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Inviting all humanity to an elite club? Understanding tensions in UNESCO's global heritage regimes through the lens of a typology of goods

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ABSTRACT

This paper aims to reflect on heritage diplomacy by analysing the nature of tensions in Global Heritage Regimes (GHRs) built around the World Heritage Convention and the Intangible Heritage Convention. Combining regime theory with Ostroms' typology of goods, we claim that the process of transforming the abstract idea of 'Heritage of Humanity' (HoH) into an outcome in the form of a heritage list needs to mobilise heritage *as* diplomacy and also is the result of heritage *as* diplomacy. At the same time, the transformation generates tension based on the experienced delusion of (1) the expectations built upon the inclusive idea of the 'Heritage of Humanity' (public good) and (2) the exclusive character of heritage lists (club goods). We claim that this 'Inclusion-Exclusion Tension' (IET) is an inherent element of global heritage regime design and as such needs to be managed through diplomatic efforts.

Introduction

The most interesting 'beauty contests' in international relations happen twice a year in different parts of our globe. The choices aimed to 'bring out the best in our shared Humanity' – as defined by the official United Nations Education, Science and Culture Organisation (UNESCO) motto – are actually made by quite a small international jury composed of state delegates who are charged with duly representing all regions of the world. They must decide whether the 'beauty' criteria are met by the candidates nominated by states themselves following often long debates at the national level regarding the choice of a proper 'representative' with chances for final success in the global contest. The stakes are high: to keep the contest internationally watched with bated breath and to be able to empathise with the true emotions and joyous outcries of 'the winners', the contest must keep its highest standards. The candidates are thus subject to strict control, with many criteria to be met before being allowed to enter the elite club of the internationally acknowledged 'Heritage of Humanity' (HoH)[1].

The 'beauty contests' concern decisions on inscribing heritage elements into the magic lists of global status (Askew 2010): the UNESCO World Heritage List (WH list) and the UNESCO Representative List of the Intangible Cultural Heritage of Humanity (ICH list)[2]. The first one operates on the basis of the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage (the 1972 Convention, UNESCO 1972) and the second on the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (the 2003 Convention, UNESCO 2003). Both conventions, thanks to their enormous popularity and subsequent global

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ratification, established a solid ground for the emergence of Global Heritage Regimes (GHRs, see more in the section below). Both regimes: for the protection of tangible heritage as well as for the safeguarding of the intangible heritage, are founded on the broader background principle: the need to protect, acknowledge and celebrate 'Heritage of Humanity'. Therefore, the main reason for the existence of GHRs is to provide legal, administrative, political and ideational frameworks to govern the very idea of HoH. The regimes 'invite' everyone to participate in the commendation of human culture (Francioni 2004). However, at the core of these two seemingly welcoming regimes lie very exclusive processes, controlled by small groups of actors: Intergovernmental Committees, the 'producers' of heritage lists. GHRs rely on these exclusive processes, establishing listing mechanisms to provide cultural elements representing the idea of HoH in the form of the World Heritage List or the Representative List of the Intangible Cultural Heritage of Humanity – as privileged categories (Meskell 2013). Thus, we are confronted with the main paradox of GHRs: that they aspire to be global and embrace Humanity but to do so, they invite only particular members to an elite club: the club of countries that benefit from having their heritage elements inscribed on global heritage lists (the 'beneficiaries').

Overview of the main argument

The paradox: the concept of 'everyone's heritage' in the form of HoH *versus* its outcome in the form of an entry into a heritage list leads to an inevitable tension in GHR design. We labelled it the Inclusion-Exclusion Tension (IET). To anyone familiar with UNESCO, this is a fairly obvious point to make, and yet it has not been articulated as precisely and clearly as it deserves to be; especially when we observe that the most important discussions around tensions in GHRs concern the allegedly-evil role of 'the political'. These discussions attribute the 'politicisation' of decision-making processes regarding heritage lists to be the source of most (if not all) tensions in the regime. The very process of politicisation in GHRs has already been extensively researched and defined as driven by countries' political influence and national strategic interests, namely, international recognition, prestige, and the associated potential economic boost and tourism revenue (Bertacchini et al. 2016). In heritage research discourse, politicisation is widely seen as a problem because it challenges the very idea behind the establishment of the GHRs, often recalled as 'the spirit of the Conventions' which is to safeguard HoH instead of 'making deals' about inscriptions. Consequently, the promoted solution is to avoid 'the political' at all costs (Brumann 2021, 20) and respect and follow the allegedly apolitical experts' recommendations on what to inscribe or not, which are made to the Intergovernmental Committees by the Evaluation Body in the case of the 2003 Convention and by advisory bodies such as ICOMOS (cultural elements) and IUCN (natural elements) in the case of the 1972 Convention.

We claim in this paper, however, that politicisation is a product of the Inclusion-Exclusion Tension (IET) and thus it is impossible to manage IET purely on the administrative or expert level. Therefore, IET is inevitably transmitted to the political level; the one on which the grounding idea of the regime – to protect the heritage of global significance to humanity – was born and formed. This triggers processes that could be labelled, following Winter's terminology, heritage *as* diplomacy.

Winter introduced the definition of heritage diplomacy as a 'set of processes whereby cultural and natural pasts shared between and across nations become subject to exchanges, collaborations and forms of cooperative governance' (Winter 2015, 1007). He also made a novel distinction between heritage *in* diplomacy and heritage *as* diplomacy (Winter 2015, 998, 1007). The former describes situations in which heritage is used as one of many elements in international relations between states, and the latter describes situations in which heritage is mobilised to initiate relations between states based on the language of shared heritage and concepts such as 'building bridges' (Winter 2015, 1010). Winter showed that institutions like the World Heritage Committee work as platforms

where new kinds of interaction can be developed around the common goal of preserving the 'common heritage of mankind'.

Thus, we would like to add to the existing literature on the observed tensions and frictions in heritage regimes (e.g. Bendix, Eggert, and Peselmann 2013; Adell et al. 2015; Brumann and Berliner 2016; Meskell 2018; Brumann 2021) and to Winter's paper from 2015 an analysis, which explains why global heritage regimes not only *generate* heritage *as* diplomacy but also *result* from heritage *as* diplomacy – because they were established thanks to the employment of the concept of shared, common heritage that shall be protected for all of humanity.

Current literature on GHRs tends to overlook the ideational and diplomatic origins of these regimes and instead engages mainly with the logic and politics of existing institutional settings. Hence, we want to contribute to Winter's perspective on heritage diplomacy by explaining how and why heritage *as* diplomacy is bound to cultural internationalism as well as how and why heritage *as* diplomacy is a focal element of GHR design. We thus also claim that heritage *as* diplomacy is performed mainly at the international level of *multilateral* relations, as it is only on this level that the appeals to 'shared heritage', HoH, and common heritage can be formulated and transformed into diplomatic actions (they are performed 'across nations'). On the other hand, heritage *in* diplomacy is more easily recognised in *bilateral* relations (it is mainly performed 'between nations') and often revolves around conservation aid, whereby one country exports assistance to another (Winter 2015, 1009). We need to note, however, after Winter, that these are not necessarily mutually exclusive categories (Winter 2015, 1007).

We do not engage here in the discussion on the nature of inscribed heritage elements themselves. Instead, we evaluate the idea of HoH that lies behind the establishment of the GHRs and the outcome of these regimes (heritage lists) against Ostrom's (1977) typology of goods. Thus, we approach GHRs as regimes established to govern the idea of protecting (safeguarding) the heritage of Humanity by providing instruments to identify, acknowledge, and protect manifestations of the idea of HoH in the form of inscriptions on the UNESCO heritage lists.

Thus, we aim to add to current heritage discourse the elements of institutional economics (limited mainly to typology of goods) that have not been applied yet by heritage scholars to the international level, link them with theoretical literature on international regimes, and explain how this is relevant for understanding the fundamental tension in GHRs. We define it as Inclusion-Exclusion Tension (IET) that is based on often contradictory needs and interests of state and non-state actors built around the idea of HoH understood as a public good and heritage lists constituting what is practically a club good; one that benefits only a limited group of states.

To do so, we first present the idea of 'Heritage of Humanity' (HoH) and explain how the idea of HoH was fundamental for establishing GHRs. Secondly, we briefly introduce the conceptual background: theories of international regimes as a framework allowing an abstract idea – Heritage of Humanity – to be transformed into its concrete manifestations: the heritage lists themselves. Moreover, we present the processes surrounding heritage lists as forming crucial, 'listing sub-regimes' in the GHRs.[3] Thirdly, we apply a typology of goods to explore the nature of the idea of HoH as a public good and the nature of heritage lists as club goods. Finally, we show how the Inclusion-Exclusion Tension manifests itself using the examples of the debates on geographical imbalance and the discussion about 'participatory approach'.

The structure of the article and our reasoning are presented in Figure 1.

We base our research on the analysis of the ideational origins and the current functioning of the complex institutional framework of GHRs based on the UNESCO (1972) Convention and 2003 Convention as well as on long-term participation in those Conventions' organs, expert meetings, and the experience gained from the membership in the official country delegations (2015–2022 in the case of the 2003 Convention; a long-term member [2007–2019] of the delegation was consulted in regard to the 1972 Convention). It helped to develop our sensitivity towards the question of the origins of the experienced tensions in the regime.
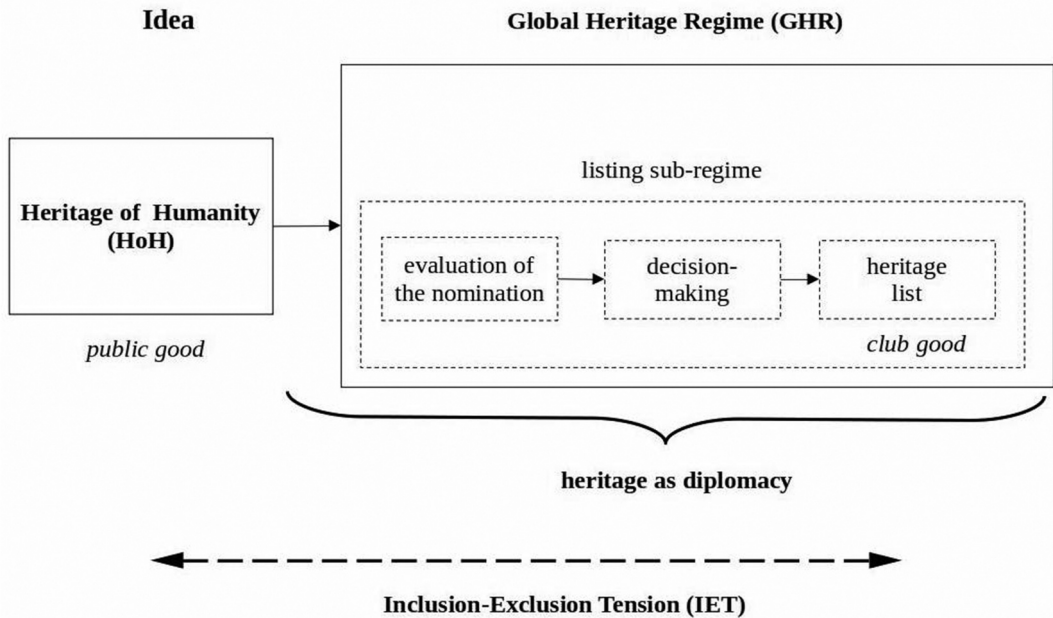
Figure 1. Global heritage regime: origins, selected processes and outcomes. Heritage as diplomacy is presented here as a result of international efforts to establish a regime which allows governing an inclusive idea of the 'Heritage of Humanity' (a public good). The final and concrete outcome of the most important processes taking place in the regime (encapsulated in the listing sub-regime) is an exclusive heritage list (a club good). Thus, the main tension in the regime is identified as 'Inclusion-Exclusion Tension'. By Schreiber and Pieliński.

The idea of 'Heritage of Humanity'

The concept of cultural heritage as belonging to all mankind started to emerge in the Enlightenment, and developed as a reply to romantic nationalism, with the first collective initiatives to protect endangered monuments in one country for the sake of humanity starting in the nineteenth century (Gillman 2010, 41–62, Winter 2015). And thus, ever since its emergence, it has become evident that hardly any concept has brought as much intensive debate as the phenomenon of Heritage of Humanity (labelled also as 'common heritage of mankind', or 'shared heritage') (Baslar 1998). Decades later, this idea was framed by John Merryman as 'cultural internationalism' that considers cultural property, that is, objects of artistic, archaeological, ethnological, or historical interest 'as components of a common human culture, whatever their places of origin or present location, independent of property rights or national jurisdiction' (Merryman 1986).

It is often overlooked however that the atrocities of the Second World War also contributed strongly to this process, not only due to the damage and destruction of tangible cultural property but also because of the need to condemn Nazi theories of racial segregation (Proctor 1990). It is worth noting that 11 December 1946 saw a unanimous adoption of Resolution no. 96/I by the UN General Assembly (UNGA 1946), with the aim to commence works on the 1948 Act which was later to be known as the Genocide Convention (UNGA 1948). The first words of the Resolution, penned by Raphael Lemkin, the author of the term 'genocide', read as follows:

> Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings; *such denial of the right of existence shocks the conscience of mankind, results in great losses to humanity in the form of cultural and other contributions represented by these human groups*, and is contrary to moral law and to the spirit and aims of the United Nations (all emphasis added).

It was probably the first international framing of 'the conscience of mankind' shocked by 'losses of cultural contributions of any human group' as resulting in 'great losses to humanity'. In the part of the chapter on *Axis Rule in Occupied Europe* (Lemkin 1944), and devoted to genocide, Lemkin formulated important objectives which allow us to understand how 'national' started to be linked with 'the international', 'the world', and 'humanity':

> The world represents only so much culture and intellectual vigour as are created by its component national groups. [...] *The destruction of a nation, therefore, results in the loss of its future contributions to the world*. [...] Among the basic features which have marked progress in civilization are the *respect for and appreciation of the national characteristics and qualities contributed to world culture by the different nations* (Lemkin 1944, 91; all emphasis added).

Thus, 'national cultures' are framed as constituting a sort of collective that finally forms 'world culture': 'Our whole heritage is a product of the contributions of all nations' wrote Lemkin two years later (Lemkin 1946, 228).

Subsequently, the idea of a shared, common heritage of mankind became quickly rooted in legal acts that were fundamental for the formation of the current body of international cultural heritage law.[4] The Hague Convention for the Protection of Cultural Property in the Event of Armed conflict of 1954 states in the preamble that 'damage to cultural property belonging to any people whatsoever means damage *to the cultural heritage of all mankind*'. In 1960, the Director-General of UNESCO, Vittorio Veronese, launched a campaign to be coordinated by UNESCO to protect monuments of Nubia from their destruction because of the planned construction of the Aswan Dam (Meskell 2018, 28–58). He said: 'These monuments . . . do not belong solely to the countries who hold them in trust. The whole world has the right to see them endure. They are part of a common heritage. . .' (after Brumann 2021, 43).

It is thus not surprising at all that the 1972 Convention follows this reasoning already in the second recital of the preamble by: 'considering that deterioration or disappearance of *any item* of the cultural or natural heritage constitutes *a harmful impoverishment of the heritage of all the nations of the world*' and by 'considering that the existing international conventions, recommendations and resolutions concerning cultural and natural property *demonstrate the importance, for all the peoples of the world, of safeguarding this unique and irreplaceable property, to whatever people it may belong*'. It is here that we identify the roots of the experienced paradox which we label Inclusion-Exclusion Tension: while recognising the significance of all heritage to all the peoples of the world, the 1972 Convention also claims that only '*parts of the cultural or natural heritage are of outstanding interest* and therefore need to be preserved as part of *the world heritage of mankind as a whole*'.

The 2003 Convention evokes a similar spirit by 'being aware of the *universal will* and the *common concern* to safeguard the intangible cultural heritage *of humanity*' (second recital), and 'considering the invaluable role of the intangible cultural heritage *as a factor in bringing human beings closer together* and *ensuring exchange and understanding among them* (the last recital in the preamble, all emphasis added). Despite being silent about 'parts of intangible cultural heritage' that actually can only appear on the ICH List, the 2003 Convention followed the path of the 1972 Convention by establishing a similar listing mechanism; thus, a selective and exclusive system. In other words, the listing system, no matter the context, communicates that every heritage element is important but some of them are more important for humanity than others and only they 'deserve' to be inscribed on heritage lists. But how does one assess that? Who benefits from this assessment? How to establish a regime that would help to govern this captivating but still-quite-abstract idea of the 'Heritage of Humanity'? UNESCO proposed an answer to those questions.

UNESCO and Global Heritage Regimes

UNESCO is an international organisation that started operating in 1946 with the goal of 'building peace in the minds of men and women' and helping to set standards in the area of science, culture

and education to be implemented all around the globe by its 193 current member states. UNESCO instruments establish common rules for global cooperation in these three areas in the form of agreements between states: legally binding, such as conventions (so-called hard law); and non-legally binding but creating a common understanding and enhancement for more binding endeavours, namely declarations and recommendations (the so-called soft-law instruments). The more universal an instrument's implementation, the more successful it is considered.

The 1972 and 2003 Conventions

UNESCO has been instrumental in establishing two Global Heritage Regimes (GHRs). In 1972, the General Conference of UNESCO adopted the 1972 Convention. More than 30 years later, the same organ adopted the 2003 Convention. Both conventions introduced international measures to identify, protect, safeguard and preserve cultural heritage (tangible and intangible, respectively) around the world. Both conventions are currently embedded in the complex institutional environment that they helped to create: heritage funds, capacity-building programmes, international assistance procedures, non-governmental organisations' and indigenous peoples' forums, accreditation systems, heritage workshops, evaluation and audit actions, ethical principles, guidelines regarding disaster risk reduction and emergencies, etc. (Francioni 2008; Blake and Lixinski 2020).

The 1972 Convention is universally ratified (194 States Parties) and aims to protect tangible elements of cultural heritage such as monuments, groups of buildings, sites (Article 1 of the 1972 Convention), as well as natural features, natural sites, and geological and physiographical formations (Article 2). The 2003 Convention is almost universally ratified (180 States Parties) and focuses on safeguarding intangible elements of cultural heritage transmitted from generation to generation, such as oral traditions and expressions (including language as a vehicle of intangible cultural heritage), performing arts, social practices, rituals and festive events, knowledge and practices concerning nature and the universe, and traditional craftsmanship (Article 2 of the 2003 Convention).

Both GHRs share a similar governance structure and listing system. All States-Parties are organised in the form of General Assemblies and Intergovernmental Committees. General Assemblies (Article 8 of the 1972 Convention, Article 4 of the 2003 Convention) consists of all State-Parties and take general decisions on developments surrounding the conventions. Intergovernmental Committees (Article 8 of the 1972 Convention, Article 5 of the 2003 Convention) are smaller bodies composed on the basis of equitable geographical representation (21 Members in case of the 1972 Convention and 24 Members in case of the 2003 Convention) and responsible mainly for taking decisions on new inscriptions to heritage lists. Both organs in both conventions have adopted their own Rules of Procedure: codes of conduct that they follow during their meetings. Details regarding the implementation of both conventions are set in operational documents to these conventions (UNESCO 2020, UNESCO 2021b).

States Parties to both conventions are encouraged to submit nomination files containing descriptions of their tangible and intangible heritage elements either to the World Heritage List (as of July 2021 having 1154 inscriptions from 167 countries) or to the Representative List of the Intangible Cultural Heritage of Humanity (as of December 2021 encompassing 529 elements across 135 countries, in fact representing the local or national communities that govern such elements). The characteristics and mechanisms described above allow the UNESCO heritage conventions to be defined as cornerstones for the establishment of GHRs.

Global Heritage Regimes

When framing our paper, we follow the discussion on the heritage regimes offered by Bendix, Eggert, and Peselmann (2013, 11), and connect it with the definition proposed by Krasner (1983). It is important to note, however, that regime theory, discussed widely in the International Relations scholarship since the 1980s (Krasner 1983) has different strains, including recent conceptualisations

of regime complex and complexity (i.a., Rittberger and Mayer 1995; Hasenclever, Mayer, and Rittberger 1997; Keohane and Victor 2011; Young 2011).

International regimes are formed through negotiations among actors on an international level. States and non-state actors (including experts) cooperate and negotiate together. To ensure the enforcement of negotiated rules and norms, new institutions are formed. A regime thus creates a convergence of expectations, establishes standards of behaviour, and cultivates a general sense of obligation (Bradford 2007).

Global Heritage Regimes are defined in this paper as *global institutional systems built around the 1972 and 2003 UNESCO Conventions, consisting of a set of explicit and implicit principles, norms, rules and decision-making procedures developed with the main aim to govern the idea of Heritage of Humanity, around which states' and non-state actors' expectations and interests are built and concerning which actions are taken*.

Those norms and rules are to some extent codified in the two conventions and their operational documents, but they are also expressed in soft-law instruments and informal rules developed around the two formal documents. Thus, we propose to consider GHRs as consisting of the following: (1) legal texts (the UNESCO 1972, 2003 Conventions and Operational Directives or Operational Guidelines that follow the Conventions as well as Rules of Procedure); (2) international bureaucratic apparatus (UNESCO heritage conventions Secretariats: World Heritage Centre and Living Heritage Entity and UNESCO as such); (3) state delegations (diplomats and experts assigned to represent states); non-state actors (NGOs, indigenous peoples, experts); (4) sets of principles (embedded in soft-law instruments, e.g. Ethical Principles but also very loosely interpreted through the magic formula of 'the spirit of the Convention'); as well as (5) expectations and interests associated with concrete cases of enforcing principles, norms, rules, and decision-making procedures that guide the actions of all actors involved.

The main function of these complex GHRs is to celebrate, acknowledge, and preserve the heritage elements regarded as manifestations of the idea of the Heritage of Humanity. Thus, the main objective of both GHRs is to govern the idea of HoH. The more universally implemented, the more successful, meaningful and 'global' the regimes are considered. Inside each GHR, we can identify its constitutive parts that have established their specific principles, norms, rules and decision-making procedures. We propose to label them as sub-regimes, including, among others, the administrative sub-regime associated with UNESCO (embracing administrative and employment rules), and the non-governmental sub-regime where non-state actors discuss, negotiate and participate in preserving human heritage. However, the most important sub-regime, rooted at the heart of each GHR, is the sub-regime built around the UNESCO heritage lists.

Listing sub-regimes

UNESCO GHRs share the 'blessing' that led to their extreme popularity (UNESCO 2021a): the UNESCO heritage lists; albeit a blessing also considered a 'curse', bringing rivalry and cultural hierarchy between states (Románková-Kuminková 2017).

Both listing sub-regimes embedded in GHRs aim to fulfil three main tasks: *select* heritage elements representing the idea of Heritage of Humanity, *share* information about these elements, and *safeguard* them through diverse means and efforts. By selecting heritage elements, the international community establishes boundaries on what might be considered as representing the idea of HoH. Sharing information about this choice subsequently results in incredible recognition and prestige, and in an increase in the state's soft power (Schreiber 2017). What follows is an economic boost in the region where heritage elements carry the 'UNESCO label' (Bortolotto 2021). Safeguarding of UNESCO-labelled heritage elements involves international mechanisms of control and periodic reporting on the status of inscriptions.

Generally, states want to have as many inscriptions as possible; they 'rush to inscribe' (Meskell 2012) pushing for positive decisions even if their nominations do not meet the required criteria. On

the other hand, they want to 'keep the credibility' of the lists; namely, their value and significance. To maintain the high status of UNESCO lists, however, states retain limits and criteria instead of opening the lists to any heritage elements that they could imagine or wish to have inscribed. Thus, what is needed for inscription are gatekeeping mechanisms in the form of criteria to be met. They are defined under abbreviations R.1 to R.5 in the case of the 2003 Convention (UNESCO 2020) and known as criteria I-X in the case of the 1972 Convention (UNESCO 2021b). In the latter, these must be accompanied by an assessment of whether a nominated element meets the conditions of integrity, authenticity (only in the case of cultural sites), and has an adequate protection and management system. It all confirms that the site is of an outstanding universal value (OUV). An annual ceiling of possible inscriptions per year, relating to the limited duration of the meetings and limited human and financial resources available to process the nominations, is also introduced and heavily negotiated annually (especially in the case of the 2003 Convention states always push for more nominations to be evaluated). Having these criteria enforced and carefully examined by the experts in the evaluation bodies (the 2003 Convention) or advisory organisations (ICOMOS and IUCN in the 1972 Convention) and – ultimately – by Intergovernmental Committees makes the lists a limited and valuable resource accessible only to those actors that can meet the established criteria. If according to the bodies responsible for the examination of the nominations, the criteria are not met, the space for heritage diplomacy opens again. This creates tensions that we describe in the final section of this paper.

We explain the listing sub-regimes as spaces and relations where 'we should look if we are to find the diplomatic' (Winter 2015, 998) on the one hand, and on the other as spaces and relations whose existence is possible only because of 'the diplomatic'. So, 'the diplomatic' is not only *to be found* in these spaces and relations; 'diplomatic' is the essential driving force through which these spaces and relations *were established*. Thus, we claim here that the concept of heritage *as* diplomacy is not only to be understood as a situation when heritage is a source of international relations based on the mobilisation of the concept of shared heritage, such as HoH for diplomatic goals (Winter 2015, 1010). We believe that the appearance of an idea of HoH is also the exact *reason* for the mere existence of heritage *as* diplomacy efforts that were undertaken to establish a GHR as a way to govern the idea of HoH. It is because only *via* internationally designed and channelled discussions we can transform the abstract idea of 'what we share' into an approachable, concretely defined collection of tangible sites and intangible traditions.

Typology of goods

The goods typology applied in this paper comes from institutional economics. The interest in institutions and institutional change in modern economics has significantly developed into what is labelled as 'new' institutional economics (NIE) (Rutherford 1994, 1). It reinvigorated research on institutions in the last decades of the 20th century.

Institutional economics is interested in the relationship between economic activities and social rules and norms, and the interactions between human activities, technology, and institutions. Those interests overlap with Elinor and Vincent Ostroms' work on collective action problems. Their research programme, known as 'the Bloomington School of Institutional Analysis', is linked with NIE (McGinnis 2021). The typology of goods developed by the Ostroms reflects an analytical sensitivity towards relations between a good or a resource and its social surroundings. They grasped the complexities behind the rules associated with different types of goods; complexities which, as Rayamajhee and Paniagua (2021, 73–75) showed, other prominent economists struggled to articulate.

The discussion on the nature of goods started with Paul Samuelson's distinction between private consumption goods and collective consumption goods (Rayamajhee and Paniagua 2021, 73–75). Whereas the consumption of private goods is based on rivalry, the former can be consumed jointly. Richard Musgrave, in turn, identified another important characteristic of goods: excludability. In the case of some goods, it is easy to exclude non-contributors from benefiting from a good, while in the

Table 1. The Ostroms' typology of goods. *Based on*: Ostrom (2005), 24.

	Low subtractability	High subtractability
Low excludability	Public goods	Common-pool resources
High excludability	Club goods	Private goods

case of others it is almost impossible. The next step in advancing the reflection on the nature of goods was made by James M. Buchanan, who developed the theory of clubs. Consumed jointly, club goods are placed between private goods and public goods, but non-contributors are easily excluded from their consumption (ibidem).

Vincent and Elinor Ostrom's contribution to the discussion on the nature of goods lies primarily in the intersection of two dimensions analysed separately by previous authors: excludability and subtractability.

> Exclusion relates to the difficulty of restricting those who benefit from the provision of a good or a service. Subtractability refers to the extent to which one individual's use subtracts from the availability of a good or service for consumption by others

(Ostrom 2005, 23). The typology brought a much-needed level of abstraction into the study of resource management (see Table 1).

The goods typology has also been implemented in the field of heritage studies (e.g. Cominelli 2011). It was used to increase our understanding of the challenges associated with governing diverse cultural heritage elements (which is, however, not the aim of this paper). The typology was also extended to incorporate purely abstract goods or resources, such as knowledge commons (Hess and Ostrom 2003).

The idea of 'Heritage of Humanity' as a public good

Public goods share two characteristics: it is relatively difficult to exclude anyone from consuming those goods (low excludability) and, at the same time, those goods can be enjoyed jointly. The fact that one person uses a good does not reduce the quality or quantity of the good available to another person (low subtractability). Ostrom provides the example of peace as a public good (Ostrom 2005, 23). If there is peace in a country, all its inhabitants enjoy it. It is impossible to exclude anyone from the benefit of the lack of war in the country. Furthermore, peace does not deteriorate with each additional person who enjoys it. Other public goods include, for example, the air in the open space, radio, or Wikipedia. The last example follows Elinor Ostrom's understanding of public goods as she, together with Charlotte Hess, indicated that ideas or knowledge have characteristics of public goods (Hess and Ostrom 2003, 120). Ideas are contained in material artefacts: books, pictures, or sculptures, and they could be conceptualised as 'nonphysical flow units' (Hess and Ostrom 2003, 120). They have a relatively low level of subtractability: 'one person's use of an idea does not subtract from the corpus of that idea for use by others'. At the same time, ideas can have a very different level of exclusiveness – we can share our ideas with everyone or be very secretive. Considering those observations, ideas can be seen in some situations as club goods – when they are shared only between a closed group of people – or as public goods: when they are widely and openly distributed. Therefore, because the idea of HoH is a grounding one for GHRs and penetrates almost all discussions held by Intergovernmental Committees responsible for making decisions on the inscriptions to heritage lists, it should be seen as a public good.

The idea of HoH is thus a public good characterised by low excludability and low subtractability. The idea of HoH is therefore inclusive (performs low excludability); not only because it is publicly shared but also because it introduces Humanity as a subject itself, understood as whole mankind; a collective of *all* human beings. This is not an obvious and ordinary assumption; rather, it is a moral reply to the experienced atrocities fuelled by racist discourse. Thus, the concept of 'Humanity' also

implies moral virtues such as compassion, altruism, and benevolence (Coupland 2001). The abstract concept of the HoH invites contemporary understanding that every human being belongs to humanity and so, everyone contributes to the creation of 'Heritage of Humanity'. It also implies the very existence of HoH: that may be identified, protected, and acknowledged. It is therefore by definition non-subtractable because it is constantly recreated as long as Humanity exists on planet Earth.

The analysis of summary records from the discussions held by Intergovernmental Committees confirms the dilemmas and practical constraints in enforcing the idea of HoH. Already at the beginning of the operation of the 2003 Convention, during the fourth meeting of the Intangible Heritage Intergovernmental Committee in Abu Dhabi in 2009, the delegation of Morocco raised the point of representativeness from an anthropological point of view, noting that '*everything in culture is important as a testament to humanity irrespective of the form of the particular ICH element*'. The delegation then raised a question: Do we want a list of representative examples of national ICH or *a near-exhaustive inventory of the intangible elements of human culture*?' (UNESCO 2009, 55). During the same session, the delegation of the United Arab Emirates noted: 'If the List is to be completely open, that creates a risk of geographical imbalance. Geographical balance is not simply a question of fairness but should reflect *the spirit of the Convention*, which is to safeguard the ICH of humanity (. . .)' The delegation recalled that the RL is not an open register, nor an inventory of all the ICH elements of humanity, but a list which concerns certain elements that participate in the promotion of ICH (UNESCO 2009, 59). This statement evoked a reply from Estonia: 'The spirit and mission of this Convention are to *safeguard and celebrate the cultural diversity of humanity*, the delegation noted, and it follows that the high priority of its collective work is to realise this task at once idealistic and also overwhelming' (UNESCO 2009, 83). In Baku, the delegation of Nicaragua 'felt that the Committee could not sacrifice the *desire* of various countries, peoples and communities *to have their cultural expressions included* as part of the intangible cultural heritage of humanity' (UNESCO 2013, 199). In Windhoek, the delegation of Turkey commended 'all the States Parties for their new inscribed elements of intangible cultural heritage which were now part of the *world's assets for humanity to learn from and to promote as part of our common heritage*' (UNESCO 2015, 213).

If Humanity is a moral project, the same concerns the idea of HoH. The idea of HoH is an ethical concept and GHRs are a way to govern it by creating an institutional universal framework and a language of the common and shared heritage of mankind; a language allowing to 'build peace in the minds of men and women' – as UNESCO's Constitution and main motto says. In this sense, the idea of HoH is also a pedagogical endeavour, aspiring to unite all Humanity in the appreciation of human existence and cultural creativity.

Heritage lists as club goods

The majority of institutional arrangements associated with GHRs are focused on safeguarding manifestations of the idea of HoH. However, the most crucial outcomes of both regimes are the lists; lists that have different functions than the regimes' other elements. Above all, they 'produce' concrete manifestations of the abstract idea of HoH in the form of inscriptions of sites and traditions on UNESCO heritage lists.

The above observations can be articulated using concepts developed around the goods typology applied in this paper. In this way, GHRs can be framed as collective consumption units: they are providers of the infrastructure necessary for governing the idea of HoH (Ostrom and Ostrom 1977). Each GHR: (1) aggregates and articulates demands of State Parties for protecting manifestations of the idea of HoH, (2) obtains funds and other necessary resources (e.g. expertise) needed for the accomplishment of its aims, (3) is responsible for finding ways of preserving manifestations of the idea of HoH, and (4) can monitor how safeguarding efforts are performed.

Secondly, each regime has a specific sub-regime dedicated to listing mechanisms. This unit is the 'listing sub-regime' with the Committee situated at its heart. The Committees in both regimes (supported by other bodies) are directly responsible for the development and curation of the lists. They engage above all in inscribing elements on lists (removing elements from them happens extremely rarely). These actions allow delivering services essential for both GHRs: selecting, safeguarding chosen heritage elements, and sharing knowledge about them. Thus, Intergovernmental Committees play the role of producers. They produce tools for delivering these services: the heritage lists.

The distinction between providers and producers is significant in the research on the types of goods (Ostrom, Tiebout, and Warren 1961). The distinction allows analysing conflicts and tensions in cases when producers of goods and services are not the same as their providers. They also allow studying opportunities and problems when providers and producers belong to different types of organisations, for example, governmental organisations, NGOs, communities, groups, and individuals. It is also not so difficult to imagine that this kind of separation could potentially take place in the case of heritage regimes. Lists could be curated, for example, by a body consisting entirely of experts coming from non-governmental organisations. The body would produce a service needed by heritage regimes but would be more effectively protected from what is labelled as 'politicisation'.

The third step in implementing the goods typology into our study of the idea of HoH is to show that the outcomes of the Committees' production – the lists – are club goods that bring benefits only to a limited number of states that have their elements inscribed on them.

For the general audience, both UNESCO lists are rather perceived as public goods[5]. They are easy to access using UNESCO's website. Also, the two lists do not decrease in value with each next person who learns about elements inscribed on them; UNESCO wants to share information on the lists and their elements. However, there is a group of agents for whom lists are not public goods but club goods. This group consists of states whose elements are on the lists. These states benefit from the fact that elements exist or are practised in their territory. Those benefits can arise from the inflow of tourists wanting to visit UNESCO sites or participate in cultural practices recognised by UNESCO. They can also arise from symbolic value. States having lists of inscribed elements within their borders can indicate that these elements are crucial not only for their national culture but also to the culture of all Humanity. The fact that a state has 'its' element on a list thus brings significant material benefits as well as symbolic ones, associated with the prestige of 'owning' an element on a list.

Thus, the two lists constitute club goods from the perspective of states having their heritage elements inscribed on them. Benefits from having an inscription can be mainly obtained by this group of beneficiaries. States that do not belong to this group are mostly barred from those benefits and have no way to access them. Therefore, the two lists are highly excludable goods at the level of international relations. At the same time, the subtractability of the lists is relatively low. A benefit of a state which stems from having an inscribed element does not reduce benefits available for other states. Especially on the symbolic level, the prestige associated with inscribed elements is difficult to be divided; if anything, the values of elements from states' perspectives are interdependent: they share the UNESCO brand and it is in their common interest to secure the list's value which is framed as 'credibility'. In other words, states with their elements inscribed share common resources – the heritage lists themselves – which are difficult to subtract (low subtractability) and easy to protect from other potential beneficiaries (high excludability). It can be thus said that states having inscriptions on UNESCO lists constitute a club of list beneficiaries. The club is interested in preserving the highest possible value of the two lists by securing their credibility. The club members can benefit from the lists as long as they are trustworthy in the eyes of the international community.

On the other hand, we need to acknowledge that their 'club status' is challenged by the idea of HoH itself. There is an informal but evident sense within UNESCO (and especially among the WH Committee members who make listing decisions) that efforts should be made to include sites on the Lists from nations that are underrepresented – to fulfil the 'promise of HoH' – and in result, to relieve the Inclusion-Exclusion Tension. The 'club character' of the List is thus being perceived as

inappropriate in the sense of its aspirations to represent 'the World' and 'the Humanity'. There is a diplomatic sensitivity in the decision-making process that seems to bend towards the inclusion of sites on the List that might otherwise not 'make the cut', but because these sites come from nations in the Global South, small-island nations, nations with no existing sites on the WHL, etc.[6]

Inclusion-Exclusion Tension and its manifestations as a driving force of heritage diplomacy

Inclusion-Exclusion Tension generates actions labelled as heritage diplomacy. It is worth emphasising that the source of the tension lies in the consequences stemming from the fact that GHRs do not meet their expectations. Many states expect that benefits from GHRs will be distributed between all States Parties – the idea of HoH is, after all, a public good. In practice, however, it turned out that from the states' perspective, the regimes designed to produce manifestations of the idea of HoH have delivered a club good, namely, the two UNESCO lists. They have different characteristics than the very idea of HoH. In the end, this leads to a situation in which, in reality, only a club of states benefits from elaborated institutional structures created to govern the idea of HoH. GHRs, from the perspective of the states that do not have their elements on the lists, embrace a very inclusive idea of HoH but turn it into a very exclusive practice of listing. Reactions to this tension are of several types, ranging from increased efforts to join the club to attempts to undermine and change the current shape of the two GHRs. Abundant literature on heritage and long-term observations allow us here to identify two most important manifestations of the Inclusion-Exclusion Tension: the debate on geographical imbalance and the discussion on 'participatory approach'.

The debate on geographical imbalance concerns diplomatic actions taken by delegates, especially from non-Western countries, pushing for solutions aimed at opening the club doors more widely to their countries and their heritage elements. The discussion on participatory approach, in turn, concerns initiatives in which mainly non-state actors push for solutions opening the doors of the GHRs more widely to them.

The 'geographical imbalance problem' actually arose in tandem with the 1972 Convention. Soon after its adoption, the WH list proved to be a wonderful promotional machine – but mainly for one region of the world: Europe and North America, which has the majority of inscriptions. This situation caused growing international consternation throughout the 1980s, and in the 1990s several mechanisms were devised to correct this imbalance, including the 1994 launch of the Global Strategy for a Representative, Balanced, and Credible World Heritage List (Meskell, Liuzza, and Brown 2015). Despite these initiatives and discussions ongoing for half a century, Western hegemony on the WH list remains intact: 545 out of 1154 inscriptions come from Europe and North America, with Asia and Pacific in the second place having 277 inscribed elements (data as of May 2022). Thus, it comes as no surprise that one of the arguments raised at the time of the drafting of the 2003 Convention was that this new instrument should finally mitigate this imbalance by raising and promoting the richness of traditions, customs, rituals, and traditional craftsmanship activities of African, Asian, and Latin American origin. The hopes for a 2003 'non-Western Convention', however, did not materialise (Schreiber 2019).

The statistics concerning the 2003 Convention show that Europe as a region leads the ICH list: it has 204 out of total 529 heritage elements, with Asia and Pacific in the second place having 172 inscriptions (multinational cross-regional inscriptions were counted as 1 in each region, see: ich.unesco.org, data as of May UNESCO 2022). As noted by Schreiber (2019): 'The number of inscriptions is a visible proof of the frozen power structure in the GHR, in which Europe has played a key role for decades'. We link the frustration of delegates from non-European regions with the failed expectations related to the idea of HoH. While everyone is invited to the regime, the heart of it – which is where all the benefits are located – is something of a 'VIP lounge': a club open only to those having enough money, experience, and expertise to prepare a succesfull nomination and benefit from the inscription.

There is also clearly a priority regarding the role of states-parties to the Conventions. Only states can actively affirm their commitment to the ideas expressed in international conventions through the process of their ratification. This excludes, first of all, all non-state actors from the process. Non-governmental organisations, communities, groups and individuals can be consulted but they are barred from taking part in the final decision-making process: not only regarding the ratification but also concerning inscriptions to the lists. In other words: the protection of heritage belonging to the whole world and all humanity is entrusted to a specific, limited group of political actors. This limitation is becoming increasingly contested, especially through the stream of actions and research focused on participatory heritage governance (Neal 2015; González, González-Álvarez, and Roura-Expósito 2018; Rosetti et al. 2022). Therefore, many efforts have been made to increase the type and number of stakeholders since the conventions came into force. Experts, local communities, and non-governmental organisations have been increasingly prominent in the institutional setting of the two conventions. This was achieved by changes to the Operational Directives (to the 2003 Convention) and to the Operational Guidelines (to the 1972 Convention) as well as by decisions of the conventions' organs. Those changes increased the role of non-state actors by including them in the composition of the bodies that evaluate nominations, creating separate forums for them, and by inviting them to consult and/or create international standard-setting documents. Despite these developments, however, the role played by state and non-state actors in the GHRs is one that needs to be recognised as an important element of IET in these regimes. The World Heritage Committee as well as the Intangible Heritage Committee meetings regularly see the advisory or evaluation bodies having their explicit recommendations (e.g. to reject a nomination, to postpone a nomination pending further work/research, etc.) rejected by the state actors in the Committees. The opportunity to take the floor and participate in the debates is also strictly limited and usually non-state actors – if allowed at all – can take the floor only after the decisions have already been taken. Indeed, 'establishing institutional arrangements in which diverse types of collective actors can engage (…) remains a difficult challenge, particularly when these actors include national governments jealously guarding their sovereignty' (McGinnis and Ostrom 1992, 31).

By creating a regime around the idea of globally shared norms and values related to HoH that involves all actors: state and non-state, non-European and European, (as they all belong to Humanity) and at the same time closing the door to those who came to these regimes with hopes, expectations, and interests but were deemed undeserving of membership in the elite club, the international community ends up with a situation of 'a broken promise', creating IET that can only be solved through diplomacy. The Global Heritage Regime is thus sentenced to diplomacy if it wants to endure, or in other words: the mere existence of the GHR is conditioned by heritage *as* diplomacy.

Conclusions

Winter's introduction of the distinction between heritage *in* diplomacy and heritage *as* diplomacy has created opportunities for the development of new research paths on how the actions taken to safeguard heritage generate diplomatic action. Our paper demonstrates how an analysis of the heritage diplomacy field could be developed by introducing the goods typology.

We have deliberately limited our analysis to the international level of multilateral relations as we claim that heritage *as* diplomacy is to be found particularly there. We also believe that the main task of heritage *as* diplomacy is to solve, or, more realistically, ameliorate the main dilemma embedded in GHRs: how to maintain the credibility of heritage lists as representing the idea of Heritage of Humanity and at the same time inscribe on these lists only those selected heritage elements that proved to meet rigorous and often technical criteria established within the regimes, which favour mainly states from the West.

However, when discussing the design of the GHRs one is inevitably forced to ask questions: was it possible to imagine and establish different regimes? Perhaps ones that would not challenge the idea of HoH by introducing an elitist practice of selecting elements to heritage lists? How could this have

been achieved? Maybe, in a different institutional setting with differently appointed organs, committees and rules, the list could be less exclusive, less elitist, or even – abandoned?

Both GHRs have tried to 'improve' themselves according to the expectations voiced by their actors. We have observed in the last decades that they are adaptive and evolving to respond to the expressed needs and interests of the actors involved. Non-state actors, including indigenous peoples, were better embedded in the system, and new instruments and strategies were developed to address inequalities in the representation of all regions on the lists. However, an interesting trend must also be noticed: despite expressed concerns, states are not willing to change the formal criteria of inscription to heritage lists (UNESCO 2022). More significant changes to the criteria or even an abandonment of some, if not all of them, enabling more elements to qualify could result in global prestige and a somewhat 'magic' status of the lists diminishing, if not disappearing. Instead, states are willing to negotiate their access to prestige *via* diplomatic negotiations underpinned by 'gifts and exchanges on a global stage' (Meskell 2015). This approach helps them to keep the existence of an elite club to which everyone wants to belong, and at the same time to continue 'playing the game' and keep pretending that this 'elite club' is – or at least shall be – open to everyone. Despite opportunities – no profound alternatives were considered. The Inclusion-Exclusion Tension in Global Heritage Regimes is alive. And thus, heritage diplomacy will be alive, too.

Notes

1. We decided to capitalise the term 'Heritage of Humanity' despite the common practice to write it as 'common heritage', 'heritage of humanity', or 'heritage of mankind'. The reason behind this decision is that we consider it as a fundamental idea for the establishment, design, functioning, and structure of Global Heritage Regimes.
2. We deliberately chose for our analysis the two UNESCO heritage lists that are widely considered crucial and garner great international interest and attention. We are fully aware, however, of the existence of other listing mechanisms in the UNESCO Heritage Conventions. The 1972 Convention established the List of World Heritage in Danger (currently including 52 properties), whereas the 2003 Convention established the List of Intangible Cultural Heritage in the Need of Urgent Safeguarding and the Register of Good Safeguarding Practices (currently containing 71 elements from 38 countries and 29 good safeguarding practices from 26 countries). The number of elements inscribed into those lists alone proves, however, that it is appropriate to consider the WH List (currently 1154 inscriptions from 167 countries) and the ICH List (currently 529 elements from 135 countries) to be the most important ones.
3. It is worth noting, however, that GHRs are also composed of other sub-regimes, e.g. administrative or non-governmental sub-regimes. We do not aim to characterise them here, we only acknowledge their existence.
4. We deliberately exclude from our analysis long discussions and treaty law built around the concept of the 'common heritage of mankind' applied to outer space, poles (especially Antarctica), and high seas. See more on this concept: Shackelford (2009), Shackelford (2020).
5. We are thankful to an anonymous reviewer for pointing this out.
6. We are thankful to an anonymous reviewer and to Katarzyna Piotrowska for pointing this out.

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