culture. Saint Thomas of Aquinas and Dante Alighieri are two prestigious examples of the interconnections between these disciplines: “Dante gives Justinian a prominent place as sacred figure both in his *Paradiso*, book 6 and 7, and in his political works, where he identifies the Corpus iuris with Reason itself. Many passages from Dante, as from Aquinas, show how phrases from the texts of the Corpus iuris had become part of general educated discourse, even among non-lawyers” (Stein, 2004, 67).

11 On the matrimonial doctrine elaborated in the Middle Ages. (Brundage, 1987, 229-414).

12 Brundage observed that in the period between 1234 and 1348 was crucial: “A period of substantial change in both law and society, change that affected the law of sex and marriage, as well as other aspects of human

and manuscripts offer the clearest possible evidence that in this period a European culture with increasingly homogeneous traits was consolidated. In the centuries that followed these testimonies were to become more and more numerous, thereby affirming a continuity of cultural values that prevailed in every part of Europe, even in the aftermath of the profound divisions caused by the Protestant Reformation in the Sixteenth century. The links between law, marriage norms and judicial practice therefore constitute one of the keystones of Western culture, and especially of European culture.¹³ This represents a genuine cultural heritage whose accomplishment is attested both by the codes, which transmitted an increasingly detailed and uniform legislation, and by a legal practice attested by the documentation held in archives all across Europe.

The affirmation of the *ius commune* deeply influenced the modes of conflict resolution as well as the creation of inquisitorial procedures eminently reflecting the social and political transformations that had been occurring in European society since the Middle Ages. This amounted to a veritable epochal revolution, whose influence is still visible today in the values and ideologies concerning the administration of justice. This phenomenon began to take shape concretely in the second half of the twelfth century¹⁴ with the introduction of Roman-canonical procedure, which soon created a bureaucracy made up of judges, lawyers, clerks, notaries and chancellors, and determined the progressive exclusion of lay-people.

This was a complicated procedure, consisting in various phases conducted both orally and in written form (*ordo iudicarius*) (Brundage, 2008, 151-163). Trials were conducted as part of a hierarchical pyramid focused on the instance of appeal (and whose architectural structure is well represented by the Gothic cathedral). The role of the judge (*officium iudicis*) clearly showed the separation of the person from the power exercised. This model quickly spread to the secular courts. As has been noted, the adversarial trial (disputed between two opponents) had the function of absorbing the conflict by substituting its simulation in a forensic feud. However, both the Church and secular authorities felt the need for more incisive procedures so as to be able to interfere in the autonomous organization of local conflicts. And so an investigative procedure soon took shape, promoted and controlled by the court (*processum for inquisitionem*). Entrusted to the autonomous initiative of the judge, this procedure was mainly focused on the interrogation of the suspect (Damaška, 1986).

relationships [...]. Between 1140 and 1234 the development of canon law had been spectacular. It had grown from a rudimentary and confused jumble of conflicting and often obscure regulations into an all-embracing and intellectually sophisticated legal system", (Brundage, 1987, 485).

- 13 James A. Brundage underlines the importance of these factors: "The attitudes and beliefs of canonists and theologians about marriage, divorce, family structure, women's status, human psychology, gender roles, and a host of other controversial topics are woven into the very fabric of our legal system. In recent decades, legislative bodies and courts have begun to eliminate some vestiges of the medieval Christian world view from secular law. Despite this, substantial parts of our medieval religious heritage remain embedded in Western law because they still reflect a broad consensus about the most desirable ways of shaping institutions and controlling human behavior", (Brundage, 1987, 587).
- 14 Although in some contexts we can already identify earlier on the existence of the start of judicial proceedings, despite the persistence of practices and ordeals of the feud. (Davies, Fouracre, 1986).

The two forms of trial spread throughout Europe in the following centuries, influencing both civil and criminal procedure (though at the beginning this distinction was certainly not very clear-cut) and leading to a profound transformation in the management of conflicts and the implementation of social control, one which has continued to our day, though with significant adjustments and changes. These transformations were accompanied by others concerning the legal professions. As it has been observed:

The legal professions, together with the universities, the papacy, the corporation, and constitutional government, are institutions that must rank among the most influential and most enduring creations of the thousand years that constituted the European Middle Ages. They remain with us still. Without them the world as we know it would be a poorer, less interesting place (Brundage, 2008, 492).

These new forms of social control and conflict resolution are attested by the numerous treatises written by medieval jurists and their successors in the modern age (*Practices*), as well as by the vast documentation of trials and verdicts held in the archives of Europe. This is a record of indisputable historical interest, and one that attests first and foremost another fundamental component of the European cultural heritage marked by the spread of the *ius commune* starting from the twelfth century.

The European society that developed in the eleventh and twelfth centuries was characterized by an expanding economy, the growth of cities and the spread of trade. These were all factors that directly or indirectly contributed to the affirmation of the *ius commune*, at the same time as they resorted to an instrument that lent itself to the regulation of an increasingly more complex society. One example is found in the sumptuary laws, which were designed to regulate personal expenses but also had the goal of marking the boundaries between classes. Though these were laws of an explicitly political stamp, they were not without moral and economic implications (Hughes, 1992, 136-158), (Hunt, 1996). Another example is the laws against usury, which had such great weight in the economic life of medieval and modern Europe (Armstrong, 2007, 42-58).

But the Europe of those centuries was also distinguished by cultural and economic exchanges: it established relationships both with the antagonistic Muslim world (as the example of Spain clearly shows) and with the Balkans in the East. The trade carried on by the Venetians and the Genoese in every part of Europe and the Mediterranean area favored the promotion of cultural exchanges and the first forms of international law -- a law more flexible and less technical than that adopted in European cities, but no less an expression of the great transformations taking place in Europe at the time (Spufford, 2000, 155-208). The density of this network of commercial, economic and political relations is attested by the rich documentation housed in the archives of maritime cities such as Venice and Genoa (Beihammer et al., 2008).

Although the connections of art and literature to the rise of the new European legal culture would seem to be less obvious than their relations to the symbolic level, it is clear, as we have said above when comparing the judicial hierarchy to the Gothic cathedrals, that the impressive and meaningful artistic production that grew up, especially in the cultured and refined environment of the city and the courts, shared the same values that

produced the new legal culture and the underlying philosophical thought that inspired it. It should also be remembered that it was precisely political and institutional particularisms that encouraged artistic and literary expression (we need only think of the great Tuscan production). This can be clearly seen, for example, in architecture, sculpture and painting, where cosmopolitan elements have constantly interacted with specific regional or communal features in European history.

The sixteenth-century revival of classical architecture (Palladium) had its origins in the same classical context that produced the *ius commune* (Beltramini, 2009), while it also deeply influenced later stylistic research, interacting significantly with the landscape and the economy. One example of this among many are the Venetian villas where family, political system and economic structure interacted effectively, determining the originality of a landscape that nevertheless took its inspiration from the past.

As previously noted, the innumerable codices and manuscripts dispersed among the archives and libraries of Europe bear witness to the long cultural journey of European civilization. As the curators of a volume dedicated to a first attempt to classify the legal manuscripts housed in European archives and libraries observed, the rediscovery of the medieval legal renaissance took place between the nineteenth and twentieth centuries in a historiographical phase when history and paleography closely interacted (Radding, Ciaralli, 2007). The long journey of this heritage, scattered in many rivulets, has left behind a vast quantity of documents that reveal the complexity of a culture which, despite adjustments and redefinitions, allowed its original matrix to emerge¹⁵.

However, the attention of scholars turned to a broader cultural field, comprehended in what has been called the European Renaissance, so as to highlight the social significance of the spread of codices and manuscripts. Prestige, power and authority were considered significant elements of a culture and society that not only left innumerable testimonies but also interacted with later historical events (Riddy, 2000). During the mediaeval and early modern ages these three elements can be identified in the production of codices and manuscripts by the institutions which held marked public and jurisdictional importance. But they are also an expression of the family units that saw the keeping of personal and family archives as a source of status and prestige (Povolo, Gazzolla, 2012).

In the end, an entire series of considerations regarding the birth and development of a specific European culture from the Middle Ages on, one characterized by a mixture of cosmopolitanism and pluralism, when taken together enable us to identify an authentic 'cultural heritage' still at work today in the social and political fabric of the vast territory whose common reference point is the European Union.

A culture that fits perfectly into a definition in which material and immaterial values overlap, interact and are detectable in many expressions of contemporary European culture. The identification and protection of these values is all the more desirable as an expression of humanism and the Renaissance, which we greatly need today.

15 The 16th *Pratiche* are emblematic of this; on the subject see in particular the studies of Sbriccoli (2009). But these *Pratiche* also reflected a regional law which had initially originated in the Middle Ages. (Birocchi, Mattone, 2006). An example of a *Practice* published and republished to the attention of scholars (Chiodi, Povolo, 2004, 19-170).

ZGODOVINSKA DIMENZIJA EVROPSKE KULTURNE DEDIŠČINE

Claudio POVOLO

Univerza Ca' Foscari v Benetkah, Oddelek za humanistiko, Dorsoduro 3484/D, 30123 Venezia, Italija
e-mail: clpovolo@gmail.com

POVZETEK

Pojem evropske kulturne dediščine je povezan s samo idejo Evrope, z vrednotami, ki so jo zgodovinsko opredeljevale, z dogodki, ki so se razlikovali po posameznih deželah, ki jo geografsko sestavlajo, zaznamovanih tudi z različnimi razvojnimi fazami, ki so obeležile vznik in okrepitev ideje Evropske unije. Močan preplet pluralizma in enotnosti je dejstvo, značilno za evropsko zgodovino že vse od srednjega veka. Politični, gospodarski in verski kontekst srednjeveške družbe se je oblikoval kot pravi preporod, zaznamovan s pluralizmom in močno vzajemno povezanostjo in sodelovanjem med tedanjimi središči, ki so predstavljali različne okoljske realnosti. Kasneje uveljavitev nacionalnih držav lahko v tem kontekstu namreč razumemo kot začasen pojav, ki bo presežen z oblikovanjem Evropske unije kot izrazom udejanjanja novih političnih in kulturnih sprememb.

Srednjeveški pravni sistem je namreč v zapleteni politični realnosti tistega obdobja uspel ponuditi izjemno sintezo koncepta pluralizma in univerzalizma, ki je tudi v ospredju ideje sodobne združene Evrope. To je bil sistem, ki je ustvaril univerzalistično krščansko kulturno enotnost in ki se je neločljivo navezal na idejo o Evropi kot kulturnem in duhovnem fenomenu. Na potrebe tedanje družbe, ki je zahtevala ustreznejši odziv na družbene spremembe, so se odzvale predvsem pravne šole in univerze, saj so sprožile intenzivno produkcijo kodeksov in rokopisov, ki so odločilno pripomogli h kulturnim izmenjavam, višanju izobrazbene ravni prebivalstva in širjenju splošne občutljivosti do javnih zadev. Take primere lahko uzremo npr. v razširjanju enotnih pravosodnih postopkov kot tudi v uveljavitvi doktrine družinskega prava, ki je imelo v Evropi velik kulturni vpliv v naslednjih stoletjih, kažejo pa se celo na različnih področjih umetnosti, arhitektуре in književnosti. Vse te vidike je moč še danes prepoznati v tem, kar opredeljujemo kot pristno evropsko kulturno dediščino.

Ključne besede: kodeksi, rokopisi, evropska dediščina, obče pravo, pluralizem, kozmopolitizem

BIBLIOGRAPHY

Armstrong, L. (2007): *Law, Ethics and Economy. Gerard of Siena and Giovanni d'Andrea on Usury*. In: Armstrong, L., Elbl, I. & M. Elbl (eds.): *Money, markets and trade in late medieval Europe*. Leiden, Brill. 42–58.

Beihammer, A. D., Parani, M. G. & C. D. Schabel (eds.) (2008): *Diplomatics in the Eastern Mediterranean 1000-15000. Aspects of cross-cultural communication*. Leiden, Brill.

Bellomo, M. (1995): *The common legal past of Europe, 1000-1800*. Washington, D.C., The Catholic University of America Press.

Beltramini, G. (ed.) (2009): *Andrea Palladio and the Architecture of Battle. With the Unpublished edition of Polybius' Histories*. Venice, Marsilio.

Birocchi, I. & A. Mattone (eds.) (2006): *Il diritto patrio tra diritto comune e codificazione (secoli XVI-XIX)*. Rome, Viella.

Blake, J. (2009): *Unesco's 2003 Convention on Intangible Heritage. The Implications of Community Involvement in 'Safeguarding'*. In: Smith, L. & N. Akagawa (eds.): *Intangible heritage*. London-New York, Routledge, 45-73.

Brundage, J. A. (1987): *Law, Sex, and Christian Society in Medieval Europe*. Chicago-London, University of Chicago Press.

Brundage, J. A. (2008): *The Medieval Origins of the Legal Profession. Canonists, civilians and courts*. Chicago-London, University of Chicago Press.

Cavanna, A. (1982): *Storia del diritto moderno in Europa. Le fonti e il pensiero giuridico*. Milano, Guiffré editore.

Chiodi, G. & C. Povolo: (eds.) (2004): *L'amministrazione della giustizia penale nella Repubblica di Venezia: da Lorenzo Priori ai pratici settecenteschi*. Verona, Cierre.

Damaška, M. R. (1986): *The Faces of Justice and State Authority*. New Haven, Yale University Press.

Davies, W., & P. Fouracre (eds.) (1986): *The Settlements of Disputes in Early Medieval Europe*. New York, Cambridge University Press.

During, R. (2011): *European Heritage Discourses. A Matter of Identity Construction?* In: During, R. (ed.): *Cultural heritage and identity politics*. Hoboken, Silk Road Research Foundation, 17-30.

Fioravanti, M. (2002): *Lo Stato Moderno in Europa. Istituzioni e Diritto*. Bari, Laterza.

Friedman, L. M. (1975): *The Legal System. A social science perspective*. New York, Russel Sage Foundation.

Hoeflich, M. H. & J. M. Grabher (2008): *The Establishment of Normative Legal Texts. The Beginning of the Ius Commune*. In: Hartmann, W. & K. Pennington (eds.): *The History of Medieval Canon Law in the Classical Period, 1140-1234. From Gratian to the Decretals of Pope Gregory IX*. Washington D. C., CUA Press, 1-21.

Hughes, D.O. (1992): *Regulating Women's Fashions*. In: C. Klapish-Zuber (ed.): *A History of Women in the West. Silence of the Middle Ages*. vol. 2. Cambridge, Mass.-London, 136-158.

Hunt, A. (1996): *Governance of the Consuming Passions. A History of Sumptuary Law*. New York, Macmillan Press.

Jordan, W. C. (2002): *"Europe" in the Middle Ages*. In: Pagden, A. (ed.): *The idea of Europe from Antiquity to the European Union*. Cambridge, Cambridge University Press, 73-90.

Mitterauer, M. (2010): *Why Europe? The Medieval Origins of Its Special Path*. Chicago-London, The University of Chicago Press.

Pagden, A. (2002): Introduction. In: Pagden, A. (ed.): *The Idea of Europe from Antiquity to the European Union*. Cambridge, Cambridge University Press, 1-32.

Padgen, A. (ed.) (2002): *The Idea of Europe from Antiquity to the European Union*. Cambridge, Cambridge University Press.

Povolo, C. & M. Gazzolla (eds.) (2012): *Immagini di distinzione. Gli archivi della famiglia Trissino*. Vicenza, Biblioteca Civica Bertoliana.

Radding, C. M. & A. Ciaralli (eds.) (2007): *The Corpus iuris civilis in the Middle Ages. Manuscripts and Transmission From the Sixth Century to the Jurist Revival*. Leiden, Brill.

Răduan, L. (2010): *At Europe's Border. Medieval Towns in the Romanian Principalities*. Leiden, Brill.

Riddy, F. (ed.) (2000): *Prestige, authority and power in late medieval manuscripts and texts*. Woodbridge-Rochester, York Medieval Press.

Ruggie, J. G. (2003): *Constructing the World Polity: Essays on International Institutionalization*. London-New York, Routledge.

Rusalić, D. (2009): *Making the Intangible Tangible: The New Interface of Cultural Heritage*. Beograd, Etnografski institut SANU.

Sbriccoli, M (2009): *Storia del diritto penale e della giustizia. Scritti editi e inediti (1972-2007)*. Milan, Giuffrè Editore.

Smith, L. & N. Akagawa (eds.) (2009): *Intangible heritage*. London-New York, Routledge.

Spufford, P. (2000): *Trade in Fourteenth Century Europe*. In: Jones, M. (ed.): *The New Cambridge Medieval History*, VI, c. 1300-1415. Cambridge, Cambridge University Press. 115–208.

Stein, P. (1984): *Legal institutions. The Development of Dispute Settlements*, London, Butterworth.

Stein, P. (2004): *Roman Law in European history*. Cambridge, Cambridge University Press.

Storey, J. (2003): *Inventing Popular Culture: From folklore to globalization*. Oxford, Blackwell Publishing Ltd.

Van Assche, K. (2011): *Preface: Heritage renaissance*. In: During, R. (ed.): *Cultural heritage and identity politics*. Hoboken, Silk Road Research Foundation, 7–9. (7-12?)

Van Caenegem, R. C. (1987): *Judges, Legislators and Professors: Chapters in European Legal History*. Cambridge, Cambridge University Press.

Vergier, J. (2000): *The Universities*. In: Jones, M. (ed.): *The New Cambridge Medieval History*, VI, c. 1300-1415. Cambridge, Cambridge University Press. 78–80.

Waever, O. (1993): *Europe Since 1945: Crisis to Renewal*. In: Wilson, K., Van der Dussen, J. (eds.): *The History of the Idea of Europe*. London-New York, Routledge, 166-219.

Wilson, K., Van der Dussen, J. (eds.) (1993): *The history of the idea of Europe*. London-New York, Routledge.